Managing Pensions

15 May 2018

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Today's Agenda

- Ensuring compliance – the roles and responsibilities of HR and reward
- What does your board need to know about pension governance?
- What it means to be a pension trustee
- How to ensure potential retirees get the best advice
- What to do if making changes to pensions
- Consultation obligations
- Implications of GDPR on pension schemes

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Why is A-E compliance still on the Agenda?

By March 2018

All employers must have enrolled eligible employees into a qualifying scheme at their staging date

Every 3 Years

“Opted-Out” eligible job holders must be re-enrolled – Cyclical Re-enrolment

December 2017

DWP review of auto-enrolment: maintaining the momentum

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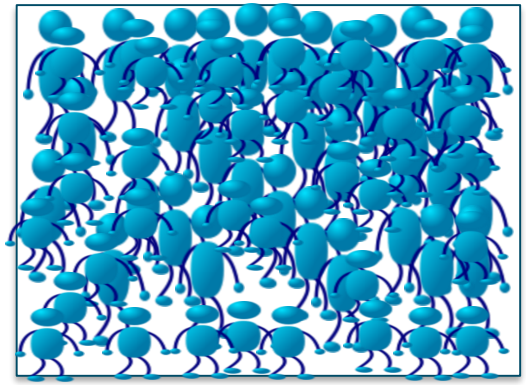
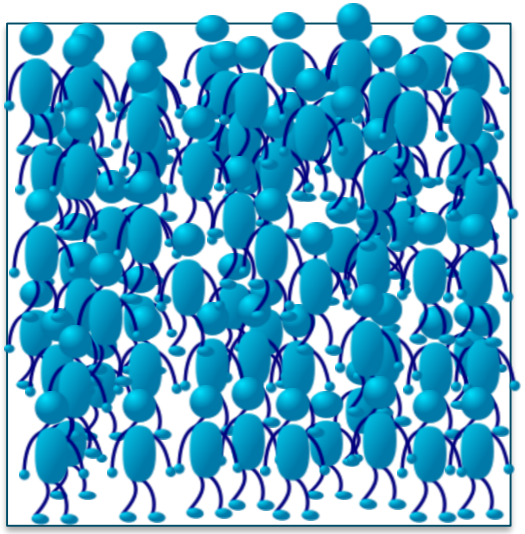
A drive to increase pension saving

7 Million



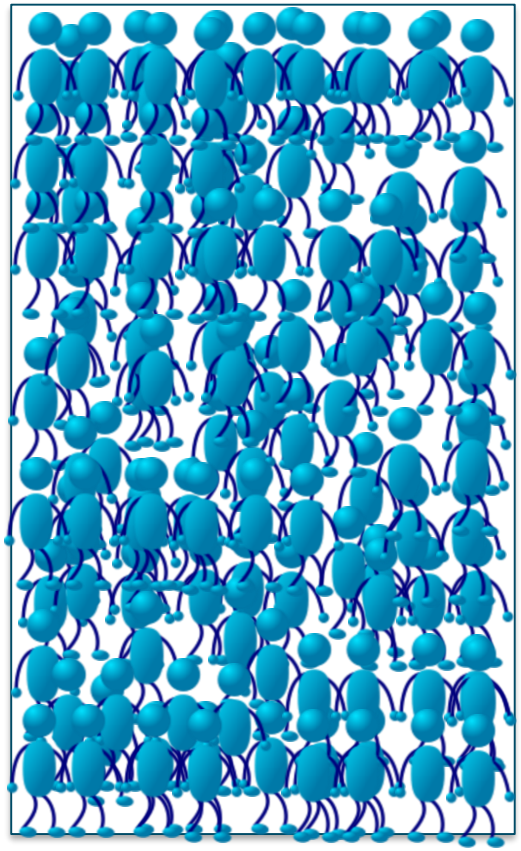
December 2016

11 Million



2018

??



The Future

Source DWP 12 December 2016

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Common Mistakes (1): Failing to enrol/re-enrol "eligible" job holders

IN

"Workers" Broad Definition
Includes agency workers, employees, casual staff, fixed term employees and apprentices

- Working "ordinarily" in Great Britain
- Over 22

OUT

- Members of employer's "qualifying scheme"
- Workers with tax protection
- Armed Forces
- Reached state pension age

MAYBE

- Directors
- Non Executive Directors
- Zero Hour Contracts
- Consultants
- Members of an LLP

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Common Mistakes (2): Failing to take into account all “qualifying earnings”

- For 2018/19 tax year earnings trigger is maintained at £10,000
- Earnings include:
  - Gross Salary
  - Commission
  - Bonuses
  - Overtime
  - Statutory Maternity, Paternity or Adoption Pay
  - SSP
- What about multiple employments with an employer?

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Cyclical re-enrolment: who is assessed?

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Those who are…

- Eligible jobholders
- Previously had A/E date
- Opted-out
- Voluntarily ceased membership of qualifying scheme

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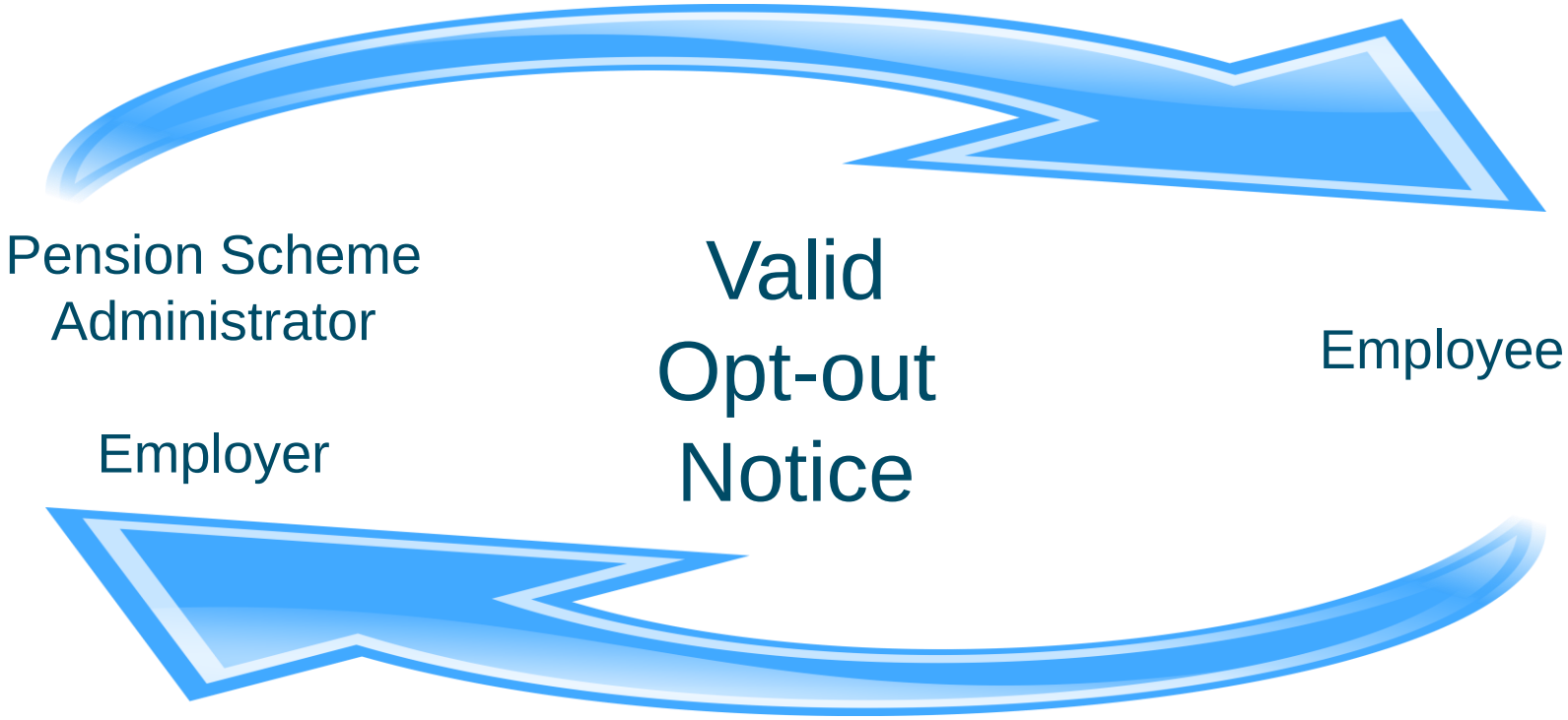
Common Mistakes (3): Opt-out not explained or handled correctly



Within one month of Scheme Membership/Required Statutory Information

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Common Mistakes (4): Postponement

1

- An employer can use a **3 month** waiting period to delay an eligible jobholders AED **but no longer**

2

- Not an option with cyclical re-enrolment

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Common Mistake (5): Compliance Requirements not met

- Complete a declaration of compliance and send to regulator
- Employers submit a fresh declaration every 3 years
- Keep records of auto-enrolments, opt-ins, opt-out processes, postponements and contributions for 6 years

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The Pensions Regulator is calling

Notice of Inspection
Under Section 74 of the Pensions Act 2004

This is notification that one or more inspectors from The Pensions Regulator may carry out an inspection in the week commencing 20/03/2017 at the following premises:

The purpose of the inspection is to enquire into whether or not the employer has complied with, and continues to comply, with employers duties to automatically enrol workers into a workplace pension in accordance with Chapter 1 of Part 1 of the Pensions Act 2008.

Note that if the inspection goes ahead, it will take place during your normal business hours.

Attached is a schedule of the documents or information that our inspectors would need to examine if an inspection goes ahead, and a leaflet which explains the inspection process.

Please note that failure to co-operate with an inspection may constitute a criminal offence under the provisions of Pension Act 2004.

Yours sincerely

The Pensions Regulator

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What if you get it wrong?

- Penalty and escalating penalty notices
- Compliance and enforcement notices
- Unpaid contribution notices

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PSIT Independent Trustees

City HR Pension Event

Board level governance

May 2018

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Regulatory gap

- **Decline** of Defined Benefit
- Move towards **Defined Contribution**
  - 1988
  - Stakeholder
  - Contract based
- **Trustees** versus **employer**
  - Scope of the Pensions Regulator
  - Then and now
- **Implementation** routes
  - Trust, contract based or Master Trust
- The **future**

Back in 2007 the Pensions Regulator said

- In medium term strategy

> *"Trustees and others involved in running DC schemes…will have a clear understanding of significant risks inherent in such arrangements, especially in relation to administration, member awareness and investment, and how they should be mitigating them."*

- Continual ramping up of legislation
- Further guidance and "encouragement"

Expect much more

The pensions landscape

The table below represents the private pension landscape in the UK, showing at a high level the different forms of employer-sponsored provision available within the private sector, and giving an overview of the size of each type of provision[1].

	DB	Hybrid: mixed benefit[2]	Hybrid: dual-section	DC (trust)	DC (workplace contract)[3]
Schemes	4,960	250	840	31,940	2,190
Open schemes	770	30	400	25,150	1,960
Total memberships	6,697,000	1,104,000	4,900,000	11,364,000	N/A
Total active members	898,000	84,000	1,075,000	6,778,000	5,188,000

Sources: All figures from TPR's data are based on scheme returns, 31 December 2017 except DC (workplace contract) total active members, from the annual survey of hours and earnings (ASHE) 2016 (published March 2017). Please note: the ASHE 2016 reports 5.1 million active members of DC trust-based schemes and 344,000 active members in schemes where the type was unknown.

- Lots **more DC schemes** than DB schemes
- Per scheme - **fewer members per DC scheme**

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Master Trusts

	Master trust (not on published assurance list)	Master trust (on published assurance list)	All master trusts with DC members
Total schemes	60	21	81
Open schemes	46	21	67
Active DC memberships	1,005,000	4,948,000	5,953,000
Reported assets (excludes hybrids)	£5,680,000,000	£10,668,000,000	£16,348,000,000
DC members in schemes which reported assets	1,621,000	8,235,000	9,856,000
Total DC members (includes hybrids)	1,646,000	8,236,000	9,881,000

- Too many Master Trusts
- Need better regulation
- One size still doesn't fit all

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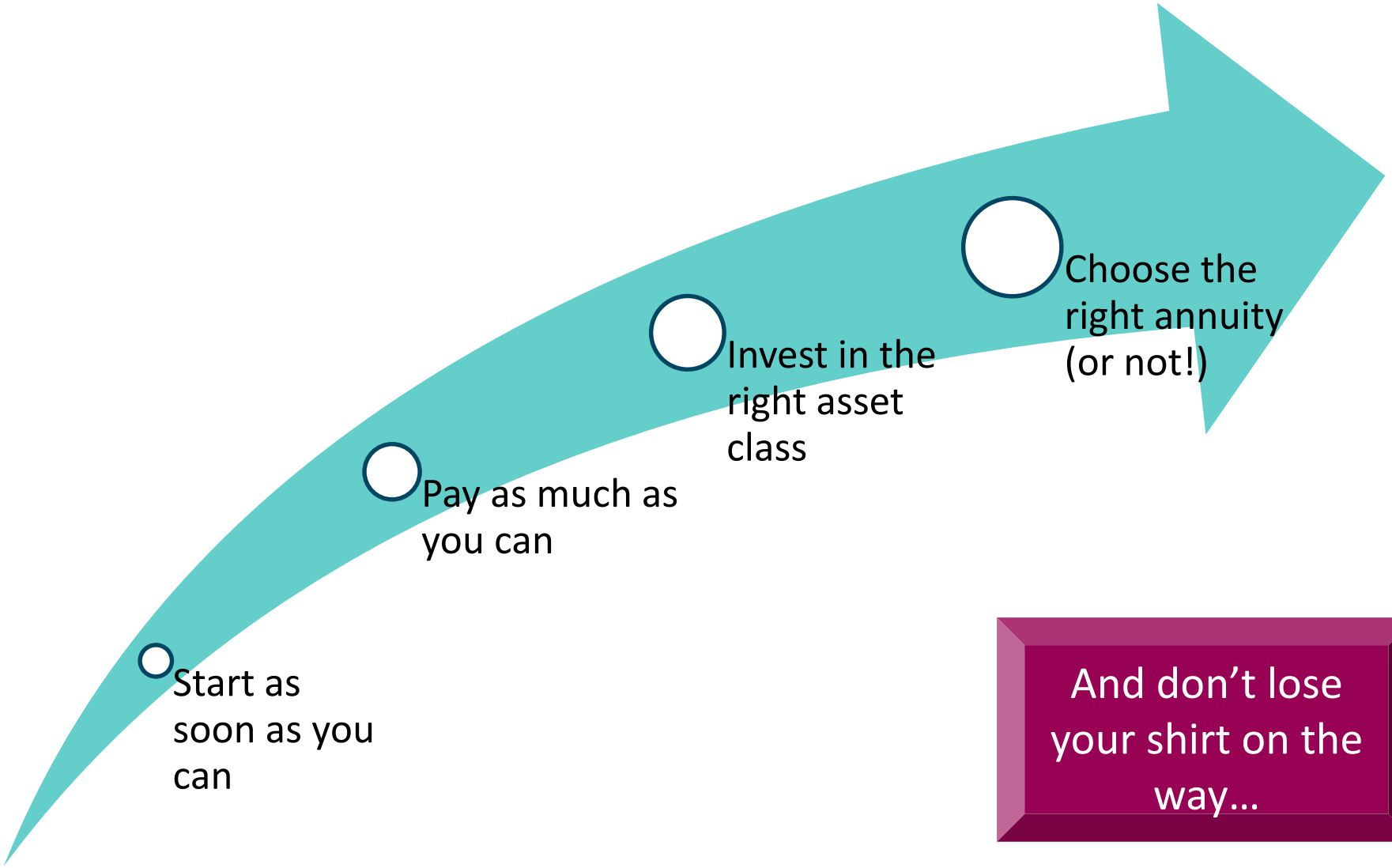
A good DC journey



And don't lose your shirt on the way…

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What the Pensions Regulator said

We understand that it's unlikely your workers will have a high level of financial knowledge

Workers' interest in, and understanding of, their pension savings is often very limited

A few members may want to choose their own investment options instead of the default strategy

Too much choice is confusing

Information for employers

A quick guide to

selecting a good quality pension scheme for automatic enrolment

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Governance considerations

- What **advice** will you take?
  - What is the **focus** of that?
- What does a good retirement look like
  - **Replacement ratio** - Average earner versus “high flyer”
- Are the audience likely to **self-select funds**?
  - Or is reality of 90% plus **default** true?
- How do you get **members to pay more**?
- How will you **implement** the scheme
  - Trust based
  - Contract based
  - Master Trust
- Keep under **review**

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City HR Pension Event

What is means to be a Trustee

May 2018

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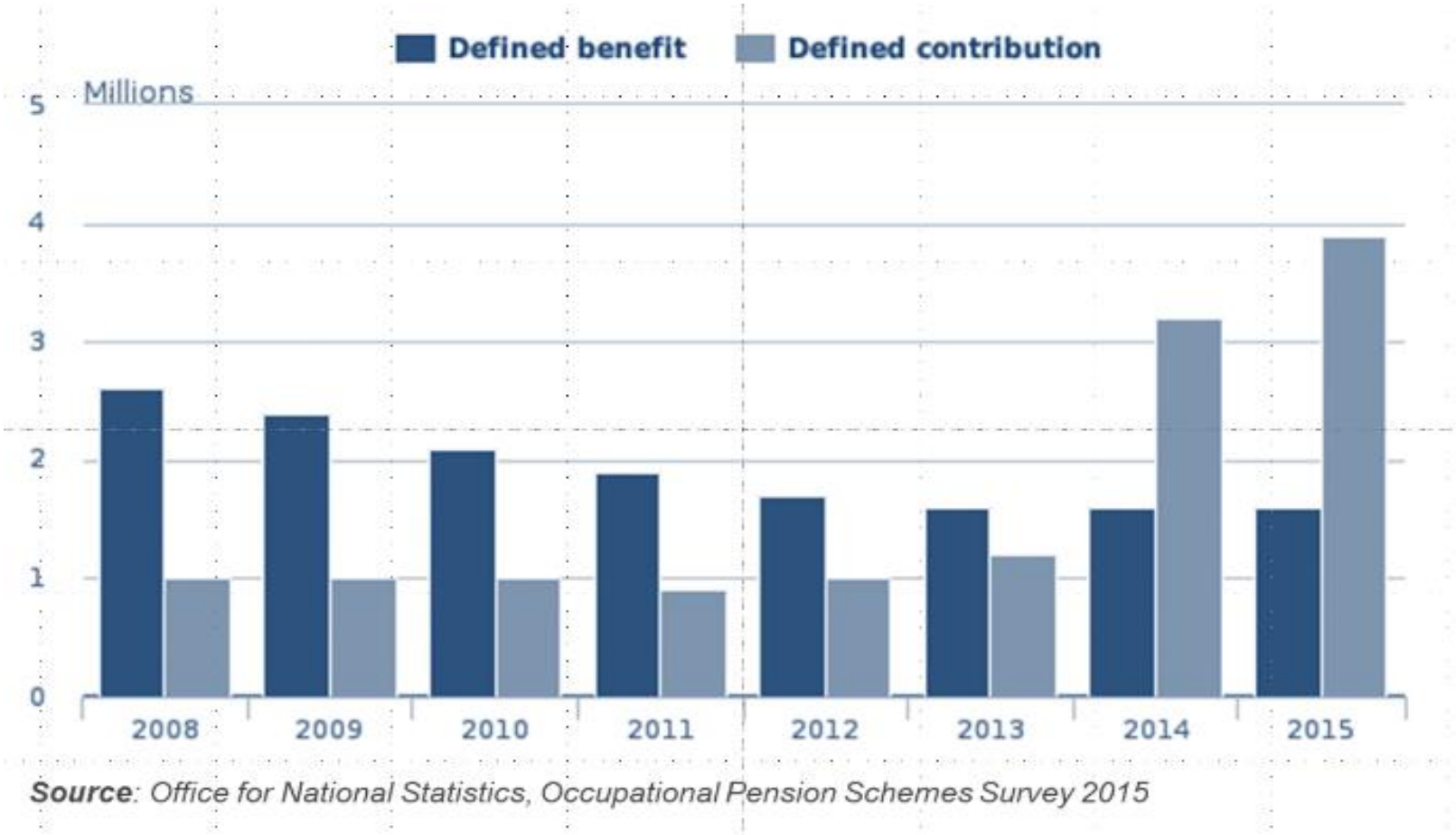
Active occupational pension scheme membership



- The world is changing
- Shift from DB to DC
- Today I will speak about DC schemes

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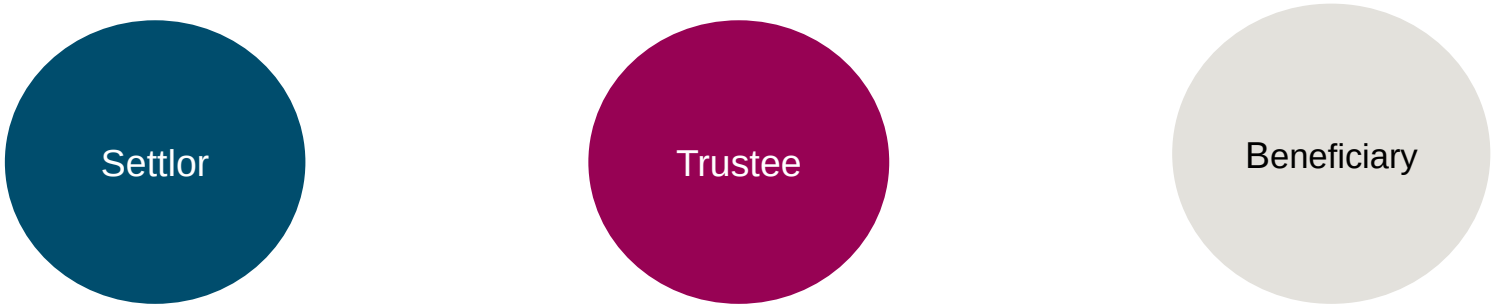
Being a Trustee – a few building blocks

- Where did they come from?
- Structure



- Basic principles
  - Act impartially
  - Care and honesty
  - Prudence
  - Follow the law and Trust deed
- Sounds easy so far

Some challenges

- Trust Law **not designed for pensions**
- **Knowledge** requirements
  - TKU
  - Additional requirements
- Role is **asymmetric**
  - If you do what the member expected – no thanks
  - Get one thing wrong…
- **Time** to acquire knowledge
- Investment is **complicated**
- We're all **busy**
- Members **not always engaged**

Deeper dive into a few areas

- In an ideal world your audience, the members, are
  - Well **informed** and **educated**
    - Make **good decisions** about fund choice
    - Regularly **review** sufficiency (what they pay)
    - Know what **outcome they want**
  - **Level playing field** (DB versus DC)
  - Good **steady returns** (net of costs) can be achieved
  - Members take **regular** financial advice
- Pigs might fly?
- I really hope so…

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Maybe the reality is harder

- The **internet of fun** does not include pensions
  - Cute animals or pensions?
- Pensions perceived as **dull**
- We make it **hard work**
- Defined Benefit schemes still **suck up money**
- Members leave it **too late**
- **90% plus** of members rely on the default fund
- Communication is **wrong**

So what do Trustees need to do?

- Think from a **member's perspective**
- **Work with** the limitations
  - Create more engaging and targeted communication
- **Focus** on the key fund and life-stage choice
  - The **default**
  - **"Money back"** phase
- **Comply** with regulations
  - Accept that they **aren't** always **good**
  - **Less is more**
  - Do something **better**
- Get people to **engage** with
  - **their scheme**
  - **an adviser**

Any questions?

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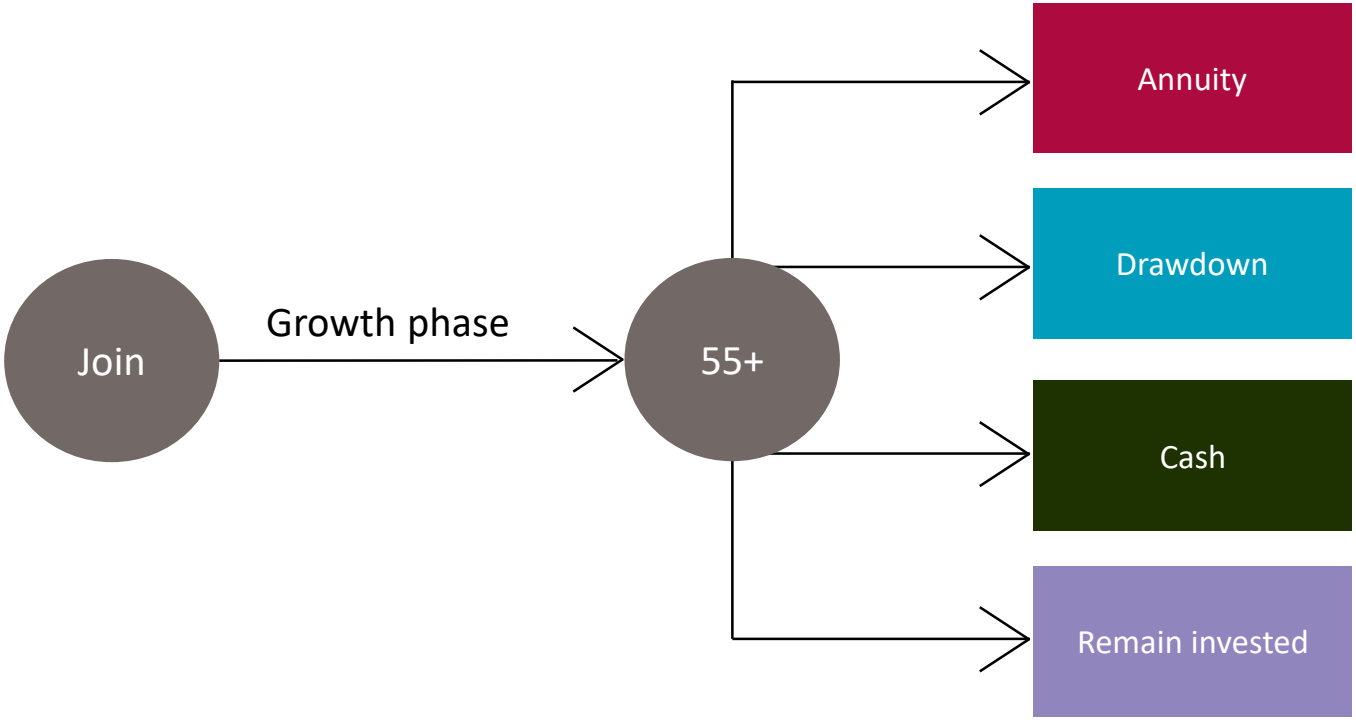
Punter Southall
Aspire

Pension options

and the need for advice

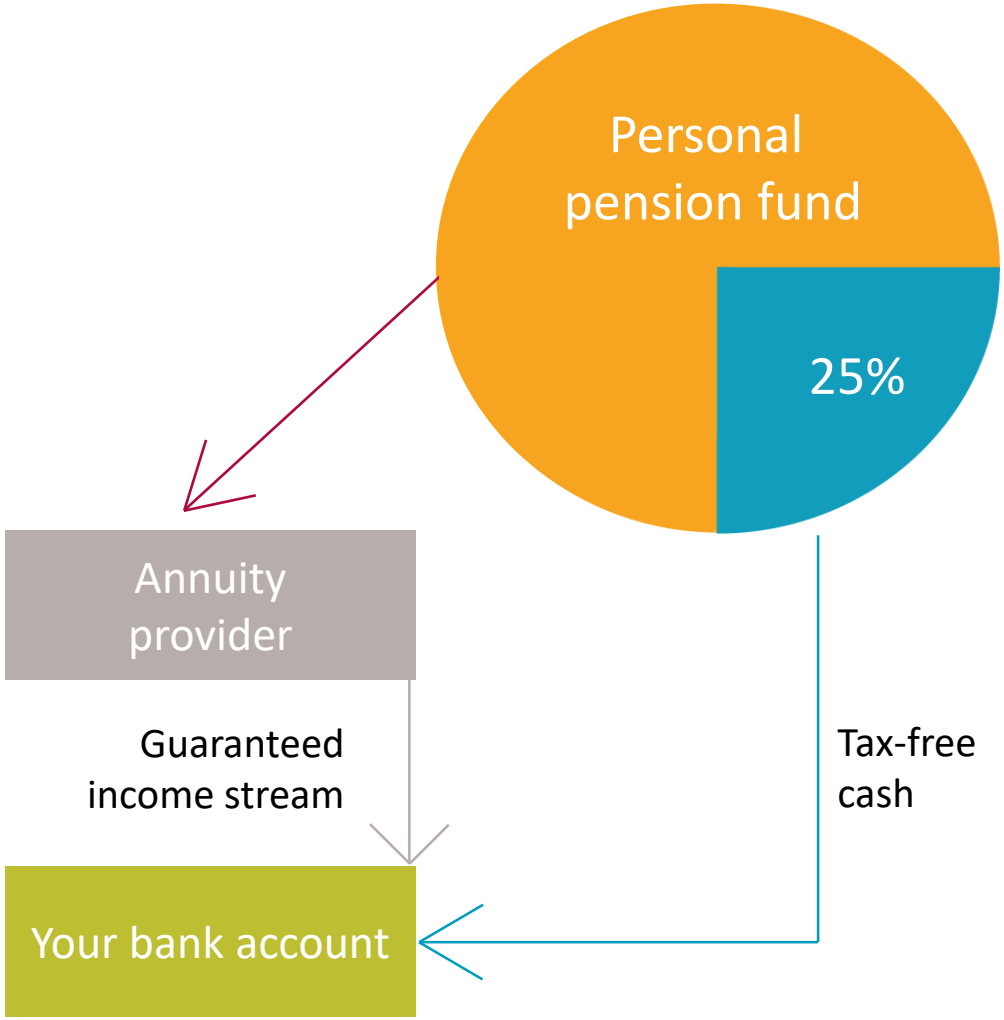
Pension options at retirement



You can use a combination of these options

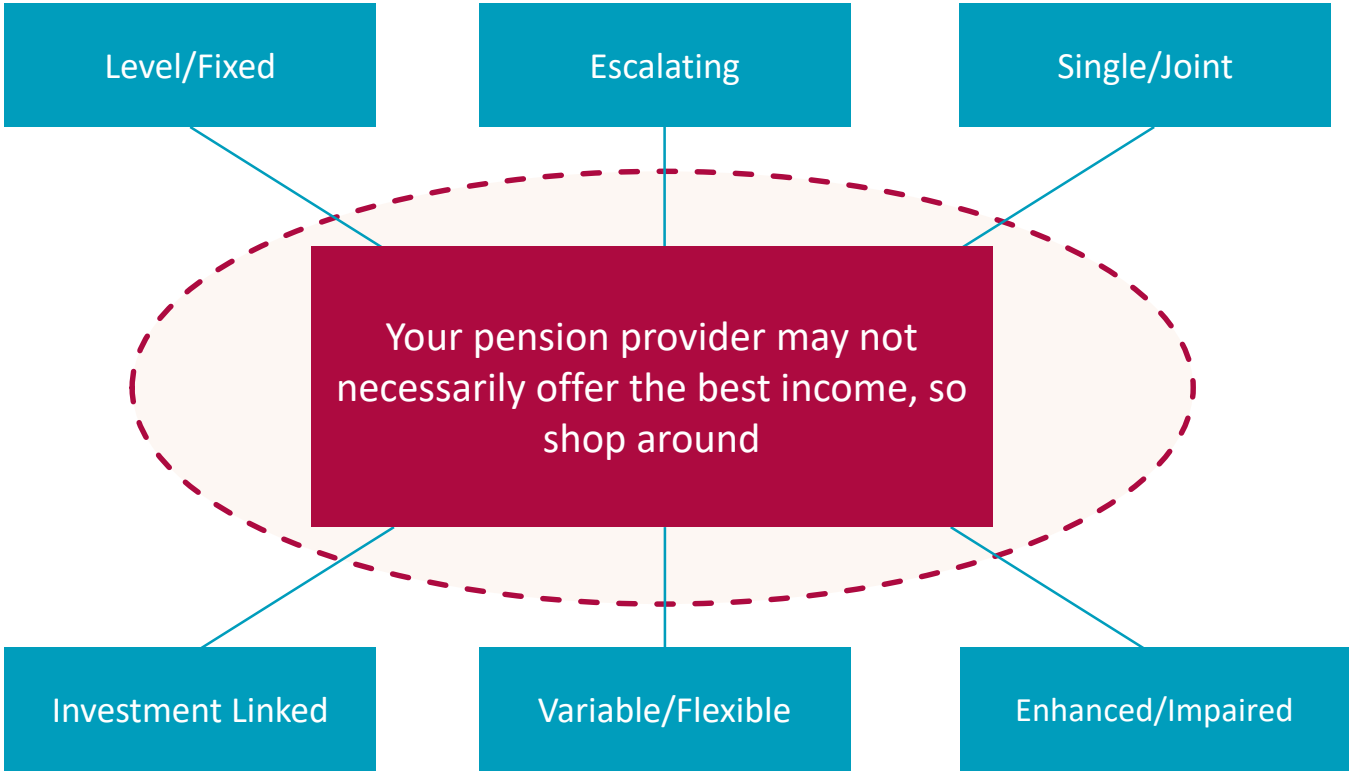
How the annuity option works

- Review the Open Market to get the best deal
- Give your pension fund to the chosen annuity provider
- Guaranteed income for the rest of your life with minimal risk
- No flexibility, cannot be reversed



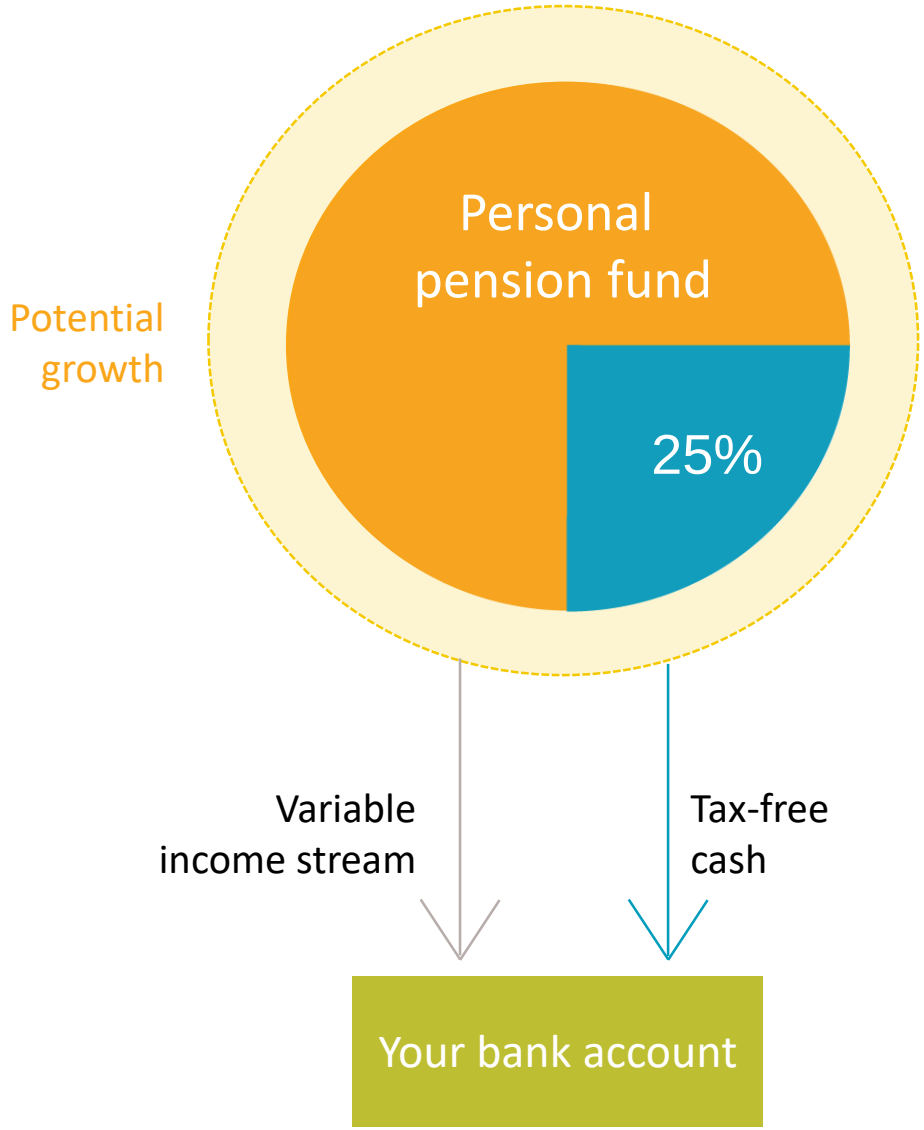
Usually 25% of the fund (up to the available lifetime allowance) can be taken tax free

Types of annuities



How the drawdown option works

- Fund remains invested
- Take an income directly from the fund
- Take as much or as little as you want
- Risk that it may run out
- Ongoing management required to monitor investment performance, withdrawals, changing fund value, etc…
- Buy an annuity later?



Usually 25% of the fund (up to the available lifetime allowance) can be taken tax free

Income tax liability - drawdown

Personal allowance	20% tax band	40% tax band
£11,850	£34,500	£103,650

Assumes £100,000 pot and initial £30,000 withdrawal

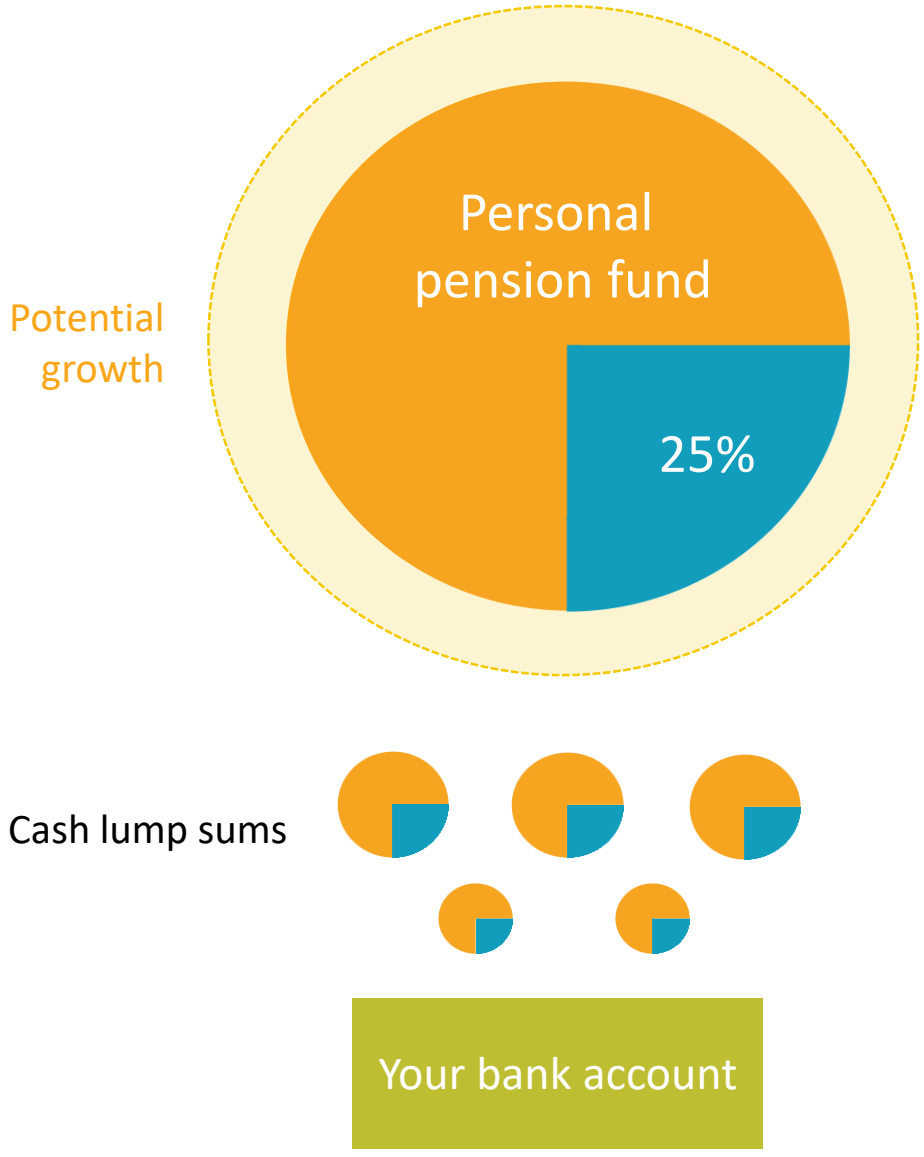
Annual income	Taxable pension withdrawal
£28,000	£5,000
Tax free cash: £25,000	Total tax on withdrawal £1,000

All tax free cash is taken at outset. All further payments are potentially taxed as income.

Based on 2018/19 tax bands

How the cash lump sum option works

- Fund remains invested
- Take an income directly from the fund
- Take as much or as little as you want
- Risk that it may run out
- Ongoing management required to monitor investment performance, withdrawals, changing fund value, etc…
- Buy an annuity later?



Usually 25% of each payment (up to the available lifetime allowance) can be taken tax free

Income tax liability – cash lump sum

Personal allowance	20% tax band	40% tax band
£11,850	£34,500	£103,650

Assumes £100,000 pot and initial £30,000 withdrawal

Annual income	Taxable pension cash lump sum
£28,000	£22,500

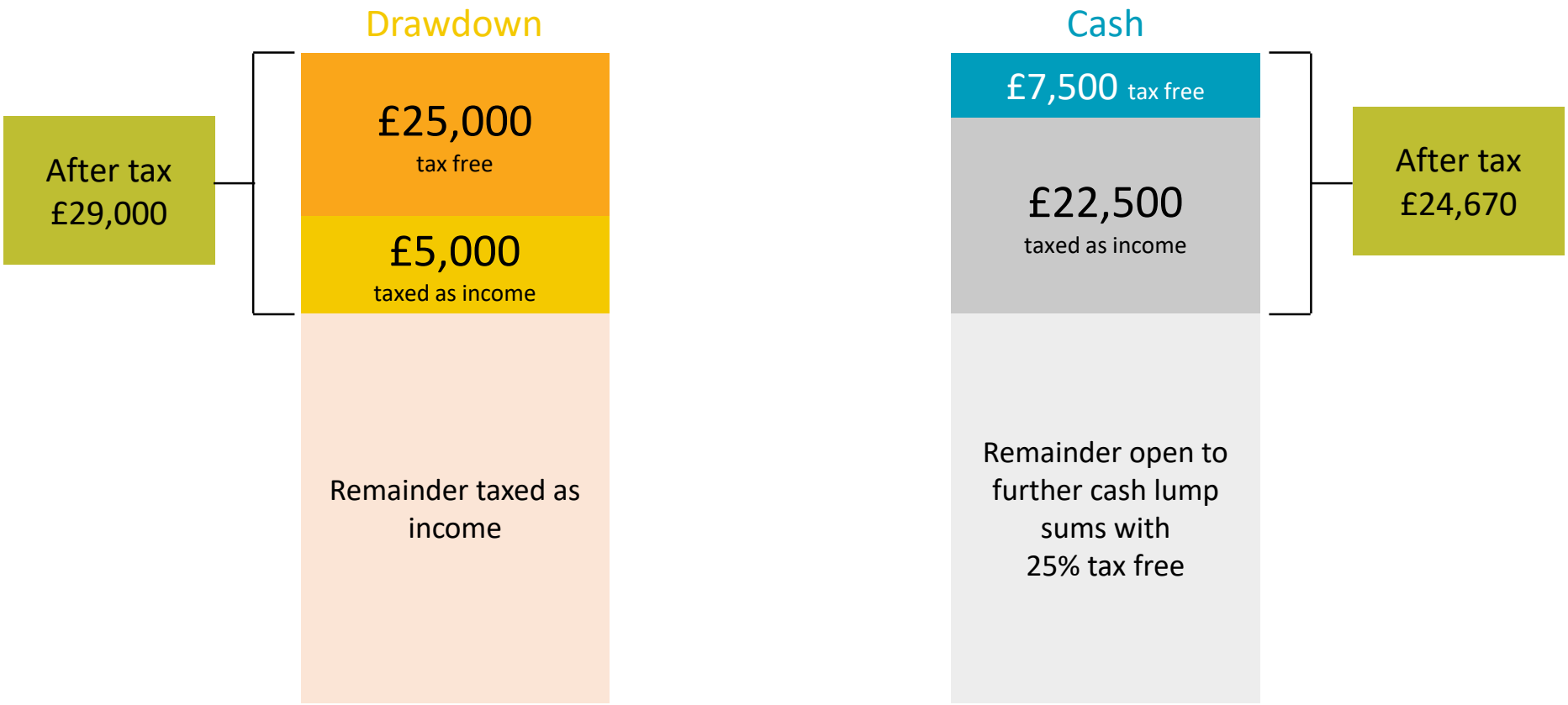
Tax free cash:	Total tax bill on cash lump sum:
£7,500	£5,330

If cash is split as a number of lump sums across multiple tax years, tax liability can be reduced.

Based on 2018/19 tax bands

Cash v drawdown

£30,000 withdrawal from a £100,000 pot



Based on 2018/19 tax bands

www.gov.uk/pensionwise

Pension Wise aims to:

- Help you understand the options you have
- Establish the next steps you might wish to take
- Signpost you to additional help or financial advice

Pension Wise does not:

- Tell you which option you should choose
- Give or replace financial advice
- Provide specific product or provider recommendations

www.moneyadviceservice.org.uk

What can you do?

1. Make colleagues aware of Pension Wise
2. Find out what services your provider can offer
3. Run pre-retirement seminars and workshops
4. Provide access to financial advice

Punter Southall
Aspire

Pension scheme change considerations

Alan Morahan

Scheme type

Trust Based

incl Master Trusts

Contract Based

incl Group Personal Pensions

Six main factors to consider

Provider

Financial Strength

Administration

Communication

Member support

At-retirement support

Commercials

Financial strength

Financial strength

How we rate		We refer to ratings provided by the leading credit ratings agencies: S&P, Moody's, and AKG.
Best	**5**	All three agencies rate as A- or above
	4	Two of the agencies rate at A- or above
	3	No ratings above A-
	2	No ratings of A- or above and one rating below B-
Worst	**1**	All ratings B- or below

Administration

Administration

The **Net Promoter Score** is an index ranging from -100 to 100 that measures the willingness of customers to recommend a company's products or services to others. It is used as a proxy for gauging the customer's overall satisfaction with a company's product or service and the customer's loyalty to the brand.

Given the NPS range of -100 to +100, a "positive" score or NPS above 0 is considered "good", +50 is "Excellent".

How we rate	We consider: Service Level Agreements (SLAs) and performance against them, Net Promoter Score (NPS), our experience and that of our clients when liaising with the Provider.

Best	**5**	The Provider has high SLA and NPS scores and is performing administrative tasks to a consistently high standard. Our experience of them is very good.
	4	Administration performance standards as measured by NPS and/ or against SLAs are good, and/ or our experience of administration performance is good, with no major issues.
	3	Administration performance standards as measured by NPS and/ or against SLAs are average, and/ or our experience of administration performance is average.
	2	Administration performance standards as measured by NPS and/ or against SLAs are poor, and/ or our experience of administration performance is poor.
Worst	**1**	Administration performance standards as measured by NPS and/ or against SLA's are poor, and/ or our experience suggests that there are significant administration issues with the Provider.

Communication

Communications and planning tools

How we rate		We consider the types, quantity and delivery media (e.g. digital, mobile friendly, paper) of comms available from / automatically issued by the Provider.
Best	5	A full and extensive range of comms support is provided and comms carry the 'Plain English' crystal mark
	4	In addition to engaging comms and good online tools and functionality, the provider offers some or all of the following services at no extra cost: presentations, scheme specific calculator tool, scheme specific microsite, other elements of bespoking.
	3	Comms look engaging and have been reviewed in last 18 months. Quality of online tools and functionality is good.
	2	Some ad hoc communications are chargeable. In general, comms are adequate but offer limited online tools / options.
Worst	1	Majority of ad hoc comms are separately charged. Comms look dated / may not have been reviewed for some time.

Member support

Member support

How we rate		We rate Provider helplines in terms of call rejection rates, call pick up times and, where available, NPS scores.
Best	**5**	NPS call centre score +50. Call centre open outside of work hours & on weekends. High % calls dealt with on one call. Can provide scheme specific reporting on helpline queries. Measure member satisfaction.
	4	NPS call centre score +20 to +49. Call centre is open outside of work hours and on weekends. High % calls dealt with on one call rather than passed on.
	3	NPS call centre score +0 to +19. UK based call centre. Response times satisfactory. No bad feedback from employer or employees.
	2	NPS call centre score <0. Aware of long waiting times or difficulty getting through. Staff targeted against number of calls in given period.
Worst	**1**	Call centre is outsourced overseas. Initial contact is automated system. We are aware that call waiting times are too long.

Commercials

Scheme demographic

Potential for asset transfers

Employer engagement

Adviser influence

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Making changes to pensions: Employment issues

An obligation to consult about “listed” changes include:

- Closing a scheme
- Stopping further benefit accrual to existing members
- Changing the basis that members accrue benefits

Applies to both occupational pensions & personal pension schemes

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The scope of the obligation:

The obligation applies to employers with more than **50** employees (not number in pension scheme)

Employers must consult “affected members” or their “reps” and prospective members

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What process must be followed?

Step 1: Employer gives written notice of change to all relevant employees…

- describing change & effect;
- “relevant background information”;
- timetable for change (as a rep)
- enable members to study proposals and give their views

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Step 2: The consultation process

Consultation is a “genuine invitation” to give advice and genuine consideration of that advice

The consulting party must supply sufficient information to those consulted to enable them to give helpful advice

IBM –v- Dalgleish

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Step 3: Consultation process

Allow **60 days** to consider representations

At the end of 60 day period employer must consider responses and then decide whether to make a change

N.B: If decide to alter original change following consultation MAY have to consult on new proposals!!

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Failure to comply

Change made in breach of requirements is valid BUT the regulator can…

A	Impose a financial penalty – maximum £50,000 for companies
B	Issue an improvement notice

Employees can claim breach of duty of Trust and Confidence

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Key points for Trustees and Employers to take to achieve GDPR compliance

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What is the GDPR all about?

GDPR

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General (familiar) principles

- “Personal data” + special categories of “sensitive data”
- Six principles:
  1. lawfulness, fairness and transparency
  2. purpose limitation
  3. data minimization
  4. data accuracy
  5. storage limitation
  6. integrity and confidentiality

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Legal basis for processing (1)

- **Consent**
  - freely given, specific, **informed** and unambiguous indication
  - a clear **affirmative** act
  - ‘silence, pre-ticked boxes or inactivity' will not establish consent
  - must be **verifiable**
  - must be as easy to **withdraw** as to give consent

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Legal basis for processing (2)

- Contract
- Compliance with a legal obligation
- Legitimate interests
  - e.g. direct marketing
  - intra-group transfers
  - cyber security

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Transparency

- **Transparency** is central
- **Concise**, easily accessible, easy to understand, clear and **plain language**
- And yet - additional information is required:
  - purposes and legal basis for the processing
  - legitimate interests
  - data retention periods
  - rights including subject access, rectification and erasure
  - right to withdraw consent, if relying on consent
  - right to complain to the regulator
  - international transfers

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8 Key steps…

Step 1 – Conduct a data audit

What data?

Where did it come from?

Who is it shared with?

Is it really needed?

How long should it be kept?

Step 2 – What is the legal basis for processing data?

Examples include…

Required to perform a contract to which data subject is a party;

Compliance with a legal obligation;

Processing is in the legitimate interests of controller or third party

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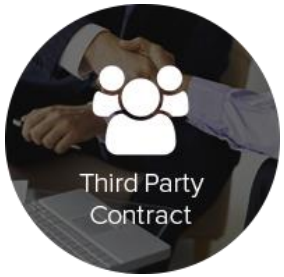
Step 3 – Review member communication

Must include information about individual's rights



Step 4 – Review third party "3P" contracts

Do you have sufficient guaranties that 3P processors meet GDPR requirements?

Have you updated 3P contracts?

Step 5 – Sharing data with 3Ps

What legal basis? Do data subjects know? Where is data accessed (regardless of where the server is)?

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Step 6 – Review and update internal policies and procedures

Implement member facing policies records and notices and internal policies and measures

Do you need a DPIA?

Step 7 – Do you need to pay a Data Protection fee?

Applies to trustees and employers depending on turnover and staff members

Step 8 – Keep abreast of developments

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Thank you

Any questions ?

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Helen Farr
Partner
+44 (0)20 7614 2623
hfarr@foxwilliams.com

Alan Morahan
Managing Director – DC Consulting
+44 (0)20 3327 5460
alan.morahan@psaspire.com

Wayne Phelan
Managing Director
+44 (0)811 207 2911
Wayne.Phelan@psitl.com

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Andrea Eccles,
Chief Executive,
City HR Association

andreaeccles@cityhr.co.uk

Cindy Mahoney,
Head of Talent Management,
City HR Association

cindymahoney@cityhr.co.uk

Sam Bailey,
Operations Manager,
City HR Association

sambailey@cityhr.co.uk

cityhr.co.uk

@CityHRAssoc

City HR Association