

Stronger nudge to pensions guidance

Matthew Swynnerton looks at the new DWP stronger nudge to pensions guidance requirements for trustees of occupational pension schemes

In January, the government published a response to its consultation, together with regulations, on its proposal to introduce a 'stronger nudge' to pensions guidance for members seeking access to their flexible (generally, defined contribution) benefits.

When 'pension flexibilities' were first introduced in 2015, it was alongside the Pension Wise service, which provides free and impartial guidance to help individuals aged 50 and over understand the options available to them.

In response to concerns that the take up of Pension Wise guidance was too low and that significant numbers of DC pension pots were being accessed without guidance or advice being sought, the regulations aim to increase take up of Pension Wise guidance, by requiring trustees to ensure that members and their survivors with rights to flexible benefits have either received, or opted out of receiving, appropriate pensions guidance before proceeding with their application to receive or transfer with the intention of receiving flexible benefits. Trustees will need to present taking pensions guidance as a normal part of the application process and require members to make an active choice if they wish to opt out of receiving guidance. They will also be required to explain the nature and purpose of Pension Wise guidance and facilitate the booking of a Pension Wise appointment for the beneficiary as part of the application process.

What does the stronger nudge entail?

Broadly, trustees must: (i) offer to book a pensions guidance appointment for the beneficiary at a time and of a kind to suit them; (ii) if the offer is

accepted, take reasonable steps to book the appointment; (iii) if the offer is not accepted, or if the trustees are unable to book a suitable appointment, provide the beneficiary with details of how to book the appointment; (iv) explain to the beneficiary that the application cannot proceed unless they have received appropriate pensions guidance or they have opted out; and (v) explain to the beneficiary that they can only opt out of receiving appropriate pensions guidance by giving the trustees an opt out notification.

At what point should the nudge be given?

The DWP wishes to give trustees the freedom to give the nudge as early as possible in the process, on receipt of an application to access or transfer benefits, allowing trustees some discretion to determine when this is.

Who should be given the nudge?

All relevant beneficiaries, including members and survivors, who contact a scheme in relation to (i) transferring their rights to flexible benefits or (ii) receiving flexible benefits from the scheme.

Are there any exceptions?

The stronger nudge requirements do not apply in relation to transfers where: (i) the beneficiary is under the age of 50; (ii) receiving flexible benefits is not the purpose, or one of the purposes, of the application; (iii) the trustees have received confirmation that the beneficiary has been referred by another scheme for appropriate pensions guidance and they have either received or opted out of that guidance; or (iv) the

beneficiary is transferring rights into a relevant pension scheme which complies with the FCA's rules on disclosing information about the availability of pensions guidance.

Tell me more about the opt out...

Opt-out notifications can be verbal or in writing but must be made in a communication made solely for the purpose of opting out, although this could be satisfied by (for example) a phone call or email. The opt-out need not be in a separate communication where: (i) the beneficiary confirms they have already received appropriate pensions guidance or regulated financial advice in connection with the application in the previous 12 months; (ii) the beneficiary qualifies for a serious ill health lump sum; or (iii) the application is solely to transfer their rights to flexible benefits accrued under the scheme.

When will these regulations come into force?

These new requirements will come into force on 1 June 2022 and will govern any application made by a beneficiary on or after this date.

Concerns remain over the administrative burden of these new provisions, especially considering the new and increased due diligence requirements in relation to member transfer requests. However, with a tight timeline before the regulations come into force, trustees must review their processes once more and seek advice, where appropriate.



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