

## E-disclosure by pension schemes given the go-ahead

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Pensions Briefing

### HIGHLIGHTS

The DWP has published amendments to the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (the "Disclosure Regulations"), which introduce two main changes:

- Trustees may now give information to members electronically.
- Defined contribution ("DC") schemes may now provide more streamlined benefits statements.

The changes came into force on 1 December 2010. Provided that the trustees have sent the required notice to members, schemes may start using e-communication as soon as they wish. Use of e-communications is likely significantly to reduce the cost of providing information to members and increase flexibility for schemes.



### DISCLOSURE REGULATIONS - BACKGROUND

The Disclosure Regulations require certain information to be made available to members (either on request or as of course) including: basic information about the scheme, its constitution, funding position and information about members' benefits.

DC schemes must provide members with annual benefit statements. These benefit statements must include a Statutory Money Purchase Illustration ("SMPI") which shows the amount of pension that might be payable when the member retires, calculated using certain statutory assumptions.

### ELECTRONIC COMMUNICATIONS

The most significant change brought in by the amending regulations is that trustees may now give relevant information (meaning information required by the Disclosure Regulations) to members by email or by posting it on a website, as an alternative to sending information by post.

This means that from 1 December 2010 schemes may use e-communications as their default method of providing information to members (except to any members who have opted out - see protection for members below).

#### Protection for members

Members' consent is not needed for use of e-communications. However, if an existing member or beneficiary has not previously received relevant information by electronic means then, before using e-communication, the trustees must give that individual notice by post stating that:

- the scheme proposes to give relevant information to the member or beneficiary by electronic communication, and
- the member or beneficiary may request in writing to receive the information in hard copy.

Schemes may include this notice in any postal communication to members. Once the notice is sent (and the member's email address is obtained) information may be provided to members electronically as and when the scheme requires.

New members, who join the scheme on or after 1 December 2010, need not be sent the notice but may opt out and request hard copy information instead.

If any member or beneficiary opts-out of e-communications in writing, the scheme must provide them with information by post.

#### Safeguarding provisions

Trustees may only provide information electronically if:

- the information is provided in a format that can be stored or printed, and
- they take into account the needs of disabled persons when designing the e-communications.

Trustees should also check that their scheme rules allow them to send information electronically. If not, rule amendments may be needed.

#### Posting information on a website

If trustees wish to provide relevant information on a website, the trustees must notify members by post or email that the information is available on the website. The first notification must include the website address, and details of where and how the information can be read (this might include a login name and password for accessing the website). For security reasons, the notification does not need to include a hyperlink to the information.

Trustees must notify members every time further relevant information is posted on the website. However, notification is not necessary where a member has been asked three times by post for an email address and given the option of requesting paper communication, and the member has not responded.

#### STREAMLINED BENEFIT STATEMENTS

DC schemes may now send members more concise benefit statements than were previously required, provided that they make further information available elsewhere for members who wish to know more. For example, a scheme could send streamlined benefit statements by post or email and put further information on their website. This change is intended to make benefit statements shorter and more user-friendly for members.

### What information may be made available elsewhere?

A number of the statements about the assumptions used for the SMPI may now be furnished separately from the benefit statement. On the benefit statement itself trustees may simply state that "certain general assumptions have been made" and indicate where further information about the SMPI can be found.

In addition, some statements about the SMPI are no longer required at all.

### Do schemes have to make changes to benefit statements?

Trustees do not have to amend their benefit statements. Benefit statements that were compliant prior to the changes will continue to meet the requirements.

### OTHER CHANGES

In response to the public consultation, the DWP has not gone ahead with some of the amendments originally proposed:

- The period for providing basic scheme information to members was to be reduced from two months to one month from October 2012. However, this amendment has been omitted from the final regulations.
- NEST will not be exempt from any of the disclosure requirements and will be subject to the same requirements as occupational schemes.

The DWP is now considering whether to undertake a full or partial consolidation of the disclosure requirements currently in the Disclosure Regulations and in other legislation.

This note is written as a general guide only. It should not be relied upon as a substitute for specific legal advice.

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