Thinking flexibly

Pension flexibilities 2015 - priorities for defined benefit and hybrid schemes

Tax rules changed in April 2015, giving greater flexibility to access defined contribution (DC or money purchase) pension savings from age 55. The implications of these changes for defined benefit (DB) schemes (and for hybrid schemes – which offer both DC and DB benefits) are more significant than at first appears.

Statutory powers have been made available or extended so that schemes can harness the new pension freedoms quickly. However, the powers are limited; trustees seeking to rely on them will need to be mindful of the risks. In addition, the fine detail of existing scheme rules may present challenges for trustees or barriers for members looking to transfer their scheme pension.

In most cases, existing scheme rules will need to be reviewed. In all cases, trustees will need to act to ensure compliance with new safeguards for members looking to transfer to a DC scheme.

Key issues for defined benefit and hybrid schemes are as follows.

Action required/issues	Comment & recommendations
Access to DC funds: • trustees **must** make a decision about the options to be made available to members (eg, will members be able to withdraw DC funds as cash?) (Note that all the DC flexibilities are available as options for DC AVCs, even if members are no longer paying AVCs.)	• We recommend that scheme rules are reviewed to identify whether any amendments are required to provide the desired flexibility.
Transfer of DC funds: • trustees need to review their powers and update the scheme's processes ready to deal with new kinds of transfer request.	• Members have new rights to transfer DC funds separately to their DB benefits. The rights continue up to and beyond normal retirement date (NRD). Trustees need to understand the new rights and their powers under the scheme rules.
DB to DC transfers: • trustees need to decide whether to extend the range of circumstances in which members can transfer benefits. • in particular, will transfers be possible for members who do not have a statutory right to a cash equivalent – eg, transfers within the last year prior to NRD? • trustees need to ensure that their scheme rules work as intended – eg, will a funding insufficiency report apply to non- statutory transfer calculations?	• We recommend that the scheme's transfer powers are reviewed to assess whether the rules operate as intended. • Amendments may be necessary, particularly to ensure that the trustees receive an appropriate discharge. • If partial transfers are to be offered, it is important that the trustees have clear rules and processes in place to identify and deal with the remaining benefits.

• trustees need to update their processes to comply with new requirements for safeguarding members. • trustees **must** ensure that the member has taken appropriate independent financial advice before a DB to DC transfer can proceed (if the transfer is above a de-minimis limit, currently £30,000). Important guidance to trustees is available here.	• It is more important than ever that trustees understand their transfer powers, both under the scheme and under statute. • Trustees should be mindful of the risk of future claims by members who later regret a decision to transfer. Members may seek to exploit shortcomings in scheme powers or trustee processes. Trustees need to manage the risks associated with DB - DC transfers.
Additional disclosure obligations: • members with any form of DC fund (including DC AVCs) **must** be provided with specific information at certain trigger points and within prescribed timescales – eg, there is a requirement to make members aware of Pension Wise (a free and impartial service to help members understand retirement choices).	• Trustees should engage with the scheme's administrator to ensure that processes are in place to comply with the new disclosure and communication requirements. • Trustees should take into account the Pension Regulator's guidance on communicating DC flexibilities, available here.
Other changes: • the statutory limits for DB trivial commutation lump sums and small lump sums were revised in 2014. The updated limits tie in with the flexibilities regime but they are not overriding.	• We recommend that the scheme rules are reviewed to ensure that options to take small benefits as cash sums meet the trustees' requirements.
Most trustee boards will wish to consult their sponsoring employer(s) before making changes.	

How we can help

We work with trustees and employers to help plan for and implement the new flexibilities. Working alongside the scheme's consultants and administrators, the assistance we offer includes:

- A health check on the scheme's current transfer, discharge and commutation provisions to ensure they fit with new member options and trustee requirements.
- A review of the scheme's rules to ensure that small payment provisions are appropriate.
- Advice about the use of statutory powers to implement changes without a formal rule amendment.
- Advice on how best to make rule amendments which are required or desired.
- Drafting rule amendments.
- Assistance with queries arising from specific member transfer/commutation requests.
- Advice/training about trustee duties relating to transfers, including compliance with the Pension Regulator's guidance on DB to DC transfers and protecting members against pension liberation scams.

If you have any queries regarding the impact of the 2015 changes on your scheme, please contact Josephine Manfredi-Hamer on 0113 204 5702 or Victoria Acomb on 0113 204 5736.

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