

01st December 2014

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Direct: 020 7601 1722

Paul Needham
Department for Work and Pensions
3rd Floor West, Zone G
Quarry House
Leeds, LS2 7UA

Dear Paul,

RE: The Occupational and Personal Pension Schemes (Disclosure of Information) (Amendment) Regulations 2015

We are responding to the consultation above, issued on the 3rd November 2014.

About the NAPF

The NAPF is the voice of workplace pensions in the UK. We speak for over 1,300 pension schemes that provide pensions for over 17 million people and have more than £900 billion of assets. We represent both public and private sector schemes, including over 70% of the local authority pension funds. We aim to help everyone get more out of their retirement savings. To do this we promote policies that add value for savers, challenge regulation where it adds more cost than benefit and spread best practice among our members.

The NAPF has 72 of the 101 Local Authority funds in our membership. They range for the smallest London Borough to Greater Manchester and Strathclyde who both have over £16bn of assets under management. In addition we also have 400 business members who provide vital services to pension funds, including the LGPS.

The NAPF agrees that amendments to “The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations” (The Disclosure Regulations) are required to capture relevant changes in interacting legislation and to carry through exemptions applying to certain public sector pension schemes (including the LGPS).

Question 1: Do you agree that the draft regulations exempt the appropriate categories of public service schemes from providing the information at regulations 9, 10, 12, 13 and 15 of the Disclosure Regulations?

We agree that ‘The draft regulations exempt the appropriate categories of public service schemes from providing the information at regulations 9, 10, 12, 13 and 15 of the Disclosure Regulations’.

Question 3: Do you agree that where a public service scheme has issued a Benefit Information Statement under The Public Service Pensions Act (Information about Benefits) Directions 2014 they should be exempt from providing the information at regulation 16 of the Disclosure Regulations where a Benefit Information Statement has been issued to the member within 12 months of the request under regulation 16?

We agree with the policy intent behind introducing an additional exemption under Regulation 16 of 'The Disclosure Regulations' for public sector pension schemes where a public service scheme has issued a Benefit Information Statement under 'The Public Service Pensions Act (Information about Benefits) Directions 2014' (The Directions 2014) and where a Benefit Information Statement has been issued to the member within 12 months of the request under regulation 16 of 'The Disclosure Regulations'. We agree that there is no need to replicate the requirement to reproduce a Benefit Information Statement under Regulation 16, if this requirement already exists in the Directions and the Public Service Pension Act 2013, so as to avoid duplicating the requirement (and cost) to schemes.

However, on our reading, Regulation 16 contains broader powers regarding scheme disclosure requirements than the provision of the Benefit Information Statement. The key difference being the situations under which scheme members can request information regarding their benefits as highlighted below:

- Regulation 16 describes the range of situations in which a scheme member can request the information listed in Section 1 Schedule 5.
- Paragraph 2, Section 1, Schedule 5 of the Disclosure Regulations gives a range of options for the information to be included in the Benefit Information Statement.
- The Public Service Pensions Act 2013 requires a scheme to provide Benefit Information Statement in their disclosure to scheme members.
- The Directions 2014 refers to 'the list of information' to be included in that Benefit Information Statement, and refers again to Schedule 5 of the Disclosure Regulations.

Currently, some schemes (including the LGPS) interpret Regulation 16 and Schedule 5 to mean that a scheme member has the right to request (and be provided with) additional information, not included in that schemes Benefit Information Statement, but nonetheless included in the list of information in Schedule 5. For example:

- A scheme may choose to include information set out in 2a) in their Benefit Information Statement - "the amounts that would be payable from the date benefits are payable if pensionable service were to end on a date specified by the trustees or managers of the scheme".
- A scheme member may then request additional information, such as that set out in 2b) - "the amounts that would be payable from the date benefits are payable if pensionable service were to end on the member attaining normal pension age".
- Some schemes interpret Regulation 16 to mean the scheme member has the right to request that additional information, so long as they have not been provided with that particular additional information in the past 12 month period. We understand the LGPS to apply this interpretation.

Since the set of situations under which a scheme member can request information is not detailed in the Directions or the Public Service Pension Scheme (as highlighted above), exempting public sector pension schemes from Regulation 16 may relax the information entitlements of a scheme member.

We would oppose this relaxation of entitlements for scheme members and urge the DWP to ensure that the phrasing of the amendments to Regulation 16 does not allow this ambiguity to persist.

We think there is further ambiguity in the proposed exemption as follows. The Directions, which act as a replacement for obligations set out under the Disclosure of Information Regulations, states that “the information in this statement (the annual benefit statement) must include the information listed in Parts 1 and 2 of Schedule 5 of the Disclosure Regulations”. Parts 1 and 2 of Schedule 5 of the Disclosure regulations pertain to (and flows from) Regulation 16 of the Disclosure Regulations, to which public service pension schemes are being exempt. We are concerned whether (for exempt schemes) the Directions and Regulations can cross-refer in this way. Given this, we are concerned that if public service pension schemes are exempt for Regulation 16 of the Disclosure Regulations, then the cross-referral in this instance leaves the application of the ‘information listed’ in parts one and two of Schedule 5 open to interpretation.

Again, we urge the DWP to ensure that the phrasing of any exemption under Regulation 16 does not act to relax entitlements that scheme members had previously.

Question 4: Are there any other circumstances or schemes that should also be exempt from issuing on request benefit statements?

Our view is that, where a pension scheme has voluntarily issued a Benefit Information Statement, either through prescribed practice or through their own scheme rules, and a member then requests information within 12 months of that Statement being issued, there should be no requirement to issue the Benefit Information Statement again (though note the distinctions described in answer to question 3). If there were such a requirement, the disclosure regulations would be treating those schemes that voluntarily adopt good practice differently from those that adopt the same practice by virtue of regulation, incurring unfair extra costs for those schemes.

Kind Regards,



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