

17 March 2015

Philip Worsfold
The Pensions Regulator
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Helen Forrest, DB Policy Lead
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Dear Mr Worsfold,

RE: DB to DC Transfers and Conversions Guidance

Please find below the NAPF's response to the above consultation.

The NAPF welcomed the Government announcement that deferred private sector DB members would retain their existing right to a transfer. Retaining such flexibility is entirely consistent with the wider policy intention that individuals should have "freedom and choice" in how they take pension benefits. It also preserves important flexibilities for both members and employers. However the NAPF argued that members should have to take independent financial advice before making such a transfer in order to ensure that they fully understand the value of any benefits they might be forfeiting as a result. We are pleased this safeguard is now in place.

In addition the NAPF welcomed the announcement that the Pensions Regulator would issue new guidance setting out the new and existing requirements on trustees when exercising a DB to DC transfer and we have been working closely with the Regulator on the formulation of this guidance.

The draft guidance in the consultation document provides a very helpful handbook on the new DB to DC transfer requirements. In particular it is helpful that the Regulator has provided a very clear description of the role and responsibility of trustees with regard to the new advice safeguard. The guidance states clearly more than once that it is not for the trustee to second guess the member's circumstances or transfer decision. This is important because the member retains their right to potentially ignore any advice they have been given and request a transfer that may not be in their best interests. In such circumstances it is important that trustees cannot be held liable for the decision of the member.

It is helpful that the Regulator has kept the guidance short, capturing the key points and signposting to areas of further information or guidance as appropriate. This will ensure the guidance remains

relevant as other guidance or good practice, for example the Incentive Exercises Code, continues to evolve.

However, it would be helpful for the guidance to go into a little more detail on two points. Firstly exactly what is meant by ‘a check must be made by the trustees on the adviser’s details on the Financial Services Register’. Trustees will have had little experience with this particular Register and will welcome further details on exactly how it works and how checks can be undertaken. For example, in our view trustees should simply be checking whether the adviser is “active” rather than “inactive” and should not have to examine in detail the “controlled functions” history of the adviser. It would be useful for trustees to have clarity on what the audit trail of such a check could look like.

In addition it would be helpful if the guidance could make some reference to overseas transfers. We do not believe this is an area where much detail is required as HMRC provides guidance on transfers to QROPs. However it would be helpful to have a statement clarifying what is required of DB members who are resident overseas in terms of seeking the appropriate advice.

It would also be helpful if the Regulator could provide a steer on how schemes should approach non-statutory transfers, such as those within a year of normal retirement date, requests for conversion or transfer requests from survivors. Schemes may also wish to consider how they will treat non-statutory transfer requests under the new regime. And whilst there are no legal requirements around such transfers it would be helpful for the guidance to set out what TPR would expect from schemes and/or their administrators in terms of timescales and record keeping.

The NAPF is aware that this guidance applies equally to the LGPS and we will be encouraging the Shadow Scheme Advisory Board to explore the need for supplementary guidance for Local Authority funds to ensure they understand how to apply the guidance in their particular circumstances.

Finally, whilst this guidance will help schemes implement new processes, the timescale for roll out of these processes is incredibly short. The NAPF urges the Regulator to be proportionate in any enforcement activity where schemes have made efforts to comply with the spirit of the new guidance. We would not want to see the Regulator being lenient with schemes that actively prevent members from gaining access to their funds legitimately. However, we would urge the Regulator to be tolerant where schemes have simply misunderstood what they are required to do or may be unable to give precise evidence from their records.

Yours sincerely,

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