

LEGISLATION

PENSION NEWS

# PATHways

PENSION ADMINISTRATION TECHNICAL HELP

HIGHLIGHTING PENSIONS NEWS AND LEGISLATION THAT HAS PARTICULAR RELEVANCE TO WHAT WE DO IN PENSION ADMINISTRATION

## HMRC: Pension schemes newsletters 75 and 76

HM Revenue & Customs (HMRC) has published [Pension Schemes Newsletter 75](#) (PSN 75) and [Pension Schemes Newsletter 76](#) (PSN 76) which between them cover a wide range of HMRC's recent pension changes.

To accompany the changes to the tax treatment of certain death benefit payments being introduced from 6 April 2016, there is news (PSN 76) of new in-year tax repayment forms for beneficiaries to reclaim overpaid PAYE tax.

Significant content is devoted to the annual allowance changes (PSN 75) and lifetime allowance reduction (both):

### Annual allowance

PSN 75 provides a clear summary of the transitional rules for the alignment of pension input periods for tax year 2015 to 2016, including where the alternative money purchase annual allowance rules apply, and a summary of the operation of the tapered annual allowance for tax year 2016 to 2017 onwards.

Mention is made of the [draft Registered Pension Schemes \(Provision of Information\) \(Amendment\) Regulations 2016](#), which cover the information that pension schemes are required to provide HMRC (as noted by the PSN) as well as the changes to information that pension schemes will be required to provide to scheme members, so that they have the information they need to determine whether they may be liable to an annual allowance charge.

### Lifetime allowance reduction – FP 2016 and IP 2016 interim application process

Both PSNs clarify that any application for interim protection submitted before 6 April 2016 will not be processed (and would need to be re-submitted) and PSN 76 provides the awaited details of the interim process for applications for Fixed Protection 2016 (FP 2016) and Individual Protection 2016 (IP 2016) made on or after 6 April 2016.

As reported in [PATHways 59](#), the interim application process must be used where a member wishes to rely on protection when taking benefits prior to the introduction of the new online self-service and the temporary reference number will only be valid until 31 July 2016. The appendices provide template letter wording for members to use to apply for FP 2016 and IP 2016 via the interim process. According to HMRC those using the interim application process will still need to make a full application online once the online self-service is live. However, it is not yet clear whether failure to subsequently apply for the full online protection will invalidate any temporary protection which may have already been relied on when paying benefits. HMRC has been asked for clarification of this point.

## HMRC Countdown Bulletin issues 13 and 14

As the end of contracting-out nears, HMRC's National Insurance Services to Pensions Industry has published issues 13 and 14 of its [Countdown Bulletin](#) which include information about the changes to HMRC processes discussed at the November and December 2015 pension forums and the new GMP Calculation Service, as well as reminders about the limited time that remains for schemes to register for using the Scheme Reconciliation Service.

## Pension transfers and early exit charges

Further to our reporting in [PATHways 55](#), the government has published its [response](#) to the consultation. In summary:

- **early exit penalties** – the government will consider how existing powers to limit pension charges can be used to implement a cap on early exit charges in trust based schemes in a comparable way to that which it is proposing for contract based schemes
- **making the transfer process quicker and smoother** – the government has decided against creating a separate transfer process for those with flexible benefits or making a reduction to the statutory timeframe for pension transfers, although is considering increasing supervision of trust based providers; The Pensions Regulator will introduce new guidance for scheme trustees and reporting measures
- **the advice requirement** – the government has decided to wait for the outcome of the Financial Conduct Authority and HM Treasury [Financial Advice Market Review](#) (expected to be around the time of Budget 2016) before making any decisions on whether changes are needed to the advice requirement and Pension Wise will develop guidance on pension transfers in order to help individuals understand the steps they need to take

## High Court overrules Pensions Ombudsman

In handing down judgment in the Hughes v Royal London case the High Court held that Ms Hughes had an overriding statutory right to transfer, overruling a [June 2015 decision](#) by the Pensions Ombudsman that Royal London had been entitled to block the transfer request. The High Court found that the Ombudsman was only able to reach his decision by reading words into the statute which were not there, and that this was not something he had been entitled to do.

The decision removes an important technical argument which might otherwise have helped trustees to prevent members from transferring to suspicious arrangements.

Pinsent Masons pensions litigation partner Ben Fairhead (who advised Royal London in the case) is quoted as saying:

“The consequences of this ruling are far reaching and could leave pension scheme members more exposed to the risk of scams. The hands of those being asked to make transfers are increasingly tied by the inflexibility of the law.

This decision lays bare the problems facing providers and trustees grappling with the rise of such fraudulent activity. They are effectively tasked by The Pensions Regulator and the Financial Conduct Authority with trying to prevent pension funds disappearing into scams. Yet they will be increasingly hamstrung without a legitimate legal basis for declining to make the transfers that ultimately enable the scams to take place.”

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