

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: Pensions Schemes Newsletter 68

HMRC has published [Pensions Schemes newsletter 68](#) which is worthy of further explanation this month and includes information on:

### Pension flexibility – tax on payments to scheme members

- from 6 April 2015 many people will elect to withdraw money from their pension pot. It is important that they are aware of the potential tax consequences. The tax will depend on their individual circumstances e.g. their income; the amount they want to take and the number of withdrawals. Those considering such withdrawals can arrange a personal appointment with Pension Wise
- where known the pension provider can deduct tax in accordance with the tax code on the current P45 for the person making the withdrawal. If a current P45 is not held the pension provider must deduct tax from the payment at the emergency rate. This will often mean that the member will be due a tax refund. New tax repayment claim forms to claim back overpayments of tax on pension flexibility payments are available and the circumstances in which they are used are set out

### Pension flexibility – scheme administrators

- scheme administrators must be able to identify and quantify the flexibly accessed element of any payment when reporting the payment through RTI. The newsletter sets out in some detail the different scenarios that need to be taken into account when making flexi-access payments and death benefit lump sum payments

### Guidance update

- HMRC has published its draft [Pensions Tax Manual](#) guidance which will replace the Registered Pension Schemes Manual (RPSM). Once the consultation period is over the RPSM will be available from the National Archive website

### Pension liberation

- from April 2015 scheme administrators will be required to provide HMRC with additional information and declarations online. To prevent a scheme being set up legitimately and then changing its structure to become a scheme that is more likely to be the target of pension liberation, HMRC has amended the information that must be provided through the event report when a scheme changes its structure or range of number of members. Also HMRC has removed the ability to amend a scheme administrator name online, which will now need to be submitted in writing. These changes are designed to enhance HMRC's compliance activities to combat pension liberation

## Last man standing schemes

The Pension Protection Fund (PPF) has published an [online form](#) for trustees who have classed their scheme as [last man standing](#) in their latest scheme return to confirm whether they have received legal advice in relation to the scheme's structure and whether this confirms the scheme's structure is last man standing. The Pensions Regulator (TPR) will be writing to trustees of affected schemes via email with a link to their online form, asking for confirmation that the trustees have received legal advice.

The scheme's levy will be calculated using the option selected, with only those schemes who have received legal advice confirming their structure is last man standing entitled to an adjustment to their insolvency risk. The form should be submitted by 29 May 2015 in order for a scheme to receive a discount on its 2015/16 PPF levy, even if the scheme does not receive the email from TPR.

## Pension flexibilities

TPR published a [finalised version](#) of its essential guide to communicating with members about pension flexibilities on 23 April and a [new Money Advice Service leaflet](#) (as referred to in the TPR guide and which TPR has approved) is now available too.

## Transfers from DB to DC schemes

TPR has published its final guidance to assist trustees and managers of defined benefit (DB) pension schemes to manage member requests for transfers into defined contribution (DC) schemes and conversions or internal transfers of DB to DC benefits within the same scheme.

The final guidance aims to:

- explain the new requirement for trustees to check that members have obtained appropriate independent advice before transferring or converting 'safeguarded benefits' (such as DB benefits) to 'flexible benefits' (such as DC benefits);
- help trustees ensure they have appropriate processes in place to manage transfer requests;
- prompt trustees to consider the impact of transfer values as part of an integrated approach to risk management of their scheme; and
- require trustees to provide clear information for members so that they can get independent advice on the best option for them

TPR received 53 responses from representative and professional bodies, employers, trustees, advisers and individuals. Generally, respondents welcomed the guidance as a basis to prepare for the reforms and to understand the new financial advice requirements where a member's safeguarded benefits have a cash equivalent transfer value of above £30,000.

TPR intends to review its guidance on transfers in 2016 in light of experience. The guidance is [here](#).

## Pensions Ombudsman determinations in relation to pension liberation

The Pensions Ombudsman has [published](#) further determinations in relation to suspected pension liberation which continue with the theme that a member's right (whether legal or contractual or under the scheme rules) to transfer prevails over trustee or provider suspicions of liberation activity.

Two of the recent determinations (relating to the same person) tested for the first time a complaint that a transfer should **not** have been made by providers to a suspected liberation scheme. The complaints were rejected, noting that the transfers were made prior to the publication of TPR guidance about pension liberation and the providers' actions were consistent with industry good practice at the time.

The Ombudsman also made a further determination on a complaint that a transfer was blocked. Consistent with previous cases the Ombudsman ruled that there was no statutory right to the transfer, although he went on to determine that the member had a contractual (non-statutory) right under the scheme's rules and so upheld the complaint on that basis.

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