

First Briefing, May 2022 – Stronger nudge

The Department for Work and Pensions has published regulations that set out stronger nudge requirements. From 1 June 2022, trustees will be required to nudge individuals who want to access their flexible benefits to seek guidance from Pension Wise. However, individuals can choose to opt out of receiving this guidance.

Requirements for trustees and managers

The 2013 Disclosure Regulations have been updated with new requirements. Trustees must provide a stronger nudge to members who want to access their flexible benefits, recommending appropriate Pension Wise guidance. Flexible benefits are any Defined Contribution (DC) pots, including additional voluntary contributions (AVC). The stronger nudge is not required for Defined Benefit pensions.

The stronger nudge requirement applies to members who apply on or after 1 June 2022 to access or transfer flexible benefits.

Trustees must:

- Refer members to appropriate pensions guidance and explain its nature and purpose
- Offer to book an appropriate pensions guidance appointment with Pension Wise and, where the member accepts this offer, take reasonable steps to book that appointment. If the member does not accept the offer – or trustees are unable to book an appointment despite having taken reasonable steps – trustees must provide the member with details of how to book an appointment
- Explain to members that their application cannot proceed unless they have either received the appropriate guidance and notified the trustees, or opted out of doing so
- Explain to members that they can only opt out of receiving the appropriate pensions guidance by giving the trustees an opt-out notification.

Trustees must continue to deliver stronger nudges (for example, offer to book an appointment) in all subsequent interactions with members about their application, until the member either:

- Confirms that they have received appropriate pensions guidance, or
- Gives the trustees an opt-out notification.

Exemptions

The stronger nudge requirements do not apply to a transfer if:

- The member is under the age of 50
- Receiving flexible benefits is not the purpose – or only one of the purposes – of the member's transfer application
- The member is transferring into a pension arrangement that is regulated by the Financial Conduct Authority, or
- The trustees have received from the member (or a person authorised to act on their behalf) verbal or written confirmation that the member has opted out of, or received, the guidance following a referral by the trustees or managers of a different scheme.

Opting out from receiving the appropriate pensions guidance

The member can decide to opt out from receiving appropriate pensions guidance. The opt-out notification must be provided in a separate communication unless the member (or someone authorised to act on their behalf) confirms one of the following:

- In the previous 12 months, they have received either appropriate pensions guidance or regulated financial advice in connection with their application
- They qualify for a serious ill health lump sum
- Their application is solely to transfer their flexible benefits with no intention to access those benefits immediately.

The opt-out confirmation can be made verbally or in writing to the scheme.

Record-keeping

The regulations place record-keeping requirements on trustees. Trustees must keep a record of:

- Confirmation that the member has received appropriate pensions guidance
- Any opt-out notification they receive
- Any applicable exemption they receive.

How First Actuarial is preparing for the new requirements

To comply with the new requirements, we are:

- Reviewing and updating our transfer and retirement communications
- Reviewing and updating our internal processes and controls
- Providing training for our staff.

Further information

For further information, please contact your usual First Actuarial consultant.