First Briefing, June 2022 – Change to normal minimum pension age

The Finance Act 2022 which received royal assent on 24 February 2022, increased the normal minimum pension age and introduced a new 2028 protection framework. This briefing provides an overview of the normal minimum pension age and outlines key actions for trustees.

The normal minimum pension age (NMPA) is the earliest age at which a member can bring their benefits in a registered pension scheme into payment without incurring penal tax charges. Benefits may be brought into payment before NMPA if an individual either:

- has a *protected pension age*, or
- satisfies the ill-health condition.

The Protected Pension Age Concept

The concept of a protected pension age was introduced when the NMPA was last increased from 50 to 55 in 2010. It allows a member to retain their previous NMPA where they have an unqualified right (i.e. they do not need trustee or employer consent) to bring their scheme benefits into payment. Note that an NMPA is protected even if the benefit is reduced on early payment. It is the lack of a need for consent that makes the minimum pension age protected, not the availability of an unreduced pension.

The 2010 protected pension age

The Finance Act 2004 states that for a member to have a 2010 protected pension age, they must have had a right to draw benefits at an age of less than 55 on 5 April 2006.

That lower age would usually be 50. These members retain 50 as their protected pension age.

This protected pension age applies to all the member's benefits in the scheme. Indeed, if they do not draw all their benefits at the same time (including AVCs), they will lose their protected pension age.

New Increase in NMPA

The Finance Act 2022 increased the NMPA (currently 55) to 57 from 6 April 2028. The increase in NMPA will not apply to individuals who:

- Are members of certain public service schemes (e.g. those serving firefighters, police or armed forces), or
- Have a 2010 protected pension age, or
- Have a 2028 protected pension age.

2028 protection framework

The Finance Act 2022 provides a new protection framework that gives members the right to bring their benefits into payment before age 57.

An individual will qualify for a 2028 protected pension age of 55 (or 56) if:

- The individual was a member of the scheme on or before ***4 November 2021***, and
- The scheme rules on ***11 February 2021*** included an unqualified right for the member to bring their benefits into payment before age 57.

Note the two different dates applying to the tests undertaken. HMRC has confirmed that scheme rules that refer to NMPA or its underlying legislation would not give an unqualified right to a protected pension age.

Effect of transfers on 2028 protected pension age

Block transfers

Members who satisfy the entitlement condition will not lose their 2028 protected pension age because of a block transfer. Where a block transfer occurs, affected members will be entitled to their protected pension age in the receiving scheme.

A block transfer occurs when these three conditions apply:

- Two or more members transfer their benefits out of their scheme
- The transfer is made as a single transaction
- The transfer represents all the benefit rights under the scheme for the transferring members.

The protected pension age will apply to all benefits (transferred and future benefits) in the receiving scheme. Where a block transfer has taken place, members are not required to bring all their benefits into payment at the same time.

The 2028 protected pension age should be retained by members on subsequent transfers.

Individual transfers

Members who satisfy the entitlement condition will retain their 2028 protected pension age if they transfer their benefits out of the scheme to another pension arrangement on or after 4 November 2021.

The 2028 Protected Pension Age will only apply to the transfer value (including any future investment growth or losses). The protected pension age will not apply to any benefits accrued in the receiving scheme.

Trustees who wish to allow members with transferred-in benefits to retain their protected pension age in the scheme, will need to *ringfence* the transferred-in benefits from any benefits accrued in their scheme.

The 2028 protected pension age should be retained by members on subsequent transfers, although this will continue to apply only to the benefits that were subject to the protected pension age in the original scheme.

Key actions for trustees

Check scheme rules

Trustees should check their scheme rules to see if members have an unqualified right to retire from age 55 (or 56). Where the scheme has active members, trustees will need to check both active and deferred rules.

If active members need consent to retire at 55 but could leave service and then retire at 55 without consent, trustees may conclude these members will also have a protected pension age.

Given the complexities here, we would strongly advise that trustees take legal advice on this issue.

Communications

To ensure compliance with disclosure regulations, trustees will need to inform active and deferred members of the change to NMPA and how it affects them. Trustees should seek legal advice on the timescales within which members should be notified.

Administration

Where a scheme has members who are entitled to a 2028 protected pension age, the trustees should ensure their administrators record this information.

Transfers

For schemes that still accept, or have accepted a transfer-in of benefits on or after 4 November 2021, trustees should ask their scheme administrators to check whether:

- These members have a protected pension age
- The transfer value received needs to be ringfenced.

For schemes that paid transfer values on or after 4 November 2021 because members exercised a statutory right to transfer, trustees should consider whether to inform the receiving scheme if a protected pension age applies.

How First Actuarial is preparing for the changes to NMPA and the 2028 protection regime

At First Actuarial, we are:

- Reviewing and updating our transfer and retirement communications
- Reviewing internal processes and controls
- Providing training for our staff on the change to NMPA and the 2028 protection regime.

Further information

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