



Department
for Work &
Pensions

The Occupational and Personal Pension Schemes (Disclosure of Information) (Amendment) Regulations 2015

Government response to the consultation

February 2015

Contents

- Introduction 3
- Background 5
 - What the consultation said 5
- Summary of responses 6
 - Consultation questions 6
- Responses to the consultation questions 7
 - Exemption from certain information requirements for Public Service Pension Schemes 7
 - Benefit Statements – Exemption where a “Benefit Information Statement” has been given 9
 - Conclusion 10
- Annex A 11

Introduction

The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (the Disclosure Regulations) specify the information that must be disclosed by occupational and personal pension schemes. They apply to public service pension schemes, subject to certain exemptions. These exemptions apply to unfunded Defined Benefit (DB) public service schemes and to a number of public service schemes made under prescribed legislation (such as the Local Government Scheme).

The Public Service Pensions Act 2013 (the 2013 Act) sets out a common framework for the creation of new public service pension arrangements which are due to come into effect in April 2015 for most public service employees (civil servants, teachers, health service employees etc.) Following on from the 2013 Act, the Public Service Pensions (Information about Benefits) Directions 2014 were made and laid in March 2014.

After examination of the Disclosure Regulations in light of the 2013 Act, our view is that they will continue to correctly exempt the appropriate schemes. However we identified that two amendments were required to ensure that potential future schemes continue to benefit from the exemptions and to ensure that legislative references are up to date.

Additionally, we intend to introduce an exemption so that public service schemes issuing Benefit Information Statements will not need to provide an additional statement under the Disclosure Regulations where the Benefit Information Statement has been issued in the previous 12 months. This is required because of the overlap between the 2014 Directions and regulation 16 of the Disclosure Regulations.

On 3 November 2014 the Government published a consultation, **The Occupational and Personal Pension Schemes (Disclosure of Information) (Amendment) Regulations 2015**, together with draft regulations.

The consultation sought views on the proposed amendments to the Disclosure Regulations. The consultation also asked whether respondents thought there should be other exemptions in the information provided to members.

The consultation ended on 28 November 2014. We received 7 formal written responses from a range of organisations including those administering and managing the public service pension schemes. We are grateful to everyone who replied. A list of organisations that responded to the consultation is at Annex A.

This report presents an analysis of the responses to the consultation, our considerations, the evidence that we have taken into account, and our final proposals. It is a companion report to, and should be read in conjunction with the consultation paper, **The Occupational and Personal Pension Schemes (Disclosure of Information) (Amendment) Regulations 2015**, which is available at:

The Occupational and Personal Pension Schemes (Disclosure of Information) (Amendment) Regulations 2015

<https://www.gov.uk/government/consultations/occupational-and-personal-pension-schemes-disclosure-of-information-regulations-amendments>

It is intended that the regulations will come into force on 6 April 2015. In addition to the amendments to the Disclosure Regulations which are the subject of this consultation response, separate amendments to the Disclosure Regulations resulting from the commitment to deliver budget flexibilities as announced by the Chancellor of the Exchequer in March 2014 are also being made. Both those sets of amendments will come into force on the same day. It is our current intention that, for the sake of legislative tidiness, both the amendments to the Disclosure Regulations resulting from the budget flexibilities and the amendments which are the subject of this consultation response, will be made by a single, consolidated statutory instrument.

Background

What the consultation said

The Public Service Pensions Act 2013 (the 2013 Act) sets out a common framework for the creation of new public service pension arrangements which are due to come into effect in April 2015 for most public service employees (civil servants, teachers, health service employees etc.).

The Disclosure Regulations set out the information which trustees and managers of occupational and personal pension schemes must give to their members, to whom the information is disclosed and the timescales and methods for disclosing the information.

The consultation proposed that the Disclosure Regulations should be amended to include exemptions which will take account of the creation of new public service pension arrangements which are due to come into effect in April 2015. This was set out in the two chapters within the consultation document.

Chapter 1 set out the proposals for the exemption from certain information requirements for public service pension schemes. These exemptions apply to unfunded Defined Benefit (DB) public service schemes and to a number of public service schemes made under prescribed legislation (such as the Local Government Scheme). The prescribed public service pension schemes are exempt from providing the specified information due to the particular nature of these schemes which makes the provision of such information unnecessary in terms of member protection. Although the consultation document concluded that the Disclosure Regulations will continue to correctly exempt the appropriate schemes from the specified disclosure requirements once the new schemes are introduced in 2015, it identified two areas where amendments were necessary in this respect.

Chapter 2 set out the proposed amendments to regulation 16 of the Disclosure Regulations. Following on from the 2013 Act the Public Service Pensions (Information about Benefits) Directions 2014 were made and laid in March 2014 and from 1 April 2015 require public service schemes to provide active members with an annual Benefit Information Statement. The content of the information required by the Directions is identical to that required by regulation 16 of, and Schedule 5 to, the Disclosure Regulations. The proposed amendment aims to remove the overlap of providing an additional benefit statement on request where the member has already been given one in the previous 12 months.

The consultation timing and proposed coming into force date of April 2015 will ensure the Disclosure Regulations align with the new public service pension schemes which are being introduced from April 2015 under the 2013 Act.

Summary of responses

A total of 7 formal responses were received, mainly from public service scheme administrators and managers, Government departments responsible for such schemes and pensions industry representatives. None of the respondents suggested that the proposed regulations should not be made, although a number of useful representations were made, which we have considered carefully.

Responses were generally supportive of the proposed draft regulations. However, although the amendments proposed by these regulations do not make any changes to the existing regulations in relation to the provision of information by electronic means, and the requirement to advise members of material alterations to basic scheme information, a number of respondents did suggest that exemptions should be introduced for public service schemes in this respect. Additionally, two respondents felt there was some ambiguity in the wording of the regulations in relation to whether a benefit statement must be issued on request where information had previously been provided in the past 12 months.

Consultation questions

We asked the following questions in the consultation:

Question 1: Do you agree that the draft regulations exempt the appropriate categories of public service schemes from providing the information at regulations 9, 10, 12, 13 and 15 of the Disclosure Regulations?

Question 2: Are there any other types of information, currently required under the Disclosure Regulations that public service pension schemes should not be required to provide to their members?

Question 3: Do you agree that where a public service scheme has issued a Benefit Information Statement under The Public Service Pensions Act (Information about Benefits) Directions 2014 they should be exempt from providing the information at regulation 16 of the Disclosure Regulations where a Benefit Information Statement has been issued to the member within 12 months of the request under regulation 16?

Question 4: Are there any other circumstances or schemes that should also be exempt from issuing on request benefit statements?

Responses to the consultation questions

Exemption from certain information requirements for Public Service Pension Schemes

In Chapter 1 of the consultation document we asked two questions.

Question 1: Do you agree that the draft regulations exempt the appropriate categories of public service schemes from providing the information at regulations 9, 10, 12, 13 and 15 of the Disclosure Regulations?

All those who responded to question 1 agreed that the regulations exempt the appropriate categories of schemes from the requirements to provide the information at regulations 9, 10, 12, 13 and 15 of the Disclosure Regulations.

Question 2: Are there any other types of information, currently required under the Disclosure Regulations that public service pension schemes should not be required to provide to their members?

Most respondents either did not have any comments regarding question 2 or were content that there did not need to be any further exemptions.

However, some schemes felt that there should be a general exemption for public service pension schemes from regulation 8 (material alterations to basic scheme information). Some respondents suggested the requirement to notify members of changes to basic scheme information was unnecessarily onerous, particularly where this information has changed on scheme websites.

One respondent also suggested that there should be refinement to regulation 6 (basic scheme information) to provide for “excluded persons” to be exempted in respect of transitional members moving to the new reformed schemes from 1 April 2015 onwards.

Government response

We welcome the general agreement from respondents that the proposals meet the aim of ensuring that the regulations exempt the appropriate categories of public service schemes from the requirements to provide information under regulations 9, 10, 12, 13 and 15 of the Disclosure Regulations.

The Occupational and Personal Pension Schemes (Disclosure of Information) (Amendment) Regulations 2015

We have considered the responses to question 2 in detail and discussions took place both before and during the consultation with public service pension scheme representatives as members of the Mini Official Committee on Occupational Pensions (MOCOP) group, which is administered by HMT who are responsible for the regulatory underpin for public service schemes. The requirement to notify members of material alterations to scheme information is a pre-existing requirement contained in the Disclosure Regulations which has been raised and debated previously. This is not a requirement introduced by the proposed regulations. The existing requirement is to safeguard members and it is designed to ensure members are made aware if important information about their scheme changes. If a scheme has placed that information on a website and that information changes, we consider that members should be made aware that the information has changed. Otherwise, members will be unaware of potentially important changes to information about their scheme.

Whilst we recognise the distinctive nature of public service schemes particularly in relation to their statutory duty to consult members of any changes, we do not consider this to be a substitute for informing individual members of particular changes to important information about their scheme, such as changes to the way their contributions are calculated and changes to scheme benefits.

We have also carefully considered the suggestion of an exemption for excluded persons in regulation 6 (basic scheme information) for those who are transitioned to new schemes from April 2015 as a result of the restriction of existing schemes under section 18 (or section 31 in the case of public body pension schemes) of the 2013 Act and who are “excluded persons” under regulation 2, but have concluded that such an amendment would not be appropriate. Whilst we recognise the practical difficulties in ensuring all members, including those whose whereabouts may not be currently known, are given information about their scheme, it is also important that schemes make every effort to provide basic scheme information about the new scheme into which members are transferred. The Government is currently introducing legislation to improve the governance and record keeping of all workplace schemes and we consider that efforts should be made to ensure member records are up to date, including up to date contact details for members.

Benefit Statements – Exemption where a “Benefit Information Statement” has been given

In Chapter 2 of the consultation document we asked two questions.

Question 3: Do you agree that where a public service scheme has issued a Benefit Information Statement under The Public Service Pensions Act (Information about Benefits) Directions 2014, they should be exempt from providing the information at regulation 16 of the Disclosure Regulations where a Benefit Information Statement has been issued to the member within 12 months of the request under regulation 16?

Question 4: Are there any other circumstances or schemes that should be also exempt from issuing on request benefit statements?

Most respondents agreed with the principle that the legislation needed amending to ensure duplication of benefit statements was avoided. However concerns were raised regarding the existing wording in regulation 16 and the wording following the proposed amendment. The broad issue was whether there was a requirement for managers to give information on request where the information issued in the previous 12 months in either the Benefit Information Statement or in the benefit statement was different to that being requested.

Government response

The responses and the interpretations set out in them have been carefully considered. We do not agree that the drafting of the current regulation 16 and of the proposed amendment to it operates in the way suggested and therefore do not propose to make any further amendment in this respect.

The 2014 Directions, which come into force in April 2015, require the Benefit Information Statement to be issued once every 12 months. This statement must contain the information set out in Schedule 5 to the Disclosure Regulations. The information to be given includes one of a choice of three items of information contained in paragraph 2 of Part 1 of Schedule 5 and that choice is to be exercised by the trustee/manager of the scheme.

Our view is that once the trustees/managers have discharged their duty to give the information pursuant to the Benefit Information Statement, the proposed exemption negates the need to give any further information under regulation 16 for a further 12 months. The duty includes the choice already exercised by the trustee/manager in relation to paragraph 2 of Part 1 of Schedule 5. Therefore, if information in addition to that contained within the benefit statement is requested by a member during the 12 month period, there is no requirement under the regulations for managers to issue

further information. A key point to stress is that the regulations set out minimum requirements and managers can choose to issue further requested information should they wish to do so.

Conclusion

The responses to the consultation were generally supportive of the proposals. Some suggestions were made in relation to the wording around the issuing of Benefit Information Statements under regulation 16, and in relation to pre-existing requirements for the provision of basic scheme information and notifications of material alterations to such information. All of the comments received have been carefully considered and where appropriate have been reflected in the drafting of the final regulations.

The Government is grateful to all those who responded to the consultation.

Annex A

Respondents to the consultation

MOCOP – the Forum for Public Service Pension Schemes

Teachers' Pension Scheme/Department for Education

National Health Service Pension Scheme/Department of Health

Hymans Robertson

Local Government Association

National Association of Pension Funds

Society of Pension Professionals