

 **Compliance**

## **Disclosure of Information Requirements**

Based on:

The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 [[SI 2013/2734](#)]

*Coming into force on 6 April 2014 on which day the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 cease to have effect*

as amended by:

The Occupational and Personal Pension Schemes (Disclosure of Information) Amendment Regulations 2015 [[SI 2015/482](#)]

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## **Application of the Regulations [Regulation 4]**

The Regulations set out the information that must be provided by a scheme manager to members of pension schemes. Certain exclusions are made for public service pension schemes such as the Firefighters' Pension Schemes (FPS).

The scheme manager is responsible for ensuring that information or documents are given in accordance with the Disclosure Regulations, whether given directly, or indirectly through a third party.

In addition to having regard to the Disclosure Regulations, the scheme manager should also comply with any disclosure requirements contained in FPS legislation.

## **Failure to comply with the requirements of the Regulations [Regulation 5]**

If a person fails, without reasonable excuse, to comply with the requirements of the Disclosure Regulations in respect of an occupational pension scheme, the Pensions Regulator may, by notice in writing, require that person to pay within 28 days, a penalty that must not –

- (a) in the case of an individual, exceed £5,000, and
- (b) in any other case, exceed £50,000.

Any instance of non-compliance may be reported as a breach.

## **General points to note**

Regulation 4(6)(a) and (b) state that the scheme manager is not required to give the listed information to a member or prospective member if an employer has failed to tell the manager about that person's membership or eligibility for membership.

Regulation 4(7) requires that when the information is given to a person it should be accompanied by the postal and electronic address to which the person should send requests for further information or any other enquiry.

# Explanation of certain terms and expressions [Regulation 2]

beneficiary	a person, other than a member, who is entitled to the payment of benefits under the scheme
electronic communication	has the meaning given in Section 15(1) of the Electronic Communications Act 2000, i.e. a communication transmitted (whether from one person to another, from one device to another or from a person to a device or vice versa) by means of an electronic communications network or by other means but while in an electronic form.
excluded person	means a member or beneficiary— <ul style="list-style-type: none"><li>• whose present postal address and electronic address is not known to the trustees or managers of the scheme, and</li><li>• in respect of whom the trustees or managers of the scheme have sent correspondence to their last known—<ul style="list-style-type: none"><li>○ postal address and that correspondence has been returned, or</li><li>○ electronic address and the trustees or managers of the scheme are satisfied that correspondence has not been delivered</li></ul></li></ul>
hard copy form	a paper copy or similar form capable of being read
prospective member	a person who, under the terms of their contract of service, the scheme rules, or both – <ul style="list-style-type: none"><li>• can choose to become a member</li><li>• will be able to choose to become a member of the scheme if they continue in the same employment for a certain period of time</li><li>• will become a member of the scheme automatically unless they choose not to become a member of the scheme, or</li><li>• can become a member of the scheme if their employer consents</li></ul>
relevant employment	means any employment to which the scheme relates
relevant persons	<ul style="list-style-type: none"><li>• a member or prospective member of the scheme</li><li>• a spouse or civil partner of a member or prospective member</li><li>• a beneficiary of the scheme</li><li>• a recognised trade union</li></ul>

# Basic scheme information **[Regulation 6]**

The basic scheme information detailed in [Part 1 of Schedule 2](#) must be given as a matter of course to employees in categories (a) and (b):

- (a) Prospective members if practicable to do so, and members who have not already been given the information.

If the scheme manager has received jobholder information (i.e. under Automatic Enrolment Regulations) in respect of the above, the basic scheme information must be given within 1 month of the date that information was received.

If the scheme manager has not received jobholder information in respect of the above, the information must be given within 2 months of the date the person became an active member of the scheme.

- (b) A relevant person who makes a request for the information, and has not been given the information in the previous 12 months.

The information must be given within 2 months of the request.

No information is required to be given to a relevant person unless it is relevant to the person's rights or prospective rights under the scheme, nor to a recognised trade union unless it is relevant to the rights or prospective rights of persons in that trade union.

## Part 1 of Schedule 2

The following are the items of information that must be given to members and prospective members. (Not all of the items listed in the schedule are relevant to the FPS and have been excluded from this guide)

The information must be accompanied by the postal and electronic address to which a person should send requests for further information or any other enquiry. The best way of supplying the information would be through a scheme guide.

1. The conditions persons must meet to become members of the scheme and a summary of the categories of persons who are eligible to become members of the scheme.
2. How persons who are eligible to be members of the scheme are admitted to it.
3. A summary of what can be done with a member's accrued rights where the member leaves pensionable service before normal pension age, including whether accrued rights can be transferred out of the scheme, converted into an annuity designated as available for the payment of a drawdown pension, and commuted to a lump sum.
4. A statement relating to the matters mentioned in 3 –
  - (a) as to whether a charge may be made, and
  - (b) that further information is available on request.
5. Whether the scheme is a tax registered scheme, or, if not, whether an application for the scheme to become a tax registered scheme is under consideration by the Commissioners for Her Majesty's Revenue and Customs.
6. A statement that explains whether transfers can be made into the scheme, including whether such transfers can be made in accordance with Chapters 1 and 2 of Part 4ZA of the Pension Schemes Act 1993 (transfers and contribution refunds).

7. A summary of how the contributions, if any, payable by the employer and the member are calculated.
8. A statement that –
  - (a) the Pensions Advisory Service is available at any time to assist members and beneficiaries with –
    - (i) pensions questions, and
    - (ii) issues they have been unable to resolve with the trustees or managers of the scheme,
  - (b) the Pensions Ombudsman may investigate and determine certain complaints or disputes about pensions that are referred to the Ombudsman in accordance with the Pension Schemes Act 1993, and
  - (c) the Regulator may intervene in the running of schemes where trustees, managers, employers or professional advisers have failed in their duties.
9. The postal and electronic address at which each of the bodies referred to in paragraph 10 may be contacted.
10. If a member of the scheme has to give a period of notice to terminate their pensionable service, the length of that period of notice.
11. Whether, and if so on what conditions (if any), a member of the scheme, whose pensionable service has terminated before normal pension age, may re-enter pensionable service.
12. The following information about benefits payable under the scheme (referred to in this paragraph as “benefits”) –
  - (a) what the benefits are,
  - (b) how benefits are calculated,
  - (c) how the scheme defines pensionable earnings if appropriate,
  - (d) how and when benefits in payment are increased if appropriate,
  - (e) the rate at which rights to benefits accrue, if appropriate,
  - (f) the conditions on which benefits are payable,
  - (g) when benefits (including survivor’s benefits) are payable.
13.
  - (1) The scheme’s internal dispute resolution arrangements.
  - (2) The postal or electronic address and job title of the person who should be contacted to use these arrangements.

# Material alterations to basic scheme information

## Regulation 8

If there is a change in relation to the scheme which results in a material alteration in the information listed in Part 1 of Schedule 2, this must be notified to all members and beneficiaries, except excluded persons.

It must be notified before, or as soon as possible after and, in any event, within 3 months after, the change takes effect.

However, there is no requirement to give information in this case to –

- a person unless it is relevant to the person's rights or prospective rights under the scheme, or
- a recognised trade union unless it affects the rights or prospective rights of persons in that trade union and it affects the basic scheme information already given to the trade union.

## Constitution of the scheme Regulation 11

The information listed in [Part 1 of Schedule 3](#) must be given to a relevant person if that person makes a request for the information.

No information is required to be given to a relevant person unless it is relevant to the person's rights or prospective rights under the scheme, nor to a recognised trade union unless it is relevant to the rights or prospective rights of persons in that trade union.

It must be given within 2 months of the request. It need not be given – unless there has been a change in the information – if it has been supplied to the relevant person in the previous 12 months.

### **Part 1 of Schedule 3**

The information to be provided on request is –

1. the contents of any trust deed or document under which the scheme is made
2. the scheme rules
3. the contents of any document that supplements or alters in any way the information referred to in (a) and (b)
4. the name and postal and electronic address of every person who employs any member of the scheme in relevant employment.

## Transfer credits [\[Regulation 14\]](#)

The following information as detailed in [Part 4 of Schedule 3](#) must be given to any member or prospective member who requests it and who has not made such a request in the previous 12 months. It must be provided within 2 months of the date the request is made.

### Part 4 of Schedule 3

The information required is whether the member or prospective member is entitled to acquire transfer credits in exchange for –

- (a) a specified cash equivalent (see Chapter 1 of Part 4ZA, or Chapter 2 of Part 4A, of the Pension Schemes Act 1993: requirements relating to pension credit benefits) provided by another scheme, or
- (b) any transfer payment (see Chapter 1 of Part 4ZA, or Chapter 2 of Part 4A, of the Pension Schemes Act 1993) provided by another scheme,

and a statement of any transfer credits referred to above which the member or prospective member is entitled to acquire.

## Statements of benefits [\[Regulation 16\]](#)

In circumstances where retirement is not imminent, and a member requests information about benefits, certain information must be provided if, in the 12 months before the request is made –

- the information has not already been supplied in response to a previous request under Regulation 16, and
- an annual benefit statement has not been provided in accordance with Section 14(1) (information about benefits) of the Public Service Pensions Act 2013. See also [Regulation 183](#) of The Firefighters' Pension Scheme (England) Regulations 2014

The information should be given as soon as practicable, but no more than 2 months after the request is made.

The information required depends upon whether the person is an active member, a deferred member, or a pension credit member.

### Active member [\[Schedule 5, Parts 1 and 2\]](#)

The information to be provided to an active member on request are **one** of the following amounts, as chosen by the scheme manager, setting out the member's and survivor's benefits without regard to increases to the member's salary –

- (a) the amounts that would be payable from the date benefits are payable if pensionable service were to end on a date specified by the scheme manager;
- (b) the amounts that would be payable from the date benefits are payable if pensionable service were to end on the member attaining normal pension age; or
- (c) the amounts that would be payable from the date benefits are payable if pensionable service were to end on a date agreed between the member and the scheme manager.

They must also give details, on request, of the amount and calculation method of any death benefits if the member were to die in service (at a date specified by the scheme manager).

Also, the scheme manager must provide, on request,

- details of the member's pensionable remuneration on a date specified by the scheme manager
- the date on which the member's pensionable service started
- a summary of the method for calculating the member's benefits and any survivors' benefits
- details of how any deduction from benefits is calculated.

### **Deferred member** [[Schedule 5](#), Parts 2 and 3]

The information to be provided to a deferred member on request is –

- the date on which the member's pensionable started
- the date the member's pensionable service ended
- the amount of the member's pensionable remuneration on the date pensionable service ended
- a summary of the method for calculating the member's benefits and any survivor's benefits
- details of how any deduction from benefits is calculated
- the amount of the member's benefits and survivor's benefits due from the date benefits are payable.

### **Pension credit member** [[Schedule 5](#), Part 4]

The information to be provided to a pension credit member on request is –

- a summary of the method for calculating the member's benefits and any survivor's benefits
- details of how any deduction from benefits is calculated
- the amount of the member's benefits and survivor's benefits payable from the date benefits are payable.

## **Information on accessing benefits [[Regulation 20](#)]**

When a benefit under the scheme has, or is about to, become payable to a person, the following information must be given under [paragraphs 6 to 9 of Schedule 7](#) –

- the amount of benefit that is payable, and
- if the benefit is payable periodically:
  - any conditions for continuing to make the payments, and
  - any provisions which would allow the payments to be altered, and
- any rights and options that persons have on the death of the member or beneficiary of the scheme and any procedures for exercising these rights and options.

This information must be given –

- if the benefit becomes payable on or after normal pension age – before the benefit becomes payable if practicable and, in any event, within one month after the benefit becomes payable, or
- if the benefit becomes payable on a date before normal pension age, within 2 months of that date.

## Accessing benefits on the death of the member or beneficiary Regulation 21

When the scheme manager is aware that –

- (a) a member or beneficiary of the scheme has died, and
- (b) a person may be entitled to exercise rights or options under the scheme as a result of that death,

the following information must be provided under [paragraphs 6 to 10 of Schedule 7](#):

- the amount of benefit that is payable, and
- if the benefit is payable periodically:
  - any conditions for continuing to make the payments, and
  - any provisions which would allow the payments to be altered, and
- any rights and options that persons have on the death of the member or beneficiary of the scheme and any procedures for exercising these rights and options, and
- the provisions (or, as the case may be, a statement that there are no provisions) under which the pension payable to the survivor of a member or beneficiary of the scheme may or will be increased and the extent to which such increases are dependent on the exercise of a discretion

This information must be given to –

- the person mentioned in (b) above if that person is at least 18 years old and the scheme manager knows their postal or electronic address.

It must also be given **on request** to

- a person who is a personal representative of the member or beneficiary of the scheme or who is authorised to act on behalf of the person mentioned in (b) above,

but the information need not be given to this person where a request is made within 3 years of the same information being given to the same person in the same capacity.

The required information must be given as soon as possible and in any event within two months of the date on which the scheme manager becomes aware of the death or where a request for the information is made.

## Changes to benefits Regulation 22

If the amount of benefit payable to a person alters and the alteration was not made in accordance with information provided to a member and survivor about any provision which would allow payments to be altered, when details of benefits were originally provided, the information detailed in [paragraphs 6, 8 and 9 of Schedule 7](#) must be given –

- the amount of benefit that is payable and,
- any rights and options that persons have on the death of the member or beneficiary of the scheme, and
- any procedures for exercising these rights and options.

The information must be given before the date on which the decision to alter the benefit takes effect, where possible and in any event within one month of that date.

## **Giving information and documents [Regulation 26]**

Information may be given by –

- (a) sending it to the person's last known postal address
- (b) sending it to the person's last known electronic address, or making it available on a website

However, a member or beneficiary may request in writing that any or all of the information should not be supplied in accordance with (b) in which case it should be supplied in accordance with (a).

Information may only be given by an electronic communication where a scheme manager is satisfied that the electronic communications have been designed so that the person will be able to get access to and store or print the information, taking into account the requirements of disabled persons.

In the case of those who were members or beneficiaries of the scheme on 1 December 2010 and where information was not given to them before that date by using the electronic/website means, the scheme manager must give written notice to the person (not electronically) before supplying information in that way. The written notice must state that –

- the scheme manager proposes to give information to the member or beneficiary of the scheme by means of an electronic communication, and
- the member or beneficiary of the scheme may request in writing that information is not given by means of an electronic communication.

## **Provision of information on a website [Regulation 27]**

When a website is used for the first time to make available the information or document, a notification must be given to the recipient (not via a website). This notification must include –

- (a) a statement that the information or document is available on the website,
- (b) the website address
- (c) details of the place on the website where the information or document may be read, and
- (d) an explanation of how the recipient may read the information or document on the website.

Each time a website is used on a subsequent occasion to make information or documents available, a notification must be given to the recipient. Notifications stating that the information or document is available on the website and must not be given by making them available on a website.

## **Provision of information on a website: supplemental [Regulation 28]**

The subsequent notifications need not be issued if:

- (i) the scheme manager has given the recipient at least 2 documents by hand or by sending to that person's last known postal address, and each of those documents –
  - asks the recipient to give their electronic address to the scheme manager (except where the scheme manager does not have the facility for sending documents to that address), and
  - states that the recipient may request in writing that information and documents are not given by means of an electronic communication.

- (ii) If (i) above is satisfied and the scheme manager has given the recipient, by hand or by sending it to the person's last known postal address, a further document that –
- asks the recipient to give their electronic address to the scheme manager (except where the scheme manager does not have the facility for sending documents to that address), and
  - states that the recipient may request in writing that information and documents are not given by means of an electronic communication, and
  - states that no further information and documents will be available to read on the website and that no further notifications will be sent to the person.
- (iii) If (i) and (ii) above are satisfied and the scheme manager –
- does not know the recipient's electronic address or does not have the facility for sending information or documents to that address, and
  - has not received a written request that information or documents are not given to the recipient by means of electronic communication.

## **Giving information and documents in certain cases**

### **Regulation 29**

Where the person or recognised trade union makes a request for the information in hard copy form, the scheme manager must give the information in that form and if a charge is made for doing this, it must not exceed the cost of producing and supplying it. If the information in hard copy form is publicly available, the scheme manager can give details of this and where it can be accessed, instead of providing a hard copy themselves.

If the person or trade union makes a request for the information other than in hard copy form, it can be made available free of charge –

- for inspection at a place that is reasonable having regard to who made the request, or
- on a website

If the information is available on a website, the scheme manager must provide the person or recognised trade union who requested the information:

- (a) a statement that the information or document is available on the website,
- (b) the website address
- (c) details of the place on the website where the information or document may be read, and
- (d) an explanation of how the recipient may read the information or document on the website.

**Occupational and Personal Pension Schemes  
(Disclosure of Information) Regulations 2013**

## **Time limits for provision of information**

<b>Circumstances</b>	<b>Time limits</b>	<b>Reg</b>
Starter (main details normally via Scheme guide)	If Automatic Enrolment jobholder information has been supplied, within 1 month of the date of receipt of this by manager.  If Automatic Enrolment jobholder information has not been supplied, within 2 months of the date of the person becoming an active member.	Reg 6, Sch. 2 Part 1
Request for information from relevant person other than starter	Within 2 months of the date of request, unless supplied within previous 12 months.	Reg 6 and Sch. 2 Part 1
Material alteration to basic scheme information	Before, or as soon as possible within 3 months of the date of change.	Reg 8
Request for information about constitution of scheme from relevant person	Within 2 months of the date of request, unless supplied within previous 12 months.	Regs 11 and 29
Information about transfer credits to member or prospective member	Within 2 months of the date of request, unless supplied within previous 12 months.	Reg 14, Sch. 3 Part 4
Request for information from member (active, deferred, pension credit) regarding amount of benefit where retirement not imminent	Within 2 months of the date of request, unless supplied in previous 12 months or if an Annual Benefit Statement has been issued in accordance with Section 14(1) of the Public Service Pensions Act 2013.	Reg 16, Sch. 5 Parts 1 to 4
Information to person regarding amount of benefit about to become payable to them	If the benefit is payable on or after normal pension age – before the date on which the benefit becomes payable and no later than 1 month after.  If the benefit becomes payable on a date before normal pension age – within 2 months of that date	Reg 20, Sch. 7 Para's. 6 to 9
Information on death of member (or beneficiary)	As soon as possible and within 2 months of the date on which scheme manager becomes aware of the death or where a request for information is made.	Reg 21, Sch.7 Part 2
Information about alteration to benefits in payment (not given when details of benefits originally provided)	Before the date on which the decision to alter the benefit takes effect or within one month of that date.	Reg 22 Sch.7 Para's 6,8 and 9