

**Private  
Pensions Policy  
and Regulation**

**Review of Disclosure of  
Information Requirements  
applying to Occupational,  
Personal & Stakeholder  
Pension Schemes**

Public Consultation

March 2009

**DWP** Department for  
Work and Pensions

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## **Introduction**

### **Who this consultation is aimed at**

1. The consultation is aimed primarily at pension industry professionals, pension schemes, trustees, and industry and member representative organisations, but we would be interested in views from any source.

### **Subject of consultation**

2. This document sets out the results of a review of the disclosure of information requirements applying to occupational and personal pension schemes and puts forward proposals for reform.

### **Purpose of the consultation**

3. We are keen to ensure that reforms in this area are helpful to both schemes (in providing a disclosure framework which reduces administrative burdens) and members (in ensuring they receive appropriate information). We shall consider carefully the responses received to this exercise in developing a set of draft regulations which will then be the subject of further public consultation. The review of disclosure requirements is also intended to test the general concept of a more principles-based approach to legislation, and the possibility of adopting a similar approach to other areas of pensions legislation, so we will also assess the outcome of the consultation from a wider perspective. We plan to consult on the draft regulations by the end of this year, in order to introduce new legislation with effect from 6th April 2010.

4. This paper includes a number of specific questions on which the Department seeks views. We would also welcome any other comments, either on the overall approach or on detailed points arising from the proposals.

5. From 2012, the Pensions Act 2008 requires employers to enrol eligible employees automatically into a qualifying workplace pension scheme and to make minimum contributions into that scheme. At the same time as issuing this consultation document on the general disclosure requirements applying to private pension schemes, the Department is also publishing a separate consultation paper on the practical arrangements for employers to implement auto-enrolment. Any views on the scheme disclosure proposals in this paper, specifically in the context of auto-enrolment from 2012, would of course be welcome.

### **The consultation arrangements**

6. The Government Code of Practice on consultation advises that a minimum of 12 weeks is appropriate for public consultations, unless there are good reasons for a shorter period. In this case, the consultation document is of a technical, specialised nature and mainly of interest only to professionals

in the pensions industry. Ministers have therefore agreed a limited consultation period of eight weeks is appropriate.

7. The consultation period runs until 6th May.

### **Scope of consultation**

8. This exercise applies to England, Scotland and Wales.

### **How can you respond to the consultation?**

9. We would be pleased to receive your responses by email to:

adelphi.sft@dwp.gsi.gov.uk

Alternatively, responses can be sent by post to:

Tim Found  
Department for Work and Pensions  
Private Pensions Policy & Regulation  
The Adelphi (3rd Floor)  
1-11 John Adam Street  
London WC2N 6HT

10. We would be grateful if you would ensure that your response reaches us by 6th May 2009. If responding by email (which we would prefer), there is no need also to send a hard copy. We will acknowledge receipt of all responses.

11. In responding, it would be helpful if you would indicate whether you are doing so as an individual or whether you are representing an organisation. If you are responding on behalf of a representative organisation, please make it clear how the views of constituent members have been gathered.

### **Queries about the content of this document**

Any queries about the subject matter of this consultation should be made to:

Name:	Tim Found
Address:	DWP, The Adelphi (3rd Floor), 1-11 John Adam Street, London WC2N 6HT
Phone:	020 7962 8564
Fax:	020 7962 8676
Email:	adelphi.sft@dwp.gsi.gov.uk

## Freedom of information

12. The information you send us may need to be passed to colleagues within the Department for Work and Pensions, and published in a summary of responses received, to be incorporated within the proposed further consultation document on draft regulations later this year.

13. All information contained in your response, including personal information, may be subject to publication or disclosure if requested under the Freedom of Information Act 2000. By providing personal information for the purpose of the public consultation exercise, it is understood that you consent to its disclosure and publication. If this is not the case, you should limit any personal information which is provided, or remove it completely. If you want the information in your response to the consultation to be kept confidential, you should explain why as part of your response, although we cannot guarantee to do this. We cannot guarantee confidentiality of electronic responses even if your IT system claims it automatically.

14. If you want to find out more about the general principles of Freedom of Information and how it is applied within DWP, please contact:

Charles Cushing, Department for Work and Pensions, Information Policy Division, Central Freedom of Information Team, Adelphi 1-11 John Adam Street, London, WC2N 6HT (email [charles.cushing@dwpgsi.gov.uk](mailto:charles.cushing@dwpgsi.gov.uk) or [carol.smith14@dwpgsi.gov.uk](mailto:carol.smith14@dwpgsi.gov.uk)).

Please note that Charles and Carol cannot advise on this particular consultation exercise, only on Freedom of Information issues.

15. More information about the Freedom of Information Act can be found on the website of the Ministry of Justice.  
<http://www.justice.gov.uk/guidance/guidancefoi.htm>

16. The information you send us may need to be passed to colleagues within the Department for Work & Pensions and published in a summary of responses received, and referred to in the published consultation report.

## The consultation criteria

17 The consultation is being conducted in line with the Government Code of Practice on Consultation - [www.berr.gov.uk/files/file47158.pdf](http://www.berr.gov.uk/files/file47158.pdf) - and its seven consultation criteria, which are as follows:

- **When to Consult.** Formal consultation should take place at a stage when there is scope to influence the outcome.
- **Duration of consultation exercises.** Consultations should normally last for at least 12 weeks, with consideration given to longer timescales where feasible and sensible.

- **Clarity of scope and impact.** Consultation documents should be clear about the consultation process, what is being proposed, the scope to influence, and the expected costs and benefits of the proposals.
- **Accessibility of consultation exercises.** Consultation exercises should be designed to be accessible to, and clearly targeted at, those people the exercise is designed to reach.
- **The burden of consultation.** Keeping the burden of consultation to a minimum is essential if consultations are to be effective and if consultees' buy-in to the process is to be obtained.
- **Responsiveness of consultation exercises.** Consultation responses should be analysed carefully and clear feedback should be provided to participants following the consultation.
- **Capacity to consult.** Officials running consultation exercises should seek guidance in how to run an effective consultation exercise, and share what they have learned from the experience.

## Feedback on this consultation

We value your feedback on how well we consult. If you have any comments on the process of this consultation (as opposed to the issues raised) please contact our Consultation Coordinator:

Name:	Roger Pugh
Address:	DWP Consultation Coordinator, Room 4F, Britannia House, 2, Ferensway, Hull HU2 8NF
Phone:	01482 609571
Fax:	01482 609658
Email:	roger.pugh@dwp.gsi.gov.uk

In particular, please tell us if you feel that the consultation does not satisfy the consultation criteria. Please also make any suggestions as to how the process of consultation could be improved further.

If you have any requirements that we need to meet to enable you to comment, please let us know.

The responses to the consultation will be published on our consultation website by autumn this year in a report which will summarise the responses and the action that we will take as a result of them.

## The review of disclosure requirements

### Background

22. **Deregulatory Review.** The independent reviewers appointed to the Deregulatory Review, Ed Sweeney and Chris Lewin, recommended<sup>1</sup> that the Department explore a "principles based" approach to regulation and suggested that this should be piloted in relation to the disclosure of information requirements which apply to occupational pension schemes.

23. **Government Response.** In responding to the recommendations from the reviewers, the Government said<sup>2</sup> that replacing in one exercise all the current disclosure requirements, spread over more than a dozen sets of regulations and covering a range of issues, with a principles-based approach could prove too unwieldy. The Government therefore proposed to focus initially on the main disclosure requirements in the Occupational Pension Schemes (Disclosure of Information) Regulations 1996 and the Personal Pension Schemes (Disclosure of Information) Regulations 1987. Work would be taken forward with stakeholders to see how a principles-based approach could be best made to work in this context.

24. **Working Group.** A working group comprised of representatives from trade bodies and pension schemes<sup>3</sup> was set up to consider these issues. Annex A sets out the objective and success criteria which the working group identified and adopted.

25. The group concluded that an entirely principles based approach would not be appropriate. It might not be clear to schemes if they were acting in accordance with the principles and the consequence could be significant additional expenditure on legal and other consultancy fees. Such an approach would also risk removing clarity in terms of members' rights to various important items of information.

26. A key issue for the group was the requirements of the IORP Directive<sup>4</sup>. DWP Lawyers advised that the terms of the Directive had to be clearly reflected in UK legislation. Any new arrangements on disclosure would therefore need to be measured against the requirements set out in the Directive (see Annex B).

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<sup>1</sup> *Deregulatory Review of Private Pensions: An independent report to the Department for Work and Pensions*, July 2007.

<sup>2</sup> *Deregulatory review - response to consultation*, December 2007.

<sup>3</sup> The following organisations were represented: Association of British Insurers, HSBC, National Association of Pension Funds, Raising Standards in Pension Administration, Pensions Regulator, Society of Pensions Consultants, Western Power pension scheme. Discussions also took place with the Financial Services Authority, especially over disclosure requirements for personal pensions.

<sup>4</sup> Directive 2003/41/EC *On the activities and supervision of institutions for occupational retirement provision*.

27. The working group felt that, even within this constraint, introducing a high level principle that trustees should take into account members' best interests when providing them with information provided an opportunity to reduce the level of prescription in the current disclosure provisions, without disrupting schemes' current arrangements.

## Review of regulations

28. Following on from the working group's recommendation, a review has been undertaken of all the requirements for occupational, personal and stakeholder pension schemes to disclose information to members. This has included regulations made under section 113 of the Pension Schemes Act 1993 (the main disclosure power) and under powers in other Acts. The findings are set out in the following paragraphs.

29. We believe it is necessary to specify disclosure requirements where:

- the information is required by IORP, or
- the information is about a member's benefits; key events in the membership life cycle; or the status of the scheme.

30. The introduction of auto-enrolment from 2012 introduces new information needs for members. Getting accurate information quickly to new members who have been automatically enrolled into a qualifying scheme is vital, and consequently we think it is right that information to be passed on by employers in this context is detailed in legislation.

## Overview of review findings

31. We believe most existing information requirements do in fact fall within the criteria set out in paragraph 29. However, the following areas have been identified as having scope for some deregulation:

- **Basic information about the scheme** This consists of about 30 individual prescribed requirements. These requirements could be reduced in number to focus on key issues for new members – contributions, benefits, normal pension age, etc. Beyond that it would be for trustees to decide on any additional information to be provided to the member.
- **Annual report** This requirement consists of some 16 paragraphs of requirements. These requirements could again be reduced to certain key issues.
- **Annual information** There are a number of opportunities to streamline and simplify the information sent to members annually.

- **Statutory money purchase illustrations** Current regulations for SMPIs are very detailed and prescriptive. These requirements could be reduced in number to allow for some information to be signposted or made available on request and also streamlined to consolidate the number of required statements. The aim would remain to provide consistency across defined contribution schemes and members whilst engaging member understanding.

32. We also believe there is scope for regulations to be significantly restructured and simplified, whilst still setting out essential requirements, as above. A single set of regulations would set out the information requirements applying to occupational, personal and stakeholder pension schemes.

33. Where, however, there are information requirements embedded in a set of regulations dealing with a specific issue, and taking those requirements out of their existing location would appear to be unhelpful, then we propose that such requirements should not be incorporated in the new Disclosure Regulations. An example would be the Occupational and Personal Pension Schemes (Consultation by Employers and Miscellaneous Amendment) Regulations 2006 (SI 2006/349), where the requirements, including information requirements, relating to a proposed "listed change" to a pension scheme are contained within one set of regulations.

34. We propose that regulations which require information to be provided within a specified time will generally be redrafted so that the required information must be provided "within a reasonable period". The Pensions Regulator would then issue a Code of Practice incorporating guidance for schemes on timescales.

35. As well as streamlining and, where possible, simplifying the requirements, we propose to introduce a provision making it clear that schemes may provide information to members electronically (ie by email and / or the internet/intranet). It would be for a scheme member specifically to ask for information in an alternative format, if desired, in which case the scheme should provide a hard copy. As regards deferred members, if a scheme sends information by post to the member's last known address, then current provisions mean that the required information can be deemed to have been supplied. We propose that this deeming provision should be extended so that deeming can apply if a scheme makes information available either by post or by email, sent to the deferred member's last known address or personal email address respectively.

36. The overall aims underlying these proposals are that there will be some simplification of the requirements, members will continue to receive adequate information, the IORP provisions will continue to be satisfied and schemes which comply with the current regulations will not have to alter their procedures.

## **Form of general principle**

37. If the proposed approach is adopted, we envisage that a single, high level principle could be incorporated in the legislation along the following lines:

**Members should be given sufficient information that allows them to understand the benefits to which they will be entitled and any other relevant information that will enable each member to make decisions in his or her best interests.**

38. Given that it will still be necessary to set out some detailed provisions in regulations, we believe that incorporating more than one high level principle would not be helpful.

## **Detailed requirements**

39. Annex C sets out further details of the proposed new provisions outlined above. The content of Annex C is intended to illustrate current thinking on the possible shape of streamlined legislation which would replace the existing provisions. The table at Annex D contains a comparison of the existing provisions and those now proposed. As indicated in the foreword, the Department intends to consult again later this year on draft regulations which will take into account responses to the current exercise.

## **Conclusion**

40. We would emphasise that the intention behind this initiative is to ensure appropriate information is provided to scheme members whilst minimising the burden on schemes. We will take full account of comments from interested parties in taking this forward. Specific questions on which we would particularly welcome views are listed below.

## **Consultation questions**

### **Consultation question 1**

Against the background that a streamlined set of prescriptive provisions would still be required for the purposes of satisfying IORP and in the interests of certainty for schemes, do you support the addition to the legislation of a key, overarching disclosure principle?

### **Consultation question 2**

Do you support the consolidation of general disclosure provisions into one set of regulations, rather than the existing position where disclosure requirements affecting occupational, personal and stakeholder pension schemes are dealt with separately?

### **Consultation question 3**

Do you consider that the proposed approach outlined in Annex C is appropriate? Detailed comments on particular requirements would of course be welcome.

### **Consultation question 4**

Do you support the proposal for regulations to require relevant information to be provided "within a reasonable period" (see paragraph 34 above) backed with a Code of Practice, replacing the existing approach where timescales are specified in regulations?

### **Consultation question 5**

Do you have any views on the disclosure of information by schemes in the context of the automatic enrolment requirement for employers, commencing from 2012? (Paragraph 4 of Annex C proposes a requirement for schemes to provide basic scheme information within 14 days when a new employee commences pensionable service. The draft Pensions (Automatic Enrolment) Regulations 2009 are the subject of a current consultation exercise. See [http://www.dwp.gov.uk/consultation/2009/.](http://www.dwp.gov.uk/consultation/2009/))

### **Consultation question 6**

Do you have views on the proposal to allow greater use of electronic communications and on how schemes could make significant cost savings from this change? (See paragraph 35 above and paragraphs 39-40 of Annex C).

## **Annex A**

### **The objective and success criteria adopted by the working group**

#### **Objective**

To explore the viability of moving from the existing prescriptive disclosure regulatory regime to a principles based approach, with the aim of reducing administrative burdens whilst maintaining member protection, and complying with IORP.

#### **Success criteria**

1. The Principles Based Regulations cover key events and action during membership of the scheme.
2. Schemes which are compliant within the existing disclosure regime to continue to be compliant without having to make any changes to procedures etc.
3. The total amount of the administrative costs incurred across all schemes will be reduced.
4. The new requirements can be effectively and efficiently regulated in a risk-based manner.
5. Members receive information which is clear, concise and timely, to enable them to make appropriate decisions during membership of the scheme.

## **Annex B**

### **Directive 2003/41/EC: On the activities and supervision of institutions for occupational retirement provision**

#### **Recitals**

(22) Each Member State should require that every institution located in its territory draw up annual accounts and annual reports taking into account each pension scheme operated by the institution and, where applicable, annual accounts and annual reports for each pension scheme. The annual accounts and annual reports, reflecting a true and fair view of the institution's assets, liabilities and financial position, taking into account each pension scheme operated by an institution, and duly approved by an authorised person, are an essential source of information for members and beneficiaries of a scheme and the competent authorities. In particular, they enable the competent authorities to monitor the financial soundness of an institution and assess whether the institution is able to meet all its contractual obligations.

(23) Proper information for members and beneficiaries of a pension scheme is crucial. This is of particular relevance for requests for information concerning the financial soundness of the institution, the contractual rules, the benefits and the actual financing of accrued pension entitlements, the investment policy and the management of risks and costs.

(24) The investment policy of an institution is a decisive factor for both security and affordability of occupational pensions. The institutions should therefore draw up and, at least every three years, review a statement of investment principles. It should be made available to the competent authorities and on request also to members and beneficiaries of each pension scheme.

#### **Articles**

##### **Article 9: Conditions of operation**

1. Each Member State shall, in respect of every institution located in its territory, ensure that:

.....

(f) the members are sufficiently informed of the conditions of the pension scheme, in particular concerning:

(i) the rights and obligations of the parties involved in the pension scheme;

(ii) the financial, technical and other risks associated with the pension scheme;

(iii) the nature and distribution of those risks.

### **Article 11: Information to be given to the members and beneficiaries**

1. Depending on the nature of the pension scheme established, each Member State shall ensure that every institution located in its territory provides at least the information set out in this Article.

2. Members and beneficiaries and/or, where applicable, their representatives shall receive:

(a) on request, the annual accounts and the annual reports referred to in Article 10, and, where an institution is responsible for more than one scheme, those relating to their particular pension scheme;

(b) within a reasonable time, any relevant information regarding changes to the pension-scheme rules.

3. The statement of investment policy principles, referred to in Article 12, shall be made available to members and beneficiaries and/or, where applicable, to their representatives on request.

4. Each member shall also receive, on request, detailed and substantial information on:

(a) the target level of the retirement benefits, if applicable;

(b) the level of benefits in case of cessation of employment;

(c) where the member bears the investment risk, the range of investment options, if applicable, and the actual investment portfolio as well as information on risk exposure and costs related to the investments;

(d) the arrangements relating to the transfer of pension rights to another institution for occupational retirement provision in the event of termination of the employment relationship. Members shall receive every year brief particulars of the situation of the institution as well as the current level of financing of their accrued individual entitlements.

5. Each beneficiary shall receive, on retirement or when other benefits become due, the appropriate information on the benefits which are due and the corresponding payment options.

### **Article 16 Funding of technical provisions**

2. The home Member State may allow an institution, for a limited period of time, to have insufficient assets to cover the technical provisions. In this case

the competent authorities shall require the institution to adopt a concrete and realisable recovery plan in order to ensure that the requirements of paragraph 1 are met again. The plan shall be subject to the following conditions:

(a) the institution shall set up a concrete and realisable plan to re-establish the required amount of assets to cover fully the technical provisions in due time. The plan shall be made available to members or, where applicable, to their representatives and/or shall be subject to approval by the competent authorities of the home Member State;

(b) .....

(c) in the event of termination of a pension scheme during the period referred to above in this paragraph, the institution shall inform the competent authorities of the home Member State. The institution shall establish a procedure in order to transfer the assets and the corresponding liabilities to another financial institution or a similar body. This procedure shall be disclosed to the competent authorities of the home Member State and a general outline of the procedure shall be made available to members or, where applicable, to their representatives in accordance with the principle of confidentiality.

## Annex C

### Broad outline of new disclosure regulations

#### Introduction and Overarching Principle

1. The proposed new Disclosure Regulations will apply to occupational, personal and stakeholder pension schemes. The regulations will incorporate a high level, overarching principle to which schemes must have regard in determining their disclosure arrangements and in interpreting the regulations themselves. The suggested wording of the principle is:

**Members should be given sufficient information that allows them to understand the benefits to which they will be entitled and any other relevant information that will enable each member to make decisions in his or her own best interests.**

#### Scope of New Regulations

2. The proposed regulations will be based on existing requirements in:

- The Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (SI 1996/1655) (the "OCCP Disclosure Regulations")
- The Personal Pension Schemes (Disclosure of Information) Regulations 1987 (SI 1987/1110) (the "PP Disclosure Regulations"). The relevant personal pension requirements within SI 1987/1110 for incorporation in the proposed new Disclosure Regulations are:
  - information on contracting out (to remain in place only until defined contribution contracting-out ends in 2012)
  - the annual benefit statement
  - the statutory money purchase illustration
- Additionally, we propose that the new Disclosure Regulations should incorporate some provisions from:
  - The Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (SI 1991/167) (the "Preservation Regulations")
  - The Stakeholder Pension Schemes Regulations 2000 (SI 2000/1403)
  - The Occupational Pension Schemes (Independent Trustee) Regulations (SI 2005/703)
  - The Occupational Pension Schemes (Transfer Values) Regulations 2006 (SI 1996/1847)

## Approach to Disclosure within “reasonable period”

3. The existing Disclosure of Information legislation requires schemes to provide specified information within set timescales. For example, trustees are required to supply information on the trust deed within two months of a request from a member. We propose to remove these set deadlines and to replace them with a requirement that information should be supplied "within a reasonable period". Where pensions legislation makes reference to a “reasonable period”, section 90 of the Pensions Act 2004 requires the Pensions Regulator to issue a Code of Practice.

4. One exception to this general approach would be in respect of the provision of basic scheme information when a new employee commences pensionable service. Because of the introduction of auto-enrolment, we propose that regulations should require basic scheme information to be provided within 14 days. This will ensure that employees have adequate information on which to base their decisions on scheme membership, within the auto-enrolment timeframe.

## Content of new disclosure regulations

### Definitions

5. Existing definitions within the OCCP Disclosure Regulations to be retained. Some definitions from the PP Disclosure Regulations will need to be imported.

6. **Definition of “excluded person”.** Definition to be revised so that it applies to a member for whom no current contact details are known to the scheme.

### Persons to whom information is to be provided

7. As now, those entitled to receive information will be: members, prospective members, spouses or civil partners, beneficiaries, trades unions and member representative organisations.

### Application of the regulations

8. **Occupational pension schemes.** The regulations will generally apply to occupational pension schemes, irrespective of whether they are tax registered or not, including cross-border schemes.

9. However, the regulations will only apply to a **LIMITED** extent to:  
- public service pension schemes  
- schemes that are not tax registered.

10. The regulations will **NOT** apply to:  
- schemes with only one member  
- any scheme where all the members are trustees

- an excluded person

11. **Personal pension schemes.** Specific provisions in the regulations will apply to personal pension schemes. Where DWP requirements effectively duplicate the Financial Services Authority's disclosure requirements, they will be omitted.

### **Constitution of the scheme**

12. Information on the scheme's constitution and trust deed to be supplied on request.

### **Basic information about the scheme**

13. The existing Disclosure of Information Regulations contain 29 paragraphs of prescribed information which have to be provided to the member.

14. It is proposed that this should be simplified, focussing on requirements in IORP. The new regulations would require the trustees to provide basic information about the scheme and the scheme's benefits. In addition, to comply with Article 9(f) of IORP, the regulations would need to specify that members are to be given information concerning:

- “(i) the rights and obligations of the parties involved in the pension scheme;
- (ii) the financial, technical and other risks associated with the pension scheme;
- (iii) the nature and distribution of those risks.”

15. To comply with Article 11.2(b) of IORP, the regulations will also have to provide:

“(b) within a reasonable time, any relevant information regarding changes to the pension scheme rules.”

16. The trustees would be required to interpret the “basic information about the scheme” regulation in the light of the general, overarching principle. For example, we would expect this to mean that in a scheme where members have various investment options, members should be provided with sufficient information about such options to allow them to make an informed choice.

17. **Preservation.** Regulation 27(2)(b) of the Preservation Regulations applies to a scheme set up under an interim trust deed. Such schemes are few and far between, and the notification required under this provision essentially provides basic information about the scheme. We propose to remove this provision and rely on the general requirement to provide basic scheme information to members.

18. **Personal pension schemes.** Members will have to be told if the scheme is contracted out (ie is an "appropriate scheme").

### **Information to be made available to individuals**

19. During the member's "life cycle" in the scheme, regulations require information to be provided to him or her at a number of "career points". These career points are considered below.

20. **Scheme benefits.** Information to be provided to the member before they become payable.

21. **Changes in scheme benefits.** Where a decision is made to alter the rates of benefit the member must be told.

22. **Annuity options.** The new regulations will make extensive provision (as now) about the information to be provided to members in the period before annuitisation. This includes passing on a guidance leaflet from the Regulator.

23. **Salary related schemes – annual benefit statement.** On request, the scheme must issue the member with information to enable them to understand their current pension position and/or likely income in retirement.

24. **Money purchase schemes – annual information.** On an annual basis the scheme must automatically issue the member with information to enable them to understand the contributions paid into their pension fund and the value of their current fund.

25. **Money purchase schemes – statutory money purchase illustrations.** On an annual basis the scheme must automatically issue the member with an illustration of what the pension income might be in today's prices. As now, regulations will allow for exclusions to this requirement in appropriate circumstances.

26. **Money purchase scheme - cessation of contracting out.** Members will have to be told if their money purchase scheme ceases to be contracted out. After a further period they will have to be told quite detailed information about contributions made on their behalf during the past year; the value of protected rights and other rights; the options open to the member.

27. **Information for survivors.** Information for survivors to be provided.

28. **Transfers.** On request, members to be provided with information about transfers out and transfers in.

29. **Transfer statement.** Regulation 11 and Schedule 1 of the Occupational Pension Schemes (Transfer Values) Regulations 1996 (SI 1996/1847) provide that each year members can request a statement setting out the cash equivalent transfer value of their pension rights. (The Schedule sets out the content of the statement.) This is a self-contained request for

**information** made by the member. As such it is **proposed** it would sit appropriately in the new Disclosure Regulations.

30. **Scheme winding up.** Where a scheme starts to wind up, members have to be told. Further information will have to be provided during the winding-up process.

31. **Scheme winding up – report to Regulator.** Where a report has been made to the Regulator about a scheme winding up, a copy must be sent to the member on request.

32. **Member leaves service.** Where a member leaves service, regulation 27A of the Preservation Regulations requires that information is provided to him about his rights and options, and whether he is entitled to a contribution refund. It would appear appropriate to include the requirement for providing this information within the new Disclosure Regulations.

33. **Independent trustee.** Regulation 13 of the Occupational Pension Schemes (Independent Trustee) Regulations 2005 (SI 2005/703) provides that where an independent trustee has been appointed to a scheme, all members are to be notified of this event and of the fees charged by the trustee. We propose to amend this so that in future information about trustee fees and charges must be made available “on request”, rather than supplied to all members automatically.

34. **Stakeholder pension schemes.** If an occupational stakeholder pension scheme is removed from the register, members will have to be notified. This is because a stakeholder scheme removed from the register is required to wind up.

35. **Scheme funding.** Schemes will be required to send a summary funding statement to members each year (in accordance with IORP directive 11.4). If the Regulator modifies the scheme as regards future accruals of benefit, a notification will have to be sent to the members. In addition a number of other documents will have to be provided on request.

36. **Investment risk.** Where the member bears the investment risk, information will have to be provided on the range of investment options and the actual investment portfolio, as well as information on risk exposure and the costs related to investment. (This is a requirement of Article 11 of IORP.)

## **Annual report**

37. The current regulations require schemes to prepare an annual report. The content of the report is prescribed in detail. The annual report has to be provided on request. In addition, annual reports for the previous five years have also to be provided on request.

38. It is proposed that the requirement should be deregulated as far as possible so that schemes are left to decide what should be included in the

report. However some prescribed items are IORP requirements - eg the availability of the annual accounts - and these will have to be retained.

## **E-Comms**

39. The current regulations provide that any information may be furnished, made or given by post. In respect of deferred members (except for "excluded persons"), information is deemed to have been given if it is sent by post to the member's last known address.

40. We propose the new regulations will specify that schemes may satisfy disclosure requirements by means of information provided electronically, either via the internet/intranet and / or provided to members by email. We propose, however, that schemes should be required to provide written copies of information where an individual member specifically asks for information in this form. This should cater satisfactorily for the position of members who do not have access to e-comms.

## **Civil penalties**

42. As now, the proposed new regulations will allow the Regulator to impose a penalty for breaches of up to £5,000 for an individual and £50,000 in any other case.

## Annex D

### Comparison of existing provisions with proposed approach

EXISTING PROVISION	NEW PROVISION
<b>DISCLOSURE PRINCIPLE</b>	
No overarching principle	<u>Principle:</u> Members should be given sufficient information that allows them to understand the benefits to which they will be entitled and that will enable each member to make decisions in his or her own best interests
<b>GENERAL</b>	
Definitions from OCCP & PP Disclosure regulations	No change except provisions to be in one set of regulations, and exclusion of member for whom scheme does not hold current contact details
Persons to whom information is to be provided	No change
Occupational pension schemes to which the requirements apply	No change
Personal pension schemes to which the requirements apply	No change
Constitution of the scheme - information to be supplied on request	No change
Time limits specified in regulations	Regulations to refer to provision of information within "a reasonable period"; Regulator to issue Code of Practice
<b>"BASIC INFORMATION"</b>	
Basic information - 29 paragraphs of prescribed information	Simplified, focussing on IORP requirements
Preservation - notification provisions for schemes set up under interim trust deed	Omitted
Appropriate Personal Pension Schemes - notification of contracting-out status	No change
<b>"INFORMATION TO BE MADE AVAILABLE TO INDIVIDUALS"</b>	
Notification of scheme benefits before they become payable	No change
Changes in scheme benefits	No change
Annuity options	No change
Salary related schemes - annual benefit statement	Simplified
Money purchase schemes - annual	Simplified

benefit statement	
Money purchase schemes - statutory money purchase illustrations	Simplified
Money purchase schemes - cessation of contracting out	No change
Information for survivors	No change
Transfers	No change
Transfer statement	No change
Scheme winding up	No change
Scheme winding up - report to Regulator	No change
Member leaves service	No change
Independent trustee	Simplified
Stakeholder pension schemes	No change
Scheme funding	No change
Investment risk	No change
Annual report	Simplified
<b>E-COMMS</b>	
Regulations refer to providing information by post	Regulations to refer to providing information by e-comms or by post
<b>CIVIL PENALTIES</b>	
Power for the Regulator to impose a penalty for breach of up to £5,000 / £50,000	No change