

EXPLANATORY MEMORANDUM TO
THE OCCUPATIONAL AND PERSONAL PENSION SCHEMES (DISCLOSURE OF
INFORMATION) REGULATIONS (NORTHERN IRELAND) 2014

S.R. 2014 No. 79

1. Introduction

- 1.1 This Explanatory Memorandum has been prepared by the Department for Social Development to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2 The Statutory Rule is made under sections 109, 164(1) and (4), 177(2) to (4) and 178(1) of the Pension Schemes (Northern Ireland) Act 1993, Articles 10(3), 41(1), (5), (5A) and (6) and 166(1) to (3) of the Pensions (Northern Ireland) Order 1995 and Articles 3(1)(b), 21(1)(a), (b)(i) and (c)(i) and (2), 31(1)(b)(ii), 42(1) and 73(3) and (4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 and is subject to the negative resolution procedure.

2. Purpose

- 2.1 This Statutory Rule revokes and replaces two existing Statutory Rules (the Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1987 and the Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1997) with one, consolidated, simplified and updated Statutory Rule. The purpose of the Statutory Rule is to ensure that the regulatory regime for the disclosure of information by occupational and personal pension schemes to their members is clear, up to date and supports the aim of reinvigorating workplace pensions.

3. Background

- 3.1 This Statutory Rule replaces the two existing Statutory Rules which set out the information that private pension schemes are required to give or make available to their members. The Regulations –
 - remove duplication between the Regulations and the Financial Conduct Authority (FCA) rules on disclosure of basic scheme information to new members of personal pension schemes;
 - where possible, align the timescales for providing information which currently differ slightly between scheme types;
 - simplify the structure of the Regulations to make them easier to understand;
 - simplify some of the requirements about the types of basic scheme information to be given to new and prospective members so that some of the more complex information, currently given as of course will in future be available on request;

- simplify some of the requirements within non money purchase benefit statements, including allowing the trustees or managers of the scheme to choose the most appropriate retirement date when calculating the amount of benefit payable;
- provide an exemption for money purchase annual benefit statements so that schemes can choose whether to issue the first benefit statement where no contributions have been credited or for occupational schemes where the member is in their automatic enrolment opt-out period. These changes also apply to the Stakeholder Pension Schemes Regulations (Northern Ireland) 2000 (“the Stakeholder Regulations”) but are worded in terms of “statement year”, which specifies the circumstances when a benefit statement should be provided to members;
- make changes to statutory money purchase illustrations to enable schemes the flexibility to use more personalised assumptions and that lump sums may be included in the pension illustrations. These changes also apply to the Stakeholder Regulations;
- change the requirement so that guidance on annuities for those approaching retirement no longer needs to be prepared by the Pensions Regulator and be approved by the Department. The new requirement is that such guidance is prepared or approved by the Regulator, but need not be approved by the Department;
- update the language used and ensure that the terms used are consistent (for example, the consolidated Regulations use “give” instead of the existing use of a number of words which all mean the same thing such as “provide”, “furnish” and “make available”);
- clarify the intent regarding how information is given and the use of electronic communications, and ensure that such methods of communicating information may be used irrespective of scheme type or type of information which is being disclosed;
- make amendments to other private pension legislation to ensure that the methods for giving information are the same irrespective of the type of information being given and make it clear that information may be given by electronic methods.

3.2 Additionally, the Statutory Rule introduces a requirement for schemes to tell members if they intend to adopt an investment strategy (known as “lifestyling”) which results in funds being moved gradually into lower risk investments as members approach retirement. This is being introduced in order to support the idea proposed in the Reinvigorating Workplace Pensions Strategy document that information to pension scheme members should be tailored to the life stage of the individual. A notification to inform or remind members that lifestyling is to be adopted is useful to members; particularly where the member intends to retire later than planned and may therefore prefer to take advantage of a longer period of equity investment.

3.3 Regulation 1 sets out the coming into operation date of the Regulations.

3.4 Regulation 2 defines specific terms that are used throughout the Regulations.

- 3.5 Regulation 3 provides that questions about whether an organisation is a recognised trade union should be referred to an industrial tribunal.
- 3.6 Regulation 4 explains which of the following regulations apply to occupational, personal or stakeholder pension schemes.
- 3.7 Regulation 5 provides for civil penalties to be imposed where a person fails to comply with the requirements set out in these Regulations in relation to occupational pension schemes. This is unchanged from the previous provisions.
- 3.8 Regulation 6, in conjunction with Schedule 2, sets out what basic scheme information must be given by scheme trustees or managers, to whom the information must be given and the timescales for providing that information. All basic information must be given to prospective members if practicable and to members who have not already been given the information. The information must be given to members within one month of the date the trustees or managers have received jobholder information, or where no jobholder information has been received, within 2 months of the person becoming an active member of the scheme. Where a request for the information has been made, the information must be given within 2 months of the request. Basic scheme information about personal pension schemes which was provided for in the Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1987 has not been carried forward into these Regulations in order to remove duplication of the disclosure requirements which currently exists between legislation and FCA requirements.
- 3.9 Regulation 7, in conjunction with Part 2 of Schedule 2, sets out what basic scheme information must be given by occupational pension schemes which do not come within the definition of such schemes, such as those which are not tax registered or which have been established under the Salvation Army Act 1963. The information must be given to prospective members if practicable, to members where it has not already been given within 2 months of membership beginning and to recognised trade unions within 2 months of a request.
- 3.10 Regulation 8 sets out the information which must be given where there has been change which results in an alteration to the basic scheme information which has already been provided. The time for providing this information is before, or as soon as possible after the decision to make an alteration to the scheme, and no later than 3 months after the decision to make the change takes effect.
- 3.11 Regulation 9 provides that information which explains any modification to the scheme by the Pensions Regulator must be given within one month of the modification taking effect.
- 3.12 Regulation 10 sets out the information which must be given where a former stakeholder pension scheme is removed from the register of stakeholder pension schemes. This information must be provided in the form of a statement that the scheme has been removed from the register, is no longer a stakeholder pension scheme and is required to start winding up. The information must be given no

more than 2 weeks after the trustees are notified that the scheme has been removed from the register. This provision previously appeared in the Disclosure Regulations and now forms part of the consolidated Regulations.

- 3.13 Regulation 11, in conjunction with Part 1 of Schedule 3, sets out the information that occupational pension schemes must give on request in relation to the constitution of the scheme, when and how that information must be given and to whom. The information must be given to relevant persons where it is relevant to their rights or prospective rights under the scheme, within 2 months of a request being made.
- 3.14 Regulation 12, in conjunction with Part 2 of Schedule 3, sets out the information to be given on request by occupational pension schemes in relation to the scheme's annual report. The regulation provides that the information must be given to a relevant person where a request is made within 5 years of the end of the scheme year to which the information relates and where that information has not been given before. The information must be given within 2 months of the request.
- 3.15 Regulation 13, in conjunction with Part 3 of Schedule 3, sets out other information which must be given by schemes on request, including information about funding principles and actuarial valuations. The information must be given within 2 months of the request being made.
- 3.16 Regulation 14, in conjunction with Schedule 3, sets out the information about transfer credits which is to be given by schemes on request. This includes whether the member or prospective member is entitled to acquire transfer credits in exchange for a cash equivalent or transfer payment provided by another scheme and a statement of those credits. This information was previously required to be given as part of the basic scheme information, but following representations to a previous consultation calling for the basic information to be simplified, the information is now available on request, and must be given within 2 months of the request for it being made.
- 3.17 Regulation 15 states that the information in Schedule 4 must be provided in the form of a summary funding statement. This statement must be given to all members except excluded persons (essentially persons for whom the trustees or managers do not have the present electronic or postal address and in respect of whom the trustees or managers have had correspondence returned) and those whose only entitlement is to money purchase benefits. It is given within a reasonable period following the date by which the valuation report is received by the trustees or managers.
- 3.18 Regulation 16, in conjunction with Schedule 5, sets out the information which must be given by occupational pension schemes on request to members about benefits other than money purchase benefits. The information to be given depends on whether the member is an active member, deferred member or pension credit member. The information must be given as soon as practicable and no later than 2 months after the request, provided the information has not been given in the last 12 months.

- 3.19 Regulation 17, in conjunction with Schedule 6, sets out the information that must be given by schemes in relation to money purchase benefits. This information includes the amount of contributions credited to the member, the value of the member's accrued rights, an illustration of the amount of the pension that is likely to accrue to the member at their retirement date (that may include a lump sum) and statements relating to the illustration. The Schedule also sets out how the illustration must be calculated. This regulation introduces a new exemption so that personal and occupational pension schemes can choose whether to issue the first benefit statement where no contributions have been credited and also for occupational pension schemes where the member is in their automatic enrolment opt-out period. For personal pension schemes the information must be given no more than 12 months after the date the person became a member of the scheme or where schemes choose to use the exemption no more than 12 months after the date contributions are first credited and each year thereafter. For occupational pension schemes the information must be given no more than 12 months after the end of each scheme year or where schemes choose to use the exemption and contributions are later credited for the first scheme year a statement for this period needs to be sent out no later than 12 months after the end of the second scheme year. The same rules apply but due to the specific requirements of the Stakeholder Regulations which allow schemes to determine their own statement year in which a benefit statement must be provided to a member, there may be occasions where contributions are credited within the first statement year but are not disclosed within the first benefit statement. Those Regulations are therefore amended to require schemes to still inform members of these contributions sometime within the following benefit statement year.
- 3.20 Regulation 18 sets out the information to be given if schemes intend to adopt an investment strategy (known as "lifestyling") which results in funds being moved gradually into lower risk investments as members approach retirement. This is a new requirement. Where a scheme contains provision for a "lifestyling" strategy it must give members a statement explaining what lifestyling is, that it will be or has been adopted and from when. This information is to be given as part of the basic scheme information and again between 5 and 15 years before retirement.
- 3.21 Regulation 19 and Schedule 7 set out the information which must be given by pension schemes where the member is entitled to money purchase benefits before the member retires, in relation to accessing scheme benefits. The information includes a statement that the member has the opportunity to select an annuity and that the person can select the annuity provider and general information about annuities. The timescales for providing this information have been simplified and aligned between occupational and personal pension schemes at 4 months before the member reaches retirement or the date the trustees or managers expect the member to access their rights or as soon as possible after the member and trustees have agreed the date on which the member will access their rights.
- 3.22 Regulation 20 and Schedule 7 set out the information which must be provided by occupational pension schemes to a person where the pension has, or is about to, become payable, including the information that must be given where the person has the opportunity to select an annuity under the scheme (such as a statement that

the person has the opportunity to select an annuity, that they can select the annuity provider and an explanation of the different features of annuities), and the timescales for providing that information. The information is listed in Part 2 of Schedule 7 and must be given before benefit becomes payable if practicable or within one month after benefit becomes payable. Where benefit becomes payable on a date which is before the members normal retirement age, the information must be given within 2 months of benefit becoming payable. The information that must be given where a person may select an annuity must be given before benefit becomes payable.

- 3.23 Regulation 21 sets out the information which must be provided where the member or beneficiary has died and a person may be entitled to exercise rights or options under the scheme as a result and the timescales for providing that information. These timescales have been aligned between personal and occupational pension schemes at as soon as possible but no later than 2 months after the date the scheme managers or trustees receive notification of the death. The information which must be provided is the same information in relation to annuities as required under regulation 20 where the person may select an annuity and otherwise is information about the person's rights and options on the death of the beneficiary, the procedures for exercising them and provisions under the pension payable may be increased.
- 3.24 Regulation 22 sets out the information which needs to be given where there are changes to the benefit payable. This information must be given either before or within one month of the date on which the decision to change the benefit takes effect.
- 3.25 Regulation 23, in conjunction with Schedule 8, sets out the information that personal pension schemes must give when they have begun winding up. It provides that this information must be given to all members apart from excluded persons. The notification that the scheme is to be wound up must be given within one month of the decision and other information (such as information about the value of the member's accrued rights and the member's options for preserving or transferring them) must be given within 4 months of the decision to wind-up.
- 3.26. Regulation 24, in conjunction with Schedule 8, sets out the information that must be given by occupational pension schemes which have begun winding up. For schemes which began to wind up after 6th April 1997, specified information must be given to all members and beneficiaries (apart from excluded persons) as soon as practicable and no more than one month after the date the scheme begins to wind up. For schemes which began winding up before that date specified information about winding up must be given once within 12 months of the time it was last given until the scheme is wound up.
- 3.27 Regulation 25 sets out the circumstances in which certain information is to be given by occupational pension schemes when winding up is complete. It provides that the information must be given to the member or beneficiary as soon as practicable but no later than 3 months after the scheme trustees or managers have done what they can to discharge the scheme's liabilities for the member.

- 3.28 Regulation 26 sets out the methods and rules by which information may be given, such as by sending the information to the member's last known postal address, sending to the member or beneficiary's email address or making the information available on a website. This regulation also provides the rules and safeguards which must be applied where information is given by electronic means.
- 3.29 Regulations 27 and 28 set out further conditions in relation to giving information on a website, including the requirement to give a notification to the recipient when information is made available on a website for the first time, and a requirement to send a less detailed notification where subsequent information is made available on a website and the circumstances in which that further notification need not be given.
- 3.30 Regulation 29 sets out methods by which information may be made available to members, such as making it available free of charge for inspection and the circumstances when a charge may be made.
- 3.31 Regulation 30 provides that where trustees or managers make arrangements for information or documents to be given by a third party, the responsibility for that information being given remains with them.
- 3.32 Regulation 31 and Schedule 9 cover amendments to miscellaneous private pensions legislation which are either consequential on these consolidated Regulations, or which amend other private pensions legislation to ensure that all information provided for in those Statutory Rules may be given by electronic means in the same manner as prescribed in the main Disclosure Regulations.
- 3.33 Regulation 32 and Schedule 10 deal with consequential revocations.
- 3.34 Schedule 1 defines the types of schemes to which these Regulations apply.
- 3.35 Schedules 2 to 8 list the detailed information which must be given in accordance with the above regulations.

4. Consultation

- 4.1 There is no requirement to consult on these Regulations as they make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions in relation to Great Britain.

5. Equality Impact

- 5.1 In accordance with its duty under section 75 of the Northern Ireland Act 1998, the Department has conducted a screening exercise on the legislative proposals for these Regulations. As the amendments are technical in nature, the proposals would have little implication for any of the section 75 categories. In light of this, the Department has concluded that the proposals would not have significant implications for equality of opportunity and considers that an Equality Impact Assessment is not necessary.

6. Regulatory Impact

- 6.1 The impact on business, charities or voluntary bodies is beneficial. Businesses will be able to make savings by meeting their disclosure responsibilities through electronic communications instead of paper-based communications. A copy of the Regulatory Impact Assessment is attached as an Annex to this Explanatory Memorandum.

7. Financial Implications

- 7.1 None for the Department.

8. Section 24 of the Northern Ireland Act 1998

- 8.1 The Department has considered section 24 of the Northern Ireland Act 1998 and is satisfied that these Regulations –
- (a) are not incompatible with any of the Convention rights,
 - (b) are not incompatible with Community law,
 - (c) do not discriminate against a person or class of person on the ground of religious belief or political opinion, and
 - (d) do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

9. EU Implications

- 9.1 Not applicable.

10. Parity or Replicatory Measure

- 10.1 The corresponding Great Britain Regulations are the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (S.I. 2013/2734) which come into force on 6th April 2014. Parity of timing and substance is an integral part of the maintenance of single systems of social security, child support and pensions provided for in section 87 of the Northern Ireland Act 1998.

REGULATORY IMPACT ASSESSMENT

THE OCCUPATIONAL AND PERSONAL PENSION SCHEMES (DISCLOSURE OF INFORMATION) REGULATIONS (NORTHERN IRELAND) 2014

The costs and savings outlined in this Regulatory Impact Assessment are calculated on a United Kingdom-wide basis.

BACKGROUND

This impact assessment considers 3 private pensions policy areas:

- consolidation of the disclosure of information regulations;
- a review of Statutory Money Purchase Illustrations (SMPIs); and
- extending the current provisions which allow private pension schemes to communicate electronically with their members and other prescribed individuals (eg members' spouses and civil partners).

The majority of the changes are minor and are designed to improve the understanding of the disclosure requirements by private pension schemes. The changes would also improve the communications that members receive as well as allowing the industry to reduce costs with the extension of electronic communications in line with the introduction of automatic enrolment from 2012.

The changes are grouped together as they are all aspects of a critical review of legislation rather than separate policy options. The requirement for schemes to notify members when their fund is subject to lifestyling is an essential part of ensuring that members have the information they need.

Consultation

1. The Department for Work and Pension (DWP) published a consultation for the Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 on 18 February 2013 setting out proposals to harmonise, simplify and consolidate the regulations which require pension schemes to disclose information to members and others. The consultation included proposals to simplify the legislation for basic scheme information, Annual Benefit Statements (ABS) and Statutory Money Purchase Illustrations (SMPI), proposed a new requirement for schemes to inform members where a strategy of lifestyling is to be adopted and proposed an extension of existing regulations allowing for electronic communications to additional private pensions legislation. The majority of these amendments are permissive with the only exception being a new provision to provide additional information on lifestyling. DWP outlined the rationale and underlying assumptions within the consultation document and requested further evidence from pension industry professionals, pension schemes, trustees, industry, pension scheme members and member

representative organisations to support an accurate assessment of the impact on business and individuals from the policy proposals.

2. The responses received during the consultation have been carefully considered. A number of technical issues were raised and these comments have been carefully examined and used to refine and strengthen the regulations. These changes have a nil monetised cost to business and Government. Overall the responses to the consultation have enabled the Department to be confident in the accuracy of the impact assessment and the requirement for the policy changes.

Disclosure of information

Issue under consideration

3. Existing legislation requires private pension schemes to disclose prescribed information to members and others (eg widows, widowers and civil partners). The main disclosure requirements are contained within 3 different sets of regulations. These are:
 - The Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 288);
 - The Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1996 (S.R. 1997 No. 98); and
 - Regulations 18 – 18E of the Stakeholder Pension Schemes Regulations (Northern Ireland) 2000 (S.R. 2000 No. 262).
4. The legislation on disclosure has evolved over a number of years, and there are now numerous discrepancies and gaps between occupational and personal pension schemes. There are sound policy reasons for some of the discrepancies and gaps, but where this is not the case, the provisions are brought into line, in order to simplify and streamline the regulations, making it easier for pension schemes and providers to administer.
5. As well as the disclosure of information legislation, the Financial Conduct Authority (FCA) also provides Conduct of Business rules (COBS) which contain disclosure provisions for personal pension providers. The existing disclosure of information legislation has been mapped against the FSA rules and various areas of inconsistency and duplication have been identified. Consistency is introduced, where possible, in these areas and regulation duplication is removed.
6. The existing disclosure regulations are difficult to negotiate in parts and scheme trustees, administrators and managers may currently need to send different pieces of information at different times, which means that keeping track of the information to be disclosed can be onerous.
7. With the introduction of automatic enrolment, more individuals will be enrolled into a workplace pension than ever before, and many are likely to be a member of more than one scheme throughout their working lives. The discrepancies in the current legislation mean that they may well find the information they receive confusing and unhelpful.

Rationale for intervention

8. In March 2009, DWP consulted¹ on various amendments to existing disclosure regulations. This included the consolidation of general disclosure provisions into one set of regulations rather than occupational, personal and stakeholder schemes being dealt with separately as in the existing provision.
9. Many respondents to the 2009 consultation favoured the proposal to consolidate. It was considered that consolidation would make the regulations clearer and easier to follow and that the regulations should be significantly restructured and simplified, making it clear to schemes exactly what is required to be disclosed and when.
10. The majority of responses called for not only consolidation but also harmonisation of the disclosure regulations in order to remove the disparities. This would ensure that the information provided was, where possible, consistent across the different scheme types and also that the timescales in which the information needs to be provided was aligned. It was also suggested that it would be helpful to consider the FCA's COBS to remove any duplication of requirements.

Policy objectives

11. In light of the consultation responses, a critical review of the legislation was undertaken with the intention of consolidating the existing disclosure regulations while also taking account of the FCA COBS.
12. The overall aims of the consolidation are to ensure that regulations:
 - provide clarity and consistency to schemes;
 - provide for inclusion of information that individuals need in order to understand and manage their pension provision and maximise engagement; and
 - fit with the changing pension landscape and overall workplace pension reform agenda.

Description of amendments

13. The changes to the disclosure regulations fall into 3 broad categories:
 - I. Minor changes to ensure that a consolidated set of regulations is clearer and easier to use; this includes ensuring that the terminology used is consistent throughout eg existing regulations require schemes to 'give', 'furnish', 'send' or 'provide' information to members which can cause confusion.
 - II. Timescales: where possible, the timescales for disclosing information should be harmonised between all schemes. The majority of these changes would not require schemes to provide information sooner or within shorter periods

¹ Review of Disclosure of Information Requirements applying to Occupational, Personal & Stakeholder Pension Schemes. Public Consultation March 2009 - <http://www.dwp.gov.uk/docs/pen-scheme-disclosure-reqts-consultation.pdf>

than currently and therefore would not require schemes to make any changes to existing procedures unless they wish to.

- III. Information to be disclosed: where possible, the information required should be harmonised between schemes, and where duplication exists between the regulations and FCA requirements, regulations will be revoked. The current requirements have been reviewed to ensure that members are provided with the information that they need; at the time they need it.
14. The changes mentioned in item I above are designed to reduce the burden on schemes by making the regulations clearer and easier to understand. It is anticipated that this would reduce the time and effort scheme administrators and lawyers spend on interpreting the regulations. It would also improve member outcomes by providing them with the information that they need at the right time.
 15. Item II, which includes harmonisation of timescales for personal and occupational schemes where possible, would improve member outcomes by providing them with the information that they need at the right time. Where the timescales have been extended, it would be for schemes to choose whether, and if so when, to make the changes.
 16. Under item III, a gap has been identified in the current disclosure regulations where members would benefit from additional information. Where members of stakeholder pension schemes have not made a choice about how their pension savings are invested, the scheme is required not only to subject members' rights to lifestyling, but also to notify members of this. (Schemes which operate lifestyling usually begin to move members' investments to less risky funds such as bonds or cash at around 5 – 10 years before retirement, to ensure that any large fluctuations in the investment markets have less impact on older members – as they have less time to recoup any large reductions in investment returns. "Target date funds", would also be included under this provision – they are similar to traditional lifestyling, but instead of switching an *individual's* savings to lower risk funds, the switch occurs at the level of the fund that corresponds to the individual's expected retirement date).
 17. Although the existing regulatory requirements apply only to stakeholder pension schemes, other money purchase schemes *may* use lifestyling on a voluntary basis and notify members of this. The regulations include a *requirement* for pension schemes which use lifestyling to notify members that their pension savings will become subjected to lifestyling, in advance of the lifestyling taking effect. The impact of lifestyling on members' savings can be considerable. It will be important for individuals to be aware that their funds are being managed in this way, particularly as there is no longer an accepted standard retirement age. Although this is an additional requirement on schemes, there is flexibility around the timing and methods for informing members. This information could be sent with other communications which schemes already send – such as the SMPs within the year preceding the lifestyling arrangement being commenced. See paragraph [55] for further details.
 18. Under item III, there are also discrepancies between the information that must be disclosed to members of personal and occupational schemes. For example,

schemes are currently required to provide detailed information on transfers out as part of the information which is given to members when they join a scheme, but the exact requirements differ according to scheme type. In order to streamline, harmonise and simplify the regulations, the basic scheme information should notify members when they join a scheme that transfers out of the scheme are available, and that detailed information is available on request. Additionally, the intention is to remove duplication between regulations on disclosure of information for personal pension schemes and FCA disclosure requirements for personal pensions.

Statutory Money Purchase Illustrations (SMPIs)

Issue under consideration

19. In 2003, SMPIs were introduced for all money purchase pension schemes. The policy intention was to provide members with a projection of the value of their pension savings at retirement on a broadly consistent basis across all schemes and members.
20. The SMPI is part of an annual statement which provides personalised information to members about their pension fund, for example, the contributions made in the past year. Figures are given in today's prices so that members can make effective decisions about the spending power of their projected pension and whether they need to save more for their retirement. Schemes are required to use standardised assumptions for the SMPI, eg that a member will purchase a joint life, index-linked annuity.
21. SMPI legislation is supported by actuarial guidance - Technical Memorandum 1 (TM1), owned and published by the Financial Reporting Council Limited (FRC) (formerly the Board for Actuarial Standards (BAS)). This provides schemes with a detailed methodology for calculating the future value of the pension fund. TM1 is used by all money purchase schemes to ensure a standardised and consistent approach to pension projections. TM1 also includes appropriate rates on assumptions used in the calculation.
22. Responses to the latest consultation by the FRC on product projections indicated that in principle there is an overarching desire to keep point of sale and annual projections consistent where appropriate.
23. The FCA requires providers to provide personal pension projections at the point of sale. These projections differ from SMPIs in that they:
 - allow schemes to customise the assumptions to members' individual circumstances,
 - specify 3 growth rates (whereas the SMPI uses a single rate),
 - allow for schemes to provide a projection which includes a pension commencement lump sum (currently not included within TM1),
 - are not calculated using today's prices.

Rationale for intervention

24. The differences between the FCA point of sale projections and SMPIs mean that a person taking out a personal pension is likely to receive conflicting information in the point of sale projection compared to the SMPI they will receive within the following year. This can cause confusion to members receiving their first statement and seeing a vastly different outline of what their pension might be at retirement. Although the FSA have consulted on a move to inflation adjusted projections, this will still leave a number of inconsistencies between FSA requirements and the TM1 which [the Department] would like to address.
25. In 2010, the BAS consulted on the effectiveness of SMPIs. Responses suggested that the aim of providing consistent illustrations had been met but that scheme members don't engage with the SMPI or use the information it contains to make decisions about saving for their retirement. It was suggested that SMPIs are too long, contain too many caveats and that members don't understand them.
26. Additionally, with the introduction of automatic enrolment, there are many people who will be saving in a pension for the first time. It is important to ensure that the SMPI is appropriate for this new cohort of savers as well as existing scheme members and provides them with information that they need to make appropriate retirement provision.
27. Current regulations are prescriptive in the information that must be provided to pension scheme members. This is because the original policy intent was to ensure consistency for members in the type of illustration they received, regardless of the scheme type to allow comparison between schemes. However, due to the BAS consultation responses, informal stakeholder engagement and consumer research findings, along with the FCA offering more customised pension projections, it is believed that this level of prescription is no longer in the best interest of members.
28. One reason for the assumptions specified in the regulations (that members would purchase an index-linked, joint life annuity at retirement) was due to contracted out schemes being required to provide survivors' benefits. With the removal of contracting out for money purchase schemes from April 2012, this is no longer necessary. Most individuals currently take a single life, flat rate annuity with a tax free lump sum, and therefore the current illustrations are not meaningful to many members and in some cases can be unhelpful and off-putting.

Policy objectives

29. The policy objectives are the same as those mentioned in paragraph 9 above, with the additional aims of:
 - ensuring that legislation for SMPIs is fit for purpose for both the current members of pension schemes and also new members of pension schemes post-2012;
 - harmonisation with FCA point of sale projections;

- ultimately improving member engagement and understanding of the annual information.

Description of amendments

30. The changes to SMPI legislation are designed to move away from standardised projections, towards more meaningful projections that relate to what the member can actually receive at the point of retirement and which can be tailored to the individual member. It is expected this would increase member engagement by giving a better indication of what their retirement benefits might be. It is also consistent with the FRC's approach for providers to use justifiable assumptions that take account of the nature of their members' investments rather than using standard numbers.
31. The specific requirements for annuity assumptions from legislation have been removed. This deregulatory approach would allow schemes to choose the most appropriate assumptions for members based on their knowledge of members' individual situations or for schemes to encourage members to choose their own assumptions should they wish to do so. Whilst it would be preferable for members themselves to make this choice, it is recognised that due to current low levels of engagement, many members are unlikely to do so, at least in the short term.
32. These amendments would mean that whilst schemes can continue with current illustration structures if they choose to do so, they would also have more choice in the assumptions that are used and can change these should they wish. TM1 would continue to supply the rates and guidance needed by schemes to provide these illustrations. This approach would also have the added benefit of bringing regulations closer into line with the requirements set out by the FCA for point of sale projections.
33. This would give schemes more flexibility in designing SMPs and whilst there would be costs involved in making these changes, for example with updating computer systems, in the longer term greater member engagement may lead to increased pension saving, which ultimately benefits pension providers as well.
34. Should schemes choose to make changes to SMPI assumptions, they would be required to communicate these changes to members. This could be included as part of the new statement and therefore shouldn't incur any significant costs on top of the changes they have already decided to make.
35. Schemes also have the option of providing real-time statements (ie a statement that is updated more than once a year). Current regulations require that schemes provide a notification each time the statement is updated. This is not the policy intention with real-time statements and therefore this will be amended so that a notification is only required once in a 12 month period.

Electronic communications

Issue under consideration

36. In December 2010, the Department amended the 3 main sets of disclosure regulations to allow pension schemes to communicate electronically² with their members and others (eg spouses and civil partners). The provisions enabled schemes to provide information on a website and provided clarity about the use of e-mail, including safeguards for those receiving communications in this way. These changes applied to some, but not all, matters disclosed by occupational, personal and stakeholder pension schemes.
37. The 2010 amendments allow schemes to communicate electronically with recipients of the information unless they have opted not to receive information in this manner. So paper based communications are still available to those who prefer this method. The changes are permissive, in that schemes do not have to send information electronically, but can do so should they wish subject to member agreement.
38. Since introducing the 2010 amendments, a number of additional regulations which contain requirements to disclose information to members and others have been identified. The information covers very diverse situations, which may occur at different times over the course of a member's lifetime and will vary in frequency. For example, the information may need to be disclosed:
- *To specific members, as and when required.* For example, different sets of regulations require differing information to be disclosed when a member leaves a scheme before retirement age - depending on whether members opt to preserve their rights in the existing scheme or transfer them to another scheme. The information is disclosed at different times - information about rights and options is disclosed initially, and additional information is disclosed at various stages, depending on whether the member chooses to preserve or transfer their rights. With the introduction of automatic enrolment and increased mobility of workers, the need to provide information regarding preservation and transfers is likely to increase.
 - *To all members, at a specific time of the scheme's lifecycle.* When schemes are wound up, information is disclosed to members (and beneficiaries too, on occasions) at prescribed times during that process. When this occurs, information will need to be disclosed to all members. Depending on the size of the scheme, large numbers of people may be involved.
 - *To a small number of members, infrequently, but with a high volume of information.* Information needs to be disclosed on various occasions the member's pension is being shared on divorce. This includes information relating to the pension's value, details of the transfer process and details of charges to be deducted. In these circumstances, although the disclosure relates only to one person, the volume of information to be disclosed may be high.

² The Occupational, Personal and Stakeholder Pension Schemes (Disclosure of Information) (Amendment) Regulations (Northern Ireland) 2010 (S.R. 2010 No. 373)

39. The additional regulations identified specify that the prescribed information can be disclosed:
- by post ie to the recipients last known postal address; or
 - 'in writing' (to include information sent through e-mails and not via a website).
- This would mean that schemes wishing to adopt electronic communications could send some, but not all information, electronically.

Rationale for intervention

40. Responses to a DWP consultation in March 2010 supported the December 2010 amendments which allow schemes to disclose information electronically. Many responses also called for the widening of this provision to include additional regulations on specific issues which also contain a disclosure element.
41. Extending the existing electronic communications provisions to cover instances where pension schemes are required to disclose particular information to members and others which can currently only be sent by post, and to remove doubt about whether e-mail or websites may be used, is likely to increase the take up of electronic communications by pension schemes – this is because they will be able to send all information to members and others electronically, rather than having to send some items by post.

Description of amendments

42. The amendments to these regulations provide clarity about how schemes may communicate electronically and are permissive. Schemes would have the option to send information electronically, eg via e-mail, or through a website, should they choose. Whilst some schemes may have this technology already in place, other schemes will not have the functionality. Set-up costs may be incurred for schemes choosing to take up this communication method but as there is no requirement for schemes to do so, it is entirely at the discretion of the scheme.
43. For those schemes which currently don't use electronic communications, these amendments would allow them to reduce the amount of paper based communication and any costs involved with this as well as increasing efficiency in communicating with their members.

Costs and benefits of the proposals

44. Although a number of changes are made, not all of them will involve any monetised costs or benefits. In particular, it is expected that the following changes will not yield any monetised costs or benefits:
- Reducing the volume of information that must be sent to new members.
 - Removal of prescription over assumptions used in SMPI calculations.
 - Removal of duplication between DWP and FCA disclosure requirements
45. The pensions industry has confirmed that the removal of the requirement to provide scheme members with information relating to transfers out and additional voluntary contributions (AVCs) will not yield any financial benefit. Member

communications are created on IT platforms. Changing the parameters in an IT system already in place is straightforward – typically it is simply a matter of going into a computer screen and adjusting one or several parameters at the same time. It is therefore trivial to remove generic pieces of information and the monetary benefits to the provider of no longer providing this information are therefore nil. Members benefit from this to the extent that the information they receive is simpler and more relevant to them.

46. Nor does the proposal to remove prescription on assumptions used in SMPs impose any costs or provide any benefits to providers, who are free to continue with the existing assumptions or change them as they see fit. If they do wish to change assumptions then some actuarial costs will be incurred. Any benefit in terms of different assumptions will be for members, who may receive illustrations that could be better suited to their specific circumstances. This could result in increased member engagement and possibly greater levels of pension saving.
47. With regards to the proposal to restrict notifications of real-time statement updates, there may be additional benefits in terms of savings on notifications, however at this stage the value of any benefits and likely take-up of such an option is not known. It is also worth emphasising the voluntary nature of real-time statements – these are not being imposed.
48. In addition to the changes that do not have quantifiable costs and benefits, there are 2 changes which yield monetary costs and benefits. These relate to:
 - requiring schemes to inform members when their funds are about to be lifestyled; and
 - extending the ability of providers to use electronic communications to discharge their disclosure responsibilities.These are discussed in more detail below.

Additional information requirements relating to lifestyling

49. The benefits of the additional information requirements accrue to members. Disclosure of these pieces of information will help individuals to engage with their pension saving and will be crucial in aiding individuals with their retirement planning.
50. Although there is no specific evidence to show that provision of additional information on the timing of lifestyling will increase member engagement, DWP research³ does indicate that supplementary information requirements can increase confidence on the part of individuals in the decisions they make with regard to their pension saving. Even if this information is not always read, individuals feel that its provision can demonstrate a transparent and trustworthy process. So it is clear that individuals ascribe some positive benefit to this kind of information.

³ 'The information people may require to support their decision to remain in, or opt out of, a workplace pension' DWP research report 540, 2008. Available to download from <http://webarchive.nationalarchives.gov.uk/+http://dwp.gov.uk/asd/asd5/rports2007-2008/rrep540.pdf>

51. Information on the timing of lifestyling will allow individuals to assess whether lifestyling is indeed the best option for them at that point in time; or whether they should either continue to have their pension savings invested in the same way as previously or switch to another investment strategy at that point, given their circumstances and retirement objectives. It will also allow individuals to take account of prevailing conditions in the financial markets just prior to lifestyling – this could help avoid the problem of members who see a fall in the value of their fund just prior to lifestyling, which then gets ‘locked-in’ as funds are shifted into less volatile, but lower-returning asset classes.
52. The costs of providing this information fall on the pension scheme. The actual information requirements themselves are straightforward and generic and require no complex communications on the part of the scheme. As such, the industry has informed DWP that the costs of the information itself are minimal; and that the costs, such as they are, of providing this information arise through having to send a paper-based communication to members informing them that they are about to be lifestyled.
53. Pension providers state that there would be a £1 per member cost of informing members they are about to be lifestyled. In this impact assessment, this is simply multiplied by the affected membership in order to generate the annual costs of providing these communications. In future years, this £1 per member cost has been adjusted for inflation.
54. Since members lifestyle only once, this piece of information need be communicated only once. So in any given year, the cost needs to be applied only in respect of those members who will begin lifestyling in that year.
55. Not all scheme members are in lifestyled funds and an adjustment has been made for this. The 2010 National Association of Pension Funds annual survey found that 91 per cent. of defined contribution schemes offered a default fund and 79 per cent. of these funds were lifestyled. Membership figures have been adjusted for this.
56. Multiplying affected membership (based on DWP estimates of future pension membership) by the per-member cost of this information requirement yields the following annual profile of costs, whose annual average is £48,000 (2013/14 prices) and present value over a 10 year period is -£435,000:

Table 1: Annual costs of disclosing information on lifestyling, £ thousands, 2013/14 prices

2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
210	30	30	30	30	30	30	30	30	30

Source: DWP estimates

57. Note that in 2014, when these regulations are introduced, it is assumed that all affected members will receive such a communication; in future years, once schemes have the option of using electronic communications to discharge their disclosure requirements (see below) it is assumed that only those schemes with

less than 10,000 members will continue to use paper-based communications (on the grounds that the fixed set-up costs of electronic communications outweigh the benefits for smaller schemes – again, see below). This leads to a significant reduction in costs from 2015 onwards.

Electronic communications

58. Under this proposal, pension providers will have the option of discharging their additional disclosure requirements to members through electronic, rather than paper-based, methods of communications. This would yield a monetary benefit for the scheme in terms of the saving made on no longer having to print and post multiple paper-based communications to scheme members. As indicated in paragraph [39] not all communications are sent each year, and not all members necessarily receive each communication, industry sources estimate the annual per member saving (ie benefit) as being in the range £0.50 - £4. For the purposes of calculating an estimate of the benefits of moving to electronic communications, this impact assessment takes the mid-point of this range – £2.25 – as the annual per-member saving realised by the pension provider. In future years this per member saving has been adjusted for inflation.
59. Any providers wishing to use electronic communications will incur one-off set-up costs in creating a secure electronic communications system. Industry sources have informed DWP that the estimated cost of this could be in the range £600,000 - £800,000 per scheme and is invariant to the size of the scheme. For the purposes of calculating an estimate of the costs of electronic communications, this impact assessment takes the mid-point of this range – £700,000 – as the per scheme cost.
60. Given the size of this one-off implementation cost, and the fact that it is invariant to scheme size, since the decision to move to electronic communications is a voluntary one, it is reasonable to assume that only large schemes would take advantage of the ability to move to electronic communications for disclosure. For smaller schemes, the benefits will be outweighed by the costs. Schemes/providers in both the public and private sectors will be able to take advantage. This impact assessment assumes that only those schemes with 10,000 or more members will make the move to electronic communications. DWP believes that this may be a conservative estimate of take-up by pension schemes - many smaller schemes are administered by providers who achieve economies of scale by providing a similar service for a number of schemes. Excluding all schemes with less than 10,000 members might therefore underestimate the number of schemes that would use this provision – however, in the absence of firm data DWP feels it is better to simply note this point and err on the side of caution in the estimates.
61. Multiplying the number of providers/schemes by the estimated per scheme set-up cost and multiplying the affected membership (based on DWP estimates of future pension membership) by the estimated per member saving from electronic communications yields the following annual profile of costs and benefits:

Table 2: Annual costs and benefits of moving to e-communications, £ million, 2013/14 prices

	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023
Costs	495.5	0	0	0	0	0	0	0	0	0
Benefits	0	79.9	84.5	88.2	88.2	88.2	89.2	89.2	89.2	89.2

Source: DWP estimates

62. The annual average of these benefits is £78.6 million (2013/14 prices) while the present value over a 10 year period is £662.6 million; the net present value (benefits net of costs) is £166.7 million.

63. Members will be no worse-off as a result of this change because they will have the right to request continued use of paper-based communications if they so choose; so any scheme members who are unable to access electronically provided information will not be adversely affected by the change.

Risks and assumptions

64. There is no published data on costs and benefits in the areas dealt with by these proposals. In developing the evidence base for these proposals, DWP was reliant upon informal discussions with the industry on the likely costs and benefits and it is acknowledged that some of the estimates and assumptions will not be as robust as if other sources of data, such as comprehensive industry surveys were available. During their consultation on these regulations, DWP did seek views from the industry as to whether the estimates in the Impact Assessment were accurate and whether any new data could be incorporated in order to refine the estimates. However, no further data was forthcoming; while industry welcomed proposals, with no questioning of the estimated costs and benefits set out in the consultation Impact Assessment.

65. As described above, using information provided directly by the industry, the Impact Assessment makes different assumptions about the per-member costs of providing information on lifestyling and the per-member benefits of moving to electronic communications – in particular that the per-member cost (£1) of the lifestyling requirement is less than the per-member benefit (£2.25) from moving to electronic communications. This difference would be expected as a single disclosure (for lifestyling – see paragraph 54) and should cost less than multiple paper-based disclosures. Since electronic communications allow for multiple disclosures to be made electronically, assuming that the per-member benefit is greater than the per-member cost of a single disclosure is justified – and this is confirmed by the pensions industry through the estimates on per-member costs and benefits that it has provided.

66. One further issue relates to opt-outs from receiving electronic communications. As discussed above, members will retain the option to request paper-based communications from their pension provider. This is designed to protect those members without the ability to access electronic communications. No data exists on the numbers likely to opt-out in such a fashion, so as a central assumption the estimates assume a 10 per cent. opt-out rate from electronic communications ie

10 per cent. of the affected membership chooses to receive paper-based communications instead. No responses to the DWP consultation questioned this assumption.

Direct costs and benefits to business (One-in, Two-out impact)

67. The net present value of these proposals to *private sector*⁴ pension providers is calculated to be £115.1 million for the purposes of One-In-Two-Out calculations; this figure has been produced using the Department for Business, Innovation and Skills Impact Assessment spreadsheet calculator, available to download from <https://www.gov.uk/government/publications/impact-assessment-calculator--3>

68. On a One-In-Two-Out methodology the Equivalent Annual Net Cost to Business (EACNB) is calculated to be £10.7 million (ie an annual net benefit of £10.7 million). This is calculated over a 10 year period.

Wider impacts

69. This review is intended to allow schemes to provide simpler communications and information to their members. They will have more flexibility around sending the information as well as determining which information should be sent. Clearer and more consistent information for members is likely to remove barriers to member engagement with pensions.

70. Consistency with the FCA point of sale projections should make SMPI communications easier and clearer for both industry and pension scheme members.

Summary and preferred option with description of implementation plan

71. The consolidation of the disclosure of information requirements would provide schemes with a clearer, more consistent set of regulations which would make communicating with their members easier. The main changes are:

- Reducing the volume of information that must be sent to new members, and;
- Introducing a requirement for schemes to disclose information on lifestyling.

72. The SMPI changes are ultimately designed to help improve member engagement with their annual information and help with retirement planning. These include:

- Removing the current prescription around the specific annuity assumptions schemes must use when calculating an annual projection;
- Where schemes choose to make a change to their annuity assumptions, the new SMPI would include notification to the member of the change in assumptions since their last SMPI; and

⁴ Public sector pension schemes are out of scope for One-in, One-out purposes and have therefore been stripped out of the present value calculations

- Where schemes provide for real-time statements they will not need to provide a notification to the member each time the statement is updated. Only one notification will be required each year.

73. Following the 2010 amendments to allow schemes to communicate electronically with their members, additional disclosure requirements contained within specific pension regulations have been identified. The current electronic communication provisions would be extended to clarify that schemes can fulfil their disclosure requirements electronically, including by providing information on a website should they wish to do so, subject to members being able to opt out.

74. The regulations would be introduced by April 2014.

IMPACT TESTS

Competition

1. There are no implications for competition policy.

Small firms

2. There are no specific impacts on small firms. Although Defined Benefit schemes are more common in large companies they are also provided by a number of small companies. These proposals apply to all sizes of business and micro-businesses are not exempted. However, in practice, micro-businesses will not be involved in the administration of pension schemes. For occupational schemes, pension scheme administration (which includes the provision of communications) will be contracted out to large third-party providers upon whom the impacts of these proposals would fall.

Legal aid

3. There are no implications for legal aid.

Sustainable development, carbon assessment, other environmental impact

4. There are no implications.

Health

5. There are no implications for health.

Human rights

6. There are no implications for human rights.

Rural proofing

7. There are no implications for policy on rural issues.

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed for the Department for Social Development

A handwritten signature in black ink that reads "Anne McCleary". The signature is written in a cursive style and is positioned above the printed name.

Anne McCleary
10 March 2014

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