

## Response to consultation on safeguarded benefits and the advice requirement

Alert | 11 July 2017



### Introduction

On 6 July 2017, the DWP published a [response](#) to its autumn 2016 consultation (see our [Alert](#)) on valuing pensions for the advice requirement and introducing new consumer protections.

### Key points

- The Government intends to simplify the process for assessing whether a member is subject to the “appropriate independent advice” (“AIA”) requirement with effect from 6 April 2018.
- Subject to certain exceptions, members who are provided with information on the AIA requirement on or after 1 October 2017 must be informed (on or before 26 April 2018) if they are no longer required to take AIA in order to proceed with a “relevant transaction” (transferring their benefits to a DC arrangement, converting their benefits to DC, or directly accessing their benefits flexibly).
- Trustees will be required to provide members / survivors with safeguarded-flexible benefits (ie. a DC benefit with some form of guarantee) with risk warnings when he / she requests information on or seeks to carry out a relevant transaction.

### Introduction

With effect from 6 April 2015, individuals with “flexible” (generally DC) benefits were given greater choice over when and how to access their pension savings.

Individuals with other types of pension benefits can, in most cases, transfer or convert them into flexible benefits. As such benefits contain potentially valuable guarantees, the Government introduced a new protection measure alongside the pensions freedoms (see our [Alert](#)). Individuals with “safeguarded” (generally DB) benefits of over £30,000 must take AIA from an FCA authorised adviser before carrying out a relevant transaction.

### Background

#### AIA process

The current calculation method used to assess the value of a member’s benefits for the purpose of determining whether the member is required to take AIA can cause difficulties where a member’s benefits

are both safeguarded and flexible. For example, a DC pension with a guaranteed annuity rate (“GAR”).

Difficulties arise because the process currently requires two different calculations (one for the purpose of ascertaining whether AIA is required and one to calculate the transfer value). These two calculations can give rise to different results, ie a member can be above the £30,000 threshold for the purposes of the AIA but be entitled to a transfer value below that amount.

The DWP therefore consulted on how to simplify this process.

### **Safeguarded-flexible benefits**

As the new method for valuing safeguarded-flexible benefits will produce a lower value in many cases, fewer people will be caught by the requirement to seek AIA.

Mindful of the need to protect consumers, the Government also consulted on a proposal to require schemes to send risk warnings to all members with safeguarded-flexible benefits before they carry out a relevant transaction.

## **New valuation process**

On and from 6 April 2018, the value of a member’s safeguarded benefits, for the purposes of determining whether the AIA requirement applies, will be calculated in the same way as if the member were exercising a statutory right to transfer (but disregarding any potential reduction for the scheme’s underfunding).

### **Transitional provisions**

The changes to the valuation process will mean that some members who would currently be subject to the AIA requirement will cease to be. The Government is therefore introducing transitional provisions which, subject to certain exceptions, will require members who receive information about the AIA requirement between 1 October 2017 and 6 April 2018 to be informed, on or before 26 April 2018, if it no longer applies to them.

Alternatively, trustees may inform a member / survivor between 1 October 2017 and 5 April 2018 that he / she:

- may / will not be subject to the AIA requirement from 6 April 2018 and
- may contact the trustees on or after 6 April 2018 for further information.

## **New risk warnings**

Trustees will be required to send a member (or survivor) with safeguarded-flexible benefits a risk warning when:

- broadly, he or she requests information on, or applies to carry out, a relevant transaction
- the trustees provide the member / survivor with a statement of entitlement or a written statement of the amount of his / her cash equivalent
- the trustees communicate their intention / agreement in principle to carry out a relevant transaction, or make an offer to do so.

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Broadly, the risk warning must include:

- a prominent statement that the member's benefits under the scheme include a potentially valuable guarantee which will be lost if he / she proceeds with the proposed transaction
- for each relevant guarantee, a clear and intelligible explanation of its key features, the circumstances in which it can be taken up, any circumstances in which it would be lost, any material restrictions or conditions to which it is subject
- a projection of the income the guarantee might provide, relative to the income a pension pot of the same size would purchase on the open market
- information on the availability of and ways to access Pension Wise.

Where the transfer may go ahead without any further action or confirmation being required from the member (for example, where the member's transfer value is below £30,000), the risk warning should also contain a warning that unless the member contacts the scheme the transaction will proceed.

### Timing

The risk warning must be sent at least two weeks before the relevant transaction is carried out. This is intended to give the member sufficient time to receive and consider the information provided. (The two weeks mirrors the 14 day "cooling-off" period which applies where a consumer purchases a financial product).

## Next steps

Subject to Parliamentary approval, the changes will come into force on 6 April 2018. However, the Government recommends that schemes start adjusting their processes immediately.

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