



N A B A R R O
CLARITY MATTERS

Pensions

Flexible Benefits –
disclosure requirements



Flexible Benefits – disclosure requirements

A guide to the information trustees must provide to members and beneficiaries from 6 April 2015 when approaching retirement or accessing their benefits. This guide is relevant for all schemes holding flexible benefits – including money purchase benefits, cash balance benefits and defined contribution AVCs.

The information in this guide reflects the requirements as at 6 April 2016. It is based on the Pension Schemes Act 2015, the Disclosure Regulations 2013 (incorporating the Occupational and Personal Pension Schemes (Disclosure of Information) (Amendment) Regulations 2015 and the Pension Protection Fund and Occupational and Personal Pension Schemes (Miscellaneous Amendments) Regulations 2016) and the [Pension Regulator's guide to communicating with members about pensions flexibilities](#) published in April 2015.

	Trigger	Information	Delivery
1	At least four months before member's <i>specified retirement date</i> .	Disclosure Information A	At least four months before <i>specified retirement date</i> or within 20 days of a date being specified where less than four months to retirement.
2	<i>Relevant member</i> requests information about <i>flexible benefits</i> or informs trustees they are considering or have decided what to do with their <i>flexible benefits</i> .	Disclosure Information B	Within two months of the request or contact. Not required within 12 months of the information being provided under 1.
3	Where the trustees contact the <i>relevant member</i> or the <i>relevant member</i> contacts the trustees in connection with what the member may want to do with his <i>flexible benefits</i> .	Disclosure Information C	May be given verbally unless requested in writing by the member. Within 20 days of the contact or of the request for the information in writing. Not required where the member has accessed Pension Wise or has received independent advice within the last 12 months or the information under 2 has been given in the previous two months or is required to be given in the following two months.
4	Where a member is given the means to access a flexible benefit.	Disclosure Information D	In writing, before assets are applied to purchase an annuity, pay a lump sum or designate assets for drawdown. Not required where Disclosure Information D has been given in relation to the same type of benefit within the previous 12 months.
5	Where a benefit is or is about to become payable to a member.	Disclosure Information E	Where the benefit becomes payable on or after <i>NPA</i> , before the benefit becomes payable if practicable but at least within one month after it becomes payable. Where the benefit becomes payable before <i>NPA</i> then within two months of it becoming payable.
6	Where a benefit is or is about to become payable on the death of a member.	Disclosure Information F	Before the benefit becomes payable.
7	Where a person may be entitled	Disclosure Information G	Within two months of the

	to exercise rights or options on the death of a member and the person has the <i>opportunity to transfer</i> or access <i>flexible benefits</i> .		trustees becoming aware of the death.
8	Where a member first accesses <i>flexible benefits</i> .	Disclosure Information H	Within 31 days of the day on which the payment is made.

Useful definitions

The terms appearing in *italics* have the meanings set out below.

Flexible benefit:

- means a money purchase benefit;
- a cash balance benefit; or
- a benefit, other than a money purchase benefit or cash balance benefit, calculated by reference to an amount available for the provision of benefits to or in respect of the member (whether the amount so available is calculated by reference to payments made by the member or any other person in respect of the member or any other factor).

NPA (normal pension age):

- is the earliest age at which the member is entitled to receive benefits on his retirement disregarding any special provision as to early retirement on grounds of ill-health or otherwise.

A member has an *opportunity to transfer flexible benefits* where:

- he has transferrable rights in relation to *flexible benefits* (i.e. a cash equivalent right);
- he would have transferrable rights if he ceased to be in pensionable service in relation to those benefits; or
- he has an opportunity under the scheme rules to transfer *flexible benefits*.

Pensions guidance:

means Pension Wise, the Government supported guidance service established under the Pension Schemes Act 2015.

Relevant member:

- is a member who has a right or *opportunity to transfer flexible benefits*; and
- has reached normal minimum pension age (generally 55), is within four months of normal minimum pension age or meets the ill-health condition.

Specified retirement date:

- means the date the member specifies to the trustees that is acceptable under the rules of the scheme; or
- the date the trustees determine, where no acceptable date has been specified by the member.

Retirement communications

Pension Regulator's seven step good practice process

The Pension Regulator's guide to communicating with members about flexible benefits includes an illustrative seven step process.

Step 1	Member:	requests decumulation information or member approaches retirement date.
Step 2	Scheme:	provides information in accordance with new disclosure requirements including signposting Pension Wise (Disclosure Information A or B as appropriate). No application form to choose retirement option/s or to take a transfer is sent out at this stage.
Step 3	Member:	decides whether or not to use Pension Wise/take financial advice.
Step 4	Member:	indicates they wish to retire or take a transfer in connection with retirement.
Step 5	Scheme:	provides application form to choose retirement option/s or take a transfer*. Scheme also provides generic risk warnings and requests signed declarations confirming reading of risk warnings and/or guidance/ advice received (Disclosure Information D).
Step 6	Member:	returns completed form and other required documents including bank transfer details and proof of identification.
Step 7	Scheme:	actions member request and confirms to member.

*Additional disclosure and due diligence requirements will apply where a member wishes to take a transfer. These are outside the scope of this guide.

Disclosure Information A

Pre-retirement warm-up material

Information to members at least four months before *specified retirement date*

A statement of the options available to the member under the scheme rules; and where the member has the *opportunity to transfer flexible benefits*:

- a statement that the member has an opportunity to transfer *flexible benefits* to one or more different pension providers;
- a statement that different pension providers offer different options in relation to what the member can do with the *flexible benefits*, including the option to select an annuity;
- a statement that different options have different features, different rates of payment, different charges and different tax implications;
- either:
 - a copy of the Money Advice Service leaflet "[Your pension: it's time to choose](#)"; or
 - a statement that gives materially the same information;
- a statement that *pensions guidance* is available to help the person to understand their options in relation to what they can do with their *flexible benefits*;
- a statement that *pensions guidance* may be accessed on the internet, by phone, or face-to-face;
- the phone number (030 0330 1001) and website address (www.pensionwise.gov.uk) at which *pensions guidance* may be accessed and details of how the person may access *pensions guidance* face-to-face;
- a statement that *pensions guidance* is free and impartial;
- a statement that the person should access *pensions guidance* and consider taking independent advice to help them decide which option is most suitable for them;
- an estimate of the cash equivalent of any of the member's rights to *flexible benefits* that:
 - are transferrable rights; or
 - would be transferrable rights if the member stopped accruing rights to some or all of the flexible benefits;
- an estimate of the value of any accrued rights to *flexible benefits* that the member may transfer out of the scheme under the scheme rules, in respect of which the cash equivalent is not required to be given;
- the date by reference to which the cash equivalent or value (as appropriate) is calculated;
- an explanation that the cash equivalent or value (as appropriate) is an estimate and may not represent the exact amount available to the member to transfer to another pension provider;
- in relation to the member's accrued rights to *flexible benefits* in respect of which there is an *opportunity to transfer*,
 - details of any guarantee to which the benefits are subject; and
 - details of any other features, restrictions and conditions that apply to the benefits that affect, or may affect, their value;

- where the member has a right or entitlement to benefits under the scheme that are not *flexible benefits*, that the member has that right or entitlement and how the member may access information about those benefits;
- a statement that:
 - there may be tax implications associated with accessing *flexible benefits*;
 - income from a pension is taxable; and
 - the rate at which income from a pension is taxable depends on the amount of income that the person receives from a pension and from other sources;
- where the member has accrued rights to *flexible benefits* that are not money-purchase benefits, has not reached normal pension age and does not satisfy the ill-health condition:
 - a statement that the value of the member's accrued rights to *flexible benefits* is likely to be lower if the member accesses the benefits before *normal pension age*; and
 - (b) the age at which the member will reach *normal pension age*.

But, where the member has received information on request (Disclosure Information B) within 12 months before the date on which Disclosure Information A is required to be given, the following information must be given at least four months before the specified retirement date instead.

A statement that the member has been given information about the *flexible benefits* that may be provided to the member, the member's opportunity to transfer those benefits and the options available to the member under the scheme rules.

A statement that *pensions guidance* is available to help the person to understand their options in relation to what they can do with their *flexible benefits*.

A statement that *pensions guidance* may be accessed on the internet, by phone, or face-to-face.

The phone number (030 0330 1001) and website address (www.pensionwise.gov.uk) at which *pensions guidance* may be accessed and details of how the person may access *pensions guidance* face-to-face.

A statement that *pensions guidance* is free and impartial.

A statement that the person should access *pensions guidance* and consider taking independent advice to help them decide which option is most suitable for them.

An estimate of the cash equivalent of any of the member's rights to *flexible benefits* that:

- are transferrable rights; or
- would be transferrable rights if the member stopped accruing rights to some or all of the *flexible benefits*.

An estimate of the value of any accrued rights to *flexible benefits* that the member may transfer out of the scheme under the scheme rules, in respect of which the cash equivalent is not required to be given.

The date by reference to which the cash equivalent or value (as appropriate) is calculated.

An explanation that the cash equivalent or value (as appropriate) is an estimate and may not represent the exact amount available to the member to transfer to another pension provider.

And, where an application form, online access, information or any other method that enables the member to require that flexible benefits are accessed is provided.

Disclosure Information D.

Disclosure Information B

Information on request

Relevant member requests information about *flexible benefits* or informs trustees they are considering or have decided what to do with *flexible benefits*.

A statement of the options available under the scheme rules; and

- a statement that the member has an opportunity to transfer *flexible benefits* to one or more different pension providers;
- a statement that different pension providers offer different options in relation to what the member can do with the *flexible benefits*, including the option to select an annuity;
- a statement that different options have different features, different rates of payment, different charges and different tax implications;
- either:
 - a copy of guidance that explains the characteristic features of the options above that has been prepared or approved by the Pensions Regulator; or
 - a statement that gives materially the same information as that guidance;
- a statement that *pensions guidance* is available to help the person to understand their options in relation to what they can do with their *flexible benefits*;
- a statement that *pensions guidance* may be accessed on the internet, by phone, or face-to-face;
- the phone number (030 0330 1001) and website address (www.pensionwise.gov.uk) at which *pensions guidance* may be accessed and details of any other publicised method of accessing *pensions guidance*;
- a statement that *pensions guidance* is free and impartial;
- a statement that the person should access *pensions guidance* and consider taking independent advice to help them decide which option is most suitable for them;
- an estimate of the cash equivalent of any of the member's rights to *flexible benefits* that:
 - are transferrable rights;
 - would be transferrable rights if the member stopped accruing rights to some or all of the *flexible benefits*;
- an estimate of the value of any accrued rights to *flexible benefits* that the member may transfer out of the scheme under the scheme rules, in respect of which the cash equivalent is not required to be given;
- the date by reference to which the cash equivalent or value (as appropriate) is calculated;
- an explanation that the cash equivalent or value (as appropriate) is an estimate and may not represent the exact amount available to the member to transfer to another pension provider;
- in relation to the member's accrued rights to *flexible benefits* in respect of which there is an *opportunity to transfer*:
 - details of any guarantee to which the benefits are subject; and
 - details of any other features, restrictions and conditions that apply to the benefits that affect, or may affect, their value;

- where the member has a right or entitlement to benefits under the scheme that are not *flexible benefits*, that the member has that right or entitlement and how the member may access information about those benefits;
- a statement that:
 - there may be tax implications associated with accessing the *flexible benefits*;
 - income from a pension is taxable; and
 - the rate at which income from a pension is taxable depends on the amount of income that the person receives from a pension and from other sources; and
- where the member has accrued rights to *flexible benefits* that are not money-purchase benefits, has not reached normal pension age and does not satisfy the ill-health condition:
 - a statement that the value of the member's accrued rights to *flexible benefits* is likely to be lower if the member accesses the benefits before normal pension age; and
 - the age at which the member will reach normal pension age.

And, where an application form, online access, information or any other method that enables the member to require that flexible benefits are accessed is provided.

Disclosure Information D.

Disclosure Information C

Information on contact

Relevant member and trustees make contact about what the member may do with *flexible benefits*. This will include a member making a telephone enquiry about his benefits.

A statement that *pensions guidance* is available to help the person to understand their options in relation to what can be done with their *flexible benefits*.

A statement that *pensions guidance* is free and impartial.

A statement that the person should access *pensions guidance* and consider taking independent advice to help them decide which option is most suitable for them.

The following must also be given unless the other Disclosure Information C is given verbally and the trustees offer to give the member information about how he may access *pensions guidance* and that offer is declined.

A statement that *pensions guidance* may be accessed on the internet, by phone, or face-to-face.

The phone number (030 0330 1001) and website address (www.pensionwise.gov.uk) at which *pensions guidance* may be accessed and details of how the person may access *pensions guidance* face-to-face.

Where the member has not received information on request (Disclosure Information B) within 12 months before the date on which Disclosure Information C is given then the following must also be given.

A statement that:

- the member may request information about the *flexible benefits* that may be provided to the member, the member's opportunity to transfer those benefits and the options available to the member under the scheme rules; and
- the information may help the member to decide what to do with the *flexible benefits*.

And, where an application form, online access, information or any other method that enables the member to require that flexible benefits are accessed is provided.

Disclosure Information D.

Disclosure Information D

Retirement risk warnings before accessing *flexible benefits*

The matters listed in **Disclosure Information D** were not mandatory until 6 April 2016. The Pensions Regulator, in its "[communicating with members](#)" guidance published in April 2015, included sample wording for generic risk warnings. These are set out below.

Where Disclosure Information A, B or C is being or has been sent and an application form, online access, information or any other method that enables the member to require that flexible benefits are accessed is provided then the following information must be given.

A retirement risk warning which:

- must include the characteristic attributes and features of an annuity, lump sum and drawdown pension;
 - 'characteristic attributes and features' are those that have the potential to adversely affect the retirement income of any member or their dependants
 - this description may be limited to the flexible retirement options that the trustee is giving the member a method of access to;
- must include any factors that have the potential to affect the appropriateness of an annuity, lump sum and drawdown pension for a member, for example the impact of health status and lifestyle choices, whether a member has dependants, whether a member is in debt or in receipt of means tested benefits and any other relevant factors; but
- must be generic in nature and not tailored to or based on the personal circumstances of any individual member.

There must also be a statement asking the member to note the importance of reading the retirement risk warning and accessing pensions guidance or independent advice.

Except, where trustees have already asked the member whether they have received pensions guidance or independent advice and have encouraged a member to do so if they have not, the following appropriate risk warning may be provided instead.

An appropriate risk warning:

- sets out the risks associated with flexible benefit options that the member proposes to take that have the potential to adversely affect the retirement income of the member or their dependants;
- must be based on the characteristic attributes and features of an annuity, lump sum or drawdown pension as well as answers to questions the trustees have asked the member to identify the factors that increase the risks;
- should be given to the member before the trustee applies the funds to provide the *flexible benefits*; and
- must be given verbally or in writing.

Sample generic risk warnings from the Pensions Regulator's Communicating with Members Guidance April 2015.

Using your pension to buy a guaranteed income for life (annuity)

People who have a medical condition, are in poor health, smoke or are overweight, may be able to get a significantly higher income through taking an "enhanced annuity". These people should consider opting into health and lifestyle questions - and it's important to answer these questions honestly.

People considering this option should think about whether to provide an income for a partner or another dependant on death and therefore whether to purchase a single life or joint life annuity. Compare what, if anything, we offer to spouses or dependants against what's offered by another scheme or provider.

"Level" annuities provide a higher income to start with than annuities that increase but the payments will then stay the same for life. This means that the purchasing power of the annuity income will reduce over time, due to inflation.

You don't have to take any annuity or other pension we may offer – and different providers might pay a higher income. So it's important to shop around. Remember that annuity purchases are a lifetime commitment, so there's no rush to make a final decision.

Using your pension to provide a flexible retirement income ("flexi-access drawdown")

As with every investment, there's the risk that the value of a pension pot can go up and down. People considering this option should think about how much they take out every year and how long their money needs to last. If too much money is taken too quickly, the available retirement income could fall drastically or even run out, especially if stock markets fall.

Charges can reduce the money received. Check whether there are any charges or other reductions to a pension pot when a lump sum is withdrawn. Providers and schemes may also make ongoing charges on any undrawn money, so it's important to consider the impact of these charges. And if you plan to take the cash to invest somewhere else, check what the charges are before you cash in your pension.

Different schemes and providers offer different types of flexible retirement income. Check what kind of drawdown is being offered. Some might have products where part of your income is guaranteed but charges and conditions will apply. People considering a flexible retirement income should consider shopping around – an FCA-regulated financial adviser will be able to help with this.

Take your pension as cash in stages

In most cases, 25 per cent of each amount withdrawn is not liable for tax but the rest will be taxed as income. People considering this option should consider their own personal tax circumstances, and the impact of taking a taxable lump sum on the tax they pay – including the possibility that they may have to pay a higher rate of tax than normal depending on the amount withdrawn. As with every investment, there's the risk that the value of a pension pot can go up and down. People considering this option should think about how much they take out every year and how long their money needs to last.

Charges can reduce the money received. Check whether there are any charges or other reductions to the pension pot when a lump sum is withdrawn. Charges will continue to be taken from any money left in the pension pot, so it's important to consider the impact of these charges. And if you plan to take the cash to invest somewhere else, check what the charges are before you cash in your pension.

Taking cash withdrawals may have implications for people with debt or who may be entitled to means-tested benefits. People who are concerned about this aspect can contact Pension Wise, the Citizens Advice Bureau or the Money Advice Service.

Take your whole pot as cash in one go

On average, people aged 55 today will live to their mid-to-late 80s. It's important not to underestimate your own life expectancy. People considering this option should think about how to use the money to provide an income throughout retirement.

There will be tax implications if an entire pension pot is taken as cash in one go. These will depend on an individual's personal circumstances. In most cases there will be a tax-free amount available (normally 25 per cent). People considering this option should consider their own personal tax circumstances, and the impact of taking a taxable lump sum on the tax they pay – including the possibility that they may have to pay a higher rate of tax than normal. Some providers and schemes may have charges for taking a pension pot as cash, so check this before committing. And if you plan to take the cash to invest somewhere else, check what the charges are before you cash in your pension.

Taking cash withdrawals may have implications for people with debt or who may be entitled to means-tested benefits. People who are concerned about this aspect can contact Pension Wise, the Citizens Advice Bureau or the Money Advice Service.

The application form for taking benefits or a transfer* from the scheme should include the following retirement options declarations.

I confirm that I have/have not received guidance from Pension Wise.	Yes/No
I confirm that I have/have not received advice from a regulated financial adviser.	Yes/No
If you have not received Pension Wise guidance or regulated financial advice, we strongly suggest that you do this before proceeding.	
I confirm that I have read the risk warnings in this document and am happy to proceed with taking my retirement benefits or taking a transfer to another arrangement to access my retirement benefits.	Yes/No

*Additional disclosure and due diligence requirements will apply where a member wishes to take a transfer. These are outside the scope of this guide.

Disclosure Information E

Information on accessing benefits (member)

Information to be given to a member where a benefit has, or is about to, become payable.

The amount of benefit that is payable.

If benefit is payable periodically:

- any conditions for continuing to make the payments; and
- any provisions which would allow the payments to be altered.

Any rights and options that persons have on the death of the member or beneficiary of the scheme and any procedures for exercising those rights and options.

Disclosure Information F

Information on accessing benefits (following death of member)

Information to be given a beneficiary where a benefit has, or is about to, become payable.

The amount of benefit that is payable and if benefit is payable periodically:

- any conditions for continuing to make the payments; and
- any provisions that would allow the payments to be altered.

Any rights and options that persons have on the death of the member or beneficiary of the scheme and any procedures for exercising those rights and options.

The following must also be given, before the benefit comes into payment, where the person has an opportunity to select an annuity in relation to the death of the member.

A statement that the person has an opportunity to select an annuity.

A statement that the person has an opportunity to select the provider of the annuity.

A statement that different annuities have different features and different rates of payment including annuities that provide:

- the same payments every year;
- increasing payments every year;
- payments only for the person;
- payments for the person's spouse or civil partner; and
- a guarantee on the early death of the person.

Either:

- an explanation of the characteristic features of the annuities referred to above; or
- a copy of guidance giving that explanation that has been prepared or approved by the Pensions Regulator.

A statement that the person should consider taking advice about which annuity is most suitable for them.

The following must also be given, before the benefit comes into payment, where the person has an opportunity to transfer, purchase an annuity or draw any flexible benefits in relation to the death of the member.

A statement that *pensions guidance* is available to help the person to understand their options in relation to what they can do with their *flexible benefits*.

A statement that *pensions guidance* may be accessed on the internet, by phone, or face-to-face.

The phone number (030 0330 1001) and website address (www.pensionwise.gov.uk) at which *pensions guidance* may be accessed and details of how the person may access *pensions guidance* face-to-face.

A statement that *pensions guidance* is free and impartial.

A statement that the person should access *pensions guidance* and consider taking independent advice to help in choosing the most suitable option for them.

Disclosure Information G

Information on death benefit options

Where trustees are aware that a member or beneficiary has died and a person may be able to exercise rights or options under the scheme as a result.

Except where that person has the opportunity to select an annuity

The amount of benefit that is payable and if benefit is payable periodically:

- any conditions for continuing to make the payments; and
- any provisions that would allow the payments to be altered.

Any rights and options that persons have on the death of the member or beneficiary of the scheme and any procedures for exercising those rights and options.

The provisions (or, as the case may be, a statement that there are no provisions) under which the pension payable to the survivor of a member or beneficiary of the scheme may or will be increased and the extent to which such increases are dependent on the exercise of a discretion.

Where that person has an opportunity to select an annuity

A statement that the person has an opportunity to select an annuity.

A statement that the person has an opportunity to select the provider of the annuity.

A statement that different annuities have different features and different rates of payment including annuities that provide:

- the same payments every year;
- increasing payments every year;
- payments only for the person;
- payments for the person's spouse or civil partner; and
- a guarantee on the early death of the person.

Either:

- an explanation of the characteristic features of the annuities referred to above; or
- a copy of guidance giving that explanation that has been prepared or approved by the Pensions Regulator.

A statement that the person should consider taking advice about which annuity is most suitable for them.

Any rights and options that persons have on the death of the member or beneficiary of the scheme and any procedures for exercising those rights and options.

The provisions (or, as the case may be, a statement that there are no provisions) under which the pension payable to the survivor may or will be increased and the extent to which such increases are dependent on the exercise of a discretion.

Disclosure Information H

Information on accessing *flexible benefits* that trigger the money purchase annual allowance

Where trustees (scheme administrator) are aware that a relevant event has occurred the following must be sent to the member

A statement confirming:

- the date of the relevant event;
- that the member has accessed benefits flexibly and a relevant event has occurred;
- that the money purchase annual allowance will apply in relation to future money purchase inputs; and
- details of the member's duty to report the relevant event to the scheme administrator of any registered scheme under which he is accruing benefits.

Relevant events include payments:

- made from flexi-access drawdown;
- of Uncrystallised Funds Pension Lump Sum;
- made from a flexible annuity; and
- of a scheme pension from a money purchase arrangement (where fewer than 11 other members are entitled to a scheme pension).



N A B A R R O

CLARITY MATTERS

Nabarro offices

London
125 London Wall
London EC2Y 5AL
T +44 (0)20 7524 6000

Sheffield
1 South Quay Victoria Quays
Sheffield S2 5SY
T +44 (0)114 279 4000

Manchester
1 The Avenue Spinningfields
Manchester M3 3AP
T +44 (0)161 393 4700

Brussels
209A Avenue Louise 1050 Brussels
Belgium
T +32 2 626 0740

Singapore
Marina Bay Financial Centre Tower 3
12 Marina Boulevard 35-01
Singapore 018982
T +65 6645 3280

Dubai
Office 105 Level 1
Tower 2 Al Fattan Currency House
DIFC PO Box 506873
Dubai United Arab Emirates
T +971 4302 6000

You can find out more about us at:
www.nabarro.com
Twitter: @nabarro
LinkedIn: nabarro-llp

Nabarro LLP
Registered office: 125 London Wall
London EC2Y 5AL.

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