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Dear Patricia,

PENSION SCHEMES BILL: PENSION FLEXIBILITIES AND INCOME-RELATED BENEFITS

I am writing to you in relation to the matters raised during the Lords Committee of the Pension Schemes Bill regarding the effects of the new pensions flexibilities on those people in receipt of income-related benefits and how their pension pots would be treated in the means test.

The Government wants to ensure that someone's decision to use a flexible pension product does not have a significant effect on how their means are assessed for social security purposes; therefore, the intention is for the principles of the current rules to remain in place after April 2015.

This means that, for those below Pension Credit qualifying age, pension pots will be disregarded in both Housing Benefit and Universal Credit unless it is drawn down. Where an actual income is taken from a pension pot, or where capital is withdrawn on an ad hoc basis (or all at once), then this will be taken into account. For example, where someone opts to take a regular drawdown from their pension pot before Pension Credit qualifying age, this would count as income for means-testing purposes, as it currently does where an annuity is purchased.

Where a person below Pension Credit qualifying age has a partner who is above Pension Credit qualifying age, both of whom have not annuitised their pension pots, and is in receipt of income-related benefits, the person below Pension Credit qualifying age's pension pot would be disregarded by Universal Credit and Housing Benefit. However, a notional income from the above Pension Credit qualifying age partner's pension pot (if deferred) would be taken into account.

The Rt Hon the Baroness Hollis of Heigham DL
House of Lords

As you pointed out, for those above Pension Credit qualifying age, our rules provide that any pension product available, whether or not the customer has drawn it, is taken into account when we assess their entitlement, on the principle that people should utilise all forms of income to which they have recourse before claiming income-related benefits. In order to take the pension pot into account, we calculate a notional income based on the annuity that it is deemed the pension pot could yield. The Government intends to change the notional income rules from April 2015, so that 100% (rather than 150% as now) of the income an equivalent annuity would offer is taken into account. This will therefore be a more generous calculation than under the previous rules.

In the example your provided of the 55-year old in receipt of Housing Benefit, with a pension pot of £20,000: if left untouched, the pot itself would not be taken into account in the means test until they reached Pension Credit qualifying age - at which point it would be treated as generating a notional income. However, if they chose to access their pot, the funds withdrawn would be taken into account as income or capital as appropriate. Where it is treated as capital, it would be deemed to yield an income if it exceeded the £6,000 lower capital limit. If the capital exceeded the higher capital limit of £16,000, they would lose their entitlement to Housing Benefit.

Individuals who choose to access their pension pot and invest it directly themselves will need to consider that this may affect the level of support which they receive – just as those who choose to save for retirement outside of a pension must do already. We believe that people should use their funds responsibly if the alternative to doing so is claiming income-related benefits.

I hope you find this letter helpful. I have copied it to all Peers who spoke during Committee and have placed a copy in the Library.

All good wishes,

Yours,

LORD NEWBY