Department for Work & Pensions

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House of Lords

1 March 2024

Dear Jeannie,

The Occupational Pension Schemes (Collective Money Purchase Schemes) (Amendment) Regulations 2023

As committed to in the Chamber, I am writing to write to you in relation to the term 'successor' and what it covers. I would also like to take this opportunity to provide some more clarity on other matters raised at the debate.

This instrument amends Schedule 6 of The Occupational Pension Schemes (Collective Money Purchase Schemes) Regulations 2022 ("the CDC Regulations 2022") to make clear that if a beneficiary dies during the winding-up, the benefits of the deceased beneficiary can be reallocated by the trustee (in accordance with their scheme rules) to other categories of beneficiary and are not reallocated amongst the collective.

The potential categories of persons who, in accordance with scheme rules, would have pots at the end of winding-up which need to be discharged are as follows: a. Members;

b. Nominees of members;
c. Dependants of members (either those who are eligible for a periodic income at the start of winding-up or those who become eligible during winding-up on the death of a member); and,
d. Successors of persons falling within (b) and (c) who die during the winding-up period;

With regards to the question about exactly who qualifies as a 'successor', this has the meaning given by Paragraph 27F of Schedule 28 to the Finance Act 2004. Firstly, only an individual can be a successor. Subject to the scheme rules, to be a successor that individual must have been nominated by a dependent, nominee or another successor to receive benefits following their death.

An individual can also be a successor if they have been nominated by the scheme administrator to receive benefits following the death of a particular dependant, nominee or successor (the beneficiary). However, the scheme administrator nomination will be valid only if after the beneficiary's death there is no individual or charity nominated by that beneficiary. Where an individual who is a successor to a member is also a dependant of the member, in their capacity as a successor they are not treated as a dependant.

It has always been our intention that, during the wind-up of a CDC scheme, the beneficiary – whether member, dependent, nominee or successor – has, in accordance with scheme rules, the option to have their accrued rights to benefits discharged to their flexi-access drawdown. This instrument makes clarificatory changes to deliver that policy intention.

Successors' drawdown pension are available only as flexi-access drawdown and with flexi-access drawdown there is no minimum or maximum amount that a beneficiary can take in any tax year. The successor can choose to draw as much or as little pension as they like in any year and subject to what the pension scheme rules allow, in any year the successor can choose to take:

- no payment of drawdown pension,
- a regular series of payments,
- an irregular payment stream, or
- their whole flexi-access drawdown fund as a single payment.

A successor's flexi-access drawdown pension is given meaning in the instrument by Paragraph 27K Schedule of 28 to the Finance Act 2004. It is payable only to the successor and this pension may be paid following the death of a dependant, nominee or another successor of the member. The successor starts drawdown pension by designating sums and assets under a money purchase arrangement as available to provide them with drawdown pension. This designation creates a successor's flexi-access drawdown fund. The sums and assets designated to create that fund must be 'unused drawdown funds' of the deceased dependant, nominee or successor.

A successor's flexi-access drawdown pension can be paid only from a money purchase (which includes collective money purchase) arrangement. However, to be clear, a CDC scheme pension does not have to pay benefits to a beneficiary as drawdown pension. Many existing schemes do not offer this option. There is also no lower or upper age limit for paying a successor's drawdown pension and a designation by a successor into a successor's flexi access drawdown fund is not a benefit crystallisation event.

Finally, with regards to the tax treatment of successor's drawdown pension, from 6 April 2015 it may be tax free or it may be taxable as pension income. The tax treatment of the pension depends on a number of a factors including the age of the member or prior beneficiary when they died, how long it takes to put the benefit into payment and whether or not payments had been made before 6 April 2015.

Entry into the Royal Mail Scheme
It may be helpful if I set out again what Royal Mail have told us about their Collective Scheme and how they intend it to operate. They have agreed with the Communication Workers Union that the vast majority of existing employees who have more than 12 months' service will be automatically enrolled into their Collective Plan at go-live. Royal Mail also informed us that eligible new employees that join after the go-live will not be required to make an active decision unless they decide to opt out from contractual enrolment to the Collective Plan once they reach 12 months' service with the employer.

Next steps
Government remains committed to facilitating further CDC provision as quickly as possible but want to ensure that we get the legislation right to help ensure that the interests of members in these new schemes are protected.

That is why we have engaged extensively with industry during the drafting process to ensure this will be the case. We will consult on draft regulations to facilitate whole-life multi-employer CDC schemes later this year and, subject to parliamentary approval, intend for them to come into force in 2025.

We also recognise there is interest in enabling people at the point of retirement to be able to access the benefits of CDC and are keen to facilitate this where this would provide better outcomes for members, as long as we can ensure the necessary member protections.

Building on our work to develop a whole-life multi-employer legislative framework, we are working with the pensions industry and regulators to explore what would be needed to provide trust-based CDC options at decumulation. We intend to launch a policy consultation on this once we have finalised the legislation for whole-life multi-employer CDC.

I am copying this letter to Baroness Sherlock and Lord Palmer of Childs Hill who also participated in the debate. I am also placing a copy of this letter in the House Library.

My best wishes
James Younger

VISCOUNT YOUNGER OF LECKIE
PARLIAMENTARY UNDER SECRETARY OF STATE (MINISTER FOR LORDS)