Rule change consultation January 2016

NEST Corporation’s response

Introduction

On 20 January 2016, we began a consultation to change our scheme rules in order to:

- take account of the lifting of the restrictions on contributions and transfers for NEST from 1 April 2017
- reflect the fact that members can take a full uncrystallised funds pension lump sum (UFPLS) from NEST and introduce, from September 2016, the ability for them to take a series of partial UFPLSs
- make some ‘tidying up’ changes.

The consultation ended on 21 March 2016. This paper constitutes our response to that consultation. It:

- provides a summary of the comments received
- details our response to them
- confirms which of the rule changes we currently intend to proceed with.

We’re very grateful to those who took the time to respond to our consultation.

Responses to the consultation

We received six responses to the consultation, from the Trades Union Congress (TUC), NOW: Pensions, Mercer, the Institute and Faculty of Actuaries and NEST’s Members’ and Employers’ Panels. These were largely supportive of the rule changes we proposed. In addition to the supportive comments, the following comments and observations were made:

- A concern from NOW: Pensions that our proposed approach to dealing with previous breaches of the annual contribution limit (ACL), from April 2017, and the fact that we’re setting that out at this time, may be seen as publicly promoting overpayments.
- An observation from the actuarial profession regarding the requirement for an actuarial certificate in the case of bulk transfers where defined contribution transfers are concerned.
- Comments from the Members’ Panel and the TUC about the risks of accepting transfers in from defined benefit schemes.
- Comments from NOW: Pensions that the power to allow members to join the scheme via a bulk transfer in without consent, with no need to make any contributions, wasn’t in line with NEST’s remit and was anti-competitive.
- Comments from NOW: Pensions that they would have expected the consultation to address the question of what NEST will charge for individual and bulk transfers.
- Observations from the actuarial profession that if NEST is unable to accept protected pension ages and protected pension commencement lump sums on a bulk transfer this would lead to fewer bulk transfers.
- A question from NOW: Pensions about whether NEST will be applying a charge for UFPLS and a comment that ‘If no charge is planned, we would question whether Nest is competing fairly in a competitive marketplace.’

We’ve set out our responses to these points in the following section.

Our response

Annual contribution limit (ACL) proposals

A concern from NOW: Pensions that our proposed approach to dealing with previous breaches of the annual contribution limit (ACL), from April 2017, and the fact that we're setting that out now, may be seen as publicly promoting overpayments.

This comment relates to our proposal to enable any contributions in excess of the ACL made before 1 April 2017, and not dealt with at that date, to be applied to the member's account in a subsequent tax year.

We consider the risk of members or employers deliberately making contributions in excess of the ACL, prior to 1 April 2017, to be fairly low and not to outweigh the benefits of our proposed approach, which we consider to be in our members' interests. We intend to operate certain safeguards to prevent deliberate overpayments being made prior to 1 April 2017. For example, we'll ensure that existing checks designed to stop members breaching the ACL via direct contributions will continue to apply up to and including 31 March 2017. In addition, we'll continue to operate a facility which enables employers to configure a maximum contribution to the scheme as this will assist in restricting uplifts that could lead to overpayments.

The ability to overpay and ultimately have the money applied to the member's account at a future date will not be promoted by NEST to employers and members.

Actuarial certificates and bulk transfers for defined contribution schemes

An observation from the actuarial profession regarding the requirement for an actuarial certificate in the case of bulk transfers where defined contribution transfers are concerned.

We recognise the observations made by the actuarial profession in relation to this matter. As these provisions are contained in overarching legislation applying to all occupational pension schemes, rather than in the NEST scheme rules, it's not within NEST Corporation's power to remedy the position. However we understand that the Department for Work and Pensions (DWP),the government department responsible for the legislation, are aware of the issue and we have passed on the relevant comments from the actuarial profession to them.

Transfers from defined benefit (DB) pension schemes

Comments from the Members' Panel and the TUC about the risks of accepting transfers in from defined benefit schemes.

The proposal we consulted on was to include a broad power in our scheme rules to accept transfers in, subject to any restrictions the Trustee may determine. This doesn't mean that NEST Corporation would have to accept transfers in from defined benefit (DB), or any other, schemes. Instead, it would have the scope to restrict certain transfers, such as transfers from DB schemes, by determining that it wouldn't accept such transfers. We prefer this method to the alternative approach of specifying in the scheme rules exactly which transfers will be accepted, as it provides more flexibility to make changes based on learning and experience. Otherwise a change to the NEST rules would be required every time a change was needed to the category of scheme we would accept a transfer from. The Trustee will take into account the views of the TUC and the Members' Panel when it subsequently determines which schemes it will accept transfers from.

Bulk transfers without consent

Comments from NOW: Pensions that the power to allow members to join the scheme via a bulk transfer-in without consent, with no need to make any contributions, wasn't in line with NEST's remit and was anti-competitive.

The power to accept a bulk transfer-in without consent for new and existing members is a power that's being introduced by the 2015 Amendment Order, which amends the NEST order, and not one that's expressly being introduced via the NEST rules. Full consultation on this power was undertaken by the DWP when they consulted on the 2015 Amendment Order.

Charging for transfers

Comments from NOW: Pensions that they would have expected the consultation to address the question of what NEST will charge for individual and bulk transfers.

This consultation is about changes to the NEST rules. A change to the NEST rules isn't required in order to charge for transfers as NEST's charging provisions are contained in article 27 of the NEST order. Consequently it wasn't appropriate to address the question of what NEST will charge for transfers in the consultation document.

Bulk transfers

Observations from the actuarial profession that if NEST is unable to accept protected pension ages and protected pension commencement lump sums, on a bulk transfer, this would lead to fewer bulk transfers

We appreciate that this is the case but have been unable to get an indication of how large the volumes are likely to be. We therefore intend to introduce the proposed rule changes for the time being, with the effect that protected pension ages and protected pension commencement lump sums would not transfer across on a bulk transfer to NEST. We'll be able to revisit this in the future in light of experience.

Charging for UFPLS

A question from NOW: Pensions about whether NEST will be applying a charge for UFPLS and a comment that 'If no charge is planned, we would question whether Nest is competing fairly in a competitive marketplace.'

We don't plan to charge members for taking their money out of the NEST via UFPLS. This aligns with our current proposition, as we don't currently charge members for taking their money out via trivial commutation or in order to purchase an annuity. We've considered NOW: Pensions' concerns about this and, given the wide range of approaches to this in the market, and our current approach to members' accessing their pots, we don't believe a decision not to charge for UFPLS will have an impact on the ability of other pension providers to attract business in the auto enrolment market.

Rule changes we propose to make

Having carefully considered these, and all other comments received, we intend to proceed with all of the rule changes consulted upon in the public consultation, and to the timeline outlined therein, with the exception of the change which would allow members' pots to remain open after they've taken all their money out. As indicated in the consultation document, the latter proposal isn't one we're planning to bring in in either September 2016 or April 2017 alongside the other rule changes consulted upon. However, we will revisit it in the future, in light of experience.

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