

Do you have the right pension with flexibility in place?

(The importance of taking action now!)

Three years on from the pension freedoms it is easy to take for granted that the income flexibility and inherited drawdown will be there for you when you require it.

But unexpected ill-health or early death can drastically alter plans. A little forward planning can help make sure everything is in place to ensure your changing needs can be met by having:-

- the right pension
- with up to date nominations and
- a registered power of attorney, so that the flexibility is there when your loved ones need it most

Keeping income flexible

The onset of ill-health can drastically change retirement income needs. For some, as they become less active they may need less income to live on. At the other end of the scale, it could require additional expenditure to make adaptations to the family home or even the need to enter residential care.

The ability to adjust income levels in retirement as your needs change over time was one of the key drivers in the shift from a fixed to flexible retirement income. The FCA's latest data survey on retirement trends shows a continuing move towards flexible pensions post pension freedoms, with almost three times as many people choosing drawdown over annuities in the period covered.

The increased flexibility of drawdown means that more decisions need to be made throughout retirement. Income levels may need to be monitored to keep them sustainable, or simply varied to meet changing needs or circumstances such as increased health care costs. Assets may need to be rebalanced. And there may be occasions where larger one off withdrawals may be needed.

But what if those decisions can't be made due to a loss of mental capacity?

Lasting Power of Attorney

When the flexibility of pension freedoms is needed most, it may not be immediately available unless appropriate measures have already been put in place.

A Lasting Power of Attorney (LPA) allows you to nominate someone to look after your financial affairs if you are no longer able to. The LPA has to be completed and registered while you still have capacity but that little bit of forward planning can make a huge difference to loved ones by ensuring that income can be varied and that care costs can be met.

Don't leave it too late

It is still possible for someone to be appointed to manage your financial affairs after capacity is lost, but this is a lengthier and more costly process. A deputy can be appointed by the Court of Protection (in Scotland the Office of the Public Guardian may appoint a Financial Guardian), who may require regular supervision and to submit accounts to the Court of Protection.

Make sure your wishes are kept up to date

An attorney or deputy is able to manage the pension and must do what is in the best interests of the person without capacity. However, there are some things that they are unable to do.

An attorney cannot complete a death benefit nomination on behalf of the donor. A death benefit nomination helps to guide the scheme trustees/administrators when exercising their discretion. The scheme trustees/administrator will be guided by the last instructions they have received so it is vitally important that nominations are regularly reviewed whilst you still have capacity.

If you leave a surviving dependant, benefit options for other loved ones could be severely limited without an up to date clear nomination – potentially frustrating what the deceased would have wanted to happen. Ultimately, it could mean the only death benefit available to an adult child may be a lump sum – potentially removing flexibility and generating enormous tax bills.

Right pension, right now

The new pension freedoms offer greater flexibility on how income can be taken and how any unused funds can be inherited on death. **However, not all pension schemes can offer the full range of income and death benefit options and it might be necessary to transfer to a modern, flexible pension.**

If these flexibilities are important aims for you, it is equally important that you **do not delay** putting plans in place to make sure you can achieve them. Leaving the transfer too late can have consequences.

A loss of mental capacity could also affect the ability to transfer pension benefits to a new provider. Where there is an attorney in place, it may still be possible to transfer if it can be shown to be in the best interest of the donor. A transfer to allow you to take flexible income to meet care costs is clearly in your (the donor's) best interest. However, it could be argued that transferring to improve the death benefits or how they can be accessed by your family is not for "the donor's" benefit.

Clearly it is much better to get pension savings into the right scheme before health becomes an issue.

Summary

It is important to check that everything is in place to ensure your expectations can be met and plans are flexible enough to cope with sudden and unexpected changes to circumstances. Action may need to be taken before it is too late..... **so don't put it off.**

It is easy to think that these decisions can be left until another time. But an untimely death, loss of mental capacity or the diagnosis of a serious illness can mean that your wishes on what you would like to happen to the pension savings cannot be followed.