



Department for
Digital, Culture,
Media & Sport

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Rt Hon Stephen Timms MP
Chair of Work and Pensions Committee
House of Commons
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31 May 2022

Dear Stephen,

Thank you for your letter of 18 May.

First of all, I wholeheartedly support the important work that the Committee is carrying out, particularly on the Saving for Later Life Inquiry. Now more than ever, it is imperative that we recognise the need for everyone to be planning and saving.

You shared evidence provided by pension companies including The Universities Superannuation Scheme (USS) and Aviva that asserted that the current legal framework on data can prevent them from reaching out to certain individuals with important information about their pension schemes. In particular, they said the consent requirements in the Privacy and Electronic Communications Regulation 2003 (PECR) can make it difficult to contact policyholders who have been automatically enrolled in pension schemes by their employers and not directly consented to receiving electronic communications.

PECR does not prohibit pension companies from providing key customer service and administrative information to the pension policy holders, such as factual information on how much their pension is worth. But they do prevent the sending of electronic messages that constitute 'direct marketing' without consent, such as an offer to increase pension returns through other products. Direct marketing is defined as the communication (by whatever means) of advertising or marketing material which is directed to particular individuals. Where a commercial organisation has had a previous relationship with a customer (e.g. through a sale or transaction) consent does not have to be explicit. There is an exception for previous customers, known as the "soft opt-in". We have heard through our recent consultation exercise, Data: A New Direction, that consumers think the rules are generally in the right place. Respondents said they wanted to have meaningful control over how their personal data is used and control over when they receive direct marketing communications.

I understand that the Information Commissioner's Office is already engaging with the Pensions Regulator to ensure that organisations and businesses are able to communicate effectively with their customers. Better regulatory guidance should provide the clarity that pension providers need, but if it does not have the desired effect, I would be open to exploring whether changes to the PECR legislation are needed to address unnecessary barriers to responsible data processing.



With best wishes,

A handwritten signature in black ink that reads "Julia". The signature is written in a cursive style with a large, looping initial 'J'.

Julia Lopez MP
Minister of State
Minister for Media, Data and Digital Infrastructure



Work and Pensions Committee

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Julia Lopez MP

Minister of State for Media, Data and Digital Infrastructure

18 May 2022

Dear Julia

Data protection legislation and communication with scheme members by pension schemes

The Work and Pensions Committee is currently conducting an inquiry on [Saving for Later Life](#). One of the issues we are looking at is the advice and guidance people need while they are saving.

We have heard that engagement with pension scheme members is important in helping them make sound financial decisions. For example, the [Financial Conduct Authority](#) told us that “at the right points in the pensions consumer journey, guidance and (for some) advice can help consumers make informed decisions that are crucial to good outcome.”

However, we have also heard evidence that pension schemes are restricted in their ability to communicate helpful information to their members. One reason is the challenges they face in trying to balance the requirements of the [Privacy and Electronic Communications Regulations 2003 \(PECR\)](#) with guidance from the Pensions Regulator on good communications with scheme members.¹

The Universities Superannuation Scheme (USS) is one of the schemes that has contacted the Committee to say that this has materially impacted on their ability to communicate helpful information to scheme members and to maximise the benefits of investment in the scheme website, member portal and online functionality. We have heard that the policy of auto-enrolment on the one hand makes getting marketing consent from members at the point of joining more difficult and on the other makes communication particularly important. The USS trustees support a proposal made in your September 2021 consultation, [Data: a new direction](#), to extend the ‘soft opt in’ currently only available to commercial organisations to non-commercial organisations, but also for it to specifically cover information gathered via auto-enrolment.

In its written evidence to the Committee’s [Saving for Later Life inquiry](#), Aviva, cites the regulations as an obstacle to boosting uptake of advice and guidance, saying that “we can build very effective propositions and tools to help customers, but if we can’t tell customers about them, they won’t use them.” Other pension providers raised the issue of data protection legislation more generally, in oral evidence on 27 April.²

We would be grateful if you could assure the Committee that this important issue is being considered as the Department formulates its response to the consultation.

¹ [DC Code of Practice](#), para 134

² [Oral evidence to the Work and Pensions Select Committee, 27 April 2022, Q122](#)

Kind regards

A handwritten signature in black ink, reading "Stephen Timms". The signature is written in a cursive style with a horizontal line above the name.

Rt Hon Stephen Timms MP

Chair, Work and Pensions Committee