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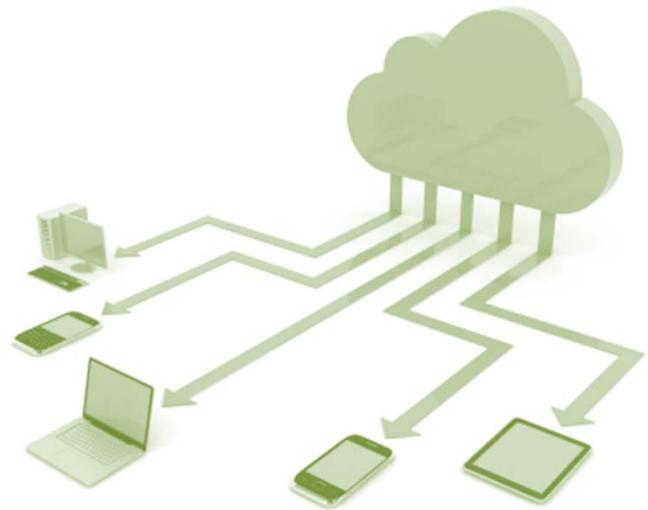
Fiduciary protection: A checklist for best-in-class communication solution.

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The communication challenge will never disappear. As a plan sponsor, you must assess, on an ongoing basis, whether certain information is important to members and whether such information should be communicated.

This duty to communicate can be breached not only by providing inaccurate pension information but also by negligently failing to communicate information.

So how do you comply with your fiduciary duty – driven by legislation – through truly engaging communication campaigns? Here's a checklist for you.



Make governance a priority.

Use an approach that complies with the best practices of pension communications.

1 Communications must be accurate

Periodically assess or audit the content of communications against plan terms to ensure consistency. Recognize that employee communications will be binding.

2 Limit the number of people who give guidance and answer questions

In addition, ensure that those people are adequately trained. Employees – or external service providers – giving guidance and answering questions should not improvise when giving information or guidance, and they should obtain the full factual background before responding to an enquiry. Pay attention to communications at key decision points for members (such as when to retire, what form of pension to take, what level of contributions to put in and so on).

3 Know your audience

Plan administrators may need to tailor the form and content of member communications depending on the literacy, education, background and language of the audience. The courts have placed a high burden on the plan administrator to ensure that plan members understand the implications of any choices they are given with respect to their benefits.

4 Avoid providing only verbal information to plan members

In most of the pension communication cases, the plaintiff and defendant usually have a different memory of what was said during a meeting or telephone conversation, and the judge must decide whom to believe. Such litigation often arises many years after a communication was made, by which time the employee involved in the discussion may have left the employer, leaving the employer with no evidence to defend its case.

5 Create a written record and ensure proper document retention policies are in place

Have human resources staff send follow-up letters or e-mails after meetings with pension plan members, or at the very minimum, prepare a 'note to file' as to what was discussed at the meeting. Contractually require the same of your service providers.

6 Archive effectively

Keep copies of historical booklets and other information, as well as details regarding the distribution of such information. When using electronic communications, ensure that e-mail and website information is archived and that you have a record of what information was provided to, or accessible by, employees at any point in time.

7 Do not assume that duties of communication end with providing only the information required by pension benefits legislation

Case law is quite clear that the plan administrator's duty of care in communications goes beyond providing the information required under the applicable pension benefits legislation.

8 Establish a written communication policy

An effective written communication policy should identify and document the responsibilities of each participant in the administration of the plan in relation to communications. The policy should outline all of the permitted delegations and sub-delegations of such responsibilities.

9 Monitor any communications provided by service providers

Periodically monitor communications provided by your service providers and their document retention practices to ensure that the level of service is adequate.

10 Ensure that contracts with service providers set out the service provider's authority to provide communication directly to employees

These responsibilities should cover all modes of communication, written, oral and electronic (for example, will the service provider be permitted to answer phone inquiries, and, if so, will such conversations be recorded? How frequently will any applicable websites be updated?). Your service providers should also have processes and procedures in place to limit errors and misstatements, and these should be included in your contracts with service providers.

11 Correct any communication errors as soon as possible

Do not delay delivering bad news. Even if an error in communication is made, it is not necessarily actionable: In order for the administrator to be liable for a communication, the member must have relied on the error to his or her detriment. The sooner the error is corrected, the less opportunity there is for reasonable reliance.

Find a communication solution that complies with this governance checklist.