HOUSE OF COMMONS LIBRARY

BRIEFING PAPER

Number CBP-7042, 26 September 2018

Pensions guidance: Pension Wise

By Djuna Thurley

Inside:

Contents

Contributing Author: Djuna Thurley

Summary

In Budget 2014, the Government announced that from April 2015, individuals aged 55 and over will be able to access their defined contribution (DC) pension savings as they wish, subject to their marginal rate of income tax. The changes to pension tax legislation necessary to implement this are in the *Taxation of Pensions Act 2014.*

The Government said it recognised that people would need help navigating the expanded range of options and therefore introduced a guidance service – Pension Wise - in the *Pension Schemes Act 2015,* (s47). The service is delivered by Citizens Advice (face to face) and the Pensions Advisory Service (TPAS) (by phone) and via its website.

Pension Wise is targeted at people aged 50 or older with DC savings. It aims to provide guidance for the purpose of helping people make decisions about what to do with flexible benefits. Providers are required to signpost savers towards Pension Wise (FCA, PS 14/17). In addition, as a 'second line of defence', they are required to give risk warnings to those wanting to access their savings (PS 15/4).

In its Retirement Outcomes Review, the FCA found that take-up of Pension Wise remained low (Interim Report, para 3.33). It focused on those consumers who do not take advice and its evidence showed that some are at risk of harm. It found that:

- there are weak competitive pressures and low levels of switching. Most consumers choose the 'path of least resistance', accepting drawdown from their current pension provider without shopping around
- one in three consumers who have gone into drawdown recently are unaware of where their money was invested
- some providers were 'defaulting' consumers into cash or cash-like assets, but holding cash is highly unlikely to be suited for someone planning to draw down their pot over a longer period.
- consumers might pay too much in charges. We found that charges for non-advised consumers vary considerably from 0.4% to 1.6% between providers, and are, on average, higher than in accumulation (where in some cases they are capped at 0.75%)
- drawdown charges can be complex, opaque and hard to compare
- so far, we have not seen significant product innovation for mass-market consumers.

In a December 2017 report, the Work and Pensions Committee expressed concern about low take-up of Pension Wise, saying that "far too many people are currently taking vital decisions in the dark, putting them at greater risk of suffering irrevocable financial detriment through scams or choices contrary to their interests." It recommended that guidance should be the default, with individuals having to receive or expressly refuse it before being granted access to a pension pot. It proposed an amendment to this effect to legislation then before Parliament. In the event, the Government tabled its own amendments (now sections 18-20 of the *Financial Guidance and Claims Act 2018)*. Providers will be required to refer scheme members seeking to access or transfer their pension pot to Pension Wise and – before proceeding with an application - to ensure that – with some exceptions - they have received guidance or explicitly opted out. The FCA is to consult on the details (Retirement Outcomes Review, June 2018, para 1.35).

The Act also made provision for Pension Wise to be brought together with the Money Advice Service and the Pensions Advisory Service in a new Single Financial Guidance Body.

(HL Deb 24 July 2018 c1601). The debates on the legislation are discussed in Library briefing Paper CBP 8033.

On 4 September the Government announced that it expected to establish the body as a legal entity in October when the Chair and Chief Executive take up their roles. It will launch in January 2019 when it takes on its delivery functions of money and pension guidance, and debt advice (HCWS933 4 September 2018).

For more on the pension freedoms, see Library Briefing Paper CBP 6891 (August 2018). The Pensions dashboard - being developed to enable individuals to see all their lifetime pension savings in one place – is discussed in Library Briefing Paper CBP-8407 (September 2018).

1. Background

Individuals with defined contribution (DC) pensions build up a pension fund using contributions, investment returns and tax relief. Pension tax legislation in force before 6 April 2015 strongly 'encouraged' most people with DC pensions to purchase an annuity. It authorised lump sum or flexible payments only in limited circumstances. Unauthorised payments attract an 'unauthorised payments charge' of 55%.[1]

In Budget 2014 the Government announced that it would change the rules to allow individuals to "withdraw their savings at a time of their choosing, subject to their marginal rate of income tax."[2] Since 6 April 2015, individuals aged 55 and over have been able to access their defined contribution (DC) pension savings as they wish, subject to their marginal rate of income tax.[3] The range of 'authorised payments' has been widened to enable individuals to:

- Take their pension savings as cash (in one lump sum or smaller amounts over time);
- Buy an annuity (or other income generating guaranteed products); Use drawdown but without any limits applies; or
- A combination of these.[4]

The Government said it recognised that, in expanding the range of choices available, there was a corresponding need to help consumers navigate those choices, so that they could make good decisions which suited their needs and circumstances.[5] It therefore proposed to introduce:

> […] **a new guarantee that everyone who retires with a defined contribution pension will be offered free and impartial face-to face guidance on their choices at the point of retirement**.[6]

A number of initial responses to the Budget stressed the importance of this in ensuring the success of the reforms. Age UK, for example, said:

> Giving people a real choice about how and when to use their pension savings is the right approach, but it must be an informed choice so the advice available to them when they make this crucial decision needs to be first rate. Making this a reality will be central to the success of the reforms and we look forward to working with the Government and the financial services industry to make sure this happens.[7]

---

[1] *Finance Act 2004 (FA 04)*, Part 4; For more detail, see Library Note SN 6891 Flexibility for DC pension savers from April 2015
[2] HM Treasury, Budget 2014, para 1.104, HC 1104,
[3] *FA 2004* as amended by the Taxation of Pensions Act 2014, section 1 and Schedule 1
[4] Financial Conduct Authority, Retirement reforms and the Guidance Guarantee, CP14/11 21 July
[5] HM Treasury, Freedom and choice in pensions, Cm 8835, March 2014, para 4.7-9
[6] HM Treasury, Budget 2014, HC 1104, March 2014
[7] 'Age UK, welcome help for savers but no gains for the poorest pensioners', 19 March 2014; ABI, 'Budget 2014: 11 thoughts on George Osborne's pension plan', 20 March 2014

However, some thought more support would be needed. The National Association of Pension Funds (NAPF) argued for the development of appropriate and good value retirement income solutions and support.[8]

The TUC was concerned that the guidance on offer would be insufficient:

> Independent guidance is clearly better than that provided by company sales teams, but half an hour of the best possible advice will not equip people for what could be thirty years of managing their pension pot.[9]

The then Shadow Pensions Minister Gregg McClymont had reservations about how successful it would be:

> My understanding of the analysis [of how people buy annuities] is that the default position of individuals was simply to accept what they were offered and not to get involved in the type of process to which he refers. If that means that the annuities market was a failure because people were not getting value for money as a result of not shopping around, what confidence does he have that there will be an overnight revolution in people's engagement with the type of guidance he suggests? [10]

However, the then Pensions Minister Steve Webb argued that the proposals were a "huge step forward":

> If you think about where we are now, people are buying annuities that lock them in for the rest of their life with no help, support, guidance or anything. It is a huge step forward just to familiarise people with basic concepts.[11]

[8] HM Treasury consultation on 'Freedom and choice in pensions', an NAPF response
[9] TUC press release, 21 July 2014
[10] HC Deb 2 July 2014 c916-7
[11] Oral evidence: pension reforms, HC 1248, Wednesday 30 April 2014

2. Policy development

2.1 Freedom and choice consultation

The Government explained the approach it intended to take in its March 2014 consultation document Freedom and choice in pensions:

> […] the government proposes to introduce a new guarantee that all individuals with a defined contribution pension in the UK approaching retirement will be offered guidance at the point of retirement that:
>
> - is impartial and of consistently good quality
> - covers the individual's range of options to help them make sound decisions and equip them to take action, whether that is seeking further advice or purchasing a product
> - is free to the consumer
> - is offered face to face.[12]

The Government would look at ways to build on this guidance, for example, by exploring the extent to which regulated advice might be made more affordable. This was on the basis that many consumers would "want to seek further assistance of advice following their guidance session, in particular to help them purchase a product."[13]

In its response to the consultation on 21 July 2014, the Government announced that it had made a number of decisions in response to consultation. The key points were that:

- providers of guidance must be genuinely impartial; they must not have any actual, or potential, conflict of interest
- the FCA will have an important role in setting and maintaining standards for guidance, and monitoring compliance with these standards. The FCA is consulting on proposed high-level standards in its parallel paper
- the guidance service is intended to equip and empower people to make confident and informed choices on how they put their pension savings to best use; it will help people to ask the right questions, but will not itself make specific recommendations. As part of its standards-setting role, the FCA is consulting on the scope and content of guidance
- the Treasury will hold overall responsibility for the service design and implementation until the guidance service reaches maturity, and will work with a range of organisations, including the Pensions Advisory Service (TPAS) and the Money Advice Service (MAS) to deliver the guidance service
- individuals will be able to access and use the service in a range of ways, including face-to-face, online and over the phone, according to their needs and preferences
- the government will legislate to require pension providers and schemes to signpost individuals to the guidance service as they approach retirement. The FCA will be responsible for setting and enforcing the detailed requirements for contract-based schemes

[12] HM Treasury, Freedom and choice in pensions, Cm 8835, March 2014, para 4.11
[13] Ibid, para 4.17-8

and is consulting on proposed rules. The government will place equivalent legislative requirements on the trustees of trust-based schemes

- the government will legislate to establish a levy on regulated financial services firms to fund the cost of the guidance service[14]

In January 2015, HM Treasury issued an update- delivering pensions guidance.

2.2 FCA consultation - guidance guarantee

The Financial Conduct Authority (FCA) is responsible for setting and maintaining standards for guidance and monitoring compliance with these standards.[15] It consulted on high-level standards between 21 July and 22 September 2014 - Retirement reforms and the Guidance Guarantee. A policy statement published on 27 November 2014 included near-final standards and rules. The standards would apply to the designated guidance providers (TPAS and Citizens Advice). The rules would apply to firms regulated by the FCA and would require them to tell customers about Pension Wise and to include a recommendation that consumers consult it or take regulated advice.[16] The final standards for designated guidance providers were published on 6 March 2015, to come into force on 6 April 2015.[17] The final rules were made in the form of amendments to the FCA's Conduct of Business sourcebook (COBs).[18]

2.3 Legislation

The changes to pension tax legislation needed to enable the wider range of choices announced in Budget 2014 were introduced under the *Taxation of Pensions Act 2014* which received Royal Assent on 17 December 2014. For a guide to the debates, see Library Note SN 7036 Taxation of Pensions Bill – debates in Parliament (18 February 2015).

The legislation for the guidance guarantee is in the *Pension Schemes Act 2015* (s 47 and Sch 3). For a guide to the debates, see Library Notes SN 7030 Pension Schemes Bill 2014-15 – House of Commons stages (11 December 2014) and SN 7105 Pension Schemes Bill 2014-15 – House of Lords stages (18 February 2015).

2.4 Work and Pensions Committee report

In a report published in October 2015, the Work and Pensions Select Committee argued for the publication of regular statistics on Pension Wise usage. It expressed concern that take-up had been lower than many anticipated and recommended stronger signposting by pension

[14] HM Treasury, Freedom and choice in pensions: government response to the consultation, Cm 8901, July 2014, p19
[15] Pension Schemes Act 2015, section 47 and Schedule 3
[16] FCA, PS 14/17: Retirement Reforms and the Guidance Guarantee, including feedback on CP14/11, 27 November 2014, para 1.28-9
[17] FCA 2015/9 Standards for designated guidance providers instrument 2015
[18] PS 14/17, Appendix 1

providers to Pension Wise. It also thought the service should be developed to provide more holistic and personalised guidance and to improve "its "static" website to incorporate interactive features like, at least, an income calculator."[19]

2.5 The single financial guidance body

On 12 October 2015, HM Treasury launched a consultation on public financial guidance, to run alongside the FCA's Financial Advice Market Review.[20] There were three reasons for consulting now:

- **The need to identify a long-term home for Pension Wise** (following a short-term move from HM Treasury to DWP).
- **The scope to consider a more joined-up relationship between Pension Wise and The Pensions Advisory Service;**
- **The need to conclude the independent review into the operations of the Money Advice Service (MAS)**, in line with the 2013 House of Commons Treasury Committee report into the Money Advice Service. The government will consider the responses of MAS and FCA to the report recommendations as part of its wider response to this consultation. This is outlined in more detail below.[21]

The Government said there were a number of bodies involved in the delivery of pension guidance – the Pensions Advisory Service, the Money Advice Service and Pension Wise. These services were funded by three different levies.[22] It asked whether there was an opportunity to rationalise delivery and funding and to make services more joined-up.

In March 2016, the Government launched a consultation on a new delivery model, to replace the Money Advice Service, and merge the functions of TPAS and Pension Wise.[23] On 6 July 2016, the then Work and Pensions Minister Shailesh Vara said the Government would publish a response in the autumn:

> The latest consultation outlined our proposal for a new guidance model, which involves setting up a new pensions guidance body where individuals can get all their queries on private pensions answered in one place. There will also be a new, slimmed down money guidance body, to ensure people can access the debt advice and money guidance they need. The two bodies will work together to ensure that people who need both pensions and wider financial guidance are directed to the right place. The consultation ended last month and we are currently considering all the responses with a view to publishing our response this autumn.[24]

[19] Work and Pensions Committee press release, 'New pension freedom to choose "not enough" without support,' 19 October 2015; Work and Pensions Committee, Pension freedom guidance and advice, First Report of Session 2015-16, HC371, 19 October 2015
[20] Gov.UK, Consultation: public financial guidance; HM Treasury, Public financial guidance: consultation, October 2015, para 1.5
[21] Ibid para 1.6
[22] Ibid, chapter 3
[23] Gov. UK – Public financial guidance review: proposal for consultation
[24] HC Deb 6 July 2016 c

Provision for the new body was to have been included in a forthcoming Pensions Bill. However, on 9 October 2016, the Government announced that it would consult further on plans for a single public financial guidance body, responsible for delivering debt advice, money and pensions guidance to the public.[25] The reason was that respondents had had raised concerns about how the two bodies originally proposed would work together.

The consultation on the single financial guidance body (SFGB) was launched in December 2016. The Government said it had decided that a single body would be better able to respond to the needs of consumers. It would:

> […] bring together pensions guidance, money guidance and debt advice in one place, delivering and commissioning specific services to ensure that as many consumers as possible receive high-quality, impartial financial guidance. The body will have a strategic function, focusing on ensuring that the market understands and meets consumer demand, delivers value for money, and scales up financial capability projects that have been proven to work. With the exception of debt advice, the new body will not fund regulated financial advice, but will signpost consumers to other providers to ensure that consumers' guidance and advice needs are met.[26]

In its response to the consultation in July 2017, the Government summarised its key proposals as follows:

- the establishment of a new single financial guidance body to replace MAS, TPAS and Pension Wise
- the provision of funding to the devolved authorities for the cost of their locally commissioned debt advice
- the single financial guidance body will have four core functions:
  - the provision of debt advice in England
  - the provision of money guidance across the UK
  - the provision of pensions guidance across the UK
  - to work with others in the financial services industry, the devolved administrations, and the public and voluntary sectors to support the coordination and development of a national strategy in three key areas:
    - to improve people's financial capability
    - to improve the ability of members of the public to manage debt
    - to improve the provision of financial education to children and young people

[25] New public body offering debt advice, money and pensions guidance to be setup, 9 October 2016

[26] HM Treasury, Public financial guidance review: consultation on a single body, December 2016

- provision of debt advice in Scotland, Wales and Northern Ireland will be delivered through the devolved authorities and funded by a levy on the financial services industry
- the single financial guidance body will be funded by levies on the financial services industry and pension schemes
- the single financial guidance body will be a non-departmental public body sponsored by DWP
- the single financial guidance body will be accountable to Parliament and, in line with the government's transformation programme, a review of the body will be conducted at least once every Parliament to ensure it remains fit for purpose, is well-governed and is properly accountable for what it does.[27]

Provision for the new body is in Part 1 of the *Financial Guidance and Claims Act 2018*. Under section 3, its functions include a "pensions guidance function" which is "to provide to members of the public, free and impartial information and guidance on matters relating to occupational and personal pensions." As part of this, under section 4, it must:

> provide information and guidance for the purposes of helping a member of a pension scheme, or a survivor of a member of a pension scheme, to make decisions about what to do with the flexible benefits that may be provided to the member or survivor.

The Act includes provisions in sections 18 and 19 to require pension schemes to refer members seeking to access or transfer pension benefits to guidance (see section 4.5 below).

The SFGB is expected to be up and running from January 2019. On 4 September 2018, the Government said:

> The appointments of the Chair and Chief Executive of the new organisation have recently been announced, and we expect to establish the body as a legal entity in October when the Chair and Chief Executive take up their roles. It will then launch in January when it takes on its delivery functions of money and pension guidance, and debt advice.[28]

[27] HM Treasury, Single financial guidance body: response to the consultation, July 2017
[28] HCWS933, 4 September 2018; HL Deb 24 July 2018 c1601

3. Delivery

3.1 Delivery partners

The Government asked for views on whether guidance could be delivered by providers themselves without compromising impartiality:

> […] On the one hand, robust standards and monitoring should help to mitigate the risks. On the other hand, 'in house' guidance may not be perceived as genuinely impartial, meaning that, to be successful, guidance needs to be provided by a third party that is independent of the provider.[29]

In its response to the consultation on 21 July 2014, the Government said it had decided that guidance would be delivered by independent third parties.[30] The ABI said the role of providers should be kept under review.[31]

On 18 October 2014, the Government announced that the service would be delivered by Citizens Advice (face-to-face) and the Pensions Advisory Service (telephone).[32] There is also information on the Pension Wise website. The brand for the service was announced in January 2015.[33]

The new service was legislated for in the *Pension Schemes Act 2015.*[34] This also made it a criminal offence to impersonate the service.[35]

On 20 January 2015, Citizens Advice announced the first 44 bureaux in England and Wales that would act as delivery centres for face-to-face Pension Wise sessions.[36] On 9 March 2015, it announced that the service in Northern Ireland would be co-ordinated and delivered by 19 bureaux across 28 locations.[37] In Scotland, the service would be delivered across all 90 CAB offices in up to 200 locations.[38]

In Budget 2016, the Government launched a consultation on a new delivery model to replace the Money Advice Service and merge the functions of TPAS and Pension Wise. Provision for a new body was to have been included in a forthcoming Pensions Bill.

However, on 9 October 2016, the Government said it had decided instead to create a single public financial guidance body, responsible for delivering debt advice, money and pensions guidance to the public. It

29 HM Treasury, Freedom and choice in pensions, Cm 8835, March 2014
30 HM Treasury, Freedom and choice in pensions: government response to the consultation, Cm 8901, July 2014, para 3.5-7
31 ABI press release, 21 July 2014
32 HM Treasury, 'Pension guidance providers unveiled', 18 October 2014
33 HM Treasury, Delivering pensions guidance: January 2015 update
34 For more detail, see Library Briefing Paper RP 14/44 Pension Schemes Bill (August 2014)
35 New section 333G
36 Citizens Advice names Pension Wise delivery centres, 20 January 2015
37 'Pension Wise Guidance to be available face to face across 28 CAB offices in Northern Ireland', 9 March 2015
38 'Pension Wise guidance to be available face-to-face across all 90 CAB offices in Scotland and up to 200 locations, 9 March 2015

would consult further on this and provision for it would not be included the Pension Schemes Bill.[39]

Debate in Parliament

In evidence to the Public Bill Committee in November 2014, Teresa Fritz of the Financial Services Consumer Panel expressed concern about the tight timescale:

> It is a huge challenge for CAB to get ready for April. We have to use the template that we have —the Pensions Advisory Service, which knows what it is doing and what it is building on. We need to start from there and go upwards, and make sure that the quality of the guidance is not dragged down by the timetable.[40]

However, a representative of Citizens Advice said they were confident they had enough time:

> We are confident that we have time to recruit and train people to do these jobs. The subject matter will be slightly different from some of the generalist advice that we already give, but we have a really strong infrastructure for training people quickly on really complex subject matters—that is our core business; it is what we have been doing for 75 years, and I do not think that what we are discussing is really that materially different.[41]

At Report Stage in the Lords, Lord Bradley sought assurance that:

> […] those two organisations [Citizens Advice and the Pensions Advisory Service] are capable of delivering the guidance and that the quality of the guidance will be consistently high across the two delivery partners. Key to this is that the delivery agencies receive the funding they need to deliver a quality advice service for those who request it.[42]

Lord Newby responded that grant agreements were already in place to ensure that delivery partners were appropriately funded in the set-up phase.[43] Regarding the quality of the service and its coverage, he said:

> I hope that I can reassure them on progress to date. First, delivery partners have had clarity on FCA standards since they were published last November. That provides the framework for the guidance against which their compliance will be measured. I can assure him that delivery partners and the Treasury have been working hard to ensure that the service will fully comply with those standards.[…]Recruitment is under way, and there has been a very encouraging response so far. I understand the concerns of the noble Lord and others about training and whether, at the end of it, people will be able to give high-quality advice. The development of that programme is well under way and it will be accredited by the Chartered Insurance Institute, which is an extremely well respected professional standards body. All trained guidance specialists must have undergone training and passed the assessment at the end of the training programme.[44]

---

[39] 'New public body offering debt advice, money and pensions guidance to be set up', HM Treasury and DWP press release, 9 October 2016
[40] PBC Deb 11 November 2014 Q14
[41] Ibid Q39
[42] HL Deb 27 January 2015 c150
[43] Ibid c155
[44] Ibid c156

3.2 Role of government and FCA

Provision for the guidance service is in the *Pension Schemes Act 2015*. Schedule 3 makes amendments to the *Financial Services and Markets Act 2000.* New section 333B of the 2000 Act:

> […[puts a duty on the Treasury to put in place the guidance service and ensures the Treasury is accountable for delivering for the commitment made at the Budget to a guidance guarantee. That means that the Treasury can deliver aspects of the guidance itself or make arrangements with other bodies to do so. In fact, the web channel—that is nothing to do with me—of the guidance service is being delivered on the gov.uk website by a Treasury-based team of experts drawn from the Government Digital Service and the Money Advice Service.[45]

The FCA

The new duties for the FCA are to set standards for the giving of pension guidance, monitor the compliance of guidance providers with those standards and make recommendations if they have failed to comply with them and thereafter recommend that HM Treasury issue directions to the guidance provider.[46] The then Pensions Minister Steve Webb explained how this would work:

> The Treasury is responsible for choosing and designating delivery partners and holds the funding levers over them. The FCA will be equipped to set the standards, bringing to bear its insight as the regulator responsible for the conduct of the financial services industry, and to monitor them. That is why the Bill gives the FCA and Treasury a dual-key approach to ensuring delivery partners comply with the FCA's standards. The FCA will be able to make recommendations to delivery partners to remedy any non-compliance and, in the interests of transparency, it will make this public, as in proposed new section 333I, with limited exceptions. It must set out its policy on recommendations, with the consent of the Treasury under proposed new section 333J. It must consult on this policy statement in draft under proposed new section 333K.
>
> While it is difficult to imagine that delivery partners will not respond to such a recommendation, the FCA can, if necessary, recommend to the Treasury that it should issue a direction in writing, copied to the FCA, to designated guidance providers. The Treasury's powers in that respect are set out at proposed new section 333L, and non-compliance with a direction can be enforced through the courts. Like FCA recommendations, directions will, with limited exceptions, be published by the Treasury, after it has considered any representations by the designated guidance provider regarding publication. Proposed new section 333M sets it out that revocation of designation is also an option in cases of non-compliance with FCA recommendations.[47]

Government oversight

In January 2015, the Government said the Treasury would retain responsibility for service design and implementation until it was "very

---

[45] PBC Deb 4 November 2014 c282
[46] New sections 333H-L
[47] Ibid c285

satisfied that it was working well and is seen to be in a stable and successful state."[48]

On 16 September 2015, Economic Secretary to the Treasury, Harriet Baldwin, announced that Pension Wise would move to DWP by April 2016. There was a "strong strategic fit with DWP."[49] However, in October the Government said it needed to identify a "long term home" for the service:

> A machinery of government change has been announced to move the service from HM Treasury to The Department for Work and Pensions (DWP) in the short term but the final long term home of the service has not been determined and is being considered in the context of a broader consideration of public financial guidance.[50]

3.3 Funding

In Budget 2014, the Government said it would make available £20 million over the next 2 years to develop the guidance guarantee.[51] In July 2014, it announced that the service would be funded by a levy on regulated financial services firms:

> 3.24 The government has given careful consideration to the most appropriate way of funding the guidance service, and the consultation responses received. It believes those firms that are likely to benefit from consumers who are better informed about their needs and the choices available to them – and more engaged with and confident about the decisions they are making – should help to fund the delivery of the service. The government therefore intends to legislate to establish a new levy on regulated financial services firms.
>
> 3.25 The government will determine the size of the overall levy needed to fund the guidance. Given its existing relationships with the firms who will pay the levy, the FCA will collect the levy and consult on its detailed design (including how it is apportioned across different firms), which must be approved by the Treasury. The FCA is consulting on high level proposals for the levy in its parallel consultation paper, with more detailed proposals to follow in the autumn. The FCA has proposed that the levy should be targeted on those firms which are likely to derive most benefit as a result of the guidance, and that the levy should be proportionate, meaning that some firms will pay a minimal amount or nothing at all.[52]

The funding arrangements are provided for in the *Pension Schemes Act 2015* (Sch 3), which inserts two new sections into the *Financial Services and Markets Act 2000* for this purpose.[53]

The FCA consulted on how the levy should be apportioned. [54] In November 2014, it said the levy should apply to those firms that would

[48] Ibid c568
[49] 'Economic Secretary to the Treasury announces next steps for Pension Wise', press release, 16 September 2015
[50] HM Treasury, Public financial guidance: consultation, October 2015, p3
[51] HM Treasury, Budget 2014, HC 1104, March 2014, para 1.160
[52] Cm 8901
[53] For more detail, see *Pension Schemes Act 2015*, Explanatory Notes, para 178-9
[54] FCA, Retirement reforms and the Guidance Guarantee, CP14/11 21 July, para 3.1-4

benefit from the provision of guidance. This included: deposit acceptors, life insurers, portfolio managers, investment funds, pension schemes and advisory arrangers, dealers or brokers.[55]

HM Treasury estimated the cost of the guidance service in financial year 2015-16 to be £35 million.[56] In Budget 2015, it announced additional funding to support the service, including the extension of the state pension statement and pension tracing services.[57]

Spending on Pension Wise has been less than was originally anticipated. In response, to a PQ in July 2018, the Government said Pension Wise had spent £31.7 million in 2015/16, £24.4 million in 2016/17 and £20.6 million in 2017/18.[58] The estimated funding requirement for 2018/18 is £20.3 million.[59]

The Government estimates that Pension Wise costs £130 per transaction.[60]

3.4 Monitoring and evaluation

The legislation enables the Treasury to "undertake or commission research relating to the giving of the guidance."[61]

In debate in the House of Lords, Labour Peer (now Shadow Pensions Minister) Lord Bradley proposed an annual review to see whether the guidance service was working as intended.[62] Lord Newby responded that the Government was committed to:

> […] a full programme of monitoring and evaluation which will look at the uptake of the guidance as well as how it is achieving its objective of informing consumer decision-making at the point of retirement.[63]

In July 2015, Economic Secretary to the Treasury Harriet Baldwin said the Government was "closely monitoring the operation and effectiveness of the Pension Wise service" as part of its wider programme of evaluation.[64]

In November 2016, the then Pensions Minister Richard Harrington said the Government had committed to publishing findings from the Pension Wise evaluation research in 2017:

> This work is now underway with Ipsos MORI and the early findings covering customer experiences of the service were

[55] FCA, Regulatory fees and levies: policy proposals for 2015/16, CP14/26, November 2014, para 4.8
[56] HM Treasury, Delivering pensions guidance: January 2015 update
[57] HM Treasury, Budget 2015, HC 1093, March 2015, para 2.88
[58] PQ HL9340, 17 July 2018; FCA regulated fees and levies 2016/17, PS 16/16, para 7.2; CP 16/09, FCA Regulated fees and levies: rates proposals 2016/17, April 2016; FCA regulated fees and levies 2017/18, PS 17/15, April 2017
[59] FCA regulated fees and levies: rates proposals 2018/19, CP18/10, April 2018, para 11.4
[60] Gov.UK, Pension Wise dashboard' The total cost includes all fixed and variable costs of Pension Wise transactions including overheads over a cumulative rolling 12 month period . It does not include start-up costs.
[61] *Pension Schemes Act 2015*, Schedule 3
[62] HL Deb 12 January 2015 c564
[63] Ibid c565
[64] PQ4210 [Pensions: Advisory Services] 2 July 2015

> published in October 2016 on the Gov.uk website. Further publications from this programme will follow in 2017 including a comparison between users of the service compared with non-users to identify the impact of the service on understanding of the new pension freedoms.[65]

Evaluation findings are positive:

- 94 per cent of customers who completed appointments were satisfied;
- Those who used the service reported better knowledge and understanding of their pension options. Over nine in ten appointment customers (93%) felt informed of their pension options after their Pension Wise appointment (vs. 86% of website customers and 56% of non-users);
- Pension Wise appointments led to customers taking positive actions towards deciding on their access options. Customers who had an appointment with the service were more likely than non-users to have taken specific steps to help them make an informed decision, such as calculating desired retirement income, talking to pension providers, shopping around for quotes, looking into tax implications and charges, and considering investment options.[66]

65 PQ 54125, 25 November 2016

66 DWP. Pension Wise service evaluation, October 2017; DWP, Pension Wise Service Evaluation – Wave 1 interim findings on customer experiences of using the Pension Wise service, October 2016, Executive Summary

4. Issues

4.1 Objectives

Pension Guidance is defined in the legislation as:

> […] guidance for the purpose of helping a member of a pension scheme, or a survivor of a member of a pension scheme, to make decisions about what to do with the flexible benefits that may be provided to the member or survivor.[67]

In evidence to the Work and Pensions Committee on 30 April 2014, Pensions Minister, Steve Webb said it would be about getting people up to the starting gate:

> The thing that we are talking about is free to the consumer. There is no charge for it. It is what we call "guidance", rather than independent financial advice, so it is not formal, detailed, or product-specific; you can go and buy that if you want to, but this is familiarising people with the options they have and some of the concepts, even. Most people do not even know what an annuity is.[68]

The FCA's consultation explained that the objective was to "empower consumers to make informed and confident decisions on how they use their pension savings in retirement":

> 2.10 The objective of the Guidance Guarantee is to empower consumers to make informed and confident decisions on how they use their pension savings in retirement. To be effective the guidance will need to be tailored, providing consumers with sufficient personalised information.
>
> 2.11 Therefore, the guidance will inform, educate and help empower pension savers. It will equip consumers with information about their options when accessing their pension savings. The guidance will give consumers key facts and information about the consequences of the relevant options, for example taxation. It will also set out other issues the consumer should consider based on the information the consumer puts into the discussion; for example, the needs of the family where a consumer has a spouse or dependants. It will provide clear next steps and appropriate signposting to further sources of information or advice. The consumer will receive a record of the session for future reference and continuation of their retirement journey. [69]

Research conducted for the FCA in December 2014, found most respondents had little knowledge about the different types of retirement income products available. There was some knowledge on how level lifetime annuities worked but very limited awareness of other options. The reforms would open up the option of flexible drawdown to many more customers than previously, requiring them to make a range of complex ongoing decisions relating to investment and longevity, for example:

---

[67] *Pension Schemes Act 2015*, section 47 and Sch 3*; Financial Guidance and Claims Act 2018*, s 4(1)

[68] HC 1248, 30 April 2014, Q23 and 30 and 41

[69] FCA, Retirement reforms and the Guidance Guarantee, CP 14/11, July 2014

> We found that many respondents in our research were not confident enough to make decisions about equity-based investments today. Respondents had very low levels of awareness (and interest) in what their pension is currently invested in. They are predominantly putting their non-pension savings into case ISAs and deposit-based savings as they are unwilling to bear any capital loss.
>
> There was very little awareness of how their investment choices could impact future income. For example, they did not understand the consequences of putting their pension in a cash-based investment over their lifetime. Furthermore, respondents had not considered the costs involved in remaining invested for many years.
>
> It was common for respondents to discuss accessing pension funds to invest in property, often without fully understanding the tax implications of withdrawing their pot in a single lump sum. Their thinking was, at least in part, driven by a mistrust of pensions and pension providers and the perception that property is a better investment than pensions in the long term. Respondents were not usually considering costs beyond the purchase prices of their property in their calculations and, therefore, their comparison of rental yield compared to potential annuity rates was likely to be over-optimistic.
>
> Respondents tend to underestimate longevity risk and spontaneously did not factor it in to their retirement income decision making. Although most have a reasonable awareness of average life expectancy, they are likely to overestimate how many people will die between 65 and 70, and under-estimate how many live beyond 80. When told the actual statistics, respondents were surprised how many live beyond 80, even though many had octogenarians in their family. Few wanted to think about living much beyond 80 as it was "too scary" for them to contemplate being that old.[70]

4.2 Guidance not advice

Although in his Budget Statement, the Chancellor had referred to 'advice', the consultation document made clear that this was a guarantee of 'guidance':

> We will introduce a new duty on pension providers and schemes to deliver this 'guidance guarantee' by April 2015. We have asked the Financial Conduct Authority to make sure this guidance meets robust standards, working closely with consumer groups. And we will make available a £20 million development fund to get the initiative up and running.[71]

As set out below, there are important differences between guidance and advice.

---

[70] Ignition House, Exploring Consumer Decision Making and Behaviour in the At-Retirement Landscape, December 2014

[71] Ibid page 3

What is regulated financial advice?

Regulated financial advice is an activity specified in article 53 of the *Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI 2001/544).* Only firms authorised by the FCA may provide regulated advice.

Financial advisers are required to carry out a 'fact find' where they ask detailed questions about the individual's circumstances, goals and how they feel about taking risks with their money. They may recommend specific products. Advice comes with a series of guarantees and consumer protections. The FCA explains:

> In general, where a firm provides a personal recommendation to a client in the UK, it must take reasonable steps to ensure that its recommendation is suitable for its client. If a firm fails to meet this obligation and provides unsuitable advice and a consumer suffers financial harm as a result, the consumer may complain and seek redress. As a rule of thumb, the firm should put the client back into the position they should have been in had they not provided the unsuitable advice. If the client is dissatisfied with how the firm has dealt with the complaint, the client may be able to refer the complaint to the Financial Ombudsman Service.
>
> If the firm has gone out of business, the consumer may be able to seek compensation from the Financial Services Compensation Scheme (FSCS) – or another EU scheme if the adviser is authorised elsewhere and their home state compensation scheme covers unsuitable advice. The cost of compensation paid by the FSCS is paid from levies on authorised financial services firms.[72] (FCA, FAMR – call for input, October 2015, p23)

There is generally a fee for advice which must be paid by the recipient. However, set against this cost would be any improvement in outcome as a result of the individual choosing a more suitable product than they would have found for themselves.

A new definition...

One of the recommendations of the Financial Advice Market Review was that the Government should change the definition of financial advice, to the effect that people would only receive "regulated advice" when they are offered a personal recommendation. (FCA, FAMR Final Report, March 2016, p9, recommendation 2). The reason was that firms were reluctant to offer customers targeted guidance for fear of crossing the boundary into regulated advice. FAMR proposed a new, clearer definition that will give firms the confidence to develop better guidance services to help customers make informed financial decisions. The Government consulted on amending the definition of financial advice between September 2016 and February 2017. In August 2017 it consulted on how it proposed to amend its handbook for firms affected by the RAO amendment (CP17-28).

The MAS website has information for individuals – for example; Do you need a financial adviser?

[72] Ibid p23

What is guidance?

For the purposes of the guidance guarantee, "pensions guidance" means:

> […] guidance given for the purpose of helping a member of a pension scheme, or a survivor of a member of a pension scheme, to make decisions about what to do with the flexible benefits that may be provided to the member or survivor. *Pension Schemes Act 2015*, Sch. 3

Guidance will differ from advice in a number of important ways. In particular, it will be free to the consumer and will aim to inform them about options available. It will not make specific product or provider recommendations, which should be handled by an authorised financial adviser. Ultimately, consumers will be responsible for the decisions they make. Financial Conduct Authority, Retirement reforms and the Guidance Guarantee, CP14/11 21 July 2014, para 2.12; HM Treasury, Freedom and choice in pensions, Cm 8835, March 2014, para 4.11

At Public Bill Committee stage, the then Pensions Minister Steve Webb explained that:

> Guidance will discuss the pros and cons of different types of financial products and services, and many consumers will engage with the regulated financial services market, whether taking financial advice or buying a product, after taking guidance. (PBC Deb 4 November 2014 c283)

4.3 Content of guidance sessions

At the Bill's Report Stage on 25 November 2014, the then Pensions Minister Steve Webb said that while the focal point of guidance sessions would be an individual's pension pot, the guidance would cover the range of issues that affected their financial decision-making:

> That includes their wider financial circumstances—debts, others assets including their home and their personal motivations and goals, including attitudes to risk, desire for an income and so forth.[73]

The standards for guidance providers specify what guidance sessions need to do:

> 20 A guidance session must do the following:
>
> (a) inform *consumers* of the scope, purpose and limitations of the session;
>
> (b) inform *consumers* about the pension entitlement and other personal and financial information that the *designated guidance provider* may request from them during the session;
>
> (c) request information from the *consumer* about their accumulated pension pots including, for example, the information specified in Part 3;
>
> (d) request information about the *consumer's* financial and personal circumstances that is relevant to their retirement options including, for example, the information specified in Part 3;
>
> (e) alert the *consumer* to other sources of information and advice as appropriate and at relevant points during the session;
>
> (f) identify for the *consumer* and provide them with information about:
>
> (i) the options relevant to the *consumer*;

[73] HC Deb 25 November 2014 c835

(ii) to the extent that they are relevant to the *consumer's* options, the factors set out in Standard 11(d) and the other issues set out in Standard 11(g); and

(iii) the potential tax implications or debt obligations;

(g) set out the next steps for the *consumer* to take in accordance with Standard 21; and

(h) provide *consumers* with a record of their guidance session in accordance with Standard 23.

Next steps

21 At the end of the guidance session a *designated guidance provider* must:

(a) subject to Standard 9, refer the *consumer* to relevant sources of further information, guidance, specialist advice, *regulated advice*, support tools or directories;

(b) draw the *consumer's* attention to the importance of shopping around when making decisions about retirement options; and

d) draw the *consumer's* attention to the potential tax implications or debt obligations in accordance with Standard 20(f)(iii) and refer them to support services, as appropriate.

22 A *designated guidance provider* must ensure that sources of further information, guidance, specialist advice, *regulated advice*, support tools and directories referred to in Standard 21 have been periodically assessed to be of a good quality.[74]

The information about the consumer's financial and personal circumstances that should be requested from the consumer as relevant to their retirement options should include:

Information about accumulated pension pots

Relevant information from the *consumer* about their accumulated pension pots includes information about:

• the sum of money that will be available to exercise options in retirement;

• whether any guarantees apply;

• any benefits, exit fees and ongoing charges;

• any other relevant special features, restrictions, or conditions that apply, such as (for with-profits funds) any market value reduction conditions in place; and

• any other information relevant to the exercise of the *consumer's* options.

Relevant information about the *consumer's* financial and personal circumstances includes:

Financial information

• spouse /partner's pension pots or benefits and other income

• current and future sources of income

• capital expectations

[74] FCA 2015/9 Standards for designated guidance providers instrument 2015 Part 2; FCA, PS14/17 Retirement Reforms and the Guidance Guarantee, including feedback on CP14/11, November 2014

- tax status
- entitlement to state benefits (current and future)
- home owner or renting
- debt position

Personal circumstances

- dependants
- spouse/partner
- state of health
- potential long-term care needs
- the *consumer's* plan and objectives for retirement, to identify retirement income needs[75]

Guidance providers are required to provide the consumer with a record of the guidance session, including specified information.[76]

Guidance sessions should last for around 45 minutes.[77]

In debate in the House of Lords, Lord Newby said that DWP was working to ensure people were "aware of the need to plan for later life, including the risk of needing care and support and what that might mean for their choices." This would be covered in guidance. In addition, DWP would issue clear guidance on the treatment of pension pots in means-tested benefits:

> The DWP will issue clear guidance on the treatment of pension pots in income-related benefits in advance of April. This is to help people make informed decisions about accessing their pension pot. We plan to do this, as requested by the noble Baroness, by producing a leaflet which we will both print in hard copy and place online on GOV.UK. Other websites will be able to link to this information, and there will definitely be such a link from the GOV.UK Pension Wise website, which will direct those who are affected by this issue to the DWP information. Pension Wise will be a key way of equipping people with this information online on GOV.UK, on the phone through the Pensions Advisory Service, and face to face through citizens advice bureaux across the country. Alongside the new content being developed for Pension Wise, the new guidelines will also be reflected in the training programme for guidance specialists from the Pensions Advisory Service and Citizens Advice.[78]

DWP issued a factsheet in 2015.[79] Guidance is now in, a detailed guide to Pension Credit for advisers and others, April 2018, p17.[80]

In 2015, the Work and Pensions Committee said improvements to the website were needed:

75 FCA 2015/9 Standards for designated guidance providers instrument 2015 Part 3
76 Ibid, Part 2, para 23-4
77 HM Treasury, Delivering pensions guidance: January 2015 update
78 HL Deb 5 February 2015 c791
79 DWP, Pension flexibilities and DWP benefits (March 2015)
80 For more detail, see DWP Decision Makers Guide, para 85455ff [for people of Pension Credit qualifying age]. For people under Pension Credit qualifying age, the guidance is in chapters relevant to the benefit in question. For example, para 51543

> 38. The Pension Wise website is not fit for purpose. It is static, offering no opportunities for personalisation, and lags well behind many private services. This is a particular concern given it is the primary independent guidance channel for a large proportion of consumers. **We recommend the Government ensure the Pension Wise website provides an indicative income calculator, illustrative examples tailored to individual circumstances and a printable summary function as a matter of urgency. Over time we would expect this service to enable customers to include other potential income and expenses in their calculations**.[81]

On 17 November 2015, Economic Secretary to the Treasury, the then Harriet Baldwin, said the Government was looking at how Pension Wise could be made more useful – both to the website but also to ensure appointments were more tailored to people in the 50 to 55 age bracket, who are not yet able to take advantage of the pension freedoms but want to start thinking about the options available to them.[82]

Evaluation published in 2017 found high levels of customer satisfaction and that "having an appointment with the service was strongly linked to improvements in knowledge and understanding of pensions options, as well as making progress towards deciding on their access options."[83]

4.4 Eligibility

In the Freedom and Choice consultation document, the Government said the guarantee would cover "all individuals with a defined contribution pension in the UK approaching retirement."[84]

The *Pension Schemes Act 2015* provides that:

> "Pension guidance" means guidance given for the purpose of helping a member of a pension scheme, or a survivor of a member of a pension scheme, to make decisions about what to do with the flexible benefits that may be provided to the member or survivor.[85]

There is also a residual category which may include a "benefit structure which provides a sum of money at the member's retirement date, but is also subject to an additional guarantee, such as the option of a guaranteed annuity rate.[86]

Providers are required to signpost people to guidance where they are "actively considering their options for accessing their pension savings". They should do this between four and six months before the customer's intended retirement date or if the customer contacts the firm saying they wished to access their pension fund. [87] Similar signposting

---

[81] Work and Pensions Committee, Pension freedoms advice and guidance, HC 371, October 2015
[82] HC Deb 17 November 2015 c134WH
[83] DWP, Pension Wise service evaluation, October 2017
[84] HM Treasury, Freedom and choice in pensions, Cm 8835, July 2015, para 4.11
[85] *Pension Schemes Act 2015*, Sch 3
[86] Ibid, section 74, Explanatory Notes para 244
[87] FCA, Retirement reforms and the Guidance Guarantee, CP14/11, 21 July 2014 para 4.5-11; FCA, PS14/17 Retirement Reforms and the Guidance Guarantee, including feedback on CP14/11, November 2014, para 4.31; The rules are in the Conduct of

requirements apply to trust-based schemes (which are regulated by the Pensions Regulator).[88]

In the Summer 2015 Budget, the Government announced that it was extending access to Pension Wise to those aged 50 and above.[89]

Existing annuity holders

In the *Bank of England and Financial Services Act 2016* (s32) the Government extended access to Pension Wise to cover individuals with a "relevant interest in a relevant annuity". This was in connection with government plans to allow people who had already purchased an annuity to sell the income stream from it to a third party.[90] However, in light of the decision to cancel plans for this because of the risk of consumer detriment,[91] the Government made provision to revoke s32 in the *Financial Guidance and Claims Act 2018*, (s25 and Sch3). Work and Pensions Minister, Baroness Buscombe, said it did not make sense to mandate guidance on a market that no longer existed. The broad remit of pensions and money guidance gave the SFGB the option to provide guidance on this if it thought it appropriate.[92]

4.5 Take up

Initial estimates

Organisations giving evidence to the Public Bill Committee considering the *Pension Schemes Bill* gave different estimates of the likely take-up of guidance. David Geale of the FCA said:

> I think if we look at the research, there is conflicting research in the market in terms of what the take-up will be, so Legal & General's pilot shows very low figures; Chartered Insurance Institute research shows very high figures. It is incumbent on all of us to help people understand what they are getting; but take-up will be a matter for public choice.[…] I think that the CII research suggested it was as high as 90%, which is obviously very much on the high side.[93]

Michelle Cracknell of the Pensions Advisory Service said:

> Our ambition is that the take-up rate will be very high, with over 75% of people taking the guidance. However, we do not think that that will be the position from day one. We think that because of the nature of the calls we are receiving at the moment from people where the defined contribution pension is a very small element, who have other pension provision elsewhere. That suggests that there will be less interest in taking the guidance, because it is a smaller decision for the individual to take. Our

---

Business Sourcebook (Retirement Guidance Guarantee) Instrument 2015 (FCA 2015/4).

[88] Occupational and Personal Pension Schemes (Disclosure of Information) (Amendment) Regulations 2015 (SI 2014/482); The Pensions Regulator, Communicating with members about pensions flexibilities, April 2015

[89] HM Treasury, Summer 2015 Budget, 8 July 2015, HC 264, para 1.227

[90] HM Treasury, Creating a secondary annuity market: response to the call for evidence, December 2014, para 4.2

[91] PQ 49517, 26 October 2016; For more on the background, see Library Briefing Paper CBP-7707 Secondary annuities market (August 2018)

[92] Ibid c2307

[93] PBC Deb 21 October 2014 Q35-6

> initial estimate of the take-up rate of the guidance service is more likely to be around 25%.[94]

The Minister said the Government was refining its estimates and would provide a progress report by the end of 2014.[95] He said he did not want to get too hung up on a percentage - the important thing was that the right people took guidance:

> I think it would be a mistake to think that 100% take-up, or anything like it, of the guidance guarantee is the right answer. We know that the people with the biggest pots overwhelmingly will pay for independent financial advice.[…] Likewise, the people at the bottom in terms of pot size will overwhelmingly, I suspect, just take the cash.[…] The key is not a particular target level of guidance take-up; the key is the right people taking the guidance—the people who did not have a choice before and who do now, who have options that they did not have before and who could do significantly better with a bit of information and guidance. So we will be very much focused on the people who really need the guidance.[96]

In its October 2015 report, the Work and Pensions Select Committee expressed concern about low take-up of Pension Wise:

> 27. Pension Wise was launched in March 2015, shortly before the pension freedom reforms came into practice. Expectations of take-up rates were high. Michelle Cracknell, for example, told the Public Bill Committee on the Pension Schemes Bill in October 2014 that "ambition is that the take-up rate will be very high, with over 75% of people taking the guidance", though she anticipated it might be 25% to start with. In reality, fewer than one in ten people who accessed their pension pots during the early months of the reforms had taken up a guidance appointment (though many more may have looked at information on the Pension Wise website).[97]

In practice

Following the launch of Pension Wise, the Government produced some figures on usage though Parliamentary Questions. For example, on 2 July 2015, it said:

> As of 6 April – the date on which the new pension flexibilities commenced – Pension Wise had handled more than 3,600 calls since the opening of the contact centre in late March. Nearly 1400 people had booked a telephone guidance appointment with the Pensions Advisory Service, while nearly 380 people had booked a face to face appointment with Citizens Advice.[98]

The Work and Pensions Committee said the "scarcity of information regarding Pension Wise", was not conducive to effective scrutiny."[99]

---

94 Ibid Q75
95 PBC Deb 4 November 2014 c302
96 Ibid Q318
97 Work and Pensions Committee, Pension freedom guidance and advice, October 2015
98 PQ3251 Pensions: Advisory Services: Written Question - 3251; See also, PQ7919 Pensions: Scotland, 9 September 2015; PQ13773 2 November 2015; HC Deb 2 November 2015 c697
99 Work and Pensions Committee, Pension freedom guidance and advice, HC371, 19 October 2015, Conclusions and recommendations, para 1

It recommended that the Government publish, or require its regulators to publish statistics on Pension Wise and advice and pensions markets on a quarterly basis, encompassing:

> a) customer characteristics including pension pot size and other sources of retirement income;
>
> b) take-up of each channel of guidance and advice;
>
> c) reasons given for not taking up guidance and advice;
>
> d) subsequent decisions taken; and
>
> e) reasons given for those decisions.[100]

There is now a Pension Wise dashboard on Gov.UK, showing figures for transactions by channel – face to face and telephone on a monthly basis and visits to the website since launch. [101] It now includes data on where people heard about Pension Wise.[102]

In the interim report of its Retirement Outcomes Review, expressed concern that consumers did not always take advantage of the help and guidance on offer from either Pension Wise or their provider. In many cases, those withdrawing their DC pot in full had done this without guidance:

> 1.18 In summary, since the reforms many consumers have opted to withdraw their DC pension pot in full. However these have predominantly been smaller pots and not the main source of retirement income. Most consumers have saved or invested the money elsewhere. We do not, therefore, see this as evidence of consumers 'squandering' their pension savings, which was a concern raised when the pension reforms were introduced. However in many cases withdrawal is motivated in part by a lack of trust in pensions, and people often take this decision without turning to their provider or Pension Wise for help. Mistrust is a concern in itself, but can also give rise to direct consumer harm if consumers pay too much tax, miss out on investment growth, or miss out on employer contributions.[103]

In its December 2017 report, the Work and Pensions Committee said that although use of the service had risen, it remained low. The FCA had found that just 20% of customers accessing a pension pot had a Pension Wise guidance appointment:

> 26.Use of the service has risen. There were 61,000 Pension Wise appointments in 2015–16, 66,000 in 2016–17 and 40,000 in the first half of 2017–18. Compared to the number of people who may benefit from the service, however, take-up of appointments remains low. Charlotte Clark, Director of Pensions at the Department for Work and Pensions (DWP), told us that "around 500,000 people" per year are exercising pension freedoms. An FCA survey found that one in eight 55-64 year olds who planned to retire in the next two years and who have a defined contribution pension had used the Pension Wise service in a 12 month period. Separate FCA research found that just 20% of customers accessing a pension pot had had a Pension Wise

---

100 Ibid

101 PQ13773, 2 November 2015

102 Letter to chair of Work and Pensions Committee, 5 May 2016

103 FCA, Retirement Outcomes Review, July 2017, para 1.17

> guidance appointment. Michelle Cracknell, Chief Executive of TPAS, said that while they were proud of the increased use of the service, "it is still only a small fraction of the people who should be taking guidance."[104]

Although, the Government had drawn its attention to use of the website, the Committee said this was "not equivalent to receiving guidance," witnesses had described it as a "poor substitute".[105]

In the final report of its Retirement Outcomes Review, the FCA found take up of Pension Wise to be higher when visits to the website are included:

> 24. We found that in the third quarter of 2016, 143,752 pension pots were accessed by consumers and 13,990 consumers had a Pensions Wise appointment. The interim report considered that this equated to about 10% of consumers who accessed their pots seeking guidance from Pension Wise. However, the same consumer may be accessing multiple pots – on average two pots for each consumer during this period. We therefore estimate that around 20% of those consumers accessing a DC pension in this period had a Pension Wise appointment either by telephone or face to face.
>
> 25. Further, consumers are also accessing the information available on the Pension Wise website and since its launch it has received over 5 million visits. This is a substantial figure even allowing for the fact that not all those visits will be by consumers looking to access their pots.
>
> 26. Our consumer survey asked consumers whether they had sought guidance in making their investment decisions, and if so from what source. We found that consumers sought guidance from a range of sources. Over half (54%) said they received guidance from their pension provider, while 46% received guidance from Pension Wise, 23% from friends and family and 16% from the Pensions Advisory Service.[106]

Consequences of low take-up

In the interim report of its Retirement Outcomes Review published in July 2017, one possible consequence of people not taking guidance was that they would end up paying more tax and higher charges:

> However, the most common considerations centred on tax and charges although few knew the intricacies of this and a number voiced shock at receiving a much higher tax bill than anticipated.
>
> 4.37 Our consumer research found that few consumers understood what happens to unused pots upon death and why pensions might be more favourable than other savings vehicles for inheritance tax planning. Consumers also did not know that money in a pension is treated differently for means tested benefits, social, and long term care compared to other types of saving. A small number of basic rate tax payers also were not aware they could pay 40% of their pension withdrawal as they did not understand what 'marginal tax rate' meant.[107]

---

[104] Work and Pensions Committee, Protecting against pension scams, December 2017, para 26
[105] Ibid para 27
[106] FCA, Retirement Outcomes Review – final report, June 2018, Annex 3
[107] Ibid

It found that, having taken their lump sum, people tended to take the 'path of least resistance' regarding the remainder:

> 4.41 Our consumer research with consumers not taking advice found that hardly any shopped around, with many not even aware what product they had, what the charges were or what they were invested in. Most did not consider that they had made a choice about a retirement income product at that stage. As a result hardly any considered what to do with their remainder of the pot, with most taking the 'path of least resistance' and purchasing drawdown with their accumulation provider.[108]

The Work and Pensions Committee concluded that "far too many people are currently taking vital decisions in the dark, putting them at greater risk of suffering irrevocable financial detriment through scams or choices contrary to their interests."[109]

In its final report, the FCA said many consumers needed more support and protection:

> 1.11 For many, retirement income choices start with a decision to access tax-free cash rather than other questions. At that point, consumers face a range of complex decisions such as which provider to use, where to invest their remaining pot and how quickly to drawdown. They also need to think about how long they expect to live. We found many consumers who do not take advice struggle with these decisions, and many end up in investments that may not be right for them, including in cash
>
> 1.12 Our research found that around one in three consumers who have gone into drawdown recently are unaware of where their money was invested. Others only had a broad idea.
>
> **More than 60% of consumers not taking advice were not sure or only had a broad idea of where their money was invested**
>
> 1.13 We saw that some providers were '**defaulting' consumers into cash or cash-like assets**. Overall 33% of non-advised drawdown consumers are wholly holding cash. Holding funds in cash may be suited to consumers planning to drawdown their entire pot over a short period. But it is highly unlikely to be suited for someone planning to draw down their pot over a longer period. We estimate that over half of these consumers are likely to be losing out on income in retirement by holding cash.

108 Ibid
109 Work and Pensions Committee, Protecting pensions against scams, HC404, 2017-19, para 36

> 1.14 Someone who wants to drawdown their pot over a 20 year period could increase their expected annual income by 37% by investing in a mix of assets rather than just cash.
>
> **Consumers in cash could get an income from their pot up to 37% higher over 20 years by moving to a mix of assets.**
>
> 1.15 Our evidence also suggests that if firms offer consumers a more structured set of options – making the decision simpler to navigate – it can improve the investment outcomes for consumers, better aligning with their objectives in retirement.
>
> 1.16 We are also concerned about the high proportion of consumers fully withdrawing their pension pots to move savings elsewhere. In many cases, keeping money in a pension would have resulted in better returns, on average, and in paying less tax. Some consumers might also lose out on employer contributions and other benefits as a result. We found this behaviour was partly driven by a lack of trust in pensions, stemming from a range of factors including past pension scandals (where consumers tend not to distinguish between DB and DC) and frequent changes to pension rules and tax treatment.[110]

Making guidance the default

When the legislation was before Parliament, the then Pensions Minister Steve Webb said he did not think guidance should be made compulsory, on the grounds that "seeing the CAB cannot be a condition of someone accessing their own money."[111]

Measures to raise awareness of Pension Wise include advertising.[112] In addition, FCA rules applying from the time the *Pension Schemes Act 2015* received Royal Assent (on 3 March 2015) would require providers to signpost consumers to guidance. This means that:

> […] all relevant communications from pension providers to their customers about retirement must include a clear and prominent statement about the availability of the guidance. This statement must inform customers about the purpose of guidance, how they can access it, and the availability of different channels; and provide customers with a recommendation that they should seek guidance or advice.[113]

On 8 July, the Government announced the launch of a comprehensive nationwide marketing campaign to further raise awareness.[114]

In its report on the Pension Freedoms in 2016, the Work and Pensions Committee expressed concern at low take-up and recommended that the FCA strengthen its rules on signposting and risk warnings and take steps to assure compliance.[115]

In its response to the Committee, the FCA said it had reviewed its risk warnings and considered that they remained an "appropriate response" to its concerns. It was considering requiring firms to give more generic

110 FCA, Retirement outcomes review: final report, MS16/3, June 2018
111 PBC Deb 4 November 2014 c308
112 PQ 224156 [pensions: advisory services] 11 February 2015
113 HM Treasury, Delivering pensions guidance: January 2015 update
114 HM Treasury, Summer 2015 Budget, 8 July 2015, HC 264, para 1.227
115 Work and Pensions Committee, Pensions freedom advice and guidance, October 2016

risk warnings where there was a small pot - less than £10,000 - and no safeguarded benefits. It was taking steps to improve the way warnings were delivered in some cases.[116]

In a Westminster Hall debate on 6 July 2016, Rachel Reeves MP called for Pension Wise to be made the default: with customers seeking to cash-in their pensions having to seek guidance or actively opt-out from doing so.[117]

This call was echoed by the Work and Pensions Committee in December 2017. It argued that that the existing promotion regime of signposting by pension providers – who had no business interest in promoting the service – had proved insufficient. The need to boost engagement with pensions guidance would grow increasingly acute as "ever greater numbers of auto-enrolled savers approach retirements during which they will rely on defined contribution pots for retirement income."[118]

It proposed an amendment to the *Financial Guidance and Claims Bill,* (which was then before Parliament), intended to individual "receives or expressly refuses guidance before being granted access to a pension pot."[119]

After much debate on the issue in both Houses, the Government responded by tabling amendments of its own, building on those made in the Lords and proposed by the Committee. Baroness Buscombe explained that the debates had brought out two issues:

> The first was that any requirements should be based on the presumption that people have not already accessed Pension Wise guidance. The second was that, if people are to opt out of accessing such guidance, it might be desirable for that opt-out decision to be made and communicated to a body other than their own pension scheme.[120]

She said the Government's amendments provided a workable way to achieve the consensus position reached in those discussions:

> When an individual seeks to access or transfer their pension pot, these duties will ensure that members are referred to Pension Wise guidance, that members receive an explanation of the nature and purpose of that guidance, and that before proceeding with an application, subject to any exceptions, schemes must ensure that members have either received Pension Wise guidance or have explicitly opted out.
>
> Rules and regulations must specify how, and to whom, the member must confirm that they are opting out. This allows for the opt-out process to be separated from schemes. Rules and regulations will set out the detail of the opt-out process based on evidence of what helps people take up Pension Wise guidance. This approach is completely aligned with the Select Committee in another place. The committee recommended that the details of

[116] House of Commons, Pension freedom guidance and advice: Financial Conduct Authority Response to the Committee's First Report of Session 2015-16, HC 719, January 2016, para 4.2-3; PQ 38024, 27 May 2016
[117] HC Deb 6 July 2016 c331WH
[118] Work and Pensions Committee, Protecting pensions against scams, HC 404 2017/19, para 36
[119] Ibid
[120] HL Deb 1 May 2018 c1995-6

how an individual could expressly turn down the opportunity to receive guidance should be set out in FCA rules following public consultation.

It is important that new requirements introduced in this area are operationally deliverable for schemes and the new guidance body. Detailed rules and regulations should be based on evidence of what delivers the outcome we all want: more people taking up Pension Wise guidance and a robust opt-out process. These amendments provide scope to test what works best and to update the approach as the pensions landscape, technology and the needs of the users change. This might be through direct hand-off of the member from the scheme to Pension Wise, including for the purpose of conducting an opt-out process, or through providers booking Pension Wise appointments for their members.

Further, these clauses also require the FCA, the Secretary of State and the new body to work together to develop and deliver these new requirements. As is customary, before making the rules and regulations the FCA and the Secretary of State will need to consult, providing the proper opportunity for public scrutiny of proposals before they are commenced.[121]

These provisions are now in:

- Section 18 of the *Financial Guidance and Claims Act 2018*, which requires the FCA to make rules requiring trustees or managers of personal and stakeholder pension schemes to check whether members have either received guidance or advice or have opted out of receiving it before accessing or transferring their pension assets.
- Section 19 makes equivalent provision for occupational pension schemes.[122]

In the report of its Retirement Outcomes Review published in July 2018, the FCA said it would consult with the new Single Financial Guidance Body before publishing new rules in this area:

1.34 The Bill has now become the Financial Guidance and Claims Act 2018 (the Act). The Act requires us to make rules providing that, before proceeding with an application to access or transfer a consumer’s pension savings, firms must ensure that the consumer has either received appropriate pensions guidance or opted-out of receiving it.

1.35 The Act gives the FCA discretion in certain areas. For example, the Act says we may make rules specifying what constitutes appropriate pensions guidance, and to potentially exempt some consumers, such as those with small pots. This gives us the opportunity to consider how guidance can best be delivered to maximise take-up and impact, and whether some consumers might benefit from an alternative approach. Further, the Act says we may make rules about how, and to whom, a consumer indicates they have received or opted-out of pensions guidance. Therefore, we need to consider whether the consumer should indicate their decision to opt-out to the SFGB or their pension provider.

1.36 The Act requires us to consult with the SFGB before consulting on rule changes. We will be discussing these issues

121 Ibid
122 PBC Deb 6 February 2018 c88-91

> with the SFGB once it is formed. In the meantime, working with Government, we will look to test various approaches in order to ensure that our rules support consumers effectively.
>
> 1.37 Once we have consulted with the SFGB we will be saying more, but our aim will be to ensure consumers get consistent, high-quality guidance.[123]

4.6 Retirement risk warnings (the 'second line of defence')

In evidence to the Public Bill Committee considering the *Taxation of Pensions Bill 2014-15*, Yvonne Braun of the ABI argued the need for a 'second line of defence':

> We would like to see the FCA make clear its expectation that all providers of retirement income products from next April will ask customers the same questions and make sure that customers are aware of the same risks. It is not clear whether everybody is going to take up the guidance, so there needs to be some sort of second line of defence—guard rails, back-stops, or whatever you want to call them. [124]

Contract-based schemes

In November 2014, the FCA said firms would be required to encourage customers to seek advice or guidance:

> […] we will require firms to refer clients to the pensions guidance and encourage them to seek guidance or advice on their retirement options, unless the customer has already received advice from a regulated firm or has used the pensions guidance service. This means that firms will have to ask whether their customer has taken pensions guidance or regulated financial advice, and if not to encourage them to do so.[125]

It would consider the case for further requirements on firms as part of a wider review of its rules relating to pensions and retirement in 2015.[126] However, on 26 January 2015, it outlined plans to introduce additional protection for those accessing their defined contribution (DC) pension pot from April:

> Under the new additional protection rules firms will be required to ask consumers about key aspects of the circumstances that relate to the decision they are making about their pension pot. These include issues such as health and lifestyle choices or marital status. This will come into force from April. Providers will be required to give relevant risk warnings, such as warning of the tax implications of their decisions, in response to answers from consumers. Firms must also further highlight the availability of the Government's new Pension Wise scheme or regulated advice.[127]

---

123 FCA, Retirement Outcomes Review, July 2018
124 PBC Deb 23 October 2014 Q238
125 FCA, PS14/17 Retirement Reforms and the Guidance Guarantee, including feedback on CP14/11, November 2014, para 4.10 and page 26
126 Ibid para 4.11
127 FCA introduces additional protection for consumers ahead of pension freedoms, 26 January 2015 https://www.fca.org.uk/your-fca/documents/dear-ceo-letters/dear-ceo-letter-retirement-reforms-guidance-guarantee

These rules would come into force on a temporary basis from 6 April 2015, and prior to consultation, to provide important additional protection for consumers.[128] The announcement was welcomed by Peers participating in the Report stage debate the following day.[129] However, the National Association of Pension Funds expressed concern about the tight timescale for pension schemes to understand their new responsibilities.[130]

The FCA published details of the risk warnings providers would be required to give in February 2015. The purpose was to "ensure that firms give consumers appropriate retirement risk warnings at the point they decided to take a specific action to access their pension savings." The intention was not to "replicate the Pension Wise service":

> Instead, and in addition to Pension Wise, the rules ensure firms will flag specific risks to consumers, and given them appropriate warnings about the choices they have in accessing their pension savings. These warnings may include setting out options to consumer has, such as shopping around. [131]

Instead it was to deliver three outcomes:

- Consumers understand the importance and implications of the decision they are making about accessing their pension savings.
- Consumers are further prompted to seek regulated advice or guidance from Pension Wise to help them understand the risks.
- Firms understand our expectations about the minimum they should do to warn consumers about the relevant risks when choosing what to do with their pension savings.[132]

Providers are required to give appropriate retirement risk warnings to consumers who have decided to access their pension saving on an "execution-only basis" (i.e. without advice). The warnings must be given regardless of whether the consumer has received guidance.[133] A flow chart explained the process firms would be required to follow. [134]

The warnings would relate to how the consumer wants to access their savings – for example, through a pension annuity, taking savings in cash through an uncrystallised fund pension lump sum, pension drawdown or some other combination.[135] The FCA set out its core expectations:

---

128 Dear CEO letter- Retirement Reforms and the Guidance Guarantee: Intention to make rules before April 2015 in addition to those set out in PS 14/14, 26 January 2015
129 HL Deb 27 January 2015 c120-1
130 NAPF sets October deadline for work to finish on Guidance Service signposting, 23 September 2014
131 FCA, Retirement reforms and the guidance guarantee: retirement risk warnings, February 2015, para 1/6
132 Ibid, para 3.6
133 Ibid para 3.9-17
134 Ibid para 3.17
135 Ibid para 3.10

How a consumer may access their pension savings	Risk factor
Pension annuity	• Consumer's state of health • Whether the consumer has a partner or dependants • The effect of inflation • Whether the consumer has shopped around • Loss of any guarantees
Uncrystallised fund pension lump sum	• Tax implications • Sustainability of income in retirement • Charges (if the consumer intends to invest their pension savings) • Debt • Impact on means-tested benefits • Investment scams
Drawdown pension	• Tax implications • Sustainability of income in retirement • Charges (if the consumer intends to invest their pension savings) • Debt • Impact on means-tested benefits • Investment scams • Whether the consumer has shopped around
Other[10]	• Risk factors relevant to how the consumer has decided to access their pension savings.

The FCA gave examples of the type of questions it expected firms to ask to identify if a risk factor was present. For example: [136]

Charges (if a consumer intends to invest their pension savings)	Has the consumer considered how the charges they may face when investing their pension savings elsewhere compare with those on their pension savings?	If no or unclear, give risk warning
Impact on means-tested benefits	Is the consumer aware that taking money from their pension may impact on any means-tested benefits they receive?	If no or unclear, give risk warning
Debt	Is the consumer aware that creditors may have a call on any money taken from pension savings?	If no or unclear, give risk warning
Investment scams	Is the consumer aware that investment scams exist, and that they should be careful where they invest money taken from their pension savings?	If no or unclear, give risk warning

On 1 July 2015, the FCA said that:

> Early indications from our supervisors are that retirement risk warnings are being delivered and that call length for consumers has reduced from 10 minutes to 8.5 minutes.[137]

On 1 October 2015, the FCA published a consultation paper on proposed changes to its rules and guidance in the new pensions environment. This identified a number of priority risks and proposed policy measures to address them.[138] It proposed to retain its rules on retirement risk warnings but removing the requirement to go through a question and answer process for those with smaller pots:

---

136 Ibid para 3.34
137 The new pension flexibilities – update from the FCA, 1 July 2015
138 FCA website, CP15/30 Pension reforms – proposed changes to our rules and guidance, 1 October 2015

> […] remove the requirement for a firm to go through the question and answer process of the rules when a consumer has a pension pot of £10,000 or less and where there are no safeguarded benefits. In this situation, firms will still be required to give appropriate risk warnings.[139]

Trust-based schemes

When the legislation was before Parliament, the Government said that DWP was working with the Pensions Regulator (TPR) to consider how such requirements should apply to trust-based schemes.[140] In March 2015, TPR said schemes should give 'generic' risk warnings to "help members make informed choices by alerting them to the benefits and risks of different options." It also recommended asking members to make a declaration that they have "accessed Pension Wise or taken financial advice, and have read the generic risk warnings, before making their decision."[141]

Guidance published in April included some examples of generic risk warnings. For example, for a customer wanting to use their pension provide a flexible retirement income:

> As with every investment, there's the risk that the value of a pension pot can go up and down. People considering this option should think about how much they take out every year and how long their money needs to last. If too much money is taken too quickly, the available retirement income could fall drastically or even run out, especially if stock markets fall.
>
> Charges can reduce the money received. Check whether there are any charges or other reductions to a pension pot when a lump sum is withdrawn. Providers and schemes may also make ongoing charges on any undrawn money, so it's important to consider the impact of these charges. And if you plan to take the cash to invest somewhere else, check what the charges are before you cash in your pension.
>
> Different schemes and providers offer different types of flexible retirement income. Check what kind of drawdown is being offered. Some might have products where part of your income is guaranteed but charges and conditions will apply. People considering a flexible retirement income should consider shopping around – an FCA-regulated financial adviser will be able to help with this.[142]

In July 2015, it was reported that TPR was considering whether to require larger trust-based schemes to provide tailored risk warnings:

> We do realise that some trustees are concerned about straying too close to giving financial advice – about being 'on the hook'. This is why we are recommending that trustees give generic warnings […] For the larger defined contribution schemes and master trusts that plan to offer the full suite of drawdown options to members, we are currently discussing with DWP and the FCA whether our guidance to these schemes should also be to offer

[139] Ibid para 1.13
[140] HL Deb 27 January 2005 c124
[141] TPR, Retirement choices – helping trustees communicate pension flexibilities to members, PN 15-12, 5 March 2015
[142] TPR, Essential guide to communicating with members about pensions flexibilities, April 2015

> specific risk warnings which would be as similar as possible to the FCA's second line of defence for providers.[143]

4.7 Will people go on to seek advice?

In Freedom and Choice in pensions, Government said guidance was a "critical first step for consumers at the point of retirement". Many would want to seek further assistance or advice:

> 4.17 Many consumers will want to seek further assistance or advice following their guidance session, in particular to help them purchase a product: this may be regulated investment advice (if the individual is considering a drawdown product) or an annuity brokerage service. Some may want to purchase a product without seeking advice (known as 'execution only') and may want to use a comparison site to find the best deal. The government will consider ways to ensure that individuals are equipped with the skills and information to choose the adviser, broker or comparison site that suits their needs and that they understand the nature of the advice or service they will be getting.[144]

Guidance would help consumers understand "how to access professional independent financial advice where it is appropriate for them to do so."[145]

The Government would work with the FCA to "explore the extent to which regulated advice can be made more affordable through more cost effective delivery", including online:

> The government will work with the FCA to explore the extent to which regulated advice can be made more affordable through more cost effective delivery, such as through the development of online delivery channels. The FCA has already begun a project that aims to help firms providing advisory services to understand better the boundary between regulated investment advice and non-advised services and to look at the issues which may be inhibiting firms providing regulated advice from delivering a streamlined advice service. The project will use the findings of FCA thematic work, consumer research and industry input to identify the issues and provide guidance to support firms in relation to wider investment advice as well as advice in relation to income in retirement.[146]

On 24 June 2015 Treasury Minister, Harriet Baldwin said the Government support the work of the FCA to encourage the development of affordable models of advice:

> […] Pension Wise helps people understand when professional investment advice could be useful and how to access it by referring them to the Money Advice Service's new Retirement Advisor Directory. The Directory helps people find a local advisor which serves their pot size, can provide a specialist type of retirement advice service, and displays information on whether they charge a minimum fee.
>
> The government believes that it is vital that consumers should have access to professional financial advice if they need it, and

[143] TPR to bring DB pension freedom guidance 'in line' with FCA rules, 7 July 2015
[144] Cm 8835 para 4.17
[145] Ibid, para 4.13
[146] Ibid, para 4.18

> supports the work of the Financial Conduct Authority (FCA) to encourage the development of affordable models of advice to help service this need.[147]

Improving access to advice

In its response to consultation in February 2016, the Government said:

> In the consumer survey, 71% of respondents suggested that the process for seeking independent financial advice should be improved, whilst 14% specifically mentioned the advice requirement when asked about the ways the transfer process could be improved.[148]

In Budget 2016, the Government announced that it would take forward recommendations from HM Treasury and the FCA's Financial Advice Market Review

The final report of FAMR was published on 14 March 2016. Its recommendations fell into three key areas:

> **Affordability** – these included proposals to make the provision of advice and guidance to the mass market more cost-effective. FAMR made a number of recommendations intended to allow firms to develop more streamlined services and engage with customers in a more engaging and effective way. These included a proposal that the FCA should set up a dedicated team to assist firms that are seeking to develop large scale automated advice models to bring those to market more quickly. In response the FCA set up its Advice Unit in May 2016, providing regulatory feedback to firms developing automated advice models.
>
> **Accessibility**– these recommendations were aimed at increasing consumer engagement and confidence in dealing with financial advice. FAMR proposed a number of measures to help consumers engage more effectively with advice. These included making their own information more easily available to them and those that advise them; the development of 'rules of thumb' and the use of nudges to encourage customers to seek support at key life stages and recommendations intended to help employers give more support to their staff in financial matters.
>
> **Liabilities and Consumer Redress** – some industry stakeholders suggested that concerns about future liability were preventing them giving advice today. FAMR made a number of recommendations to address these concerns while ensuring consumers have adequate protection. FAMR made recommendations to increase clarity and transparency about the way in which the Financial Ombudsman Service deals with consumer complaints. The report also included proposals relating to the funding of the Financial Services Compensation Scheme (FSCS) to assist in managing longer term liabilities.[149]

The FCA published a progress report in April 2017 and has also published two consultations:

- GC17/4: FAMR: implementation part 1 (April 2017);

---

147 PQ2791 24 June 2015

148 HM Treasury, Pension transfers and early exit charges: response to consultation, February 2016, para 2.33

149 FCA website, Financial Advice Market review, 11 April 2017

- CP17/28: FAMR: implementation part ii and insistent clients (August 2017).

In its 2018 report on Pension Freedoms, the Work and Pensions Committee recommended that the FCA conduct and publish a review comparing consumer outcomes from face-to-face and automated advice.[150]

Pension advice allowance

On 30 August 2016, HM Treasury launched a consultation on introducing a pensions advice allowance, to come into force from April 2017. It would allow people nearing retirement to take up to £500 out of their pension pots tax free to put towards the cost of holistic financial advice in relation to all of an individual's pension products.[151] FAMR had set out a strong case for the introduction of this allowance:

> FAMR found that there is an 'advice gap' for retirement advice for people without significant wealth. High quality financial advice can have a significant impact on retirement incomes, and people often increase their savings rate as a result of taking advice. For example, research by Unbiased found that those who sought retirement advice increased their retirement savings by an average of £98 a month. However, less than a third of people have accessed financial advice on their pension. FAMR found that many people perceive financial advice to be unaffordable or 'not for people like them'.[152]

The Pensions Advice Allowance would increase the accessibility and affordability of financial advice:

> - the allowance would help make advice more affordable
> - people would not have to pay large fees out of their current income
> - it would act as a nudge for people to consider taking financial advice

The new rules would go further than current rules, which only allowed people to get advice on the pension pot from which the fee was taken. The new rules would allow an 'authorised payment' of up to £500 for holistic retirement advice on all an individual's pension products. The consultation asked for views on a number of questions:

> This consultation proposes that the Pensions Advice Allowance should be limited to £500 per use. The government is seeking input on whether to allow multiple uses of the allowance to enable individuals to get advice at different points of retirement.
>
> The government proposes that the Pensions Advice Allowance should be available before the age of 55 to enable individuals to plan for retirement well in advance. This consultation invites comments on the exact age from which the allowance should be available.

[150] Work and Pensions Committee, Pension freedoms, HC 917 2017-19, April 2018, para 57
[151] HM Treasury, New government advice allowance to make retirement planning easier, 30 August 2016
[152] HM Treasury, Introducing a Pensions Advice Allowance: consultation, 8 Feb 2017

> The Pensions Advice Allowance would be redeemed against all fully regulated advice services, including automated advice models.
>
> Offering the Pensions Advice Allowance would not be mandatory for pension providers. This consultation invites input on how to encourage the majority of defined contribution schemes to offer the allowance.[153]

The Government asked for views on its preferred approach – which was to build on the existing adviser charging system.[154] It asked for views on how the rules might apply to pension products for which the monetary value of the income was guaranteed and to occupational pension schemes (section 4.5 and 4.6).

No objections or substantive issues were raised in the responses.[155] The Government confirmed its intention to proceed February 2017.[156] Provision for a Pensions Advice Allowance with effect from 6 April 2017 was introduced in the *Registered Pension Schemes (Authorised Payments) (Amendment) Regulations 2017 (SI 2017/397).*

Tax and NI exemption for employer-arranged advice

FAMR recommended a second tax change, complementary to the Pensions Advice Allowance. This was that the Government should: "explore ways to improve the existing £150 income tax and National Insurance exemption for employer-arranged advice on pensions."[157]

The Government announced in Budget 2016 that it would:

> increase the tax exemption for employer arranged pensions advice from £150 to £500, and remove a cliff edge that meant that if an employer spent more than £150 on advice, the whole amount became taxable.[158]

If used in conjunction with the Pensions Advice Allowance, this could give people access to up to £1,000 of tax advantaged financial advice.

In a policy paper - employer-arranged pensions advice exemption – published in December 2016, HMRC explained that:

> The exemption will apply if the advice is made available to employees generally or to employees generally at a particular location. However, it will also be capable of applying when the pensions advice is tailored to the employee's specific personal circumstances of nearing retirement either by age or ill health. The legislation will achieve this by setting two alternative qualifying conditions. Condition A encapsulates the 'availability' conditions, and condition B allows the exemption where the employee has either reached the 'minimum qualifying age' or 'ill-health condition'.

[153] HM Treasury, Introducing a Pensions Advice Allowance: consultation (8 February 2017), section 3.1
[154] Ibid, para 3.4
[155] Explanatory Memorandum to SI 2017 No. 397 para 8.2
[156] HMRC, Tax information and impact notes: Pensions Tax: Pensions Advice Allowance, 7 February 2017
[157] HM Treasury, Introducing a Pensions Advice Allowance: consultation (8 February 2017), para 2.1
[158] Ibid; HM Treasury, Budget 2016, HC 901, March 2016, page 37

> The exemption will apply to the first £500 worth of pensions advice provided to an employee in a tax year, whether the employer pays for or reimburses the employee for the cost of the advice.
>
> The current exemption set out in Regulation 5 of the *Income Tax (Exemption of Minor Benefits) Regulations 2002* will no longer be required and will be repealed.
>
> Legislation for National Insurance purposes will be introduced following passage of Finance Bill 2017.[159]

Provision for this is in section 3 of the *Financial Guidance and Claims Act 2018.* The Tax Information and Impact Note says:

> **General description of the measure**
>
> The measure introduces a new income tax exemption to cover the first £500 worth of pensions advice provided to an employee in a tax year. It will allow advice not only on pensions, but also on the general financial and tax issues relating to pensions. The changes replace existing provisions which limited the exemption solely to pensions advice and was capped at £150 per employee per tax year.
>
> **Policy objective**
>
> This exemption was recommended as an outcome of the recent Financial Advice Market Review (FAMR) conducted jointly by HM Treasury and the Financial Conduct Authority (FCA). This reflects the government's acknowledgement that individuals aged 55 or more are making significant decisions on the application of their pension savings and may wish to seek advice.
>
> The FAMR concluded that there is a particular advice gap in relation to pensions. The government is keen to ensure that financial advice is affordable and accessible to consumers, especially those nearing the point of retirement. The government wants to encourage employers to provide advice to employees to help them make informed choices about what to do with their pension savings.[160]

4.8 Is guidance a one-off event?

The Government decided that the service should be aimed at those approaching retirement:

> 3.18 Many respondents agreed that, with the new flexibilities taking effect in April, guidance should at the outset be focused on supporting decision-making at the point of retirement. The government has decided that the guidance service will be principally targeted at those who are likely actively to be planning to retire. The government will give further consideration to how individuals can receive subsequent support should their circumstances change or if they have needs that otherwise extend beyond what the guidance is intended to deliver.[161]

---

[159] HMRC, Employer-arranged pensions advice exemptions, 5 December 2016

[160] HMRC, Employer-arranged pensions advice exemption, December 2016

[161] FCA, PS14/17 Retirement Reforms and the Guidance Guarantee, including feedback on CP14/11, November 2014

Most respondents to the consultation signalled that a "one-off guidance session at the point of retirement would be unlikely to cover the full spectrum of decision points during retirement."[162]

At Committee Stage, Shadow Pensions Minister, Gregg McClymont, asked whether one-off guidance would be enough to prepare someone for more than 20 years of retirement. [163] The then Pensions Minister, Steve Webb, said the Government was thinking about how this might work in steady state:

> […] We are not going to ban people from phoning TPAS. They will still be able to ring someone up and chat things through. They will still be able to go to a website.
>
> On day one, we will have not just the people coming up to pension age in April 2015, but the whole carry-over group of people who have been on hold for a year. There is an issue about being sensible about capacity on day one, but in the steady state we are continuing to think about how best we meet the needs of people who would benefit from repeat visits to the service.[164]

In evidence to the Work and Pensions Committee in September 2015, Rachel Badger said Citizens Advice would like "people to have more than one bite of the cherry", particularly where part of their funds were still invested.[165]

David Geale of the FCA said that this was an issue for the future. In the meantime, people had other options, such as taking to the Pensions Advisory Service:

> While Pension Wise itself may be one-off, there are other options available to people for achieving that sort of guidance. Longer term, as the Pension Wise process gets reviewed, I think that is something that will be up for consideration as to whether it should be available more frequently.[166]

HM Treasury's October 2015 consultation on financial guidance acknowledged that decisions about accessing pensions were no longer "one-off events" and that many consumers would "require ongoing support to plan for and manage their retirement income." It suggested that a possible alternative model for guidance provision might be:

> […] a government-backed voucher scheme whereby a consumer could be provided with one or multiple vouchers for financial guidance sessions which could be redeemed with a range of accredited partners.[167]

---

[162] HM Treasury, Freedom and choice in pensions: government response to the consultation, Cm 8901, July 2014, p36
[163] PBC Deb 4 November 2014 c295
[164] PBC Deb 4 November 2014 c295-306
[165] Oral evidence: Pension freedom guidance and advice, HC 371, Wednesday 16 September 2015, Q29
[166] Oral evidence: Pension freedom guidance and advice, HC 371, Wednesday 16 September 2015, Q65
[167] HM Treasury, Public financial guidance: consultation, October 2015, para 3.25 and 5.10

The Work and Pensions Committee recommended that the Financial Advice Market Review "consider the case for offering two or more Pension Wise guidance sessions per customer."[168]

4.9 Improving engagement

In the interim report of its Retirement Income Market Study, the FCA proposed a number of remedies, the objective of which is to "increase the effectiveness of the information that is provided to consumers to help address consumer inertia, encourage shopping around, and if appropriate, switching." These related to annuity quote comparisons; how options are 'framed' when prevented to consumers; an alternative to the current 'wake-up pack and the development of a 'pension dashboard' in the longer term.[169] In its final report published in March 2015, the FCA said it would be taking these proposals forward, with further consultation on design and implementation where appropriate. The next phase of this work would form part of the wider review of its rules in the pension and retirement area in summer 2015.[170]

In October 2015, the FCA proposed changes to its rules regarding communications from schemes to consumers:

- *Communications concerning accessing pension savings*: to add guidance to ensure that, in the new pensions environment, firms understand what the FCA requires them to do when communicating with their customers about accessing their pension savings. Also, to add rules and guidance requiring timely, relevant and adequate information to:
  - Encourage consumers to explore the full range of options for accessing their pension savings, including on the open market.
  - Enable informed decision-making about consumers' options for accessing pension savings at their intended retirement date and beyond.
- *Pension freedoms communications:* to make new rules on the methodology for providing illustrations to members wishing to access their pensions flexibly, including adding guidance to set out the type of ongoing information consumers are provided with once they start accessing their pension savings but still remain invested. Also, to extend the rules and guidance in our Conduct of Business sourcebook (COBS) 9 to uncrystallised fund pension lump sums (UFPLS).[171]

Its policy statement (PS 16/12) published in April 2016 it said the majority of respondents broadly agreed with its proposals and it was taking them forward, with some minor adjustments.

168 Work and Pensions Committee, Pensions freedom, advice and guidance, First report of Session 2015-16, HC371
169 FCA, Retirement income market study: Interim Report, MS14/3.2, December 2014, p7/8
170 FCA, Retirement income market study: Final report – confirmed findings and remedies, MS14/3.5, March 2015, Para 1.2
171 FCA, Pension reforms – proposed changes to our rules, CP15/30, October 2015, para 1.15-6

In the interim report of its Retirement Outcomes Review, published in March 2017, the FCA said that to get the pension freedoms on a "good footing for the future" it was important that:

> • there are appropriate protections for those least able to engage
>
> • the market drives value and innovation
>
> • consumers can get the right support when they take important and difficult decisions about their pension savings[172]

It had identified some potential remedies, on which it sought views:

> • additional protections for consumers who buy drawdown without advice
>
> • measures to promote competition for consumers who buy drawdown without taking advice, including proposals to:
>
> • allow consumers to take some of their savings early without having to put the rest into a drawdown product
>
> • make it easier for consumers to compare and shop around for drawdown products
>
> • tools and services to help consumers make good choices[173]

The final report of the Retirement Outcomes Review was published in July 2018. Alongside this, the FCA launched a consultation on on a package of remedies to:

- Protect consumers from poor outcomes;
- Improve consumer engagement with retirement income decisions; and
- Promote competition by making the cost of drawdown clear and comparisons easier. (CP18/17, June 2018).

Pensions Dashboard

The FCA's Financial Advice Market Review (FAMR) recommended that:

> HMT should challenge the industry to make a pensions dashboard available to consumers by 2019, bringing together industry and consumer representatives to help them set direction and drive progress.[174]

In Budget 2016, the Government said it would:

> […] ensure the industry designs, funds and launches a pensions dashboard by 2019. A pensions dashboard is a digital interface where an individual can view all their retirement savings in on place.[175]

On 21 December 2016, the ABI said six firms had been chosen as technology development partners. The project was being managed by the ABI on behalf of HM Treasury.[176] Further information is on the Pensions Dashboard Prototype Project website.

In February 2018, Pensions Minister Guy Opperman said he hoped to report on the feasibility study by the summer recess. The objective was

[172] FCA, Retirement outcomes review – at a glance, July 2017
[173] Ibid
[174] FCA, FAMR Final Report, March 2016
[175] HM Treasury, Budget 2016, HC 901, March 2016, p101
[176] Pensions Dashboard project announces FinTech pioneers, 21 December 2016

to launch the dashboard in some shape or form by May 2019. However, there were complex issues to resolve:

> There are a considerable number of complexities with the dashboard: the retention of a huge amount of different types of data, whether from state pension data or private pensions; who has access to that data; who controls it; and whether that is something that should be done by the Government, as ultimately the most trusted provider—regardless of whether one trusts or does not trust any particular Government—or by a relatively independent quango such as the single financial guidance body. There is an issue about what body would take it forward and hold the data, and the extent to which the data is accessible, to whom and in what way.[177]

In its April 2018 report on the pension freedoms, the Work and Pensions Select Committee welcomed the Government's commitment to introducing the dashboard by 2019. It said the dashboard should be hosted by the single financial guidance body and that pension providers should be mandated to provide information.[178]
In its response, the Government said it would set out its conclusions as part of its feasibility report, to be published in due course.[179]

On 4 September, the Government announced that the dash-board would be industry-led. It would shortly report on the findings from its feasibility study:

> The pensions dashboard will offer people the opportunity to access their pension information in a clear and simple form – bringing together an individual's savings in a single place online.
>
> The work that the Department for Work and Pensions has done in assessing feasibility for a pensions dashboard has made it clear that we should not underestimate the size or complexity of the challenge. An industry-led dashboard, facilitated by government, will harness the best of industry innovation. We will continue to engage with industry on this model and Government will protect pension savers and personal information by legislating where necessary. This will build on the Government's 'Check your State Pension' online service for the State Pension. We will shortly report on the findings from the Feasibility Study.[180]

Shadow Pensions Minister Jack Dromey commented that:

> Passing it onto the private sector means there is no guarantee of compliance from all providers, no indication of whether the State Pension will be included and centralises huge amounts of financial information for the private sector to access.[181]

For more detail, see Library Briefing Paper CBP-8407 (September 2018).

---

177 PCB Deb 1 February 2018, c23

178 Work and Pensions Select Committee, Pension Freedoms, HC 917, April 2018

179 Government response to the Work and Pensions Select Committee Report on Pension Freedoms, HC1231, 22 June 2018, para 49-50

180 HCWS933 Pensions Update: written statement, 4 September 2018

181 Jack Dromey responds to Written Statement on the Pensions Dashboard, 4 September 2018

Wake-up packs

Pension providers are required to issue "wake-up packs" to members between four and six months before their intended retirement date.[182] In its 2018 report on the Pension Freedoms, the Work and Pensions Select Committee recommended found that these were rarely read in detail. It recommended requiring providers to issue a one-page pension passport:

> 39.**Pension wake-up packs currently do nothing of the kind. This is no surprise: incumbent pension providers have little incentive to rouse their members from slumber. Pension passport trials show that simplified, one-page communications can increase member engagement with their pension options. Such simple and easily achievable improvements can complement more ambitious digital measures. *We recommend that the FCA and The Pensions Regulator (TPR) require all pension providers to issue one-page pensions passports as part of their pre-retirement communications with members. The FCA and TPR should work together to produce a template best practice passport by June 2018.*[183]**

In response, the Government said it looked forward to the findings of the FCA's Retirement Outcomes Review and would continue to work with the FCA to ensure any changes to member communications can operate appropriately for both contract-based and trust-based schemes.[184]

On 28 June 2018, alongside the report of its review, FCA launched a consultation on changes to require 'wake-up' packs to:

- Incorporate a one-page 'headline' document, in clear and accessible language
- Are sent earlier in the process, from age 50, and every five years thereafter until the post it accessed
- Include risk warnings, from age 50 onwards.[185]

Mid-life MOTs

The Work and Pensions Committee said that the idea of mid-life MOT at age 50 (giving someone time to reassess their approach to retirement saving) was a good one. However, it did not think this should be "mistaken for something likely to have a transformative effect on consumer behaviour." The Government agreed with the Committee that enabling individuals to take stock and plan, was crucial. It was working with providers already trialling mid-life MOTs to build an evidence base for future testing.[186]

182 FCA Handbook: Conduct of Business Sourcebook, COBS 19.4.5-8
183 Work and Pensions Committee, Pension Freedoms, HC 917, March 2018
184 Government response to the Work and Pensions Select Committee Report on Pension Freedoms, HC 1231, June 2018
185 FCA, CP18/17 Retirement Outcomes Review: Proposed changes to our rules and guidance, 28 June 2018
186 Government response to the Work and Pensions Select Committee Report on Pension Freedoms, HC 1231, June 2018

5. Glossary

Annuity – a lifetime annuity is a contract with an insurer to provide a series of payments over the lifetime of the individual (or, in the case of a joint-life annuity over the remaining lifetime of the longest survivor).

Contract-based scheme - In a contract-based scheme an employer appoints a pension provider, often an insurance company, to run the scheme. The scheme members will sign a contract with the provider who will make the majority of decisions about the way the scheme is run. These schemes are regulated by the Financial Conduct Authority

Cash balance scheme – a scheme in which a guaranteed cash sum is built up on the basis of a known formula which is related to the employee's pensionable earnings in each year of membership. The resulting "cash balance" can be used to buy an annuity or to make other arrangements.

Cash equivalent transfer value – the value which a pension scheme member may require to be paid as a transfer payment to another registered pension arrangement.

Defined benefit pension scheme – a scheme in which the member builds entitlement to pension benefits based on fixed factors such as salary and length of service (section 152 *FA 2004*).

Defined contribution pension scheme – a scheme in which an individual builds up a fund based on contributions and investment returns. This is not defined in pension tax legislation, which instead refers to money purchase arrangements (section 152 *FA 2004* - see section 1.2 of this paper).

Income drawdown - whereby an individual can draw an income from their fund while leaving the rest of it invested. Before 6 April 2015, there were limits on the amount of income that could be drawn down each year except where the individual can show they have other pension income over a certain amount. From 6 April 2015, these limits were removed. For more detail, see HC Library Briefing Paper SN 6891 Pension Flexibilities.

Trust-based scheme – A schemes that is sponsored by the employer but managed by a board of trustees. The trustees have full responsibility for the management, administration and investment of the plan. The trustee's fiduciary duty is to act in the interests of members. These schemes are regulated by the Pensions Regulator.

BRIEFING PAPER
Number CBP-7042, 26 September 2018