

Guidance on the stronger nudge to pensions guidance (Consultation Paper CP21/11 and Policy Statement PS21/21) January 2023

Purpose

In 2015, the Government's pension freedoms gave consumers greater choice about how, and when they access their defined contribution (DC) pension pots. This greater choice created more complex decisions for consumers however, and recognising this the Government set up Pension Wise. Pension Wise is one of several guidance services offered by the Money and Pension Service (MaPS). MaPS also provides support to consumers at all stages of their pensions journey. During a Pension Wise appointment, consumers receive free and impartial guidance about the options available when they access their pension savings. This guidance enables consumers to make better informed decisions. HM Treasury recommended that the FCA consult on guidance in the first instance. This was done under CP21/11 which closed on 29 June 2021. The Policy Statement PS21/21 gives final guidance and will be of interest to consumers, firms providing pensions and other retirement products and trade bodies representing both groups.

Requirements covered

In these papers, FCA has introduced targeted measures to increase Pension Wise take-up at the point of accessing DC savings, in line with the requirements of the Financial Guidance and Claims Act 2018 ('the Act').

The wider context

So far, only a small proportion of consumers accessing their pension pot for the first time have used Pension Wise guidance. This is a cause for concern to FCA, the Government, the Work and Pensions Committee (WPC) and a broad range of stakeholders. Under the old rules, pension providers were already required to signpost consumers to Pension Wise guidance, at various stages of the consumer journey, and to encourage that consumers seek appropriate pension guidance or advice to help them understand their options for accessing their pension savings.

FCA consulted therefore, on additional rules to implement the provisions of the Act. The provisions of the Act require that a consumer is given a final opportunity to take Pension Wise guidance at the point they wish to access their pensions savings, referred to as the stronger nudge. While this stronger nudge is useful, there is significant debate about what else can be done to increase consumer take-up of Pension Wise guidance, most recently during the passage of the Pension Schemes Act 2021.

FCA want to create an environment where consumers are encouraged to take the right guidance at the right time to support them to make informed decisions. While Pension Wise is frequently identified as an answer to consumers' guidance needs, these needs can be wider ranging than the guidance Pension Wise can offer. During the passage of the Act in 2018, Parliament debated mandatory (or default) guidance, but decided not to take this forward, having heard arguments that a compulsory appointment could be perceived by consumers as a barrier to accessing pensions or a tick box exercise, rather than a natural and beneficial part of the process of accessing pension savings. More recently, Parliament voted against an amendment to the Pension Schemes Bill, now the Pension Schemes Act 2021, which would have required pension scheme members to be offered a pre-booked Pension Wise appointment, 5 years before they are eligible to access their pension savings.

Pension Wise is only one service that can help consumers make decisions about their pensions savings. MaPS, through MoneyHelper, provides other guidance services, and is planning to enhance its guidance offering by directing consumers to the service appropriate for their needs. MaPS has also worked on and continues to develop, digital guidance to meet increased take-up of the service and encourage more consumers to access the service through lower costs channels, where that works for them.

While several market participants have argued that earlier nudges are more effective, the best time to engage can depend on the specific consumer journey.

This policy statement achieves the implementation of a 'stronger nudge' to consumers to take up Pension Wise guidance.

The outcomes FCA is seeking

FCA want to implement the provisions of the Act and protect consumers from poor outcomes in retirement by helping them make informed decisions when accessing their pension savings. The final rules and guidance aim to:

- encourage the use of the free, impartial guidance that is available to help consumers make informed decisions about the options available to them
- make taking Pension Wise guidance a natural part of the consumer journey when consumers decide to access their pension savings
- help protect consumers from poor outcomes and prevent harm to consumers who don't have the information they need to make informed decisions about how to access their pension savings

New Rules ([COBS 19.7](#) Pensions nudge and retirement risk warnings)

To implement the requirements of the Act, the new rules require that, when a consumer has decided in principle, how they wish to access their pension savings, or transfer rights accrued under their existing pension to another pension provider for purposes of accessing their pension savings, pension providers must:

- refer the consumer to Pension Wise guidance
- explain the nature and purpose of Pension Wise guidance
- offer to book a Pension Wise guidance appointment, and where the consumer accepts that offer, book the appointment or provide the consumer with sufficient information to book their own appointment

Note that in respect of Pension transfers, only those aged over 50 are eligible for Pension Wise guidance, so younger consumers transferring benefits should not be nudged.

In addition to the earlier requirements that providers confirm and record whether the consumer has received Pension Wise guidance or regulated advice, providers are now also required to confirm and record whether the consumer declined the offer to receive the Pension Wise guidance (opted out).

The 'nudge' must be provided by whichever provider the consumer contacts, whether ceding or receiving scheme and whether or not the consumer has already received Pension Wise guidance, or taken regulated advice at an earlier point in their pension journey. The final rules require providers to explain that the consumer may benefit from receiving guidance again under certain circumstances; in particular, where their personal circumstances, or the value of their pensions savings, have significantly changed such that the different options described to them in the guidance may be of different significance and relevance to them than when they previously received the guidance. Firms may book the guidance appointment on the consumer's behalf, or provide them with the information to be able to do this for themselves.

Firms can deliver additional nudges to guidance earlier in the consumer journey if they wish, for example when consumers are still exploring their options.

Firms must not proceed with any application unless the requirements to nudge have been fulfilled.

Firms should retain records of the provision of nudges and also decisions to opt-out, to enable collection of data by FCA to evidence that the rules are being followed and to enable measurement of the effectiveness of the measures.

Potential areas for future change

FCA considers that further interventions – by them or firms – are likely to be needed to drive greater take-up of guidance services. Given there was no clear consensus or evidence during consultation for which further interventions would be most effective, FCA propose that a range of options should be considered and tested as appropriate, before any further measures are implemented in their rules.

How Pillar 4 can help

Pillar 4 has extensive experience in helping firms meet FCA Rules to ensure their on-going compliance and improve on their customer experience.

Speak to us for guidance on how to approach these requirements for retirement product providers, we can help you understand how they relate to your product/s and customer journey and ensure your records are sufficient to meet regulatory requirements.