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By email: pensionsguidance.consultation@dwp.gov.uk

Dear Sir / Madam,

Financial Services Consumer Panel response to HMT's consultation on Stronger Nudge to Pensions Guidance.

The Consumer Panel welcomes HMT's proposed regulations introducing requirements for individuals to be nudged to obtain appropriate pensions guidance by trustees and managers of occupational pension schemes.

We are concerned that the 'stronger nudge' to guidance will not achieve the policy intent and will have limited effect on overall member outcomes and costs to wider society. We welcome approaches that normalise guidance at regular or significant points in members' lives and therefore believe that automatic appointments to Pension Wise offer the best way to ensure that members make informed decisions and achieve better outcomes. Efforts can then be focussed on minimising drop-out rates, rather than on increasing take-up.

Our vision for pensions guidance is:

- Guidance should be an automatic and normal part of the consumer experience, with appropriate opt-outs available
- A joined-up communications strategy by government and industry with the aim of normalising guidance at regular or significant points in members' lives
- Personalised information that activates members to seek guidance at appropriate points in their lives
- Members make informed and better decisions
- Schemes act in members' best interests when giving guidance
- Benefits to wider society resulting from better informed members, including a reduction in the costs of fraud, compensation, and welfare
- Improved member confidence in the pensions industry and a reduced risk of another mis-selling scandal

Finally, we look forward to timely publication of the Policy Statement in order to affect a reduction in the large number of members currently accessing their pensions without guidance or advice.

Our responses to the questions posed in the consultation are included at Annex 1 below.

Yours sincerely,

Wanda Goldwag

Chair, Financial Services Consumer Panel

Annex 1

Question 1

Do you agree with our proposed approach to defining when the Stronger Nudge should be delivered? If not, what changes do you consider necessary?

The proposed approach will not remove conflicts of interest faced by schemes and will not ensure that all consumers can make timely and informed decisions

The proposed approach allows schemes to decide what constitutes an application to access pension benefit with the stated intention that this should 'occur as early as practical within the process, and ideally....before [members] have made a final decision'. The Panel is concerned that, in the absence of clearer guidance, this will not remove the inherent conflict of interest on the part of schemes.

Furthermore, leaving guidance until consumers wish to access their pension savings increases the risk that they will either opt-out because they are already committed to a decision or receive guidance too late to help them make a better decision. Although data shows that 57%¹ of people using Pension Wise change their minds after receiving guidance, the data is based on a self-selected and relatively small group of consumers. Firms acting in the best interests of their customers should be able to demonstrate continual efforts to activate individuals to make timely and informed decisions.

The Panel would welcome: 1. plans to support firms in testing the efficacy and other outcomes of default opt-ins and 2. a joined-up campaign across the pensions industry that activates consumers to seek guidance at regular intervals and/or at particular life stages or events. Such messaging could boost the low levels of Pension Wise awareness and serve to normalise Pension Wise guidance, in a similar way to health checks at certain ages. It is highly likely that any short-term increase in the costs of providing guidance will be more than offset by the much larger costs associated with fraud, compensation, and welfare arising from consumers who make uninformed decisions.

Question 2

Do you agree with our proposed approach to appointment bookings? If not, what changes do you consider necessary?

The proposed approach is unlikely to lead to the best outcomes for members.

The draft regulation proposes that schemes will be required to offer to book appointments for members and that this can be done via different communication methods. The Panel has the following concerns about the proposed approach:

- The stated intention from Government is that guidance should be the norm for consumers wishing to access their pensions. However, simply offering to book appointments is unlikely to lead to guidance as a norm. Efforts to 'nudge' consumers into taking guidance, as reported in the Behavioural Insight Team's research commissioned by MaPS, had little effect on the very low level of take up across the entire cohort of potential consumers², and the Panel believes that that the approach tested was methodologically flawed. For example, training by the providers ranged from a short-written briefing to a full day including role plays. In addition, the call handlers were permitted to amend the scripts, further reducing the reliability of the results. These problems mean that members' propensity to

¹ <https://moneyandpensionsservice.org.uk/wp-content/uploads/2020/10/Pension-Wise-Service-Evaluation-report-2019-2020.pdf>

² <https://moneyandpensionsservice.org.uk/wp-content/uploads/2020/07/maps-stronger-nudge-evaluation-report-july-2020.pdf>

take up guidance under the current proposal will be highly dependent on the efforts and resources of each scheme. The inherent conflict of interest, together with the potential for foreseeable and avoidable harm, necessitates an unambiguous approach in order to maintain consumer confidence in the pensions industry and prevent another mis-selling scandal.

- The same report by MaPS shows that those who decline to take guidance from Pension Wise claim to be the least and most knowledgeable – but levels of knowledge are self-reported and not robustly tested. There is a grave danger that the most vulnerable are the least likely to feel comfortable seeking guidance.
- Permitting different forms of communication creates a risk of differential response rates by members. For example, those contacted by post may be less inclined to respond. Schemes should disclose members' response rates for different types of communications alongside their plans to reduce any differences.

The Panel is of the opinion that automatically booking members into Pension Wise appointments is the only way to ensure that the policy intent is achieved. The use of 'auto-appointments' will help to make guidance a normalised stage of members' pension journey and to ensure that they make informed decisions about accessing their pensions. The Panel would welcome plans to support firms in testing the efficacy and other outcomes of default opt-ins. This could be in the form of government testing with select providers or trustees, using stronger nudges whilst another provider/trustee auto books an appointment with pension wise. This would provide a real insight into the take-up rate, perception, impact on understanding levels, decision-making and ultimately the impact on consumer outcomes from the different approaches.

Question 3

Do you agree with our proposed approach to requiring an opt out in a separate interaction? If not, what changes do you consider necessary?

The proposed approach will not ensure that members who opt-out make an informed decision

Requiring members to opt out in a separate interaction is designed to slow down the process by introducing friction. However, in the absence of rigorous testing, there is no evidence that it will have the desired consequences. We have two concerns. First, the inherent conflict of interest may lead schemes, deliberately or not, to implement a process that does not adequately encourage members to seek guidance. Second, simply sending members a separate communication does not guarantee that 'due thought is given to the benefits of pensions guidance....and that any decision to opt out of guidance is a considered one'. The proposed approach will not provide any assurance that members who opt out of guidance have made an informed decision.

The Panel is of the opinion that automatically booking members into Pension Wise appointments will be less complicated and less costly in the medium- to longer-term than the proposed approach.

Question 4

Do you agree with our proposed approach to prevent trustees and managers proceeding with the application until they are in receipt of confirmation that the individual has opted-out or received appropriate pensions guidance? If not, what changes do you consider necessary?

The proposed approach will not provide assurance that those who opt out have made an informed decision. It is therefore critical to monitor the volumes, characteristics, and outcomes of those who opt out to ensure that they are not disadvantaged compared to members who receive guidance.

The Panel is of the opinion that automatically booking members into Pension Wise appointments will reduce the numbers of members who opt out and will normalise guidance in ways that should improve outcomes for members.

Question 5

Are the proposed exemptions sufficient? If not, what changes do you consider necessary?

Exemptions should be kept to a minimum to ensure guidance becomes normalised

Guidance received during a different tax year or under different personal circumstances is unlikely to be relevant to the current situation. Given the complexity of pensions and the poor level of understanding by the general public, it is reasonable to assume that more guidance is better than less. The burden of proof should therefore be reversed; that is, members should be nudged towards Pension Wise unless it appears that they are unlikely to benefit from receiving guidance again. This will ensure that schemes seek to find out when the previous guidance was received and under what circumstances. Without this check, there is the risk that schemes will not probe sufficiently and the opportunity to provide guidance will be lost, potentially leaving members to make uninformed and costly decisions. Given the very high satisfaction ratings for Pension Wise it is unlikely that members who obtain more guidance will be worse off than if they had not attended.

We agree that members seeking to access their pensions as a Serious Ill Health Lump Sum should not be required to opt-out in a separate transaction in order to reduce the burden and stress on those who are already in an extremely vulnerable situation. However, this should not automatically result in a greater proportion of these members opting out of guidance compared to other types of members. Schemes might need to implement a different sort of communication to ensure that these members do not experience worse outcomes than other members as a result of not receiving guidance.

Question 6

Is an exemption for small pots necessary? If so, how should a small pot be defined?

No. We agree that small pots should not be exempt. This will ensure that guidance becomes an accepted part of each member contact. One of the major benefits of guidance is that it treats members holistically, rather than considering them as the beneficiary of a particular pension pot. For many, the guidance will begin a journey of tracking down their pots. While dashboards and auto-consolidation will support this eventually, in the shorter term more schemes that nudge people will be better. It may be the case that providers incorporate nudges with other communications to keep communication costs down.

A universally applicable definition of a small pot has eluded both DWP and its PLSA successor. The Panel agree that any attempt by HMT to define small pots, will cause potential issues.

Question 7

Will our proposed exemption for those accessing their pension as a Serious Ill Health Lump Sum cover all those who should be exempted from the enhanced opt out on health grounds? If not, what changes do you consider necessary?

Schemes have a vested interest in seeking exemptions so proposals to add other groups of members should ensure that their outcomes are likely to be no different from members who do not fall into an exempt group. The FCA's proposed New Consumer Duty should help in this regard.

Question 8

Do you believe our proposed approach to record keeping is proportionate? If not, what changes do you consider necessary?

The proposals will enable comparisons between the number of opt outs and exemptions from individual schemes against those for all schemes. However, record keeping is a means to an end, so it is imperative that data is analysed regularly and frequently for outliers or, indeed, worrying trends across all schemes, and that regulators take swift action against schemes that appear to be acting against their members' best interests.

Question 9

Do you agree with our proposed approach for coordinating the Stronger Nudge and Scams Guidance appointments? If not, what changes do you consider necessary?

No. Of the two potential harms facing a member wishing to transfer, the most immediate and potentially more damaging is the risk of a scam. It is therefore imperative that members are directed (preferably transferred) immediately to MaPS for a scam appointment. Members who are prevented from transferring funds to a fraudster are likely to be conducive to guidance at a later stage, and this can be reinforced during the MaPS scams appointment.

Question 10

Do you foresee any problems with the interaction between the Stronger Nudge and existing signposting provisions? If so, what changes do you consider necessary?

If the intention is to ensure that guidance becomes the norm for members wishing to access their pensions, then, in the absence of automatic appointments, schemes should be required to adopt the strongest possible approach to activating members to seek guidance.

Question 11

Are you content that regulation 2 successfully achieves its purpose? If not, what problems do you foresee and what changes do you consider necessary?

The success of regulation 2 is predicated on preventing trustees and managers proceeding with a transfer application unless the proposed requirements to nudge to guidance have been fulfilled. However, this sets a low bar and is highly unlikely to ensure that the policy intent will be achieved due to the high amount of discretion given to schemes and the probability that the poor overall results from the 'nudge' trial will be replicated. We suggest that an evaluation is conducted in a timely manner to evaluate the outcomes in relation to the policy intent.

Question 12

What do you anticipate will be the one-off impact of implementing the Stronger Nudge into each channel (phone/post/digital) you offer? Where costs are incurred, please provide an estimate and any information you feel would be useful to us in understanding these costs.

No comment.

Question 13

What do you anticipate will be the on-going impact of implementing the Stronger Nudge into each channel (phone/post/digital) you offer? Where costs are

incurred, please provide an estimate and any information you feel would be useful to us in understanding these costs.

No comment.

Question 14

Where costs are incurred, would you expect the cost to be absorbed, passed on to employers, or passed on to individual members?

Where costs are passed on to individual members, we would expect these are made transparent, in line with our call for a menu of all costs and charges paid by members.

Question 15

Do you anticipate any benefits to your business from implementing the Stronger Nudge? Please provide a monetary value where possible.

As a result of mis-selling scandals, trust in the pensions industry is lower than in the ISA industry, leading to individuals taking their tax-free cash and placing it in bank accounts.

We expect that, combined with the FCA's New Consumer Duty, members' enhanced understanding of their pensions and any necessary actions could lead to a reduction in those entering drawdown unnecessarily, with the potential for increased fees arising from increased contributions and larger pension pots

Question 16

Do you anticipate any wider non-monetised impacts from the Stronger Nudge?

Wider impacts will come from a large increase in consumers who receive guidance

The MaPS trial suggests that wider impacts from the Stronger Nudge are likely to be limited due to low overall take up of guidance across the entire cohort of potential consumers. Non-monetised impacts will come directly from greater take up of guidance, rather than the use of the 'stronger nudge' (in theory, all members could opt-out, in which case there would be only additional costs and no benefits). Greater take up of guidance should lead to:

- Enhanced understanding by members of their pensions and any remedial or other actions needed
- Improved member confidence in the pensions industry through a reduced risk of another mis-selling scandal

There are also likely to be wider monetised impacts from greater take up of guidance. These include:

- A reduction in fraud because members are better informed and seek help before a fraud is perpetrated
- A reduction in welfare costs because members make better long-term decisions e.g. sustainable withdrawal rates
- A reduction in the costs of compensation and redress because members receive timely and appropriate guidance that activates them to make better decisions (this should also be an outcome of the FCA's New Consumer Duty).

Question 17

Do you believe there are reasons to include a statutory review provision in the proposed regulations?

If implemented properly (i.e. members are activated to seek guidance), businesses should benefit over the medium- to longer-term from reductions in costs associated with compensation and redress, including levies and fees paid to the Pension Protection Fund. If implemented poorly (i.e. there continues to be low take up of guidance prior to

accessing pensions), then businesses will generate additional costs but reap limited longer-term benefits.

We suggest that the need for a statutory review clause is reviewed after a timely evaluation of the effectiveness of the Stronger Nudge. If the number of members receiving guidance does not increase dramatically within a short period of time, then this indicates that businesses are adopting a short-term view and that a statutory review clause may be necessary.

Question 18

Do you consider the proposed regulations achieve the policy intent?

No. The policy intent is that pensions guidance becomes 'a natural part of the journey individuals embark on when making decisions about their pension savings.'³ The MaPS trial showed that only 14% of callers who received the 'stronger nudge' booked an appointment with PensionWise.⁴ This suggests that the proposed regulation will fall far short of satisfying the policy intent. The policy intent is best achieved by making Pension Wise appointments a default part of the process.

Question 19

Do you foresee any unintended consequences in our proposed approach?

Foreseeable unintended consequences to implementing the 'stronger nudge' include the following:

- Low overall take up of guidance, leading to higher costs for businesses and limited benefits to the wider economy
- Continued mistrust in the pensions industry and the risk of another pension mis-selling scandal
- Continued high costs of compensation and redress.

Question 20

Do you have any comments on the impact of our proposals on protected groups and/or views on how any negative effects may be mitigated?

No comments.

³ <https://www.gov.uk/government/publications/stronger-nudge-to-pensions-guidance-statement-of-policy-intent/stronger-nudge-to-pensions-guidance-statement-of-policy-intent>

⁴ <https://moneyandpensionservice.org.uk/wp-content/uploads/2020/07/maps-stronger-nudge-evaluation-report-july-2020.pdf>