

What's New?

The FCA and DWP have confirmed plans to deliver a “Stronger Nudge” to pensions guidance that is due to come into effect from 1 June 2022. These changes are aimed at increasing the levels of guidance take-up to aid the Consumer in understanding the retirement decision-making process and promoting the potential benefits of taking regulated financial advice for those who can afford it.

Note: For consistency with terminology throughout this document, all references to **Consumer** are synonymous with Customer and Member. Likewise, the same also applies to **Scheme** and **Provider**.

How will these changes affect you?

For Consumers aged 50 and above, who are looking to transfer or to start receiving flexible benefits from their defined contribution pension, Schemes must:

- refer the Consumer to Pension Wise guidance;
- explain the nature and purpose of this guidance;
- offer to book a Pension Wise appointment;
- where a Consumer wishes to book the appointment themselves, the Scheme must provide them with details of how to do so;
- confirm and record the outcome of the nudge as part of their application.

Schemes are required to ensure that Consumers have either received independent regulated advice, Pension Wise guidance or have opted out by confirming they do not wish to receive either of these before they are able to proceed with their application.

Where the reason for transfer is not known, the Scheme can choose to limit the scope of the nudge by taking steps to establish the reasons why Consumers are transferring.

Differences between FCA and DWP rules

There are some variations in the rules between the FCA (Retail Workplace and Pension Schemes) and the DWP (Occupational Pension Schemes) that may risk confusion. Specifically worth mentioning are:

- How Consumers can opt out of guidance. For example; the FCA rules allows Consumers to opt out in the same communication with their Scheme as that used to initiate contact, whereas the DWP rules require a separate communication or form to be completed unless a specified exemption applies.
- Which Scheme(s) are to provide the nudge. FCA-regulated Schemes must nudge when the Consumer has communicated a decision in principle about how to access their savings, regardless of whether the Scheme is ceding or receiving a transfer with a view to providing benefits. TPR-regulated Schemes must nudge when the Consumer applies or communicates about an application to transfer or receive flexible benefits, unless (a) the Consumer or a representative confirms that another Scheme has already nudged, or (b) the Scheme is ceding benefits to an FCA-regulated Scheme.

Summary

- Criterion analysis suggests that the only point in the single-leg transfer model supported by the Declarations at which one Scheme involved in a transfer might want to know anything about the delivery of

a nudge to the Consumer by others is where the transfer is taking place between Schemes both regulated by the Pensions Regulator. In such cases, the Ceding Scheme is released from its obligation to nudge if the Receiving Scheme has already done so, and documented whether the Consumer has either received guidance from Pension Wise, independent regulated advice or have confirmed they did not wish to receive either before the application would be allowed to be progressed any further.

- However, the Declarations already provide for Schemes to exchange with each other any information 'to obtain from each other, and release to each other, any information that may be required to enable the transfer'. Therefore we do not believe any additional disclosure will have an impact to either the wording or Data in the Common Declarations requiring any changes to be made to them.
- In all other circumstances, either the Scheme is FCA-regulated and so obliged to nudge regardless of the actions of others; or it is a tPR-regulated Receiving Scheme which, under the single-leg model, is the first point of contact for a transfer *application*, and so is obliged to nudge.

Next Steps

We would therefore like to welcome members of the Common Declarations Working Group to share your views and confirm if you either agree or disagree with our findings.

Should further discussion be warranted, we will be happy to organise a meeting to discuss in more detail.

Useful Reference Materials:

- [FCA](#)
- [DWP](#)