

Pension transfers and early exit charges: consultation response

Alert | 15 February 2016



Introduction

On 10 February 2016, the Government published a [response](#) to its [consultation](#) on options to address possible barriers to people switching their pensions to access the new DC freedoms.

Key points

- The Government will place a new duty on the FCA to limit early exit charges. To ensure similar protection, the requirements will be mirrored for trust-based schemes.
- TPR will introduce new guidance for scheme trustees to help ensure transfers are processed promptly and accurately.
- The Government intends to make trust-based schemes “more transparent and accountable for their performance in processing transfers” through a new reporting regime.
- Pension Wise will develop additional guidance on pension transfers in order to support individuals through the process.
- The Government has decided to delay action on the advice requirement until the outcome of the [Financial Advice Market Review](#). (Its proposals are due ahead of the 2016 Budget).

Background

New retirement options for DC pension savers came into force on 6 April 2015. The Government wants to ensure that individuals can access these flexibilities “easily, and at reasonable cost”. In its July 2015 consultation (see our [Alert](#)), it set out to gather evidence and explore ways to strengthen people’s rights to access their pensions flexibly, and remove any “unjustifiable” barriers to their doing so. This involved an examination of, whether excessive early exit penalties were being levied, the transfer process and the circumstances in which someone should seek financial advice

The FCA and TPR carried out an evidence gathering exercise alongside the consultation.

Early exit charges

“Early exit charges” mean “all costs and value reductions borne by individuals (who are eligible to access their pension savings flexibly) when seeking to access their pension early, which they would not face if they carried out the same transaction at their selected or ‘expected’ early retirement date”. Market value adjustments and a loss of terminal bonuses are not considered exit charges for these purposes.

The consultation found that whilst the majority of eligible individuals are able to access their pension under the new freedoms, there was a “small but significant” number who had been effectively prevented from doing so because of high exit charges or long transfer times.

As a result, on 19 January 2016, Chancellor George Osborne [announced](#) that the Government would introduce legislation to limit early exit charges for people seeking to access the freedoms, by placing a new duty on the FCA to cap such charges. The response to the consultation provides details of how this will be achieved and confirms that the requirements will be mirrored for trust-based schemes.

Pension transfers

The consultation considered how the current transfer process could be made smoother and more efficient. Responses suggested improvements to processes in three key areas:

- scheme administration, through greater standardised and electronic transfer processes
- streamlining the due diligence process, including establishing a “white list” of trusted pension providers
- improvements in member guidance and communication for individuals who may find the transfer process confusing

The revised DC Code (see our [Alert](#)) sets out what is expected of trustee boards in relation to scheme administration and the treatment of core financial transactions, including transfers. TPR will also consult on supporting best practice guidance which will cover the actions needed to ensure transactions are processed promptly and accurately (including considering “digital by default” approaches, scheme documentation and improved administration processes), without exposing savers to a greater risk of pension scams.

Alongside this, the Government intends to create a new regulatory requirement for occupational pension schemes to report, on an ongoing basis, how they are performing in processing transfers, including against benchmarks and new transfer targets. TPR will work with the pensions industry over the coming months with the aim of bringing a package of measures into force in Summer 2016.

With respect to the potential for the establishment of a “white list” of approved providers, the Government is currently considering whether there is a need for increased supervision of trust-based providers, particularly “master trusts” which have been set up to support automatic enrolment. It intends to continue to develop its thinking over the course of the year.

To help people understand their options and how the transfer process works, Pension Wise will develop guidance on transfers and provide free and impartial information on schemes’ statutory requirements.

Financial Advice

The Financial Advice Market Review (“FAMR”) (run jointly by HMT and the FCA) has the objective of improving the accessibility and affordability of financial advice, including advice in relation to pensions. Because of the potential impact the FAMR could have on the nature of and need for advice, the Government intends to wait for its outcome before taking any specific action on the advice requirement.

Recommendations are due to be published around the 2016 Budget.

Next steps

The FCA will consult on the level of the proposed exit charge cap shortly, with a view to implementation before the end of March 2017. TPR will work alongside the FCA as they develop the design and level of the cap for FCA-regulated schemes with the aim of ensuring that any relevant concerns are appropriately addressed for all consumers.

Sacker & Partners LLP
20 Gresham Street
London EC2V 7JE
T +44 (0)20 7329 6699
E enquiries@sackers.com
www.sackers.com

Nothing stated in this document should be treated as an authoritative statement of the law on any particular aspect or in any specific case. Action should not be taken on the basis of this document alone. For specific advice on any particular aspect you should speak to your usual Sackers contact. © Sacker & Partners LLP February 2016