FINANCIAL CONDUCT AUTHORITY

The stronger nudge to pensions guidance: feedback on CP21/11 and final rules and guidance

Policy Statement
PS21/21

December 2021

This relates to

Consultation Paper 21/11
which is available on our website at
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1 Summary

1.1 In 2015, Parliament passed legislation on pension freedoms giving consumers far greater flexibility to decide how and when they access their defined contribution (DC) pension savings. For many consumers, the choices associated with these decisions are complex and carry a number of risks. Choices on how much money to take out, at what time, and in what form, are likely to have a significant impact on the consumer's retirement experience. Many consumers would benefit from support and guidance on the required decisions.

1.2 Recognising this, the Government set up Pension Wise as one source of guidance. Pension Wise is offered by the Money and Pension Service (MaPS) through its MoneyHelper brand. It provides consumers with free and impartial guidance about the options for accessing their DC pension savings. The guidance does not cover defined benefit (DB) pension savings or other pension queries beyond the options available under pension freedoms.

1.3 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 us, the Government, the Work and Pensions Committee (WPC) and a broad range of stakeholders. In this paper, we introduce 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').

1.4 We have a duty to implement the specific provisions of the Act, which we refer to as the 'stronger nudge'. This policy statement achieves that implementation. However, we think more needs to be done to make taking of guidance, including Pension Wise guidance, the norm. In our consultation paper setting out proposals to implement the Act, we asked what more could be done to increase take-up of the Pension Wise service, beyond the options tested to implement the Act. We asked how the stronger nudge could be made more difficult, including whether a decision to opt out of guidance should include a '**cooling off period**' and how an additional **earlier nudge** could be introduced.

1.5 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 is also starting work on a Pension Wise digital appointment 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.

1.6 To complement MaPS' work, we used our consultation paper (CP21/11) to explore how we might support consumers more broadly to access the **right pensions guidance** and support **at the right time** and through the right channels, to help them make informed choices about their pension savings. This Policy Statement summarises the feedback received to these discussion areas and what we have learned.

Future work

1.7 Our next phase of work, starting early in 2022, will explore additional ways to support consumers. This will consider the pensions guidance needs of consumers more holistically at different points in their pensions journey, including in the run-up to accessing their pension savings. For example, MoneyHelper also offers other pensions guidance that may be more relevant than Pension Wise guidance at an earlier point in the consumer's pensions journey. This also links to our joint work with The Pensions Regulator (TPR) on the **Pensions Consumer Journey**, which explores what more we can do to help engage consumers as they build up their pension savings, so that they can make informed decisions to optimise their savings outcomes.

1.8 As part of this, we will consider the feedback received on our discussion areas alongside the feedback to our Pensions Consumer Journey Call for Input, to weigh up different options to further support consumers. To ensure we only take forward the most cost-effective, evidence-based interventions, in an environment of limited resources, we will work closely with the Department for Work and Pensions (DWP), TPR, MaPS, industry and other stakeholders to decide which of the different approaches to take forward. If we decide to implement any such additional measures, we will consult on proposals at a later stage.

Who does this affect?

1.9 This Policy Statement primarily affects providers of pensions, including operators of self-invested personal pensions (SIPPs). It will also be relevant to stakeholders with an interest in the pensions and retirement income sector, including:

- individuals and firms providing advice and information in this area
- distributors of financial products, in particular retirement income products
- trade bodies representing financial services firms
- consumer representative bodies
- charities and other organisations with a particular interest in retirement and/or financial services more generally
- individual consumers

The wider context of this policy statement

1.10 The latest retirement income data show that only 14% of consumers accessing a DC pension pot for the first time used Pension Wise. In a December 2017 report, the WPC expressed concerns about the low take-up of Pension Wise. It recommended that Pension Wise guidance should be the default and proposed an amendment to the Act. In response, the Act was amended and we refer to the amended requirements as the 'stronger nudge' to pensions guidance.

1.11 Section 18 of the Act requires us to make rules for personal and stakeholder pension providers to require that they refer consumers to Pension Wise guidance, explain the nature and purpose of the guidance when they make an application to access their benefits, and to ensure that as part of their application to access or transfer their benefits, consumers have either received or opted out of receiving the guidance. Section 19 of the Act requires DWP to make corresponding regulations for trustees of occupational DC pension schemes regulated by TPR.

1.12 In CP21/11, we consulted on new rules to implement the provisions of the Act. Our consultation proposals had been informed by the results of consumer behavioural trials. The trials demonstrated a statistically significant increase in Pension Wise take-up following a nudge, albeit from a low level. The new rules require pension providers to refer consumers to Pension Wise guidance at the point they have made a decision in principle to access or transfer for purposes of accessing their pension savings. As part of that process, providers must explain the nature and purpose of the guidance and offer to book the consumer a guidance appointment. This will give consumers a final opportunity to take Pension Wise guidance before they access their pensions savings.

1.13 This Policy Statement summarises the feedback we have received to CP21/11 and sets out our final rules and guidance to implement the stronger nudge to pensions guidance. We explain where we have refined and clarified the rules and guidance to address the feedback received.

1.14 As explained in our consultation paper, we think that providing consumers with better information to equip them to make decisions is central to achieving good pension outcomes. Since the introduction of the pension freedoms, we have introduced a number of requirements on pension providers to help consumers make decisions about which option – or options – to choose when accessing their pension savings. Implementing the stronger nudge to Pension Wise guidance, is a further step in improving the consumer pensions journey.

DWP regulations

1.15 We have continued working closely with DWP and MaPS as we have finalised our rules. We recognise the importance of ensuring consistent outcomes for consumers, regardless of the type of pension scheme they are saving into and have sought to align our approaches as far as possible. However, there are some differences between our final rules and the regulations on which DWP consulted. Industry has highlighted that some of these differences present operational complexities for providers of both contract and trust-based schemes. We have worked closely with DWP to minimise any operational impact. We have worked to ensure our rules provide sufficient flexibility for such providers to take a common operational approach across both types of scheme. Providers can do more than the minimum prescribed in our rules and may want to do so for operational reasons.

1.16 The main difference between our requirements and those that DWP consulted on, relates to how consumers can opt out of guidance. Our rules allow consumers to opt out in the same communication with their provider as that used to initiate contact. DWP's consultation proposals require scheme members to opt out through a separate active communication with trustees or managers unless a specified exemption applies. Our rules do not set out how a consumer must opt out. Should DWP take forward its proposed approach on opt-outs, our rules provide flexibility for providers who offer both contract and trust-based pension schemes to adopt DWP's proposed opt-out process where they consider it appropriate.

1.17 Although not part of our consultation proposals, we also asked discussion questions on the process for opting out. The feedback has been summarised in paragraph 3.7.

Stakeholder interest in alternative approaches

1.18 There has been significant stakeholder interest in this work, including from consumer groups, Parliamentarians, the WPC and industry. Some of these stakeholders consider that our proposals don't go far enough and argue they would have limited impact on increasing take-up of Pension Wise guidance. Many stakeholders would like to see an **auto-appointment** approach, where consumers are automatically booked a Pension Wise appointment at age 50, with an option to opt out.

1.19 A proposed amendment to the Pensions Schemes Act 2021 that would have legislated for an auto-appointment approach was rejected by Parliament. In light of Parliament's decision, we do not think it would be appropriate for us to make rules requiring an auto-appointment at this stage. These rules are instead focused on delivering the specific requirements of the Act by implementing the stronger nudge. However, we recognise there is more to do to support consumer decision making.

How it links to our objectives

Consumer protection

1.20 The new rules will help consumers understand the nature and purpose of Pension Wise guidance and offer them an easy way to book a Pension Wise appointment. Our rules will make it easier and more likely that consumers will access the information they need to understand their options and the associated risks, and to make informed decisions about accessing their pension savings. This will help protect them from poor outcomes.

Competition

1.21 The new rules will promote the take-up of Pension Wise guidance at the point when a consumer decides in principle to access their pension savings. Consumers who receive this guidance will be better placed to make informed decisions, and will be more likely to:

- explore a range of options for accessing their pension savings
- shop around before deciding on the provider through which they will decumulate

1.22 This in turn should help drive competition in the market.

What we are changing

1.23 To implement the requirements of Section 18 of the Act, our 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

1.24 In addition to the existing requirements that providers confirm and record whether the consumer has received Pension Wise guidance or regulated advice, we will also require providers to confirm and record whether the consumer declined the offer to receive the Pension Wise guidance (opted out).

Outcomes we are seeking

1.25 We 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. Our 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

Measuring success

1.26 Our new rules will increase consumer awareness of impartial Pension Wise guidance at the point they wish to access their pension savings and make it more likely that they take up this guidance. Taken together with our previous work, this should support decision making when consumers access their pension benefits or transfer their pension in order to access their benefits.

Summary of feedback and our response

1.27 We received 57 formal responses to our consultation. These came from pension providers and other firms operating in the pensions and retirement income industry, trade bodies and individuals, as well as consumer groups and charities. We have included a list of non-confidential respondents in Annex 1.

1.28 While there was broad support for the intent of our proposals, around half of respondents thought the nudge to Pension Wise guidance came too late in the journey when consumers would have already made up their mind about how they wish to access their pension savings. However, the Act requires the nudge to be delivered as part of and before proceeding with the application process.

1.29 We also received lots of detailed feedback on how our proposed rules and guidance apply to transfers. In particular, there were concerns about using age 50+ as a proxy for transfers for purposes of access. The responses also indicated that some respondents had misunderstood the intention or application of certain aspects of our proposals.

1.30 We also received 437 email responses through the www.goodguidancenow.uk campaign, supporting auto appointment.

1.31 Having considered the feedback, we are largely proceeding on the basis on which we consulted, with some minor refinements where we agreed it would improve the rules and to clarify our policy intent in some areas so that the intention behind the rules is clearly set out.

Equality and diversity considerations

1.32 We have considered the equality and diversity issues that may arise from the final rules and guidance. Overall, we do not consider that the proposals adversely impact any of the groups with protected characteristics under the Equality Act 2010.

Next steps

Consultation proposals

1.33 We set out the final rules and guidance to our consultation proposals in the Appendix. As well as the changes covered in this Policy Statement, we have made other minor technical changes to the instrument based on respondents' feedback. Firms affected by these changes will need to ensure that they comply by 1 June 2022.

Discussion areas

1.34 We will consider feedback to our discussion questions, summarised in Chapter 3, alongside that received to our Call for Input on the Pensions Consumer Journey, published jointly with TPR. This explored additional ways we can support consumers, considering the pensions guidance needs of consumers more holistically at different points in their pension savings journey and into retirement. Should we decide to progress any such additional measures, we would consult on detailed proposals at a later stage.

2 Stronger nudge: feedback on our consultation proposals, data collection and our final rules

2.1 This chapter summarises the feedback we have received to our consultation proposals and how we are proceeding on the stronger nudge to pensions guidance. We explain where we have refined our approach to take account of respondents' views.

2.2 To recap, the Act requires regulated firms (and occupational pension schemes) to explain to a consumer the benefits of Pension Wise guidance and refer them to the guidance when they want to access their pension savings.

When should a firm tell a consumer about Pension Wise?

Proposals

2.3 The Act requires firms to refer consumers to Pension Wise guidance and explain the nature and purpose of such guidance 'as part of the application process'. The firms must also ensure consumers have received guidance or opted out 'before proceeding with the application'. We proposed to capture this requirement in our rules by setting out that the requirement to nudge is triggered when our retirement risk warning rules (COBS 19.7) are triggered, ie when a consumer indicates to the provider that they have decided, in principle, how they wish to access their pension savings.

2.4 We did not include exemptions from the nudge as we considered that all consumers should receive a nudge, even if they have previously received guidance from Pension Wise or taken regulated advice on how to access their pension savings.

Feedback received

2.5 Around half of respondents thought the nudge came **too late** in the journey, when consumers have already made up their mind about how to access their pension and are committed to a particular option. Some were concerned that nudging consumers at this point may be perceived as a barrier to accessing their benefits and could result in negative behaviours and increased complaints. Some respondents also cited findings from the trials, which showed that take-up was greatest amongst those who were still considering options.

2.6 Some respondents suggested those who have received financial advice or Pension Wise guidance previously should be **exempt** from the nudge, as it may lead to confusion or may be seen to doubt the validity of the guidance or advice they have previously received. A few also suggested those who are engaged in their pension decisions, including choosing their contribution levels and investments, should be exempt from the nudge.

Our response

We are proceeding with the trigger as consulted on in CP21/11.

The Act requires the nudge to be delivered 'in relation to an application' and 'as part of the application process'. The earliest and most consistent point in our rules when the application process is first triggered is when a consumer makes a decision in principle about how they wish to access their pension savings. So, while the nudge may come too late in the consumer pensions journey for some, the trigger is as early as we can make it while complying with the requirements of the Act. However, as set out in CP21/11, our proposals represent a minimum requirement. Firms can deliver additional nudges to guidance earlier in the consumer journey if they wish, for example when consumers are still exploring their options.

We continue to consider that the nudge should be delivered to all consumers. This includes those who have previously received guidance or advice as it may still be beneficial to these consumers. Where a consumer states that their reason for opting out from the guidance offer is because they've already received guidance previously, our 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.

We do not agree with the feedback that this could be seen to doubt the validity of the guidance or advice they previously received. Our rules allow providers to proceed with an application if the consumer does not wish to take up the guidance offer (opts out).

Transfers – when the nudge should be delivered

Proposals

2.7 The Act requires consumers transferring for purposes of accessing pension savings to be nudged to Pension Wise guidance. This captures consumers who have decided in principle, to transfer rights accrued under their existing pension scheme to another pension scheme, for the purpose of accessing their pension savings. Providers may not always know whether a consumer is transferring to access, or transferring for other reasons, for example to consolidate. Nor may they be able to establish the reason for a transfer with the consumer. To align closely with the intention of the legislation, which is aimed at savers accessing pensions, we added guidance that providers can assume that consumers over 50 who are transferring are doing so for the purpose of accessing their pension savings. This was because, in most circumstances, those transferring before age 50 would not be eligible for Pension Wise guidance and so should not be nudged.

Feedback received

2.8 Despite transfers being in scope of the requirement of the Act, a number of industry respondents did not agree that providers should be required to deliver a nudge when consumers transfer for the purpose of accessing their pension savings.

2.9 One respondent raised concerns that the transfers trigger relates to a consumer's future intent, of which their existing provider would be unaware, and so would be incompatible with the rest of the retirement risk warning rules, which are specific to a decumulation option chosen.

2.10 Some industry respondents raised concerns about using age 50+ as a proxy for transfers for purposes of access, given that normal minimum pension age – the age at which most consumers can access their pension savings without incurring a tax charge – is 55 (due to increase to 57 in 2028). They thought this might encourage firms to take a blanket approach and nudge everyone over 50, including those transferring for reasons other than to access their pension savings.

2.11 Some thought a nudge at the point of transfer would be unnecessary, given that it would also be delivered at the point of access. They argued that it may cause delays to the transfer process, if providers are unable to allow a transfer to proceed until the consumer has confirmed that they have received guidance or opts out. A few respondents questioned whether the nudge should be delivered on defined benefit (DB) to DC transfers.

Our response

The Act requires transferring consumers to be nudged. So we are proceeding with the transfers trigger, as consulted on in CP21/11.

Our nudge and retirement risk warnings rules apply when a consumer wishes to access their pension savings by using one of the decumulation options. In the case of transfers, providers may need to take additional steps to establish this, for example, asking the consumer how they wish to access their pension after transferring.

We are retaining in guidance the age 50+ as a proxy for consumers transferring to access pension savings. While we understand the feedback, the guidance allows consumers to be nudged at the earliest age they are eligible to take Pension Wise guidance having made a decision in principle about how they want to access their savings. It should be noted that our age proxy is guidance and may be applied where the reason for a transfer is not known (see paragraph 2.7). We recognise that if firms take a blanket approach and nudge all consumers aged 50+, this may mean that consumers are nudged when they are transferring for reasons other than to access their savings. As above, providers can choose to limit the scope of the nudge by taking steps to establish the reasons consumers are transferring.

The Act requires that providers should not proceed with an application unless the requirements to nudge have been fulfilled, and the consumer has confirmed receipt of guidance or opted out. For transfers, this is limited to DC to DC transfers, or switches, rather than DB to DC transfers.

Transfers – who delivers the nudge

Proposals

2.12 In instances where a transfer is to a different provider, a consumer may contact either their existing provider (the ceding provider) or the provider to which they want to transfer (the receiving provider). To ensure the nudge is delivered at the earliest point when a consumer wishes to transfer to a different provider, we proposed that the requirement to nudge will apply to whichever provider a consumer first contacts to initiate the transfer, be that ceding or receiving provider.

Feedback received

2.13 There were a range of views on who should deliver the nudge when a consumer transfers to a different provider. Most industry respondents that expressed a preference suggested that the requirement to nudge should lie with the receiving provider rather than whoever the consumer contacts first. Otherwise, consumers accessing their savings by consolidating pension pots from multiple providers may receive multiple nudges. They also suggested that receiving providers are more likely to have knowledge of how benefits were subsequently going to be accessed once transferred, information that the ceding provider would not be aware of. Some respondents also questioned how providers would know whether they were the first to be contacted in a transfer.

Our response

We recognise that requiring only the receiving provider to deliver the nudge may avoid multiple nudges when consumers transfer to access their pension from multiple pots. We also understand that receiving providers are more likely to know if and how benefits are being accessed. However, consumers can contact the receiving or ceding provider in order to transfer their savings and we want the requirements to be triggered at the earliest point in the consumer journey. While this means some consumers may receive multiple nudges, consumers can opt out of subsequent nudges in relation to the same transaction. We accept that providers may not know without further enquiry whether they are the 'first' to be contacted by a consumer wishing to transfer. We consider that requiring providers to make further enquiry would be disproportionate. There is risk that a consumer does not receive a nudge at all if we prescribe this in our rules. So we have removed the word 'first' from the rules. This means that the nudge should be delivered by whichever provider the consumer contacts, regardless of whether they are the first to be contacted in relation to a transaction.

Building the nudge into the consumer journey

Proposals

2.14 Providers already have to provide consumers with a range of information when they have decided in principle how they want to access their pension savings. We want the nudge to fit in with these communications. So we proposed to incorporate the nudge **within step 1 of our retirement risk warnings rules**, on the basis that it amplifies and extends the existing requirement within those rules to signpost the availability of guidance. The retirement risk warnings reinforce the messages that Pension Wise delivers and help focus the consumer on the consequences of the action they intend to take at the point they wish to access their pension.

Feedback received

2.15 Just over a third of respondents agreed that the nudge should be incorporated within step 1 of the existing retirement risk warning rules. Those who disagreed thought that the trigger for the nudge came too late in the journey, that it may be seen as a barrier to accessing pension savings and have a negative effect on customers' engagement with pensions. Some thought that while this would act as a suitable backstop or 'second line of defence', it would not be the most effective place to incorporate the nudge to increase take-up of Pension Wise guidance. A few respondents also thought that adding the stronger nudge at this point in the process will lead to a further break in the consumer journey, which will only serve to frustrate customers.

Our response

Notwithstanding the feedback on when the nudge should be delivered, we continue to consider that incorporating the nudge within step 1 of the existing retirement risk warning rules is the best place both from a consumer journey and cost effectiveness perspective. Firms must give a consumer retirement risk warnings before the consumer accesses their pension savings, so incorporating the nudge within step 1 of these requirements will ensure all consumers receive a nudge when they wish to access their pension savings. We do not agree that adding the stronger nudge will lead to a further break in the consumer journey. The existing rules already require providers to signpost consumers to Pension Wise guidance at step 1 of the retirement risk warning rules which results in a break where a consumer opts to receive the guidance or regulated advice. Our nudge requirements build on these existing rules.

Explaining the nature and purpose of pensions guidance

Proposals

2.16 We proposed not to script the content of how the nature and purpose of Pensions Wise guidance is explained to the consumer. However, we proposed guidance about what this explanation should include.

2.17 We also included the presentation of the option for consumers to take regulated advice at their own cost within this explanation, in order to preserve the existing requirements at step 1 of the retirement risk warnings, to signpost to advice and guidance.

Feedback received

2.18 While most agreed that the explanation of the nature and purpose should not be scripted, some supported a sufficient degree of prescription in key messages to ensure the nudge is not undermined, and consistently delivered. Others suggested that our guidance should include how the explanation is delivered, as well as what it should include.

2.19 One respondent thought that the explanation should also include the benefits of taking regulated advice over and above Pension Wise guidance to allow a more balanced comparison of these options.

Our response

We do not consider there is a need for additional prescription in the explanation of the nature and purpose of Pension Wise guidance. Evidence from the MaPS trials suggests it is unlikely to add value, as providers adapted the script to better incorporate it into the natural flow of the conversation. We consider that providers can determine how best to explain the nature and purpose of Pension Wise guidance in a way that is clear, fair and not misleading, based on their knowledge of their customers. So, we don't consider the need for guidance on how that explanation is delivered. Our final rules also include requirements to ensure that providers do not undermine and give sufficient prominence to the nudge when explaining the nature and purpose of Pension Wise guidance.

Given that this is a nudge to guidance, we do not consider it appropriate to prescribe the benefits of advice over guidance.

Booking the guidance appointment

Proposals

2.20 Where a consumer accepts the offer of guidance, we proposed that providers take reasonable steps to book an appointment at a suitable time for the consumer or provide the consumer with sufficient information to book their own appointment. We did not prescribe how a provider should book an appointment where a customer accepts the offer to do so.

2.21 Our rules are also intended to apply regardless of the channel through which a consumer contacts their provider.

Feedback received

2.22 Some respondents raised concerns about the requirement for providers to offer to book an appointment for a consumer on the basis that it would be costly, complex and inefficient to implement (for example, if a consumer wishes to reschedule their appointment date). They saw no additional benefit on take-up than if a customer were to book their own appointment and thought it would not change consumer behaviour. Some also suggested that consumers are more likely to attend if they were to book their own appointment.

2.23 Some respondents thought further clarification was needed as to how our proposed rules work for a solely **online journey**. This included the proposed requirement to send a written confirmation to the consumer of all relevant details to enable the consumer to attend the appointment. Some suggested that MaPS develop an application programme interface (API) that could accommodate the differing application systems used by pension providers.

Our response

We want to make it as easy as possible for consumers to book and take guidance. So, we think pension providers should offer to book an appointment for a consumer. Once an appointment has been booked, consumers can manage any rescheduling themselves. However, we have removed the requirement for the provider to send a confirmation of details of the appointment booking to the consumer **in writing**. Our understanding is that MaPS already provide this and will continue to do so.

Our rules will require providers to take reasonable steps to offer to book an appointment for consumers including those who access their pension **online or by post**, if they agree to take up the guidance offer. If the provider is unable to book an appointment at a suitable time despite taking reasonable steps, or the consumer prefers to book the appointment themselves, they must provide the consumer with sufficient information to book their own appointment including in an online context. This could include providing an external link to the online booking system or other methods that might become available to allow consumers to book their own appointment.

Opting out and how to record this

Proposals

2.24 The Act allows consumers to opt out of taking Pension Wise guidance. We proposed that where the consumer explicitly declines the offer of guidance, this constitutes an opt-out and should be recorded as such. If the consumer states that their reason for declining the offer is because they have already received guidance. then the provider should not record that as an opt-out but record them as having received guidance.

2.25 To ensure consumers who take up Pension Wise are positively engaged in the process and take up the offer of guidance willingly rather than feeling forced into it, we considered that opting out should not be unduly difficult. Such an approach may also increase the likelihood that consumers attend the appointment. However, recognising concerns that an immediate opt-out could create a disincentive to take guidance as it allows a consumer faster access to their pensions savings, we explored through our discussion questions what additional measures could be put in place to make the opt out more difficult (see paragraph 3.7 onwards for a summary of the feedback we received to this discussion question).

Feedback received

2.26 Most respondents agreed with requiring providers to record an opt out from guidance, although some suggested that giving administrative control of the opt out process to providers could result in conflicts of interest. As an alternative, some of these respondents suggested that consumers should have to opt out with MaPS, to ensure consistency in messaging at that point of contact with the consumer. Some also suggested that consumers should be provided with information about what to do if they change their mind after opting out of guidance.

Our response

Where a consumer declines the offer of Pension Wise guidance and does not state that their reason for doing so is because they have already received guidance, our rules require providers to **record the opt out**. We consider this to be the most efficient and effective way to ensure a seamless consumer journey and to ensure that opting out is not difficult. Requiring consumers to opt out with MaPS would add an additional break in the consumer journey, which might be considered burdensome by some consumers and unlikely to encourage attendance at and engagement with guidance. To mitigate the risk of providers having conflicts of interest when delivering the nudge, we invited discussion on data we may collect to inform our supervisory approach (see paragraph 2.33 below). As set out above, our final rules also include requirements to ensure that providers do not undermine and do give sufficient prominence to the nudge when explaining the nature and purpose of Pension Wise guidance.

As all consumers must receive a nudge to guidance when they access their pensions savings, we have not required providers to record nudges delivered.

Re-nudging

Proposals

2.27 Where a consumer returns to access their pension savings, having been nudged and confirmed they have received guidance, we proposed that providers do not need to nudge the consumer again, unless circumstances have changed, and it appears on reasonable grounds that they could benefit from receiving guidance again. This allows providers to use their judgement about when it might be appropriate to repeat the nudge.

2.28 We introduced this requirement to avoid having an arbitrary time period for when a provider should re-nudge the consumer. We also provided guidance on circumstances where consumers may benefit from a repeat nudge and receiving guidance again. This includes where, since the date of their appointment, personal circumstances or market conditions have changed in a way that impacts on the significance or relevance of the options for accessing their pension savings.

Feedback received

2.29 Some respondents suggested it would be difficult to make this assessment without the risk of straying into assessing a consumer's personal circumstances or providing advice.

Our response

We consider it helpful to clarify our policy intent. Our policy intent was to allow providers to use judgement about when to re-nudge consumers, in particular where the passage of time since a consumer has received guidance could impact on the consumer's options for accessing pension savings. However, we have taken on board the feedback and made some changes to our final rules to clarify this intent. Providers are only required to re-nudge when they **are aware** or **have been made aware** by the consumer of significant changes in circumstances since they last received the guidance. In such circumstances, providers must re-nudge where it appears to the provider on reasonable grounds that the consumer may benefit from a repeat of the guidance in order to evaluate the different options available to them in the context of their current circumstances. We do not expect providers to assess or probe consumers about changes in their personal circumstances unless they are made aware of such changes by the consumer.

Our revised guidance sets out circumstances where a re-nudge may be beneficial. This might include where the provider is made aware of changes in a consumer's personal circumstances, or is aware of significant changes in market conditions or other reasons that significantly impact on the value of the consumer's pension savings from when they last received guidance. In light of such circumstances, consumers may benefit from receiving guidance again, as the options available to the consumer to access their pension savings may be of different significance and relevance from when they last received guidance.

Our approach on re-nudging is similar to the approach we have taken in relation to the delivery of the retirement risk warnings, where providers may use judgement to determine whether the retirement risk warnings are still appropriate. We had considered requiring providers to explain the benefits of receiving guidance again where they are not made aware of changes in circumstances, but we do not think this would be proportionate.

Data collection – discussion questions

2.30 Once the rules are embedded, we will want to use data to understand how providers are implementing our rules. We asked discussion questions to inform our future thinking about what data we might collect to support supervision of our proposed rules, and (separately) help understand consumer behaviour, for example the reasons why consumers opt out of taking guidance. We also provided an indication of areas where providers may wish to keep records to meet our Systems and Controls Sourcebook (SYSC) requirements and ensure the information provides some indication of the impact of our proposed measures.

2.31 We also suggested that we may use data collected to enable us to identify where there may be unmanaged conflicts of interest and help inform our supervisory approach. For example, a perceived conflict may be that providers may retain the customer for their own decumulation product rather than being encouraged to shop around if they receive guidance, and that could affect how the provider delivers the nudge.

2.32 We also asked about the most proportionate way to collect these data periodically.

Feedback received

2.33 Most respondents agreed there is value in collecting data under standardised categories on reasons why people opt out to contextualise opt-out volumes, ensure consistency and enable comparison between providers. Some respondents also wanted confirmation of data we may collect, before the rules come into effect, as this would need to be built into systems and processes.

2.34 Most also agreed that future data requests should leverage existing regulatory returns and not introduce new requirements.

Our response

We will use the feedback received to identify the most appropriate data to collect and to determine how we collect these data on an ongoing basis from providers. Any future regular data collection requirements will be subject to consultation before being issued to industry. We cannot confirm what data we may collect at this stage. However, in the consultation paper, we provided an indication of areas where providers may wish to keep records and where we may wish to collect data to enable us to monitor compliance with our rules and assess the impact of our proposed measures.

3 Feedback on discussion areas and our future work

3.1 As set out in our consultation paper, further interventions – by us or firms – are likely to be needed to drive greater take-up of guidance services. With this in mind, we asked a number of discussion questions about what more we can do beyond options tested for implementing the provisions in the Act. This chapter summarises the feedback received on the discussion areas. As set out in paragraph 1.8, we will consider the feedback we received when designing our further work, including any trials we may seek to conduct.

3.2 There was no consensus among respondents about what is needed to deliver greater take-up of guidance, although the option of an earlier nudge received most support. However, it is important to remember that our rules set minimum requirements, and providers can already nudge consumers earlier if they wish. For example, providers can nudge consumers to appropriate guidance services earlier in their journey in addition to when required under our rules.

3.3 Given there is no clear consensus or evidence at this stage for which further interventions would be most effective, we propose that a range of options should be considered and tested as appropriate, before any measures are implemented in our rules.

The process of opting out, including a cooling off period

3.4 Our final rules allow consumers to opt out from taking Pension Wise guidance after receiving a nudge by declining the offer to book a guidance appointment. On one hand we want that opt-out to be relatively straightforward, so that Pension Wise is not perceived as a barrier to accessing pension savings.

3.5 On the other hand, we want to ensure that an opt-out is not simply seen as the quickest way to access pension savings. We could go further and make it more difficult for consumers to opt out from guidance, hoping this would incentivise take-up. This could give consumers time to reflect and consider whether guidance might help them to think about the long-term implications of their decision on their retirement outcomes.

3.6 We invited views on whether the decision to opt out should include a 'cooling off period'. This could operate as a **minimum time period** that a consumer must wait before opting out, so that declining the offer of Pension Wise guidance isn't the quickest way to access pensions savings. Or it could operate as a **break in the consumer journey** at the point a consumer initially declines the guidance offer, requiring the consumer to confirm the decision to opt out through a separate communication.

Feedback received

3.7 Most industry respondents did not support adding additional friction in the consumer journey. They thought it would be unlikely to increase take-up or engagement with guidance and may result in operational problems for MaPS if consumers take guidance begrudgingly. Some industry respondents also said that it could be seen as a barrier to consumers' access to their savings, increasing complaints and dissatisfaction, and cause delays that could lead to poor outcomes.

3.8 Some consumer groups were in principle warm to the idea of adding friction to the consumer journey to protect consumers from poor decisions and offered suggestions about how it could be implemented. For example, by explaining why the delay is part of the process or the risks of opting out from guidance. But the consumer representatives also noted that any such approach should be tested first to ensure that it achieves the intended outcome.

Earlier nudge

3.9 Our rules implement the legislative requirement for a nudge to guidance to be 'part of the application process', ie as a last call to action before a consumer commits to accessing or transferring for the purpose of accessing their pension savings. However, this intervention alone may not be enough to make taking Pension Wise guidance the norm. The MaPS trial evidence indicated that most participants had already decided how to access their pension by the time they contacted their provider to do so. Guidance at this point may have limited influence on how the consumer wishes to proceed. The trial evidence also found that take-up of Pension Wise guidance was higher among the relatively small proportion of consumers who were still considering their options.

3.10 With this in mind, we invited views on whether and how an additional earlier nudge could be introduced. We asked how it can be incorporated into existing processes, the most appropriate trigger for an earlier nudge, the associated implementation challenges and the extent to which an earlier nudge could further increase in take-up of Pension Wise guidance, beyond that attributable to changes in wake-up packs.

Feedback received

3.11 Most respondents supported an earlier nudge to guidance, when a consumer is still considering their options, as supported by findings from the MaPS trial. Some suggested that it should be delivered around particular life stages and events before a consumer needs to make a decision. Others suggested incorporating the delivery of the nudge in wake-up packs by making existing signposting more prominent or explaining benefits of guidance in a positive way that encourages its take-up.

3.12 Some respondents also highlighted the implementation challenges associated with an earlier nudge, including costs of upgrading systems and processes, record keeping requirements and additional time. Others suggested that costs of implementing an additional earlier nudge may be less than those associated with the stronger nudge at point of application.

3.13 Some suggested age 50 as the appropriate age for an earlier nudge, as it would enable consumers to act, while others suggested the age at which a consumer qualifies for pension freedoms.

Right guidance at the right time

3.14 Pension Wise provides impartial guidance for those aged 50 and over and is specifically focused on the options available when accessing DC pension savings. We know that consumers have wider pensions guidance needs at other points in the consumer journey. These vary due to different factors, including age and proximity to retirement, size of pension pot(s), self-confidence in financial capability and changes in personal circumstances. So building on our existing work to support consumer decision making, we also invited discussion on whether there are any other regulatory interventions to support consumers to access the right guidance at the right time and whether there is anything else we should consider that could help pensions savers make informed decisions.

Feedback received

3.15 There were a wide range of suggestions, reflecting the nature of this discussion question. Some fall outside the scope of our regulatory remit. In order to drive take-up rates, some respondents suggested the need for a public awareness campaign for Pension Wise, and a joint communications strategy between government and industry or a 'call to action' that encourages consumers to seek guidance. Some respondents also suggested that the boundary between advice and guidance should be revisited to allow for more personalised guidance that takes account of a consumer's personal circumstances or to include a generic recommendation. Some also suggested making Pension Wise guidance available to all those under 50 and ensuring consumers are steered towards appropriate guidance. A number of industry respondents also argued that the scope of 'appropriate pension guidance' under the Act should also include in-house guidance provided by pension providers. There was limited feedback on measures to increase take-up of other guidance offered by MoneyHelper.

3.16 A number of key stakeholders were particularly focused on auto appointment. There has been some public discussion about whether consumers could be automatically booked a Pension Wise appointment. Parliament debated auto-appointment as part of the Pension Schemes Act 2021, though the amendment was ultimately rejected.

3.17 We did not ask a specific question about auto-appointment, but we received feedback on this idea in response to our more general questions.

3.18 We received calls for **auto-appointment** through the www.goodguidancenow.uk campaign, as well as through some of the other responses to our consultation. This approach requires consumers to be automatically opted in or 'defaulted' into a Pension Wise appointment when they reach age 50, with the option to opt out. Respondents supporting this approach have drawn parallels with the success of automatic enrolment in increasing participation in workplace pensions. They argue that such an approach is needed to make taking Pension Wise guidance the norm when consumers access their pension savings, especially given the relatively limited impact on take-up following the nudge in the MaPS trial.

3.19 Those in favour of auto-appointments suggested trials to test this approach.

3.20 In addition, we received separate written correspondence from stakeholders advocating for such an approach.

Our response

3.21 The feedback received on our discussion questions suggests some, albeit limited, support for **making opt out more difficult** for the consumer. There was much greater support for an **earlier nudge** to increase take-up of Pension Wise guidance. Firms can already deliver additional nudges to guidance earlier in the consumer journey, for example when consumers are still exploring their options, if they wish. However, we will use the feedback we have received to understand whether a regulatory impetus is required, considering the operational impacts to MaPS and questions about whether Pension Wise guidance is appropriate for everyone at an earlier stage in the consumer journey.

3.22 We have also shared the suggestions for a public campaign to raise awareness of Pension Wise with DWP. However, it should be noted that MaPS have recently undertaken a public rebrand of their services, replacing their consumer facing brands, Money Advice Service and The Pensions Advisory Service (TPAS), with a single new brand, MoneyHelper. As explained in paragraph 1.5, the plan is for consumers to be provided with a single gateway for all money and pensions guidance over the phone, online and face to face. This also includes Pension Wise.

3.23 We recognise the important role of providers in supporting and providing guidance to consumers in relation to their retirement decisions. We will work with providers to ensure firms can support consumers where it is in their interests.

3.24 While we recognise the appeal of an **auto-appointment** approach, we are not sure that the success of auto-enrolment at increasing participation in workplace pension schemes necessarily means that the same approach is right to increase Pension Wise take-up. This is because auto-enrolment relies on consumers being passive participants, whereas the take-up of Pension Wise guidance relies on consumers actively attending the appointment.

3.25 We also have little evidence as to whether consumers for whom an appointment is made would actually engage with the service. Our current view is that consumers who have chosen to take the guidance offer, are more likely to attend and engage with it than those who are automatically booked into an appointment. It is also not useful for a consumer to be automatically booked a Pension Wise appointment for each separate pot they hold. So, an auto appointment approach without further refinement may lead to higher rate of cancelations, which would be detrimental to the efficiency of the service.

3.26 However, we are open to ideas, and indeed trialling ideas with industry that might make take-up of Pension Wise the norm for consumers.

3.27 Much of the feedback we received in relation to how we might support consumers more broadly builds on plans that MaPS have to deliver high quality and more targeted pensions guidance through an increasing number of channels, and to ensure consumers get the right guidance through the right channel the first time.

3.28 As explained in paragraph 1.8, we will use the feedback received on the discussion areas in CP21/11, and to the consumer journey Call for Input, to consider and target future regulatory interventions. We recognise the need to test interventions and plan to build this into our work programme. We will continue working closely with MaPS, as it further develops its guidance offering, and with DWP and TPR to ensure our interventions support consumers to access the right guidance they need at the right stage in their pension journey.

Annex 1
List of non-confidential respondents

Aegon

Age UK

AJ Bell

Alasdair Forsyth

Association of British Insurers

Association of Member Directed Pension Schemes (AMPS)

Association of Professional Compliance Consultants

Aviva

Barnet Waddingham SIPP LLP

Capita plc

Curtis Banks

Equity Release Council

EY

FCA Financial Services Consumer Panel

FCA Smaller Business Practitioner Panel

Fidelity International

Financial Inclusion Commission

G Massey

Hargreaves Lansdown

Interactive Investor

Investment & Life Assurance Group

Jeremy Gordon

John Hunter

Just Group plc

Legal & General

Low Incomes Tax Reform Group (Chartered Institute of Taxation)

M&G plc

Mercer

Michael Rae

Money Alive

Nationwide

PensionBee

Pensions Administration Standards Association (PASA)

Pensions and Lifetime Savings Association

Personal Investment Management & Financial Advice Association (PIMFA)

Professor Debora Price

Quilter

Retirement Line

Scottish Widows (Lloyds Banking Group)

Smart Pension

St. James's Place

Standard Life Aberdeen

Surviving Economic Abuse

Taylor Made Financial Planning LLP

The Consumer Council for Northern Ireland

The Investing and Saving Alliance (TISA)

The Money Charity

The Phoenix Group

The Society of Pension Professionals

Vanguard Asset Management Ltd

Willis Towers Watson

XPS Pensions Group

Zurich

We also received 437 submissions through the Good Guidance Now campaign. Many of these were from individuals. We have not published the names of the individual respondents to the www.goodguidancenow.uk campaign.

We also received written correspondence on our proposals from a range of stakeholders which we have taken into consideration.

Annex 2
Abbreviations used in this paper

Abbreviation	Description
API	Application Programme Interface
COBS	Conduct of Business Sourcebook
DB	Defined Benefit
DC	Defined Contribution
DWP	The Department for Work and Pensions
MaPS	The Money and Pensions Service
SIPPs	Self-invested personal pension
SYSC	Systems and Controls Sourcebook
TPAS	The Pensions Advisory Service
TPR	The Pensions Regulator
WPC	Work and Pensions Committee

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Appendix 1
Made rules (legal instrument)

CONDUCT OF BUSINESS SOURCEBOOK (FINAL NUDGE TO PENSIONS GUIDANCE) INSTRUMENT 2021

Powers exercised

A. The Financial Conduct Authority ("the FCA") makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 ("the Act"):

(1) section 137A (The FCA's general rules);
(2) section 137FB (FCA general rules: disclosure of information about the availability of pensions guidance);
(3) section 137T (General supplementary powers); and
(4) section 139A (Power of the FCA to give guidance).

B. The rule-making provisions listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on 1 June 2022.

Amendments to the Handbook

D. The Glossary of definitions is amended in accordance with Annex A to this instrument.

E. The Conduct of Business sourcebook (COBS) is amended in accordance with Annex B to this instrument.

Citation

F. This instrument may be cited as the Conduct of Business Sourcebook (Final Nudge to Pensions Guidance) Instrument 2021.

By order of the Board
25 November 2021

Annex A

Amendments to the Glossary of definitions

In this Annex, underlining indicates new text and striking through indicates deleted text.

Amend the following definition as shown.

pensions guidance	(1)	as defined in section 137FB (4) of the *Act*, information or guidance provided by any person in pursuance of the requirements mentioned in section 4 of the Financial Guidance and Claims Act 2018 (information etc about flexible benefits under pension schemes);
	(2)	(in *COBS* 19.7) is when a *retail client* receives *pensions guidance* in (1) during an appointment with the provider of the guidance in a way that enables real time human interaction (whether face to face, telephone or through another electronic medium).

Annex B

Amendments to the Conduct of Business sourcebook (COBS)

In this Annex, underlining indicates new text and striking through indicates deleted text.

19 Pensions supplementary provisions

…

19.7 ~~Retirement~~ Pensions nudge and retirement risk warnings

Definitions

19.7.1 R In this section:

…

(6) "signpost" is the written or oral statement encouraging a *retail client* to use *pensions guidance* or to take regulated advice to understand their options at retirement which is at step 1 of the process specified in this section~~.~~;

(7) "opt out" is the *retail client's* confirmation that they do not want to receive *pensions guidance*.

Application

19.7.2 R This section applies to a *firm* communicating with a *retail client* in relation to:

(1) accessing their pension savings using a pension decumulation product; or

(2) transferring rights accrued under their existing *pension scheme* to another *pension scheme* for the purpose of accessing their pension savings using a decumulation product.

…

Purpose

19.7.4 G (1) The purpose of this section is to ensure that a *firm*, which is communicating with a *retail client* about a pension decumulation product:

(a) explains the nature and purpose of *pensions guidance* to the *retail client*;

(b) encourages the *retail client* to receive *pensions guidance*; and

(c) gives appropriate retirement risk warnings,

at the point when the *retail client* has decided how to access their pension savings.

…

19.7.5 G (1) This section amplifies *Principles* 6 and 7, but does not exhaust or restrict what they require. A *firm* will, in any event, need to ensure that its sales processes are consistent with the *Principles* and other *rules*.

(2) An example of a behaviour by a *firm* that is likely to contravene *Principle* 6 and may contravene other *Principles* is for a *firm* to actively discourage a *retail client* from receiving *pensions guidance*, for example by:

(a) indicating in any way that receiving *pensions guidance* is unnecessary, would not be beneficial, or might result in unnecessary delays in accessing their pension savings; or

(b) obscuring, de-emphasising or underplaying in any way the explanation about the benefits of *pensions guidance* or any other information relevant to assisting the *retail client* to decide how best to access their pension savings.

…

Trigger: when does a firm have to follow the steps?

19.7.7 R A *firm* must follow the steps specified in this section at the point when the *retail client* has decided (in principle) to take one of the following actions (and before the action is concluded):

…

(4) access their pension savings using a *drawdown pension*; ~~or~~

(5) withdraw the funds in full from their pension savings, reducing the value of their rights to zero~~.~~; or

(6) transfer rights accrued under their existing *pension scheme* to another *pension scheme* for the purpose of taking one of the actions in (1) to (5).

19.7.7A G A *firm* may assume that a *retail client* who is 50 years of age or over who decides to transfer rights accrued under their existing *pension scheme* to another *pension scheme* is doing so for the purpose of taking one of the actions in *COBS* 19.7.7R(1) to (5).

Pension transfer to access pension savings

19.7.7B R Where a *retail client* contacts a *firm* to communicate its decision (in principle) to transfer rights accrued under their existing *pension scheme* to another *pension scheme*, that *firm* (whether the *retail client's* existing *pension scheme* provider or the *firm* to whom they intend to transfer their rights) must take the actions in step 1.

~~Step 1: determine whether the client has received guidance or regulated advice~~

19.7.8 ~~R~~ ~~(1)~~ ~~The first step is to ask the *retail client* whether they have received *pensions guidance* or regulated advice:~~

~~(a)~~ ~~if the *client* says that they have, the *firm* must proceed to step 2; or~~

~~(b)~~ ~~if the *client* says that they have not or is unsure, the *firm* must explain that the decision to access pension savings is an important one and encourage the *retail client* to use *pensions guidance* or to take regulated advice to understand their options at retirement.~~

~~(2)~~ ~~If, after giving the explanation in *COBS* 19.7.8R(1)(b), the *retail client* does not want to access *pensions guidance* or take regulated advice, the *firm* must proceed to step 2.~~ [deleted]

Step 1: encourage the retail client to take pensions guidance

First part of step 1: explain pensions guidance and offer to book the appointment

19.7.8A R The first part of step 1 is as follows:

(1) the *firm* must:

(a) explain to the *retail client* the nature and purpose of *pensions guidance*, and that they can access the guidance for free;

(b) explain to the *retail client* that they can take regulated advice at their own cost; and

(c) offer to book an appointment for them to receive *pensions guidance*;

(2) if the *retail client* accepts the *firm's* offer to book an appointment for them, the *firm* must take reasonable steps to book an appointment at a suitable time for the *retail client*;

(3) if the *firm* is unable to book an appointment at a suitable time despite taking reasonable steps, or the *retail client* prefers to book the appointment themselves, the *firm* must provide the *retail client* with sufficient information about how to book the appointment themselves;

(4) if the *firm* books the appointment for the *retail client*, it must provide a confirmation of all the relevant details necessary to enable the *retail client* to attend the appointment;

(5) if the *retail client* agrees to take the guidance or elects to take regulated advice, the *firm* must not proceed to step 2 until the *retail client* confirms they subsequently received the guidance or advice;

(6) the *firm* must proceed to step 2 at any point during the process in (1) to (5) if the *retail client*:

(a) confirms that they have already received regulated advice and opts out; or

(b) opts out, and confirms they do not want to take regulated advice;

(7) if the *retail client* states that the reason for opting out in (6)(b) is because they already received *pensions guidance* prior to approaching the *firm*, the *firm* must explain to the *retail client* that they may still benefit from receiving the guidance again if their personal circumstances, or the value of their pensions savings, have significantly changed such that the different options described to the *retail client* in the guidance may be of different significance and relevance to them than when they previously received the guidance.

19.7.8B G For the purpose of *COBS* 19.7.8AR(1)(a), where a *firm* explains the nature and purpose of *pensions guidance*, the explanation should include that:

(1) the purpose of the guidance is to help the *retail client* make an informed decision about what to do with their pension savings, including the different options available to the *retail client* to access their pension savings; and

(2) the guidance is delivered at an appointment with an independent pensions specialist.

19.7.8C G Taking reasonable steps to finding a time that is suitable (in *COBS* 19.7.8AR(2)) may include the *retail client* being given adequate opportunity to revert back to the *firm* with dates and times that are suitable for them to attend an appointment.

Second part of Step 1: confirming whether the retail client received pensions guidance or regulated advice

19.7.8D R (1) (Where the *firm* has completed the appropriate actions in *COBS* 19.7.8AR, and either booked an appointment for the *retail client* or the *retail client* booked it themselves) the second part of step 1 is for the *firm* to check whether the *retail client* subsequently received *pensions guidance* by:

(a) if the appointment was booked by the *firm*, checking that the scheduled appointment date has passed; and only if so, asking the *retail client* to confirm that they attended the appointment and received the guidance; or

(b) if the *retail client* had to or elected to book the appointment themselves, asking the *retail client* to confirm that they subsequently booked the appointment and received the guidance.

(2) If the *firm* booked the appointment and the date of the scheduled appointment has not passed, the *firm* must explain the nature and purpose of *pensions guidance* again in *COBS* 19.7.8AR(1)(a) and remind the *retail client* of their scheduled appointment.

(3) If the *retail client* failed to attend the appointment (booked by the *firm* or themselves), or failed to book their own appointment, the *firm* must repeat the process in *COBS* 19.7.8AR, and explain to the *retail client* at this point that the *firm* cannot proceed unless the *retail client* confirms that they have received the guidance or taken regulated advice, or opts out.

(4) If the *retail client* confirms that they attended the appointment and received *pensions guidance*, the *firm* must proceed to step 2, unless the *firm* is aware or is made aware that the *retail client's* circumstances have, or may have, changed significantly, and it appears to the *firm* on reasonable grounds that the *retail client* may benefit from a repeat of the guidance in order to consider the different options available to them in the context of their current circumstances. In that case, the *firm* must repeat the process in *COBS* 19.7.8AR.

(5) (Where the *firm* has completed the appropriate actions in *COBS* 19.7.8AR and the *retail client* elected to take regulated advice), the *firm* must proceed to step 2 if the *retail client* confirms that they subsequently received the advice.

19.7.8E G Circumstances where the *retail client* may benefit from a repeat of *pensions guidance*, for the purposes of *COBS* 19.7.8DR(4)), include where, since the date of the appointment:

(1) the *firm* is made aware that the *retail client's* personal circumstances have changed; or

(2) significant changes in market conditions mean that the *firm* is aware that, or the *firm* is made aware for other reasons that, the value of the *retail client's* pension savings may have significantly changed,

such that the different options described to the *retail client* in the guidance may be of different significance and relevance to them than when they previously received the guidance, in light of the change in circumstances.

…

Record keeping

19.7.19 R *Firms* must record whether the *retail client* has ~~received~~:

(1) received the retirement risk warnings at step 3 of the process specified in this section;

(2) received regulated advice; ~~and~~

(3) ~~pensions guidance.~~ received *pensions guidance*; or

(4) opted out (and did not receive regulated advice).

19.7.20 G If the *firm* was told by the *retail client* that they already received *pensions guidance* or regulated advice prior to approaching the *firm*, and therefore did not need to receive it again, the *firm* should not record this as an opt out. Instead, they should record this as the *retail client* having received *pensions guidance* under *COBS* 19.7.19R(3), or under (2) for regulated advice.

…

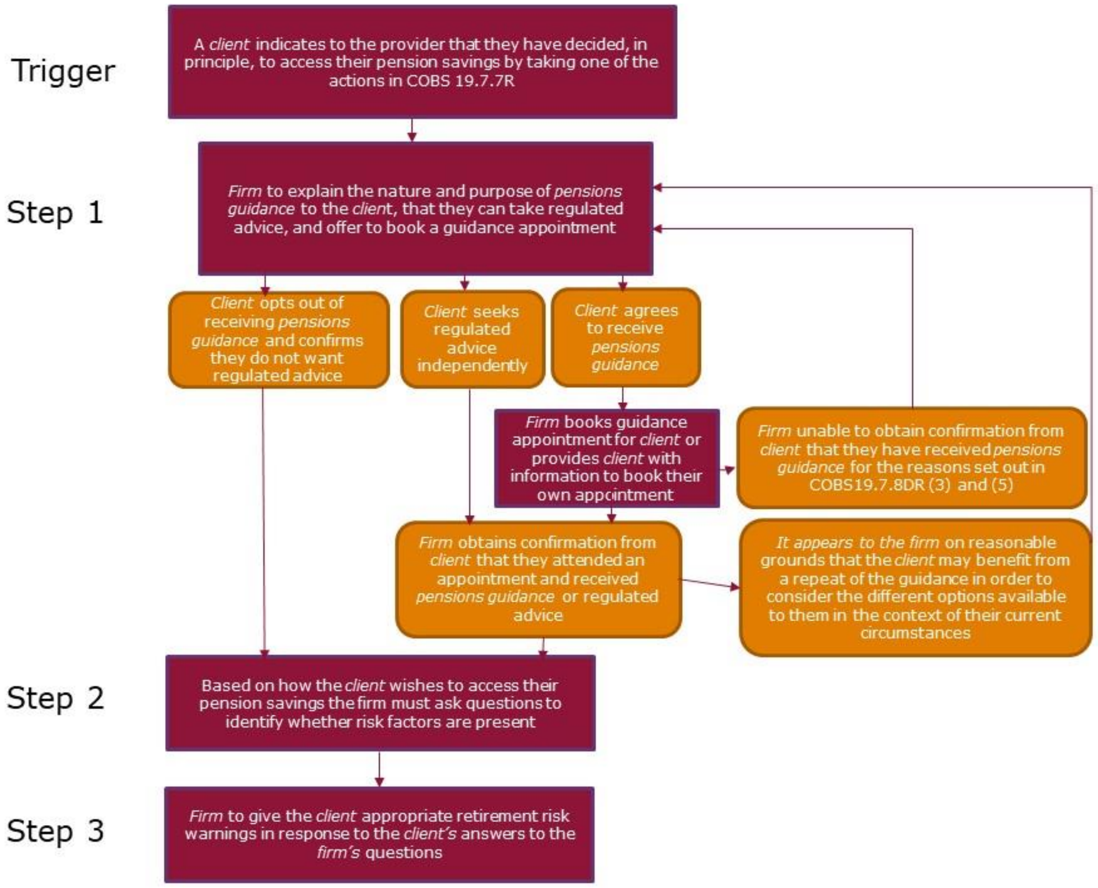
19 Annex 1G **~~Retirement~~ Pensions nudge and retirement risk warnings - steps to take**

This annex belongs to COBS 19.7

[*Editor's note*: The existing diagram in COBS 19 Annex 1G is deleted in its entirety. The deleted diagram is not shown. The following diagram is inserted to replace the deleted diagram.]

COBS 19 Annex 1G

Retirement risk warnings-steps to take



Step 2: identify risk factors
COBS 19.7.9R

Based on how the retail client wants to access their pension savings, at step 2 the firm must ask the client questions to identify whether any risk factors are present, except where COBS 19.7.9AR applies.

Pub ref: 007746

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