HM Treasury

# Increasing the normal minimum pension age:

## summary of responses to the consultation on implementation

July 2021

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# Executive summary

The normal minimum pension age (NMPA) is the minimum age at which most pension savers can access their pensions without incurring an unauthorised payments tax charge. It is currently 55 and the Coalition Government announced in 2014 that it would rise to 57 in 2028. This will encourage individuals to save for longer for their retirement, and so help ensure people have financial security in later life. The Government consulted between February and April 2021 on how to increase the NMPA, including on the protection regime for members of the uniformed public service pension schemes and those with existing unqualified rights to take their pension below age 57. This document summarises the responses received and Government's policy conclusions in light of them.

To help individuals and schemes prepare for the change, the Government intends to publish draft legislation for a protection regime and legislate for this rise to 57 in the next Finance Bill. The draft legislation will introduce a window so that individuals have an opportunity to join a pension scheme by 5 April 2023 where the scheme rules on 11 February 2021 already confer an unqualified right to take pension benefits below age 57. The Government also propose some changes to the transfer rules for members to retain their protected pension age (PPA) following block and individual transfers where they transfer their pension to another provider.

# Chapter 1
# The consultation

1.1 The Government is committed to ensuring that older people are able to live with the dignity and respect they deserve, and the State Pension is the foundation of state support for older people. The Government's intention is that as many people as possible have private savings over and above the State Pension to support the standard of living to which they aspire in retirement. The Government supports individuals to meet their retirement income aspirations in a number of ways including by:

- supporting pension saving by rolling out automatic enrolment into workplace pensions since 2012 and providing generous income tax and National Insurance Contribution reliefs on pension contributions worth over £53 billion a year
- giving people more control through pension flexibility over how they access their pension by removing the requirement for most defined contribution scheme members to purchase an annuity and instead allowing members to draw income down from the normal minimum pension age (NMPA) subject to their marginal rate of income tax

1.2 The NMPA is the minimum age at which most pension savers can access their private pensions without incurring an unauthorised payments tax charge (unless they take their pension due to ill-health). The NMPA is currently age 55. This minimum helps to ensure that tax-relieved pension savings are used to provide an income, or funds on which an individual can draw, in later life. In 2010 the NMPA was increased from age 50 to 55. The Coalition Government announced in 2014 that the NMPA would increase to age 57 in 2028 to reflect long-term increases in longevity and changing expectations of how long people will remain in work and in retirement.[1] Indeed, most people do not now retire at 55. It also encourages individuals to save longer for their retirement, and so help ensure they have greater financial security in later life.

1.3 A consultation paper was published on 11 February 2021.[2] In this the Government confirmed that the NMPA would rise to 57 on 6 April 2028, as the Coalition Government had announced following a consultation.[3] The recent Government consultation sought views on its proposals for implementing the rise to age 57, with a particular focus on the protection regime. Some pension scheme members will have a protected pension age

[1] *Freedom and choice in pensions: government response to the consultation*, HM Treasury, July 2014

[2] *Increasing the normal minimum pension age: consultation on implementation*, HM Treasury, February 2020

[3] *Freedom and choice in pensions*, HM Treasury, March 2014

(PPA) which means they can continue to take certain pension benefits earlier than age 57. The consultation set out the proposals about who would be eligible for a PPA and the circumstances in which someone could lose their PPA. The consultation proposed:

- all members of the armed forces, police and fire public service pension schemes would have PPAs even if their scheme rules did not confer a PPA on members on 11 February 2021. This easement would apply to members of the following schemes:
    - the Armed Forces Pension Scheme
    - the British Transport Police Force Superannuation Fund
    - the Firefighters' Pension Scheme
    - the Firemen's Pension Scheme (Northern Ireland)
    - the Gurkha Pension Scheme
    - the Police Pension Scheme
    - the Police Service of Northern Ireland Pension Scheme
    - the Police Service of Northern Ireland Full Time Reserve Pension Scheme
    - Scottish Police Pension Scheme
    - Scottish Fire Pension Scheme
    - Welsh Fire Pension Scheme
- members of HMRC-registered pension schemes whose scheme rules on 11 February 2021 conferred an unqualified right for them to take their pension benefits earlier than age 57 would be eligible for a PPA
- where a member has PPA it would also apply to benefits accrued after 5 April 2028
- a PPA would be specific to an individual as a member of a particular scheme so would not apply to membership of other schemes where there was no existing right to a PPA
- members would not lose a PPA if they were moved to a different scheme by a bulk transfer but did not address what would happen on an individual transfer
- removing the 'retirement condition' for a PPA, i.e. the need for the member to cease work with the employer when taking benefits in order to enjoy a PPA
- removing the requirement to crystallise all benefits on the same date in order to maintain a PPA
- there was no intention of changing the basis on which members can access pensions early because of ill-health

1.4 The Government is grateful to all those who responded to this consultation. Chapter 2 sets out the responses that were received and details how the

Government intends to proceed. Chapter 3 then outlines the next steps in raising the NMPA to 57.

# Chapter 2
# Consultation responses

## Overview of responses

2.1 117 respondents replied to the consultation. Respondents included individuals, lawyers and other professional services firms, independent financial advisors, representative bodies and pension scheme providers. A list of respondents is in Annex A. Not all responses answered every question posed in the consultation. Table 2.A below sets out the breakdown of questions addressed by consultation responses.

### Table 2.A: Summary of respondents

| Consultation questions | Percentage of responses answering |
|---|---|
| Considerations about framework | 59% |
| Definition in pension scheme rules | 37% |
| PPA applies to all benefits | 52% |
| Informing members of PPA | 58% |
| Impact on pension flexibilities | 37% |
| Crystallisation on same day as a requirement | 45% |

2.2 The majority of the pensions industry supported the proposal on how to increase the NMPA as well as the proposed protections framework. Some, mainly pension scheme providers, requested simplifications to the proposed protection regime. Among those favouring simplification, a common proposal was that there should be no protection regime and all members not yet in payment or already enjoying an existing PPA should have a NMPA of age 57. Supporters including industry bodies argued that this could help protect members from making sub-optimal decisions when transferring schemes by preventing undue weight being given to a PPA (relative to other features offered by pension schemes). Others argued that it would simplify the administration around increasing the NMPA. The Government, however, believes it is right that members can retain their pre-existing minimum pension age as a PPA if they already have an unqualified right within their specific scheme rules to take their pension benefits at that age.

2.3 Individual respondents generally expressed concerns about a higher NMPA impacting their pension planning and argued that any increase would be unfair to individuals who had hoped to take their benefits at age 55. Another common response was that those who think they have sufficient funds available to retire at age 55 – although the Government believes there is no transparent and simple way to judge this – should still be allowed to access their pension then. Trade union responses were also generally opposed to a higher NMPA. The Government notes the strength of feeling in some of these responses to a higher NMPA, but continues to believe that increasing the NMPA is appropriate, for the reasons set out when this change was originally announced in 2014.

2.4 Some respondents raised queries about how the NMPA rise would affect access to pensions for members in ill-health. As set out in paragraph 2.15 of the consultation, the Government is not making any changes to the current rules under which pension benefits can be paid early due to ill-health.

2.5 Other respondents pointed to possible effects of a NMPA rise for those who have caring responsibilities or who are made redundant close to the current NMPA. The Government acknowledges the contribution of those who combine work with other responsibilities, but remains of the view that fundamentally pension saving is about provision for later life. Other forms of support are available for those who have caring responsibilities, such as Carer's Allowance or the carer element of Universal Credit. Similarly, the Government recently refreshed its Fuller Working Lives strategy to 50 PLUS: Choices, recognising the different situations and challenges currently faced by the over- 50s. We are continuing to work closely with employers, while ensuring early and targeted employment and skills support is available to help over 50s stay in, or return to, work. The Adult Education Budget and Lifetime Skills Guarantee also help people to respond to a changing job market.

2.6 We also received suggestions for alternative policy approaches (e.g. taxing pension benefits paid before age 57 at a higher income tax rate compared to normal income tax, rather than making them subject to an unauthorised payment charge) which did not appear to meet the policy objective and are outside the scope of this consultation.

## Responses to questions

### Question 1: Are there any specific considerations that should be taken into account regarding the Government's proposed framework for the increase to the NMPA?

2.7 This open question attracted a wide range of comments from respondents. Some argued that the NMPA should not rise and others argued there is no need for a protections regime. As set out above, the Government disagrees with both views.

2.8 Some respondents wondered whether a higher NMPA could help pension scammers, who could offer benefits before someone has reached the NMPA as an inducement to transfer. The Government is committed to protecting people from pension scams and pursuing those who perpetuate pension scams wherever possible. The Department for Work and Pensions has recently consulted on regulations to limit the statutory right to transfer in certain circumstances, including where there are signs of a scam. An incentive to transfer, such as the promise of accessing pension savings before NMPA, is considered a red flag under the regulations and will allow trustees to prevent a transfer from proceeding.

2.9 Some consultees objected to the need for pension schemes to determine whether the effect of their rules was to confer an unqualified right to a PPA. However, the Government believes this is central to their role in providing pensions and considers that pension schemes and their advisers are best placed to understand which of their members will have unqualified rights to a PPA; further details on this point are given in response to question 2.

2.10 Some respondents recognised that administering the change would require changes to pension schemes' systems and processes, but one pensions industry body acknowledged that 2028 provided 'reasonable' lead-in time to carry out this work. Further, it said only 18% of its membership was concerned the change might be complex to administer, the remainder thinking it would be easy or neutral.

2.11 The consultation proposed that members should retain their PPA when they become a member of another scheme on a block transfer, but did not address individual transfers. Many responses challenged whether the two types of transfer were being treated differently. In an environment of pension flexibilities there are good reasons to transfer rights, e.g. to access drawdown or reduce costs, and the PPA should not prevent these transfers. Accordingly, **the Government will be publishing draft legislation on the retention and treatment of PPAs to allow members to retain their PPA following block and individual transfers.** However, the PPA is not intended to apply to the other rights members accrue in the receiving scheme; the aim is to protect the transferred pension rights, not enhance them. It is envisaged this will require ringfenced PPA transferred rights in the receiving scheme.

## Question 2: Are there any particular issues that the Government should consider in the way NMPA is defined in pension scheme rules?

2.12 Most responses to this question requested further clarification about who has an unqualified right and therefore who is eligible for a PPA. Many asked about what would need to be written in pension scheme rules on 11 February 2021 – the date the consultation was published – in order to create an unqualified right.

2.13 The Government's intention can be illustrated broadly by two examples. Where the rules expressly state that benefits can be drawn from 55, the Government considers that would amount to an unqualified right. Conversely, where the rules refer to the NMPA or its underlying legislation (e.g. permitting benefits to be taken from the lowest age consistent with the Finance Act 2004 regime) that would not confer an unqualified right to a PPA; it would merely provide for payment from the youngest age prescribed from time-to-time. It is acknowledged there may be more nuanced cases where professional judgement is needed about the effect of particular drafting.

2.14 Some respondents suggested that Government should publish detailed guidance to determine whether a given set of rules confers an unqualified right to a PPA. This would not be feasible. It would not be possible for guidance to cover the many permutations of wording which might be employed, nor to take into account relevant background of each scheme. Further, when determining the legal effect of their rules trustees and providers will want to take professional advice on which they are entitled to rely, to provide a high degree of certainty that they are acting appropriately. Some respondents were concerned that different professional advisers might take different views about interpreting similar rules. The Government considers trustees and scheme managers (with any professional advice) are best placed to determine what rights their rules confer.

2.15 One industry body asked whether the Government had an expectation about what proportion of members would have an unqualified right. The Government has no numerical expectation or target in this regard; whether a member has an unqualified right is simply a function of whether the scheme documents confer one. The policy is not aimed at recognising unqualified rights in only a given percentage of schemes or members.

2.16 One respondent queried whether a PPA could arise from a source other than the scheme documents, e.g. an employment contract. Specific legal advice may be needed in such cases about whether rights could arise against the scheme's trustees or managers (rather than, say, an employer) other than through the scheme documents. Similarly, one industry body referred to "*issues associated with some legacy products with a contractual right to take benefits at 55, where this right is not reflected explicitly in the pension scheme rules*". Either a person has a legal right to benefits at a particular age, or they do not. This is why it is important to determine whether a legal right is conferred.

2.17 Some responses asked for clarification on more granular points of detail. We do not intend to address individual questions on particular schemes' rules, which would be straying from guidance into the province of professional advisers. As appropriate, HMRC will provide further explanation and examples within its guidance for what is an unqualified right.

2.18 Alongside clarification about what needs to be in scheme rules to determine who has an unqualified right, some respondents asked about when people needed to have become a member of a scheme to enjoy a PPA. **The Government will publish draft legislation to introduce a window to give individuals an opportunity to join pension schemes which offer a PPA (i.e. the scheme rules on 11 February 2021 already confer an unqualified right to take pension benefits below age 57 and they join that scheme by 5 April 2023).** This is consistent with the approach taken when the NMPA rose from 50 to 55 in April 2010 and gives individuals sufficient time to make arrangements should they wish to do so.

## Question 3: The Government proposes that the protected pension age will apply to all the member's benefits under the scheme (if the conditions for a protected pension age are met), not just those benefits built up before 2028. Are there any other alternative options or issues the Government should consider around the treatment of accrued and future pension savings?

2.19 The consultation proposed that where members have a PPA, then they should be allowed to continue to accrue rights in that scheme that are payable from their PPA, rather than moving to 57 for future accrual, which would have meant members would draw different tranches of benefits at different ages.

2.20 A substantial number of responses were received to this question with only a few opposed to the Government's intended approach. Respondents included employers, pension providers and pensions professionals. There was widespread recognition that it would be too complex to do anything else. A pensions trade body acknowledged that "*the alternative of requiring tracking of pension savings by date would be far more confusing*". Separately, a pensions consultancy described this approach as *"pragmatic".* The small number of individuals with a view on this question supported the proposal.

2.21 Three responses did not support this proposal. One of these respondents would have preferred not to determine whether the rules conferred a PPA on any member.

2.22 The Government considers its proposed approach remains the most appropriate – a protection regime for individuals with unqualified rights to a lower pension age that seeks to minimise the impacts on pension schemes.

## Question 4: Are there any issues associated with schemes informing members who meet the conditions of their rights to a protected pension age?

2.23 There was widespread recognition that these changes would need to be communicated to members and some bodies identified various ways in which this might be done. Pension schemes already provide members with a significant amount of information to help them. There was general understanding that providing another piece of information would add to the challenge of communicating clearly with members. One trade body said 44% of its members thought it would be *"easy"* to communicate the new NMPA. Another respondent said it would *"simply be another issue"* to explain on its website. Conversely another trade body thought it would be *"difficult to communicate [a PPA] clearly"* and instead no protections should be offered. Many respondents pointed out that it was important for PPAs to be communicated to members who have them.

2.24 The Government believes that once the age conferred under the rules has been determined, the communication should not be a difficult matter, and does not believe that this would be a compelling reason to remove members' right to take benefits below the new NMPA. The Government would encourage trustees and managers of schemes to communicate appropriately with members.

2.25 One body representing pensions professionals thought there were two important issues here: (i) legislating for the change without delay, and (ii) confirming the date by which members would need to have joined a scheme to enjoy any PPA conferred under its rules. The Government believes this consultation response addresses both these issues.

## Question 5: Are there any circumstances why the increase in NMPA may impact on pension flexibility (which was introduced following the 2014 consultation on "Freedom and Choice in Pensions")?

2.26 A few responses pointed out that a scheme's rules may be drafted so as to confer a right to take a particular benefit from a PPA while only providing another benefit on a discretionary basis. They thought that might skew some members' decision-making to drawing the benefit which is available unconditionally (and therefore from a PPA) even if it might not be the most suitable choice for the member. While the Government recognises these concerns, it does not want to curb members' rights by depriving them of choices which are presently available to them, still less to do so in the name of freedom and choice. Members should consider taking advice before making significant decisions, while useful services are available under the MoneyHelper umbrella.

## Question 6: Are there any implications the Government should consider by not requiring that all scheme benefits must be crystallised on the same day as a condition for a protected pension age?

2.27 The proposal to remove the requirement for all scheme benefits to be crystallised on the same day to maintain a PPA received broad support, including from professional advisers, providers, unions and representative bodies. One pensions industry body reported that its membership was 62% in favour of this proposal though it also pointed out that 72% of its members recognised there might be administration and cost to accommodate the proposal. The consultation responses did not elicit any reasons for this not to be taken forward. The Government will be publishing draft legislation on this.

# Chapter 3
# Next steps

3.1 Raising the NMPA is necessary to reflect long-term demographic changes and reflects the changing expectations of how long people will remain in work and in retirement. The Government intends to publish draft legislation for a protection regime now and to legislate for this rise to 57 in the next Finance Bill.

3.2 As appropriate, HMRC will provide further explanation and examples within its guidance for what is an unqualified right. The Government also acknowledges the importance of establishing a clear position on the transitional arrangements. For example, members who do not have a PPA and have reached age 55 but not age 57 by 6 April 2028 and for whom a transitional issue may arise. The Government will provide further advice on the proposed transitional arrangements and provisions in due course.

# Annex A

# List of respondents

Able Financial Limited
Aegon
AgeWage Ltd
AJ Bell
Alan Boswell & Company Ltd
AMR Financial Management Ltd
Andrew Heptinstall Financial Services
Ann Bellingham Financial Services
Aon
Aqua Wealth Management Limited
ARC Benefits Limited
ARM Associates
Association of British Insurers
Association of Consulting Actuaries
Association of Headteachers and Deputies in Scotland
Association of Local Authority Chief Executives
Association of Member Directed Pension Schemes
Association of Pension Lawyers
Association of School and College Leaders
Aviva
B&CE
Barnett Waddingham LLP
bdhSterling Ltd
British Medical Association
British Transport Police, British Transport Police Authority, British Transport Police Federation and Superintendents Association (combined response)
Broadstone Corporate Benefits Limited
BW SIPP LLP
BWCI Pension Trustees Limited
Capita
Chesterton House Financial Planning Limited
CHN Financial Consultancy
Cobens
Coloma Wealth Management LLP
Cumbria County Council
Curtis Banks
EJS Financial Planners Ltd
Evans Ash Financial Services LLP
FIL Investment Management Limited
Fraser Backhouse & Company
Fresh Perspective Financial Planning Ltd
Full Moon Analysis Limited
Gibraltar Association of Pension Fund Administrators

Hampshire County Council
Hargreaves Lansdown
Heron House Financial Management Limited
Integrated Financial Arrangements Limited
Investment & Life Assurance Group
Jackson Jeffrey Financial Services Limited
James Phillips & Co
Keystone Financial Ltd
Kingfisher Financial Management
KMG Chartered Financial Planners
L & G Retirement Solutions
Landmark Financial Planning Ltd
Law Society of Scotland
Leodis Wealth Ltd
Lewis Innovative Investment
Local Government Association
Local Pensions Partnership Administration Ltd
Lothian Pension Fund
Low Income Tax Reform Group of The Chartered Institute of Taxation
M&G plc
Mercer Limited
Merseyside Pension Fund
MFS Limited
NAHT
NASUWT The Teachers' Union
National Education Union
Nest Corporation
Neville Birch & Co
NHS Pension Scheme Advisory Board
NHS (Scotland) Pension Scheme Advisory Board
Northern Ireland Local Government Officers' Superannuation Committee
Oak Four Limited
Oates Financial Planning
Orme Financial Services Ltd
Parkinson's UK
PensionBee
Pensions and Lifetime Savings Association
Personal Investment Management and Financial Advice Association (PIMFA)
Pharon Independent Financial Advisers Limited
Pi Financial Limited
Pinsent Masons LLP
Prospect
Public and Commercial Services Union (PCS)
Railways Pension Trustee Company Limited
Richard Alexander Financial Planning Limited
Roger T Hulme Ltd
Roundhouse Financial Services (London) Limited
Royal College of Midwives
Russelldene Consulting Ltd
Scottish Teachers' Scheme Advisory Board
Scottish Widows
Scottish Secondary Teachers' Association
Simply Biz Services Ltd
Smart Pension Limited

St James’s Place Wealth Management
Standard Life Aberdeen plc
Superannuation Arrangements of the University of London
Surrey Pension Fund
SWLaw Investment & Financial Planning Ltd
The Educational Institute of Scotland
The IFA Corporation Ltd
The Investing and Saving Alliance (TISA)
The Society of Pension Professionals
The Wealth Management Partnership LLP
Threesixty Services LLP
Trades Union Congress
UNISON
UNISON Scotland
Unite
West Sussex County Council
Whitefoord LLP
Willis Towers Watson
WRS Fornham
XPS Pensions Group
Zurich

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