HM Treasury

Pension transfers and early exit charges:

response to the consultation

February 2016

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1 Introduction

1.1 The pension freedoms, which came into effect in April 2015, gave those aged 55 and over the ability to access their retirement savings flexibly. The government's response to the *Freedom and Choice in Pensions* consultation, published in July 2014, made it clear that the government wanted to ensure that everyone in a defined contribution scheme could access their pension savings flexibly even if their pension did not offer flexible access options directly. To make sure this was the case, in 2015 the government strengthened the right to transfer for those wanting to access their pension savings flexibly – to allow them to switch provider if their existing one did not offer the flexible access options they wanted – and also extended the right to transfer to other benefit categories.

1.2 However, after the reforms took effect the government became aware that some individuals were facing a range of other potential barriers when seeking to access their pension savings under the new freedoms; including:

1. early exit charges, which reports indicated might be acting as a barrier to some people seeking to access their pension savings under the new freedoms
2. a lack of clarity in the process for transferring pension savings from one scheme to another in order to access pension savings flexibly
3. uncertainty around the provision and need for financial advice when making transfers involving safeguarded benefits, and certain other transfers

1.3 In response to these issues, the government launched a consultation on *Pension transfers and early exit charges* in July 2015. The consultation sought views on the question of early exit charges and whether consumers face unjustifiable charges when moving scheme or accessing their savings early; possible approaches to address early exit charges for those seeking to access the freedoms; ways of making the process for transferring pensions from one scheme to smoother and more efficient; and how to ensure that there was greater clarity around the circumstances in which someone should seek financial advice. The consultation ran for 12 weeks, closing in October 2015.

1.4 To help determine the need for intervention and the scale of the issues, the government undertook a comprehensive evidence gathering exercise alongside the consultation, including:

- detailed data gathering exercises undertaken by the Financial Conduct Authority (FCA) and the Pensions Regulator (TPR), obtaining data from providers and pension schemes
- an online survey targeted at understanding consumer experiences

1.5 This was to ensure that the government had a clear understanding of the extent to which reports of people being charged excessive early exit penalties, and being subjected to unnecessary delays when seeking to move their pension from one scheme to another, were borne out in practice.

1.6 The consultation received over 74 responses including 34 providers and industry groups; 10 other financial services firms; 13 consumer groups, and 17 individuals. The consumer survey, which ran alongside the consultation received responses from a total of 1,183 individuals.[1]

[1] Not all respondents answered every question and survey responses may not be representative of consumers' experiences more generally.

1.7 A detailed summary of the responses to individual questions is presented at Annex A, and a full list of the organisations who responded to the consultation is at Annex B. A summary of results from the consumer survey is presented at Annex C. The FCA and TPR's data gathering reports were published in September 2015.[2]

[2] There reports are available at: https://www.fca.org.uk/your-fca/documents/fca-pension-freedoms-data-collection-exercise ; and http://www.thepensionsregulator.gov.uk/docs/flexible-pension-access-survey-2015.pdf

2 Government response

Early exit charges

The government will act to limit early exit charges for people seeking to access the pension freedoms, by introducing legislation to place a new duty on the FCA to cap early exit charges; and by mirroring these requirements for trust-based schemes.

2.1 Chapter 2 of the consultation sought views on whether early exit charges were preventing individuals from accessing their pension flexibly under the new freedoms. At the time the consultation was published, this was one of the key issues that was raised as a potential barrier to accessing the freedoms. There were calls from consumer groups, and in the media, to ban or cap such charges.

2.2 In this context, 'early exit charges' are taken to mean all costs and value reductions borne by individuals (who are eligible to access their pension savings flexibly) when seeking to access their pension early, which they would not face if they carried out the same transaction at their selected or 'expected' retirement date. As set out in the consultation, market value adjustments and a loss of terminal bonuses are not considered exit charges for these purposes.

Summary of evidence

2.3 The government has considered the extent to which early exit charges pose a barrier to individuals accessing the pension freedoms. Data collected by the FCA found that 84% of those eligible to access the freedoms (individuals aged 55 or older) did not face an early exit charge. However, the data showed that 358,000 (9%) would face early charges of between 0 and 2%, 165,000 (4%) would face a charge of 2% to 5% and 147,000 (around 3-4%) would face a charge of 5% or more. For trust-based schemes, a survey of 226 trust-based schemes by the Pensions Regulator, suggested that 11% of schemes surveyed had some form of charges for individuals exiting their pension. Further analysis revealed that around 3% of scheme members would face "early exit charges" as considered for the purposes of this consultation.

2.4 The consumer survey suggested that early exit charges are acting as a barrier to individuals accessing freedoms. Approximately 30% of survey respondents said that they faced an exit charge when leaving their pension and a similar number of respondents indicated that early exit charges impacted on their decision to access their pensions under the freedoms (including anecdotal evidence of individuals losing out financially as a result).

2.5 Most providers who responded to the consultation did not believe that early exit charges had, or were likely to, impact on individuals' decisions to access the pension freedoms. Some providers said that people were more likely to be put off by the tax implications of any decision or the cost of financial advice (see "Advice requirement" below). However, a number of non-industry respondents acknowledged the potential impact of early exit charges in discouraging individuals from accessing their retirement savings flexibly and consumer feedback suggests that many people see exit charges as 'excessive' and therefore as a barrier to individuals accessing their pension flexibly.

2.6 Having considered the evidence base, the government has concluded that there are significant numbers of individuals currently eligible to access their pensions flexibly who find themselves facing early exit charges which are at a level (either in absolute terms or relative to the size of their pension) that present a real barrier to their accessing their pension savings in this way. In some instances these charges will be high enough that it is no longer economic for an individual to access their pension flexibly; whilst in others, the presence of an early exit charge could act to discourage individuals from accessing their pension when it might be beneficial in their circumstances.

2.7 It is important to note that through the consultation we received no evidence that, in levying early exit charges, pension schemes have acted inconsistently with their contractual entitlements or acted unlawfully in the existing legal framework. FCA data gathered alongside the consultation indicates that exit charges are being applied in the context of contractual agreements entered into before the conception of "flexible" pensions. Evidence suggests that the vast majority of early exit charges are built in to the charging structure; the most commonly cited reason being to cover outstanding initial expenses or initial commission. Similarly, we did not receive any evidence that firms were imposing new exit fees or charges in order to exploit the pension freedoms, or gain commercial advantage from them.

2.8 However, in response to the consultation, even some providers have conceded that that industry practices have changed and that the introduction of the pension freedoms means the significance of these charges might be much greater now, compared to when they were first agreed. The government has also been made aware of evidence that some of these contracts contain provision for early exit fees which, although lawfully entered into at the time, might not be lawful in a contract entered into now, because of subsequent unfair contracts legislation which has come into force during the life of these contracts.

2.9 Having considered the evidence from the consultation, the government has concluded that fairness is not determined solely by reference to whether or not it was fair to include a term in a pension contract many decades ago, but also has to be looked at through the lens of these reforms, and the changes that have occurred over time. The government believes that, in the context of these once-in-a-generation changes, it is important to ensure that consumers have fair access to their hard earned pension savings. It is unfair, therefore that some early exit charges are posing a barrier to individuals accessing their savings flexibly, and the government has concluded that action needs to be taken in order to limit these charges.

Consultation feedback on options

2.10 The government consulted on three approaches to addressing the issue of early exit charges (if it considered that action was needed): a legislative cap on all early exit charges; a flexible cap in certain circumstances; and a voluntary approach to restricting early exit charges. This was one of the most polarised issues in the consultation, with individuals and consumer groups in favour of a strict legislative cap (86% of survey respondents favoured a legislative or regulatory approach) and the majority of pension schemes and providers making clear that a voluntary approach would be preferred.

2.11 In response to the issues raised in the consultation, members of the pensions industry – and the Association of British Insurers in particular – worked hard to develop a voluntary approach to limiting early exit charges for customers seeking to access the freedoms. However, in order to achieve the government's objective and ensure that all individuals are able to access their pension savings at a reasonable cost, it would have been necessary for all pension providers to voluntarily agree, and adhere to, a cap on early exit charges set at a level which does not discourage consumers from accessing their pension savings flexibly. In response to the consultation, a number of stakeholders raised concerns that a purely voluntary solution might not achieve this consistently for all customers, and the government has therefore decided not to pursue this approach.

2.12 Another of the options outlined in the proposal related to a legislative cap on all early exit charges. A majority of consumer survey respondents who answered the question relating to this option (70%) favoured a legislative cap; and a further 6% supported a flexible cap (in circumstances to be determined by the FCA). A number of individuals and consumer groups suggested strict cash caps as low as £50; whilst others suggested a further data gathering exercise to ensure that any future cap was set at a level which considered both consumers and providers.

2.13 The majority of providers were opposed to this option, with the primary objection being that it would be an interference with existing contractual rights; and that a cap on early exit charges could set an undesirable precedent for intervention in a company's property rights. A number of these providers stated that a charge cannot become 'unfair' over the life of a contract i.e. if contractual charges for early exit were fair when the contract was taken out, they remain fair following the introduction of the pension freedoms reforms.

2.14 The government recognises industry concerns in relation to contractual certainty and the application of changing standards. It believes that it is generally undesirable to interfere with existing contractual rights, and only does so where it is necessary to achieve an important public policy goal in the wider public good. In this case, the government's view is that such action is warranted in order to ensure that individuals are able to access their pension savings under the new freedoms.

Government action

2.15 On the basis of the evidence gathered through the consultation, the government believes that the best way to address the issue is to introduce legislation to ensure that the relevant regulators can cap early exit charges. In relation to contract-based schemes, the government believes that the FCA, as the relevant regulator, is best placed to develop such a cap in a manner which achieves a fair balance between the important public policy objective of ensuring that early exit fees do not pose an unreasonable barrier to people accessing the pension flexibilities and the contractual property rights of pension firms. In order to ensure that the FCA is able to act decisively, the government will place a duty on the FCA to limit early exit charges.

2.16 In order to achieve this, the government will introduce legislation in the Bank of England and Financial Services Bill to amend the Financial Services and Markets Act 2000 (FSMA). This amendment will give the FCA a duty to make rules requiring relevant firms to limit the early exit charges imposed in relation to contract-based schemes, at a rate (or rates) set by the FCA, following further cost-benefit analysis in relation to the appropriate level of any cap. This will allow the FCA to set the level of any cap in line with their consumer protection and competition objectives (to secure an appropriate degree of protection for consumers, and promote effective competition in the interests of consumers), following further consultation by the FCA.

2.17 This will ensure that the FCA is able to take into account the wide variety of product designs and charging structures used by providers in developing any cap; as well as giving providers and individuals assurance that the level of any cap will be set following a transparent process.

2.18 While current evidence suggests that a smaller proportion of members of trust-based schemes might incur early exit fees when leaving their pension than in relation to contract-based schemes, the government is committed to ensuring that all pension scheme members are protected against excessive early exit fees regardless of the type of pension scheme that they are in. In parallel with the FCA process, the government will consider how existing powers to limit pension charges can be used to implement a comparable cap on early exit fees in trust-based schemes. The Pensions Regulator will work alongside the FCA as they develop the design and level of the cap for FCA-regulated schemes to ensure that any relevant concerns are appropriately addressed for all consumers.

Pension transfers, advice and guidance

The Pensions Regulator will introduce new guidance for scheme trustees to help ensure transfers are processed promptly and accurately.

The government will make trust-based pension schemes more transparent and accountable for their performance in processing transfers through a new reporting regime; and Pension Wise will develop additional guidance on pension transfers in order to support individuals through the transfer process.

2.19 Chapter 3 of the consultation document sought respondents' views on:

- how the statutory process for pension transfers is currently operating for those with flexible benefits, and how it might be made smoother and more efficient
- the benefits and risks of adopting a separate transfer process for flexible benefits, and what such a process might look like
- whether respondents had any evidence of receiving schemes either not accepting pension transfers under the new freedoms, or putting in place procedural barriers to prohibit or limit some types of transfers

2.20 Evidence gathered alongside the consultation revealed that for the majority of individuals transferring between FCA-regulated contract-based pensions schemes, transfer times were relatively quick (16 days on average). However, TPR data showed that the average transfer time for trust-based pensions was much longer (39 days), and many consumer survey respondents said that they had to wait significantly longer for individual transfers.

2.21 A majority of respondents to the consultation also said they were aware that some receiving schemes were refusing to accept the transfers of small pots, and/or imposing additional advice requirements beyond the statutory requirements. However respondents recognised that there is no obligation on schemes to accept transfers in, and no respondents suggested imposing such an obligation.

2.22 A majority of respondents were also opposed to creating a separate transfer process for those with flexible benefits – an option presented in the consultation paper – arguing that this would increase rather than reduce complexity. Only a small number of respondents were in favour of a reduction to the statutory timeframe for pension transfers, and several respondents, including consumer bodies and advisory firms, raised concerns that reducing the statutory timeframe might weaken due diligence. The government has therefore decided against taking either of these options forward as part of the response to this consultation.

2.23 The government has, however, receive a number of suggestions on what more could be done to make the pension transfer process smoother and more efficient; including suggestions on how to improve current processes in three key areas:

- **improved scheme administration**, through greater standardised and use electronic transfer processes to help make processing easier
- streamlining the due diligence process, including **establishing a whitelist of trusted pension providers**
- improvements in member **guidance and communication for individuals** that may find the transfer process confusing

Improved scheme administration

2.24 As set out above, the majority of transfers between FCA regulated pensions schemes were relatively quick, in part owing to widespread use of pensions transfer services such as 'Origo Options'.

2.25 The government is encouraged by signs that many pension schemes keep abreast of developments, including industry best practice, and welcomes industry efforts to ensure that administrative processes and documentation are efficient and consumer-friendly. However, it is clear from the responses to this consultation, and from survey results in particular that, there are considerable improvements to be made, especially for trust-based schemes. This is an area that both the government and the Pensions Regulator continue to focus on, but it is important to recognise that, in general, these improvements need to be made as part of the overall process of increasing the administrative efficiency of trust-based pension schemes.

2.26 The Pensions Regulator is currently consulting on a revised DC code,[1] which sets out the actions and behaviours expected of trustee boards in order to demonstrate schemes' compliance with the law. The DC code includes scheme administration and the treatment of core financial transactions including transfers. In addition TPR will consult on supporting best-practice guidance to help trustees meet the standards set out in the DC code and address the issues raised in this consultation. This will cover the actions needed to ensure transactions are processed promptly and accurately, including considering 'digital by default' approaches, scheme documentation and improved administration processes.

2.27 Alongside this, the government will also create a new regulatory requirement for TPR regulated pension schemes to report on an ongoing basis how they are performing in processing transfers, including against possible benchmarks and new transfer targets. To ensure that the new process improves transparency and drives up standards for individuals, whilst being practicable for schemes to implement, TPR will work with the pensions industry over the coming months to identify the best way of delivering these objectives in order to bring a package of measures into force in Summer 2016.

Establishing a whitelist of approved pension providers

2.28 The government notes the enthusiasm amongst many respondents for the creation of a 'whitelist' of approved pension providers. The government has carefully considered the implications of establishing such a whitelist, which would require not only a rigorous quality assurance process but also regular monitoring of trust-based schemes. Any action now would have to operate within the current regulatory framework.

2.29 The government is however currently considering the underlying issue of whether there is a need for increased supervision of trust-based providers, particularly for those multi-employer occupational pension schemes known as 'master trusts' which have been set up to support automatic enrolment. This work, to review how any strengthened quality assurance process might be achieved, would form an important foundation for any future whitelist, and the government will continue to develop its thinking in this area over the course of the year.

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[1] This code of practice sets out the legal requirements and standards of governance and administration that trustees of occupational defined contribution (DC) trust-based schemes need to attain.

Guidance and communication for individuals

2.30 The government wants to ensure that people understand their options and are able to exercise their freedoms in the manner that best suits them; which is why Pension Wise was set up to provide free, impartial guidance to help people through this process.

2.31 In relation to delays, a clear trend in the consumer survey responses was that people were unsure about both the transfer process, and the advice requirement. Consultation respondents suggested that a clearer explanation of how the transfer process works would help individuals understand the process, manage their expectations better and potentially speed up transfers (as respondents have reported instances where delays have been caused because individuals were not providing the required information on time).

2.32 Currently, Pension Wise does not inform individuals about the steps they need to take to transfer their pension. In response to the issues raised in this consultation Pension Wise will develop guidance on pension transfers (a pensions transfers 'roadmap') in order to support individuals through the transfer process. This will include providing free and impartial information on schemes' statutory requirements, and their responsibilities in terms of managing a safe and efficient transfer process for Pension Wise users.

The advice requirement

2.33 Finally, Chapter 4 asked whether the advice requirement[2] was acting as a barrier to accessing pensions. A number of stakeholders also made representations about the new requirement to obtain appropriate independent advice for the transfer or conversion of safeguarded benefits, and the difficulties that some individuals are experiencing in finding a financial adviser willing to advise them. In the consumer survey, 71% of respondents suggested that the process for seeking independent financial advice should be improved, whilst 14% specifically mentioned the advice requirement when asked about the ways the transfer process could be improved.

2.34 Since the launch of this consultation, the government has launched the Financial Advice Market Review (FAMR) – a joint review by HM Treasury and the FCA. This review has the objective of improving the accessibility and affordability of financial advice, including advice in relation to pensions.

2.35 Because of the potential impact FAMR could have on the nature of and need for advice, as announced in the government response to the Work and Pension Select Committee report on Pension Wise, the government intends to wait for the outcome of this review, before taking forward specific action on the advice requirement. The government and the FCA are currently in the process of considering the responses and evidence received in the FAMR call for evidence and will set out its recommendations around Budget 2016.

[2] The "advice requirement" in the Pensions Act 2015 is a statutory requirement to make individuals to take financial advice before accessing their pension, if their pension has special safeguarded benefits, worth over £30,000

3 Next steps

3.1 The new pension freedoms, which came into effect on 6 April 2015, allow people who have worked hard and saved all their lives to access their savings how and when they want.

3.2 Since the launch of the consultation pensions schemes and providers have continued to work hard to ensure that individuals are able to take advantage of the new freedoms in new and innovative ways. So far, people have accessed their pension pots flexibly around 400,000 times, taking out over £3.5 billion in this period. The government looks forward to continuing to work closely with the pensions industry to ensure that the new freedoms are successful in giving individuals more freedom and choice in how they fund their retirement.

3.3 The government will introduce legislation in the Bank of England and Financial Services Bill to amend the Financial Services and Markets Act 2000 (FSMA). This amendment will give the FCA a duty to make rules requiring relevant firms to limit the early exit charges imposed in relation to contract-based schemes, as set by the FCA.

3.4 The FCA will be setting out its next steps in this process shortly; with a view to implementing its duty to cap early exit charges before the end of March 2017. The Pensions Regulator will work alongside the FCA as they develop the design and level of the cap for FCA-regulated schemes to ensure that any relevant concerns with respect of trust based schemes are appropriately addressed for all consumers.

A Detailed responses

Exit charges and fees

> Question 1: Do you have any evidence as to the scale and quantum of fees and charges that members might incur for leaving their scheme or accessing their benefits early?

A.1 Data collected by the FCA for contract-based schemes found that, of customers aged 55 or older, 83.6% or 3.4 million people do not face an early exit charge. Of those that did, 358,000 faced an exit charge between 0-2%; 165,000 faced a charge between 2-5%; 81,000 faced a charge between 5-10%; and 66,000 faced a charge over 10%.

A.2 TPR's current powers do not enable it to require schemes to provide data and therefore it conducted a voluntary survey of trust based schemes. Of those schemes that responded to the survey 11% charged 'at least one exit fee', suggesting that some members of trust based schemes could incur early exit charges.

A.3 Responses from providers suggest that the prevalence of these charges can vary significantly by provider, however contracts with early exit charges consistently represented a minority of a responding provider's total contracts. Early exit charges could be presented to a customer as either a monetary value or as a percentage.

A.4 29% of consumers answered in the survey that they believed they had been charged an exit penalty when leaving their pension.[1] 78% of consumers rated their pension provider's explanation of this charge and its level as being poor. 61% did not know on what basis their charge had been calculated, whilst 23% stated that it was as a percentage of their pension pot, and 9% said it was a fixed amount.

A.5 The evidence collected through this consultation has led the government to conclude that early exit charges are a significant problem for a small number of customers in contract-based schemes. It is not clear that the scale of this issue is comparable for trust-based schemes.

> Question 2: Are you aware of any evidence of charges that are levied at, or above, an individual's selected pension age? Are there any examples of consumer detriment as a result of late exit penalties, and charges at an individual's selected pension age?

A.6 The government received very limited evidence of individuals facing charges at or above their selected retirement date. The few examples cited where charges may apply included where individuals choose to defer their selected retirement date and then change it back; transactional fees charged by SIPPs; certain market value adjustments; decumulation charges on UFPLS following the exhaustion of free allocations; and ongoing administrative and management charges prior to exit.

[1] Consumer survey data refers only to those who gave a response to the relevant question.

Question 3: In your view, what would constitute an 'excessive' or unfair early exit charge? Please include any fees and charges that you would consider to be outside this definition and why.

A.7 Providers offered different views of how the definitions of 'excessive' or 'unfair' should be framed. For some providers, these terms should only be considered in a legal context, where what unfairness is equated with illegality. Other providers stated that charges that were punitive, or levied to profit from a member's exit were unfair. The majority of large providers took the view that early exit charges could not be considered excessive or unfair where they relate to recouping genuine costs incurred, such as administrative or commission costs. There was also broad agreement that MVAs and related investment deductions should be excluded from any definition.

A.8 Some providers went further, recognising that contractual terms should be considered in the context of poor consumer understanding of such charges, and the choices afforded by the pension freedoms. For example, a large asset management firm suggested that whilst most of these charges were 'fair' since they were lawful, it should be recognised that few customers actually understood how they would work from the outset of the contract. One of the UK's largest online investment platforms stated that it was unfair to force customers to remain in products whose charging structure would be considered unfair by today's standards.

A.9 Responses received from financial advisers were similarly split on what would constitute an excessive or unfair charge. Some respondents framed fairness in the context of how clearly firms communicated such charges at the point of sale. Others suggested that legacy schemes may be recouping more than costs and profiting from these charges, which was not considered fair. Consumer organisations similarly expressed concerns that early exit charges could exceed reasonable costs already incurred by providers.

A.10 Many respondents to the consumer survey stated that any charge for early exit should be considered excessive or unfair. Consumers that were not opposed to all forms of exit charge expressed a 'fair' charge in cost terms, rather than the specific components comprising a charge. The ceiling for an 'unfair' charge varied, with £50-100 or 1-2% of the value of an individual's pension pot often being cited.

A.11 Some consumers also cited the existence of both an annual management charge and an early exit charge as being confusing. This suggests that many customers do not understand the basis for the charging structure being used in their contract. This aligns with the Financial Ombudsman Service's response to the consultation, which they have made public,[2] that "in the majority of these complaints to the FOS, consumers were unhappy about the very fact of being charged a fee, which they considered to be unfair and unreasonable".

A.12 This evidence highlights a contrast between how providers and individual consumers consider what constitutes an 'excessive' or unfair practice. Similarly, it is clear that navigating these different charging structures is difficult, particularly since both the reasons cited for charges and the way in which they are calculated can vary so significantly.

[2] http://www.financial-ombudsman.org.uk/publications/consultations/consultation-pensions-transfers.pdf

Question 4: Are you aware of any evidence of exit charges impacting on individuals' decisions to access the flexibilities? Are there any examples of individuals losing out as a result of not being able to access the flexibilities in these circumstances?

A.13 Most providers stated that the existence of an early exit charges had not impacted on members' decisions to access the pension freedoms, although some said that it was difficult to assess, particularly in first few months since the reforms were implemented. Although they were not aware of evidence that this was the case, some providers acknowledged that their existence were likely to be a factor where affected members were considering accessing the freedoms. One provider and a financial adviser that responded that the advice requirement would similarly impact individuals' decision-making; one of the country's largest providers stated that the tax implications would be much more significant issue for eligible consumers. By contrast, a major consumer organisation said that they were aware early exit charges were impacting whether people were accessing the freedoms or not.

A.14 30% of respondents to the consumer survey stated that the existence of an exit charge had impacted on any decisions they had made to access the pension freedoms. A large number of consumers stated that their early exit charge made it too expensive to exercise the freedoms. Others expressed disillusionment about having to pay their provider additional money from their retirement savings in order to be able to leave the scheme. Consumers also provided specific examples of resulting detriment, for example, by being unable to pursue higher return investments.

A.15 This evidence suggests that consumers and providers may have different perceptions about the impact of an early exit charge – particularly on consumer decision-making and outcomes. The government recognises the depth of feeling that consumers have about facing such charges, particularly in light of the pension freedoms.

Question 5: How could the simplicity and transparency of market value adjustments and other investment deductions (as opposed to exit charges) be improved to increase customer understanding of such fees?

A.16 Providers were generally split on whether the communication of market value adjustments and other investment deductions to customers could be improved. For those providers that agreed, common suggestions were greater use of standardised language and explaining the rationale for why these deductions are made; one major wealth management business suggested that the assumptions underpinning the calculations and projections should be made clearer to customers. Consumer groups who responded to the consultation also argued for a similar approach. A major professional association said they believed that MVAs were now better explained as a result of the Principles and Practices of Financial Management (PPFM) documents for each with-profits fund.

A.17 Those providers that were more sceptical suggested that attempts to improve simplicity and transparency in this area would be difficult, or ineffective. For example, a large insurer stated that it would be hard to be more transparent since portfolio values change on a daily basis. A different professional association highlighted that MVAs are dependent on market conditions at the point of exit. Another respondent, an industry outsourcing company, stated that the main problem is low levels of financial capability amongst consumers which, if raised, would help people to understand the basis of an MVA.

A.18 78% of consumers rated their pension provider's explanation of their early exit charge and its level as being poor. Of these, some are likely to have be investment deductions and market value adjustments. Therefore, whilst this can be a technical and difficult area for consumers to understand and navigate, it is important that providers are meeting the duty placed on them by the FCA to treat their customers fairly - when communicating MVAs and other investment deductions.

Question 6: The government would welcome views on the pros and cons of each of the 3 approaches to addressing excessive early exit fees set out in paragraphs 2.26 to 2.30. In particular, the government would be interested in views on particular components of an exit fee or other charges that should be considered to be in scope of any limit, and evidence on what might be the right level for any cap.

Options 1 and 2: A cap on all early exit fees or a flexible cap in certain circumstance

A.19 Many providers, including some of the largest providers in the countries, company occupational schemes and trade bodies, stated that they did not support either a cap on all early exit fees, or a flexible cap. These respondents cited a number of cons to this approach. The primary objection was that it would interfere with existing contracts, and as such could be viewed as an undesirable precedent for intervention in company's property rights. Some of these providers stated that, although they did not support either option, a flexible cap would be their preference out of both options.

A.20 Some providers did support a legislative cap. For example one UK bank and financial services provider, who stated that they did not charge early exit charges, supported a cap to ensure that consumers are able to access the pension freedoms without incurring undue costs. Another provider, an online investment management service, called for a charge cap that applied to consumers of all ages, not just those aged 55 and above. Consumer groups all supported a cap on early exit charges, with some suggesting that the government should take wider action by capping other pension charges as well.

A.21 The government received information about a wide range of issues that would need to be addressed if a legislative cap was pursued. These included the wide variety of product designs and charging structures used by providers, the risk that a cap could discourage investment in illiquid asset classes, a point acknowledged in the consultation, and that a cap could increase member cross-subsidisation in schemes. 86% of consumer survey respondents supported a legislative cap. Two frequently cited reasons for this support was that it would be simple to understand and that it would set out a clear expectation of what they could expect to pay if they left their scheme early.

Option 3: A voluntary approach to restricting early exit fees and charges

A.22 Some providers who did not support a legislative cap did support a voluntary cap on early exit charges. One of the country's largest insurers noted that providers have discretion as to whether to waive exit charges based on their pricing basis. Another major provider made the same point, and that providers can make changes based on their charging structure. A major law firm suggested that legislation could be used if a voluntary solution was ineffective. Consumer groups did not favour a voluntary option.

A.23 Those respondents who supported, or had a preference for a voluntary solution over the other options, identified barriers which may hinder its effectiveness. The most cited concern amongst this group was that it could lead to inconsistencies across industry with respect to the level of the cap and how it was applied. A major provider, who stated that their preferred solution would be to allow providers or schemes to respond in a way that was most appropriate for their members, stated that: "We believe a purely voluntary approach, without any supporting principles, guidelines or framework would lead to wide inconsistencies in the treatment across different providers which would send out conflicting messages to customers". A large wealth management firm suggested that, in the context of a voluntary solution, some firms would act whilst others would not change the way they operate.

A.24 These concerns were shared by respondents to the consumer survey, where only 14% supported a voluntary solution. Consumers expressed scepticism that industry could reach an effective voluntary solution, with one writing that "a voluntary [solution] is what we have now". Other respondents did not believe that the industry would be able self-regulate on this issue, and raised concern that a voluntary solution might be manipulated. The government recognises the importance of consumers being able to trust that their provider is acting in their best interests; and appreciates that these findings should be placed in the context of low public trust in the financial services industry more generally.

A.25 Over the course of the consultation, the government also received input from industry on certain regulatory and legislative barriers which might hinder the implementation of a voluntary solution. This includes how refunded exit charges might be treated by HMRC for tax purposes and whether delays in an automated solution would violate FCA disclosure requirements. The government, the FCA and HMRC believe that the existing regime would not prohibit the implementation of an industry-driven voluntary solution.

Transfer process

Question 8: What are your views on adopting a separate process for transfers out where benefits are flexible? What might this process look like, and what, in your opinion, might be the risks of doing so?

A.26 63% of the 35 respondents to Question 8 opposed the adoption of a separate process for transfers with flexible benefits, with only 14% of respondents supporting a separate process. Many respondents expressed concerns that adopting a separate process for flexible benefits would increase complexity for providers and members, and potentially risk undermining due diligence. Some respondents indicated that some consumers have flexible and safeguarded benefits inside the same scheme, and that in these cases having a separate process for the different types of benefits might be confusing for members and delay the transfer process.

A.27 Some respondents also commented that the transfer process should be made quicker and more straightforward for all pension scheme members, rather than only those with flexible benefits.

A.28 The 14% of respondents who supported a separate process for flexible benefits suggested that the transfer process is already slightly different for those with safeguarded benefits because of the need to take advice, and that separating out the lower risk and less complex transfers would allow providers to devote more time and resources to the transfers of safeguarded benefits.

Question 9: Do you have any evidence of circumstances where receiving schemes are not accepting pension transfers under the new freedoms, or are putting in place procedural barriers to doing so?

A.29 In response to Question 9, 60% of respondents indicated that they have seen evidence to suggest that receiving schemes are not accepting pension transfers under the new freedoms, or are putting in place procedural barriers which make it more difficult and time-consuming for members to transfer in.

A.30 The majority of these respondents reported that receiving schemes are putting in place additional requirements for advice above and beyond the statutory requirement. Respondents suggest that some receiving schemes are refusing all non-advised transfers, including those of safeguarded benefits under the £30,000 threshold, or requiring members wanting to access their benefits via flexi-drawdown arrangements to take advice before transferring. Some responses suggest that providers are refusing transfers from insistent clients as a result of regulatory concerns.

A.31 Several consultation responses reported that some receiving schemes are requiring a minimum fund value before accepting transfers in, particularly if transferring members want to establish a flexi-drawdown arrangement. As a result customers with smaller pension pots, particularly defined benefit pots, are finding it difficult to find providers that are willing to accept them. Some respondents, including individual respondents, also reported that pension providers are not accepting transfers in from customers who are now resident overseas, for reasons that include concerns about how the advice requirement operates in this situation.

A.32 However, no respondents argued in favour of making it mandatory for schemes to accept transfers in, and several respondents were opposed to any change of this nature.

Question 7: How is the current statutory process working in your opinion, and what more could be done to make the statutory process quicker and smoother?

Question 10: In your opinion, what more could be done to make the process for receiving firms accepting pension transfers in quicker or smoother?

Question 11: What, in your view, is the scope for making the process for transfers more efficient through a standard approach that works for the majority of pension savers? Should this process focus on transfers in relation to flexible benefits? How might this work in practice?

A.33 Questions 7, 10 and 11 asked respondents about the ways the transfer process could be improved, and we have grouped the responses together in our analysis. In response to Question 7, 32% of the 47 respondents believed that the current statutory transfer process is working well, whilst 28% viewed the current process negatively.

A.34 A number of respondents suggested that trust-based schemes were slower and less efficient at transferring pension benefits than contract-based schemes. This chimes with evidence from the data gathered by FCA and TPR that the average transfer time for contract-based pensions is 16 days, as opposed to 39 days for trust-based pensions.

A.35 A large number of respondents, including some of those who felt that the transfer process is generally working well, submitted detailed comments about the pros and cons of the current process, and suggested a wide variety of ways in which the process could be improved.

A.36 Respondents identified due diligence checks and a lack of digitalised and standardised processes as the main reasons for delay. The respondents suggested various options to improve the transfer process, including:

- encouraging greater use of electronic processes
- standardisation of transfer documentation and processes
- reducing the statutory timeframe

- streamlining the due diligence process, including establishing a whitelist of trusted pension providers
- improving guidance and transparency for consumers

Encouraging greater use of electronic processes

A.37 Of the 40 respondents to Questions 10 and 11, 65%, including consumer and industry bodies, called for the government to encourage greater use of electronic transfer processes to speed up and automate part of the transfer process, and some respondents wanted to go further and mandate their use.

A.38 At present, there are competing electronic transfer platforms seeking to gain market share, with Origo and TeX being the main players in this market. Some respondents called for the government to support the adoption of a single platform, while others suggested the adoption of an open transfer framework to foster competition.

A.39 A number of respondents also called for the wider adoption of digital information exchange and for the introduction of a pension dashboard/pension passport, and for the elimination of wet signatures via the gov.uk Verify initiative. Respondents felt that these changes would make the transfer process faster and more efficient.

Standardisation of transfer documentation and processes

A.40 Differing processes used by the ceding and receiving providers were identified as a source of delay during the transfer process by several respondents, and 45% of respondents called for the adoption of standardised documentation and processes across the industry. Specifically, several respondents called for a common discharge form, a standard list of required documents and declarations, and common service level agreements on processes and timescales to make the transfer process smoother and more efficient.

A.41 There was a large overlap between respondents calling for the wider adoption of electronic transfer processes and those calling for standardised documentation and processes, and it is clear that these approaches are mutually dependent to some extent.

Reducing the statutory timeframe

A.42 21% of responses called for a reduction in the statutory limit on transfer times from the current six months, with the majority of those supporting a new statutory limit of one month or 20 working days. A further 11% of respondents, including consumer bodies and advisory firms, explicitly opposed a reduction in the statutory limit on the grounds that such a reduction would compromise the due diligence process and hence put members' benefits at risk from pension scammers.

A.43 4% of responses called for a shorter target timeframe for pension transfers via an industry code of practice or 'best endeavour' basis, while stopping short of calling for a statutory change. Some respondents pointed out that an advantage of the current statutory timeframe is that it allows sufficient time for providers to complete complex transfer cases, including any due diligence checks, and warned that a reduction to the current timeframe would pose significant burdens on trustees and providers.

A.44 A small minority of respondents suggested extending the statutory guarantee period for Defined Benefit to Defined Contribution transfers to allow more time for customers to obtain advice and for the due diligence process to be completed.

Due diligence

A.45 28% of respondents called for government or the Pensions Regulator to establish a 'whitelist' of approved pension providers, stating that this would speed up the due diligence process by removing the need for ceding schemes to individually verify the legitimacy of every receiving scheme. Several respondents also called for a strengthened HMRC registration process and/or greater monitoring of trust-based schemes.

A.46 A number of respondents expressed wider concerns about the due diligence process, including a lack of knowledge amongst trustees as to the checks they should undertake and a lack of regulatory protection for trustees who suspect that the receiving scheme may be a scam. Some respondents expressed concern that the law does not currently enable ceding schemes to block transfers when they have reasonable concerns about the receiving scheme.

Guidance and transparency for consumers

A.47 A significant number of respondents suggested improvements in member guidance and communication, such as a clearer explanation of how the transfer process operates and keeping members informed about how their transfers are progressing. Respondents also commented that members were sometimes unclear about the circumstances in which they were required to take advice before transferring safeguarded benefits or accessing them flexibly.

A.48 The time taken by consumers to provide the required information was identified as a source of delays in the transfer process by a small number of institutional respondents, and respondents suggested that improved guidance about the member's role could potentially help to speed up transfers. Respondents also suggested that the responsibility to provide risk warnings for members who wish to access their pension savings flexibly should be transferred to Pension Wise in order to reduce unnecessary delays and ensure consumers receive consistent guidance.

Other suggestions

A.49 A significant number of respondents identified the advice requirement for those with safeguarded benefits as a source of delays in the transfer process, with some commenting that members with small pots are having difficulties accessing advice, and a small minority of respondents suggesting abolishing the advice requirement altogether. Some respondents also called for the government to clarify the definition and valuation method of safeguarded benefits.

A.50 Respondents expressed contrasting views on whether the receiving scheme should lead the transfer process. Some argued that this approach would be more consumer-centric as the receiving scheme has more incentives to act quickly. However, others expressed concerns that such a change would not be consistent with the due diligence process, as the ceding scheme is currently responsible for checking the legitimacy of the receiving scheme before transferring funds.

A.51 A number of respondents suggested abolishing the block transfer requirement for policies with protected benefits (e.g. Section 32 policies), and allowing partial transfers of Defined Benefit pensions. Further suggestions include facilitating in-specie transfer of pension assets and quoting DB transfer values in unit rather than monetary terms, to avoid the delays and confusion caused when the market value of the pension pot changes during the transfer process.

Financial advice

Question 12: What has been the impact of the legal requirement to receive independent advice on the process for transferring pensions with safeguarded benefits?

A.52 FCA data found that, of the largest 15 firms, 84% only required independent financial advice to be taken when transferring out of a scheme where required by law. A further 8% stated that they would require advice to be taken when transferring out of some pension products, outside of the legal requirement. These figures were 23% and 6% respectively for when all firms were considered.

A.53 Of the trust-based schemes who responded to TPR's voluntary survey 33% of schemes stated that they required all members to seek independent financial advice before being able to transfer out of their pension scheme in order to take-up a decumulation product, and 14% of schemes said that required advice be taken only by certain members.

A.54 For transfers in, the FCA found that around half of the largest providers required advice to be taken by consumers prior to transferring into their pension products. Only a fifth of the largest 15 providers did not have this requirement. A third of all firms required advice to be taken by consumers prior to transferring into their schemes, with only 13% not requiring it.

A.55 Of the trust-based schemes responding to TPR's survey who accepted transfers in; 17% required members to take independent financial advice before they could access a decumulation option. 9% only required certain members to take advice, whilst nearly a third of schemes who responded (30%) did not require members who wished to transfer in to take advice.

A.56 Responses from providers were generally supportive of the advice requirement as a way of helping their members to make better informed decisions, with some stating that it has helped to prevent transfers where their member otherwise would have been worse off. Some providers conveyed that the requirement could be a source of annoyance for consumers, especially when exacerbated by a lack of accessible and affordable financial advice. Providers also raised related issues, such as that of insistent clients; how safeguarded benefits are valued; and how the requirement operates for members those living overseas.

A.57 The government concludes from this evidence that there are broad two issues to explore with regards to the advice requirement. The first is how the legal requirement to take independent financial advice is being applied and operating in practice, particularly where providers are unknowingly or deliberately applying an advice requirement to members trying to transfer out of their pension which exceeds this legal requirement. The second is ensuring that consumers transferring their pension are aware of the advice requirement, have a clear expectation and understanding of the process, and are able to differentiate between providers that are acting in response to or exceeding the legal advice requirement.

Question 13: How could the process for seeking advice in relation to safeguarded benefits be made quicker and smoother, and clearer for individuals, firms, and advisers?

A.58 The government received responses from some providers that did not think this process needed to change. For example, a large wealth management firm believed that the existing rules work well, whilst an occupational scheme warned that removing the requirement could pose a risk to the solvency of some defined benefit schemes.

A.59 Popular suggestions from providers for making the process quicker and smoother included provided greater clarity over how to classify safeguarded benefits and adjusting the threshold from its current level at £30,000. One of the largest providers called for additional clarity to be provided on the treatment of certain pension policies, such as Section 32 policies and deferred annuity contracts.

A.60 Other industry professionals that responded to the consultation also provided a number of suggestions for how to improve the process. A large law firm for example, said that there should be an easily accessible list of IFAs who are authorised to advise on pension transfers. A major professional body suggested that tailored guidance could be taken in lieu of full advice for those with defined benefit pension pots that are under the threshold value. A pension consultancy said that the requirement could be extended to all pensions, with the threshold extended to £50,000. A major consumer group stated that Pension Wise could play a greater role in explaining the advice requirement to consumers.

A.61 71% of consumer survey respondents also believed that the process could be made quicker and smoother. Two frequently cited consumer concerns were accessing an appropriate IFA, and the lack of a coherent source of information about the process.

General

> Question 14: What evidence do you have of wider issues regarding the implementation of the pension flexibilities that need to be addressed?

A.62 The government received a wide range of responses to this question. A SIPP provider stated that the complexity of the existing system has contributed to a mistrust of industry, with the need for greater simplicity and coherence in the pensions system being raised by consumers through the survey as well.

A.63 Responses from consumer groups encouraged more action to be taken to ensure that the post-freedoms market is functioning well, including by expanding Pension Wise content and remaining alert to the risk posed by scams. Wider issues raised by responses to the consultation included the need to increase the number of consumers shopping around and for more data to be published on the impact of the freedoms, including Pension Wise usage.

B List of respondents

Aegon

Age UK

AJ Bell

Altus Business Systems

Association of British insurers (ABI)

Association of Pension Lawyers

Association of Professional Financial Advisers (APFA)

Association of School and College Leaders

Aviva

B&CE

BT

BT Pension Schemes

Capita Life & Pensions Regulated Services

Citizens Advice

Corylus Compliance

Fidelity Worldwide Investment

Financial Services Consumer Panel

First Actuarial

Hargreaves Lansdown

Hogan Lovells

Institute and Faculty of Actuaries

International Financial Data Services (IFDS)

KGC Associates

Legal & General
LV=

Mattioli Woods

Mercer

Money Advice Trust

MoretoSIPPs

North Tyneside CAB

Nutmeg

Old Mutual Wealth

Origo

The Pension Administration Standards Association (PASA)

The Pensions Advisory Service

Pensions Lifetime and Savings Association (PLSA)

Pension Management Institute

Pension Protection Fund

Pinsent Masons

Prospect Trade Union

Prudential

Railway Pension Trustee Company Limited and RPMI Ltd

Royal Bank of Scotland

Royal London Group

Sackers & Partners LLP

Scottish Widows/ Lloyds Banking Group

Society of Pension Professionals

Standard Life

St James's Place Wealth Management

Sun Life Financial

SWIFT

Tax Incentivised Savings Association (TISA)

Trade Union Congress

Virgin Money

Which?

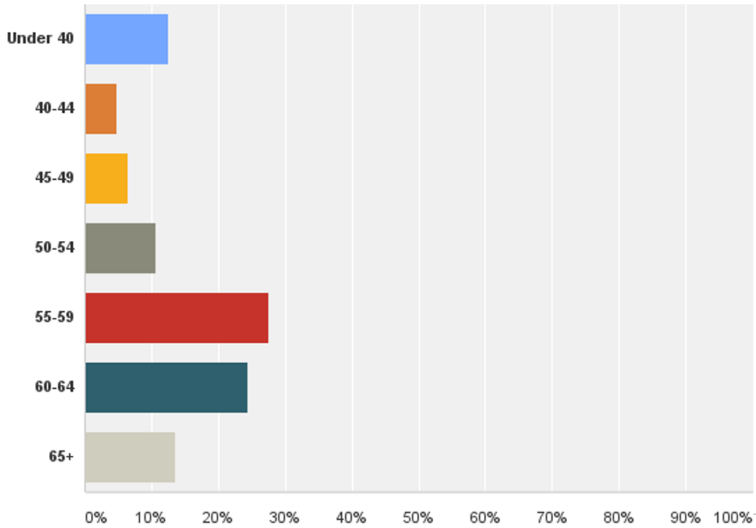
Zurich Insurance

C Consumer survey responses

C.1 The online consumer survey which ran alongside the consultation received 1,183 responses in total. This section presents the results from the quantitative questions.

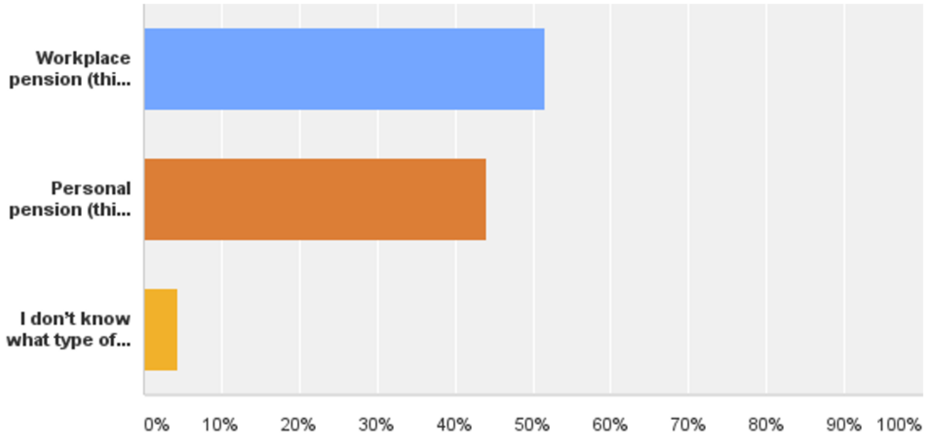
Q1: What age group do you fit into?

Answered: 1,183 Skipped: 0



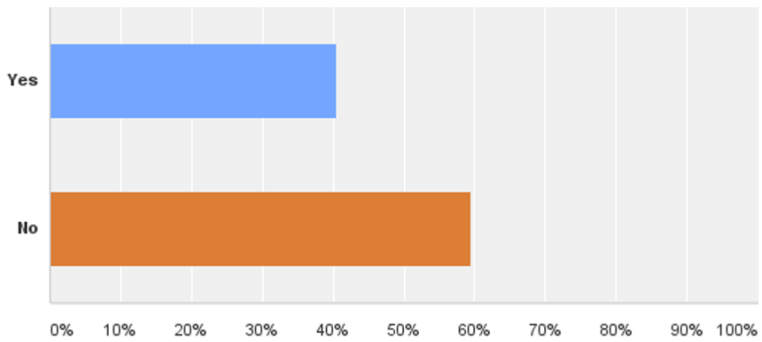
Q2: What type of pension do you have?

Answered: 1,183 Skipped: 0



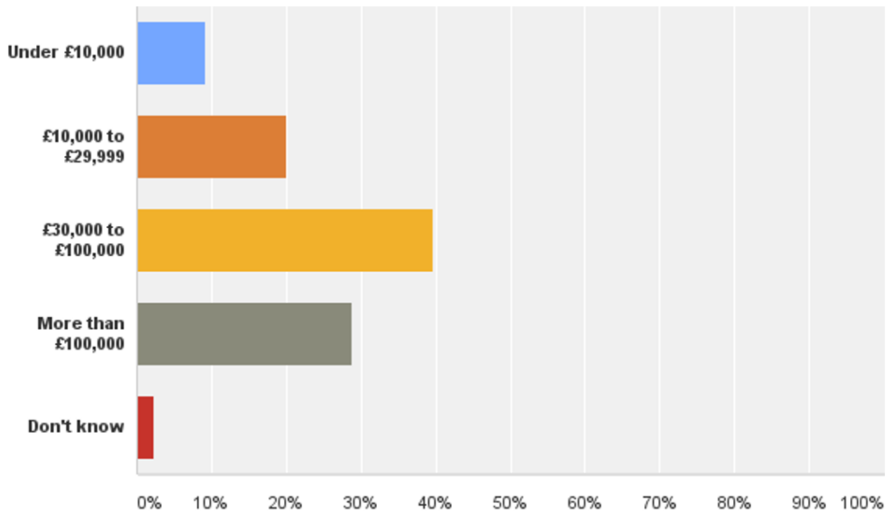
Q3: Have you tried to access your pension under the new freedoms? From 6 April 2015, the government has abolished the effective requirement to buy an annuity. You can find more information on what to do with your retirement savings by visiting Pension Wise, the government's free impartial service, at www.pensionwise.gov.uk.

Answered: 1,183 Skipped: 0



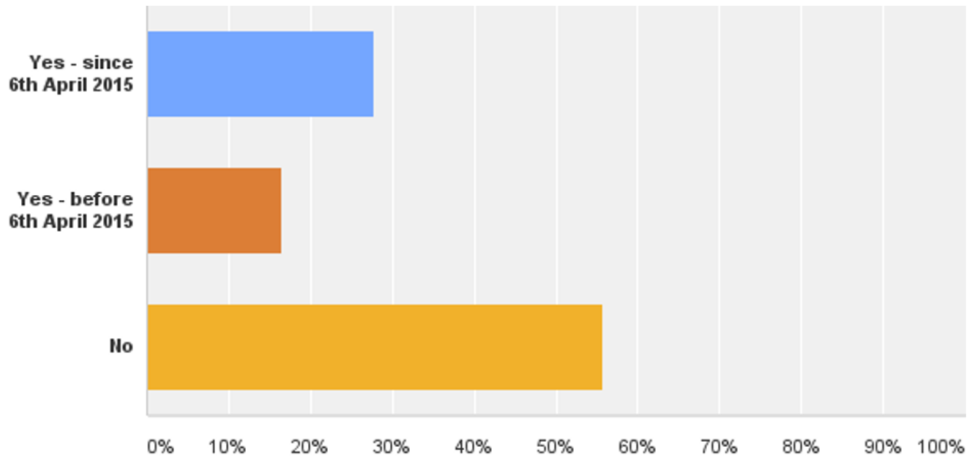
Q4: Approximately what was the value of the pension pot you tried to access?

Answered: 473 Skipped: 710



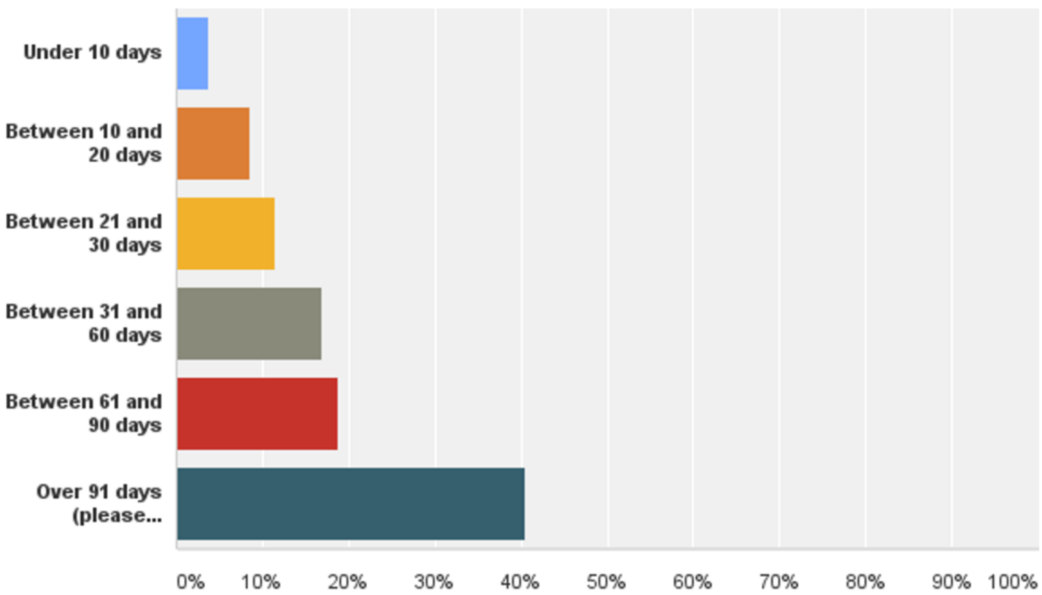
Q5: Have you tried to transfer your pension?

Answered: 1,153   Skipped: 30



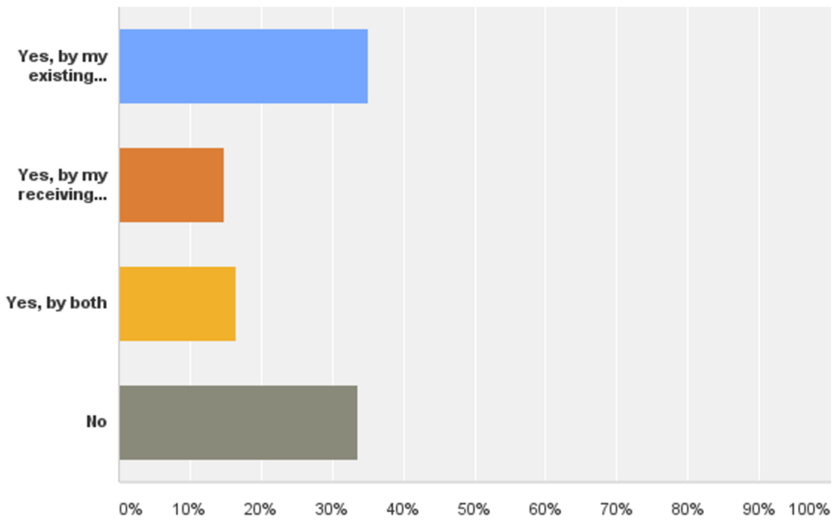
Q6: Approximately how long did the process take in total?

Answered: 454   Skipped: 729



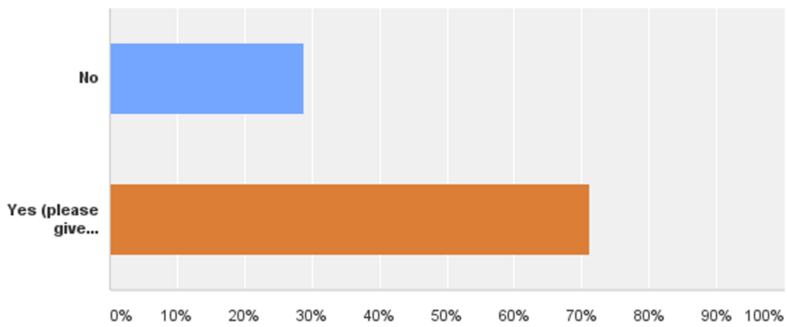
Q7: Were you asked by either your existing provider or receiving provider to seek independent financial advice before the transfer could be completed?

Answered: 467 Skipped: 716



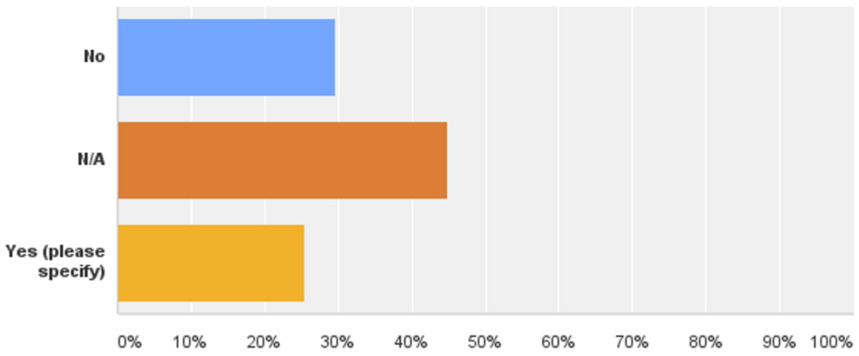
Q9: Do you think the process for seeking independent financial advice could be made quicker and smoother for consumers?

Answered: 246 Skipped: 937



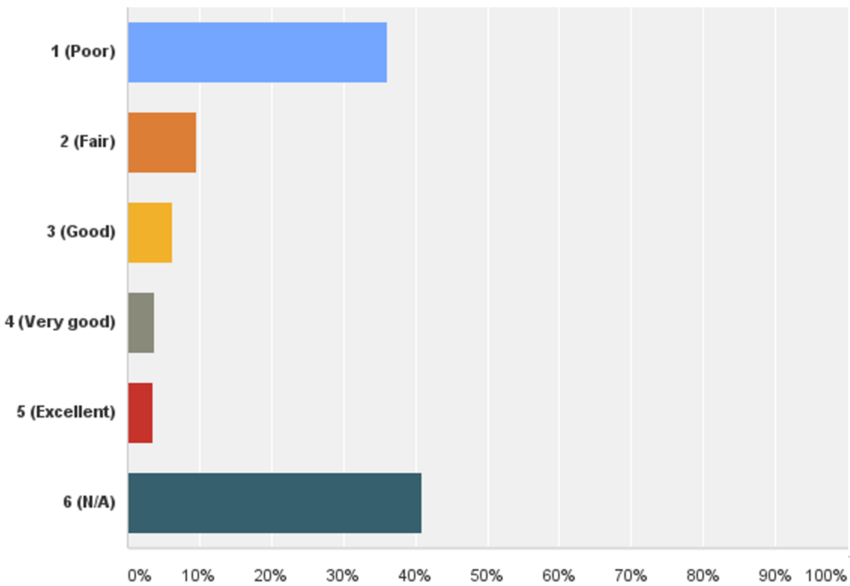
Q10: Did you have any difficulty transferring your pension for a reason other than the requirement to seek independent financial advice?

Answered: 839 Skipped: 344



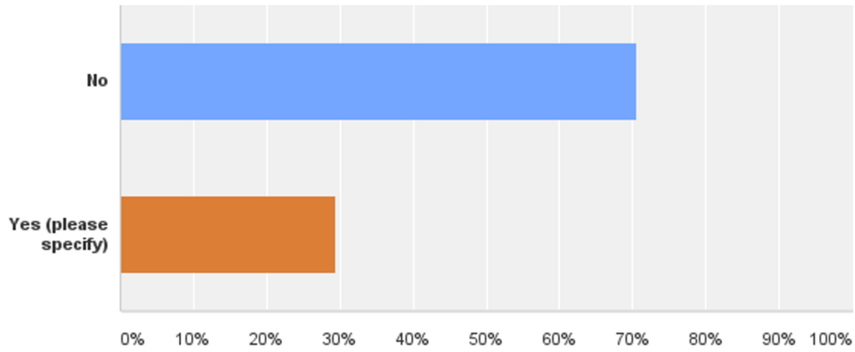
Q12: On a scale of 1-5, please rate your experience of transferring your pension:

Answered: 807 Skipped: 376



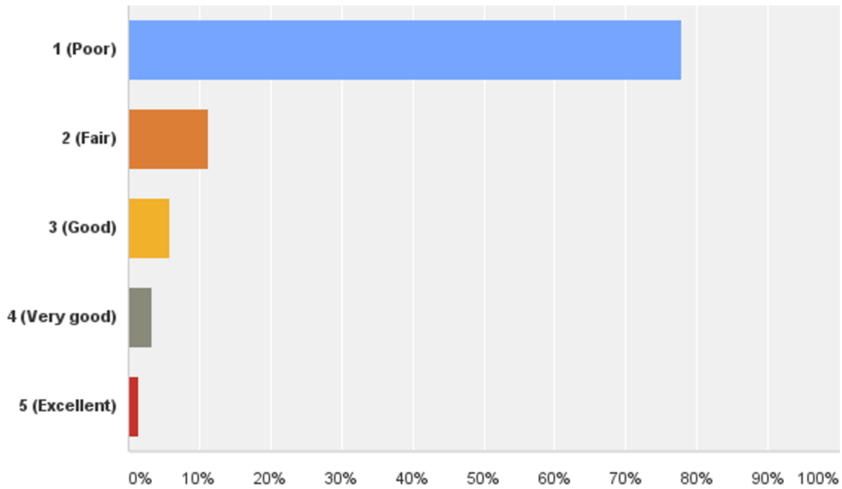
Q13: Do you believe that you were charged an exit penalty when leaving your pension? If so, please include as much information as possible – including any reasons given by your provider for it.

Answered: 633 Skipped: 550



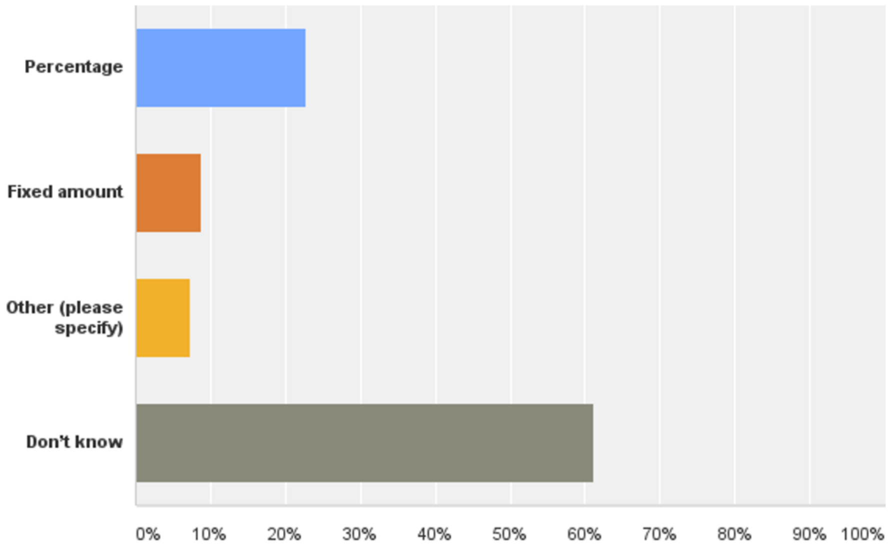
Q14: On a scale of 1-5, please rate how clear your pension provider's explanation of these charges were and why they had been charged at that level.

Answered: 204 Skipped: 979



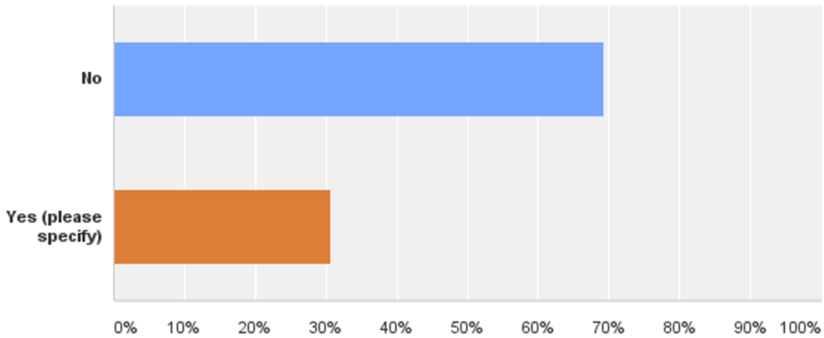
Q15: Was the exit charge calculated on the basis of a percentage or a fixed amount of the value of your pension pot?

Answered: 216   Skipped: 967



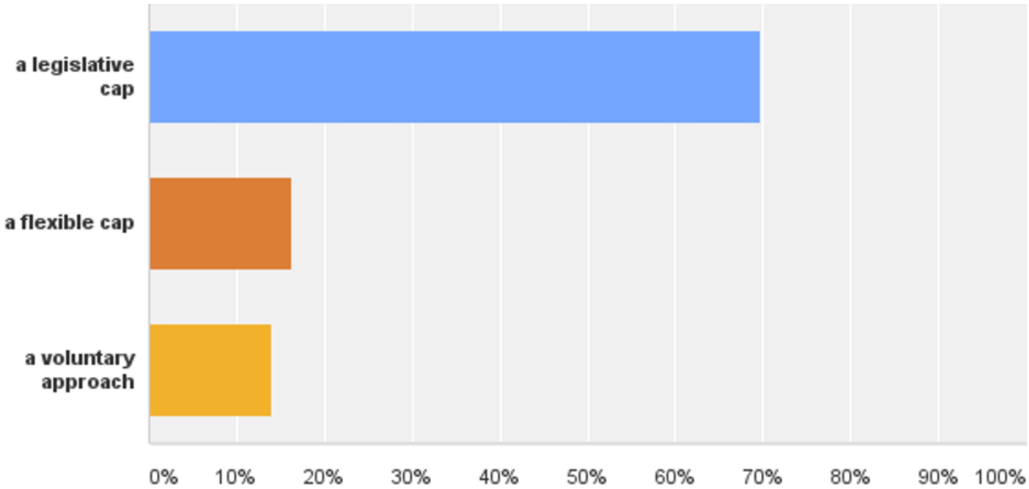
Q17: Has the existence of an exit charge impacted on any decisions you have made to access the pension flexibilities?

Answered: 590   Skipped: 593



Q18: Which of these is your preferred option?

Answered: 555   Skipped: 628



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