The Consumer Council for Northern Ireland response to the Financial Conduct Authority's consultation on Pension Transfer Advice: contingent charging and other proposed changes (CP19/25)

The Consumer Council

1. The Consumer Council is a non-departmental public body (NDPB) established through the General Consumer Council (Northern Ireland) Order 1984. Our principal statutory duty is to promote and safeguard the interests of consumers in Northern Ireland.

2. The Consumer Council for Northern Ireland welcomes the invitation to respond to the Financial Conduct Authority (FCA) consultation. Alongside responding to the questions posed by the FCA, The Consumer Council has highlighted some unique considerations about Northern Ireland consumers which should also be considered.

Considerations about Northern Ireland

3. Of the devolved UK nations, Northern Ireland has the lowest median wage with median weekly earnings for 2018 at £521[1] compared to the UK average of £569[2]. A recent report released from Which? shows that only half (49%[3]) of those in Northern Ireland were content with their income, over a quarter (26%[4]) do not have money saved for a "rainy day", and 50% of consumers have less than £300[5] left after mortgage/rent and essential bills are paid in a typical month.

4. Consumer Council research[6] would indicate that Northern Ireland consumers continue to display low levels of optimism in regards to their financial position. When assessing their financial situation, a fifth (19%) of consumers believed it to be poor. According to the FCA's Financial Lives Survey[7], 24% of Northern Ireland consumers cited a low understanding of financial issues compared to a UK average of 17%. Not as many describe themselves as a confident and savvy consumer (43% vs. 52%), or as highly confident managing their money (26% vs. 37%). Fewer consider themselves to be highly knowledgeable in financial matters (10% vs. 16%).

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[1] https://www.nisra.gov.uk/statistics/labour-market-and-social-welfare/annual-survey-hours-and-earnings

[2] https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/2018#measuring-this-data

[3] https://consumerinsight.which.co.uk/reports/consumer-insight-report-2019-northern-ireland

[4] CCNI YouGov annual survey 2019

[5] CCNI YouGov annual survey 2019

[6] https://consumerinsight.which.co.uk/reports/consumer-insight-report-2019-northern-ireland

[7] FCA Financial Lives Survey https://www.fca.org.uk/publications/research/understanding-financial-lives-uk-adults

5. The comparisons set out in Figure 1 further highlight how Northern Ireland compares to the UK average in a number of key areas.

Figure 1: Issues – Northern Ireland vs UK

Issue	NI	UK	Difference	Source
Disability claimants (DLA or PIP)	11.6%	5.7%	+103%	Calculated using DFC ONS and NISRA Statistics published in 2019
No cash savings or savings under £5,000	67%	57%	+18%	FCA 2017 – Financial Lives Survey (published 2018)
No cash savings	16%	13%	+23%	FCA 2017 – Financial Lives Survey
Over-indebtedness	20%	15%	+33%	FCA 2017 – Financial Lives Survey
Low understanding of financial issues	24%	17%	+41%	FCA 2017 – Financial Lives Survey

6. The Money and Pension Service (MAPS) listening document[8] lists key aspects of financial capability measured in 2018. Of the 12 areas measured, Northern Ireland is listed as the worst performer for 11 indicators. Figure 2 below highlights these:

[8] https://maps.org.uk/wp-content/uploads/2019/04/Listening-Document.pdf - located on page 66

Figure 2: Key aspects of financial capability

The table below shows some of the key aspects of financial capability measured in the 2018 UK-wide survey. Green and yellow show where people in a devolved nation show a variation from the UK average that is at or more than 5%. Rows in grey show where populations across the different nations are very close to showing the same characteristics.

	UK	Scotland	Wales	NI
Day-to-day money management				
Rarely or never save.	21%	20%	24%	24%
Have less than £100 in savings and investments.	22%	26%	27%	28%
Often use a credit card, overdraft or borrow money to buy food or pay bills because they have run short of money.	17%	15%	14%	11%
Over-indebtedness				
Are over-indebted	17%	14%	16%	16%
Planning ahead				
Could last three months or more without borrowing if they lose their main source of income.	49%	53%	51%	49%
Have a plan for financial goals for the next five years.	53%	48%	48%	47%
Do not feel that they understand enough about pensions to make decisions about saving for retirement. (18-64 only)	55%	54%	57%	61%
Are not engaged with how they would manage financially if they need to go into long-term residential care. (65+ only)	43%	40%	33%	48%
Accessing information, guidance and advice				
Know of organisations and websites that can offer free or affordable financial information, help and support.	58%	59%	56%	58%
Did not seek financial help or support for life-events or situations experienced in the last 12 months (working-age only)	59%	61%	58%	65%
Have used the internet for online or mobile banking	69%	66%	67%	63%
Confidence				
Do not feel confident making decisions about financial products and services.	47%	46%	51%	51%
Sense of control				
Do not feel they can determine what happens in their lives when it comes to money.	63%	64%	67%	71%
Do not focus on the long term when it comes to money	61%	66%	62%	67%

Note: because England comprises the vast majority of the UK population, the UK average and the results for England are almost always identical.

Consumer Principles

7. The Consumer Council uses eight consumer principles to understand how particular issues, policies and regulatory proposals are likely to affect consumers. The principles are:

1. Access – can people get the goods and services they need or want?
2. Choice – is there any?
3. Safety – are the goods or services dangerous to health or welfare?
4. Information – is it available, accurate and useful?
5. Fairness – are some or all consumers unfairly discriminated against?
6. Representation – do consumers have a say in how goods or services are provided?
7. Redress – if things go wrong, is there a system for putting them right?
8. Education – are consumers aware of their rights and responsibilities?

8. All aspects of our work are assessed against the above principles to consider the impact on consumers and we have used these principles as a framework for assessing the proposed changes in this consultation.

Consultation Response

9. The Consumer Council welcomes the opportunity to respond to the above consultation, our response will focus on issues arising for Northern Ireland consumers.

10. The Consumer Council has identified pensions in Northern Ireland as a priority area of interest and we would welcome any information the FCA can share on pensions specifically in relation to Northern Ireland consumers.

11. According to the FCA's Financial Lives survey, the state pension is the main source of income for 44% of retirees in the Northern Ireland, which is on a par with the UK average. However, this proportion is predicted to fall only to 37% for Northern Ireland consumers compared to the UK's predicted average of 29%. Among non-retirees aged 45 and over, 26% of respondents in Northern Ireland say they have not really thought about how they will manage financially when they retire, compared to a UK average of 16%[9].

12. Considering the lower income levels, low levels of savings, lack of financial confidence and the expanse of people who are predicated to be relying on the state pension in Northern Ireland, The Consumer Council see the pension market in Northern Ireland as a growing area of concern for consumers and policy makers alike.

Access to Quality Advice

Question 2: Do you agree that a ban on contingent charging is likely to be effective in reducing the numbers of consumers receiving unsuitable advice? If not, how would you suggest we effectively reduce the numbers of consumers receiving unsuitable advice? Do you think we should address the conflict of interest issues differently?

13. Pensions are a complex financial product that many consumers will need professional advice on to be able to fully understand and make informed purchasing decisions. The Consumer Council supports measures that will reduce the numbers of consumers receiving unsuitable advice, particularly given the worryingly high statistics outlined in Section 2.3 of the consultation document. According to research published in 2015 by the Association of Accounting Technicians[10], the average working adult in the UK will work for at least six different companies during their working lifetime. Given that many pensions are attached to or supported by an employer, clear, suitable advice in relation to the transfer of pension funds should be a priority given the low level of confidence consumers have in relation to planning for retirement. Whilst the FCA has identified that too many consumers are receiving unsuitable advice and thematic work has identified that some advice firms are failing to demonstrate competence in fact finding, this may not be driven by remuneration models. It may be possible that unsuitable advice is down

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[9]NB Predictions from answers to the question: '*Will the State Pension be your main source of income in retirement?*' Base: All UK adults who are not retired and are aged 45 and over.
https://www.fca.org.uk/publication/research/financial-lives-consumers-across-uk.pdf

[10] https://www.aat.org.uk/news/article/work-numbers

to a lack of training or knowledge on behalf of advisors. The Consumer Council believes that consistency in training levels and knowledge across the industry is key to providing good outcomes. This was highlighted throughout The Consumer Council's response to the Vulnerable Consumer Guidance issued by the FCA.

14. The FCA has proposed to 'ban contingent charging for Defined Benefit (DB) pension transfers and conversions, except for specific groups of consumers with certain identifiable circumstances', The Consumer Council requests clarity on how these specific groups of consumers will be identified and how the FCA will ensure these consumers have been identified correctly, ensuring consistency across the market.

15. Due to low consumer confidence and understanding of financial issues in Northern Ireland, it may be the case that consumers are unaware of, or do not understand the arising conflicts of interest. Therefore, working to ensure that consumers are empowered to make independent, well informed decisions in relation to any pension advice they undertake should be a priority.

Cost of Advice and Access to Information

16. Whilst proposals listed by the FCA concentrate on banning contingent charging, it is worth considering whether or not cost will be a barrier for consumers accessing pension advice, even after the ban or a cap. According to MAPS, 55% of UK consumers do not feel they know enough about pensions to make decisions about saving for retirement. This figure increases to 61% of Northern Ireland consumers.

17. In addition, given the lower levels of savings, lower income levels and lower levels of financial confidence, paying for pension advice may not be a priority for Northern Ireland consumers. The Consumer Council would welcome any information from the FCA on whether Northern Ireland consumers see the cost of advice as a barrier to access, or whether the lack of understanding and availability of pension advice acts as the primary reason that the majority of consumers do not feel they know enough about pensions.

18. The Consumer Council welcomes any initiatives that will help consumers gain access to quality pensions advice, especially as around 1 in 3 of the population of Northern Ireland describe themselves as having low understanding of financial issues, compared to a UK average of 17%.

19. The FCA's own research has shed some light on the potential nuances in the pensions market in Northern Ireland, with 2017 Financial Lives (FL) findings detailing that among non-retirees aged 45 and over, 26% of respondents in Northern Ireland say they have not really thought about how they will manage financially when they retire, compared to a UK average of 16%[11].

20. The FCA has identified groups of consumers for whom a transfer or conversion is likely to be in their best interests, due to specific personal circumstances, and they are proposed to be excluded from the ban on contingent charges. The draft rules have set out that these include those who have specific illnesses or conditions resulting in a materially shortened life expectancy and those who may be facing serious financial hardship such as losing their home, for instance due to not being able to make mortgage payments.

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[11]https://www.fca.org.uk/publication/research/financial-lives-consumers-across-uk.pdf

21. In relation to these above points, the FCA should consider the unique picture of Northern Ireland consumers. FCA's own research and examples set out in this response suggest that there may be a higher percentage of consumers in Northern Ireland that will fall under the ban exclusion. These regional differences, their significance and how to better adapt policies to cater to the varying needs of consumers in all UK regions should be considered further by the FCA before implementing any proposals.

22. The varying levels of consumers in vulnerable circumstances, is likely to mean that a higher proportion of consumers in Northern Ireland will be exempt from the proposed ban. The Consumer Council recommends that the FCA consider this potential implication further for Northern Ireland to ensure that advisors are adequately trained and that all consumers, regardless of their financial situation, are able to access suitable advice and can understand the options available to then, including all the potential risks and benefits.

23. Of concern to The Consumer Council is that the FCA has detailed firms will be responsible for identifying individuals who fall within the group that may continue to be charged on a contingent basis. Whilst we support the onus being placed on the firm, we would welcome further clarity on how the FCA will ensure this is happening and how assessments will be made on whether the firm is correctly identifying the right consumers.

<u>Education</u>

24. The Consumer Council is in agreement that The Pensions Regulator (TPR) and the Money and Pensions Service (MAPS) should play a key complementary role to any action that the FCA takes. The Consumer Council is a strong advocate for consumer education and empowerment and is in agreement that providing consumers with information and education about the DB and Defined Contribution (DC) pensions is beneficial and may result in consumers feeling more empowered.

25. In addition to consumer education, The Consumer Council believe that good consumer outcomes should be tied to a framework that firms are responsible for adhering to. A suggestion covered within The Consumer Council's response to FCA's Vulnerable Consumer Guidance consultation looks at embedding consumer outcomes within the Senior Managers Certification Regime. The same could be done in relation to pension transfer advice, ensuring that there is a tangible positive outcome from this work.

26. A recent report[12] published by UK Finance that evaluated the Senior Managers Certification Regime (SMCR) found that the rules introduced over three years ago to improve governance and culture at banks post the financial crisis have led to a "meaningful and tangible change in culture, behaviour and attitudes". 93% of respondents agreed that the SMCR had induced change for the better. The Consumer Council believes that these proposals and associated outcomes may be better placed as part of the SMCR accountability and having a structure within the regulatory framework.

[12] https://www.ukfinance.org.uk/system/files/SMCR%20-%20Evolution%20and%20Reform.pdf

27. In addition to education there should also be transparency. The Consumer Council is of the view that a requirement should be placed on firms to be direct about costs, not just before providing the regulated advice but during the process, with emphasis put on advisors confirming consumers actually understand the costs, not just demonstrating that they have been communicated to the customer.

28. Emphasis should also be put on ensuring that communications and disclosures by firms are not just in the form of engagement letters as some consumers may not receive or open them, or be able to understand the disclosures when listed in writing due to vulnerabilities or lack of literacy. Disclosures should be delivered in any format that consumers may need them in. The Consumer Council would be interested in better understanding how these communications and disclosures will be managed and to what common standard they will be held to.

29. The Consumer Council believe that suitability reports, and what the FCA have highlighted to be included on them, could prove as a useful tool for consumers when assessing a personal recommendation made by their advisor. In relation to the contents of the report, The Consumer Council agree with the minimum suggested that these should cover the client's needs and demands, reasons behind the recommendation and possible disadvantages for the client.

30. The requirement on firms to present these to consumers before a customer makes a decision about switching must work in the interest of consumers, allowing them to be presented with all relevant information before taking any action. The FCA should however ensure that there is consistency in these reports and that they are clear, not written in jargon and can be understood by all consumers.

Redress

31. The Consumer Council believe that an understanding of the product and associated risks should be checked and monitored in all aspects of financial services, not just in relation to pension advice. However, given the high percentage of consumers the FCA has suggested have received unsuitable pension transfer advice, it is obvious that a focus is needed for pensions. The Consumer Council requests further information on how the FCA will ensure this will be achieved going forward and in particular, what retrospective actions it will be taking against firms identified as providing unsuitable advice.

32. Consumers must always have access to redress. Advice on whether to transfer a pension fund, and therefore incur any relevant charges, should be based on a recommendation from a suitably qualified adviser. This recommendation must be based on a clear understanding of the needs of the consumer and must be in the best interest of the consumer's long term plan for retirement. If it is later found that this recommendation was not based on a clear understanding, was not in the interest of the consumer or that the potential risks involved were not clearly explained and understood, a clear path to suitable redress should be made readily and proactively available to the consumer that should be simple to navigate.

Final Comments

33. The Consumer Council is supportive of the work being done by the FCA to ensure positive outcomes for consumers transferring their pension.

34. As our response shows, Northern Ireland is significantly different to the rest of the UK in respect to pensions and other wider financial issues. The Consumer Council would respectfully ask the FCA to ensure these differences are noted and fairly taken into account of in respect to any final decision on pension transfer advice.

35. Firms need to ensure that customers are aware of all considerations and that consumers genuinely understand them, and how their advisor will be paid as a result of their choices. There must also be clear and easily accessible information on what support is available to vulnerable consumers particularly.

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