31 January 2018

Dear Mr Field

Financial Guidance and Claims Bill

The Financial Guidance and Claims Bill currently going through Parliament has the potential to create welcome simplification in the retirement guidance space. However, the ‘auto-guidance’ amendment tabled by the House of Lords (Clause 5(2)) in November last year was ill-thought-through and has not been shown to be workable on any practical level. We therefore urge you to support the Government amendment tabled on 26 January to remove the Lords amendment.

Below we outline a number of reasons why we believe the House of Lords amendment is ill conceived and the practical questions its implementation would raise. For the avoidance of doubt AJ Bell is fully supportive of the principle of making financial advice and guidance more readily available to pension savers and welcomes the debate the Financial Guidance and Claims Bill has initiated around this subject.

Background

By merging the functions of the Money Advice Service (MAS), Citizen’s Advice and The Pensions Advisory Service (TPAS), the Bill will establish a single point of contact for savers seeking free, independent help navigating their retirement options.

Given the complex choices people face when deciding what they want to do with their pension once they hit age 55, improving engagement remains critical in ensuring savers make sensible, well-informed retirement choices.

While ideally everyone approaching retirement would seek regulated financial advice, in reality some will always be unwilling to pay for such advice or it may prove uneconomic based on the size of their pension pots. Increasing the proportion of savers who at the very least utilise the free services available to them - including retirement guidance through Pension Wise - is therefore a laudable policy aim.
However, the 'auto-guidance' amendment tabled by the House of Lords would not work for a number of reasons and risked causing huge numbers of complaints from savers who would inevitably face delays in accessing their money.

Timing of guidance

The primary problem is the timing of ‘auto-guidance’. The House of Lords amendment created a non-defined requirement for providers to give access to guidance at the point individuals “require access” to the pension freedoms or wish to make a transfer. Although this was not set out in the proposed legislation, a number of commentators have indicated that the requirement would be met by providers automatically enrolling savers into guidance appointments.

AJ Bell’s own experience, behavioural economic theory and basic common sense tell us this is precisely the wrong time to push savers into guidance. Someone who approaches a provider to access their fund will only typically do so because they have already made their mind up as to the type and amount of benefits they want. And importantly, once they have made their mind up about what they want, they want this processed as soon as possible.

Assuming those individuals would be given the chance to opt out by ticking an ‘opt-out’ box – and we can’t see any other practical way that this would work - the majority of people will therefore inevitably tick the ‘opt-out’ box to enable them to receive their money as soon as possible.

However, we know some may miss the opt-out box and be auto-enrolled into a guidance appointment - even if they don’t want it. As a result the payment of their benefits would be delayed and thousands of savers would be understandably angry at their provider as they will perceive them to be refusing to give them their own money.

In some circumstances there is even a risk that a delay in payment of benefits as a result of someone being auto-enrolled into guidance may have serious tax consequences.

Take the example of someone who approaches their provider shortly before the end of the tax year to receive benefits which take them up to a particular tax limit for that year – for example the personal allowance or the amount at which higher rate tax kicks in. If payment is delayed because the provider has to wait until the individual has received guidance, there would be every chance the payment would fall into the following tax year, materially and detrimentally affecting the tax position of the beneficiary.

The amendment therefore risks being ineffective, hugely unpopular and financially detrimental.

We have also seen comments that the provision of guidance at point of access will help to prevent scams. Sadly this is also not the case. By the time a target of a scam is approaching their provider asking for a transfer or access to their benefits they will already have been thoroughly coached by the scammers as to the precise actions to take, answers to give, and warnings to ignore.

To prevent scams and encourage individuals to engage more with the retirement options available to them we believe it would be preferable to encourage people to take guidance and advice much earlier in the retirement saving journey. At recent FCA workshops involving
a wide range of parties involved in retirement outcomes, there was broad support for both increasing customer engagement with retirement and guidance options from well before access to the pension freedoms is first available and ensuring that nudges to the guidance service continue to be made available on an ongoing basis. The question has to be asked of whether an individual who has received, for example, annual nudges towards guidance from the point they reached age 45, but has not chosen to take up that guidance, is going to accept a push towards a guidance appointment when they have made their mind up about how to access benefits and have given an instruction to their provider regarding this at, say 60?

There is room and appetite for behavioural research to inform both how and when such interventions should be targeted, although logically significant 'life events' such as the birth of a child, buying a house or reaching a landmark birthday (e.g. 40 or 50) would be a good place to start.

But any intervention needs to be supported by research and consultation so we can be confident it will actually work. As far as we are aware, the Lords' amendment was devised in a short timescale with no consultation or research and the involvement of only a handful of people, none of whom have direct, day-to-day involvement with individuals looking to access the pension freedoms.

Unanswered questions

Aside from this fundamental problem, and bearing in mind our comments above about how some commentators have interpreted the clause, there has been no debate about what the House of Lords amendment would actually mean in practice. Specifically:

- It fails to articulate what 'guidance' savers would be auto-enrolled into. Is it a telephone conversation? Face-to-face meeting? Online questionnaire? If we are at the point of legislating to create the framework which nudges people towards something, it would be useful to know what that something is. As indicated above, if providers were required to organise face-to-face, or even phone, appointments on behalf of customers that would be a huge logistical task for all parties involved leading to delays in individuals receiving their funds. It is worth highlighting that, as I issue this letter in late January 2018, the earliest date upon which I would be able to book a phone appointment using the online booking service is 16 March 2018.

- The legislation doesn't impose an age limit but appears to apply to anyone transferring between defined contribution schemes or accessing benefits. If someone is aged 49, for example, and transferring with a view to accessing the freedoms in 6 years, the legislation would indicate they get an appointment. However they can't because guidance is only available to those aged 50 and over.

- Is there a decency limit on the requirement? If someone has, for example, a £500k pot and they're taking £5k lump sum for a one-off purpose with no intention of taking further benefits for years, does their provider have to book them an appointment? The legislation would appear to indicate that this is the case. If this is not the case, where is the line drawn?

- What happens when someone is making several transfers to several different providers? Do all of the transferring schemes have to automatically book an appointment? We suspect this was not the intention of the legislation, but the Lords' amendment appears to create this as a requirement.
• Why are annuities excluded from the Lords’ proposal? If anything, advice is even more crucial here given that the purchase of an annuity is an irreversible decision whereas someone accessing the freedoms still has the freedom to move to a different provider and/or change their income level at any point. Yet the Lords’ amendment only appears to cover people accessing the freedoms or making a transfer.

Practical issues such as these need to be considered and resolved before any law is passed, which is why the Government’s amendment – which leaves the door open for future interventions and allows for a proper period of consultation – is sensible.

To be absolutely clear, AJ Bell is keen to encourage greater take-up of guidance, but delivered at the right time and in the right way.

From a commercial position, AJ Bell would benefit from more people taking guidance and advice about their retirement options at any point in time – we offer complete access to the pension freedoms and receive far more transfers in than we receive requests to transfer out.

Greater engagement should mean greater levels of shopping around, which in turn should mean more people choosing to invest with providers like us.

Our interest is in ensuring any initiative to improve take-up of guidance and advice works on a practical level. The House of Lords amendment would not, although we hope it kick-starts an active debate about how best to achieve this aim.

If you would like to discuss any of the points outlined here directly, please do not hesitate to contact me.

Yours sincerely

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