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# Government Action to Tackle Early Exit Charges and Member-Borne Commission

The charges that are applied to member's money purchase pension savings – often implicitly – have been subject to a great deal of scrutiny in recent years. Action taken so far by the government has included a cap on charges on default funds and a ban on active member discounts.

Earlier this year, the DWP consulted on proposals to cap the charges certain members incur when accessing the pension freedoms before normal pension age, and extended its earlier restrictions on charges applied to members' funds to cover the costs incurred by schemes from scheme advisers.

The government response to this consultation has now been published, with amending regulations laid before Parliament.



## Background

This government's consultation on the draft Occupational Pension Schemes (Charges and Governance) (Amendment) Regulations 2017 ("the draft regulations") ran from the 5 April 2017 to 31 May 2017. The draft regulations sought to combat the following charges applied to the funds of occupational pension scheme members by:

- introducing a 1% cap on early exit charges in relation to existing members on 1 October 2017 and banning these charges for members who join a scheme after that date.
- prohibiting charges from being imposed on members of schemes used for automatic enrolment to recoup the cost of commission payments made to advisers after 1 October 2017 and in relation to agreements entered into before the 6 April 2016.

## Restricting Early Exit Charges

Although the pension freedoms have given members greater choice about how and when they access their pension savings, the government is aware that members still face some potential barriers in using the flexibility introduced in 2015. This has included incurring early exit charges which can act as a barrier to some people seeking to access their pension savings.

To address this issue the government and the Financial Conduct Authority (FCA) have previously conducted consultations to establish the extent of the problem across both personal and occupational pensions. (The FCA regulates the contract-based sector, while the government - in the form of the DWP – does likewise for occupational pensions, as the Pensions Regulator does not hold the same powers as the FCA.)

For personal and stakeholder pensions, the FCA now has a duty to make rules to ban or cap early exit charges. From 31 March 2017, a 1% cap was imposed on the value of benefits being taken, converted or transferred for members of personal and stakeholder pension schemes on that date and a complete ban on such charges was introduced for new members of personal and stakeholder pensions.

The DWP then set out its intention to introduce regulations to set a cap on early exit charges for occupational pension schemes in line with that proposed by the FCA. The regulations mirror the FCA requirements, but will come into force on 1 October 2017.

## Banning Member-Borne Commission

### The Existing Ban

In March 2014, the DWP announced that from April 2016 no scheme used for automatic enrolment should contain member-borne commission payments to advisers. Following consultation, it then announced a phased approach would be taken to the member-borne commission ban, because of the complexity involved in legislating for the ban.  This complexity made it unlikely that the ban would be ready to come into force as originally intended. Instead, the ban would be introduced in two stages.

The first phase of the ban was implemented on 6 April 2016, with regulations prohibiting charges being imposed on members of occupational pension schemes providing money purchase benefits, which are qualifying schemes for automatic enrolment purposes, for the purposes of recouping commission payments made to advisers. The regulations applied to arrangements between the trustees and service providers that were entered into from 6 April 2016; the same date as the FCA banned commission in workplace personal pension schemes.

### The Next Stage of the Ban

The regulations recently laid before Parliament implement the second phase of the ban, by prohibiting charges being imposed on members to recoup the cost of commission payments made to advisers under agreements entered into before 6 April 2016 (and which were not renewed or varied after that date). The prohibition in the regulations will not apply if the payment to the adviser was made before 1 October 2017, when the draft regulations come into force. In line with the approach taken by FCA, and to ensure a consistent approach to the member-borne commission ban across workplace pensions, the draft regulations do not prohibit service providers from imposing member-borne commission charges for the purpose of recovering initial commission.

Service providers will be allowed up to six months to make any changes or modifications to their systems processes in order to comply with the prohibition. This means that although the draft regulations will come into force on 1 October 2017, the prohibition will not apply until 1 April 2018 i.e. after the six-month period has expired.

## Comment

The days of pension schemes having opaque charging structures are certainly coming to an end. Trustees of schemes used as qualifying schemes for automatic enrolment should not be caught out by these latest changes – the DWP has been working on this for some time, with the ban on member-borne commission in particular first raised over 3 years ago, and originally scheduled to completely come into force by April 2016.

Although these charges are aimed at qualifying schemes, and other schemes that are used by employers to meet their automatic enrolment duties, it seems clear that the government will ultimately look to impose these restrictions more widely.

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