

**Financial Conduct Authority (FCA) consultation paper cp16/22 on Pension Wise standards:
changes for secondary annuity markets guidance
Response from the Low Incomes Tax Reform Group (LITRG)**

1 Introduction

- 1.1 The LITRG welcomes the opportunity to comment on the FCA's proposals to strengthen the standards for Pension Wise advisers in the face of the inclusion of secondary annuity markets within their role. Although our remit as a charity is strictly a tax one, nevertheless it is impossible to disentangle the impact of tax across the whole realm of pensions and to separate the different strands of financial, benefits and tax advice in such a complex area as the intended market in secondary annuities. Furthermore our charge to represent the unrepresented and often vulnerable give us a particular interest in the field of advice whether free or paid for on matters frequently beyond their easy comprehension.

2 Executive Summary

- 2.1 The proposed standards, while undoubtedly desirable, set an unachievable target for the laypeople currently recruited to deliver pensions guidance under Pension Wise face-to-face. In order to adhere to these standards, it would be necessary and desirable for them to undergo extensive professional training and demonstrate their competence by examination.
- 2.2 Pension Wise interviews should not be restricted to one session, but continued for as long as needed to achieve a suitable outcome for the client.

3 About Us

- 3.1 The LITRG is an initiative of the Chartered Institute of Taxation (CIOT) to give a voice to the unrepresented. Since 1998 LITRG has been working to improve the policy and processes of the tax, tax credits and associated welfare systems for the benefit of those on low incomes. Everything we do is aimed at improving the tax and benefits experience of low income workers, pensioners, migrants, students, disabled people and carers.
- 3.2 LITRG works extensively with HM Revenue & Customs (HMRC) and other government departments, commenting on proposals and putting forward our own ideas for improving the system. Too often the tax and related welfare laws and administrative systems are not designed with the low-income user in mind and this often makes life difficult for those we try to help.
- 3.3 The CIOT is a charity and the leading professional body in the United Kingdom concerned solely with taxation. The CIOT's primary purpose is to promote education and study of the administration and practice of taxation. One of the key aims is to achieve a better, more efficient, tax system for all affected by it – taxpayers, advisers and the authorities.

4 General comments

- 4.1 We take as our main theme the third bullet of 1.9 of the paper, that is to 'enable the designated guidance providers to deliver helpful guidance to individuals considering selling their annuity income and to their contingent beneficiaries', matching this against the professional standards outlined in 2.7 and 2.8:

2.7 Having competent individuals delivering Pension Wise guidance is critical to ensuring that good quality guidance is delivered and in creating consumer trust and confidence in the service. Given this, we propose to amend our requirements on professional standards. This sets out the type of knowledge we expect individuals delivering guidance about selling an annuity income to have and includes knowledge about:

- the options and steps for selling annuity income
- how the market operates generally, including the main players in the market and their roles and relevant regulatory responsibilities
- how to assess the value of the price offered and the impact of fees and charges
- the tax implications of selling an annuity income
- the details of when advice is required and other legislative or regulatory requirements
- the factors and risks relevant to selling the annuity income
- the circumstances when a consumer may require further specialist help

- other issues relevant to consumers considering selling their annuity income, such as long-term care needs, sustainability of income in retirement, life expectancy and eligibility for means tested benefits
- understanding of issues specific to consumers with vulnerability issues, including mental health issues and their guardians/carers, and
- a general understanding of the rights of contingent beneficiaries, the implications of those rights and giving them up.

2.8 This is not an exhaustive list; designated guidance providers may consider their guide (the person giving the guidance) requires other knowledge to competently deliver guidance about selling an annuity income.'

- 4.2 These requirements, while desirable, go way beyond those expected of the original Pension Wise advisers established in Citizens Advice Bureaux (CAB) following Pensions freedom in 2015 to deliver generic guidance on consumer choices. They will require a very much higher standard of professional competence than was originally envisaged when Pension Wise was set up. While, for instance, a lay adviser could be expected, with adequate training, to understand and explain the options and steps for selling annuity income (first bullet), it is surely beyond the competence of anyone outside the pensions industry to have a sufficient grasp of the technicalities of the second bullet without intensive study and training. What non-specialist could begin to understand the relevant regulatory responsibilities laid down by legislation, by codes of practice, by statutory authorities – FCA, HM Treasury, HMRC, etc – as well as industry bodies such as the ABI, the Pensions Regulator and the Pensions Advisory Service?
- 4.3 Even more importantly, how could anyone outside the financial services industry have a sound understanding of the value of the price offered (third bullet) and how fees and charges might affect an offer in the longer term?
- 4.4 Nor is tax advice (fourth bullet) something to be delivered by a non-professional. We should record that, even at technician level, it can take several years before a student in the tax profession can pass a series of rigorous exams and have gained sufficient, supervised on-the-job experience before they are allowed to advise the public. Indeed the seventh bullet might be considered to apply to the first six.
- 4.5 The eighth bullet requires the adviser to have a good knowledge of the benefits system, both contributory and non-contributory, taxable and non-taxable, means-tested and non-means-tested, the rather protracted transition from tax credits to universal credit, the incoming new bereavement benefits system and the various impacts of income and capital on each benefit.
- 4.6 In short, the revised professional standards are expecting the Pension Wise adviser to combine the knowledge and skills of a financial adviser, a tax adviser and a benefits adviser in an area hitherto untested and with an unknown future. Moreover, all of this to be offered by advisers originally recruited by an advertisement which said “no previous experience of

pensions necessary.” While clearly benefiting the clients of Pension Wise, a very considerable training programme will be necessary to bring current advisers up to the requisite standard. Consideration should be given to approaching the Chartered Institute of Taxation or the Association of Taxation Technicians for advice or help on training in tax. Additionally direct contact with the three tax charities,¹ subject to sufficient funding being made available, should be available to Pension Wise for immediate tax support, as suggested in our response to the consultation on Public Financial Guidance.²

5 Q1: Do you have any comments on the proposed changes to the standards to reflect Pension Wise’s extended remit?

- 5.1 The substantially enhanced professional standards proposed should require Pension Wise advisers to undergo in-depth training in all the fields listed and to pass a wide-ranging exam at a high level before being permitted to advise on secondary annuities markets.
- 5.2 We attach as an appendix a recent case study involving a member of LITRG by way of illustrating what an adviser could be required to consider. Even though this relatively simple example deals with a lump sum pension commutation payment, the principal issues involved will apply equally to the sale of an annuity.
- 5.3 Most of the rest of the consultation paper discusses matters beyond our professional remit and we make no comment on these, apart from the change that a guidance session may consist of one or more appointments (1.12 and 3.6). We welcome this as a major improvement on the previous absurdly restricted 45 minute appointments offered for consumers to consider their options under Pensions freedom. In no way can such important decisions be discussed in such a small timescale. Professional tax advisers working pro bono for Tax Help for Older People would consider 45 minutes barely sufficient to help a client complete a self-assessment tax return, especially on first meeting. An IFA would be hard-pressed to complete an accurate factfind with a new client in under two hours. It is also a common event for Tax Help advisers to find that a client turns up at an appointment with either insufficient or plain wrong documentation, requiring a further appointment for even a simple problem.

¹ The Low Incomes Tax Reform Group (www.litrg.org.uk) is a committee of the Chartered Institute of Taxation and provides research and campaigning on all tax matters affecting those on low incomes; Tax Help for Older People (www.taxvol.org.uk) provides hands-on help by tax advisers working pro bono to older people on low incomes; TaxAid (www.taxaid.org.uk) does the same for working-age people on low incomes.

² <http://www.litrg.org.uk/latest-news/submissions/151222-public-financial-guidance>

6 Q2: Do you have any comments on our proposed changes to reflect how consumers are using Pension Wise and how the service has evolved since it was established?

- 6.1 We consider it important that appointments should continue as long as is necessary to offer a sound and sensible solution to a client's question on the sale or conversion of an annuity.

LITRG

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APPENDIX

Case study Mrs D, aged 83

A summary of this lump sum commutation case, illustrating factors that would have to be considered on similarly selling an annuity is as follows:

- One of her small occupational pension providers has written asking if she would like to cash in her pension (in payment) in full;
- Pension is £76 a month (index linked) and cash offer is £7,700. Mrs D had worked out that meant they must think she will live another eight and a half years, which she did not think she would;
- She had chatted with a friend and one of her sons and both said that she should take the money as she could do more with a lump sum than a pension of £76 a month;
- She had already worked out that she has more income coming in than she spends, so “losing” £76 a month would not cause her hardship, but she had no need for, nor any idea what to do with, a cash lump sum of that size;
- Her total income, incidentally, is less than her personal allowance so she is a non-taxpayer;
- The pension provider’s documents mention that she might have to pay tax on the payment, and recommend she seeks advice (it doesn’t mention the possible complexities of how and when any tax should be paid. See below);
- Her other son (a retired Big 4 tax partner and current LITRG volunteer) worked the numbers with her, and pointed out that:
 - there would be tax to pay on whole of the lump sum (after a small balance of Personal Allowance was offset), which would take away about £1,500, and
 - she would lose about £20 a week of pension credit by virtue of having the additional net of tax cash in her bank account.

She therefore came to the conclusion for herself that as the after-tax sum was only really worth six years of lost income (and that ignored annual increases and the small death benefit which came with continuing the pension) that she would continue to take the £76 a month.

It is worth noting that in this case, the offer of cashing in the pension was made in late 2015, but payment of the lump sum, if she chose to take it, would be made on 1 May. The operation of PAYE so early in the tax year would have meant an initial tax deduction of nearly £3,000, and Mrs D would have had to submit a claim for refund of the balance over the £1,500 she was due to pay.