

The Problem with Freedom!

George Osborne promised so much with freedom and choice and whilst it was announced this week that 60,000 people had taken £1bn from their pots, it would seem that a lot of this was in relation to small pots. Certainly the rhetoric from the Government and the newspaper headlines seem to suggest that members are not getting anything like the freedoms that they expected. How did it come to this and how might things be resolved?

Let's start with a statement of fact. Annuities were, and still are the right retirement solution for a number of people. Sadly, annuities that represented poor value were sold to many people and the whole market got tarred with the image of being a poor solution. Freedom and Choice was the silver bullet to rid the UK of these horrible 'rip-off' annuities, and George duly delivered in March 2014.

Sadly, it became apparent that the scammers also saw freedom and choice as a great way to get their hands on members' pension savings. As a result, providers and trustees were told, very late in the day, that they had to put in a second line of defence to protect members. If this had just been against the scammers, then maybe it would have been fine. But it was also intended to protect members against doing something that was bad for them.

Now that the freedoms are available (albeit few schemes are offering them directly yet), those that are making the flexibility available clearly need to check that members are protected from the scammers as well as from the lure of the unchecked appeal of pile of cash!

So, maybe not the ideal outcome, but not too far off, surely...!

Nope. "The industry is dragging its heels!"; "Members are having choice denied!"; and "Politicians will name and shame!". So what went wrong?

Firstly, this is an optional change. There was talk about making the freedoms mandatory, but the Government decided against this. So, schemes do not have to offer choice within the scheme.

If schemes don't offer full flexibility, should they help to facilitate the freedoms?

Probably, but and it is a big but, with the risk that the rules will be changed and retrospectively applied (it happened with pension transfer and endowment miss-selling), there is justifiable concern that members who lose out will come back and complain at a later date. It's already happening – the member who took advantage of the freedoms and then passed away unexpectedly, leaving their spouse without the spouse's pension that was expected.

So, providers and trustees have to check that members have received guidance, and in the case of DB to DC transfers over £30,000, full advice, before they can benefit from the freedoms. "But advice costs money...!" cry the members. It always has, it just has a cash cost now that people don't like to pay.

Also, if a member wants to do something that an adviser is not prepared to support, i.e. they feel that it is not in the member's best interest, the freedoms may not be able to be exercised. As far as members are concerned, this is a bad thing as they are not getting the promised freedoms. They become an 'Insistent Customer' and again, providers are not keen on those! The providers are the bad boys and the Government is jumping on the band wagon with soundbite headlines.

Some providers are struggling with administration and systems constraints, but as the Government knows only too well, changing long standard computer systems can be an expensive and time consuming task.

So where are we now?

If a member wants to exercise the freedoms, as it stands, they have to take guidance or advice. Why? Because the FCA and Government wanted to protect members from scammers and doing the wrong things.

If they take advice, there is a cost. Why? Because the FCA and Government wanted to protect members from paying large fees hidden in commission.

If they take advice and the advice does not support the transfer, the providers won't allow the transfer. Why? Because if the providers did allow the transfer, the FCA would jump on them from a great height!

Yet, it is the providers and trustees who are denying members their freedoms. Why? Because they are doing as they are being told and are worried about future miss-selling scandals!

It's a mess! But can we find a simple solution?

If members are truly being allowed to use their funds however they like, then can't we agree a form of discharge that will stand up in courts from this day forward? It would need to be robust and to explain in simple English to the member that there are no promises and they could be worse off as a result of the change. It would need to explain that if they have taken advice, and they have then gone against that advice, they have waived all rights to future compensation, and the Government and Regulators would have to accept the discharge and not change their views in five or ten years with the benefit of hindsight. And it would probably need to be signed by the member and their spouse (assuming they have one).

If we can reach that point, then members will get the freedoms that they want. Some will lose out as a result, but with choice comes responsibility – both for the good and the bad outcomes.

Of course, this still leaves the systems and administration issues, but none of those are insurmountable, if we can first deal with the elephant in the room!