Written evidence submitted by Just Group (FGCB08)

1. Executive summary

1.1. Just Group welcomes the opportunity to submit written evidence to the Bill Committee's inquiry. Our response addresses the Bill's provisions for introducing a 'default guidance' policy – which we believe will be crucial to helping consumers avoid known risks, and to making the most of the pension freedoms.

1.2. Given consistent trends emerging from consumer research around the pension freedoms, the absence of regulatory requirements to ensure Defined Contribution (DC) customers receive pensions guidance – as a minimum – is disproportionate to the known risks. The lack of safeguards when customers make pension access choices also contrasts with regulatory policy in other aspects of regulatory policy. People wishing to transfer Defined Benefit (DB) pension benefits are usually required to take full regulated financial advice, for example. This is also true in the mortgage market, where regulated advice is a requirement for most customers taking out home loans.

1.3. We believe the majority of those people making use of the pension freedoms are not receiving the support they need when accessing their savings. The options are complex and unfamiliar, with many making uniformed decisions which they may later regret. In the worst cases, badly informed decisions can lead to people losing their life savings, with a range of lesser but still financially negative outcomes possible for others who make poor decisions as a consequence of not receiving professional guidance or advice.

1.4. We strongly welcome the conclusions reached by the Work and Pensions Committee in its December report on protecting against pension scams[1], which recommended a default guidance approach to ensure customers accessing their savings have taken guidance or advice, or expressly opt out of doing so. The Treasury Committee is also looking at this issue as part of its inquiry into household finances.

1.5. We do not support New Clause 1 (NC1) which the government proposes to introduce to the Bill in favour of the amendment passed in the House of Lords on default guidance (Clause 5 (2)). We do not believe that NC1 equates to the strong nudge into guidance which is needed to address the problems highlighted in this briefing.

1.6. We believe the Work and Pensions Committee's suggested amendment should instead be adopted by the government. This is not because default guidance is a panacea, but because all available evidence suggests it can play a significant role in improving consumer decision making, encouraging competition, reducing pension scams, helping vulnerable consumers and raising overall trust and confidence in pensions.

2. Policy background – pension freedoms and guidance

2.1. The pension freedoms introduced in April 2015 provide unprecedented choice for customers with DC pension savings, enabling consumers to use their pension savings in retirement as they wish. However, the new options are often complex and unfamiliar for savers who are often disengaged and, by contrast, being actively targeted by scams and fraudsters.

2.2. When the pension freedoms were first announced, then Chancellor George Osborne committed to "*a new guarantee, enforced by law that everyone who retires on defined contribution pensions will be offered free, impartial face-to-face advice on how to get the most from the choices they will now have*."

[1] Protecting pensions against scams: priorities for the Financial Guidance and Claims Bill, Work and Pensions Committee, November 2017

As the principal consumer protection mechanism for the pension freedoms, the service – Pension Wise – provides independent support to these customers.

2.3. The service has received very positive user feedback, with 94 per cent of users satisfied or very satisfied by the service. 97 per cent say they would recommend it, and 88 per cent say they understood their options better as result of using the service.[2] Yet only a small minority – the Financial Conduct Authority estimates between one in five to less than one in ten – are using Pension Wise when accessing pension savings. This greatly increases the risk of negative outcomes for customers, for whom badly informed decisions can lead to years or even decades of lost benefits and reduced quality of life in retirement.

2.4. The FCA's most recent estimate suggests only 20 per cent of consumers accessing their DC pots had first taken a Pension Wise appointment.[3] In its comprehensive Financial Lives survey, the FCA identified further detail on the pitiful levels of guidance usage among the key age groups, with fewer than one in ten (7 per cent) of all 55-64 year olds using the service in the last 12 months.[4]

2.5. This suggests a clear gap in protection and support for those individuals and households approaching retirement in the pension freedoms framework. We believe these low levels of guidance usage increases the likelihood of uninformed decision making, which increases the probabilities of poor consumer outcomes. As the FCA noted in its July Retirement Outcomes Review interim report:

> *"We are concerned that consumers motivated by mistrust in pensions may be making uninformed decisions that result in paying more tax than they would have paid otherwise (for example, by withdrawing the money over a longer period of time), or missing out on the benefits of staying invested for longer. We are also concerned that consumers do not always take advantage of the help and guidance on offer."*

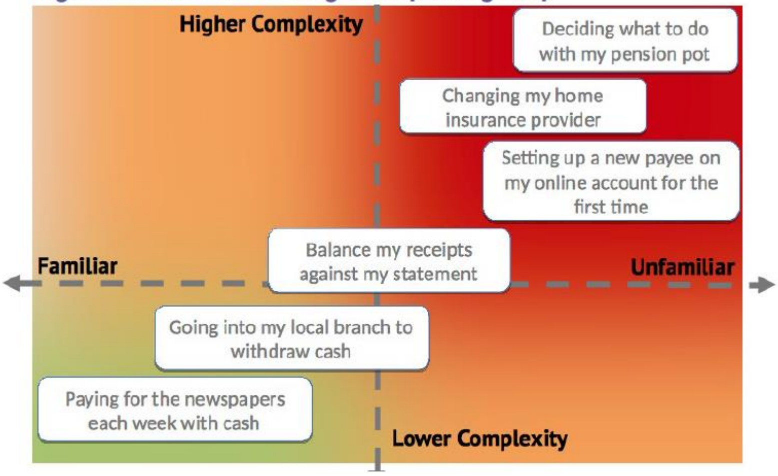
2.6. We believe poor outcomes are likely for consumers who don't seek professional support with their retirement options. This is indicated by the large and growing body of evidence pointing to poor levels of financial literacy in general, and understanding of pensions and retirement income needs in particular.

3. Managing financial risks at retirement

3.1. Customers face complex risks when selecting how to use their pension savings. The concepts, terms and associated risks are unfamiliar to most – certainly to those who may not have happened to work in the financial services industry. This is illustrated in the below chart from FCA-commissioned research[5] on customer capability and decision making, which we believe indicates the importance of impartial, independent support for people making decisions about their pension savings.

[2] Pension Wise service evaluation, Department of Work and Pensions, October 2017
[3] Written evidence to the Work and Pensions Committee inquiry, FCA, October 2017
[4] Understanding the financial lives of UK adults, FCA, October 2017
[5] The Ageing Population: Ageing Mind Literature Review Report, FCA/The Big Window, 2017

Figure A: The Familiarity-Complexity Map



3.2. Some people use a professional financial adviser to get a personal recommendation on how best to use their savings to meet financial needs in retirement. Others may choose to use the guidance service to understand what they have, and their options for using their savings. Whichever of these two routes is taken, a customer is able to speak with a professional who can impart key relevant information, answer their questions and correct misunderstandings. This is hugely important in relation to pension access decisions, which evidence suggests most people are ill-equipped to make on their own.

3.3. The new guidance framework being created by the Financial Guidance and Claims Bill provides the opportunity to deliver this change in approach. If this opportunity is not taken, it is highly likely that people will suffer a range of predictable types of detriment as a result – further undermining faith in the pensions system just at the point when progress is being made through increased participation in workplace pensions.

4. The case for default guidance

4.1. In light of the low levels of guidance usage there is strong support for introducing a "strong nudge" for consumers to take guidance, to mirror the successful adoption of the auto-enrolment policy now in place for workplace pension saving. Under the default guidance approach, guidance would not be mandatory – individuals would retain a right to opt-out – but savers would be automatically directed to a guidance session if they have not used it already or received regulated financial advice.

4.2. A guidance "default" should expect pension savers to take part unless they make an active decision to opt out. The idea of defaults is to harness inertia and direct it towards a positive outcome while still allowing complete freedom of choice. As with auto-enrolment into pensions, the structure of a default system should be underpinned by an ambition to create new social norms with the ultimate goal of benefiting the individual, government and society.

4.3. During the Financial Guidance and Claims Bill's Lords Committee stages, a cross-party amendment creating a default guidance provision was added to the Bill (Clause 5 (2)). This amendment, and the default guidance concept, was considered by the Work and Pensions Committee along with evidence from a range of stakeholders including industry representatives, pension policy specialists, regulators and consumer bodies. The Committee subsequently concluded that the Bill's existing default guidance provisions should be further strengthened to address the risk of opting-out becoming a passive choice – another path of least resistance – for savers.

4.4. We support the default guidance proposal for three principal reasons. First, to address known financial capability issues in relation to pensions and the risks arising from badly informed decision making. Second, to provide an active intervention to warn consumers of the risk of scams and fraud. Third, to ensure people are provided with crucial information on their pensions and choices for accessing them by impartial, independent professionals. The combined impact of these improvements would also bring further benefits, by increasing demand-side competition in the retirement market and growing trust in the pensions system over the longer term.

Known financial capability issues

4.5. Office of National Statistics analysis has found that less than half (42 per cent) of adults aged under 40, or those aged 40 plus and not retired, feel they know enough about pensions to make decisions about saving for retirement, suggesting a majority feel uncertain about their decision-making capacity in this respect.[6]

4.6. This finding is reinforced by research from the International Longevity Centre on DC pension savers' understanding of key retirement income factors.[7] This study, based on a survey of 5,000 DC pension customers aged 55-70 revealed:

- Only half of those with a DC pension said they understood what an annuity is 'quite or very well';
- Just 3 per cent said they understood what income drawdown is 'quite or very well';
- By contrast, over 90 per cent said they understood what a mortgage is.

4.7. Most recently, the FCA's Financial Lives survey explored the circumstances and capabilities of 13,000 UK adults. It found some savers' awareness is so poor that they are unsure whether their pension is DC or DB, nor do some people know that different options exist for accessing a DC pension. A full quarter (25 per cent) of those who accessed a DC pension in the last two years are not able to say how they did so, i.e. whether they purchased an annuity or accessed their pension pot another way.[8]

4.8. Just Group has recently conducted market research with DC pension customers aged 54+ to assess their understanding of retirement choices, guidance and advice. Among those who had used the Pension Wise guidance service, a significantly higher number said that everybody should be required to use guidance when accessing pension savings – 90 per cent – compared to 75 per cent among those who had not used the service. This suggests the investment of time in seeking guidance was considered worthwhile and had a positive effect on users.[9]

Reducing the risk of scams

4.9. In addition to the risks posed by poor financial capability and widespread disengagement, there is growing evidence of increasing fraud and scam activity targeting DC pension customers. Losses from pension scams climbed to a record high of £8 million in March 2017, with figures released by the City of London police showing £8.6 million in losses reported by 24 victims of pension fraud last March – more than ten times higher than the amount reported in the previous month. The same report suggests more

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[6] Early indicator estimates from the Wealth and Assets Survey: attitudes towards saving for retirement, credit commitments and debt burden, ONS, June 2017
[7] Making the system fit for purpose, ILC-UK, January 2015
[8] Understanding the financial lives of UK adults, FCA, October 2017
[9] Lighting Pension Pathways, Just Group, September 2017

than £42 million was lost to "pension liberation fraud" since the new pension choices were first announced in April 2014.[10]

4.10. Reports of scam activity also confirm increasing sophistication among pension scam operators. These schemes typically offer attractive rates of return, with prospectuses designed to give the appearance of being regulated investments. Research by Citizens Advice suggests 2.4 million 55-64 year olds received unsolicited contact about their pensions in the year following the introduction of the pension freedoms. The same analysis found that individuals eligible to use pension freedoms were more likely to be affected.[11]

4.11. The government's intended pensions cold call ban will help narrow the scope for scam operators, and may make victims harder to identify. But a default guidance policy would ensure customers get to speak with an informed, impartial professional, who can alert consumers to the risks posed by scam operators, suggest how to spot the signs and help customers check whether a promotion is genuine or not.

Inadequate signposting

4.12. Current efforts to promote guidance rely on pension provider 'signposting' in letters sent to customers ahead of retirement. But evidence suggests the provision of prompts to use guidance within packs of complex, unfamiliar information is too passive to have any impact. Indeed, FCA analysis found that as few as one in ten consumers had used the information sent by their pension provider.[12]

4.13. Even when behavioural experts have worked with providers to test improved approaches to promoting pension guidance, disengagement, mistrust and disinclination among pension savers is hard to overcome. A recent trial of refined 'wake-up' packs was found to generate improvements, but the level of increase is small. The trials, run in collaboration with Pension Wise and three pension providers, had a limited impact on the number of customers subsequently using guidance, with the strongest performing wake-up pack only managing to increase Pension Wise usage by 3.5 per cent.[13]

4.14. As identified by the Work and Pensions Committee, pension providers also have no business interest in promoting pensions guidance – with many developing their own online 'tools' and 'guidance' for pension savers. Rather than expecting these consistently ineffective processes to improve customer awareness and drive guidance take-up to acceptable levels, we believe customers should be auto-enrolled into guidance sessions if they have not already had one or used a financial adviser.

5. What do others say about default guidance?

5.1. The introduction of default guidance would be a major boost to consumer protection in respect of the pension freedoms. For this reason it has won the backing of a wide range of respected, independent consumer bodies. The default guidance policy incorporated in Clause 5 has been endorsed by, amongst others, Age UK, the Financial Services Consumer Panel and Which?, as well as a small number of providers including Just Group, LV= and The People's Pension.

[10] Pension scam losses hit record high in March, Financial Times, May 2017
[11] Too good to be true? Understanding consumer experience of pension scams a year on from pension freedoms, Citizens Advice, 2016
[12] Retirement Outcomes Review Interim Report, FCA July 2017
[13] Improving engagement with pension decisions: The results from three randomised controlled trials, BIT, 2017

5.2. Reflecting the evidence received from these and other organisations and data on pension access trends, the Work and Pensions Select Committee has strongly backed the introduction of default guidance. The Committee states that though Pension Wise is greatly valued, "*far too many people are currently taking vital decisions in the dark, putting them at greater risk of suffering irrevocable financial detriment through scams or choices contrary to their interests*."

5.3. Clause 5 was introduced by cross-party peers and seeks to address this issue through a stronger nudge towards Pension Wise. While the Work and Pensions Committee report welcomed the assurance given at the time of its inquiry that the government accepted the principle of default guidance, the Committee also observed that the current Bill falls short of its preferred standard because "*it does not require individuals to participate or expressly turn down the opportunity before being granted access to their pension pot. Opting-out could be passive.*"

5.4. The Committee called for Clause 5 (2) be strengthened to ensure that an individual either receives or expressly refuses guidance before being granted access to a pension pot, with specific rules expected to be determined by the FCA subject to the Bill's final provisions.

Apparent change in the government's position

5.5. During the Bill's second reading, Pensions Minister Guy Opperman said: *"We support the need for default guidance for people wishing to take advantage of pensions freedoms. That is why the new body is specifically required to meet the Government's guarantee to make free and impartial guidance available to those considering accessing their pension pots. The existing signposting regime already provides individuals with important information and encouragement to take advantage of guidance and advice before accessing a pension pot. However, the Government accept that there is merit in providing for people to receive a further nudge, and that this is the right direction of travel."* He added that officials were reviewing the Work and Pensions Committee's recommendations, and that the government's proposals would be available ahead of the first Bill Committee session.

5.6. These remarks were consistent with the Minister's oral evidence to the Work and Pensions Committee in November. As he stated at that time: "*It is entirely right that we should be addressing better ways to give guidance. We do think that the hybrid version, as proposed by Sharkey and as accepted by the Government, subject to us fine-tuning it, is the right way forward*."[14]

5.7. In light of the Minister's recent commitments on default guidance we are surprised and disappointed that the government now proposes to remove the Lords amendment. Furthermore, the new clause (NC1) proposed in its place does not amount to default guidance, nor even a recognisable version of the policy. NC1 places a requirement on the FCA to make rules requiring schemes to ask the customer whether they have received appropriate guidance or advice and, if not, to recommend that they do so. The customer has the option to simply proceed without having received guidance or advice.

5.8. NC1 represents a major dilution of Clause 5 (2) and the wholesale removal of default guidance provisions from the Bill – rejecting the Work and Pensions Committee's recommendation, and the support for default guidance expressed by a wide range of external stakeholders. Furthermore, our analysis of the FCA Conduct of Business Sourcebook (COBS) leads us to conclude that NC1 does not introduce any

[14] Oral evidence to the Work and Pensions Committee, November 15th 2017

requirements above those that already govern pension provider processes. Despite previous indications that the government recognises the need for a strong nudge in the form of default guidance, we do not believe NC1 strengthens existing requirements, as detailed in **Appendix A.**

5.9. We would urge the Bill Committee not to pass NC1 and to instead adopt the default guidance amendment proposed by the Work and Pensions Committee (**Annex B**), or if not to at least retain Clause 5. In its present form, NC1 would have the effect of introducing only a passive recommendation which will also be in the hands of regulators and industry to implement, rather than enshrining a strong nudge to guidance on the face of the Bill.

5.10. We strongly encourage the Bill Committee not to pass NC1 and to instead follow the advice of consumer groups, the Work and Pensions Committee, other MPs and cross-party peers by introducing the provisions recommended by the Work and Pensions Committee[15] within the Bill.

6. About Just Group

6.1. Just Group plc is a specialist insurer created in 2016 as a result of a merger between Just Retirement plc and Partnership Assurance plc. We are a leading provider of retirement income solutions, care plans, Defined Benefit pension de-risking solutions and equity release mortgages.

6.2. At the core of our business is a social purpose and mission to help people meet their financial needs in later life. This involves standing up for consumers, simplifying the retirement income market and supporting the emergence of a policy and regulatory framework that allows individuals to benefit from the new pension options.

January 2018

[15] Protecting pensions against scams: priorities for the Financial Guidance and Claims Bill, Work and Pensions Committee, November 2017

Appendix A: Comparison of FCA Conduct of Business Sourcebook (COBS) and proposed government amendment (NC1)

FCA Conduct of Business Sourcebook (COBS)-19.7.8

Step 1: determine whether the client has received guidance or regulated advice

(1) The first step is to ask the *retail client* whether they have received *pensions guidance* or regulated advice:

a) if the client says that they have, the firm must proceed to step 2; or

b) if the client says that they have not or is unsure, the firm must explain that the decision to access pension savings is an important one and encourage the retail client to use pensions guidance or to take regulated advice to understand their options at retirement.

(2) If, after giving the explanation in COBS 19.7.8R (1)(b), the retail client does not want to access pensions guidance or take regulated advice, the firm must proceed to step 2.

Government Amendment to Financial Guidance and Claims Bill

(1B) As part of the application process, the trustees or managers must ask the member or survivor whether they have received appropriate pensions guidance or appropriate independent financial advice.

(1C) In a case where the member or survivor indicates that they have not received appropriate pensions guidance or appropriate independent financial advice, the trustees or managers must also—

a) recommend that the member or survivor seeks such guidance or advice, and

b) ask the member or survivor whether—
i. they wish to wait until they have received such guidance or advice before deciding whether to proceed with the application, or
ii. they wish to proceed with the application without having received it.

- **The above illustrates that NC1 does not require regulators to introduce any new requirements above and beyond those already set out in COBS.**
- **If accepted, the Bill would place no additional requirement on pension providers to improve their attempts to encourage customers to seek guidance or advice beyond those already contained in COBS.**
- **As such it would fall well short of the strong nudge to guidance or advice which a default guidance amendment would provide.**

Appendix B: Work and Pensions Committee default guidance amendment

Clause 5, page 4, line 13, leave out subsection (2) and insert—

(2) In section 137FB of the Financial Services and Markets Act 2000 (FCA general rules: disclosure of information about the availability of pensions guidance) after subsection (3) insert—

"(3A) In determining what provision to include in the rules, the FCA must include a requirement for members of a scheme, or survivors of members of a scheme, to indicate before gaining access to or arranging individual transfer of their pension assets either—

(a) that they have received information and guidance made available under section 5 of the Financial Guidance and Claims Act 2017 (specific requirements as to the pensions guidance function), or

(b) that they understand the nature and purpose of that information and guidance and have chosen not to receive it.

(3B) The rules—

(a) must impose an obligation on the trustees or managers of a relevant pension scheme to satisfy themselves that the requirement under subsection (3A) has been complied with;

(b) may make provision about what is to be, or not to be, treated as a sufficient indication under subsection (3A) (which may, in particular, require indication on more than one occasion in specified cases or circumstances);

[Continues…]

(c) must specify that simply accessing a website or receiving published information does not amount to receiving information and guidance for the purposes of the requirement under subsection (3A);

(d) may include exceptions for specified cases (which may include cases of assets below a specified value, cases where information, guidance or advice has already been received, cases of transfers by way of consolidation and any other cases specified in the rules).".".

Member's explanatory statement

This amendment would strengthen the provision in the Bill for requiring members of pension schemes to be given access to guidance in specified circumstances, so as to ensure that guidance was actually received or expressly refused.

- **As proposed in '*Protecting pensions against scams: Priorities for the Financial Guidance and Claims Bill*', December 2017.**