

June 2008

Our **MONEY**madeclear™ guides –
here to help you



Available from our Consumer Helpline or website
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No selling. No jargon. Just the facts.

If you would like this guide in Braille, large print or audio format, please call our Consumer Helpline on 0845 606 1234 or Minicom/Textphone on 08457 300 104 (call rates may vary).

To help us maintain and improve our service, we may record or monitor calls.



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**No selling.
No jargon.**

**Just the facts
about the State
Second Pension.**

**Were you wrongly advised
to contract out?**

MONEYmadeclear™
from the UK's financial watchdog (FSA)

With our **MONEY**madeclear™ range of guides, we cut out the jargon and give you just the facts about financial products and services, helping you to make an informed decision.

Just the facts about the State Second Pension.

Were you wrongly advised to contract out?



The Financial Services Authority (FSA) is the UK's financial watchdog set up by government to regulate financial services and protect your rights.

Remember, this isn't the same as getting financial or other professional advice. For advice based on your own circumstances, talk to a professional adviser.

This guide is for you if

You were

- an employee at any time between 1988 and 1997; and
- advised to contract out of the State Earnings Related Pension Scheme (SERPS) using a personal pension between 1 July 1988 and 5 April 1997; and
- above a certain age – roughly 45 for men and 40 for women – when you contracted out, known as 'pivotal age'.

This is important information and could affect the amount of money you get in retirement.

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The State Second Pension

What is the State Second Pension?

Nearly everyone can expect to get a basic State Pension when they reach State Pension age.

You qualify for an additional State Pension if you are employed and earning above a certain level on which you have paid National Insurance contributions. This is called the State Second Pension (S2P).

Until April 2002, this was called the State Earnings Related Pension Scheme (SERPS).

What is contracting out?

The government allows people to leave SERPS/S2P – this is known as contracting out.

If you contract out, the government will pay some of your National Insurance contributions (called a rebate) and income tax relief into a personal or stakeholder pension. It is sometimes called an ‘appropriate personal pension’.

This money is invested by your pension provider to provide benefits at retirement instead of the benefits you would have received from SERPS/S2P for the years you were contracted out.

You are not eligible for SERPS/S2P or rebates for any periods you were self employed.

See the *Jargon buster* on page 13 for some terms you may come across.

What work has the FSA done on SERPS/S2P?

We have looked at whether people may have been wrongly advised to contract out in the past.

We have found no evidence of widespread wrong advice to contract out. However, we have identified a potential problem with a small and specific group of people (around 1.5% of customers).

These are people who were:

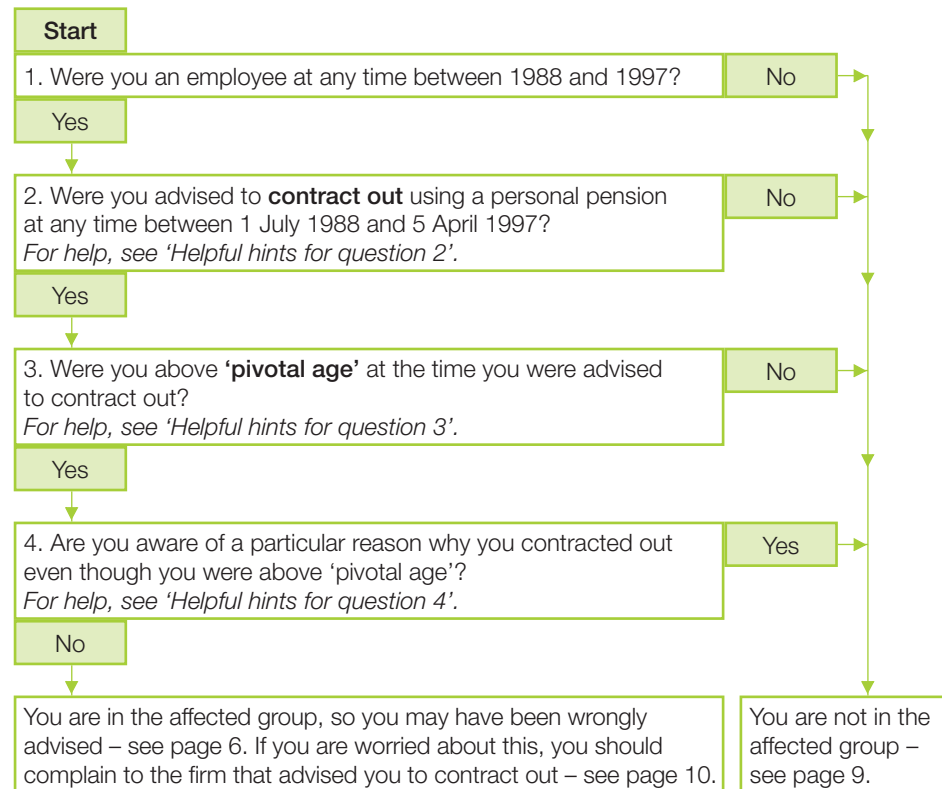
- advised to contract out between 1 July 1988 and 5 April 1997; and
- above a certain age – roughly 45 for men and 40 for women – at the time they contracted out, known as the ‘pivotal age’.

These people may have suffered a loss as a result of wrong advice and may be eligible for compensation. For how to work out if this affects you see the chart on page 4.

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Were you wrongly advised to contract out?

Use this chart to help you decide whether you may be affected



Use these helpful hints if you're not sure

Helpful hints for question 2 – To find out if you contracted out between 1 July 1988 and 5 April 1997, you can either look at the annual benefits statements from your pension provider, or call HM Revenue & Customs Contracted Out Pension Helpline. They will tell you whether you were contracted out via a personal pension and, if you were, which pension provider your rebates were paid to – see *Useful contacts*.

Helpful hints for question 3 – Most pension providers and financial advisers set their own 'pivotal ages'. Typically these were around 45 for men and 40 for women but did vary from firm to firm. Ask your adviser or pension provider what their 'pivotal age' was for the year when you were advised to contract out. It is important to note that you should only answer 'Yes' to question 3 if you were above 'pivotal age' when you were advised to contract out. If you only passed 'pivotal age' later on, you should answer 'No'. If your adviser or provider cannot tell you what their 'pivotal age' was, but you were around these ages and are worried about the advice you were given, you should go to question 4 in the flowchart.

Helpful hints for question 4 – In some circumstances it may have been appropriate to contract out despite being above 'pivotal age' – see page 6.

Key things to think about

If you are in the affected group, here are some things to think about.

If you're not in the affected group, go to page 9.

I am in the affected group

Does this mean I was given wrong advice?

It was generally accepted at the time that most people above 'pivotal age' would probably be better off financially staying in the State scheme. So, if you were above 'pivotal age', advice to contract out was likely to be wrong, unless there was a particular reason that outweighed the likely disadvantage.

However, not everyone in the affected group was necessarily given wrong advice. The advice may have been correct, for example, if any of the following were particularly important to you:

- if you were single and expected to remain so, and wanted to have the value of your personal pension fund paid to your estate if you died before taking your benefits (under SERPS/S2P there are no death benefits for single people);
- if you preferred a degree of control over your own investments rather than leaving it to the government;
- if you were content to take a greater degree of investment risk for a potentially higher income;
- from May 1990, if you wanted to take your pension before State Pension age.

Contracting out allows you to do all these things.

How much might I have lost?

The amount you may have lost depends on several factors, including the age at which you contracted out, the number of years you were contracted out for, and the investment performance of your contracted-out fund.

The exact amount you may have lost cannot be calculated until you reach State Pension age. Before then it can be estimated by making various assumptions, including future investment performance and earnings.

The amount you may have lost personally could be less than or more than the average, which we estimate to be around £7 per week of pension payments in retirement. It is possible that you may not have lost anything at all.

The firm that advised you should calculate your loss, if you have a valid complaint.

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Key things to think about

Do I have grounds for complaint?

You are likely to have grounds for a complaint if:

- you were advised to contract out at any time from 1 July 1988 to 5 April 1997, even though you may no longer be contracted out (for example, you have since contracted back in or retired); and
- there was nothing about your situation that would have made it suitable for you to contract out despite being above 'pivotal age'.

In some situations, a complaint is unlikely to succeed, even if you are in the affected group; for example:

- if you contracted out without receiving advice (sometimes called 'execution only');
- if you were advised not to contract out but you decided to do so anyway;
- if the advice you were given has already been reviewed, for example, as part of the Pensions Review.

What should I do now?

If you have concerns about the advice you were given, complain first to the firm that advised you. They will investigate and let you know their findings.

If you're not happy with their response, you may be able to take your complaint to the Financial Ombudsman Service (the Ombudsman) – see *Useful contacts*.

If you are not in the affected group

Should I complain?

Only if you have particular concerns about the advice you were given.

We have found no evidence of widespread wrong advice to contract out for people not in the affected group.

Between 1 July 1988 and 5 April 1997, it was generally accepted that most people under 'pivotal age' were likely to be better off financially by contracting out. Although you may in the end be worse off, this does not necessarily mean you have grounds for complaint.

However, each case depends on its particular circumstances.

For example, a person who was under 'pivotal age' at the time of the advice and who was on a particularly low income or did not want to take any investment risk whatsoever may have a reason to complain.

Key point

If you are contracted out through a personal or stakeholder pension, review your situation each year to make sure contracting out is still right for you. Get a copy of our guide **The State Second Pension – should you be contracted out?** – see *Useful contacts*.

Key things to think about

Making a complaint

If you think you have grounds for making a complaint, use the steps below to help you.

1. Complain to the firm that advised you to contract out. This may be a financial adviser or the pension provider.

If you aren't sure who to complain to, check with the pension provider as they should have the details.

Firms must have a proper complaints procedure and tell you how to use it. **This is a free service.**

Try to find all the paperwork and any notes you made at the time. You are entitled to copies of the sales paperwork from the firm that advised you to contract out. Although advisers are only required to keep these records for six years, in practice many have kept them longer.

2. If you are unhappy with the firm's decision, you may be able to take your complaint to the Financial Ombudsman Service (the Ombudsman) – see *Useful contacts*.

You must do this within six months of the firm sending you its 'final response' letter.

The Ombudsman provides a free, effective, straightforward process for resolving disputes.

If you are thinking of complaining to the Ombudsman, you can call its Contact Centre for help.

You can choose whether or not to accept the Ombudsman's decision. If you accept, it is binding on both you and the firm.

If you don't accept, you can take your case to court. There will be a charge for doing this, and depending on what your claim is for, time limits may apply. See our **Making a complaint** guide for more detailed information – see *Useful contacts*.

What if I can't trace the firm that advised me?

If you were advised to contract out by an independent financial adviser, your pension provider should have the details of who sold it to you.

If you're not sure whether the firm still exists, contact our Consumer Helpline – see *Useful contacts*.

If you can't trace the firm because it has ceased trading, you can contact the Financial Services Compensation Scheme (FSCS), who may be able to help you – see *Useful contacts*.

The FSCS is a 'fund of last resort' for people who have a claim against a firm that was regulated by the FSA or previous regulators, but the firm is unable (or likely to be unable) to pay claims against it, often because it has ceased trading.

Claims management companies

Claims management companies can help people complain to financial services firms and the Ombudsman. In return, you have to pay the company a fee, which could be hundreds or even thousands of pounds.

Using these companies doesn't necessarily increase your chances of succeeding or getting compensation.

Although you may find it helpful to use a company to handle the complaint for you, think carefully about the likely costs and benefits of this, and remember to check the fees and conditions before you sign any contract. Claims management companies providing services in England and Wales must be authorised by the Ministry of Justice – see *Useful contacts*.

Next steps

Step 1

Find out whether you were contracted out between 1 July 1988 and 5 April 1997. Check the annual benefits statement from your pension provider or call the HMRC Contracted Out Pension Helpline. If you were contracted out, they will tell you which provider your rebates were paid to – see *Useful contacts*.

Step 2

Contact your pension provider or financial adviser to find out what their ‘pivotal age’ was when you contracted out. Work out how old you were when you were advised to contract out and whether it was above your provider’s or adviser’s ‘pivotal age’.

Step 3

If you were above ‘pivotal age’ when you contracted out, check that you have grounds for complaint – see page 8. If so, complain to the firm that advised you to contract out. If it was a financial adviser, your pension provider should have the details. If you’re not sure whether the firm still exists, contact our Consumer Helpline or use our online **Check our Register** service – see *Useful contacts*.

Step 4

If you’re unhappy with the firm’s reply, take your complaint to the Financial Ombudsman Service. You must do this within six months of receiving their reply. And remember, this service is free.

Jargon buster

Some key words and phrases explained.

Advised sale

A sale that occurred after advice from a regulated firm or individual to buy the particular financial product.

Appropriate personal pension

A personal pension that can be used to contract out of (leave) the State Second Pension (formerly SERPS). You do not have to make contributions to it.

Basic State Pension

The benefit provided at State Pension age to people who have paid enough National Insurance contributions.

Benefits statement

A statement sent to you each year by your pension provider setting out what your personal pension benefits may be when you retire.

Contracting out

Leaving the State Second Pension (or SERPS).

Department for Work and Pensions (DWP)

The government department responsible for contracted-out pension schemes and the administration of the State Pensions.

Execution-only sale

Where you buy a financial product without receiving advice from a regulated firm or individual.

Financial Ombudsman Service

The UK’s free independent service for settling disputes between businesses providing financial services and their customers.

Jargon buster

Financial Services Compensation Scheme (FSCS)

The UK's free statutory 'fund of last resort' for customers of authorised financial services firms that have gone out of business.

HM Revenue and Customs (HMRC)

A government department that handles the registration of pension schemes and taxation of contributions and benefits.

National Insurance contributions

Payments deducted from pay, used by the DWP to fund the State Pension and other State benefits.

Pensions Review

A review of sales of personal pensions between 1988 and 1994 to people who were advised to transfer or opt out of occupational pension schemes.

Personal pension

A pension (including a Group Personal Pension) that you take out yourself, normally when your employer does not offer an occupational pension scheme. Personal pensions can be used to contract out of SERPS/S2P.

Pivotal age

The age above which contracting out of the additional State Pension was unlikely to be in your financial interests. Each firm calculated its own pivotal ages. They were different for men and women and may have changed from year to year. They tended to be around 45 for men and 40 for women but they did vary from firm to firm – some were higher and some were lower.

Stakeholder pension

A pension, similar to a personal pension, that must meet minimum standards laid down by the government about charges, flexibility and the regular information you must be given. Stakeholder pensions can be used to contract out of S2P.

State Second Pension (S2P)/ State Earnings Related Pension Scheme (SERPS)

An additional State Pension paid on top of your basic State Pension if you are employed and earning above a certain level on which you've paid National Insurance contributions. Until April 2002, it was called SERPS.

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Useful contacts

Call rates may vary – check with your telephone provider for their charges.

To order other MONEYmadeclear™ guides, check our Register, report misleading promotions or for general information

Financial Services Authority (FSA)

Consumer Helpline: 0845 606 1234
Minicom/Textphone: 08457 300 104
www.moneymadeclear.fsa.gov.uk

Other MONEYmadeclear™ guides

- [About the FSA](#)
- [Getting financial advice](#)
- [Making a complaint](#)
- [Pensions](#)
- [Retirement options](#)
- [Retiring soon](#)
- [The State Second Pension – should you be contracted out?](#)

On our MONEYmadeclear™ website you can find:

- **Compare products** tables to help you compare annuities, savings and investments;
- a **Budget calculator** to help you work out your spending;
- a **Pension calculator** to help you see how much income you might get when you retire depending on what you save.

Go to www.moneymadeclear.fsa.gov.uk and click on **Useful tools**.

Contracting out

HMRC

Contracted Out Pension Helpline
0845 915 0150
www.hmrc.gov.uk
To find out if you are contracted out.

Pension forecasting

DWP Pension Forecasting Team

0845 300 0168
Textphone: 0845 300 0169
www.thepensionservice.gov.uk
For a forecast of your state pension.

For help with pension queries

The Pensions Advisory Service

0845 601 2923
www.pensionadvisoryservice.org.uk

To check whether a claims management company is authorised

Ministry of Justice

0845 450 6858
www.claimsregulation.gov.uk

Complaints and compensation

Financial Ombudsman Service

South Quay Plaza
183 Marsh Wall
London E14 9SR
0845 080 1800
www.financial-ombudsman.org.uk

Financial Services Compensation Scheme (FSCS)

7th Floor
Lloyds Chambers
Portsoken Street
London E1 8BN
020 7892 7300
www.fscs.org.uk

For advisers who can give advice about contracting out

The Association of Independent Financial Advisers (AIFA)

www.adviserlists.co.uk/contracting/