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19 April 2024

Sent by email

Dear [REDACTED],

We are writing to you following the completion of our complaint investigation into the allegations made by [REDACTED] members of the British Steel Pension Scheme (the BSPS) who instructed your firm to act on their behalf.

We recognise that members of the BSPS worked hard during their employment and have experienced significant worry regarding their financial security in retirement.

We also recognise that the FCA's work around the BSPS has been subject to independent reviews and external scrutiny. The FCA has sought to learn lessons following these reviews and has accepted several recommendations.

We are sorry for the length of time it has taken to respond to your complaint. The allegations raised were complex and covered a significant period of time. It is important that we investigated matters fully and thoroughly. We acknowledge the delay and offer each complainant party to this complaint an ex-gratia payment of £150 in relation to this delay.

Your complaint

[REDACTED]

[REDACTED]



Part One

You allege that the FCA has consistently been behind the curve in responding to the catastrophic impact on members of the BPS. You believe that the FCA became aware of the issues surrounding the BPS transfers in at least late 2017 during the time around 44,000 steelworkers were being asked to make a potentially life-changing decision about their pension. You consider that it is inexcusable that the FCA was not more prepared for this potential scandal. You quote the Securities and Investments Board "Pensions Review" as an example that the BPS scandal was not the first time there had been widespread mis-selling of Defined Benefit pension transfers.

Part Two

You allege the FCA failed to take steps to protect consumers in accordance with its operational objective of consumer protection when it knew them to have been mis-sold or were likely to be mis-sold. This includes not taking steps to:

- a. Preserve the professional indemnity insurance which would have been available to consumers had the firms notified the existence of any complaints. You believe firms benefitted from professional indemnity insurance which would answer to any claims made within that insurance year in relation to Defined Benefit pension transfer advice. Therefore, if your clients had been aware that the advice, they had received was unsuitable, or likely to be unsuitable, and either encouraged to complain or the firm asked to inform them that, in the event of a complaint made after the insurance term ended there may not be any insurance, they would have made complaints and benefitted from the available insurance.
- b. Prevent firms who had been identified as a risk to the BPS members, and which gave up their DB transfer permissions as a result of investigation by the FCA, from passing on their clients to other unsuitable advisers (often for a shared fee).

Part Three

You allege the FCA was not sufficiently proactive or timely in using its enforcement powers. You believe the FCA failed to take steps to protect those affected by unsuitable advice to transfer out of the BPS in a timely way, in

particular by not imposing asset retention rules until April 2022.

Part Four

You allege the FCA's actions have resulted in inconsistent outcomes for consumers entitled to compensation.

Remedy sought

To remedy this complaint, you have asked the FCA to make ex-gratia payments to those affected and pay compensation for losses suffered where you believe that the FCA was the primary cause of the loss.

Decision

Following a detailed investigation in accordance with the relevant Complaints Scheme (the Scheme)¹, including careful consideration of the FCA's actions and the wider circumstances of BPS, we have not upheld your allegations.

We know this will come as a disappointment to you and we explain our decision and rationale in this letter.

Information we can share

It's important to let you know that there are limits to the information that the FCA can, and cannot, share through its responses to complainants. We take a view on what we can share with complainants having regard to the circumstances of each complaint investigation.

If we cannot disclose certain information to you, it is because restrictions under the Financial Services and Markets Act 2000 (FSMA), the UK General Data Protection Regulation (GDPR) and the Data Protection Act 2018 prevent us disclosing non-public information about the firms and individuals we regulate, except in certain circumstances.

The Information we can share² page on the FCA's website contains a good explanation of what we can disclose.

¹ <https://www.fca.org.uk/publication/corporate/complaints-scheme.pdf>

² <https://www.fca.org.uk/freedom-information/information-we-can-share>

The Complaints Scheme (the Scheme)

The basis of the Scheme is set out in Part 6 of the Financial Services Act 2012 (FSA), under which the FCA, along with the other Regulators,³ must make arrangements for the investigation of complaints arising in connection with the exercise of, or failure to exercise, any of their relevant functions.

The relevant functions of the FCA exclude the FCA's legislative functions including making rules under FSMA and issuing general guidance.

We have therefore not investigated the following parts of the complaint, which relate to our rule-making powers or powers to issue general guidance because they are excluded under the Scheme:

- rules around the capital that firms must hold;
- rules and guidance relating to how redress should be calculated for unsuitable pension transfer advice; and
- rules around the financial limits of compensation of the Financial Ombudsman Service (Financial Ombudsman) or the Financial Services Compensation Scheme (FSCS).

Our investigation

1. To determine this complaint, we have considered:

- a. the work of the FCA across a range of Divisions, to understand our specific role and actions in relation to the BPS;
- b. the Independent Reports and publications relating to the BPS, namely:
 - i. the House of Commons Work and Pensions Committee's report following its inquiry into financial advice provided to members of the BPS (February 2018);⁴
 - ii. the Independent Review of communications and support given to British Steel Pension Scheme members (the 'Rookes Review') (January 2019);⁵

³ The Prudential Regulation Authority (PRA) and the Bank of England.

⁴ Sixth Report of Session 2017 – 2019, <https://publications.parliament.uk/pa/cm201719/cmselect/cmworpen/828/828.pdf>, 7 February 2018.

⁵ The independent review of communications and support given to BPS members. Caroline Rookes was asked by The Pensions Regulator (tPR) to conduct an independent review of the communications and support provided to members of the BPS during the pensions restructuring exercise in 2017 to 2018 and the 'Time to Choose' exercise, January 2019

- iii. the National Audit Office’s (NAO) Investigation into the British Steel Pension Scheme (March 2022);⁶ and
 - iv. the Investigation into the British Steel Pension Scheme by the House of Commons Public Accounts Committee (PAC) (May 2022 and July 2022);⁷
- c. the responses from the FCA and Government to the PAC report.⁸

Background

Pensions and relevant regulatory action

Defined Benefit (DB) pension schemes

2. A DB pension scheme (like the BSPS) is commonly known as a “final salary” pension scheme. It typically pays members an income on retirement based on their length of service and salary. Unlike a defined contribution (DC) pension scheme, income during retirement is not based on the investment performance of the scheme (pre or post-retirement), the rate of inflation (pre-retirement) or the length of time the member and/or their spouse lives. For these reasons, DB pension schemes can offer consumers more certainty about their retirement income.

Securities and Investment Board Pension Review (SIB Review)

3. The Securities and Investment Board (a regulator of pensions before the FCA assumed that responsibility) conducted a pensions review in October 1994 in response to previous widespread unsuitable DB pension transfer advice.⁹

⁶ The NAO’s investigation focused on how DB pension transfer advisors were regulated in the BSPS case and the extent to which compensation is being delivered to members who were affected. <https://www.nao.org.uk/wp-content/uploads/2022/03/Investigation-into-the-British-Steel-pension-scheme.pdf>, (The ‘NAO Report’) March 2022.

⁷ HC 1216, <https://committees.parliament.uk/oralevidence/10196/default/>, 12 May 2022; [Investigation into the British Steel Pension Scheme](https://committees.parliament.uk/publications/30285/documents/175251/default/), 19 July 2022 HC 1216, <https://committees.parliament.uk/oralevidence/10196/default/>, 12 May 2022; [Investigation into the British Steel Pension Scheme](https://committees.parliament.uk/publications/23164/documents/169426/default/)<https://committees.parliament.uk/publications/23164/documents/169426/default/>, 19 July 2022

⁸ [Letter](https://committees.parliament.uk/publications/30285/documents/175251/default/) from Nikhil Rathi to Dame Meg Hillier MP, Chair of the PAC, dated 28 September 2022; [FCA’s response](https://committees.parliament.uk/publications/30266/documents/175189/default/) to this report; Government [response](https://committees.parliament.uk/publications/30266/documents/175189/default/). [Letter](https://committees.parliament.uk/publications/30285/documents/175251/default/) from Nikhil Rathi to Dame Meg Hillier MP, Chair of the PAC, <https://committees.parliament.uk/publications/30266/documents/175189/default/> from Nikhil Rathi to Dame Meg Hillier MP, Chair of the PAC, dated 28 September 2022; , dated 28 September 2022; FCA’s response to this report, [FCA’s response](https://committees.parliament.uk/publications/30266/documents/175189/default/)<https://committees.parliament.uk/publications/30266/documents/175189/default/> to this report;; Government response, [response](https://committees.parliament.uk/publications/30266/documents/175189/default/)<https://committees.parliament.uk/publications/30266/documents/175189/default/>.

⁹ Pension Transfers and Opt-outs - Review of Past Business - Part I: Statement of Policy, October 1994 and Part II: Specification of Standards and Procedures, October 1994

4. The SIB review addressed 1.6 million cases of personal pension mis-selling that happened between 1988 and 1994.¹⁰
5. The review was limited to people who joined, or were eligible to join, an occupational pension scheme. The review covered transfers, opt-outs and non-joiners. This review identified that up to 500,000 people may have received unsuitable advice on transfers and opt-outs from occupational pension schemes. Some of the transfers and opt-outs were transacted in a materially non-compliant way, and some consumers suffered loss as a result of unsuitable advice.

The FCA's role in relation to the BPS

6. The FCA regulates financial advisors who provided pension transfer advice to steelworkers on transferring out of the BPS. The FCA also supervises firms offering personal pension schemes and who received transfer payments from those who opted out of the BPS.

The Pensions Regulator and Trustees' Role

7. The Pensions Regulator (tPR) is the UK regulator of workplace occupational pension schemes (including DB schemes like the BPS). The scheme trustees oversee the administration of the scheme and communication with members.

2015 Pension Freedoms

8. The Pension Schemes Act 2015 set out a new legislative framework for private pensions to give people with DC pensions more flexibility in how and when they could access their savings.
9. Some members of a DB scheme have the option to transfer to a DC scheme. The Government put in place a mandatory advice requirement for those with a DB pension value greater than £30,000 to seek advice from a qualified pension transfer specialist. This was to ensure members of DB schemes fully understood the benefits they may be giving up if they transferred to a DC scheme, as well as the risks involved, and could make an informed decision.
10. The FCA undertook significant work in relation to pensions transfer advice following the introduction of Pensions Freedoms in 2015.

¹⁰ [The Pension mis-selling review](https://researchbriefings.files.parliament.uk/documents/SN00429/SN00429.pdf), 9 July 2002 [The Pension mis-selling review](https://researchbriefings.files.parliament.uk/documents/SN00429/SN00429.pdf)<https://researchbriefings.files.parliament.uk/documents/SN00429/SN00429.pdf>, 9 July 2002

11. Data and intelligence the FCA held around the quality of pension transfer advice at the time was limited. Therefore, the FCA commenced supervisory activity to increase its understanding of what was happening in the market and to assess the risk posed by the legislative change. The FCA took a risk-based supervisory approach, and initially focused on assessing a small number of firms which were assessed to pose higher risk. As shown by the updates published on the FCA's website, the concerns regarding the quality of advice grew over time with the more data the FCA received. Therefore, the FCA's regulatory strategy to mitigate the increasing level of risk evolved, using supervisory, policy and enforcement tools. Oversight of key decisions and strategy developments was provided by the Executive Committee and FCA Board and the matter became a top priority for the organisation as demonstrated by the 2018/19 Business Plan.¹¹

12. The FCA carried out four phases of work which are detailed below.

Phase 1: October 2015 to March 2016

- a. The FCA looked at a small sample of high-risk firms (based on factors including those most active in the pension transfer market with a high number of transfers). The firms were selected based on available data and intelligence. The FCA initially took a desk-based approach, focussing on assessment of business models and DB pension transfer advice. The FCA obtained information from 6 firms, leading to 29 detailed file reviews from four of those firms. The FCA visited 3 of those firms as part of their assessment process.¹²
- b. The results of these assessments raised concern, but given the limited sample of firms assessed, the FCA considered the appropriate response was to continue its risk-based supervisory strategy. The FCA therefore extended the sample size to determine if issues were evident in a larger population, continuing to focus on high-risk firms.

Phase 2: December 2016 to July 2017

- c. This consisted of business model assessments and 71 file reviews from an additional 16 firms. The FCA visited 9 of those firms. The aim was

¹¹ <https://www.fca.org.uk/publication/business-plans/business-plan-2018-19.pdf>

¹² 'File reviews' involved a substantive review of the evidence gathered, the calculations and methodology used, and the resulting advice that would outline whether a transfer would be in the client's best interest or not to enable an informed choice.

to assess the advice consumers received from firms and whether they were at risk of harm.

- d. The combined results of the file reviews conducted during phases 1 and 2 showed 17% of advice was unsuitable and a further 36% of files had material gaps in the information necessary to provide suitable advice. This meant that it was unclear whether the advice was suitable or not in these cases.
- e. The FCA's concerns were further heightened upon comparison of these results with results of the FCA's assessment of the wider advisory market for pensions advice, which found that 90% of pensions accumulation advice and 91% of retirement income advice was suitable.
- f. In response to the growing concern, the FCA bolstered its regulatory strategy by deploying policy tools. In June 2017, it launched a consultation to strengthen the rules and guidance on pension transfer advice. The FCA's proposals were informed by the findings from its supervisory work.¹³
- g. In October 2017 the FCA published an update¹⁴ about the work from phases 1 and 2. By this time, the number of DB pension transfers had increased significantly.
- h. During phases 1 and 2, through supervisory intervention, 4 firms chose to stop advising on DB transfers. The FCA also continued its work on scams, particularly those that targeted consumers' pensions. Between January 2016 and October 2017, 32 firms chose to stop providing advice or decided to limit their pension transfer activity.
- i. In addition, the FCA continued its supervisory strategy with a further phase of supervisory assessments.

Phase 3: June 2017 to February 2019

- j. The FCA continued to look at high-risk firms in this phase, characterised by those most active in the market or where it had received intelligence (for example whistleblowing). The FCA's work was targeted and not representative of the whole market, but it was designed to inform whether a market-wide intervention was necessary.

¹³ <https://www.fca.org.uk/publication/consultation/cp17-16.pdf>

¹⁴ <https://www.fca.org.uk/news/news-stories/our-work-defined-benefit-pension-transfers>

- k. During this phase, the FCA collected information from an additional 45 firms, following which the FCA conducted further assessment work, including visits to 18 firms and 154 file reviews. Between June 2017 and February 2019, the 18 firms visited by the FCA gave advice to 48,248 clients on their DB pension schemes, which resulted in 24,919 actual pension transfers. Results of the file reviews identified that 29.2% of advice was unsuitable and 22.7% of advice was unclear.
- l. In late 2017, the FCA received intelligence about potential poor transfer advice being given to BPS members. Therefore, it paused its work on phase 3, redirecting resources to focus on BPS in November 2017. Additional resources were also allocated at this time, specifically focused on BPS. Work recommenced on phase 3 in March 2018.
- m. In the FCA's update published in December 2018¹⁵, the FCA set out its disappointment to have found that less than 50% of the advice reviewed was suitable. Adding it was particularly concerning that, despite feedback to the sector, firms were still failing to give consistently suitable advice and that it was unacceptable that pension transfer advice should persistently remain at such a low level of suitability in comparison to investment advice. The FCA outlined strong messages around its expectation for pension transfer advice to reach the same standard as the wider financial advice market where the FCA found advice was suitable in around 90% of cases.
- n. The FCA also continued with policy interventions, in March 2018 finalising new rules aimed to improve the quality of pension transfer advice to help consumers make informed decisions for their individual circumstances.¹⁶
- o. In March 2018 the FCA also launched an additional consultation to improve the quality of pension transfer advice¹⁷, including changes to require pension transfer specialists to hold the same qualifications as investment advisers. New rules and guidance were finalised in October 2018.¹⁸
- p. In its 2018/19 business plan, the FCA outlined the concern it had about pension transfer advice and identified this as a key priority for the FCA.¹⁹

¹⁵ <https://www.fca.org.uk/publications/multi-firm-reviews/key-findings-our-recent-work-pension-transfer-advice>

¹⁶ <https://www.fca.org.uk/publication/policy/ps18-06.pdf>

¹⁷ <https://www.fca.org.uk/publication/consultation/cp18-07.pdf>

¹⁸ <https://www.fca.org.uk/publication/policy/ps18-20.pdf>

¹⁹ <https://www.fca.org.uk/publication/business-plans/business-plan-2018-19.pdf>

- q. Following the results of the 3 phases of work on specific high-risk firms and the data gathered from firms with pension transfer permissions between April 2015 and September 2018, the FCA concluded the data was sufficiently concerning to justify a market-wide intervention.

Phase 4: From May 2019

- r. To deliver the market-wide intervention, the FCA further developed its regulatory response, deploying a joint Enforcement and Supervisory strategy. This included a wide range of work, including file reviews, to support a significant number of enforcement investigations which had already commenced (including those with links to BPS), with the aim of achieving redress for consumers. This included Skilled Persons Reviews and a total of 36 Past Business Reviews and covered an estimated 365 BPS cases. The extensive volume of work required during this phase required the FCA to utilise external resource.
- s. This phase involved the review of c.1,500 pension transfer advice transactions (both BPS and non-BPS) across a further 85 firms. The work was then augmented by a redress scheme workstream. In total the FCA has incurred external costs of approximately £8.2m, along with over 118,000 hours spent by the FCA on the issues.
- t. The scale of enforcement investigations commenced by the FCA, involving around 30 investigations into firms or individuals, has been unprecedented. These investigations were complex and required analysis of large volumes of evidence, interviews and file reviews. Applying the rules and guidance around pension transfers and suitability, the FCA has held firms and advisers to account, imposing financial penalties, banning unsuitable advisers from the industry and securing redress from firms. To date, this has resulted in 15 prohibitions and fines or payments to the FSCS totalling £8.87m, though some matters have been referred to the Upper Tribunal. Where possible the FCA have sought payments to be made to the FSCS in lieu of a financial penalty, ensuring that the parties responsible for the wrongdoing pay redress.²⁰ Further investigations are progressing and information will be published in due course.

The BPS

²⁰<https://www.fca.org.uk/firms/british-steel-pension-scheme-our-approach-enforcement>

13. The BSPS was a DB pension scheme for employees of British Steel, with assets worth approximately £13.3 billion and approximately 130,000 members in 2017.
14. British Steel was formed in 1967 and was eventually acquired by Tata Steel UK Limited (TSUK), which was part of the Tata Steel Group, in 2010.
15. By March 2016, TSUK was experiencing financial difficulties, reportedly having lost £2 billion in five years, and Tata Steel Group announced that it was examining options to restructure TSUK.
16. As part of this process, in May 2016, the Department for Work & Pensions launched a public consultation on options for the BSPS to ensure the Trustees' proposal was workable, that members interests were properly protected, and the wider DB system was not undermined. This included consulting on potential changes to legislation around reducing the scheme's liabilities by allowing the trustee to reduce indexation and revaluation on future payment of accrued pension rights; and permitting a bulk transfer without member consent to a new scheme with benefits equal to or greater than compensation paid by the Pension Protection Fund (PPF).²¹
17. A restructure of the BSPS was considered as part of a range of options. The FCA was not involved in the work to restructure the pension scheme, as this falls within the remit of tPR, the regulator for UK occupational pension schemes.
18. If a firm faces insolvency due to the costs of a DB pension scheme, it can apply to tPR to support the continuation of the scheme for its members. This process is called a Regulated Apportionment Arrangement (RAA). These are relatively rare and involves the pension scheme being separated from its sponsoring employer and usually involves the PPF taking over the pension scheme from the firm. The PPF pays compensation to members of pension schemes and typically pays around 90% of their expected pension benefits.²²

²¹ <https://assets.publishing.service.gov.uk/media/5aaf79cee5274a7fbb4d68f2/british-steel-pension-scheme-government-response.pdf>

²² Already retired members, ill-health pensions and survivor's pensions get 100% of their expected pension, with an upper cap that the PPF can pay per year of £41,461.07 as set by the Government.

19. The Department for Work and Pensions ultimately concluded that the agreement to separate BSPS from TSUK (its sponsoring employer) through a RAA was a good outcome and that no changes to the legislative framework were necessary.
20. In August 2017, tPR agreed the BSPS pension scheme could enter the PPF. In addition, Tata Steel established a new pension scheme, (BSPS2), which would provide similar benefits to members as the existing BSPS, but with lower future pension increases.
21. Between October and December 2017, members of the BSPS were given a choice to stay with the BSPS, which would in effect be the PPF, or move into the new BSPS2. This exercise was called 'Time to Choose'.
22. In addition, members who were not pensioners (and were not within one year of their normal retirement date) could also transfer out of the pension scheme completely into a new personal pension should they so wish. If they wanted to transfer out of the BSPS, there were a number of steps to complete, including obtaining a transfer value, seeking advice, setting up a DC pension and transferring the pension, before 29 March 2018.
23. During the 'Time to Choose' exercise there was a significant increase in demand for DB pension transfer advice in a short space of time from BSPS members. Between April 2017 and March 2018, some 5,517 members transferred out. A further 2,317 who requested a transfer out prior to the February 2018 deadline transferred out after this date. In total 7,834 members of the BSPS transferred into a DC scheme.²³
24. Although, as noted above, the FCA was not involved in the restructure of the BSPS pension scheme, DB pension transfer advice is a regulated activity requiring FCA permission. The FCA was therefore responsible for regulating this activity.
25. Due to the high demand for DB pension advice from BSPS members, an opportunity arose for advisers to take advantage of the situation as they were incentivised to recommend transfer. At the time, DB pension advisers were paid once a pension transfer completed.²⁴ Many advisers

²³ NAO Report, paragraph 2.3, page 19

²⁴ This practice, known as contingent charging, was banned by the FCA in October 2020

took on more cases than they were able to manage competently, which also resulted in unsuitable advice.

During the Time to Choose exercise

26. The BSPS trustees alerted tPR to the level of interest in transferring out of the scheme in late 2017. tPR did not collect real-time data from the scheme trustees on the number of DB pension transfer requests.²⁵ tPR, Community Union (a trade union) and the BSPS scheme administrators told the NAO that they did not anticipate such a large volume of members to transfer out of the scheme. These organisations expected that the relevant safeguards introduced following the pension freedoms in 2015 would be effective at preventing consumer detriment.²⁶
27. Rookes, in her review, noted the unique circumstances surrounding this period.²⁷ The Time to Choose exercise was an extremely short timeframe for members to make difficult, long-term financial decisions. Not only was the FCA not involved in the restructure of the BSPS, but there was also no clear information sharing arrangement with tPR on such events at the time. As such, the FCA was reliant on intelligence from other sources. It did not receive clear, actionable intelligence until late 2017, when it started to receive information around unsuitable advice to BSPS members.

Obtaining information from the scheme administrators and trustees

28. The FCA did not have the power to compel information from either the scheme trustees or the scheme administrators, as it did not authorise or regulate either of them. There were also concerns around data protection legislation, which was also an issue identified by the Rookes Review.²⁸
29. Therefore, there were significant limitations on the information and intelligence that could be gathered (and delay in obtaining it). Few financial advice firms met the threshold for regular engagement with the FCA and the typical supervisory approach at that time to smaller firms was undertaking thematic work and responding to intelligence. This meant the

²⁵ The NAO Investigation into BPS, page 26.

²⁶ The NAO Investigation into BPS, page 22.

²⁷ Rookes Review, pages 18 to 20. Further detail on what happened leading up to it can be found from page 13 in the Rookes report.

²⁸ See page 5 of the Rookes Review – "I have based the findings of this report on conversations with individuals who were involved in or affected by Time to Choose. The most significant concerns related to those who had transferred out but, due to data protection concerns, it was much harder to reach this group of people. As a result, my research among this group was restricted."

FCA did not have complete data on the number of transfer requests or the advisory firms involved in them.

30. The FCA tried unsuccessfully to gather details of advisers involved in transfers for BPS members internally and from the scheme administrators in November 2017. The BPS administrators were overwhelmed with the number of transfer requests being received at the time and their data was updated manually and not kept in an accessible format.
31. The FCA attended the offices of the scheme administrators on two separate occasions in November and December 2017 but were ultimately unsuccessful in obtaining full records as the information could not be easily extracted and required manual review. Additionally, there was a backlog of applications, which were yet to be reviewed by the administrators.
32. Whilst the FCA was attempting to gather data from the administrators, the relevant FCA supervisory team was pulling together the information the FCA had internally, issuing information requests to firms known to be providing advice to BPS members, and getting in touch with the trade unions involved. The FCA subsequently contacted all local adviser firms to remind them of its expectations and held local seminars in Swansea and Doncaster with regulated advisers²⁹ where further information was also shared with the FCA.

FCA's actions in relation to unsuitable pension transfer advice to BPS members

33. In late 2017, the FCA received intelligence about potential poor pension transfer advice being given to BPS members. As stated above, resources were redirected to focus on BPS in November 2017.
34. The FCA adopted a supervisory-led approach commencing an information gathering exercise in December 2017, involving 50 financial advice firms, and 12 SIPP operators. 7 firms were visited and files were requested from a further 4 firms.
35. Between December 2017 and March 2018, 10 firms stopped providing pension transfer advice.

²⁹ Rookes Review, page 20.

36. In addition to the actions taken with firms, the FCA also provided information to steelworkers, including making them aware that the advice they had received was potentially unsuitable and suggesting that they may wish to make a complaint. The FCA also corresponded extensively with TSUK, trade unions, and others, issued communications, visited firms and held meetings in person. This is set out in more detail in the table at paragraph 42.
37. Once the Time to Choose exercise had begun, there was limited opportunity to prevent harm from occurring given the short window of the exercise and the limited period for BSPS members to transfer their pension if that is what they wanted to do, ahead of the BSPS transferring into the PPF in March 2018.
38. The issue quickly became one of ensuring appropriate redress was secured where necessary for BSPS members who had transferred out of the BSPS scheme. Although a DB pension transfer was, and is still, considered unlikely to be in a scheme-member's interest, the FCA recognised that members did have a choice regarding their pension and a right to transfer should they so wish and that some were happy with their pension transfers.
39. Unfortunately, under the BSPS rules, former BSPS members could not re-enter the pension scheme following transfer. Therefore, in the limited window available afforded by the transfer time before the BSPS entered the PPF, the FCA sought to prevent harm through its firm-led work and by raising awareness of the potential for poor advice and encouraging BSPS members to think carefully before transferring.
40. For those members who had already transferred out of the BSPS between November 2017 and March 2018, namely during the 'Time to Choose' period and before the BSPS entered the PPF, the FCA's focus was on raising members' awareness of the possibility that they had received unsuitable advice to transfer and encouraging them to complain if they were concerned about the advice they had received.

Complaints-led approach between December 2017 and December 2021

41. A general principle under FSMA is that consumers should take responsibility for their decisions.³⁰ Given this, a complaints-led approach is a common approach to redress. Namely, if a consumer has a concern or complaint about the service they have received from a regulated firm, the first step should be to complain to the firm. If they are dissatisfied with the firm’s response, they can often refer matters to the Financial Ombudsman Service. This was the case for BSPS DB pension transfers.
42. From 2017 the FCA, alongside regulatory partners, carried out the actions described in the table below to support this complaints-led approach.

Date	Events
December 2017	<p>An update was published on the FCA’s website, explaining that if members had concerns they could contact the scheme administrators who may be able to stop the transfer. For those who may have already transferred, they should make a complaint to the firm and the Financial Ombudsman Service. The update also refers to the dedicated helpline set up by The Pensions Advisory Service for BSPS members.</p> <p>The FCA worked with tPR and the Money and Pensions Service to enable the BSPS’s trustees to send a joint letter to around 12,000 BSPS members who had requested a transfer quotation, to urge them to be careful if considering this option.</p> <p>In response to concerns about the financial advice BSPS members were receiving, the FCA held four seminars in Swansea and Doncaster for advisers specialising in pension transfers. 151 advisers attended these seminars, in which the FCA set out the standards it expects when pension transfer advice is given to consumers and the responsibilities firms have when dealing with unregulated introducers.</p>

³⁰ The FCA’s consumer protection objective is: securing an appropriate degree of protection for consumers. One of the factors that the FCA must have regard to in determining what degree of protection for consumers may be appropriate is the general principle that consumers should take responsibility for their decisions: section 1C(2)(d) FSMA 2000.

Date	Events
	The FCA also wrote to 148 authorised financial advisers located near the steel plants who did not hold DB pension advice permissions explaining its expectations when referring their clients to DB pension advisers.
January 2018	<p>The FCA worked with tPR, and The Pensions Advisory Service and followed up with a further joint letter, sent by the trustees, to members who had already transferred out of the scheme, providing information on how to make a complaint and referring to the role of the Financial Ombudsman Service. This letter also references a helpline set up with the Pensions Advisory Service.</p> <p>The FCA also sent a letter to all advice firms setting out its expectations on pension advice.</p>
February 2018	A further update ³¹ was published on the FCA's website for BSPS members who had already made the decision to transfer, referring again to the complaints process / Financial Ombudsman Service.
March 2018 onwards	Meetings were held with steelworkers and representatives, at which the FCA provided information to former BSPS members and referred to their right to make a complaint.
March 2019	A statement published on the FCA website ³² to confirm the FCA were looking into the advice provided on the BSPS transfers and provided information on how to complain if they felt they had received unsuitable advice.
June to December 2019	The FCA held 6 events for steelworkers in South Wales. They also wrote to 3,800 steelworkers in the geographical area, who had transferred inviting them to

³¹ <https://www.fca.org.uk/news/statements/fca-updates-work-financial-advice-given-members-british-steel-pension-scheme>

³² Ibid

Date	Events
	the events and explaining what they should do if they were concerned.
June 2020	<p>The advice checker³³ was published on the FCA website to help people who had transferred out of a DB scheme to identify if they had received incorrect advice, and details of the complaints process was highlighted.</p> <p>The FCA also wrote to 7,700 former members of the BPS, informing them that many people who had transferred out of the BPS had received unsuitable advice. The letter confirmed that in 79% of cases reviewed, advice was either unsuitable or unclear. This letter encouraged members to take action, including considering making a complaint. This letter also explained the role of relevant various organisations in the process, together with their contact information, namely the FCA's contact centre, the Money Advice & Pensions Service, the Financial Ombudsman and the FSCS.³⁴</p>
April 2021	BPS communications toolkit was sent to MPs, representatives and trade unions which increased traffic on the Financial Ombudsman webpage relating to BPS complaints.
June 2021	BPS consumer page published on the FCA website.
July 2021	An updated BPS communications toolkit was issued to MPs.
September – December 2021	<p>Further events held for steelworkers in Swansea and Scunthorpe.</p> <p>A "Dear CEO" letter was sent to firms to explain that a consultation for a statutory redress scheme was being</p>

³³ <https://www.fca.org.uk/consumers/pension-transfer-defined-benefit/advice-checker>

³⁴ <https://www.fca.org.uk/publication/correspondence/letter-to-former-members-of-the-british-steel-pension-scheme-june-2020.pdf>

Date	Events
	considered and reminding them of PRIN ³⁵ and COND ³⁶ rules. ³⁷

43. As highlighted above, as more evidence of unsuitable advice emerged as a result of the extensive work undertaken, the FCA strengthened its message encouraging steelworkers to make a complaint if they felt the advice they received was unsuitable.
44. Despite the significant work the FCA undertook, and the support of other stakeholders including MPs, trade unions, the FSCS and the Financial Ombudsman, to inform BPS members of their ability to complain about advice they had received, the level of complaints was low. In total, only 1,878 members out of 7,834 members who received advice to transfer out in the relevant period had complained to the Financial Ombudsman or FSCS by March 2022.³⁸
45. The NAO report identified several potential reasons as to why steelworkers were reluctant to complain.³⁹ These included:
- a. Personal relationships with advisers – where financial advice firms were part of the local community, steelworkers were reluctant to raise complaints against them due to their close personal relationships;
 - b. Acceptance of fault – steelworkers who believed the losses incurred by transferring out was their own fault and did not want to place the blame on their advisers;
 - c. Unwillingness to accept financial loss – steelworkers who did not want to consider that the advice they received may be unsuitable were reluctant to complain or admit that they have potentially lost money;
 - d. Uncertainty over the suitability of advice – BPS members who were unsure if the advice they received was unsuitable were hesitant to make a complaint;

³⁵ <https://www.handbook.fca.org.uk/handbook/PRIN/>

³⁶ <https://www.handbook.fca.org.uk/handbook/COND/>

³⁷ <https://www.fca.org.uk/publication/correspondence/british-steel-pension-scheme-consideration-redress-scheme.pdf>

³⁸ NAO Report, paragraph 3.8, page 36

³⁹ NAO Report, Figure 14, page 37

- e. Satisfaction with their transfer – steelworkers who were happy with their decision to transfer out did not want to seek compensation; and
- f. Waiting to see if others are successful – steelworkers who were unsure if they should raise a complaint were waiting to see the outcome of their colleagues' complaints before making their own.

Consideration of a DB transfer advice redress scheme from 2019

46. The evidential threshold to be met for a statutory redress scheme under section 404 (1) of FSMA 2000 is high. The FCA needs to demonstrate:
- a. that there may have been a widespread or regular failure by relevant firms to comply with requirements applicable to the carrying on by them of any activity;
 - b. as a result, consumers have suffered (or may suffer) loss or damage in respect of which, if they brought legal proceedings, a remedy or relief would be available in the proceedings; and
 - c. it is desirable to make rules for the purpose of securing that redress is made to the consumers in respect of the failure (having regard to other ways in which consumers may obtain redress).
47. In January 2019, the FCA's priority was to develop a sufficiently robust evidence base to understand the scale and nature of failings by firms identified through the initial phases of DB and BSPS work. The FCA considered that this was necessary to aid consideration of the right powers to use and the evidence required to exercise them.
48. The FCA also considered a market-wide redress scheme under s.404 in January 2020. The FCA analysed the advantages and disadvantages of a market wide s.404 redress scheme including the evidence required for a s.404 redress scheme vs. the evidence held, the effectiveness of a redress scheme, potential impacts on the market and the time and costs of implementing a scheme. Having completed its analysis, the FCA decided that a complaints-led approach combined with supervisory and enforcement action was the most appropriate avenue to deliver redress at that point. The evidence gathered through the FCA's work by this point only related to the 'higher risk' DB and BSPS firms. It was not considered representative of the wider population across the market and might not be sufficient to demonstrate 'widespread' or 'regular' failing to comply with statutory requirements.

Consideration of a redress scheme specific to BSPS

49. In April 2020, the FCA considered the results of the Phase 4 work described above and determined that further information on firms undertaking BSPS transfer work was necessary. The FCA gathered further evidence on firms who had provided advice on BSPS transfers as part of a wider data collection programme in July and November 2020.
50. Further consideration of a s.404 redress scheme specific to the BSPS took place in February 2021, with recognition in April 2021 that an insufficient number of BSPS members were complaining and acknowledgement that complainants were at risk of being time-barred by 2023.
51. Between May and July 2021, the FCA proceeded to gather further evidence to assess if the conditions allowing the FCA to make a s.404 redress scheme were met. In particular if a s.404 redress scheme could be a more effective, straightforward and cost-effective tool to ensure BSPS members who received unsuitable advice had the opportunity to obtain redress, and identified the further work that would support such a scheme. This was necessary because s.404 represents a significant intervention in the market, with potentially wide-ranging consequences, which is reflected in the stringent conditions the FCA has to satisfy to be able to make such a scheme under s.404 of FSMA. However, by July 2021 the FCA still did not have sufficient evidence that the legal test was met, especially as to the desirability of such a scheme.⁴⁰ Therefore, the FCA undertook further information gathering including more file reviews to improve the data held, its analysis and further develop a Cost Benefit Analysis (CBA) required as part of a compulsory consultation process applicable to s.404 redress schemes.
52. Following further necessary evidence gathering, by December 2021 the FCA had reviewed a statistically significant sample of transfer advice from the firms that had provided advice to BSPS members in the period from 1 March 2017 to 31 March 2018. The decision was reached by the FCA Board that some further work was required to conclude clearly on whether the legal tests for establishing a redress scheme were likely to be met. On 22 December 2021, the FCA made a public statement⁴¹ confirming that

⁴⁰ Letter from Nikhil Rathi to Mel Stride MP, Chair of the TSC, 12 July 2021

⁴¹ <https://www.fca.org.uk/news/statements/british-steel-pension-scheme-redress>

the FCA's Board expected the FCA to consult on a s.404 redress scheme for BPS by the end of March 2022.

53. After this public statement, the FCA prepared for an extensive consultation which was launched in March 2022⁴². This also included substantial and complex work to publish a CBA (in Annex 2 of CP22/6) which was required under s.138I of the FSMA.
54. Within the consultation, the FCA referenced that, subject to further analysis, the scheme would cover advice provided between 26 May 2016 to 29 May 2018. The FCA stated *'26 May 2016 is when the Department for Work and Pensions (DWP) launched a consultation on BPS and 29 March 2018 is when BPS entered Pension Protection Fund (PPF) assessment and was closed to transfers. During this time BPS members went through a set of unique events, which caused harms to those who transferred their pension'*.⁴³ The FCA was concerned that BPS members may have been misadvised from this date. The FCA therefore requested data in April 2022 to review whether there was widespread unsuitable pension transfer advice from May 2016 until February 2017.
55. In the consultation, the FCA outlined that it had appointed external file reviewers to assess the suitability of pension transfer advice provided to BPS members between 1 March 2017 and 31 March 2018. They were also used to review the additional files from May 2016 to February 2017.
56. In total, 365 files had been reviewed from 89 firms and the FCA found that in 46% of cases the advice was unsuitable, and that, of the 89 firms, cases of unsuitable advice were found in 51 of them.
57. At 46% the proportion of advice unsuitable for BPS members was significantly higher than was found in higher-risk firms in non-BPS pension transfer cases where 17% of advice was unsuitable.
58. The FCA also found that complaint volumes were low – only 800 BPS members had complained to the Financial Ombudsman by March 2022 (estimated at around 11% who transferred their pension after receiving advice).⁴⁴

⁴² <https://www.fca.org.uk/publication/consultation/cp22-6.pdf>

⁴³ <https://www.fca.org.uk/publication/consultation/cp22-6.pdf>

⁴⁴ <https://www.fca.org.uk/publication/consultation/cp22-6.pdf>

59. Further, 98% of BPS complaints about the suitability of pension transfer advice considered by the Financial Ombudsman and 95% of FSCS cases until March 2022 had been found in favour of the consumer⁴⁵.
60. The FCA concluded that there was strong evidence that unsuitable advice was widespread among the firms who had advised BPS customers. However, as the FCA stated in its letter to the Treasury Select Committee dated 12 July 2021, a s.404 redress scheme represents a significant intervention in a market and can have far-reaching consequences when used. In the BPS context, the FCA had concerns regarding professional indemnity insurers further restricting or significantly raising the price of their cover, increasing costs for firms, and firms exiting the market and avoiding redress. As demonstrated by the FCA's CBA in CP22/6,⁴⁶ a s.404 redress scheme carried significant costs and industry impact. For example, the FCA's CBA estimated that the cost to firms, PI insurers, the FSCS and the FCA was £41.8m. The FCA was required to gather sufficient evidence of harm to meet the legal test as well as consider the wider impact of using its s.404 power to demonstrate that it was overall "desirable". The evidence gathering was complex and required time to complete to the appropriate evidential and legal standard.
61. Following the closure of the consultation, feedback was gathered and assessed, and a Policy Statement was issued in November 2022.⁴⁷ The scheme commenced in February 2023, and firms were instructed to write to members of the BPS by 28 March 2023.

Redress Scheme

62. Where a consumer has received non-compliant advice and has transferred out of their DB pension scheme as a result, the basic objective of redress is to put the consumer, so far as possible, back in the position they would have been in, had they received compliant advice and remained a member of the DB scheme. As part of considering the merits of implementing a statutory redress scheme, the FCA considered alternative methods of achieving the objective of providing steelworkers with redress. Options such as requiring an adviser firm to provide a guarantee or buy an annuity for the steelworker to match the pension they would have received from the DB pension scheme at retirement were considered as

⁴⁵ NAO Report, page 36.

⁴⁶ <https://www.fca.org.uk/publication/consultation/cp22-6.pdf>

⁴⁷ <https://www.fca.org.uk/publication/policy/ps22-14.pdf>

detailed in the consultation paper published in August 2022.⁴⁸ The FCA determined that the alternatives were not deliverable and proceeded to implement the statutory redress scheme.

63. Ideally, redress would result in the consumer being reinstated in their DB scheme, but this was not possible in the case of BSPS. The trustees of the BSPS ceding schemes (into which members of the BSPS would have gone if they hadn't transferred out) confirmed that the scheme rules did not permit them to reinstate former members of the BSPS.
64. The redress scheme applies to former members of the BSPS who had transferred out after being given advice between 26 May 2016 and 29 March 2018 and where their firm remains in business and the individual has not already had a full and final settlement (for example if they have previously complained to the Financial Ombudsman Service). It is intended, as far practically possible, to put BSPS members who suffered loss as a result of poor advice, back into the position they would have been had they not transferred.
65. The rules require firms to work out how much money a consumer should have in their DC pension as at the date of calculation so that when they retire, they can buy an annuity which would provide a guaranteed income similar to what steelworkers would have received from their DB pension scheme.
66. Redress calculations are individual. These reflect the factors considered in any calculation of retirement income and include:
 - a. personal circumstances including age, marital status, the defined benefits accrued and when they were accrued;
 - b. the rules and benefits of the DB scheme;
 - c. the value of the DC fund at the time of the calculation;
 - d. the calculation date, as calculations rely on the market's expectations of future economic conditions (such as future inflation and future interest rates and investment performance) and mortality expectations at the time they are undertaken; and
 - e. additional factors such as advice charges and charges associated with DC pension pots.

⁴⁸ <https://www.fca.org.uk/publication/consultation/cp22-15.pdf>

67. In December 2022, a group of financial advisors launched an unsuccessful challenge to the redress scheme via judicial review, which was abandoned in April 2023 with a substantial contribution paid by the applicants to the FCA's costs.

Changes to redress methodology

68. As part of the SIB Pensions Review in 1994, a redress methodology was developed to remediate unsuitable DB pensions transfer advice.

69. In August 2016, the FCA recognised that the redress methodology may no longer achieve the objective of returning consumers to the position they would have been in, had they remained members of the DB scheme. The FCA committed to undertake a review of the approach, and subsequently review it every circa four years. As a result, in October 2017, the FCA finalised guidance for firms on how to calculate redress for unsuitable DB pension transfers, FG17/19.⁴⁹ This followed an extensive review of the methodology⁵⁰ by PwC which was finalised in March 2017.

70. Further changes to the redress methodology have been made over time. Notably:

a. In November 2020, the Government changed the way the Retail Prices Index (RPI) inflation measure is calculated by aligning it to the Consumer Prices Index (CPI), an alternative inflation measure. As a result, in March 2021 the FCA changed the CPI assumption in the redress methodology to ensure that it reflected the assumed difference between RPI and the CPI;⁵¹ and

b. In November 2022, following consultation, the FCA made some further changes to the general methodology.⁵² The preceding consultation, CP22/15⁵³, was accompanied by a range of supporting material produced for the FCA by external parties. This included a Technical Report and a Technical Manual both produced by Deloitte setting out their analysis and recommendations to the FCA on the methodology and some worked examples, and a summary of a legal opinion from Michael Furness KC of Wilberforce Chambers, focusing primarily on

⁴⁹ <https://www.fca.org.uk/publication/finalised-guidance/fg17-9.pdf>

⁵⁰ <https://www.fca.org.uk/publication/research/pwc-new-redress-methodology-pensions-transfer-advice-cases.pdf>

⁵¹ <https://www.fca.org.uk/news/statements/retail-prices-index-changes-db-pension-transfer-redress>

⁵² <https://www.fca.org.uk/publication/policy/ps22-13.pdf>

⁵³ <https://www.fca.org.uk/publication/consultation/cp22-15.pdf>

how the current and proposed methodology compared with the approach a court would take to awarding damages for non-compliant DB pension transfer advice.

71. Calculations under the s.404 redress scheme broadly followed this methodology.

Asset retention

72. Crucial to the success of any redress approach is that firms hold sufficient assets to meet their redress liabilities. All firms authorised and regulated by the FCA are required to meet their responsibilities under PRIN, COND, DISP and Threshold conditions.
73. Before the s.404 redress scheme was implemented, requirements were placed on individual firms who had provided unsuitable pension transfer advice to BPS members to prevent the dissipation of assets where there was clear evidence of firms attempting to do so.
74. Prior to introducing emergency rules in April 2022, the FCA worked with individual firms to establish whether asset retention was required and used existing regulatory powers to put requirements in place where necessary. Where there was clear evidence of firms attempting to dissipate their assets, the FCA did act to stop this, for example the action taken against AJH Financial Services Limited.⁵⁴ The FCA also forced firms to stop making misleading offers to former members of the BPS who were likely to be part of the redress scheme in February 2023.⁵⁵ The FCA were concerned that unsolicited settlement offers, which were likely to be for less money than they are entitled to under the redress scheme, were a deliberate attempt to exclude former BPS members from the redress scheme.
75. The FCA issued an update on its website to say it had seen evidence of owners reducing the financial resources of their firms by withdrawing assets or changing corporate structure to avoid liabilities. It set out that it would take action where it was concerned this could leave a firm with

⁵⁴ <https://www.fca.org.uk/news/news-stories/fca-stops-ajh-financial-services-limited-disposing-assets-without-permission>

⁵⁵ <https://www.fca.org.uk/news/news-stories/fca-forces-firms-stop-making-misleading-british-steel-pension-scheme-offers>

inadequate financial resources and unable to rectify instances of poor advice.⁵⁶

76. Most firms involved in BSPS were small with assets that reflected their size. However, the FCA recognised that consulting on a redress scheme heightened the risk of both assets being diminished and firms seeking to avoid liabilities and felt that emergency asset restriction rules were required.
77. To impose an asset retention requirement, an evidential burden must be met. By 2022, the FCA had gathered sufficient evidence of harm relating to pension transfers for members of the BSPS which meant it was appropriate to bring in temporary asset retention rules. It introduced temporary rules in April 2022, on an emergency basis to prevent firms dissipating assets ahead of a redress scheme being implemented, because it had concern that firms could potentially try to avoid liabilities.
78. In November 2022, a consultation paper was published which proposed an extension to the temporary asset retention requirement.⁵⁷ Following this, a policy statement was issued confirming this in January 2023.⁵⁸

Other matters relevant to the complaint

Financial Services Compensation Scheme (FSCS) compensation limits increase

79. In March 2013, prior to matters relating to BSPS unfolding, as part of a wider funding review, the FCA made a commitment to reviewing the FSCS funding model in 2016.
80. The review commenced in December 2016 which reviewed broader matters relating to the FSCS funding model.⁵⁹ As this was a fundamental review of how the FSCS was operated and funded, there were many factors to consider. In October 2017, the FCA consulted on increasing the compensation limit from £50,000 to £85,000 for certain activities.⁶⁰ This was responded to in May 2018⁶¹ with the rules to take effect by April 2019.⁶²

⁵⁶ <https://www.fca.org.uk/publications/multi-firm-reviews/defined-benefit-db-transfers-further-update-our-work>

⁵⁷ <https://www.fca.org.uk/publication/consultation/cp22-22.pdf>

⁵⁸ <https://www.fca.org.uk/publication/policy/ps23-1.pdf>

⁵⁹ <https://www.fca.org.uk/publication/consultation/cp16-42.pdf>

⁶⁰ <https://www.fca.org.uk/publication/consultation/cp17-36.pdf>

⁶¹ <https://www.fca.org.uk/publication/consultation/cp18-11.pdf>

81. It is important that the FCA reviews and, where appropriate, raises the FSCS limits to ensure an appropriate balance is struck between consumer protection and the costs to levy payers in the financial services industry.
82. The limit was reviewed again in December 2021 and remained unchanged.

Professional Indemnity Insurance (PII)

83. PII insurance is designed to protect firms against the cost of compensating clients for loss or damage resulting from negligent service or advice. The FCA's rules require advisers to maintain capital resources at least equal to its capital resources requirement and be able to meet liabilities as they fall due.⁶³ Advisers are also required to hold adequate PII cover at all times. Firms also need to consider their circumstances to identify whether they should hold additional capital to cover potential liabilities.⁶⁴ Where firms made the FCA aware PII was not available, the FCA told firms to hold additional capital so they were able to meet their liabilities and, where appropriate, used supervisory tools to stop them doing business.
84. In 2018, the FCA also introduced new rules intended to increase the number of claims paid by insurers by requiring Personal Investment Firms to have PII which do not limit cover where the policyholder is insolvent or a person other than the policyholder (e.g. the FSCS) makes a claim under the policy.⁶⁵
85. PII works on a 'claims made' basis (i.e. it covers eligible claims made to insurers in the period of insurance). This means that to successfully claim on PII in relation to advice provided in previous years, a firm would need to have successfully renewed their insurance in the intervening years. In the case of BSPS, this means that for a claim to be eligible for cover under PII, the firm would need to have renewed its PII in the years which followed the Time to Choose exercise to the date of complaint.
86. PII would end automatically for firms which had failed unless the insurers were notified of the claim prior to these events.

⁶³ FCA Handbook: IPRU-INV 13.1 Application, general requirements and professional indemnity insurance requirements; IPRU-INV 13.1.21R.

⁶⁴ IPRU-INV 13.1.24G

⁶⁵ <https://www.fca.org.uk/publication/consultation/cp18-11.pdf>

87. Firms are typically required to notify their insurer of claims or circumstances likely to lead to a claim. It is not always necessary for an individual claim to exist before firms are required to notify their insurer.
88. This notification requirement contributed to a hardening of the PII market, particularly where insurers were notified of the FCA visiting firms and identifying unsuitable advice.
89. Also, the effect of notifications was dependent on the individual policy. For example, an insurer may consider a firm was aware of the notified circumstances prior to the inception of the current policy, therefore triggering a 'prior circumstances' exclusion.
90. Pricing and underwriting are commercial decisions for insurance firms, and are informed by various aspects, including claims activity, risk appetite, its capital/ability to absorb losses and external factors. Firm interventions also had an impact on insurers' risk appetite. The volume of pension transfers undertaken, number of complaints raised, and the likelihood of claims being upheld all contribute to the level of risk when underwriting a policy. It therefore became more difficult for firms to secure PII, the more action the FCA took against firms who advised on the BSPS transfers.
91. From mid-2018, some advice firms were starting to find it difficult to secure or renew existing PII cover. PII firms were starting to question the amount of business advice firms had done with BSPS members. By 2019 insurers were starting to significantly increase premiums for DB advice cover and apply exclusions in policies, including for advice linked to historical BSPS pension transfers. Several firms were unable to afford the increases as the market hardened.
92. The FCA is not able to force insurers to provide cover or to do so at reduced cost. The relevant PII market had limited competition and there was no opportunity to intervene in a way that would not potentially close the market.

[REDACTED] *and* [REDACTED]
[REDACTED]

93. Your complaint specifically highlights the transfer of BSPS members from [REDACTED] to [REDACTED] and that this supports your complaint that

BSPS members were passed on to other unsuitable advisers and that the FCA failed to protect consumers.

94. Unfortunately, we are limited in the information we can share regarding the FCA's action in respect of these firms as we are prevented from doing so under our policy on sharing information and section 348 of FSMA.
95. [REDACTED], following supervisory action,⁶⁶ [REDACTED] agreed to stop providing DB pension transfer advice. [REDACTED] existing clients whose advice had not concluded obtained advice from other firms, including [REDACTED].
96. The FCA had engaged with [REDACTED] previously as part of the Phase 2 reviews between February and August 2017 which did not result in significant action against the firm.
97. Following further supervisory work as part of the FCA's response on BSPS, [REDACTED], [REDACTED] agreed a voluntary requirement to stop its DB pension transfer activities while it addressed the FCA's concerns.

[REDACTED] and [REDACTED]

98. You say that [REDACTED] net assets decreased considerably between 2019 and 2020 and [REDACTED] to raise concerns of poor practice at the firm and potential "phoenixing".⁶⁷
99. Separately, you also say that [REDACTED] took significant sums out of the business between 2017 and 2021.
100. You say that these examples support your complaint that the FCA was not sufficiently proactive or timely in using enforcement powers.
101. Unfortunately, we are limited in the information we can share regarding the FCA's action in respect of these firms as we are prevented from doing so under our policy on sharing information and section 348 of FSMA.

⁶⁶ [REDACTED]

⁶⁷ Phoenixing means setting up businesses multiple times to avoid liabilities. Each time the company becomes insolvent, its business and assets are transferred to a new, similar company, so the same directors can carry on trading.

102. However, file reviews were conducted at different times over several years at both firms and did not reveal any systemic problems. The FCA had also requested further files from [REDACTED] to review prior to [REDACTED], showing a tenacious approach to its supervision of the firm.
103. Based on the information we have reviewed, we consider that the FCA acted appropriately in this instance. The FCA can only take enforcement action where there is sufficient evidence.
104. In respect of the money taken out of [REDACTED] between 2017 and 2021, firms are entitled to pay dividends if they wish to benefit shareholders from the profits received. The FCA can potentially stop dividends being paid, however, it must have sufficient evidence to do so. The FCA took no enforcement action against this firm and [REDACTED].

Complaint allegations

Part One: you complain the FCA has consistently been behind the curve in responding to the issues related to BSFS.

105. We have not upheld this part of the complaint.
106. The FCA expended significant time and resource in relation to pensions advice following the introduction of pension freedoms in 2015. Notably:
- a. There was a clear and appropriate regulatory framework around pension transfers at that time. The FCA's Conduct of Business Rules (in particular COBS 9 and COBS 19) specified the steps for firms to take when giving advice on pension transfers. The FCA had recognised potential harm could result from a pension transfer and had appropriate rules and guidance in place for firms to follow, including a presumption that a transfer from a DB to a DC pension scheme would not be suitable unless a firm could demonstrate, on contemporary evidence, that a transfer is in the client's best interests;
 - b. The FCA anticipated a likely increase in pension transfers and commenced supervisory activity in 2015 to understand what was happening in the pension advice market due to the new regime and to identify and analyse any risks. The FCA followed a proportionate risk-based approach. The approach evolved over time as concerns heightened;

- c. The FCA conducted four phases of regulatory activity, deploying supervisory, policy and enforcement tools.

107. The FCA was not involved in the restructure of the BPS and, without a clear information sharing arrangement with tPR, relied on intelligence from other sources. Further, as highlighted by the various independent reviews, the circumstances were unique and the timescale was very short for members to determine which option to choose. Given this short timescale, and the fact that the FCA did not have timely knowledge, the FCA could not have reasonably prevented the harm from occurring.

108. However, when the FCA received actionable intelligence in Q4 2017, it acted promptly and effectively to prevent and remediate harm, pivoting resources from phase 3 of the pension transfer advice work to look specifically at the circumstances surrounding BPS. In particular, from November 2017, it took a range of steps including, but not limited to:

- a. Undertaking an extensive and proactive intelligence gathering exercise to ensure all relevant intelligence it could generate or receive was provided to the Supervision Team. This led to detailed assessments of 26 firms, with 10 firms agreeing to stop advising on transfers following the FCA's intervention, 9 of these stopped before the end of December 2017.
- b. In December 2017, for members of the BPS – publishing an update on the FCA's website telling members about their right to complain; and writing a joint letter with its regulatory partners and the BPS's trustees to around 12,000 BPS members who had requested a transfer quotation, to urge them to be careful if considering this option. This was followed in January 2018 with a further joint letter, sent by the trustees, to members who had already transferred out of the scheme, providing information on how to make a complaint and referring to the role of the Financial Ombudsman and organising a dedicated helpline for members seeking further guidance;
- c. In December 2017 in relation to firms – holding 4 seminars for advisors in Swansea and Doncaster clearly setting out the standards expected; and writing to 148 authorised financial advisers located near the steel plants who did not hold DB pension advice permissions explaining its expectations when referring their clients to DB pension advisers. This was followed in January 2018 by a further letter to all advice firms setting out the FCA's expectations on pension advice; and

- d. March 2018 onwards – meetings were held with steelworkers and representatives, at which the FCA encouraged former BSPS members to consider making a complaint if they felt they had received unsuitable advice. This included holding 6 events for steelworkers in South Wales between June and December 2019 and subsequent written communication and in person events through to Q4 2021.

109. We accept that the FCA could have been better joined up with its regulatory partners during the BSPS restructure and accepted a recommendation from the Rookes Review related to this. The FCA was not involved in the restructure of BSPS or the Time to Choose exercise. However, once the FCA became aware of adverse information regarding pension transfers for BSPS members, it took swift and wide-ranging action.

110. We also accept that, had data sharing with tPR been in place for the BSPS, the FCA may have been able to start its assessments of firms sooner. However, we have considered the findings in the Rookes Review and NAO Report that tPR was first alerted to members' interest in transferring out of the Scheme in late 2017. We have concluded that this improvement in our data sharing does not take away from the swift actions the FCA took when it was made aware of the situation. As set out above, the FCA started phase 1 work in 2015, which focused on identifying and assessing firms most active in the DB market. The circumstances surrounding the BSPS were unique and, without the benefit of hindsight, it is difficult to see how the FCA could have identified this very specific risk sooner.

111. In terms of remediating harm, broadly the FCA had two main routes as a regulator: a complaints-led approach alongside regulatory intervention and a s.404 redress scheme.

112. In 2019, the FCA considered what was required in order to establish a common evidence base which would aid the FCA in deciding a future regulatory response, including the use of a statutory redress scheme. A complaints-led approach continued alongside using regulatory tools in Supervision and Enforcement whilst this work was ongoing.

113. In 2020, the FCA considered the options for redress in the market. The FCA determined that the costs of a market wide redress scheme were seen to outweigh the benefits at that point in time. As detailed above, the

FCA analysed the evidential requirements needed to satisfy the legal test of a s.404 scheme vs the evidence held, potential market impacts, the effectiveness of a scheme and the potential cost to firms, the FCA, the Financial Ombudsman and FSCS (and ultimately the FSCS levy). Having done so, the FCA decided to continue with the complaint-led approach, which was judged to be the quickest route to redress. Having reviewed the FCA's decision making at the time, we believe this was a reasonable and proportionate approach to take to achieve the FCA's objectives. There was appropriate oversight and governance including by the FCA Board who were kept updated throughout 2020 on the progress of the DB pension transfer work.

114. Using s.404 powers represent a substantial market intervention as reflected by the conditions set out in legislation to enable the FCA to exercise this power. The FCA was required to gather sufficient evidence to meet the legal test required for a statutory redress scheme specific to BSPS. This involved the development of an assessment tool (the Defined Benefit Advice Assessment Tool, DBAAT, first published in 2021 and later adapted for the BPS scheme) which could be used to review a significant volume of pension transfer cases (some 365 files from 89 firms who advised BPS clients over the period 1 March 2017 to 31 March 2018) and produce consistent and measurable output. The volume of cases to be reviewed necessitated the use of external resources to support the FCA. The FCA sought advice from a statistician to ensure the sample of file reviews was statistically significant across the population, and obtained Counsel's advice on whether the proposed scheme complied with the requirements of s.404. This took time and considerable resource.
115. The FCA became more aware of the rate of unsuitable advice, particularly in the case of BPS, as file review exercises progressed. By December 2021, there was sufficiently strong evidence that the unsuitable advice given to BPS members was widespread across the market – not just at the higher risk firms that the FCA initially focused on in the aftermath of the BPS Time to Choose. Once this was determined, the FCA Board announced its intention to consult on a consumer redress scheme.
116. We note that there are arguments that the FCA could have identified earlier than April 2021 that the complaints-led approach was not working to the extent needed (particularly because of the relatively low number of complaints) and responded by diverting more resource to gather the high level of evidence required to enable it to implement a statutory redress

scheme. However, the complaints-led approach, combined with the joint supervisory and enforcement work in Phase 4, was considered the quickest and most efficient way for BSPS members to access redress, especially given the time and cost required to gather the high level of evidence required to meet the tests under s.404 and to implement a statutory redress scheme. The analysis of the outcome of these alternative redress options also proved useful to demonstrate that a s.404 redress scheme was desirable to improve consumer redress in this case, a condition the FCA was required to meet under s.404 of FSMA.

Part Two: you allege the FCA failed to take steps to protect consumers when it knew them to have been mis-sold or were likely to have been mis-sold. This includes not taking steps to: (a) preserve professional indemnity cover; and (b) prevent firms who had been identified as a risk from passing their clients to other unsuitable advisers.

117. Having carefully considered this allegation we have not upheld this part of your complaint. We do not agree that the FCA failed to take steps to secure an appropriate degree of protection for consumers in accordance with the FCA's operational objective. The FCA is not a zero-failure regulator, and must carefully balance competing factors in determining what is an appropriate degree of protection for consumers.

118. Despite the actions the FCA took to raise awareness and encourage BSPS members to make a complaint, levels of complaints were low. Nevertheless, we note your comments regarding preserving PII.

119. The FCA cannot control the PII market by forcing insurers to provide cover or to do so at reduced cost. Insurers assess the risks inherent in firms' business models when they set the price for the insurance they offer. In some cases, including BSPS, Keydata and Arch Cru, insurers decided to withdraw cover. PII could not be preserved for firms due to limits on the FCA's remit as explained in paragraph 92 and a hardening of the market as explained at paragraph 90, resulted in firms finding it increasingly difficult to get cover at an affordable price.

120. FCA rules in place at the time required firms to ensure they maintained adequate resources to meet their liabilities. This included holding appropriate ongoing PII cover, and they were expected to hold additional capital resources where this was necessary to meet their liabilities. As set

consumers from seeking pension transfer advice from regulated firms with the right permissions. However, it is the FCA's responsibility to mitigate the risk of unsuitable advice.

126. The FCA took swift action upon finding a high rate of unsuitable advice in the firm and on [REDACTED] agreed a voluntary requirement to stop pension transfer activity while it addressed the FCA concerns.

127. Therefore, we do not agree that the FCA failed to protect consumers where BSPS members moved from one adviser to another and consider that the FCA acted swiftly to protect consumers where it had sufficient evidence of unsuitable advice.

128. In addition, [REDACTED]

129. We consider the appropriate regulatory tools were used to mitigate risk (in this case voluntary requirements) efficiently and quickly.

Part Three: you allege the FCA was not sufficiently proactive or timely in using its enforcement powers

Enforcement and supervisory action

130. We do not agree that the FCA was not sufficiently proactive or timely in using its enforcement powers. Therefore, we have not upheld this part of your complaint. The FCA's approach to enforcement was evidence-based and evolved to meet key priorities as the events surrounding the BPS unfolded.

131. The FCA's phased approach, described at paragraph 12 above, was timely and proportionate. The FCA appropriately prioritised the allocation of resources based on the information available at the time as events unfolded, initially focusing on stopping and remediating harm, including using enforcement/intervention powers where firms would not voluntarily give up providing pension advice.

132. There was significant work subsequent to the initial interventions during the Time to Choose and transfer periods (before the BPS moved into the PPF/BPS2 commenced), to build the evidence base necessary for the FCA to open c.30 enforcement investigations against firms and individuals involved in BPS transfer advice which have resulted in £8.87m in

finances/payments to the FSCS to date representing the worst breaches observed.⁶⁸

133. This work included undertaking a wide range of file reviews for each enforcement action (beyond the initial dip samples conducted by Supervision to justify the immediate interventions), interviews and review of evidence. This work required appropriate time and resource to progress. Throughout the process there was also a joined-up approach to inform ongoing supervisory work and the redress scheme.

██████ and ██████

134. As described at paragraphs 98 to 104 above, we consider that the FCA acted appropriately in relation to these firms.

135. Enforcement is one of a range of regulatory tools the FCA has at its disposal. Whilst we are limited in being able to share the details of the FCA's actions, the FCA took appropriate action in response to actionable intelligence and available evidence. We therefore do not agree that the ██████ and ██████ examples show that the FCA was not sufficiently proactive in using enforcement powers.

Asset retention

136. You allege that the FCA did not require firms to retain their assets until April 2022, which you consider was too late. We do not agree.

137. As described in paragraph 72, the FCA had in place prudential capital requirements for advice firms and took steps during the relevant period to remind firms of them, including the interaction with wider redress liabilities. The FCA's approach of working with individual firms described at paragraph 73 was appropriate at the time until the introduction of the redress scheme.

138. The FCA's approach to asset retention evolved appropriately as the evidence of unsuitable advice increased, with the implementation of emergency rules in April 2022, as described at paragraph 74 above.

139. Further, many of the firms who provided advice were small, therefore it is unlikely that imposing asset retention rules sooner would have preserved

⁶⁸ <https://www.fca.org.uk/firms/british-steel-pension-scheme-our-approach-enforcement#section-completed-enforcement-actions>

sufficient assets to cover all of the redress liabilities, given that the capital required to be held by the smallest firms was only £5,000, potentially insufficient to meet even 1 complaint about pension transfer advice.

Dear CEO letter

140. The complaint alleges that the 'Dear CEO letter' sent in December 2021 was the first time the FCA had written to BSPS advise firms. The FCA wrote to all firms holding the pension transfer and opt out permission in January 2018 and on other occasions, as well as holding events with advisers to inform them of its expectations.
141. The letter sent in January 2018 reminded firms of relevant rules relating to advice and contained warnings of accepting business from unauthorised introducers. This would have been appropriate guidance to remind firms at the time as high levels of advice was taking place during this period.
142. Firms must have adequate capital resources to meet their responsibilities under PRIN, COND, DISP and Threshold conditions. This is made clear during the authorisation process and in the communications when new rules are introduced. The Dear CEO letter sent in December 2021 was sent to prepare firms for the redress scheme. We do not consider that sending it any earlier would have changed the situation with PII or prevented firms from failing.

Part Four: You allege the FCA's actions have resulted in inconsistent outcomes for consumers entitled to compensation

143. After considering the complaint relating to the delay in introducing the redress scheme and inconsistent outcomes for consumers entitled to compensation, we have not upheld this element of the complaint.
144. Complaints about the FCA's legislative functions cannot be investigated under the Scheme. This means that complaints about the redress scheme itself, the changes to the way redress is calculated, and the changes regarding the FSCS limits are outside the scope of the Scheme.
145. Redress calculations are complex and individual. They result in people receiving different sums of money. This difference is a result of individual circumstances, when the calculation is made, market fluctuations, changes in the future expected economic environment (future investment returns, inflation rates), changes in mortality rates, the changing cost of

annuities (which in turn will depend on the current and expected future economic environment and other factors) and differences in the historical investment performance of the DC schemes into which the transfer values from the BSPS were paid.

146. Therefore, we would expect redress calculations to result in different values depending on a whole range of circumstances connected with the individual, the current and expected future economic environment at the time of the calculation and the historical performance of the DC scheme into which the BSPS member paid their transfer value. The FCA explained the intricacies and variation in redress calculations to members in roadshows and by providing illustrative case studies. We have included these illustrative case studies at Appendix 1 to this letter, which we hope you find useful.

147. We are satisfied that, applying the calculation set out in the redress scheme is designed, as far as possible, to put BSPS members back in the position they would have been in, and enable BSPS members to purchase an income at the same level. This is supported by a legal opinion from Michael Furness KC of Wilberforce Chambers, which supported the approach being adopted by the FCA in its general pension transfer redress guidance.

FSCS compensation limits increase

148. The changes to the FSCS compensation limits were taken separately to the redress scheme.

149. The maximum amount paid by the FSCS is based on the limit applicable at the time. Claims to the FSCS about firms which failed on or after 1 April 2019 were subject to the higher limit of £85,000. The change did not act retrospectively. While we note your comments that this is unfair on BSPS members whose claims fell under the previous limit of £50,000, it would not be fair or workable for it to be retrospective.

Changes to redress methodology

150. The changes to the way redress is calculated is based on the approach a court would take to calculating damages in a case like this.

151. Historical changes in the redress methodology are explained in paragraphs 68 to 71 above. These were as a result of a range of factors, including the

impact of changes in pension freedoms and how individuals changed their habits in accessing their DC pension pots, the Government's decision to change how RPI is calculated and other factors. Each time the redress methodology changed, the FCA utilised external experts to assess the approach, consulted on the changes, considered the feedback and then implemented the methodology through rules or guidance.

152. The only time this approach was not followed was in respect of the RPI change which, as noted, was as a result of a specific change by Government over which the FCA had no control. The FCA had no choice but to reflect this change in its redress methodology.

Improvements made since the events of the BSPS

153. We recognise events as a result of the restructure of the BSPS have been distressing for many members of the BSPS. The FCA has sought to support members in respect of the pension transfer advice they received.

154. The FCA has learned lessons from its intervention and engagement on BSPS. In response to a recommendation in the Rookes Review, tPR and the FCA now operate in a more collaborative, joined-up way. There is now a clear Memorandum of Understanding between the regulators, and was used successfully in subsequent DB pension transfers such as the Rolls Royce pension scheme in October 2020 and P&O in April 2022 with actions including issuing joint proactive statements setting out concerns and actions each organisation will take.

155. The FCA has also made changes to internal processes. From April 2018, to improve market intelligence, the FCA began collecting more data regularly from all firms providing pension and retirement income products who were required to complete two returns, one annually and one every 6 months. Information collected includes the number of DB transfers conducted.

156. In 2018, the FCA also updated the qualifications that advisers are required to hold to be approved as pension transfer specialists. Additionally, in October 2020, charges for advice where consumers pay only when a transfer proceeds (contingent advice charges) were banned, except in certain circumstances.

157. The FCA accepted several recommendations from the Public Accounts Committee. The FCA responded to each recommendation in September

2022⁶⁹. For example, the FCA agreed that it would need to improve data and insight, provide further updates on enforcement action and consider how further redress mechanisms can be implemented more quickly and provide fair compensation.

158. Addressing harm is a key focus of the FCA's ongoing supervision as well as enforcement action. Personal advice firms are subject to prudential regulation by the FCA. Therefore, in order to strengthen existing prudential requirements, in November 2023, the FCA commenced a consultation around proposals to require personal investment firms to be more prudent and set aside capital for potential redress liabilities at an early stage. This supports the FCA's commitments to ensure the polluter pays when consumers are harmed.

159. The FCA is committed to continuous improvement and in addition to the improvements already made we will also consider further improvement as a result of the findings of this complaint investigation.

The delay in considering your complaint

We are sorry for the length of time it has taken us to respond to your complaint. To recognise the delay, we offer each complainant party to this complaint £150 ex gratia payment in line with our published approach.



The role of the Complaints Commissioner

The Complaints Commissioner is an independent person appointed by HM Treasury to be responsible for the conduct of investigations in accordance with the Scheme. If you are dissatisfied with how we have dealt with your complaint, you can contact the Complaints Commissioner requesting a review of my decision. You must contact the Complaints Commissioner within three months of the date of this letter. If you contact the Complaints Commissioner

⁶⁹ <https://committees.parliament.uk/publications/30266/documents/175189/default/>

later than three months, the Commissioner will decide whether there is good reason to consider your complaint.

The contact details for referring your complaint to the Complaints Commissioner are:

Office of the Complaints Commissioner
16 Old Queen Street
London
SW1H 9HP

Telephone: 020 3786 7926

Website: <https://frccommissioner.org.uk/making-a-complaint/>

Email: info@frccommissioner.org.uk

Yours sincerely

A black rectangular redaction box covers the signature area. A small grey arrow points to the left from the top-left corner of the box.

Alison Russell

Head of Department

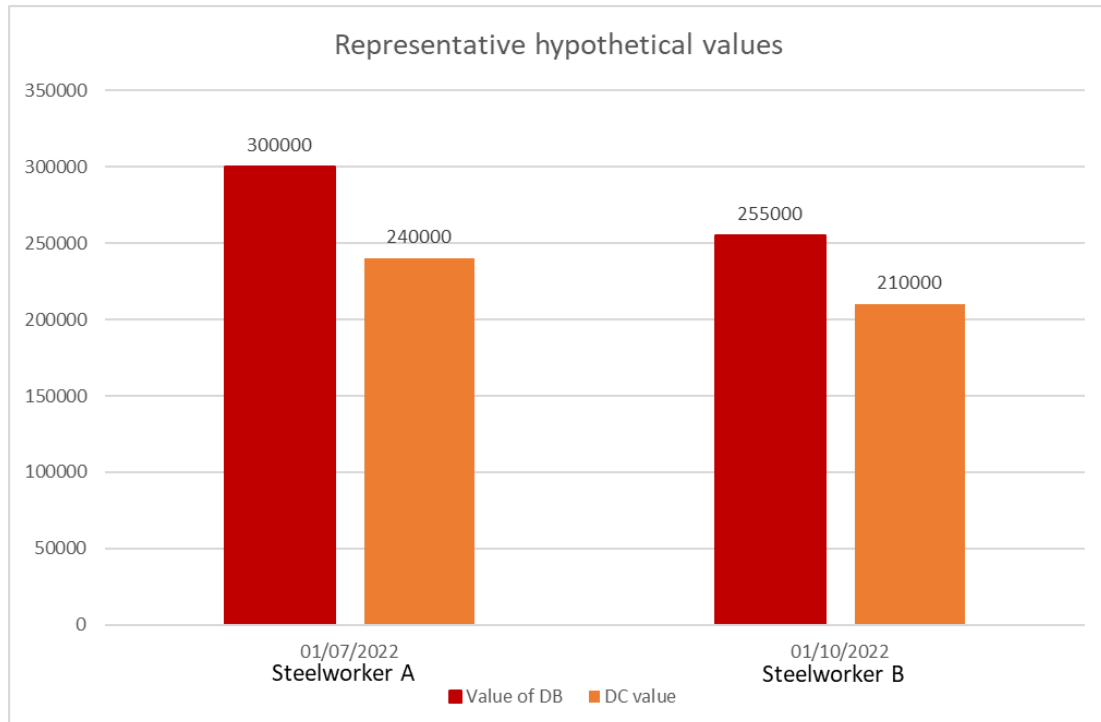
Risk & Compliance Oversight Division

Appendix 1

Redress calculations

Illustrative case studies (actual or hypothetical) which explain why – and how it is fair – that Steelworker A who was awarded a pay-out on 1st September 2022 can receive so more compensation compared to Steelworker B who is of a similar age and with a similar professional and pensions experience but received their award on 1st December 2022.

We have provided illustrative figures for comparable steelworkers who were made offers on 1 September 2022 (Steelworker A) and 1 December 2022 (Steelworker B), i.e., either side of the mini-budget in September 2022. You should note that all calculations within a calendar quarter are carried out with an effective date at the start of the quarter, using economic information and DC pot values, as at the same date. Many of the assumptions used in the calculation are updated quarterly, to balance the need to ensure that calculations are based on the most up to date information available, against the burden of updating relevant systems at regular intervals, to incorporate the latest assumptions. However, the use of the DC pot values at the same date means the calculations are internally consistent. We have prepared an example, based on the methodology at the time, using monetary amounts which were not untypical for steelworkers at the time. The following chart shows hypothetical representative figures for Steelworkers A and B at the relevant dates:



Steelworker A would have received an offer of £60,000 to top up their DC pension to £300,000.

The redress calculation methodology assumes that a consumer would add any redress payable to their DC pension pot and invest the entire pot in a lower risk investment portfolio, with a higher proportion of corporate and government bonds, than a typical DC investor. This is because we consider that consumers who have received unsuitable advice to transfer are likely to have a relatively cautious attitude to risk, but should also be able to make returns on their investments. We require firms making redress offers to explain this and offer to adjust the investment strategy accordingly. Where a consumer invests in a higher proportion of corporate and government bonds, it also means their DC pot value should be more closely aligned with movements in annuity pricing. In other words, when bond yields rise and annuities become cheaper to buy, their pot is also more likely to fall (as bond prices have fallen), but the annuity income they can purchase remains similar.

Following the calculation of Steelworker A's redress, DC pots invested in bond-type assets fell in value. So, if Steelworker A invested their £300,000, as intended by the calculation, it may have fallen to around £255,000 by 1 October 2022.

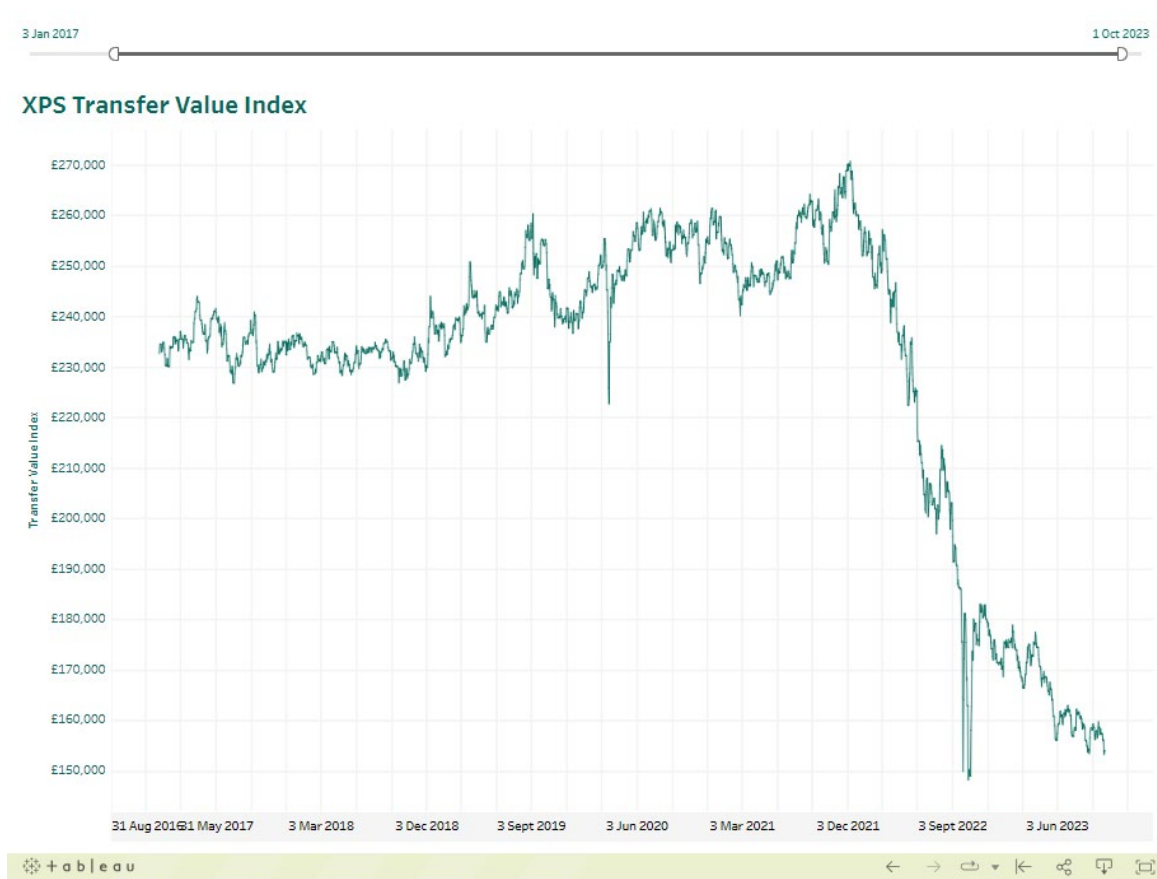
On 1 October 2022, Steelworker B's redress calculation would have been based on lower DB and DC values due to the change in market conditions, which affected both the actuarial calculation of DB scheme benefits given up and their DC pension pot. At that date, Steelworker B would likely have suffered a lower percentage fall in their DC pot than Steelworker A, over the same period. This is because, prior to a redress calculation, consumers typically don't invest in bond-type assets to the same extent as assumed after the redress calculation but will generally invest more in equities. Steelworker B would, therefore, have been offered £45,000 to augment their DC pension to £255,000. This is the same DC pot value as Steelworker A may have had at the same date, following the likely fall in the value of the investments. So, although Steelworker A would have received more redress than Steelworker B, once the relative values of their DC pots, including redress are taken into account, they end up in the same position, in this particular example.

These hypothetical figures have been prepared by us, based on estimates of typical changes in value of the benefits given up, and potential changes in pension pots invested, in typical investment assets, before and after a redress calculation, for the specific dates given. They are not based on actual

calculations. They assume a consumer invests their redress in their DC pension, as intended, to aim

to put themselves back in the position they would have been in if they had not received unsuitable advice to transfer out, including adjusting their investment strategy at that date to be more heavily weighted in lower risk bonds. Where a consumer does not invest their redress, they take a greater risk of not achieving that goal, e.g., if the money is not invested as intended, their DC pot may be lower than it should be by retirement and any uninvested redress is at risk of value-erosion from inflation or being used prematurely for pre-retirement spending, both of which would result in less cash available for retirement.

The method used for valuing benefits for the purposes of the redress calculation is similar to the method used to determine transfer values prior to a transfer. The chart below illustrates how transfer values have changed over time:

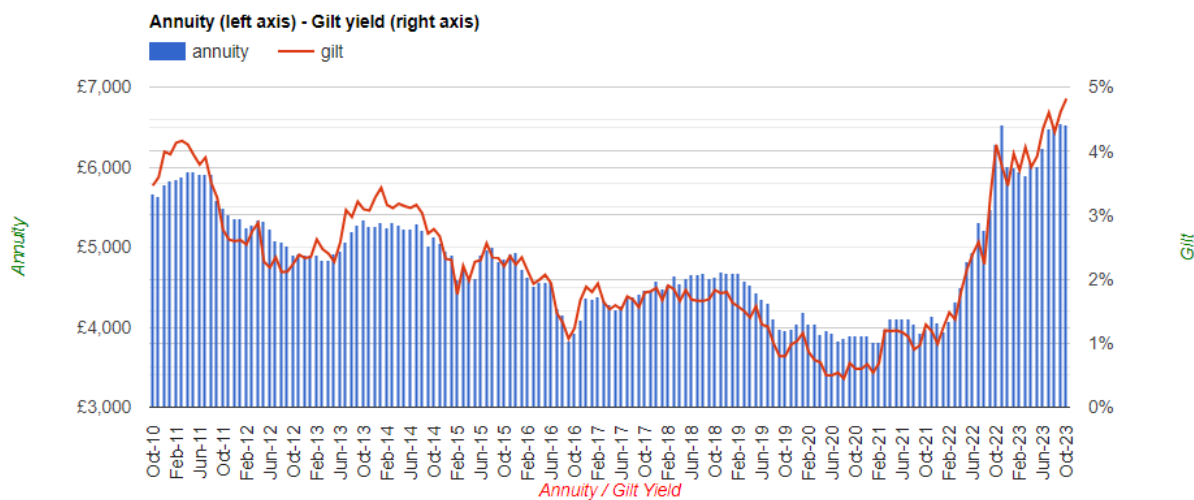


Source: <https://www.xpsgroup.com/what-we-do/technology-and-trackers/xps-transfer-watch/xps-transfer-value-tracker/>

The chart above shows that former members of the BPS transferred out when transfer values were higher than they would be now. Similarly, for redress purposes, the value placed on benefits given up has typically fallen since former members of the BPS transferred. The fall in value is primarily due to increases in gilt yields, which means that annuity prices are cheaper and expected to remain so.

The chart below shows how gilt yields have moved over time, resulting in changes in the level of annuity income that can be purchased by a fixed sum:

Annuity Chart



Annuity income - Ages 65 and 60, £100,000 purchase, joint life 2/3rds and level payments

15 Year gilt yield taken from FT

Source: <https://www.williamburrows.com/calculators/annuity-chart/>

Steelworkers transferred when transfer values were higher than the value placed on benefits now. Typically, their transferred pension pots haven't fallen in the same way, based on the way they are invested, prior to a redress calculation, which means that the difference in value has gradually reduced over time, resulting in different redress offers.