FINANCIAL CONDUCT AUTHORITY

Finalised guidance

Guidance for firms on how to calculate redress for unsuitable defined benefit pension transfers

October 2017 (updated March 2022)

Terminology used in this guidance

Assumed retirement date	The earliest date that a customer could retire and receive a non-reduced pension from their DB pension scheme. This is calculated based on the assumption of the customer's retirement age (see paragraphs 17 and 18).
DB pension scheme	A defined benefit pension scheme.
DISP	Dispute Resolution: the Complaints sourcebook
Deferred revaluation rate	The assumed future rate of increase in deferred pension from the calculation date to the assumed retirement date, set out in the rules of the relevant DB pension scheme.
FCA	Financial Conduct Authority
FSAVC	Free-Standing Additional Voluntary Contribution
Pension increase rate	The assumed rate of increase in pension after the assumed retirement date, set out in the current rules of the relevant DB pension scheme.
Respondent	A term that is used in the FCA's Handbook to define those persons who may receive complaints from customers which fall within the compulsory jurisdiction or the voluntary jurisdiction of the Financial

	Ombudsman Service. It includes authorised persons and participants in the voluntary jurisdiction of the Financial Ombudsman Service. In certain circumstances, it also includes unauthorised persons who were authorised at the time of the act or omission to which the complaint relates.

Introduction

1. This guidance is for respondents who receive a complaint about advice they gave to transfer all or part of the cash value of accrued benefits under a DB pension scheme into a personal pension scheme. The guidance contains assumptions which respondents should use to calculate appropriate redress in circumstances where:

    - the customer received advice from the firm which was negligent or contravened relevant requirements; and

    - if the advice had not been negligent or had complied with the relevant requirements, the customer would not have transferred all or part of the cash value of accrued benefits from the DB pension scheme into the personal pension scheme.

2. This guidance may also be relevant to respondents who receive a complaint about a case involving a non-joiner[1], opt-out[2] or FSAVC (see paragraph 12 below).

3. This guidance should be considered alongside relevant rules and guidance in the Dispute Resolution: Complaints (DISP) sourcebook of the FCA Handbook. Where this guidance does not address the particular and individual circumstances of a customer's complaint, respondents are reminded of their DISP obligations to assess complaints and redress offers fairly, consistently and impartially, and provide fair, clear and not misleading explanations of how any redress offers have been calculated. This includes taking account of all relevant factors, such as the customer's particular and individual circumstances. Respondents should also consider how the Financial Ombudsman Service has taken account of such circumstances when determining similar complaints.

The standard approach to calculating redress

4. Where a firm or adviser has failed to give compliant and proper advice, or has committed some other breach of the relevant requirements, the basic objective of redress is to put the customer, so far as possible, into the position they would have been in if the non-compliant or unsuitable advice had not been given or the breach had not occurred. While each case should be assessed individually, in many cases this advice is likely to have resulted in the complainant transferring accrued benefits from a DB pension scheme to a personal pension scheme. This is what underpins the standard approach to redress.

5. Where possible, the redress calculation should reflect the features of the customer's original DB pension scheme. This will include, for example, different tranches of pension increase rates, deferred revaluation rates.

[1] An individual who declined or failed to join an occupational scheme for which the individual was or is eligible, while continuing in the relevant employment.

[2] The giving up of active membership of an occupational scheme while continuing in the relevant employment. This includes a situation where an individual remained in an occupational scheme for life assurance purposes only, but left the scheme for pension purposes.

6. A respondent should consider how far they should take into account any adjustments to the benefits which the customer would have been eligible for under the DB pension scheme when they complete the redress calculation. This could include adjustments to benefits after retirement to reflect a state pension offset, or the scheme entering the Pension Protection Fund (PPF).

7. If it is not possible to pay the redress amount into the customer's personal pension by augmentation, the redress should be paid in the form of a lump sum to the customer. This should be adjusted to take account of the customer's individual tax position. Firms should be mindful of where the redress methodology already factors in tax, such as when considering pension commencement lump sums. A customer should not be left in a worse position at the point of being redressed as a result of the redress either being used to augment their personal pension or being paid as a lump sum. In calculating the redress amount, respondents should also take into account the customer's wider circumstances so that they are not disadvantaged by receiving the redress payment.

8. The client's individual demographic circumstances such as marital status and partner age may be used where indicated.

Assumptions for use in redress calculation from 3 August 2016

9. Except where expressly specified below, pension transfer redress should be calculated in accordance with, and using the assumptions set out in, the provisions designated by the Financial Services Authority (FSA) in November 2001[3] (subject to any amendments made by the FSA after that date) for the selling of rights in, or interests under, personal pension schemes, between 29 April 1988 and 30 June 1994, where those provisions relate to pension transfers. Notwithstanding this, a firm will need to consider if and how the State Earnings Related Pension Scheme (SERPS) adjustment should be applied in the particular circumstances of the case to ensure that appropriate redress is offered to the complainant.

10. This guidance applies to any complaint received by a firm after 3 August 2016 about advice given to a customer to transfer all or part of the cash value of accrued benefits under a DB pension scheme into a money purchase arrangement. This might include a personal pension, stakeholder pension, or other defined contribution scheme. It also applies to any such complaint received before 3 August 2016 but not settled on a full and final basis on or before that date.

11. This guidance should also be used to determine appropriate redress where a respondent upholds a complaint received after 3 August 2016 about a pension transfer between 29 April 1988 and 30 June 1994 in circumstances where either:

    11.1. the firm did not review the relevant pension transaction in accordance with the regulatory standards or requirements applicable for the review of the transaction at the time[4]; or

    11.2. the particular circumstances of the case were not addressed by those standards.

[3] These provisions were designated by the FSA in the Designation of Pensions Review Provisions Instrument 2001 (FSA 2001/71), dated 15 November 2001.

[4] The industry review of advice given, and arrangements made, with respect to the sale of rights in, or interests under, personal pension schemes between 29 April 1988 and 30 June 1994, which was initially established under the terms of the Statement of Policy on 'Pension transfers and Opt-outs' issued by the SIB on 25 October 1994.

12. Where a respondent upholds a complaint concerning a non-joiner, opt-out or FSAVC case, the respondent may use this guidance as a basis for calculating appropriate redress, to the extent that it is appropriate to do so and subject to the particular circumstances of the case.

13. Calculations made under this guidance will remain valid for three months from date of issue to the consumer, irrespective of quarterly changes to the assumptions.

Retail Price Index (RPI) inflation

14. The RPI inflation assumption is based on the 'UK instantaneous implied inflation forward curve (gilts)' published by the Bank of England to 40 years. The curve should be extrapolated to longer terms using the average difference between inflation and gilt yields over the terms 35 to 39 years. For terms shorter than 3 years, assume the 3 year rate applies. The RPI inflation rate should be derived as follows:

    - pre-retirement: by taking the spot rate for the term to retirement;
    - post retirement: by taking the derived forward rates from normal retirement age to the age indicated by adding on the discounted mean term, using the same methodology as that for the post retirement discount rate (paragraph 28).

15. The final assumptions should be rounded to the nearest 0.05%.

Consumer Price Index (CPI) inflation

16. For redress calculated before 1 January 2021, CPI inflation is 1% below the assumption for RPI inflation. Otherwise, the pre- and post-retirement CPI inflation assumptions for common assumed retirement ages are provided in the tables at Annex 1 (for calculations between 1 January 2021 and 31 March 2022) and Annex 2 (for calculations from 1 April 2022). CPI assumptions for assumed retirement ages in the age range 55 to 75 that are not listed in the tables at Annex 1 and 2 should be derived using linear interpolation, similar to the approach set out in paragraph 28. CPI assumptions for assumed retirement ages that are either greater than 75 or less than 55 should be derived using linear extrapolation.

Consumer's retirement age

17. The earliest age at which the customer could have retired from the DB pension scheme without both:

    - requiring the consent of the employer; and
    - suffering a reduction in benefits.

18. Where a customer has benefits payable from different ages, the redress calculation should reflect the most favourable option for the customer.

Pre-retirement discount rate

19. The pre-retirement discount rate is derived as one half of the expected return on equities.

20. The expected return on equity for the period to retirement is:

    (1 + RPI spot inflation rate) * (1 + dividend yield) * (1 + growth in dividends) – 1

21. Prospective long-term real dividend growth is assumed to be 0.5% per year. The dividend yield should be taken to be the dividend yield on the FTSE All Share Index on the last business day of the quarter. The period to retirement should be taken as the number of integer years remaining to assumed retirement age.

Pension increases in payment

22. This is the relevant pension increase rate together with either the RPI inflation assumption or the CPI inflation assumption (depending upon the rules of the relevant DB pension scheme).

23. If the rules of the relevant DB pension scheme impose a cap:

    - the cap specified by these rules should be used where the relevant inflation assumption is higher than the cap, or
    - the relevant inflation assumption should be used where it is below the cap.

24. If the rules of the relevant DB pension scheme impose a floor:

    - the floor specified by these rules should be used where the relevant inflation assumption is lower than the floor, or
    - the relevant inflation assumption should be used where it is above the floor.

25. Where fixed pension increases are granted under the customer's DB pension scheme, those fixed pension increase rates should be used.

26. If similar caps and floors apply to the revaluation rates used in deferment then the same approach should be used as for increases to pensions in payment.

Personal pension charges

27. The personal pension charges, where known, should be deducted from the pre-retirement discount rate up to a maximum of 0.75% per year. Where the charges are not known or are structured differently, the calculation should result in a figure which is no greater than a deduction of 0.75% per year from the pre-retirement discount rate for personal pension charges. This deduction is based on product charges only and any regular adviser charges on top of this should be deducted separately. For actual loss cases[5], if any adviser fees have been incurred when the pension at retirement into a decumulation product, these should also be deducted from the proceeds of the personal pension arrangement.

Post-retirement discount rate

28. The initial post-retirement discount rate is calculated by:

    - taking the spot rate on the nominal gilt liability curve using a term equal to the sum of the integer period to retirement and the discounted mean term from the table below, adding 1, and raising to the power of the sum of the period to retirement and the discounted mean term; divided by

[5] Actual loss cases occur when the customer has retired, died, or both.

- taking the spot rate on the nominal gilt liability curve using a term equal to the sum of the integer period to retirement, adding 1, and raising to the power of the period to retirement; then
- raising the result to the power of (1 divided by the discounted mean term), subtracting 1 and round to the nearest 0.05%; then
- deducting 0.6% from the rate to allow for the margins built into annuity pricing.

29. The final rate adjusts for the pension commencement lump sum by taking:

    - 75% of the initial rate, plus
    - 25% of the initial rate plus 1.6%.

    This may be modified to reflect actual pension commencement lump sum percentages for actual loss cases or where the pension commencement lump sum was additional to pension income in the original scheme.

30. This rate is used to calculate a joint life annuity plus a single life annuity. Take 85% of the joint plus 15% of the single.

31. The discounted mean term is dependent on the assumed retirement age as follows:

Assumed retirement age	Discounted mean term
55	23
60	20
65	16
70	13
75	11

32. Discounted mean terms for other assumed retirement ages up to 65 should be based on linear interpolation and rounded to the nearest integer age.

Mortality

33. Mortality should be calculated using 100% of the PxAo8 tables, published by the Institute and Faculty of Actuaries' Continuous Mortality Investigation, assuming male and female mortality in equal parts.

34. Improvements in mortality should use the male and female annual CMI Mortality Projections Models in the series CMI (20YY-2)_M_[1.25%] and CMI (20YY-2_F)_[1.25%] in equal parts for the year commencing 1 April 20YY.

Spouse's age difference

35. Where known, the actual age of a customer's spouse should be used; otherwise the spouse is considered to be the same age as the customer.

Proportion married at retirement

36. It should be assumed that 85% will be married at retirement. For actual loss cases, the actual marital status at date of crystallisation should be used, if known.

Enhanced transfer value

37. Where a cash enhancement was paid in addition to the transfer value, the cash enhancement should be rolled up from the date of payment to the calculation date using 50% of the return on the FTSE100 Total Return Index This should be net of personal pension charges for each year, as determined previously, and the figure added to the value of the consumer's personal pension policy.

Annex 1: Pre- and post-retirement Consumer Price Index assumptions (1 January 2021 to 31 March 2022)

The table below shows the deductions from RPI inflation to determine pre- and post-retirement CPI inflation:

Term to retirement (x, years)	RPI-CPI differential for pre-retirement inflation (deferred revaluation)	RPI-CPI differential for post-retirement inflation (pension increases in payment) by assumed retirement age				
		55	60	65	70	75
0 ≤ x < 1	n/a	0.35%	0.45%	0.60%	0.75%	0.85%
1 ≤ x < 2	1.00%	0.35%	0.40%	0.55%	0.65%	0.75%
2 ≤ x < 3	1.00%	0.30%	0.35%	0.45%	0.60%	0.70%
3 ≤ x < 4	1.00%	0.25%	0.30%	0.40%	0.50%	0.60%
4 ≤ x < 5	1.00%	0.20%	0.25%	0.35%	0.40%	0.50%
5 ≤ x < 6	1.00%	0.15%	0.20%	0.30%	0.35%	0.40%
6 ≤ x < 7	1.00%	0.15%	0.15%	0.20%	0.25%	0.30%
7 ≤ x < 8	1.00%	0.10%	0.10%	0.15%	0.20%	0.25%
8 ≤ x < 9	1.00%	0.05%	0.05%	0.10%	0.10%	0.15%
9 ≤ x < 10	1.00%	0.00%	0.00%	0.05%	0.05%	0.05%
10 ≤ x < 11	0.95%	0.00%	0.00%	0.00%	0.00%	0.00%
11 ≤ x < 12	0.85%	0.00%	0.00%	0.00%	0.00%	0.00%
12 ≤ x < 13	0.80%	0.00%	0.00%	0.00%	0.00%	0.00%
13 ≤ x < 14	0.75%	0.00%	0.00%	0.00%	0.00%	0.00%
14 ≤ x < 15	0.70%	0.00%	0.00%	0.00%	0.00%	0.00%
15 ≤ x < 16	0.65%	0.00%	0.00%	0.00%	0.00%	0.00%
16 ≤ x < 17	0.60%	0.00%	0.00%	0.00%	0.00%	0.00%
17 ≤ x < 19	0.55%	0.00%	0.00%	0.00%	0.00%	0.00%
19 ≤ x < 20	0.50%	0.00%	0.00%	0.00%	0.00%	0.00%
20 ≤ x < 23	0.45%	0.00%	0.00%	0.00%	0.00%	0.00%
23 ≤ x < 26	0.40%	0.00%	0.00%	0.00%	0.00%	0.00%
26 ≤ x < 30	0.35%	0.00%	0.00%	0.00%	0.00%	0.00%
30 ≤ x < 35	0.30%	0.00%	0.00%	0.00%	0.00%	0.00%
35 ≤ x < 40	0.25%	0.00%	0.00%	0.00%	0.00%	0.00%

Annex 2: Pre- and post-retirement Consumer Price Index assumptions (from 1 April 2022)

The table below shows the deductions from RPI inflation to determine pre- and post-retirement CPI inflation:

Term to retirement (x, years)	RPI-CPI differential for pre-retirement inflation (deferred revaluation)	RPI-CPI differential for post-retirement inflation (pension increases in payment) by assumed retirement age				
		55	60	65	70	75
0 ≤ x < 1	n/a	0.35%	0.40%	0.55%	0.65%	0.75%
1 ≤ x < 2	1.00%	0.35%	0.35%	0.45%	0.60%	0.70%
2 ≤ x < 3	1.00%	0.30%	0.30%	0.40%	0.50%	0.60%
3 ≤ x < 4	1.00%	0.25%	0.25%	0.35%	0.40%	0.50%
4 ≤ x < 5	1.00%	0.20%	0.20%	0.30%	0.35%	0.40%
5 ≤ x < 6	1.00%	0.15%	0.15%	0.20%	0.25%	0.30%
6 ≤ x < 7	1.00%	0.10%	0.10%	0.15%	0.20%	0.25%
7 ≤ x < 8	1.00%	0.05%	0.05%	0.10%	0.10%	0.15%
8 ≤ x < 9	1.00%	0.00%	0.00%	0.05%	0.05%	0.05%
9 ≤ x < 10	0.95%	0.00%	0.00%	0.00%	0.00%	0.00%
10 ≤ x < 11	0.85%	0.00%	0.00%	0.00%	0.00%	0.00%
11 ≤ x < 12	0.75%	0.00%	0.00%	0.00%	0.00%	0.00%
12 ≤ x < 13	0.70%	0.00%	0.00%	0.00%	0.00%	0.00%
13 ≤ x < 14	0.65%	0.00%	0.00%	0.00%	0.00%	0.00%
14 ≤ x < 15	0.60%	0.00%	0.00%	0.00%	0.00%	0.00%
15 ≤ x < 17	0.55%	0.00%	0.00%	0.00%	0.00%	0.00%
17 ≤ x < 18	0.50%	0.00%	0.00%	0.00%	0.00%	0.00%
18 ≤ x < 20	0.45%	0.00%	0.00%	0.00%	0.00%	0.00%
20 ≤ x < 23	0.40%	0.00%	0.00%	0.00%	0.00%	0.00%
23 ≤ x < 27	0.35%	0.00%	0.00%	0.00%	0.00%	0.00%
27 ≤ x < 31	0.30%	0.00%	0.00%	0.00%	0.00%	0.00%
31 ≤ x < 38	0.25%	0.00%	0.00%	0.00%	0.00%	0.00%
38 ≤ x < 40	0.20%	0.00%	0.00%	0.00%	0.00%	0.00%