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Calculating redress for non-compliant pension transfer advice

Consultation Paper
CP22/15***

August 2022

How to respond

We are asking for comments on this Consultation Paper (CP) by **27 September**.

You can send them to us using the form on our website at: www.fca.org.uk/cp22-15-response-form

Or in writing to:

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Financial Conduct Authority
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London E20 1JN

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1 Summary

Why we are consulting

1.1 This Consultation Paper (CP) is about calculating redress for consumers who have suffered financial loss because a firm's non-compliant advice caused them to transfer from a defined benefit (DB) pension scheme to a defined contribution (DC) pension scheme.

1.2 We have carried out a periodic review of our methodology for calculating redress for consumers in this position. The methodology aims to put them, so far as possible, back in the position they would have been in if they had been given compliant advice and remained in their DB scheme. This is the basic objective of redress.

1.3 Our review concluded that the current methodology remains appropriate and fundamental changes are not necessary. However, the review identified some areas where we could improve or clarify the methodology to ensure it continues to provide appropriate redress. This CP sets out proposals for these improvements.

1.4 The structure of this CP is:

- Chapter 2 explains the wider context for our proposals and how they link to our objectives
- Chapter 3 covers our general approach to calculating redress
- Chapters 4, 5 and 6 set out the assumptions to be used in redress calculations ('calculations')
- Chapter 7 covers how redress should be paid and how calculations should be issued and communicated to consumers, and
- Chapter 8 covers the application of our proposed approach to redress calculations for consumers who received unsuitable advice to transfer out of the British Steel Pension Scheme (BSPS) between 26 May 2016 and 29 March 2018, and who we intend to be covered by the BSPS consumer redress scheme that we proposed in Consultation Paper (CP) 22/6 (March 2022)

Who this applies to

1.5 This CP is likely to interest:

- regulated firms who provide, or used to provide, advice on transfers from DB pension schemes to personal DC pension schemes
- actuarial specialists who carry out calculations for regulated firms
- industry groups/trade bodies
- individual consumers, including BSPS members who transferred their pension, and their representatives
- consumer groups
- insurers who provide professional indemnity insurance (PII) for regulated firms

The wider context of this consultation

1.6 We last carried out a review of the methodology in 2016. Following this, we published Finalised Guidance (FG) 17/9 in 2017. When we published FG17/9, we committed in the accompanying Feedback Statement to undertake a review at least every four years.

1.7 In September 2021, we published a statement announcing that we would start this periodic review of the methodology by the end of the year. In January 2022, we appointed Deloitte Total Reward and Benefits Limited ('Deloitte') to conduct the review. The outcomes that we set for Deloitte's review are at paragraph 1.19-1.20.

1.8 We have published Deloitte's Technical Report ('the Technical Report'), which sets out Deloitte's analysis and the recommendations they made to us in full, on our website. Alongside the Technical Report, we have also published Deloitte's Technical Manual ('the Technical Manual'). This provides worked examples of the calculation process using the proposed methodology. The Technical Manual reflects the proposals set out in this CP following consideration of Deloitte's recommendations. This means the Technical Manual differs from the Technical Report in the two areas where we have decided to take a different approach to that proposed by Deloitte. These are how frequently the economic assumptions (see Chapter 4) should be updated and how the methodology allows for future product and advice charges (see Chapter 6).

1.9 To supplement Deloitte's review, which focused largely on actuarial matters, we also got external legal advice from Michael Furness QC of Wilberforce Chambers. Mr Furness QC's advice focused primarily on how the current and proposed methodology compared with the approach a court would take to awarding damages for non-compliant DB pension transfer advice. We have published a summary of Mr Furness QC's advice on our website. We also received advice on the tax treatment of redress payments from a specialist tax barrister.

1.10 As we explained in CP22/6, we are using the findings and recommendations of the periodic review to inform the rules for calculating redress for consumers who were given unsuitable advice to transfer out of the BSPS. Because the periodic review was incomplete when we published CP22/6, we said we would consult separately on detailed redress rules for the scheme. Our proposals for these rules are in Chapter 8.

What we want to change

1.11 Deloitte concluded that the methodology, which has been used to calculate redress for many years, remains broadly appropriate to achieve the basic objective of redress. We agree, so are not proposing any major changes. However, there are some aspects where the actuarial and legal analysis justifies some changes to our approach. While not fundamental, these changes will help ensure the methodology continues to reflect actuarial best practice and can respond to increasingly individualised consumer behaviour in the pensions market since the pension freedoms reforms.

1.12 We have briefly explained our key proposals below. In summary, our proposals respond to four challenges. These are challenges that are always likely to arise with a complex and highly technical methodology that aims to provide an appropriate way to calculate

redress for any consumer (transferring from any DB scheme) at any point in time. These four challenges are:

- ensuring consistency of approach between the large number of firms carrying out calculations
- making the methodology as responsive as possible to consumers' individual circumstances
- ensuring consumers understand how any offer of redress they receive has been calculated, and
- reducing the impact of market volatility, which we have no control over, on the calculation

Consolidating the methodology as rules and guidance in the FCA Handbook

1.13 In Chapter 3, we explain our proposal that the calculation methodology for all pension transfer redress cases should be consolidated as rules and guidance in the Dispute Resolution (DISP) sourcebook of the FCA Handbook. Currently, firms and consumers are expected to refer to several regulatory documents to understand the methodology.

Changing the approach to determining the consumer's retirement age

1.14 In Chapter 6, we explain our proposal to help ensure firms appropriately judge the age at which consumer would likely have retired if they had remained in their DB scheme. If a firm assumes an earlier retirement date than would have happened if the consumer had stayed in their DB scheme, the consumer could be undercompensated.

Payment of redress and how it is explained to consumers

1.15 In Chapter 7, we explain how firms should explain calculations to consumers and pay redress if it is due. In response to CP22/6, stakeholders told us it is important that consumers invest their redress payments, so they have enough money when they retire. We therefore want firms to pay as much redress as possible into the consumer's DC pension. Redress should only be paid directly to the consumer in cash where this is not an option. We also want to make calculations more understandable and transparent for consumers, so they can ask questions and, if necessary, raise disputes.

Other proposals

1.16 Other proposals that stakeholders should be aware of include changes to the:

- frequency of updates to the economic assumptions (Chapter 4)
- consumer price index (CPI) inflation assumption (Chapter 4)
- pre-retirement discount rate assumption (Chapter 4)
- proportion married or in a civil partnership at retirement assumption (Chapter 5)
- adviser and product charges assumption (Chapter 6)

How our proposals affect the proposed BSPS redress scheme

1.17 In Chapter 8, we explain that the proposed changes to the methodology in Chapters 3 to 7 should also apply when firms are calculating redress under the proposed BSPS redress scheme.

1.18 However, there are two areas where we consider the scheme should have a BSPS-specific approach rather than simply using the methodology for all cases (we refer to this as the 'general methodology' where we need to distinguish between the two). These areas – which were not covered in Deloitte's review – are:

- Where it is necessary because of issues specific to the scheme, or the consumers covered by it. For example, the rules will need to take account of how the original BSPS was restructured, with members being given a choice of two DB schemes if they did not transfer their pension benefits to a DC arrangement.
- Where the focus of the redress scheme on transfers out of single DB scheme permits a different approach to the general methodology (which must cater for all DB schemes). For example, we are consulting on a redress calculator for firms subject to the BSPS redress scheme to use.

Outcome we are seeking

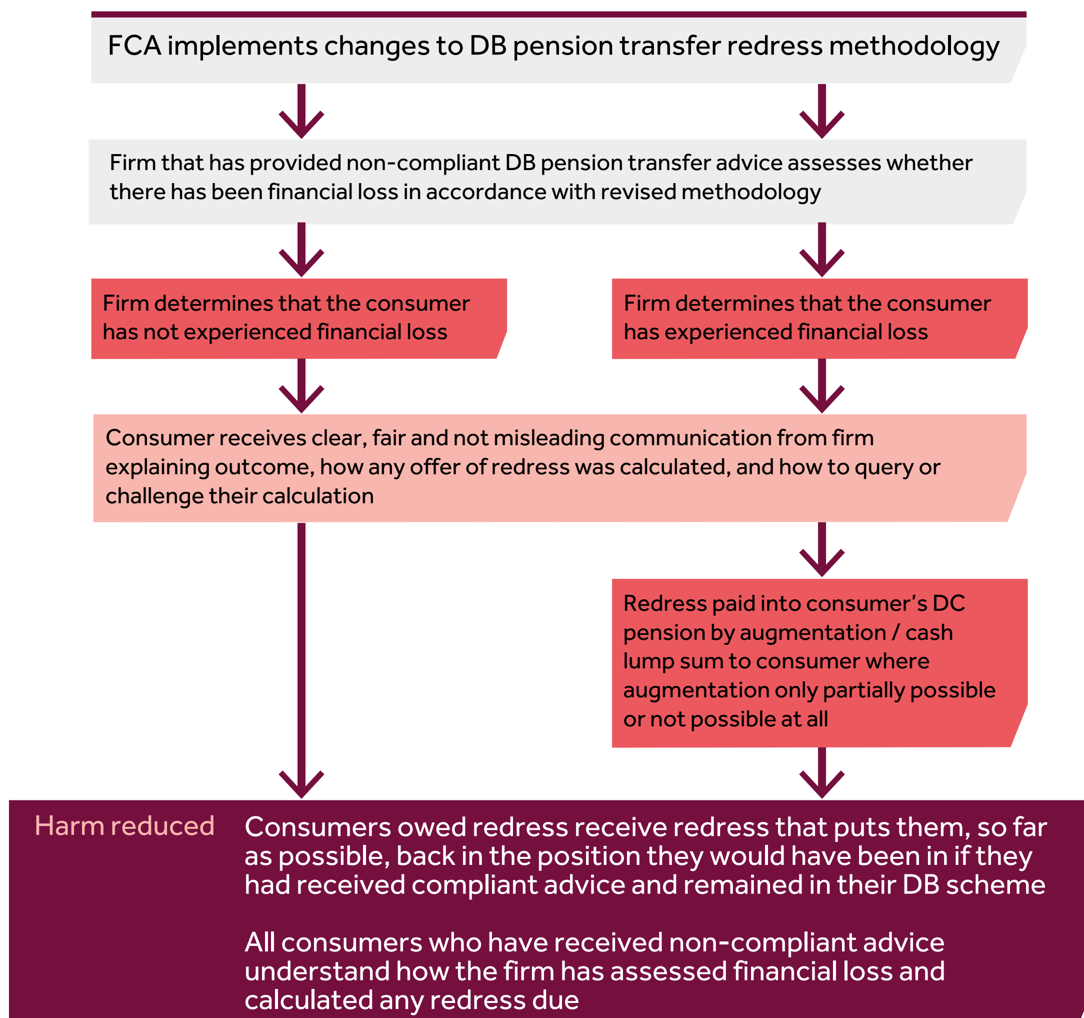
1.19 Where a firm or adviser has failed to give compliant advice or has committed some other breach of the relevant requirements, and the consumer has transferred out their DB scheme as a result, the basic objective of redress is to put the consumer, so far as possible, into the position they would have been in if they had been given compliant advice and decided to remain in their DB scheme.

1.20 We also want to ensure that our proposals:

- Take account of factors such as recent and future changes to the pensions landscape, the availability of data, and actuarial standards and best practice to ensure the redress methodology and assumptions are as robust as possible over an extended period.
- Ensure consistency of approach between firms carrying out the calculation.
- Ensure clarity and minimise the scope for ambiguity when applying the methodology, minimising the risk that the approach to calculating redress can be misinterpreted or manipulated.
- Allow calculations to be completed efficiently to avoid delays and excessive costs in resolving complaints.
- Enable those who undertake calculations or provide redress software to understand the rationale behind the methodology and assumptions and be able to apply it readily in practice.
- Ensure key elements of the calculation are transparent and explainable to consumers.
- Minimise the need for the FCA to update the methodology and assumptions or elements of them regularly to ensure that they remain appropriate.

1.21 Figure 1 shows how our proposals intend to achieve these outcomes.

Figure 1: Causal chain setting out how we expect our revised redress calculation requirements to reduce harm



Measuring success

1.22 Our proposals aim to ensure consumers receive appropriate redress by making calculations more consistent, more responsive to consumers' individual circumstances, easier for consumers to understand and, as far as possible, less subject to market volatility.

1.23 As we explain in our cost benefit analysis (CBA) in Annex 2, whether the amount of redress consumers receive increases or decreases under the revised methodology will largely depend on their individual circumstances. So, the amount of redress consumers receive is not a meaningful indicator of success.

1.24 We consider more meaningful indicators of success include:

- greater consumer confidence that consumers in similar circumstances receive similar redress offers (measured through fewer representations to us on the methodology by consumers and their representatives)
- fewer disputes between firms and consumers about calculations (measured through fewer complaints to firms about calculations, and

- lower costs to firms and their actuarial advisers through fewer questions to us about how to calculate redress

1.25 For the proposed BSPS redress scheme, we consider our proposals will contribute to the success measures set out in Chapter 1 of CP22/6. In particular, by ensuring appropriate redress is paid out under the scheme (rather than as a result of referrals to the Financial Ombudsman Service ('Financial Ombudsman')), and that outcomes for consumers are fair and consistent.

Next steps

1.26 This consultation will close on 27 September 2022. If we decide to make changes to our general methodology and implement the proposed BSPS consumer redress scheme, we will aim to publish a Policy Statement (PS), including final rules, this winter. We would expect any BSPS redress scheme to come into force in early 2023, with most members who are eligible receiving compensation later in 2023 or in early 2024.

2 The wider context

The harm we are trying to reduce/prevent

2.1 Consumers may suffer harm if they receive non-compliant DB pension transfer advice from a firm and, but for that advice, would have remained in their DB pension scheme. This harm is the financial loss the consumer suffers if the current estimated value of the DB retirement benefits which the consumer gave up when they transferred out is greater than the current value of the DC pension they transferred into.

2.2 This financial loss can be considerable and can sometimes involve life-changing sums of money. For example, in CP22/6 for the proposed BSPS consumer redress scheme, we estimated the average loss for consumers covered by the proposed scheme to be about £60,000. The results of our file reviews indicate non-compliant transfer advice was far more widespread for transfers involving former BSPS members than consumers generally. However, we believe BSPS cases are similar to non-BSPS cases in other respects, such as in terms of the harm suffered by individuals.

2.3 The calculation methodology provides a way for firms who have given non-compliant advice to calculate if they owe redress to consumers harmed by this advice. The methodology does not prevent the harm occurring in the first place, although we have made separate interventions in the pension transfer area to target non-compliant advice.

2.4 We explain how the methodology works in Chapter 3. In simple terms, the methodology estimates the present-day value of the retirement benefits the consumer would have received if they had not transferred and compares this with the current value of the consumer's DC arrangement at the same date. Any shortfall between the DC and DB values is the amount of redress due. This is comparable to the way a court would award damages in similar circumstances. Firms have been using this approach for many years since it was introduced in the 1990s for the Pensions Review. The Pensions Review was about the mis-selling of personal pension policies and looked at sales of personal pension policies between 29 April 1988 and 30 June 1994.

2.5 Where consumers have been harmed, we want firms to calculate and pay redress quickly and efficiently. So, firms must be able to apply the methodology consistently across a wide range of consumers. It also needs to work for different DB schemes, different advisers, different characteristics and be feasible, practical and future proofed. A 'one-size-fits-all' approach like this inevitably involves trade-offs between competing objectives. For example, the efficiency and speed of calculations and the appropriateness of those calculations in terms of the redress consumers receive.

2.6 We review the methodology periodically to ensure these competing objectives remain appropriately balanced. We particularly want to ensure the methodology itself does not exacerbate the harm consumers have already suffered from non-compliant advice by providing inappropriate redress.

2.7 Our latest periodic review has concluded that the methodology remains appropriate. However, there are some aspects where the actuarial and legal analysis justifies some changes to our approach. These changes will help ensure the methodology continues to reflect actuarial best practice and can respond to increasingly individualised consumer behaviour in the pensions market.

How it links to our objectives

Consumer protection

2.8 Our proposed changes to the methodology will advance our objective to secure an appropriate degree of protection for consumers. They will do this by ensuring that consumers who received non-compliant advice and suffered harm as a result receive redress that, so far as possible, puts them back in the position they would have been in if they had received compliant advice. Our proposal to consolidate the methodology as new rules and guidance in DISP will further increase consumer protection by improving understanding of the methodology and providing a direct route for assertive supervision or enforcement action should we identify misconduct in redress exercises.

Market integrity

2.9 Our proposed changes to the methodology will advance our objective to protect and enhance the integrity of the UK financial system. They will do this by ensuring confidence among firms and consumers that the methodology will continue to enable calculation of an appropriate amount of redress where consumers have been harmed by non-compliant advice.

Competition

2.10 Our proposed changes to the methodology, specifically to the adviser and product charges assumption, will advance our objective to promote effective competition in the interests of consumers. They will do this by ensuring redress provides for a reasonable level of future charges, enabling consumers to switch to a different adviser if they wish to.

Wider effects of this consultation

2.11 We explain in our CBA at Annex 2 that the most significant effect of our proposals is likely to be on the amount of redress paid by firms to consumers. We consider our proposals are justified by actuarial and legal advice and are aimed at ensuring consumers receive appropriate redress, which is consistent with what would likely be awarded by a court. Nonetheless, increases in the cost of redress could have implications for the availability of professional indemnity insurance (PII) or advice firms failing or leaving the market.

2.12 However, our CBA explains that this effect will depend heavily on consumers' individual circumstances. Put simply, in individual cases, redress could increase or decrease because of our proposals when compared to the current methodology. In our CBA we set out Deloitte's analysis of the impact of our proposals on eight redress cases,

which are intended to reflect typical pension transfer scenarios. These indicate that the change in the value placed on the consumer's DB benefits for the purposes of the redress calculation ranges from an increase of 8.9% to a reduction of 5.3%. However, most of the changes in Deloitte's modelling are more modest than this.

2.13 For the proposed BSPS redress scheme, we obtained data from firms and from Financial Services Compensation Scheme (FSCS) to estimate losses suffered due to unsuitable advice. This enabled us to assess the wider effects of the proposed scheme, such as those outlined at paragraph 2.11.

2.14 We do not consider it practicable or proportionate to attempt to construct a representative sample of redress cases that would enable us to assess the effect of our proposals on all redress cases outside the scope of the proposed BSPS scheme. This would be a significant undertaking, involving detailed information requests to over 2,000 firms who have advised on DB pension transfers to establish the incidence of non-compliant advice and the characteristics of affected consumers.

2.15 In CP22/6, we considered whether our proposal to establish a BSPS redress scheme could lead to wider deterioration in the PII market or any material impact on the DB transfer advice market. Although we estimate the proposed scheme will result in firms paying £56.1m in redress to consumers, we said we thought it unlikely these effects would come about. We think it is reasonable to conclude the same for our proposals on the methodology in this CP. This is because the proposals do not crystallise liabilities in the way a redress scheme does. Nor do they obviously lead to a significant increase in redress costs for firms compared to the current approach. Nevertheless, we will revisit this assessment if our updated CBA for the BSPS redress scheme (see paragraph 2.16) causes us to change our view.

Impact on the proposed British Steel consumer redress scheme

2.16 In our CBA at Annex 2, we explain that we will update the CBA for the BSPS redress scheme in CP22/6 to take account of the impact of our proposals (which will also apply to BSPS cases) on the estimated financial loss for BSPS cases. This is 16% of the average cash equivalent transfer value (CETV) of £374,000 (ie £60,000). We will do this using the proposed BSPS redress calculator (see Chapter 8) before we make our final decision on whether to go ahead with the scheme. We will publish our updated CBA in the policy statement announcing our final decision.

2.17 In the meantime, we have considered the impact of our proposals on the costs and benefits of the proposed BSPS scheme in light of the changes in the value of the consumer's DB benefits seen in Deloitte's modelling of typical cases (see paragraph 2.12 and Table 1 at Annex 2). In summary, on the basis that Deloitte's modelling represents our best estimate at this stage of the impact of our proposals on the BSPS scheme, we think that the overall change in redress payable under the scheme may be modest. For example, the average percentage change in the value of the consumer's DB benefits in Deloitte's modelling is close to zero (-0.1%). This would result in a negligible impact on the current assessment of the scheme's estimated costs and benefits. We recognise that Deloitte's modelling was not representative of BSPS cases. However, we consider many BSPS cases will reflect typical pension transfer redress scenarios. So, we do not think it unreasonable to use Deloitte's modelling as an indicator of the potential scale of the impact of our proposals on the BSPS scheme at this stage.

2.18 We also consider the sensitivity analysis in the CP22/6 CBA remains an appropriate way of dealing with uncertainty at this stage, particularly the possibility of a more significant change in redress payable under the scheme than set out in paragraph 2.17. The analysis in the CP22/6 CBA already includes an average financial loss of 22% of the transfer value as an upper bound. A financial loss of 22% rather than the 16% equates to an increase of roughly 5% increase in the value of the consumer's DB benefits. It is, therefore, consistent with the upper end of increases seen in Deloitte's modelling.

What we are doing

2.19 In summary, our proposed changes consist of improvements and clarifications to the methodology to:

- Ensure consistency of approach between the large number of firms carrying out calculations. The key proposal in this area is to consolidate the methodology as rules and guidance in the FCA Handbook (see Chapter 3).
- Make the methodology as responsive as possible to consumers' individual circumstances. The key proposals in this area involve:
  - the proportion married or in a civil partnership at retirement assumption (see Chapter 5)
  - the retirement age assumption (see Chapter 6)
  - the adviser and product charges assumption (see Chapter 6), and
  - the tax treatment of redress (see Chapter 7)
- Ensure redress payments are invested for retirement rather than used for discretionary spending. The key proposal in this area is to require redress payments to be paid directly into the consumer's DC pension (known as 'augmentation') where possible, rather than as a cash lump sum to the consumer (see Chapter 7).
- Ensure consumers understand how firms have calculated any offer of redress they give. The key proposal in this area is to require firms to provide consumers with specific information about the outcome of their calculation (see Chapter 7).
- Reducing the impact of market volatility on the calculation. The key proposals in this area concern the pre-retirement discount rate assumption and the frequency for updating the economic assumptions (see Chapter 4).

Equality and diversity considerations

2.20 We have considered the equality and diversity issues that may arise from the proposals in this CP.

2.21 We are required under Section 149 of the Equality Act 2010 (EA2010) to have due regard in the exercise of our functions to the need to:

- eliminate discrimination, harassment, victimisation and other conduct prohibited by the EA2010
- advance equality of opportunity between people who share a relevant protected characteristic and those who do not
- foster good relations between people who share a relevant protected characteristic and those who do not

2.22 Following the 2016-17 review of the methodology, we made changes that promote equal treatment of consumers. For example, the current methodology:

- treats consumers as equal by requiring annuities to be calculated on a gender-neutral basis, irrespective of sex, sexual orientation and gender reassignment, and
- assumes that, where a consumer is married or in a civil partnership, their spouse or civil partner is the same age, regardless of the gender of the consumer or their spouse or civil partner, or whether either has had gender reassignment.

2.23 We are not proposing to alter the methodology in these respects. Having a standardised approach also simplifies the calculation and so allows firms to carry out calculations more quickly. Additionally, using this gender-neutral approach means that firms do not have to obtain additional personal data from the consumer.

2.24 The current methodology is also neutral on matters of age, disability, race and religion. None of the proposals in this CP will change this.

2.25 In this CP, we have proposed that for the proportion married or in a civil partnership at retirement assumption (see Chapter 6), firms use a probability table based on term to retirement. The current methodology assumes that every consumer has an 85% probability of being married or in a civil partnership at retirement. Under our proposals, consumers with terms of less than 15 years to retirement and who are married or in a civil partnership are treated as having a higher probability of still being so when they reach retirement. As this reflects actual trends in the population, the effect of this is to reduce discrimination in the methodology against those who are married or in a civil partnership.

2.26 Overall, we do not consider that the proposals materially impact any of the groups with protected characteristics under the EA2010. But we will continue to consider the equality and diversity implications of the proposals during the consultation period and will revisit them when making the final rules.

2.27 In the meantime, we welcome your input to this consultation on our assessment of the equality and diversity issues that may arise from the proposals in this CP.

3 Our general approach to pension transfer redress calculations

Introduction

3.1 In this chapter, we set out the fundamental aspects of our proposals on the methodology. These cover consolidation of the methodology into rules and guidance, the basis for the methodology and the key steps firms should take when calculating redress. We also set out our proposed approach for future reviews of the methodology.

Consolidating the redress calculation methodology

This issue was not considered as part of Deloitte's review.

Current approach

3.2 FG17/9 states that firms should calculate redress in accordance with, and using the assumptions set out in, the relevant provisions governing the Pensions Review. These were published by the FCA's predecessor regulators, the Securities and Investments Board (SIB) and the Personal Investment Authority (PIA).

3.3 This means the overall approach to calculating redress established for the Pensions Review also applies to cases not covered by the Pensions Review. However, FG17/9 states that, when calculating redress for certain types of upheld complaint, firms should use the updated assumptions in FG17/9, rather than the corresponding assumptions in the Pensions Review provisions.

3.4 The assumptions in FG17/9 apply to the following type of complaint:

- complaints either received by the firm after FG17/9 was published but not settled on a full and final basis on or before that date, or
- complaints received by the firm after FG17/9 was published about a pension transfer between 29 April 1988 and 30 June 1994 in circumstances where the firm either did not review the case according to the regulatory standards or requirements which applied at the time, or where those standards didn't address the circumstances of the case

3.5 FG17/9 also states that where a firm upholds a complaint about a non-joiner, opt-out or Free Standing Additional Voluntary Contribution (FSAVC) case, the firm may use FG17/9 as a basis for calculating appropriate redress, to the extent that it is appropriate to do so and subject to the circumstances of the case.

Consolidating the redress calculation methodology to improve transparency

3.6 As explained above, firms currently need to refer to both the Pensions Review provisions and FG17/9 for the methodology and assumptions for calculating redress. Since the last periodic review in 2016-17, we have become concerned that an approach which requires firms to refer to several regulatory sources, some of which are not readily accessible, isn't transparent. Calculating pension transfer redress is complicated and can involve life-changing sums of money. So, the provisions must be as clear as possible to both firms, consumers, and other stakeholders.

3.7 Consolidating all calculation provisions would significantly increase transparency. The objective here would be to set out in one place both the overall approach to calculating pension transfer redress and the assumptions that should underpin this approach.

Putting the redress calculation methodology in the Handbook to improve consistency

3.8 As explained above, there is a strong case for consolidating the methodology. Consolidation also gives us an opportunity to consider whether the methodology should continue to be issued as guidance rather than rules. Guidance is mainly used to explain the implications of other provisions, indicate possible means of compliance or recommend a particular course of action or arrangement (see the Handbook Reader's Guide).

3.9 Here the relevant rules are those in DISP, which sets out how firms should investigate, assess, and resolve complaints. The guidance on calculations, while initially connected with the SIB/PIA Pensions Review, is now connected to the requirements in DISP 1.4 to assess complaints fairly, consistently and promptly and, where appropriate, explain redress offers and comply promptly with offers accepted by the consumer.

3.10 Making specific rules about the steps to take for calculating pension redress rather than retaining these steps as guidance will help to ensure consistency of approach in a complex area. We propose to set out the high-level steps to calculate redress in rules and provide the assumptions as guidance. Keeping the assumptions in guidance would mean we could respond promptly to, for example, changes in the market or in the pensions landscape and amend the guidance when needed.

3.11 Consolidating calculation provisions as new rules and guidance in DISP would increase consumer protection by providing a direct route for assertive supervision or enforcement action should we identify misconduct in redress exercises. It would provide greater clarity and certainty to firms on our expectations and so reduce the supervisory and policy resource required to engage with firms. It would ensure that the general approach is both consistent with, and complementary to, our approach for the BSPS redress scheme (which would be set out as rules in the Consumer Redress (CONRED) sourcebook). Finally, it would be consistent with the approach we have taken for other areas – payment protection insurance (PPI) and mortgage endowment polices – where we have developed specific methodologies for dealing with disputes and set these out in DISP.

Proposal

3.12 We propose that the methodology is consolidated as new rules and guidance in DISP. Publishing new non-Handbook guidance to update or replace FG17/9 that sets out the overall approach alongside the assumptions could reduce the transparency risk, but it would not address the consistency risk.

3.13 Our proposal would apply to all pension transfer redress cases within the current scope of FG17/9 (see paragraphs 3.4-3.5). We propose to do this by creating a new appendix to DISP that would apply to these cases. We would revoke FG17/9 once these new calculation provisions come into force.

3.14 We also propose that the application of the methodology is wider than the application of DISP, which is limited to the prompt and fair handling of complaints, as defined in the Handbook Glossary. We consider the methodology should also be used to calculate redress where firms resolve claims proactively or under FCA supervision. This would ensure consistency with the broader application of the SIB/PIA provisions and FG17/9.

3.15 Our proposed approach would:

- increase consumer protection and provide greater clarity and certainty to firms on our expectations by making some aspects of the methodology – particularly those where we consider it desirable to 'fix' the approach – rules, rather than guidance,
- ensure that current provisions relevant to DISP 1.4 are more clearly linked to that overarching requirement by making them part of the same section of the Handbook, and
- ensure that our general approach is both consistent with, and complementary to, our approach for the BSPS consumer redress scheme which will also be set out in the Handbook as rules in the CONRED sourcebook

3.16 We propose that the high-level steps to calculate redress (see paragraphs 3.35-3.40) would be set out in rules, with the assumptions (see Chapters 4, 5 and 6) provided as guidance. Retaining the assumptions in guidance means we can respond quickly to changes in the market or in legislation or government policy related to pensions and amend the guidance when needed. We have set out our proposed framework for keeping the methodology under review in paragraphs 3.60-3.62.

> **Q1:** **Do you agree that we should consolidate the pension transfer redress methodology as a new appendix in the Dispute Resolution: Complaints sourcebook covering pension transfer redress cases within the current scope of Finalised Guidance 17/9? If not, what alternative approach would you propose?**

3.17 We have also proposed to keep some the SIB/PIA provisions that are not part of the calculation steps or the assumptions, but which nonetheless provide important information to firms when calculating redress. We have referred to these in the draft instrument at Appendix 1 as 'guidance on technical matters'. We propose to not include the provisions set out in Table 1 because we consider they are no longer relevant to the current pensions landscape and/or the options available to transferring members:

Table 1: SIB/PIA provisions not included in in the proposed new appendix in DISP

SIB/PIA provision	Reason for not including in the proposed new appendix in DISP
Any additional benefits which were sold [to the consumer] to replace the life cover previously included in the defined benefit occupational pension scheme should be taken into account, to the extent of the benefits that would have been payable.	The death benefits from DC schemes (eg tax-free inheritance if the member dies when they are under 25) and the size of DC funds in early years means there is now little need to take out separate life cover.
For the purposes of assessing the benefits of the DC pension arrangement, Additional Voluntary Contributions (AVCs) should be excluded only when made on a money purchase basis. Where the transfer has been made into a regular premium plan, then the regular premium plan should be assumed to bear the policy charge rather than the transfer.	AVCs are very rare (if not non-existent) in DB schemes following the closure of most DB schemes to new members. So, almost all AVCs will be into DC pensions. We also understand that consumers do not transfer into regular premium plans (to match an AVC arrangement).
Where retirement took place before State Pension Age and there are protected rights, the value of non-protected rights personal pension should be compared with the value of the scheme pension as at the date of review, making adjustment for any lump sum taken. The shortfall in the value of pension should then be compared with the adjusted protected rights fund as at the date of review. In order to reflect the way in which protected rights annuities must be priced, the protected rights fund should he adjusted by multiplying by the ratio of the investor's prospective annuity rate at state pension age, taking into account higher marital status and spouse's pension where married, to the prospective protected rights annuity rate assuming 90% married and 50% spouse's pension. Allowance should also be made for future expenses.	We consider it is more appropriate for firms to consider how the consumer's DB scheme would treat protected rights.
Where an occupational scheme has a custom and policy to grant discretionary increases, PIA has concluded that the practice of awarding increases will continue at some level. The adjustment for uncertainty of payment in Appendix I of the SIB Specification applies both where there is an explicit written policy statement, or the policy is inferred from custom and judged over the preceding 5 years. In deriving the assumption for future increases in payment, the allowance for the uncertainty of future discretionary increases in payment should be based on complete years to the assumed commencement of scheme pensions. A factor of .75 applies if immediate payment is assumed. In deriving the assumptions for future increases in deferment, the allowance for uncertainty of future discretionary increases should be .95 to the power of one half of the term to scheme retirement. The .75 factor applied for increases in payment does not apply to increases in deferment. Where the policy is inferred from the previous 5 years, to avoid undue complexity, "catch up" increases may be excluded without adjustment for inflation within the 5-year period.	DB schemes must now offer inflationary increases pre- and post-retirement. As all DB schemes now provide index-linked increases, we consider it is highly unlikely that discretionary increases are offered over and above these.

Q2: Do you agree with our decision not to retain the Securities and Investments Board/Personal Investment Authority provisions specified in Table 1? If not, why do you think we should retain them?

Overall approach

This issue is considered in Section 3 of Deloitte's Technical Report.

3.18 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 if they had received compliant advice and remained in their DB scheme.

3.19 In this section, we consider several ways in which our approach can achieve the basic objective of redress, at least in theory:

- Reinstatement into the original DB pension scheme.
- Require the firm to buy an annuity for the consumer to match the pension they would have received from the DB pension scheme at retirement.
- Require the firm to provide a guarantee to the consumer to match the pension they would have received from the DB pension scheme once they reach retirement, and
- Require the firm to provide sufficient funds to the consumer to replicate the benefits given up. For example, by calculating the present-day value of the consumer's former DB pension scheme benefits and their current defined contribution benefits at a specified valuation date and compare these two values to determine the level of any redress due (ie mirroring the approach of the Pensions Review methodology).

Limitations

3.20 It is important to recognise when considering the options for providing redress to consumers that a court will generally assess damages as a cash sum which the claimant can spend as they like. Courts will not usually require a defendant to take a particular course of action to compensate a claimant. So, in a mis-selling case such as the provision of non-compliant DB transfer advice, it is unlikely that the court would insist on the consumer spending their compensation in a particular way. For example, if a consumer is compensated based on the cost of buying an annuity to replicate their DB benefits, the court cannot force the consumer to buy an annuity with their compensation. If they want to invest the money in other investments, or spend the money on something else entirely, they may do so.

3.21 Unlike a court, the FCA's powers mean we can require authorised firms to take certain actions when providing redress to consumers. Because of these powers, we are proposing in Chapter 7 that lump sum redress should be paid by firms directly into a consumer's DC pension by augmentation, rather than in cash to the consumer. However, we have no such powers over consumers or third parties. As we explain in this section, this limits our options if providing redress in a particular way requires parties other than the firm to do something.

Reinstatement into the original DB pension scheme

3.22 Reinstatement would give absolute certainty that the consumer has been put back into the position they would have been in. However, the trustees of many DB pension schemes have either closed them to new members or are unwilling to agree to reinstate benefits for members who have left the scheme. Some schemes may also no longer exist, having wound up. There is no legislation which compels trustees to accept former members who transferred out. Similarly, we have no power to require it. For these reasons, we do not consider that reinstatement would be a viable option for most consumers.

Requiring firms to buy an annuity for the consumer

Deferred annuities

3.23 Buying a replicating deferred annuity would remove the investment and mortality risk from the consumer and ensure that they get benefits at retirement that match the DB pension scheme they left. Additionally, if the annuity provider were to become insolvent and unable to meet its liabilities, these would be met in full by the FSCS. This means that a deferred annuity offers more security than a DB scheme or the Pension Protection Fund. This would go beyond the objective of putting consumers back in the position they would have been in if they had received suitable advice.

3.24 There may also be a significant period between the calculation date and the consumer's retirement date. The investment risk during this period would have been transferred to the annuity provider. Because of this, the provider would be likely to charge a high premium as they would want to use low-risk investments to ensure there are sufficient funds through retirement to pay the pension payments as they fall due. This would be likely to result in a very significant increase in the redress costs for firms. We consider that this cost would be disproportionate, as individuals took some risk on their pension scheme being unable to meet its obligations, although this risk is reduced by the PPF.

3.25 We doubt whether annuity providers would be willing to offer deferred annuities in the first place. The lack of demand for deferred annuities means that there is no longer a functioning market for individual consumers to buy one. We have spoken with insurers who operate in the bulk annuity market. They have said it would be difficult to get the information necessary to price individual deferred annuities coming from a wide variety of different DB schemes.

3.26 These firms also noted that the FCA has no power to direct consumers to move their transferred pot to another provider or product. This means that the success of such a scheme would depend on a choice by the consumer themselves. They also indicated that where a consumer's redress has been capped, for example due to limits in the amounts that can be award by the Financial Ombudsman or paid by the FSCS, there may be insufficient funds available to replace the benefits given up. The uncertainty of future business means that insurers are unlikely to find it viable to offer individual deferred annuities. When combined with the potential for significant increases in the cost of redress to firms, we consider that a deferred annuity option is unlikely to be appropriate.

Immediate annuity

3.27 As the name suggests, an immediate annuity provides income almost as soon as the consumer buys it. There may be cases where it is not possible to buy an immediate annuity that exactly matches the consumer's former DB scheme benefits. However,

unlike deferred annuities, immediate annuities are more readily available than deferred annuities. So, they could be a viable option where the consumer has already retired and there are sufficient remaining funds, together with the redress amount, to buy an annuity of the same value.

3.28 However, as with deferred annuities, an immediate annuity approach would depend on a choice by the consumer (see paragraph 3.26). Put simply, while we could require firms to buy an annuity, they would only be able to do this if the consumer agreed to use their redress and existing pension funds for this purpose. Further, a pension annuity can only be bought with pension money. This would present challenges where the redress can't be used to augment the existing pension funds and is paid as a cash lump sum instead. For example, the calculation would need to be amended if a purchased life annuity was used as an alternative.

3.29 Given these challenges, we believe the current approach – which aims to ensure the consumer has enough money to buy an annuity on retirement, should they want one – is preferable.

Providing a guarantee at retirement

3.30 Providing a guarantee at the point of retirement would ensure that the consumer receives benefits at retirement that they would have been entitled to if they had remained in their DB pension scheme. However, it would also introduce additional uncertainty where the guarantee depends on the firm continuing to trade until the consumer's retirement date. For some firms in this market, it would not be possible to be certain about this.

3.31 An alternative form of guarantee could involve firms setting up an escrow account which could continue to exist if a firm failed. The escrow account would need to be adequately funded so that it guarantees to put the consumer back in the position they would have been if they had received compliant advice and remained in their DB scheme. This would result in significant increases in redress costs for firms, in a similar way to the provision of a deferred annuity. So, we do not consider it is viable.

Proposal

3.32 We have carefully considered the alternatives and believe they present significant challenges. So, subject to the changes to both the overall approach and the assumptions set out in this CP, we propose that firms should continue to use the Pensions Review approach. This is to calculate redress as the difference between the estimated value of the benefits given up in the DB scheme and the current value of the consumer's DC pension and pay that redress as a lump sum. This approach is also comparable to the way a court would award damages in similar circumstances.

3.33 We recognise that, in practice, it is not possible to replicate the DB scheme benefits exactly once a consumer is in a DC scheme. For example, due to the lack of annuities which offer the same form of increases as a DB scheme. However, we consider this approach is preferable to the alternatives discussed in this section. We agree with stakeholders' concerns about how consumers might use their redress payments (see Chapter 8). So, in Chapter 7, we have proposed that, where possible, redress is used to augment the consumer's DC pension. We consider this will make it more likely that redress payments are invested for retirement.

3.34 Our proposed rule does not prevent firms from buying the consumer an annuity matching the benefits of their DB scheme if the firm and the consumer are willing to do this to settle their case. Likewise, where the DB scheme is willing to reinstate the consumer's benefits, the firm is willing to pay for their reinstatement, and the consumer wants this to happen, this would also be allowed.

> **Q3:** **Do you agree with our proposal that firms should continue to calculate redress as the difference between the estimated value of the benefits given up in the defined benefit scheme and the current value of the consumer's defined contribution pension and pay that redress as a lump sum? If not, what alternative approach would you propose?**

Redress calculation methodology

> This issue is considered in Section 4 of Deloitte's Technical Report. Deloitte's Technical Manual sets out how the methodology should be applied for example calculations.

3.35 As set out above, the methodology will continue to require firms to provide sufficient funds to the consumer to replicate the benefits given up. In practice, this means that the assessment of financial loss and the primary redress amount (as distinct from redress arising from losses outside the scope of the methodology, see paragraphs 3.58-3.59) will be based on the difference between:

- the value of benefits the consumer would have been entitled to, if they had received compliant advice and remained in their DB scheme, and
- the value of benefits available to the consumer after the transfer.

3.36 The calculation is complex and requires the use of assumptions to estimate the DB benefits the consumer would have been entitled to. For example, where a member would not yet have retired, estimating the consumer's future DB retirement benefits requires firms to take account of future inflation rates.

3.37 The methodology then presumes that the consumer's DB retirement benefits could be replicated in a DC environment by buying an annuity. Assumptions are used to derive the future annuity cost, taking into account factors such as pension increases in payment and spousal or civil partner benefits. Different slices (or 'tranches') of the DB pension will have a unique combination of revaluation increases before retirement age, pension increases after retirement age and payment start age. This means each tranche of benefit needs to be valued separately. Assumptions are then used to estimate the probability of the consumer surviving to take the annuity benefits and to determine how much money they would require immediately to have enough to secure that annuity, taking into account that they now pay charges in their DC scheme.

3.38 Table 2 summarises our proposals for assessing loss and calculating the amount of redress due. In Table 2, the elements entitled:

- A, B and C represent the value of benefits that would have been available from the DB scheme
- D, E and F represent the value of benefits from the DC scheme, and
- G and H are based on the benefits to which the member may have been entitled from the state earnings related pension scheme (SERPS) if they had not transferred.

Table 2: Summary of our proposals for assessing loss and calculating the amount of redress due

Element	Description of element
A	The capitalised value of pension benefits which would not yet have been taken from the DB scheme, which: • For those who would retire after the valuation date, requires: ◦ estimating the benefits at the DB scheme's normal retirement age ◦ calculating the estimated cost of annuitizing those benefits at that future date, including an allowance for a pension commencement lump sum and future pension increases ◦ allowing for the probability of the consumer surviving to receive the retirement benefits ◦ then discounting that value to determine the amount needed at the valuation date which could grow to the annuitisation cost, allowing for charges payable now that the consumer is in a DC scheme. • For those who would have retired at or before the valuation date, requires estimating the cost of immediately annuitizing the future stream of payments they would have been entitled to from the DB scheme.
B	The capitalised value of future death benefits (whether lump sums or regular payments) which would have been available before retirement in the DB scheme to those who would not yet have retired from it, allowing for the probability of them coming into payment, using similar techniques to those in A, where relevant.
C	The accumulated value of past payments which the consumer would have been taken from the DB scheme prior to the valuation date, if they would have already retired from it
D	The current value of the DC pension scheme, adding back in the accumulated value of any payments taken before they would have retired in their DB scheme and after deduction of any funds not attributable to the original transfer value.
E	The accumulated value of past payments paid from the consumer's DC scheme from the date they would have retired from their DB scheme, up to the valuation date.
F	The capitalised value of any future annuity payments which the consumer has previously secured, using similar techniques to those in A.
G	The value of any increase in SERPS as a result of the transfer.
H	The value of any decrease in SERPS as a result of the transfer.

3.39 The consumer will have suffered loss and will be due a primary redress amount whenever the computation of A + B + C – D – E – F – G + H is greater than zero. Elsewhere in this CP, we set out proposed subsequent adjustments to the primary redress amount to allow for consequential losses (paragraphs 3.54-3.55), compensation for investment losses between valuation and payment of redress (Chapter 7) and tax and means-tested state benefits (Chapter 7).

3.40 Under the current methodology, cases where the consumer has died or would have retired in their DB scheme are known as 'actual loss' cases. In the past, many of these consumers would have purchased an annuity and crystallised their loss at the point of that annuity purchase. All other cases are currently known as 'prospective loss' cases. We think this distinction is less helpful now that so few consumers purchase an annuity after transfer. Consequently, the methodology above, which summarises the requirements in the draft rules, provides a single formula for firms to use. Firms will not always need to use all the elements, for each case. In particular, some elements will fall away where a consumer has not previously accessed their DC scheme and would not have already retired from their DB scheme (see Chapter 6).

> **Q4:** **Do you agree with the high-level description of the steps that we propose firms should take to calculate redress and with our proposal to no longer specify separate approaches for actual and prospective loss cases? If not, what alternative approach would you propose?**

Valuation and calculation dates

> This issue is considered in Section 5F of Deloitte's Technical Report.

Current approach

3.41 As previously set out, we propose that a calculation is based on the difference between:

- a valuation of the benefits given up in the DB scheme, and
- a valuation of the DC pot attributable to the transfer

3.42 The valuation of the benefits in the DB scheme will vary depending on the assumptions used. As the economic assumptions (see Chapter 4) are market-based, they will vary over time. This means that the present value of the benefits in the DB scheme at any given date will also vary over time.

3.43 The valuation of the DC pot will also vary over time, in line with the market movements of the assets in which it is invested. These movements will also be reflected in the assumptions that firms must use to calculate redress. Those assumptions reflect an estimate of the future market-based parameters which the consumer will be exposed to.

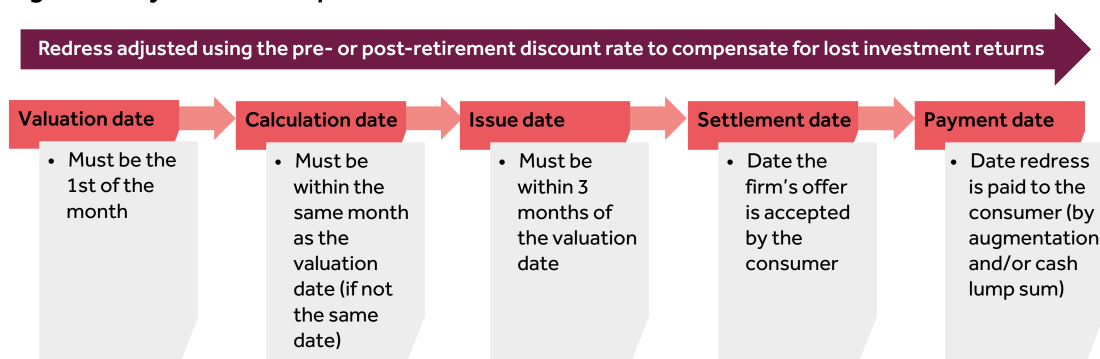
3.44 Deloitte consider that a key principle should be to value both the DB and DC benefits at the same date. This is clear in the Pensions Review provisions and implicit in FG17/9. We also consider there is an opportunity to reinforce this point as part of consolidating the methodology in DISP and to clearly distinguish between the date at which DB and DC benefits are valued and the date on which the calculation is carried out, which can be different.

Proposal

3.45 Calculations are currently made on a quarterly schedule. This means that firms update the economic assumptions based on the market conditions at the close of business on the last working day of each quarter. They then apply these updated assumptions to calculations carried out during the following quarter. In Chapter 4 we propose calculations should move to a monthly schedule, meaning the economic assumptions would be updated on the last working day of each month.

3.46 In summary, we consider there are five key dates in the process to provide redress to consumers. These are explained in Figure 2, below.

Figure 2: Key dates in the provision of redress to consumers



Valuation date

3.47 We propose to clarify that all valuations of benefits must be undertaken on a same date basis, referred to as the 'valuation date'. We propose that the valuation date should be the first working day following the date on which the economic assumptions are updated. This is currently the end of each quarter, changing to the end of each month under our proposals in Chapter 4.

Calculation date

3.48 It is important to distinguish between the valuation date and the 'calculation date', which is the date the firm completes the calculation. This is because it is not realistic to expect firms to always calculate redress on the valuation date. So, we intend to clarify that the calculation date must always fall within the same month as the valuation date, but it does not need to be the same date.

Redress offer date

3.49 We also propose that once a calculation has been undertaken, it, and any redress offer, should be checked and issued to a consumer within three months of the valuation date. We do not expect firms to undertake recalculations unnecessarily. For example, because of assumptions changes that are favourable to the firm between doing the calculation and issuing it. Calculations should only be repeated where the assumptions or inputs are subsequently found to be incorrect.

Settlement and payment dates

3.50 We propose that the settlement date is the date that any redress offer is accepted by the consumer. Redress should be paid promptly following settlement. Because the methodology assumes that the calculated redress amount is invested from the valuation date, we propose in Chapter 7 that consumers should be compensated for loss of investment returns between the valuation date and the payment date using either the pre- or post-retirement discount rate.

Q5: Do you agree with our proposal that all valuations of benefits must be undertaken on a same date basis, referred to as the 'valuation date'?

Q6: Do you agree with our proposal that firms should issue calculations within three months of the valuation date? If not, what timeframe would you propose for issuing calculations to consumers and why?

Actuarial oversight of redress calculations

3.51 Calculations are complex and involve the use of techniques that are normally used by actuaries. During the pensions review, both the SIB and the PIA anticipated that software packages would be developed. They expected that the system used and formulae within it would be approved by an actuary, use reasonable actuarial methods and be consistent with the guidance.

3.52 We consider it remains appropriate that an actuary should continue to undertake the valuation of the benefits given up in the DB scheme. Alternatively, firms may use an approach that has been approved by an actuary. For example, inputting information about the DB scheme benefits and the consumer's information into a software package where the system and formula have been developed or reviewed by an actuary.

3.53 Actuaries must meet technical actuarial standards when carrying out actuarial work. Firms should ensure that they choose actuarial services or software systems where the actuaries are prepared to confirm that the services provided meet relevant technical actuarial standards, and professional standards for peer review.

3.54 Where the calculation of redress requires any element of calculation of the value of the DC scheme, this should also be undertaken by an actuary or using an approach that has been approved by an actuary. Also, if there have been any additional contributions added to the transferred pot which need stripping out of the calculation.

Q7: Do you agree with our proposals for actuarial oversight of redress calculations? If not, what alternative approach would you propose?

Information needed to complete redress calculations

3.55 To calculate redress in accordance with the proposals in this CP, firms will need to get certain information about the consumer, the consumer's former benefit entitlement in their DB scheme, and their current DC pension. We set out the information firms will need to get in Table 3.

Table 3: Information needed to calculate redress

Category	Information needed

Information about the consumer	• Date of birth (DOB)
	• Date of death (if applicable)
	• Marital or civil partnership status
	• Spouse or civil partner's DOB
	• Children's ages if the consumer has children who pension benefits would potentially be payable to
	• Whether the consumer is assumed to have retired and, if so, the date at which the consumer is assumed to have retired
	• Information to help determine any adjustment to take the consumer's tax position into account:
	  ◦ annual taxable income
	  ◦ expected total contributions to consumer's DC pension in the tax year in which redress is being paid
	  ◦ annual allowance carry forward from previous years
	  ◦ current lifetime allowance usage
	  ◦ expected future lifetime allowance usage
	  ◦ details of any lifetime allowance protections
	  ◦ marginal tax rate expected in retirement

Information about the consumer's former DB scheme	• Date of leaving active service in the DB scheme (DOL) • Section • Annual DB pension at DOL split by tranche, as applicable to each section, including GMP splits • Automatic lump sum entitlement due at retirement at DOL split by tranche, as applicable to each section • Normal retirement age applying to each tranche • Early and later retirement factors • Confirmation of any lower unreduced retirement age that applies to any tranches due to any enhanced early retirement provision • Amount of any other associated benefits (eg bridging pension, death benefit entitlements pre- and post-retirement • PCLS factors in force at date of retirement • Details of any adjustment applicable to the transfer as part of a pension sharing order entered into

Information about the consumer's current DC pension (relating to funds from the transfer)	• Date of transfer out of the DB scheme
	• Fund value at valuation date
	• Product and adviser percentage charges, including annual management charges
	• Product and adviser non-percentage charges, including ongoing adviser charges
	• Amount of any PCLS taken and dates of payment
	• Amount of any funds accessed flexibly and dates of payments
	• Date of any annuity purchased
	• Annuity terms (if applicable):
	  ◦ amount
	  ◦ increases (RPI linked, CPI linked, applicable cap, applicable floor)
	  ◦ spouse's pension – proportion on death
	  ◦ remaining guarantee period from the valuation date
	  ◦ payment in arrears or advance
	  ◦ payment frequency

Q8: Do you agree with the information we have proposed that firms obtain to calculate redress? If not, what alternative approach would you propose?

Requesting information from the consumer

3.56 Any requests to the consumer for information should be reasonable. This means:

- keeping requests to a minimum and exercising sensitivity for information about a consumer's personal circumstances
- ensuring the consumer understands what information they have been asked to provide and in what format
- only asking for information that is likely to be readily accessible to the consumer (and, where appropriate, obtaining the consumer's consent to approach third parties for information on their behalf)
- allowing the consumer a reasonable amount of time to respond, and
- making clear why the firm is asking for the information and what the firm will do if the information is not provided.

3.57 If the consumer does not respond to reasonable requests for information, it may be reasonable for the firm to make its decision based on what has been supplied and take account of the consumer's failure to provide the information requested. It may also be appropriate to rely on more general sources of information. For example, if the consumer has not provided information to enable the firm to determine whether they would have retired in their DB scheme at or before to the valuation date (see Chapter 6). In this case, the firm could consider when consumers who remained in the relevant DB scheme typically access their benefits.

Q9: Do you agree with our proposed approach to requesting information from consumers, including what should happen if consumers do not respond to reasonable requests? If not, what alternative approach would you propose?

Losses outside the scope of the redress calculation methodology

This issue was outside the scope of Deloitte's review.

3.58 In line with DISP 1.4, firms should determine whether the consumer suffered any consequential losses other than any direct financial loss established by the calculation. This could be because of the non-compliant advice or the redress payment itself. For example, potential lifetime allowance charges, an inability to pay back debt or financial consequences from being in a pension with a higher minimum pension age.

3.59 If they are reasonably foreseeable, these losses would be considered in court awards and are part of putting the consumers back, as far as possible, in the position they would have been in if they had received compliant advice and remained in their DB scheme. If the consumer claims they suffered consequential losses, and the firm determines these resulted from the non-compliant advice, firms should offer the

consumer compensation to reflect their liabilities over and above the redress sum calculated in accordance with the methodology. Where the firm determines the non-compliant advice did not cause the consumer's losses (or any losses were not reasonably foreseeable at the time of the transfer), they should provide the consumer with their reasoning.

Q10: Do you agree that compensation should include losses outside the redress calculation methodology? If not, why not?

Future reviews of the methodology

This issue is considered in Section 2 of Deloitte's Technical Report.

3.60 One of the periodic review's objectives was to develop an approach that minimises the need for us to regularly update the methodology and assumptions, or elements of them, to ensure that they remain appropriate.

3.61 We propose the below framework to keep the methodology under review, comprising the following elements:

- A full review of the methodology in eight years (ie in 2030) and a decision taken then on when to carry out the next full review.
- A time-based interim review for the methodology underlying the following assumptions that are key to the redress methodology because they can have a material impact on the calculations (while the rest of the methodology would need to be considered as part of these reviews, Deloitte considers it would not be necessary to consider all aspects of the methodology):
  - pre-retirement discount rate: every four years (ie in 2026)
  - post-retirement discount rate: every four years (ie in 2026), and
  - inflation (and inflation related assumptions): every four years (ie in 2026).
- Event-based triggers identified through our monitoring of the market, such as:
  - changes in relevant legislation,
  - publication of new data, including findings on product and advice charges
  - changes in consumer behaviour,
  - changes to the wider pensions market, and
  - major events in wider financial markets.

3.62 We note Deloitte's view that interim review triggers could lead to numerous reviews being undertaken ahead of the scheduled eight-yearly review. If this happens, we agree that, depending on where we are in the review cycle, it may be appropriate to defer these reviews until the full review of the methodology, or bring the full review forward.

Q11: Do you agree with our proposed approach to keeping the methodology under review? If not, do you have any other suggestions for how we could ensure the methodology and individual assumptions remain appropriate?

4 Economic assumptions used in pension transfer redress calculations

Introduction

4.1 In this chapter, we set out the proposed economic assumptions that firms should use when calculating redress. Economic assumptions are assumptions that require the use of data about market conditions, such as investment return and inflation expectations. These are distinct from the demographic and other assumptions in Chapters 5 and 6, which do not require the use of such data. Because they depend on data about market conditions, and market conditions change frequently, we expect firms to regularly update the economic assumptions.

Frequency for updating the economic assumptions

This issue is considered in Section 5F of Deloitte's Technical Report.

Current approach

4.2 Calculations are currently made on a quarterly schedule. This means that firms update the economic assumptions based on the market conditions at the close of business on the last working day of each quarter. They then apply these updated assumptions to calculations carried out during the following quarter. For example, assumptions updated based on market conditions on 30 June apply to calculations made from 1 July to 30 September. We understand that firms try to issue calculations to consumers within the same quarter in which they made the calculation. This prevents offers from being made when a new set of assumptions is already available and could result in a higher or lower redress offer. Some actuarial firms have told us that this means their work is front-loaded in the early part of the quarter.

4.3 Regardless of when in a quarter a firm actually carried out a calculation, the calculation should be done as if it was being done on the first day of the quarter. We call this the valuation date for the calculation (see Chapter 3). So, using the example in paragraph 4.2, a calculation done on 1 August would use DB and DC valuations and other assumptions and inputs (eg the consumer's age) as they were at 1 July (ie based on market conditions on 30 June).

4.4 The longer the period during which redress is calculated, the greater the risk that redress amounts may be out of date by the time they are offered. This is especially the case when markets are volatile. While consumers should receive compensation for foregone investment returns (see Chapter 7), this represents compensation for the

delay in payment. It does not compensate consumers for the impact on the payment due to changes in market conditions between when the calculation is done and when any offer is settled.

4.5 When markets are volatile, changes in assumptions can have a material impact on calculations. However, if a firm undertakes a calculation late in the quarter, they may already know about changes in the value of the consumer's DC pension or the valuation of their former DB benefits which may make the calculated redress amount less appropriate.

Proposal

4.6 We consider the impact of market volatility on redress amounts could be managed by more frequent updates to assumptions. We propose that assumptions should be updated no less frequently than the last working day of each month. Where firms update assumptions more frequently, they must use a regular schedule.

4.7 We have noted Deloitte's views about the increased burden on software providers from more frequent updates. But we also consider that technology has improved considerably since the Pensions Review. So, we think that software providers should be able to cope with more frequent updates and distribute relevant updates to users, although we would welcome views from software providers on this point.

4.8 We also welcome views from firms on the impact of moving to monthly assumption updates, particularly whether this would increase the cost of calculating redress (and, if so, why) and if there are any specific challenges for firms undertaking past business reviews.

> **Q12:** **Do you agree with our proposal that firms should update the economic assumptions they use for redress calculations no less frequently than the last working day of each month? If not, what frequency and timeframes would you propose for updating the economic assumptions and why?**

Inflation

> Benefits in a DB scheme are often linked to inflation. When calculating redress, firms will need to estimate future inflation to place a value on the DB benefits given up.
>
> This issue is considered in Section 5C of Deloitte's Technical Report.

4.9 In this section, we set out how firms must determine retail price index (RPI), consumer price index (CPI) and earnings inflation. We also set out how they should use rates of inflation to estimate pre-retirement increases in benefits (revaluation) and post–retirement pension increases linked to inflation.

Retail price index inflation

Current approach

4.10 In FG17/9, the retail price index (RPI) assumption is based on the 'UK instantaneous implied inflation forward curve (gilts)' published by the Bank of England. The published rates reflect the difference between fixed interest and index-linked gilts which, in turn, represents the market view of breakeven RPI inflation. The curve is freely available on the Bank of England's website.

4.11 The curve is published for terms from 2.5 years to 40 years, in 6 monthly increments. FG17/9 sets out that firms should extrapolate 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, firms should assume the 3-year rate applies. FG17/9 indicates that the final assumption should be rounded to the nearest 0.05%.

4.12 Deloitte consider that the 'UK instantaneous implied inflation forward curve (gilts)' remains a reasonable basis for deciding the future RPI rate to use. However, they have proposed several changes to improve consistency in the way firms derive RPI rates from the curve.

Proposal

4.13 We propose to keep the 'UK instantaneous implied inflation forward curve (gilts)' for deriving RPI inflation. To reduce the risk of firms taking different approaches and improve consistency, we also propose that firms:

- use whole year rates without amendment, ie there should be no interpolation of the rates, no use of the half-year rates and no annuitising of the rates,
- use the 40-year rate for terms beyond 40 years,
- where a shorter term than published is required, use the rate for the shortest term available, including half-years, and
- must not round the RPI inflation rate where it is used to derive another assumption, but otherwise, it should be rounded to 0.05%.

Q13: Do you agree with our proposal to retain the 'UK instantaneous implied inflation forward curve (gilts)' for deriving retail price index inflation and our proposed changes to improve consistency of redress calculations? If not, which alternative approach would you propose?

Inflation risk premium

4.14 As set out by Deloitte, the Bank of England inflation curve is susceptible to demand and supply imbalances which means it is not always a reliable predictor of RPI inflation. There is excess demand for the limited supply index-linked gilts by UK pension schemes and other investors seeking inflation protection. This results in investors paying a premium for inflation protection, typically referred to as the inflation risk premium (IRP).

4.15 Actuaries typically adjust the RPI inflation calculated from the curve by deducting an allowance for the IRP. The IRP is difficult to quantify but market participants typically use an IRP ranging from 0% to 0.3% p.a. In their report, Deloitte discuss the reasons for the current wide range of IRPs and the relevant indicators for setting an IRP for redress purposes. Deloitte propose to allow for an IRP whenever RPI inflation is used to derive pre-retirement assumptions. It is not proposed for post-retirement assumption as annuity providers would typically be hedging inflation risk and not including an IRP in pricing or valuation bases for annuities. For practical reasons, they propose a flat rate approach across all terms to retirement of 0.2%.

4.16 We propose that where firms derive the RPI from the inflation curve for pre-retirement revaluation (whether linked to RPI or CPI) or for the pre-retirement discount rate, firms must apply an IRP deduction of 0.2%.

> **Q14: Do you agree with our proposed approach to setting an inflation risk premium? If not, what alternative approach would you propose?**

Consumer Price Index inflation

Current approach

4.17 In FG17/9, CPI inflation is 1% below the RPI assumption for redress calculated before 1 January 2021. Following the announcement that RPI will be equivalent to CPI including owner occupiers' housing costs (CPIH) from 2030, we added annexes to FG17/9 for calculations in later periods. Annex 1 of FG17/9 provides a table of deductions for calculations undertaken from 1 January 2021 to 31 March 2022. Annex 2 sets outs deductions from 1 April 2022. The deductions for these periods vary with the term to retirement and by assumed retirement age. However, they are broadly based on the principle of a 1% difference between RPI and CPI pre-2030, 0.5% in 2030 and 0% after 2030.

4.18 The current approach reflects the lack of a market expectation indicator (similar to the 'UK instantaneous implied inflation forward curve (gilts)') for future CPI inflation. Deloitte continue to favour a deduction from RPI, especially given the current challenging levels of inflation. Deloitte note the small difference in methodology between CPI and CPIH but consider that the current approach to the pre-2030 period, 2030 and the post-2030 period remain appropriate. Instead of updating the deduction tables each year, Deloitte consider that a formula-based approach would be appropriate.

Proposal

4.19 We propose to proceed with a formula-based approach. We consider a formula-based approach is a pragmatic solution which should be straightforward to implement. Separate formulae are provided for pre-retirement and post-retirement CPI adjustments. The formulae determine the (unrounded) deduction which firms should apply to the unrounded RPI rate. They should then round the resulting CPI rate to the nearest 0.05%.

4.20 The proposed formula for calculating the pre-retirement CPI differential is set out in Figure 3.

Figure 3: Pre-retirement CPI inflation formula

- For calculations with an effective date in year 20YY
- For a consumer with term to retirement of x years where $0 < a \le x < b$ (with a and b the integer values either side of x)

The RPI – CPI gap for pre-retirement inflation (deferred revaluation):

If 20YY + a ≤2030: = 1%

Else=([1% × (2030−20YY)]+0.5%)/α

The (unrounded) RPI – CPI gap for pre-retirement inflation should be applied to the relevant unrounded RPI rate. The final CPI assumption should then be rounded to the nearest 0.05% at the end.

Source: Deloitte

4.21 The proposed formula for calculating the post-retirement CPI differential is set out in Figure 4.

Figure 4: Post-retirement CPI inflation formula

- For calculations with an effective date in year 20YY
- For a consumer with term to retirement of x years where $a \le x < b$ (with a and b the integer values either side of x)
- For a consumer retiring at an age with associated DMT = d

RPI – CPI gap for post-retirement inflation (pension increases):

If 20YY + a > 2030: 0%

Else=([1% × (2030−20YY −α)]+0.5%)/d

The (unrounded) RPI – CPI gap for pre-retirement inflation should be applied to the relevant unrounded RPI rate. The final CPI assumption should then be rounded to the nearest 0.05% at the end.

Source: Deloitte

Q15: Do you agree with our proposal to introduce a formula-based approach to calculating the future differential between the retail price index and the consumer price index? If not, which alternative approach would you propose?

Earnings inflation

Current approach

4.22 In some deferred DB schemes, the Guaranteed Minimum Pension (GMP) element (see Chapter 6) may increase annually in line with Section 148 Orders (previously known as Section 21 Orders). Section 148 Orders revalue the GMP broadly in line with National Average Earnings, using in the National Average Earnings Index in the period up to retirement.

4.23 FG17/9 contains no assumption for earnings inflation. In July 2016, the Financial Ombudsman published advice provided by PwC which recommended a rate of RPI plus 2% p.a. for Section 21 Orders. This is the same rate that was set out in the previous SIB guidance. We understand that firms typically use this rate, where an earnings growth rate is required.

4.24 Deloitte's report explains why they consider that an earnings growth rate of RPI+2% is too high in the current environment. Their analysis considers how future salary assumptions are set for corporate accounting purpose. It also considers projections from the Office for Budget Responsibility. Their analysis also shows historic comparisons between Section 148 Orders and both RPI and CPI. Deloitte acknowledge the subjectivity of setting an earnings growth assumption. Most privately funded schemes use fixed rate increases for revaluation in deferment. They consider a rate of CPI + 1.0% is reasonable.

Proposal

4.25 We propose to adopt CPI+1.0% p.a for future earnings growth. This includes pension opt-out/non-joiner cases as well as transfer cases.

> **Q16:** **Do you agree with our proposal to introduce an earnings inflation assumption? If so, do you agree it should be set at +1.0% above the consumer price index? If not, what alternative approach would you propose?**

Pre-retirement pension increases (revaluation)

4.26 FG17/9 defines revaluation as 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. It states firms should use the same approach to caps and floors in revaluation as for increases to pensions in payment. Currently, when estimating inflation-linked benefits, firms should take the RPI spot rate for the term to retirement RPI and adjust for CPI as appropriate. This means that where the consumer's DB scheme rules specify caps or floors, firms should use the relevant cap or floor if the inflation assumption is higher or lower than the cap or floor respectively.

4.27 Deloitte have observed that revaluation increases in deferment are usually based on inflation capped over the whole revaluation period. Caps and floors may well apply over the whole period so these should be allowed for accordingly. Annual caps and collars do not apply, except where a DB scheme would have provided for revaluation based on an annual cap. Similarly, an individual year of negative inflation in the period does not need to be adjusted for.

4.28 Therefore, we propose that firms should use the following approach for pre-retirement pension increases:

- Firms should use fixed rates of revaluation when the scheme rules specify fixed rates.
- Firms should use CPI + 1% for Section 148 orders, as set out in paragraph 4.24.
- Firms should use the relevant RPI or CPI assumptions in line with the consumer's DB scheme benefits, as set out above. This may mean that caps and floors are allowed for where they apply over the whole revaluation period

Q17: **Do you agree with our proposed approach to pre-retirement pension increases? If not, what alternative approach would you propose?**

Post-retirement pension increases in payment

The assumption for pension increases in payment represents the rate at which the income from the consumer's DB scheme would have increased each year once it started to be paid. The scheme rules may have applied a minimum increase (a 'floor') or a maximum increase (a 'cap') each year.

This issue is considered in Section 5C of Deloitte's Technical Report.

4.29 We consider the 'UK instantaneous implied inflation forward curve (gilts)' remains a reasonable basis for deciding the future RPI rate to determine the rate at which the income from the consumer's DB scheme would have increased each year once it started to be paid. The published rates are generally published for terms from 2.5 years to 40 years.

4.30 FG17/9 set out where fixed pension increases would have been granted under the customer's DB pension scheme, those fixed pension increase rates should be used. Otherwise, the pension increases in payment are based on the scheme's relevant pension increase rate, together with either the RPI or CPI inflation assumption. It set out that where there was a cap, the cap should be used when the relevant assumption was higher than the cap, or the relevant inflation assumption should be used where it is lower than the cap. Where there was a floor, the floor should be used where the relevant inflation assumption is lower than the floor, or the inflation assumption should be used, where it is higher than the floor.

4.31 Deloitte recommend that pension increases should be based on either fixed increases, or the relevant inflation index, as appropriate, based to the rules of the scheme. However, they have recommended that a different approach should be used where the scheme rules impose a cap and/or a floor.

Black-Scholes model

4.32 The current approach to deriving inflation assumptions takes no account of inflation's potential volatility. Deloitte consider that there should be an allowance for volatility when setting assumptions about pension increases in payment. This would be consistent with annuity providers' approach when pricing inflation linked pension increases.

4.33 The Black-Scholes model is widely used for modelling volatility. For redress purposes, Deloitte consider that firms could determine a volatility-adjusted pension increase rate based on a version of the model which uses standard spreadsheet operations. The model requires an assumption of volatility to determine the resulting pension increase rate. Deloitte explain that for a given level of volatility, how much the rates differ from the current approach will depend on the level of inflation and the exact nature of the pension increases.

4.34 Market participants commonly use volatility rates from 1% to 2.5%. Deloitte have noted they consider a rate of 1% provides a balance of increased accuracy and inter-generational fairness, compared to the current guidance. Deloitte has proposed that the final pension increase assumption should be rounded to the nearest 0.05%.

4.35 We propose to proceed on the basis proposed by Deloitte. We recognise that the introduction of the Black-Scholes model represents a material change. But we also note Deloitte's view that it improves the accuracy of the assumption.

> **Q18:** **Do you agree with our approach to pension increases in payment, including the use of the Black-Scholes model? If not, what alternative approach would you propose?**

Pre-retirement discount rate

> The pre-retirement discount rate is used to discount the value of the DB scheme benefits at a retirement date in the future back to the valuation date. This means that, after receiving redress and investing it in their DC pension, it is the rate of return, which is required, between the valuation date and their retirement date, to enable the consumer to buy an annuity to obtain the same value of income as they would have received from their DB pension.
>
> This issue is considered in Section 5A of Deloitte's Technical Report.

Current approach

4.36 If consumers achieve a higher rate of return than the pre-retirement discount rate, they will be overcompensated. If a lower rate of return is achieved, consumers will be unable to purchase an annuity of the same value. Consequently, the pre-retirement discount rate needs to be a reasonable and achievable rate of return for these consumers.

4.37 If the pre-retirement discount rate is too high, it may require consumers to take too much risk with their investments. This will increase the volatility of returns and expose them to downside risks. Conversely, if it is too low it would not recognise the ability for consumers in a DC environment to make returns on their investments. We recognise that, if consumers had received compliant advice, and decided to remain in their DB scheme, they would not be exposed to investment risk. However, DB schemes are

not entirely risk free for members as they can be affected by their sponsors' financial difficulties. For example, financial difficulties experienced by Tata Steel led to the restructuring of the BSPS.

4.38 In FG17/9, the pre-retirement discount rate is derived as one half of the expected return on equities over the period to retirement. When we consulted on FG17/9 in GC17/1, we said the pre-retirement discount rate needed to reflect the importance of finding an appropriate balance between the protection of DB schemes and the investment opportunities in a DC environment. This implied a pre-retirement discount rate that represented a "cautious (but not zero risk) investment strategy".

4.39 Deloitte notes that, like other methodologies, the approach has its limitations. One limitation is an assumption that historical dividends will be sustainable into the future. The methodology also has the potential to generate return assumptions which may prove to be relatively volatile over the short term. However, the approach is straightforward, commonplace and predominantly relies on market observable data.

4.40 An alternative approach would be to base the pre-retirement discount rate on the discount rate used by the consumer's DB scheme for funding purposes. However, this will vary from scheme to scheme and over time. It will also reflect the underlying asset mix within that scheme and the maturity of the scheme liabilities which may not be aligned with those of each consumer. The rate may also not be readily available and would give rise to inconsistent outcomes. We do not, therefore, intend to take this approach.

Proposal

Setting the rate of return

4.41 In recommending an appropriate pre-retirement discount rate, we asked Deloitte to consider that consumers who transferred out of their DB scheme because of non-compliant advice are likely to have a relatively cautious attitude to risk, but can make returns on their investments. This is the same approach as we took when we last reviewed the methodology.

4.42 Deloitte's Technical Report sets out the process they used to construct and consider an appropriate pre-retirement discount rate. This was done by setting the pre-retirement discount rate using a lower risk investment strategy than adopted under a 'typical' or 'average' DC arrangement. In summary:

- To determine an 'average' DC investment strategy, Deloitte looked at the average investment strategies of workplace DC pension schemes. They did not consider it was feasible to determine the equivalent strategy for non-workplace DC schemes due to, among other things, an absence of relevant data.
- Having identified an average workplace DC investment strategy, Deloitte converted the underlying asset classes in the portfolio to an equivalent equity return assumption. This found that an average investment strategy could be expected to provide a return equal to that of 86% of the return on equities. This is compared against the 50% of the return on equities which is currently used for the pre-retirement discount rate in the methodology.
- Deloitte then made an adjustment to the returns of the average portfolio to reflect the additional risk that consumers are now exposed to in a DC scheme, compared to their previous DB scheme. They determined a 'lower risk' investment strategy by estimating the probability that the return of the average strategy will match or exceed the median return under a series of lower risk strategies, expressed in terms

of the percentage of equity. As set out in Table 4, Deloitte found that the average strategy has a 59% probability of matching or exceeding the median return of a portfolio consistent with a 50% return on equities. This can be considered a 'margin for prudence' of approximately 9%.

Table 4: Analysis of 'average' market investment strategies

Equivalent equity return percentage	Probability of the 'Average Investment Strategy' at least matching the median return of the 'Lower Risk' strategy
86% ◄ 'Average Investment Strategy'	50%
FTSE Private Investor Balanced Index ► 70%	52%
60%	55%
50% ◄ Current pre-retirement discount rate	59% ◄ Represents a 9% 'margin for prudence'
40%	67%
30%	70%

Source: Deloitte

4.43 We consider that this is a reasonable level of prudence and so propose to retain the existing pre-retirement discount rate assumption consistent with a 50% return on equity. Nonetheless, we recognise that the level of prudence that should be included is a subjective assessment, and we welcome stakeholders' views on this point.

> **Q19: Do you agree that we should continue to retain the existing pre-retirement discount rate assumption consistent with a 50% return on equity? If not, what alternative approach would you propose?**

Calculating the pre-retirement discount rate

4.44 The proposed formula for calculating the pre-retirement discount rate is set out at Figure 5.

Figure 5: Pre-retirement discount rate formula

The pre-retirement discount rate is derived as one half of the expected return on equities. The expected return on equity for the period to retirement is:

(1 + CPI spot inflation rate) x (1+ average dividend yield) x (1 + growth in dividends) – 1

The period to retirement should be taken as the number of integer years remaining to assumed retirement age.

Where:
- CPI spot inflation is derived in line with the (unrounded) approach for setting the CPI assumption.
- Average dividend yield = The arithmetic average of the dividend yield on the FTSE All Share Index of the last business day over the last twelve month ends.
- Growth in dividends = Fixed 1% p.a.

The final assumptions should then be rounded to the nearest 0.05%

Source: Deloitte

4.45 The proposed formula is essentially the same as used in the current methodology. However, we agree with Deloitte that the way the elements are calculated should be changed in the following ways:

- Using a rolling average of the dividend yield at the end of the previous 12 months (in line with our proposal in Chapter 4 to move to monthly assumption updates) rather than the dividend yield at the previous quarter end. We agree with Deloitte that this would provide a more sustainable dividend yield and reduce the volatility in both the dividend yield and resulting equity return assumption.
- Continuing to use a constant real GDP growth assumption, but to increase the assumption to 1.0% p.a. This represents the lower end of what Deloitte consider as the typical range of historical average of real GDP growth.
- Changing the inflation assumption used in deriving the return on equities to reflect expectations of CPI inflation rather than RPI inflation. This is because the inflation assumption is used to effectively convert real GDP growth into nominal GDP growth or dividend growth. However, real GDP is quoted relative to CPI rather than RPI.

Q20: Do you agree with the proposed formula for calculating the pre-retirement discount rate? If not, what alternative approach would you propose?

Q21: Do you agree with the proposed changes to the dividend yield, GDP growth and inflation elements used in the pre-retirement discount rate formula? If not, what alternative approach would you propose?

Adjustment for 'lifestyling'

4.46 'Lifestyling' is a term used to describe a change in investment strategy (to reduce risk) as a consumer approaches retirement. Lifestyling is commonly used for investment strategies that target annuity purchase at retirement, which is what the methodology

assumes. So, there is an argument that the pre-retirement discount rate should be adjusted downwards to reflect an assumed shift into lower risk investments (and lower returns) as the consumer gets closer to retirement.

4.47 There is no allowance for lifestyling in the current methodology. When we last reviewed it, we proposed introducing an adjustment to the pre-retirement discount rate to account for lifestyling. However, following consultation, we decided not to take this forward on the basis that it would unnecessarily complicate the calculation. We also noted that a lifestyling element might not appropriately reflect changing consumer behaviour under the pension freedoms.

4.48 We note Deloitte's finding that there is no single 'default' lifestyling approach and so an element of subjectivity would need to be introduced to structure an appropriate approach to the investment mix or level of investment return and when lifestyling should begin in the run up to retirement.

4.49 Introducing this level of complexity into the redress methodology, including communicating it to consumers, needs to be balanced against the wider objectives of the methodology set out in Chapter 1. There is also a risk that allowing for lifestyling in the pre-retirement discount rate could overstate the level of risk reduction which consumers take and thus overcompensate them. On balance, we consider that a single pre-retirement discount rate set at an appropriate level for consumers with a relatively cautious attitude to investment risk and with no explicit allowance for lifestyling remains the right approach.

4.50 Overall, given the additional complexity it would introduce to the calculation, without necessarily increasing the accuracy or robustness of the calculation, we do not propose to introduce lifestyling to the methodology.

Q22: Do you agree with our proposal not to make an allowance for lifestyling within the pre-retirement discount rate? If not, how do you think we should allow for lifestyling?

Situations where returns envisaged by the pre-retirement discount rate cannot be achieved

4.51 We note that, in theory, there may be cases where the current methodology's use of a single pre-retirement discount rate may not be appropriate. An example of this is where the consumer's existing DC arrangement cannot achieve the level of returns the discount rate envisages, and the consumer is unable to change their portfolio because they have invested in speculative, illiquid and non-standard investments.

4.52 We and Deloitte have considered this scenario and we think that cases where a consumer is likely to be disadvantaged by the application of a single pre-retirement discount rate will be very rare for the following reasons:

- Such cases are likely to be uncommon, as most consumers who have transferred have standard investment strategies, typically consisting of a mixture of equities and corporate and government bonds and other mainstream investments.
- Where such cases do exist, the application of any pre-retirement discount rate will not materially impact the redress payment required to restore the consumer to the position they would have been if they had remained in their DB scheme. This is because the consumer's investments are unlikely to ever provide a material return because the value of their investments is likely to be very low or zero.

4.53 We also note that where our proposals do not address the particular and individual circumstances of a consumer's case, firms should still seek address those circumstances in a way which is consistent with our rules and guidance, and the particular circumstances of the case. This includes offering redress which, as far as possible, puts the consumer in the position they would have been in if they had received compliant DB pension transfer advice. If firms do consider that the application of a single pre-retirement discount prejudices a consumer, in the particular circumstances of their case, then the firm should take that into account while at all times treating consumers fairly and consistently .

Q23: Do you agree with our assessment that we do not need to specify an alternative pre-retirement discount rate for use where the consumer's investments are unlikely to achieve the proposed rate? If not, what alternative approach would you propose?

Post-retirement discount rate

The post-retirement discount rate assumption is used to calculate a capitalised value of the future DB pension benefits that the consumer and their dependants would have received at the date of retirement if they had got compliant advice and remained in their DB scheme. In effect, the capitalised value is the amount required to buy an annuity that matches the pension that would have been paid by the DB pension scheme.

This means that the approach to the post-retirement discount rate, together with the mortality assumptions (see Chapter 5), is used to try to replicate annuity pricing (which may still be in the future).

This issue is considered in Section 5B of Deloitte's Technical Report.

Current approach

4.54 Currently, the initial post-retirement discount rate is calculated using the Bank of England nominal government bond (gilt) yield curve. The rate depends on the amount of time until the individual consumer retires and the weighted average term over which their DB pension would have been expected to be paid, also known as the discounted mean term (DMT).

4.55 The existing methodology works by calculating an interest rate implied by the yield curve that will apply at the point the consumer retires (which may be in the future), over a term equal to the DMT (which depends on their retirement age). The interest rate is then adjusted to allow for the margins in annuity pricing, by applying a deduction of 0.6%.

4.56 Deloitte considered alternative yield curves such as the Sterling Overnight Index Average. They also considered the approaches used to derive post retirement discount rates for statutory money purchase illustrations and transfer value comparators. They identified shortcomings in these approaches and concluded that the Bank of England gilt curve remains appropriate.

4.57 Deloitte noted that the choice of adjustment for annuity pricing margins is subjective. However, Deloitte's analysis of annuity quotations available in the market compared with annuity factors calculated using the assumptions proposed in this CP suggests that a 0.6% deduction remains appropriate.

4.58 Deloitte also reviewed the approach to valuing each future pension payment. Under FG17/9, firms use a simplified approach based on the weighted average term of the future pension payments. These average DMTs vary by retirement age. Deloitte considered that using DMTs simplifies the calculations considerably. They also considered whether the current DMTs remain appropriate, given how sensitive the present value of future pension payments is to changes in, and between, interest and inflation rates. Their analysis indicated that there was not sufficient justification to move away from the current set of DMTs.

Proposal

4.59 We agree that the Bank of England gilt curve provides an appropriate way to derive gilt yields at the date that each consumer would have retired. So, we propose to retain the current approach to obtaining a yield for the post-retirement discount rate.

> **Q24:** **Do you agree with our proposal to continue calculating the post-retirement discount rate by using the Bank of England gilt curve to derive gilt yields at the consumer's retirement date? If not, what alternative approach would you propose?**

4.60 We also agree with Deloitte that it remains appropriate to continue to apply a 0.6% p.a. deduction to the initial post-retirement discount rate to allow for the margins built into annuity pricing.

> **Q25:** **Do you agree with our proposal to apply a 0.6% deduction to the post-retirement discount rate to allow for the margins built into annuity pricing? If not, what alternative approach would you propose?**

4.61 Where a consumer has already retired (see Chapter 6), their term to retirement for annuitisation purposes will be zero and the post-retirement discount rate will be based only on the consumer's DMT at the valuation date. We also propose to retain the current set of DMTs for future calculations. Where a consumer is in between the ages of the DMTs, the DMT should be based on linear interpolation and rounded to the nearest integer.

> **Q26:** **Do you agree that where a consumer has already retired, the consumer's term to retirement for annuitisation purposes will be zero and the post-retirement discount rate will be based only on the consumer's discounted mean term at the valuation date? If not, what alternative approach would you propose?**

Pension commencement lump sum

The purpose of the pension commencement lump sum (PCLS) assumption is to ensure the consumer's DB benefits are valued in a way that reflects the fact that most DB scheme members take a lump sum from their pension when they retire. This is done by adjusting the post-retirement discount rate.

This issue is considered in Section 6 of Deloitte's Technical Report.

Current approach

4.62 The Pensions Review did not make any allowance for consumers to exchange part of their pension for a tax-free cash sum when they start accessing their pension benefits. However, most DB scheme members take a tax-free PCLS that is close to the maximum entitlement. As a result, in FG17/9, we made an allowance for this in the redress methodology.

4.63 Where the firm determines that the consumer would not have retired in their DB scheme at or before the valuation date (ie a prospective loss case under current terminology), firms should currently assume that they would take the maximum PCLS when they retire. This is allowed for by adjusting the post-retirement discount rate. An addition of 1.60% p.a. is added to 25% of the initial post-retirement discount rate on the assumption that consumers would have commuted this part of their DB pension for cash. The adjusted post-retirement discount rate has the effect of reducing the value of the consumer's DB benefits. This reflects the lower actuarial value of pension funds taken as cash rather than as pension income.

4.64 Where the firm determines that the consumer would have already retired in their DB scheme at or before the valuation date (ie an actual loss case under current terminology), firms may modify the post-retirement discount rate to reflect actual pension commencement lump sum percentages or where the pension commencement lump sum was additional to pension income in the original scheme.

Proposal

4.65 Deloitte's view is that the current approach for non-retired consumers (see paragraph 4.63) remains practical and appropriate. However, they note that consumers rarely ever take precisely 25% of their pension from a DB scheme. Instead, they will typically either take the HMRC maximum of the underlying value or a fixed defined monetary amount (where they have a purpose for it). However, as this cannot be reasonably predicted in advance, we propose to keep the 1.6% addition to 25% of the initial post-retirement discount rate.

4.66 Deloitte considers that for retired consumers (see paragraph 4.64) there are broadly two options. These are to use either the HMRC maximum or the amount of PCLS the consumer has taken from the DC pension. Deloitte note that, typically, the greater the amount of PCLS it is assumed the consumer would have taken from the DB pension, the lower the redress.

4.67 We agree with Deloitte that it would not be appropriate to base the assumed amount of PCLS taken from the DB scheme on the amount taken from the DC pension. This is because, other than for buying an annuity, where consumers access their benefits in a DC scheme, they will typically take the maximum amount of PCLS as this is the most tax efficient approach to withdraw funds. The amount of tax-free cash available from a DC pension is also typically higher than that available from the DB scheme.

4.68 So, we propose that, other than in the circumstances set out in paragraph 4.70, firms should assume consumers would have taken the HMRC maximum if they had remained in their DB scheme, using the DB scheme PCLS commutation factors in force at the date of retirement. The formula for calculating the amount of PCLS assumed to be taken from the DB scheme on this basis is set out in Figure 6.

4.69 Sometimes, it is not possible to obtain the PCLS commutation factor at the consumer's retirement age from the consumer's DB scheme. We agree with Deloitte that a default PCLS factor of 20 for retired consumers, which is generally lower than the PCLS factor implied by the approach for non-retired consumers, is a reasonable assumption. This is informed by analysis by the Institute and Faculty of Actuaries (IFoA).

Figure 6: Formula for calculating the amount of pension commencement lump sum assumed to be taken from the DB scheme

$$PCLS = (P \times 20 \times F)/(20 + (3 \times F))$$

Where:

P = Pension at assumed retirement age

F = DB scheme PCLS Factor

Source: Deloitte

4.70 We also agree with Deloitte that there are certain circumstances where a different approach should be taken. In particular, where:

- A consumer purchased an annuity in the DC scheme and took a lower PCLS amount, the allowance for PCLS in the calculation should be modified to reflect the actual PCLS amount taken.
- The PCLS was an additional benefit to the pension income in the DB scheme, no allowance should be made, and
- The consumer had an additional voluntary contribution (AVC) fund or DC section within the DB scheme, and the DB scheme rules allowed the PCLS to be taken from those sources before commuting the DB pension. In these cases, the amount of PCLS should be modified to reflect the amount the consumer would have taken from the DB scheme (assuming they would have taken the entire HMRC maximum).

Q27: Do you agree with our approach for allowing for the pension commencement lump sum? If not, what alternative approach would you propose?

5 Demographic assumptions used in redress calculations

Introduction

5.1 In this chapter, we set out the proposed demographic assumptions that firms should use when calculating redress. These cover information about the consumer for whom redress is being calculated, specifically their life expectancy, their marital or civil partnership status, and, where relevant, their spouse's age difference. Unlike the economic assumptions in Chapter 4, the demographic assumptions depend on data that changes much less frequently. Therefore, these assumptions are not subject to the same update cycle as the economic assumptions.

Mortality

Post-retirement mortality assumptions are used to determine an annuity rate. The annuity rate is used to place a value on the funds a consumer would require to replicate the benefits given up, at the point they would have started taking a regular income from their DB scheme. Pre-retirement mortality assumptions are used to make an allowance for the death before retirement benefits provided by the DB scheme.

This issue is considered in Section 5D of Deloitte's Technical Report.

Post-retirement mortality assumptions

Current approach

5.2 FG17/9 sets out that mortality should be calculated using 100% of the PxA08 tables, published by the IFoA's Continuous Mortality Investigation (CMI), assuming male and female mortality in equal parts. 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 starting 1 April 20YY.

5.3 We consider that it remains appropriate to redress consumers based on the estimated cost of annuitizing the benefits given up in their DB scheme. Consequently, we want to use mortality assumptions which are likely to provide a good proxy for annuity pricing across the industry. We consider the CMI an authoritative, independent source of mortality data.

Proposal

5.4 We propose to update the base mortality tables to the more recent PxA16 tables. In June 2022, we consulted in CP22/10 on the same change to the mortality rates used in the Conduct of Business Sourcebook (COBS) when providing pension projections or a transfer value comparator. We cited Handbook rules requiring firms to use the most up-to-date tables available when giving consumers information about annuity income, so our proposal is consistent with what we expect firms to do elsewhere. We also proposal to retain the CMI Projections Model for future improvements in mortality.

5.5 Each year, the CMI publish a spreadsheet which combines male and female mortality and updates the mortality improvement factors. The spreadsheet is freely available on the IFoA website. The CMI have confirmed to us that they will be able to publish a combined table based on the '16' series tables and the relevant improvement factors at the end of 2022.

> **Q28: Do you agree with our proposal to update the post retirement mortality basis with the PxA16 mortality tables? If not, what alternative basis would you suggest?**

Pre-retirement mortality assumptions

Current approach

5.6 FG17/9 did not explicitly refer to pre-retirement mortality. Documents from preceding regulators indicated that prospective loss calculations should allow for the possibility of death before retirement benefits using the same mortality basis as for post-retirement. We understand most software providers continue to do so.

5.7 We agree with Deloitte that firms should include the death before retirement benefits provided by the ceding DB scheme where the consumer is not yet deemed to have retired from their DB scheme. Firms should allow for any lump sums on death before retirement as well as any spouse's pension.

5.8 Many DB schemes also pay dependants' pensions on death before retirement, eg to child dependants, including those who continue in education beyond school.

Proposal

5.9 We propose that firms should allow for pre-retirement mortality. This means firms should allow for the probability of the consumer reaching normal retirement age and taking retirement benefits. It also means firms should account for the probability of the consumer dying before reaching normal retirement age and their dependants or nominees receiving death benefits. The value placed on benefits should allow for both options explicitly.

5.10 We propose that firms use the same mortality tables and improvement factors as for post-retirement mortality.

> **Q29: Do you agree with our proposal that firms should allow for pre-retirement mortality? If not, what alternative approach would you suggest?**

Valuing benefits for a spouse/civil partner

Proportion married or in a civil partnership at retirement

Most DB schemes offer benefits to a member's spouse or civil partner on death after retirement. This means that when firms value the DB scheme retirement benefits, they need to consider the consumer's marital or civil partnership status at the valuation date.

This issue is considered in Section 5D of Deloitte's Technical Report.

Current approach

5.11 Under FG17/9, firms use an assumption that 85% of consumers will be married or in a civil partnership by the time they retire. Where the firm has determined that the consumer would, at or before the valuation date, likely have retired in their DB scheme, the firm should use the actual marital or civil partnership status at the valuation date. In line with Deloitte's recommendation, we propose to continue with this approach where the consumer has already retired.

5.12 For other cases (ie where the firm has determined the consumer would likely not have retired in their DB scheme at or before to the valuation date), Deloitte have suggested two possible approaches. These are that:

- Firms should continue to use a single assumption, although it would need to be lower than the current assumption, based on the latest Office for National Statistics (ONS) data, or
- Alternatively, we could use a probability table based on a consumer's actual marital or civil partnership status at the valuation date and their term to retirement. This allows for the probability of a change in status between the valuation date and retirement. The table is provided at Table 5.

Table 5: Probability of being married or in a civil partnership at retirement based on term to retirement and current status

Term to retirement (years)	Married or in a civil partnership (%)	Not married or in a civil partnership (%)
0	100	0
5	95	10
10	90	20
15	85	30
20	80	40
25	75	45
30	70	50
35	70	55
40	70	55

Rates should be interpolated for other terms and rounded to the nearest 1%. No adjustment should be applied for mortality of the spouse/dependent before application.

Source: Deloitte

Proposal

5.13 We propose using a probability table, as it better reflects consumers' individual circumstances.

5.14 Our proposed approach also reduces the potential 'cliff edge' for consumers who are near retirement. For example, a consumer who is currently single and has less than a year until they retire would have redress calculated based on an 85% (based on the current rate in FG17/9) chance of them being married or in a civil partnership at the point they retire, when the actual probability is close to 0%. Similarly, someone who is currently married or in a civil partnership with the same term to retirement has a probability of still being married or in a civil partnership at retirement of close to 100% but would have redress calculated on an 85% basis.

Q30: Do you agree that we should move from a single assumption based on a constant probability of a consumer being married or in a civil partnership to a probability table based on term to retirement and current marital or civil partnership status? If not, what alternative approach would you propose?

Spouse or civil partner's age difference

If the consumer is married or in a civil partnership at retirement, the age difference assumption is used to calculate the value of the spouse or civil partner's pension after the consumer's death.

This issue is considered in Section 5D of Deloitte's Technical Report

5.15 Currently, firms should use the actual age of the consumer's spouse or civil partner, if known. Otherwise, they should assume the consumer's spouse/civil partner is the same age as the consumer. We consider this approach remains appropriate.

Q31: Do you agree that the approach to the spouse's age difference assumption remains appropriate? If not, what alternative approach would you propose?

6 Other assumptions used in redress calculations

Introduction

6.1 In this chapter, we set out the other assumptions that firms should use when calculating redress. These cover key issues, including:

- the consumer's retirement age
- how to allow for adviser and product charges
- matters relating to the benefit structure of the consumer's DB scheme (eg early retirement factors)
- adjusting for the State Earnings Related Pension Scheme (SERPS), and
- adjusting for Guaranteed Minimum Pension (GMP) equalisation

6.2 These assumptions depend on data that changes much less often than those underpinning the economic assumptions. As with the demographic assumptions, these assumptions are not subject to the same update cycle as the economic assumptions.

Consumer's retirement age

Calculating appropriate redress depends on firms making appropriate assumptions about the age at which retirement benefits from the DB scheme would have been accessed if the consumer had received compliant advice and remained in that scheme.

This issue is considered in Section 6 of Deloitte's Technical Report.

Current approach

6.3 Because the consumer has left their DB scheme, valuing the DB benefits means firms must make an assumption about the date at which the consumer would likely have accessed retirement benefits if they had remained a member. In this CP, we use 'would likely have retired (in their DB scheme)' or 'assumed retirement age (in their DB scheme)' as shorthand for this counterfactual.

6.4 Firms need to make this assumption because, broadly speaking, where a consumer is assumed to access benefits before the DB scheme's normal retirement age (NRA), the longer the benefits will be payable. In the DB scheme, the benefits would be actuarially reduced to reflect the longer payment period. These actuarial reductions are commonly known as early retirement factors (see paragraph 6.20).

6.5 The current methodology uses the consumer's death or their retirement (including early retirement) as the events that firms should use to determine when the consumer would likely have retired in their DB scheme.

6.6 Currently, calculations where it is assumed the consumer would likely have retired if they had remained in their DB scheme (including where the consumer has died), are termed 'actual loss' calculations. All other calculations (ie when neither of these events has taken place) are termed 'prospective loss'. These terms are defined in the SIB and PIA provisions. Firms are expected to calculate redress on either an actual or prospective loss basis, but not both.

6.7 The current methodology does not set out how firms should determine when a consumer would have retired in their DB scheme. Before the pension freedoms it may have been reasonable for firms to equate a consumer accessing their DC pension benefits with them retiring in their DB scheme at the same age. This is because most consumers would only have accessed their DC pension to buy an annuity. However, the pension freedoms have given consumers greater flexibility in how they access their DC pension and means it may not always be appropriate to automatically presume that a consumer who has accessed their DC pension would have done the same if they had remained in their DB scheme.

6.8 The risk of firms wrongly assuming when the consumer would likely have retired in their DB scheme is already mitigated by the SIB and PIA provisions and the DISP rules. Under these provisions, firms are expected to give the consumer full explanations of how redress was calculated. This should give the consumer an opportunity to query or challenge any assumptions made. Even so, we propose new rules and guidance to further reduce this risk and to reduce reliance on consumers and their representatives to spot and challenge such assumptions.

Proposed approach

6.9 Our proposal keeps the underlying rationale for the actual and prospective loss distinction. However, it is more focused than the current approach on ensuring firms take proper account of consumers' individual circumstances. We intend to do this by introducing a 'rebuttable presumption' in our rules. This would require firms to presume that the consumer would have retired in their DB scheme at the scheme's NRA. This is the earliest date on which they would have been entitled to retire without both employer consent and actuarial reduction.

6.10 Firms would only be able to rebut the presumption if they have evidence which demonstrates that it is more likely than not that the consumer would have retired at an alternative date in their DB scheme. We propose that firms seeking to rebut the presumption should consider a range of factors, particularly those set out in Table 4, below. Firms should also consider these factors in the round, rather than in isolation. For example, a consumer starting to make withdrawals from their DC pension around the same time as they changed their working pattern is likely to provide greater evidence that the consumer would have taken retirement benefits from their DB scheme than them making withdrawals alone. This is because it could indicate that they are using their DC pension to replace income from work.

6.11 Other than where the consumer has died, or the consumer testifies in writing that they have retired, there is one factor which we consider would always justify a departure from the presumption. This is where the consumer has chosen to buy an annuity

from their DC arrangement at an age below the retirement date in the rebuttable presumption. We consider that, in those circumstances, it would be reasonable for the firm to assume that the consumer would likely have retired from their DB scheme on the same date as the annuity started.

6.12 We do not think there are other instances of a consumer accessing their DC pension that should be used as definitive evidence that they would always have retired in their DB scheme. We think that the number of possible permutations of consumer behaviour resulting from the pension freedoms makes this very difficult. Therefore, these matters are presented in our proposed rules as factors for the firm to take into account. Further, oversimplifying these complex matters (for example, setting thresholds based on a specific number or value of withdrawals from the DC pension) has a significant risk of unintended consequences. On balance, we consider it preferable to rely on firms making a judgement based on consideration of the main factors that could suggest a consumer would have retired in their DB scheme.

6.13 To help ensure firms make appropriate judgements, we also intend to introduce a specific requirement that firms not applying the presumption explain to the consumer in a clear, fair and not misleading way why they consider this appropriate. We explain this proposal in Chapter 7.

Factors for consideration by firms

6.14 Table 6 sets out the key factors we propose firms should take account of when determining when a consumer would have retired in their DB scheme. We recognise that firms may need to request certain information from the consumer to consider these factors. Any requests to the consumer for information should be reasonable. We set out in Chapter 3 what a reasonable request for information means.

Table 6: Key factors for firms to consider when determining when a consumer would have retired in their DB scheme

Factor	Issues to consider
Pattern of withdrawals from the consumer's DC pension	• A pattern of regular drawdown from the DC pension could demonstrate pension funds being used to replace income from work and, therefore, that the consumer would have taken benefits from their DB scheme. Clearly, the more established the pattern of drawdown, the more likely it will be that the consumer is using their pension funds for this purpose. • We note that some consumers may decide to withdraw their tax-free pension commencement lump sum (PCLS) in one go. It is possible that some consumers might withdraw their PCLS and use it to replace their income from work. This means that PCLS withdrawal could be a reliable indicator that a consumer would have retired in their DB scheme at the same time as they took their PCLS. However, it is also possible that a consumer might use their PCLS to fund discretionary spending, such as home improvements. This is just one example of why we consider firms should consider a range of factors when determining if a consumer would have retired in their DB scheme.

Factor	Issues to consider
Changes to the consumer's working pattern	• Changes to a consumer's working pattern could be an indicator they would have done the same if they had remained in their DB scheme. This evidence would be strengthened if the change to their working pattern occurred around the same time as they started making withdrawals from their DC pension (see above). • Changes to a consumer's working pattern may take several forms. Most obviously, the consumer may have given up work entirely. However, they might have reduced their working hours or taken a part-time job instead and used their DC pension to supplement their reduced income. As it is possible to continue working while receiving income from a DB pension, changes to working patterns that do not involve the consumer giving up work altogether should not be ruled out as potential evidence of the consumer having retired. • Firms may also want to consider whether a member of the consumer's household has changed their working pattern. This is because this change could mean the consumer has used their DC pension to supplement or replace the household member's income while continuing to work themselves. Again, this could provide evidence that they would have started to access their benefits if they had remained a member of the DB scheme.
Information provided by the consumer at the time of the advice	• The consumer's planned retirement age at the date of advice could be an indicator of when they would have retired in their DB scheme. However, given the consumer has transferred due to unsuitable advice, it may not be appropriate to assume information provided at that stage of the transaction is a reliable guide to their intentions, if there is any risk that it may have been influenced by the advice. On the other hand, if the consumer had formed a considered plan for early retirement from the DB scheme before contacting the firm, it may well be reasonable to assume that they would have gone through with that plan had they not transferred. • Firms should also take the timing of the advice into account. It may be reasonable to assume that the more recent the advice, the more likely that the planned retirement age in the advice process accurately reflects when the consumer would have retired in their DB scheme.

Q32: **Do you agree with our proposal to introduce a 'rebuttable presumption' to ensure that firms make appropriate assumptions about when the consumer would have retired in their DB scheme? If not, what alternative approach would you propose?**

Adviser and product charges

In DB schemes, the costs of running the scheme are paid by the employer. In contrast, consumers in DC schemes pay for product and adviser charges separately. These charges need to be allowed for when calculating redress.

This issue is considered in Section 5E of Deloitte's Technical Report.

Current approach

6.15 Charges can create a significant drag on investment returns over time. Consumers would have not been liable for such charges had they stayed in their DB scheme. Therefore, the current approach expects firms to allow for future charges up until the date of retirement in the calculation. Product charges are subject to a 0.75% cap per year or equivalent. On top of this, known adviser charges are allowed for in full. Where product charges are unknown, firms should allow for product charges at a default rate set at the 0.75% cap level.

6.16 The methodology also sets out that the pre-retirement discount rate should be reduced to allow for percentage-based charges. Where the charges are not known or are structured differently, the calculation should result in a figure which is no greater than if an equivalent percentage-based approach had been applied.

Proposal

6.17 We consider it remains appropriate to compensate consumers for product and adviser charges incurred up to retirement due to non-compliant advice. However, we have reviewed our approach and considered whether it is fair that redress is based on the rate that a consumer is paying at the time a calculation is undertaken. This is because this could limit consumers' future DC investments to similar charging products and advice arrangements and reduce their chances of achieving retirement objectives. We have also considered the duty on consumers to minimise their losses.

6.18 We propose that consumers should be compensated for a 'reasonable level' of product and adviser charges, expressed as a fixed percentage of the DC fund value. This means:

- Regardless of the level of charges consumers are currently paying, the compensation for reasonable product and adviser charges gives them the flexibility to enter a different product and/or advice arrangement. This may give them a better chance of achieving the investment returns needed to put them back, so far as possible, in the position they would have been in if they had received compliant advice and remained in their DB scheme.
- Where the reasonable charge assumptions do not fully cover product and adviser charges, most consumers should be able to switch to a lower charging product or advice firm to avoid being undercompensated. When switching advice firms, consumers would have to pay a new initial advice fee. So, we propose that firms should also compensate the consumer for any initial advice fees on the DC fund value and the redress amount if their ongoing advice arrangement charges are above the reasonable level. However, firms can avoid paying for initial advice by committing to adjusting their charges in line with the reasonable level until the consumer reaches retirement age.
- Where consumers are not currently in an advice arrangement, we propose their redress provides for reasonable initial and ongoing advice fees in the future on the DC value fund and the redress pay out. This may give them a better chance of achieving the investment returns needed to put them back, so far as possible, in the position they would have been in if they had received compliant advice to remain in their DB scheme.
- We propose to continue with the current approach of allowing for product and adviser charges by netting these off from the pre-retirement discount rate (see Figure 7). This method means that the assumed investment growth is adjusted so that the investment grows at the expected rate, even when charges are deducted over time. This will enable consumers to access advice on investing their redress

because the investment growth rate is set to include product and adviser charges. Where consumers are in an advice arrangement, the firm should include any review of their retirement investment strategy as part of the services included in the advice arrangement. However, where consumers are not currently in an advice arrangement or are likely to switch because their ongoing advice charges are above the reasonable level, firms should include the redress amount when calculating any compensation for initial advice going forward.

Figure 7: Netting down the pre-retirement discount rate to allow for charges

- Allowance for charges should be made by 'netting down' the pre-retirement discount rate. This would be undertaken as follows:
- Pre-retirement discount rate (unadjusted for charges): i% p.a.
- Charges: c% p.a.
- Pre-retirement discount rate (adjusted for charges): [(1+i%) * (1-c%)] – 1

Source: Deloitte

6.19 The percentage charges we are proposing aim to reflect rates that most consumers are already paying or should be able to access in the current market:

- Product charges can include charges for the pension wrapper, the investments and assets held within the wrapper, platform charges in relation to the pension as well as any discretionary fund management charges. We consider 0.75% to be a reasonable rate in today's market. This is based on the findings of our pension product charges levels for post 2012 rates published in Feedback Statement (FS) 19/5 on effective competition in non-workplace pensions (July 2019). Our recent DB transfer data reports also suggest that 0.75% was the most common product charges rate.
- For ongoing adviser charges, we consider 0.5% is a reasonable level for our proposed fixed percentage. This is based on our evaluation of the impact of the Retail Distribution Review and the Financial Advice Market Review (December 2020). This showed that adviser charges of 0.5% each year was one of the most common price points. Our file reviews of DB transfer advice also show that, where we have evidence of the ongoing fee, most consumers who were mis-advised to transfer and took ongoing advice were already paying 0.5% or less each year for ongoing advice. Our data also suggests that 0.5% was the most common ongoing advice fee charged.
- The December 2020 evaluation also reported that initial advice charges averaged 2.4% of the investment value. We recognise that different investment sizes attract different levels of fees (see the Financial Advice Market Review baseline report). The report shows that initial advice charges start at a minimum level, and proportionally reduce as the fund value increases, with an illustrative mean average initial charge of £2,808 and median average charge of £720. To reflect this, we propose assuming a 2.4% initial advice charge, but with a minimum charge of £1,000 and a maximum charge of £3,000 if a consumer needs to find a new adviser.

Q33: **Do you agree with our proposal to allow for a reasonable level of product charges of 0.75% and ongoing adviser charges of 0.5%? If not, what alternative approach would you propose?**

Q34: Do you agree that redress should allow for initial advice charges when consumers are not currently in an advice arrangement or where their ongoing advice charges are above the reasonable level? If not, what alternative approach would you propose?

Q35: Do you agree with the proposed initial advice charge of 2.4% if a consumer needs to find a new adviser, with a minimum charge of £1,000 and maximum charge of £3,000? If not, what alternative approach would you propose?

Early and late retirement Factors

Early and late retirement factors are used to actuarially adjust the value of the consumer's DB benefits, if it is assumed they would have retired, respectively, before or after the DB scheme's normal retirement age.

This issue is considered in Section 6 of Deloitte's Technical Report.

6.20 Early and late retirement factors at the date of retirement are key items of data, so every attempt should be made to get them. Where it is not possible to get the relevant information, the firm should adopt a default early retirement factor of 4% p.a. compound and a default late retirement factor of 5% p.a. compound. These factors should be applied to the pension revalued to early/late retirement date.

Q36: Do you agree with the default early and late retirement factors we have proposed? If not, what alternative approach would you propose?

Enhanced transfer values

Firms should include the value of any cash enhancement payment paid directly to the consumer in addition to their cash equivalent transfer value (CETV) in the calculation. It is therefore necessary to have an assumption as to how this cash enhancement has increased since it was paid.

This issue is considered in Section 5G of Deloitte's Technical Report.

6.21 Some consumers received an enhancement to their CETV or a cash payment when they transferred out of their DB scheme, often as part of an incentive exercise. Where enhancements were paid as part of the CETV, they are automatically taken into account in the calculation. This is not the case for cash enhancements. Under FG17/9, firms should roll up the cash enhancement from the date of payment to the valuation date using 50% of the return on the FTSE 100 Total Return Index, net of charges. It should then be added to the value of the consumer's DC pension.

6.22 Deloitte observed that the approach to cash enhancements is consistent with the approach to deriving the pre-retirement discount rate which is based on 50% of equities. They also noted that there had been no fundamental changes which would be relevant to changes in this assumption. Therefore, we propose to retain the current approach.

> **Q37: Do you agree with our approach to cash enhancement payments? If not, what alternative approach would you propose?**

Unavailable asset values

In simple terms, a calculation is based on the difference between a valuation of the benefits given up in the DB scheme and a valuation of the DC pension attributable to the transfer. In certain (limited) circumstances, up-to-date DC values at the valuation date will not be readily available. This could either be because the investments are in illiquid/unquoted assets or because the DC provider is unable to provide them. This assumption is used where an up-to-date DC value is not available.

This issue is considered in Section 5F of Deloitte's Technical Report.

Illiquid or unquoted assets

6.23 Most DC pensions are invested in liquid, market-related assets. Typically, DC investors will hold units in a fund and the value of the assets can be calculated by reference to the underlying fund price. Some stakeholders have told us that where the DC pension contains illiquid or unquoted assets, it is not always possible to get a market valuation of the assets at the valuation date.

6.24 As Deloitte indicate, by definition, there is no liquid market for illiquid assets. So, it is reasonable to assume that the value of illiquid assets may not have changed materially since it was last valued, unless there is clear evidence to the contrary. For example, a clear fall in the property market.

6.25 We propose that where a current valuation is not available at the valuation date, firms should use the most recent historical valuation increased in line with CPI to the valuation date, unless there is clear evidence that the value has moved materially. We are aware, for example, that in some cases illiquid investments may have failed since the most recent historical valuation, if any, was obtained, and the investment appears to have no value as at the valuation date. In those cases, the investment should be treated as having no value.

Q38: Do you agree with our approach to valuing illiquid assets? If not, please suggest an alternative approach and the rationale for your suggestion. Are there any other circumstances when it is difficult to obtain defined contribution fund values?

Liquid assets

6.26 We agree with Deloitte that situations in which it is not possible to get an up-to-date value of DC funds invested in liquid assets should be rare.

6.27 In the unlikely event of this happening, we propose that, if the DC fund is made up of liquid, market related assets and there is a price of the underlying fund(s) available, firms should calculate a notional value of the DC fund at the valuation date. This should be done by looking at the movement of the fund using the underlying fund price (and allowing for known charges).

Q39: Do you agree with our approach to valuing liquid assets where an up-to-date defined contribution fund value is not available? If not, please suggest an alternative approach and the rationale for your suggestion. Are there any other circumstances when it is difficult to get DC valuations?

State Earnings Related Pension Scheme adjustment

Under the SIB and PIA provisions, an adjustment was made to calculations to allow for the impact on the individual's state pension entitlement of transferring/opting out of the original DB scheme. This is known as the State Earnings Related Pension Scheme (SERPS) adjustment.

This issue is considered in Section 7 of Deloitte's Technical Report.

Current approach

6.28 The principle behind the SERPS adjustment was the impact it would have on an individual's Contracted Out Deduction (COD) from the full state pension entitlement. This would result in individuals receiving a different level of state pension after transferring/opting out.

6.29 This is because the revaluation rate applied to a consumer's guaranteed minimum pension (GMP, see below) after a transfer may have differed from that the rate that would have been applied if the consumer had remained in their DB scheme. Most DB schemes apply fixed rate revaluation to GMPs. However, once the consumer has transferred to a DC arrangement, the COD would have been revalued in line with increases which were linked to inflation (this is known as Section 148 revaluation, see Chapter 4). Fixed rate increases in a DB scheme varied by the year the individual ceased being an active member of the scheme. The fixed rate had been as high as 8.5% per annum for exits before April 1988. So, they may often have been higher than the corresponding Section 148 increase.

6.30 The SERPS adjustment in the methodology values the difference in the consumer's state pension entitlement before and after the transfer. This adjustment would typically reduce any redress due.

6.31 Where the original DB scheme offered the same Section 148 revaluation as the DC pension the consumer transferred into, no SERPS adjustment is required.

6.32 In the much rarer scenario of a transfer to a Section 32 policy, redress could potentially increase. A Section 32 policy is bought from an insurance company using funds from a registered pension scheme. Section 32 policies can be used if an occupational scheme is about to wind up, and/or a member has left employment and wishes to transfer to a deferred annuity contract.

6.33 In FG17/9, we say that firms should 'consider if and how the SERPS adjustment should be applied in the particular circumstances of the case to ensure that appropriate redress is offered to the complainant'. Following the changes to the state pension from April 2016 summarised below, we consider we need to provide firms more clarity on the calculation of the SERPS adjustment.

Changes to the state pension

6.34 In April 2016, the state pension changed. The changes meant that the amount of state pension somebody receives is based on their National Insurance record. For people with 'qualifying years' on their National Insurance record before April 2016, the Department of Work and Pensions (DWP) works out a 'starting amount' for their state pension.

6.35 In light of this change, and after discussion with the DWP on its approach to the starting amount, we consider that the approach set out in the Pension Review needs further clarification.

Proposal

6.36 Where an allowance for a SERPS adjustment is to be included in the redress methodology we consider it necessary to clarify that firms should adopt different approaches depending on when a consumer transferred/opted out of their DB scheme. The key date is 6 April 2016, as this is when the changes to the state pension came into effect.

6.37 We therefore propose that:

- For transfers or opt outs after 6 April 2016, no SERPS adjustment is needed. This is because those who reach state pension age (SPA) after this date will receive the new state pension and their state pension entitlement will not change as a result of the transfer or opt out. As set out above, the DWP calculates a starting amount for individuals state pension in 2016 and have confirmed the starting amount will not change if the individual transfers out of a DB scheme. The starting amount will:
  - be the higher of either:
    - the amount and individual would get under the old State Pension rules (which includes the Basic State Pension and the Additional State Pension (SERPS), or
    - the amount an individual would get if the new State Pension had been in place at the start of their working life, and
  - include a deduction if an individual was contracted out of the Additional State Pension (SERPS).

- For transfers or opt outs before 6 April 2016, a SERPS adjustment is needed. This is because, in such cases, an individual's SPA entitlement would be affected by transferring/opting out. Although most transfers will have taken place after 6 April 2016, there may still be some calculations for transfers before the new state pension came into force. We understand from the DWP that, for reasons set out in this section, the starting amount calculated for such cases could differ.

6.38 Where a SERPS adjustment is needed, we consider that it is necessary to get the detailed information on the individual's state pension calculation from the DWP. This is due to the complexities of the calculation of the starting amount and the individual nature of the state pension entitlement. We do not consider it appropriate to apply a general industry standard approach to what is a highly individual assessment.

Q40: Do you agree with our clarification that a State Earnings Related Pension Scheme adjustment to the redress calculation is no longer needed for transfers occurring after 6 April 2016? If not, why not?

Guaranteed Minimum Pension equalisation

Calculations allow for the loss of the GMP where members transfer out of DB schemes that were contracted out of SERPS. Following a High Court ruling in 2018, GMP entitlements need to be equalised between men and women and the methodology may need to account for this.

This issue is considered in Section 5H of Deloitte's Technical Report.

Current approach

6.39 In the past, the law required that GMP entitlements were payable from age 60 to women and from age 65 to men. This meant that women earned GMP at a faster rate than men as their working life was 5 years shorter. Following a High Court ruling, schemes must adjust members' benefits to equalise the effect of unequal GMP entitlements between men and women. This applies to past members as well as current members, including those who have transferred out.

6.40 Most schemes are still working out how to equalise GMP entitlements. Some members will be entitled to an uplift in their benefits due to the equalisation process. Where members have transferred out of a scheme which has a responsibility for paying out these uplifts, members are likely to receive an additional lump sum. Effectively, for transferees, this sum is akin to an additional transfer value in respect of the uplift.

6.41 In theory, once the GMP uplift is known, it would be possible to value the benefits it represents, using the general approach to valuing the benefits in the DB scheme, and compare it with the actual payment made. The outcome would reflect the difference in the scheme's assumptions and those in the methodology (the 'second-order' effect). Deloitte have also identified complexities that will make it challenging for these calculations to be carried out consistently.

6.42 Where the uplift is not yet known, Deloitte have identified two possible methods for undertaking a calculation. However, they have also identified that both approaches have their shortcomings.

6.43 Deloitte expect member's benefits to increase in value by an average of about 1% as a result of the uplift, although some members may see increases of between 20% and 30%. Consequently, Deloitte consider that the 'second-order' effects on redress amounts are likely to be immaterial in the majority of cases.

Proposal

6.44 We are not proposing a specific approach to GMP equalisation. In the draft Handbook text, we have added guidance that firms should consider the impact of GMP equalisation.

6.45 However, we would like to receive feedback on whether there should be a more definitive approach to GMP equalisation for consistency and how it could work in practice. For example, are there any triggers which would help identify cases where GMP equalisation is likely to be material, and what form should the calculation take?

Q41: **Do you agree that we should not propose a specific approach to Guaranteed Minimum Pension (GMP) equalisation? If not, how do you think GMP equalisation should be taken into account when undertaking redress calculations? Please consider materiality and consistency across the industry.**

Past Payments (Past Loss)

Where a consumer would have retired in their DB scheme and has accessed their DC arrangement, past payments need to be rolled up to the valuation date.

This issue is considered in Section 6 of Deloitte's Technical Report.

6.46 We agree with Deloitte that past payments (relating to both the DB scheme and the DC arrangement) should be increased from date of payment to the valuation date in line with Bank of England Base Rate over the period.

Q42: **Do you agree that past payments should be increased from date of payment to the valuation date in line with Bank of England Base Rate over the period? If not, what alternative approach would you propose?**

Pension Protection Fund

Where the consumer's DB scheme has entered the Pension Protection Fund (PPF) or is in the PPF assessment period, the valuation of the consumer's DB benefits may need to be adjusted to reflect this.

This issue is considered in Section 5G of Deloitte's Technical Report.

Current approach

6.47 Some DB schemes will have either entered the PPF or be in their PPF assessment period at the date of the calculation. When a scheme is in the assessment period, benefits are generally administered in line with PPF levels.

6.48 The current approach is that a firm should consider how far they should take into account any adjustments to the benefits that the customer would have been eligible for under their DB scheme, including the scheme entering the PPF.

6.49 However, there may be cases where a DB scheme is in the PPF assessment period, redress is calculated based on a PPF level of benefits, but the DB scheme ultimately 'exits' the PPF Assessment Period and members' benefits are secured at a level higher than PPF level. In this scenario, it may be appropriate for affected consumers to receive a 'top up payment' to account for any shortfall in the redress amount. However, this could introduce uncertainty and prevent firms from settling their liabilities at the earliest opportunity.

Proposal

6.50 Deloitte considers that, where a DB scheme is in the assessment period for the PPF, the DB scheme benefits should be valued in line with the PPF benefits. The exception would be if the firm knows, or ought to have known, that the scheme is shortly going to be secured outside of the PPF (known as an 'scheme buyout') and members receive higher benefits. In these cases, the benefits available under the bought-out scheme should be used. We agree and propose to adopt this approach.

6.51 We note that the benefits available to members of a bought-out scheme may be different to those that would have been available if consumers who received non-compliant advice had gone into the bought-out scheme rather than transferring out. However, we do not consider there is a way that these hypothetical benefits could be constructed for the calculation.

Q43: Do you agree with our proposal that where a DB scheme has entered the Pension Protection Fund (PPF), redress should be calculated on the basis of the PPF benefits unless the firm knows that the scheme is shortly going to be secured outside of the PPF, resulting in members receiving higher benefits? If not, what alternative approach would you propose?

Free standing additional voluntary contribution/added years benchmark index

The free standing additional voluntary contribution (FSAVC)/added years benchmark index assumption provides a rate of return for comparing the performance of the FSAVC with the in-house additional voluntary contribution (AVC) arrangement.

This issue is considered in Section 5G of Deloitte's Technical Report.

Current approach

6.52 Most calculations are for consumers who were given non-compliant advice to either transfer or opt-out of a DB pension scheme. However, some consumers will have instead received non-compliant advice on their FSAVC policy.

6.53 Some firms gave non-compliant advice to consumers to invest in FSAVCs rather than the in-house AVC, resulting in consumers losing out on an employer contribution. Some in-house AVCs enabled consumers to buy added years of pensionable service in their DB scheme. Firms need to redress consumers for any losses incurred as a result.

6.54 This means that firms need to make an assumption on the returns within the in-house AVC. Deloitte considers that the benchmark index used to model fund performance is no longer appropriate. The FSAVC Review Model Guidance states that the CAPS 'Mixed With Property' Fund should be used as a benchmark index. However, data for this fund is not available after 1 January 2005. Deloitte noted that the Financial Ombudsman directs firms to use the CAPS 'Mixed With Property' Fund up to 1 January 2005, and then the FTSE UK Private Investor Growth Total Return Index post 1 January 2005. Deloitte understands that the Financial Ombudsman considers that this index provides the closest match to the CAPS index.

Proposal

6.55 Deloitte considers that the FTSE UK Private Investor Growth Total Return Index is an appropriate replacement for the CAPS 'Mixed With Property' Fund, for returns post-1 January 2005. They note that it is not freely available and may require a subscription. However, given that the Financial Ombudsman has directed firms to use it for FSAVC redress calculations for many years, they consider it remains appropriate. We agree and propose to adopt this.

Q44: **Do you agree with our proposals to adopt the FTSE UK Private Growth Total Return Index for returns post 1 January 2005? If not, please could you indicate what alternative benchmark index should be used.**

7 Paying redress and issuing and explaining calculations to consumers

Introduction

7.1 In this chapter, we set out our proposals for how firms should pay redress and issue and explain calculations to consumers. This includes consideration of key issues, including:

- the form in which redress should be paid to consumers (ie lump sum augmentation, cash lump sum or a combination of the two),
- how firms should allow for tax and state benefits entitlements when paying redress,
- validity and acceptance periods for calculations and offers, and
- how calculations should be explained to consumers.

7.2 This chapter also includes commentary setting out our general understanding at the date of publication of how pension transfer redress payments can affect consumers' tax position and state benefit entitlements below. Importantly, the actual impact will depend on the facts of each case. Firms must not rely on the general position set out in this chapter, which is for information only and is to help illustrate the factors firms should consider under our proposals. It is not a substitute for specialist advice on these matters.

How redress should be paid to consumers

The question of how redress should be paid to consumers and the impact on the consumer's tax position and means-tested state benefits entitlements was outside the scope of Deloitte's review.

Firms must not rely on the general position set out in this section, which is for information only and is to help firms understand the factors they should consider. It is not a substitute for specialist advice.

Current approach

7.3 Under the SIB and PIA provisions, consumers who received unsuitable advice should ideally be reinstated in their DB scheme. As we explain in Chapter 3, reinstatement is very unlikely because DB schemes are now either closed to new members or trustees are unwilling to reinstate benefits. If reinstatement is not possible, the SIB and PIA provisions say redress should normally be provided by augmenting the consumer's DC pension. This is because the methodology presumes redress is invested and grows until the date of retirement and augmentation provides a reasonably straightforward way of achieving this.

7.4 Consistent with the SIB and PIA provisions, and reflecting the low prospect of reinstatement being available, in FG17/9 we said, "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". We did not define situations in which augmentation would not be possible, but the preference for redress by augmentation is nonetheless clear. However, we know that firms often choose to make cash lump sum payments instead. This is also the standard approach for past business reviews (PBRs) and for damages awarded by a court.

7.5 Regardless of whether redress is paid by augmentation or as a cash lump sum, firms are expected to take account of the consumer's individual tax position and their wider circumstances, particularly their entitlement to means-tested state benefits. In FG17/9, we said that this is to ensure the consumer is not made worse off from receiving their redress. It is also possible that failing to take proper account of an individual's tax position could result in them receiving too much redress. When we reviewed the methodology in 2016, we decided not to provide specific guidance on how tax should be factored in to redress payments, stating clearly that we considered this a matter for HMRC. Respondents did not object to this position. We also provided no specific guidance on wider circumstances, such as means-tested benefits.

7.6 A failure to consider a consumer's individual tax position could result in a firm not paying them the right amount of redress. Our analysis suggests this is particularly likely to be the case if their redress is paid into their DC pension.

7.7 The treatment of redress for tax and state benefits purposes will depend heavily on a consumer's individual circumstances, so there are clear limits to how specific we can be in our guidance. Even so, we think there is a case to say more about what firms should do to ensure consumers are appropriately protected.

Tax and state benefits implications

Tax implications

7.8 Or general understanding is that pension transfer redress payments up to £500,000 are exempt from capital gains tax (CGT) under Extra Statutory Concession D33. Where redress exceeds £500,000, consumers must make a claim to HMRC for any excess to be exempt from CGT. This will be subject to certain conditions set out in the Capital Gains Manual. Pension transfer redress payments are not generally subject to income tax.

7.9 That does not mean there are no tax implications for redress payments of under £500,000. The position can be affected by how the redress payment is made and other pension-specific taxation factors, particularly the annual and lifetime allowance on pension contributions for which tax relief is available.

Means-tested state benefits implications

7.10 Redress payments can affect a consumer's entitlement to means-tested benefits, including Universal Credit, Housing Benefit, Income-based Jobseeker's Allowance, Working/Child Tax Credit and Pension Credits.

7.11 MoneyHelper explains the general position is that for most means-tested benefits, having more than £6,000 in savings will start to affect a consumer's entitlement. As such, means-tested state benefit entitlements are only likely to be affected when redress is paid by cash lump sum.

Proposal

7.12 Our preference remains that as much of the redress as possible should be paid directly into the consumer's DC pension by augmentation (or another DC pension). This provides consumers with the best chance of being put back in the position they should have been in, as the methodology presumes this will happen. Consequently, we consider that augmentation is most likely to be in the client's best interests and should be the default option for redress payments.

7.13 However, we propose that firms should be able to provide redress by cash lump sum where the firm judges that augmentation is likely to result in a consumer exceeding their annual or lifetime allowance or making a contribution that exceeds their available relevant earnings. This is because it would not be proportionate to expect firms to pay additional redress for the benefit of HMRC, rather than consumers, if this could be avoided by paying redress by cash lump sum.

7.14 We propose that firms should also be able to pay redress by cash lump sum if the consumer specifically requests it in writing and the firm considers this would be in the consumer's best interests. This could be where the consumer is in financial difficulty or ill health, including where they would otherwise struggle to pay fees due to a claims management company or solicitor.

> **Q45: Do you agree that firms should pay as much of the redress as possible directly into the consumer's defined contribution pension by augmentation? Do you also agree that payment should only be by cash lump sum where augmentation is likely to mean consumers incur a tax charge or where the consumer specifically requests that redress is provided in this way? If not, how do you think redress should be provided to consumers and why?**

Judging the impact of augmentation

7.15 While firms should have regard to relevant HMRC requirements, factors likely to be relevant in judging whether augmentation would result in a consumer exceeding their annual or lifetime allowance include:

- the consumer's relevant earnings in the current tax year,
- the value of all pension contributions already made in the current tax year,
- if the redress payment would result in the consumer's unused annual allowance in the current and previous 3 tax years being exceeded, and
- the expected value of all pensions held by the consumer up to the age of 75, after which checks against the lifetime allowance are generally not carried out.

> **Q46: Do you agree with the factors that are likely to be relevant in judging whether augmentation would result in a consumer exceeding their annual or lifetime allowance? If not, which factors do you think are likely to be relevant?**

Allowing for tax and state benefit entitlements on lump sum augmentation

7.16 Where redress is paid (or partially paid) via augmentation, consumers will pay any relevant income tax charges when accessing their funds in due course. This means that firms do not need to consider income tax charges that could be levied in retirement.

7.17 As explained in paragraph 7.11, it is our understanding that means-tested state benefit entitlements are only likely to be affected by cash lump sum payments.

> **Q47: Do you agree with our proposal on how firms should allow for tax and means-tested state benefit entitlements on lump sum augmentation of redress payments? If not, what alternative approach would you propose?**

Allowing for tax and state benefit entitlements on cash lump sums

7.18 In the unlikely instances where CGT or income tax is due, we would expect firms to cover the cost, although consumers themselves are responsible for paying it through their self-assessment return.

7.19 It may be appropriate to adjust cash lump sum payments to take account of tax that consumers would otherwise pay on income from their pension. For example, we know that firms sometimes choose to apply a notional deduction to cash lump sum payments of 15%. This reflects an expectation that a consumer who is expected to be a basic rate taxpayer in retirement would pay no income tax on their PCLS (25% of the fund) as it is exempt and 20% income tax on the remainder (75% @ 20% = 15%) if their DC pension had been augmented.

7.20 Where a cash lump sum payment could affect a consumer's entitlement to means-tested state benefits, firms should ensure that the consumer does not suffer a reduction in income because of the redress payment. We understand that firms commonly set up compensation protection trusts (CPTs) in these circumstances. Redress is then paid into the CPT and could then be invested.

> **Q48: Do you agree with our proposal on how firms should allow for tax and means-tested state benefit entitlements on cash lump sum redress payments? If not, what alternative approach would you propose?**

Consumer disclosures and resolving disputes

7.21 To help ensure firms make appropriate judgements, we also intend to introduce a specific requirement that firms explain to the consumer in a clear, fair and not misleading way how they have allowed for tax and state benefit entitlements in the redress payment and why they consider this appropriate. We explain this proposal below.

7.22 We also recognise that our proposed approach may mean firms need to request certain information from the consumer. Any requests to the consumer for information should be reasonable. We set out in Chapter 3 what a reasonable request for information means.

Issuing and explaining calculations to consumers

> This issue was not a key focus of Deloitte's review, although Deloitte noted the importance of ensuring that consumers are given clear explanations of the assumptions that have been made when calculating their redress.

Issuing calculations – validity and acceptance period

7.23 Currently, calculations made under the redress methodology remain valid for three months from date of issue to the consumer, irrespective of quarterly changes to the assumptions. We propose to retain this validity period, which would give consumers three months to decide whether to accept a redress offer. In Chapter 3 we have proposed that the date of issue to the consumer should be within three months of the valuation date.

> **Q49: Do you agree with our proposal that calculations should be valid for three months from date of issue to the consumer? If not, what alternative timeframe would you propose?**

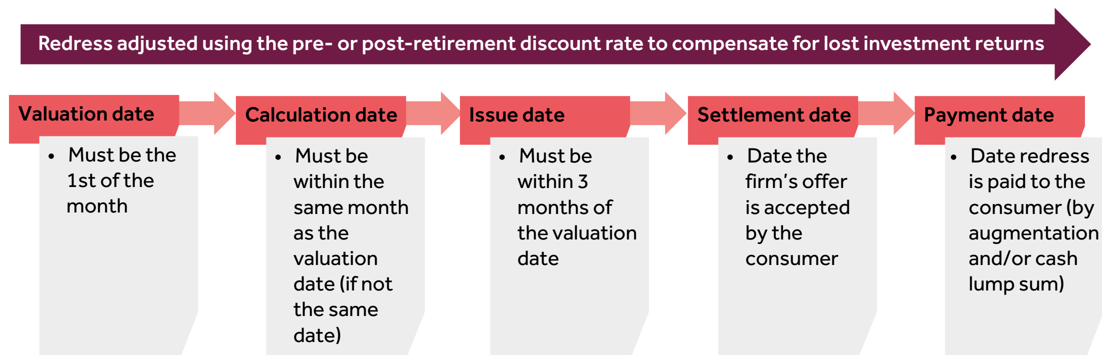
Payment of interest to compensate consumers for forgone investment returns between valuation date and payment

7.24 The methodology assumes that the calculated redress amount is invested from the valuation date. However, there will always be a delay between the valuation date and the date the consumer gets the redress. So, we propose to clarify that consumers are paid interest to compensate them for the investment returns they could have received during this period. This applies whether redress is paid by cash lump sum or by augmentation.

7.25 As set out in Figure 8, we propose that, for cases where it is assumed the consumer would likely:

- Not have retired in their DB scheme at or prior to the valuation date, redress should be increased from the valuation date to the payment date in line with the pre-retirement discount rate (netted down for charges) used in the underlying calculation. This reflects the assumption in the methodology that the redress would have been invested to achieve a return in line with the pre-retirement discount rate over the period from the valuation date to the settlement date.
- Have retired in their DB scheme at or prior to the valuation date, redress should be increased from the valuation date to the payment date in line with the post-retirement discount rate. There should be no adjustment for annuity pricing or PCLS (see Chapter 4). This reflects the assumption in the methodology that the redress would have been invested to achieve a return in line with the post-retirement discount rate over the period from the valuation date to the settlement date.

Figure 8: Key dates in the provision of redress to consumers



Q50: Do you agree that redress payments should be increased between the valuation date and the payment date using, as appropriate, the pre-retirement or post-retirement discount rate to compensate consumers for foregone investment returns? If not, what alternative approach would you propose?

Explaining calculations to consumers

This issue was not a key focus of Deloitte's review, although Deloitte noted the importance of ensuring that consumers are given clear explanations of the assumptions that have been made when calculating their redress.

Current approach

7.26 When a calculation has been carried out, it should be explained to consumers. This applies even if the calculation shows no financial loss and, therefore, that no redress is due.

7.27 Generally, the SIB/PIA consumer disclosure provisions remain appropriate. These include providing a full explanation of the calculation in writing, confirming compliance with relevant regulatory standards, giving consumers time to consider any offer, and setting out relevant dispute resolution procedures.

7.28 Our proposed requirements on explaining calculations to consumers are consistent with the SIB/PIA provisions. They are also consistent with the requirement in DISP 1.4 that firms provide clear, fair, and not misleading explanations to consumers of the outcome of their complaint. However, we recognise that the SIB/PIA provisions and the DISP requirements are relatively high level, which means firms may not always be clear exactly what information they should give to consumers.

7.29 We consider that setting out in more detail the information firms give consumers to explain their calculations would improve transparency. This would help ensure that consumers can understand and check the accuracy of their calculation and obtain fairer redress. So, it is important that firms encourage consumers to review how their redress was calculated and, if necessary, explain the process to ask questions or challenge their calculation.

7.30 Our proposed approach does not reflect the SIB/PIA expectation that firms invite consumers to seek outside advice to help decide whether to accept the calculation and any redress offer. Our proposals aim to ensure consumers have the information they need to make this decision themselves.

Proposal

7.31 We propose that firms inform the consumer of the calculation result and set out in their explanations the key elements of the calculation and the assumptions they have made. The explanation should be clear, fair and not misleading. It should also:

- Be provided to consumers in durable medium, for example a redress offer letter with a calculation report.
- State whether any redress is due. Where redress is due, the firm should also follow the steps in paragraph 7.32. Where redress is not due, explain why.
- Confirm whether the calculation has been done in accordance with the FCA's methodology and approved by an actuary (if the calculation has not been done in accordance with the methodology, this should be explained).
- Explain that the methodology takes account of the market conditions at the valuation date and this could mean that the calculation and any offer of redress might be different if it was done at a different date.
- Set out the information and assumptions used in the calculation, including:
  - the level of future investment returns assumed, including an invitation for consumers to review their current investment strategy to ensure it is in line with this assumption
  - the level of product and advice charges the consumer is currently paying compared to the level assumed, including any allowance made for initial advice from a new adviser, and
  - whether the firm has determined that the consumer would have retired in their DB scheme at or before the valuation date. If so, indicate the determined date of retirement, and why the firm has made this determination and its impact on the valuation of the consumer's DB benefits.

7.32 Where redress is due, the explanation should also:

- Clearly show the redress amount calculated under the methodology and show any redress for losses outside the calculation methodology separately.
- Explain how any redress will be paid (eg by augmentation, cash lump sum or any other method) and why this method of payment has been selected.
- Explain how the consumer's tax position and any state benefits entitlement has been considered. Where the consumer is responsible for any payment of tax, this should be made clear and information steering them to HMRC provided. Similarly, the risk of any unauthorised payment charges as a result of redress paid as a cash lump sum should be explained to the consumer. Firms may seek advice from HMRC under its non-statutory clearance process if they are concerned about any transactions giving rise to unauthorised payments.
- Where redress is paid in the form of a cash lump sum to the consumer, provide:
  - A warning that the redress amount is intended to provide consumers with the retirement income they would have received if they had not transferred out of their DB pension scheme, as long as they invest it prudently. If they do not invest it prudently, they risk losing out on the retirement income their redress amount is meant to provide.

  - Information about trusted sources of guidance on making investment decisions and avoiding investment scams, such as Pension Wise, MoneyHelper and the FCA's 'Scam Smart' guidance.

- Set out the terms and conditions of any offer, including explaining:
  - any interest applied to the redress payment and the basis for this.
  - the minimum 3-month period from the offer issue date to consider their options.
  - how to accept or reject any offer of redress.

7.33 We also propose that firms must encourage consumers to read the explanation carefully and set out clearly the process the consumer should follow if they have any questions, wish to challenge any of the information used in the calculation, or make a complaint. In line with Principles 6 and 7, firms should treat consumers who raise any issues with their calculation fairly and communicate information to them in a clear, fair and not misleading way.

Q51: Do you agree with the proposed content of the calculation explanation? If not, what information do you think consumers should be given to help them understand their calculation?

Q52: Do you agree with the proposed wording for the warning when consumers receive redress as a cash lump sum? If not, what wording do you suggest would be more impactful for consumers?

Q53: Do you agree that consumers should be encouraged to read their explanations carefully and that firms should be required to and set out clearly the process the consumer should follow if they have any questions, wish to challenge any of the information used in the calculation, or make a complaint?

8 Our approach to pension transfer redress calculations for cases covered by the proposed British Steel consumer redress scheme

Deloitte were not involved in determining our proposed approach to cases covered by our proposed BSPS consumer redress scheme.

Introduction

8.1 This chapter sets out our proposals for how redress should be calculated specifically for the proposed British Steel consumer redress scheme.

8.2 On 31 March, we published CP22/6. It proposed a consumer redress scheme ('the scheme') for consumers who were members of the British Steel Pension Scheme (BSPS). These consumers were given advice to transfer out of the scheme into a DC pension arrangement between 26 May 2016 and 29 March 2018. Many of them transferred out of the BSPS after being given non-compliant advice and have suffered financial loss as a result.

8.3 We aim to publish a policy statement setting out our final decision on whether to go ahead with the BSPS redress scheme in late 2022. If we decide to go ahead, this policy statement will include final rules for the redress scheme. This will include rules on how redress should be calculated, which are being consulted on in this chapter. It will also include an updated CBA showing the impact of calculation rules on the costs and benefits of the proposed scheme. The CBA in this CP covers the proposals in Chapters 2 to 7, although we have also considered at a high level how they could impact the proposed scheme.

8.4 We did not consult on draft calculation rules in CP22/6 because the periodic review of our methodology for calculating DB pension redress was still in progress when we published the CP. Instead, we said we would consult on these rules at the same time as we consult on any improvements to the overall methodology we wanted to propose, once the periodic review was over.

8.5 We did set out some high-level proposals on calculation in CP22/6. These included whether calculations for cases covered by the proposed redress scheme should use the same methodology as other DB pension transfer cases. We refer to this methodology as the 'general methodology' in this chapter. CP22/6 also discussed the possibility of developing a 'redress calculator' to support the scheme. We invited feedback from stakeholders on these high-level proposals and received 143 responses. We have responded to this feedback below.

Redress calculation rules for the British Steel redress scheme

8.6 Calculation rules for the proposed scheme will be in the CONRED sourcebook because they will form part of the scheme rules. For CP22/6 and its CBA, we assumed that firms would calculate redress for cases covered by the scheme using the existing general methodology used for all other pension transfer redress cases.

8.7 In principle, the general methodology should be used for BSPS cases. This will ensure fair and consistent treatment of all firms and consumers, not least between those former BSPS members who are covered by the redress scheme and those who are not. But there are some areas where we consider a more tailored approach would be appropriate. We discuss these below.

> **Q54:** **Do you agree that, subject to the differences set out in Chapter 8, the same redress calculation methodology should be used for British Steel cases as all other cases? If not, what alternative approach would you propose?**

How redress should be paid

8.8 We received many responses on this issue. Most respondents felt that payment of redress by cash lump sum would not achieve the objective of putting the consumer, so far as possible, back in the position they would have been in if they had not received non-compliant advice.

8.9 Respondents said that if consumers lack knowledge, experience, appetite, or ability to bear investment risk in a DC scheme, a cash lump sum payment may put them at more risk of harm. They suggested that consumers might spend the money rather than invest it for retirement. This is not what the methodology assumes will happen. Respondents also noted that payment of redress by cash lump sum may attract unnecessary CMC activity.

8.10 Respondents felt that we should explore other ways of providing redress for non-compliant DB transfer advice. Many respondents proposed alternatives to cash lump sum redress. The main ones were reinstating the consumer in a DB arrangement or buying a deferred annuity for the consumer.

Proposal

8.11 We consider alternative options for providing redress to consumers for the general methodology, including reinstatement and deferred annuities, in detail in Chapter 3. The options for providing redress to consumers are limited by our powers and what we can require firms to do. We do not have powers to require consumers, or other parties like scheme trustees, to take actions necessary for redress to be provided in a particular way.

8.12 On reinstatement for former BSPS members specifically, we have spoken to the trustees of the new British Steel Pension Scheme (BSPS2) set up following the 'Time to Choose' (TTC) exercise. The BSPS2 governing documentation would not allow the trustees to admit new members or readmit former members.

8.13 We have also spoken to the trustees of the Old British Steel Pension Scheme (OBSPS) which initially moved into the Pension Protection Fund (PPF) assessment period on 29 March 2018 and has subsequently secured benefits for members in excess of the

PPF benefits through a bulk annuity contract with the Pension Insurance Corporation (PIC). The governing documentation of the OBSPS does not allow the trustees to admit new members (or readmit former members) following its entry into a PPF assessment period and subsequent winding up.

8.14 There is no legislation which compels trustees to accept former members who transferred out. Similarly, the FCA has no power to make rules requiring them to do so.

8.15 On deferred annuities, we believe we would face the same challenges making these the form of redress for scheme cases as we would for other cases. So, we do not intend to require firms to buy a deferred annuity as the form of redress for cases under the proposed scheme. However, if a deferred annuity is a viable option and the firm and the consumer are willing to settle their case in this manner then we agree this should be allowed.

8.16 Requiring firms to pay as much redress as possible into the consumer's DC pension by augmentation, as we have proposed for the general methodology in Chapter 7, should help address concerns about whether consumers will invest their redress for retirement. We are exploring the possibility of a redress calculator for the scheme which would take account of a consumer's tax position and work out how much redress can be paid by augmentation before tax charges arise.

8.17 However, due to tax issues, it is likely that most consumers will get at least some of their redress as a cash lump sum. Where redress is paid as a cash lump sum, we have proposed for the general methodology in Chapter 7 that firms make certain things clear to consumers. In particular, that the consumer's redress has been calculated on the basis that it will be invested, not spent, and the reasonable cost of adviser and product charges to allow them to do this is accounted for in the redress amount.

Q55: Do you agree with our proposal to follow our general approach on the method of payment of redress for BSPS consumers? If not, what alternative approach would you propose?

Choice of defined benefit scheme

8.18 The general methodology requires firms to estimate the value of benefits a member would have received if they had been given compliant advice and had remained in their DB scheme. In this chapter, we call the consumer's former DB scheme the 'comparator scheme'.

8.19 A challenge we face in designing the scheme is that the DB scheme that members transferred out of no longer exists and has been replaced by two possible comparator schemes. During the TTC exercise, those who had not already transferred out of the OBSPS into a DC scheme had a choice. They could either move to the BSPS2 or remain in the OBSPS, which would move into the PPF assessment period. If members did not make a choice, the default was to remain in OBSPS.

8.20 Our starting point is that if former BSPS members had been given compliant advice and remained in a DB arrangement, they would have ended up in either the BSPS2 or remained in the OBSPS and moved to the PPF. So, when calculating redress for consumers who transferred out, we need to determine which of the two comparator schemes firms should use for calculating the DB benefits that members gave up.

8.21 If the PPF is chosen as the comparator scheme, there is an added complication due to the upcoming buy-out of benefits by PIC. Although the PIC scheme benefits are not yet known, we understand that they could be the same or higher than the PPF benefits. This means there is a question of whether consumers for whom PPF is the appropriate comparator scheme should have redress calculated based on the PPF or the PIC scheme benefits. Our view is that if consumers would have ended up in PPF because they received compliant advice and did not transfer then they would have subsequently benefitted from the PIC buy-out.

8.22 We note that the PIC scheme benefits available to PIC members may be different to those that would have been available if consumers who received non-compliant advice had gone into the PIC scheme rather than transferring out. However, we do not consider there is a way that these hypothetical benefits could be constructed for the calculation. We therefore propose that, where the PPF scheme is the comparator scheme, the actual PIC scheme benefits should be used. We therefore refer to PPF as 'PPF/PIC' in this chapter.

> **Q56:** **Do you agree that where the Pension Protection Fund is used as the comparator scheme, consumers should be redressed based on the upcoming Pension Insurance Corporation benefits when available? If not, what alternative approach would you propose?**

Proposal

8.23 Some consumers who were advised during the TTC exercise may have actively selected BSPS2 or PPF before they transferred out of their DB scheme. Most deferred members who did not transfer chose the BSPS2. But some members recognised that PPF might provide higher benefits in some circumstances, for example if they planned on retiring early. Members who transferred before the TTC exercise would not have had the opportunity to choose. But if they had been given compliant advice, they would have remained in the OBSPS and had the opportunity to take part in the TTC exercise.

8.24 Where there is evidence from the file that a consumer had selected either BSPS2 or PPF during the TTC exercise, we propose that the scheme chosen by the consumer should be used.

> **Q57:** **Do you agree that where consumers made an active selection of either the new British Steel Pension Scheme (BSPS2) or the Pension Protection Fund at the time of the transfer, the redress calculation should be based on the benefits of the selected scheme? If not, what alternative approach would you propose?**

8.25 In other cases, where there is no explicit evidence of a selection of a comparator scheme, we have identified two distinct options for the choice of comparator scheme. We are seeking feedback on both of them. We note that there may be variations on these options and would welcome views on these too. For example, one approach could be to require firms to start by calculating redress based on both schemes, inform consumers what the redress would be under each scheme, and then justify the firm's choice based on their view of what the consumer would have done if they had received compliant advice.

Option 1 – Use the scheme that provides the highest redress to the consumer

8.26 The calculation could be based on the comparator scheme that provides the highest redress to the consumer. This means that firms would calculate redress under both BSPS2 and PPF/PIC and pay the higher amount to the consumer. We are exploring developing a calculator that will enable firms to carry out this comparison. This is likely to be the most straightforward option but would result in the highest redress costs for firms.

Q58: Do you agree that where there is no evidence of consumers making an active selection of either the new British Steel Pension Scheme (BSPS2) or the Pension Protection Fund at the time of the transfer, firms should calculate what the redress would be for both and pay the higher amount to the consumer? If not, what alternative approach would you propose?

Option 2 – Use the scheme the consumer is most likely to have gone into

8.27 The calculation could be based on what the consumer would have likely done if they had received compliant advice and remained in their DB scheme. We understand this is closer to the approach a court would take (and the approach that the Financial Ombudsman takes) but there are some practical challenges. This is because, the firm will need to look at information from the time of the transfer advice to see if there is any evidence that demonstrates the consumer would have been more likely than not to have chosen one of the two schemes if they had received compliant advice, irrespective of which scheme the transfer advice was based on.

8.28 The factors that suggest a consumer would be more likely than not to have chosen BSPS2 over PPF/PIC include if the consumer:

- was under 50 or did not intend to retire early
- did not want to take a PCLS at retirement (because the commutation factors were more favourable in PPF)
- could not accept a reduction in the starting pension entitlement at retirement
- if the consumer wanted to retain the option to transfer benefits in the future

8.29 The factors that suggest a consumer would be more likely than not to have chosen the PPF over BSPS2 include if the consumer:

- had concrete plans to retire early because of specific reasons (because the early retirement factors in the PPF were lower than those in BSPS2)
- might need or want to take the highest pension commencement lump sum available, (because commutation factors for tax free cash were more favourable under PPF and tranches that were previously identified as GMP could be commuted)

8.30 If the firm can demonstrate with evidence which scheme the consumer would have chosen, the firm should explain to the consumer in a clear, fair and not misleading way that they did not calculate the redress against BSPS2 or PPF/PIC (as appropriate) because they determined the consumer would have chosen the alternate scheme and explain the reason for this determination.

8.31 If the firm cannot demonstrate with evidence which scheme the consumer would have chosen, we propose that the calculation should be based on the scheme that provides the higher redress to the consumer (as under Option 1).

Q59: Do you agree that where consumers have not made an active selection, firms should consider information from the time of the transfer advice to see if there is any evidence that demonstrates the consumer would have been more likely than not to have chosen one of the two schemes? If so, what evidence do you consider could help firms demonstrate this?

Q60: Do you agree that if the firm cannot demonstrate with evidence which scheme the consumer would have chosen, the calculation should be based on the scheme that provides the higher redress to the consumer?

BSPS calculation methodology

8.32 In CP 22/6 we explained that we were looking at whether we could develop a calculator for firms to use when calculating redress. We discuss this further in paragraphs 8.55 to 8.65 but have highlighted in this section the role a calculator would play.

8.33 In summary, there are seven parts to the process that firms should follow to calculate redress for cases under the scheme. These are set out below.

Part 1 – Information required for redress calculations

8.34 As with all other calculations, firms will need to collect and input information as outlined in Chapter 3. If a redress calculator is developed, data relating to the consumer and their DC pension will need to be collected and inputted by calculator users. The key data are set out in Table 7, below.

8.35 A part of this data collection, firms will need to determine the consumer's retirement age as set out in Chapter 6, and calculator users will enter this determination and the reason for this determination into the calculator.

8.36 Firms will also need to determine the relevant comparator scheme or schemes for the calculation (see sections 8.18 to 8.31), and calculator users will make the applicable selection within the calculator. Where only one scheme is selected, the calculator will prompt users to enter the reason for their determination.

Table 7: Information needed to calculate redress

Category	Information needed

Information about the consumer	• Date of birth (DOB)
	• Date of death (if applicable)
	• Marital or civil partnership status
	• Spouse or civil partner's DOB
	• Children's ages if the consumer has children who pension benefits would potentially be payable to
	• Whether the consumer is assumed to have retired and, if so, the date at which the consumer is assumed to have retired
	• Information to help determine any adjustment to take the consumer's tax position into account:
	  ◦ annual taxable income
	  ◦ expected total contributions to consumer's DC pension in the tax year in which redress is being paid
	  ◦ annual allowance carry forward from previous years
	  ◦ current lifetime allowance usage
	  ◦ expected future lifetime allowance usage
	  ◦ details of any lifetime allowance protections
	  ◦ marginal tax rate expected in retirement

Information about the consumer's former DB scheme	• Date of leaving active service in the DB scheme (DOL) • Section • Annual DB pension at DOL split by tranche, as applicable to each section, including GMP splits • Automatic lump sum entitlement due at retirement at DOL split by tranche, as applicable to each section • Normal retirement age applying to each tranche • Early and later retirement factors • Confirmation of any lower unreduced retirement age that applies to any tranches due to any enhanced early retirement provision • Amount of any other associated benefits (eg bridging pension, death benefit entitlements pre- and post-retirement • PCLS factors in force at date of retirement • Details of any adjustment applicable to the transfer as part of a pension sharing order entered into

Information about the consumer's current DC pension (relating to funds from the transfer)	• Date of transfer out of the DB scheme
	• Fund value at valuation date
	• Product and adviser percentage charges, including annual management charges
	• Product and adviser non-percentage charges, including ongoing adviser charges
	• Amount of any PCLS taken and dates of payment
	• Amount of any funds accessed flexibly and dates of payments
	• Date of any annuity purchased
	• Annuity terms (if applicable):
	  ◦ amount
	  ◦ increases (RPI linked, CPI linked, applicable cap, applicable floor)
	  ◦ spouse's pension – proportion on death
	  ◦ remaining guarantee period from the valuation date
	  ◦ payment in arrears or advance
	  ◦ payment frequency

8.37 The potentially low level of consumer engagement we have observed might mean that firms will face challenges if consumers are asked to collect missing information for the suitability assessment and the calculation. If firms need information from other firms for the purpose of the suitability assessment or the calculation, we are proposing firms obtain the necessary authority from the consumer to enable them to request the information on their behalf. Any requests to the consumer themselves for information should be reasonable (see Chapter 3).

8.38 Firms should take all reasonable steps to obtain the information necessary to calculate redress. In the unlikely event that redress cannot be calculated because information is missing, the firm will be required to tell the consumer that they are no longer able to progress the case as a scheme case and provide them with information about their right to complain to the Financial Ombudsman. Firms will be required to report how many cases they are unable to progress for this reason. We will consider whether the firm has taken reasonable steps to obtain the necessary information and, if not, we will consider appropriate supervisory and enforcement action.

Q61: **Do you agree that where further information is needed for a redress calculation, firms should obtain the consumer's consent to request this from a third party?**

Part 2 – Assumptions used in redress calculations

8.39 The general methodology requires firms to use a range of assumptions to calculate redress. If a BSPS calculator is developed, these assumptions will be built into the calculator. The key assumptions are set out in Table 8, below. We explain them in detail elsewhere in this CP.

Table 8: Information needed to calculate redress

Type	Key assumptions
Economic (Chapter 4)	• Pre-retirement discount rate • Post-retirement discount rate • Inflation (RPI, CPI, earnings, IRP) • Pre-retirement pension increases in payment • Post-retirement pension increases in payment • PCLS allowance
Demographic (Chapter 5)	• Pre-retirement mortality • Post-retirement mortality • Proportion married/with dependents at retirement • Spouse's age difference
Other (Chapter 6)	• Retirement date • Adviser and product charges • Early and late retirement factors • ETVs • Unavailable fund values • SERPS adjustment • GMP equalisation • Past payments • PPF

8.40 These assumptions will be calculated using the general methodology (see Chapters 4, 5 and 6). All the assumptions needed will be automatically calculated based on information inputted and market conditions immediately before the valuation date. The economic assumptions are updated at the end of each month (see Chapter 4), which means the redress calculator will be temporarily unavailable at the end of each month for a short period while this happens.

> **Q62:** **Do you agree that the calculation methodology for British Steel cases should use the same assumptions as the general approach? If not, what alternative approach would you propose?**

Part 3 – Calculating the redress amount before adjustment

8.41 As explained in Chapter 3, the methodology will continue to require firms to provide sufficient funds to the consumer to replicate the benefits given up. In practice, this means that the assessment of financial loss and the primary redress amount (as distinct from redress arising from losses outside the scope of the methodology, see Chapter 3) will be based on the difference between:

- the value of benefits the consumer would have been entitled to, if they had received compliant advice and remained in their DB scheme, and
- the value of benefits available to the consumer after the transfer.

8.42 The calculation is complex and requires the use of assumptions to estimate the DB benefits the consumer would have been entitled to (see Table 7, above). For example, where a member would not yet have retired, estimating the consumer's future DB retirement benefits requires firms to take account of future inflation rates.

8.43 The methodology then presumes that the consumer's DB retirement benefits could be replicated in a DC environment by buying an annuity. Assumptions are used to derive the future annuity cost, taking into account factors such as pension increases in payment and spousal benefits. Different slices (or 'tranches') of the DB pension will have a unique combination of revaluation increases before retirement age, pension increases after retirement age and payment start age. This means each tranche of benefit needs to be valued separately. Assumptions are then used to estimate the probability of the consumer surviving to take the annuity benefits and to determine how much money they would require immediately to have enough to secure that annuity, taking into account that they now pay charges in their DC scheme.

8.44 Full details of the calculation formula are in the instrument at Appendix 1.

> **Q63:** **Do you agree with the proposed redress calculation methodology for the British Steel redress scheme? If not, what alternative approach would you propose?**

Part 4 – Adjustments to the redress amount

8.45 In line with the general methodology proposed elsewhere in this CP, firms should pay as much as possible of the consumer's redress into a DC scheme by augmentation. As set out in Chapter 7, firms should determine the method of redress. Redress should only be paid by cash lump sum if:

- full augmentation of the redress is likely to result in the consumer exceeding their annual or lifetime allowance, or

- if the consumer specifically requests it in writing or the firm considers payment by cash lump sum would be in the consumer's best interests

8.46 If a calculator is developed, it will record the firm's determination on how the consumer will be redressed and adjust the redress amount according to the consumer's tax position.

8.47 The calculator will also calculate and add interest on the redress amount to cover the period between the valuation date and the payment date (see Chapter 7)

> **Q64: Do you agree with our proposals for adjusting the redress payment to take account of the consumer's tax position and accumulated interest between the valuation date and payment date? If not, what alternative approach would you propose?**

Part 5 – Record of redress amount

8.48 If we develop a calculator, where a firm would usually provide an actuarial calculation report, it will be able to export a report from the calculator (via 'print to PDF' functionality).

8.49 This will act as a durable medium record of the calculation, automatically filling in the redress payable, together with a summary of data inputted and the effect of any adjustments made.

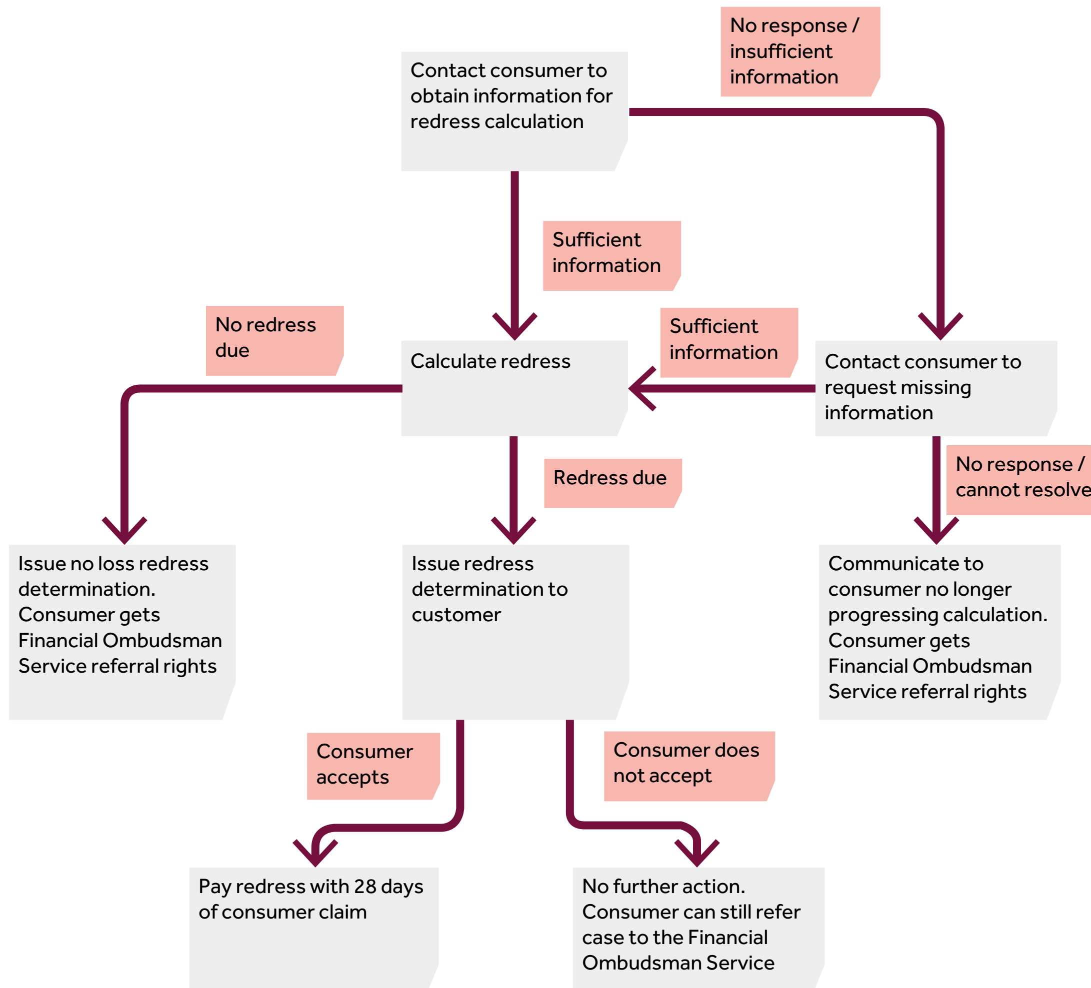
Part 6 – Issue redress determination

8.50 In CP22/6, we set out three main stages firms must complete in the scheme. These are pre-scheme checks (Stage 1), suitability assessments (Stage 2) and assessment outcomes (Stage 3). Calculating redress is part of Stage 3 (see Figure 9, below).

8.51 As Figure 9 explains, after calculating redress, firms must communicate the outcome of the calculation to the consumer. They must do this by issuing a redress determination letter (see CONRED 3 Annex 12R in the draft instrument at Appendix 1). This letter will explain how any redress has been calculated and will include the calculator output document setting out the assumptions used which consumers can check for factual accuracy. This letter will also explain that if the consumer wishes to dispute the calculation or the assumptions used, they can complain to the Financial Ombudsman.

8.52 For the general methodology, we have proposed that if redress is paid as a cash lump sum, the firm may have to pay for reasonable initial advice fees consumers might incur on how to invest the lump sum (see Chapter 6). We have proposed that this should be the case if the consumer is not currently in an advice arrangement, or if the consumer's ongoing advice charges are above a reasonable level.

Figure 9: Proposed British Steel scheme phases – Stage 3



Q65: Do you agree with our proposals for issuing redress determinations to consumers? If not, what alternative approach would you propose?

Part 7 – Paying redress to consumers

8.53 Where a consumer accepts a redress determination, firms must provide the agreed redress within 28 days of receiving the claim from the consumer.

8.54 On the payment date, we envisage that firms access the calculator again to calculate the final amount due, ensuring the redress amount is adjusted to include the accrued interest, and any change in the tax treatment of redress amount (for example where the redress is offered by augmentation, but the consumer specifically requests payment via a lump sum).

Q66: Do you agree with our proposals for paying redress to consumers? If not, what alternative approach would you propose?

Q67: Do you have any other comments on the stages of the process that firms must follow to calculate redress under the proposed British Steel redress scheme?

Development of a redress calculator

8.55 Several respondents supported the idea of a redress calculator and that it would be helpful for any firm. Questions about the calculator included how it would be funded and how we would choose and oversee the third party that develops the calculator. One respondent felt that transparency about the assumptions the calculator makes would be key. One respondent raised a concern about different outcomes for BSPS members depending on whether their redress had been calculated using the calculator.

Proposal

8.56 The objectives of a redress calculator are to help make calculations more consistent under the scheme, ensure more BSPS members receive fair and quicker redress, and reduce the overall cost of calculations. We have been discussing the development of a calculator with a third party. If we consider a calculator can deliver our objectives, we will make it available to firms. We have identified the following key issues in the development of a calculator.

Actuarial accuracy and transparency of the calculator

8.57 The calculator will automate some of the process an actuary would normally perform under the proposed BSPS calculation methodology. The calculator should also guide users to input known consumer specific data. So the calculator is essentially a tool that executes the proposed BSPS calculation methodology, as an actuary would, using the consumer data entered by the user. We welcome respondents' feedback on the methodology, and we will also use independent experts to review it. We will publish the finalised methodology at the end of this year alongside the policy statement for the BSPS redress scheme so that the methodology underpinning the calculator is transparent.

Calculator users

8.58 One of the main deliverables of the calculator is to reduce the overall cost of calculations by significantly reducing or eliminating the need for third party actuarial support. Our view is that firms that held full permission for 'advising on pension transfers and opt-outs' at the time of the transfers are likely to have the capability in-house to provide the data required in Part 1 without any actuarial support.

8.59 However, it is unlikely consumers would have the required knowledge or expertise to enter the data requested in Part 1 data accurately. So, we propose the calculator is only made available to firms, the FSCS and the Financial Ombudsman. Consumers should be able to check the accuracy the inputs, including their own personal data and benefit entitlements, in the calculator output document.

Q68: Do you agree that the calculator should significantly reduce or eliminate the need for actuarial input? If not, why not?

Q69: Do you agree that the use of the calculator should be limited to firms, the Financial Services Compensation Scheme and the Financial Ombudsman?

Calculator user experience

8.60 Users will mainly interact with the calculator by entering the consumer specific data calculator listed in Part 1 of the BSPS calculation methodology. The calculator will specify the format to make sure it is accessible and user friendly.

Mandating use of the calculator

8.61 As the calculation methodology is mandated under the scheme, and the calculator will reflect the finalised methodology, we expect firms to use the calculator. If a firm can demonstrate that it is in consumers' interests not to use the calculator, it can apply for a waiver.

> **Q70:** **Do you agree that the use of the calculator should be mandatory? If not, why not?**

Cyber resilience and testing of the calculator

8.62 We will arrange extensive testing of the functionality of the calculator before it is fully available. As well as testing the calculator with illustrative data, we are also intending to welcome stakeholders' involvement in testing a prototype of the calculator with actual consumer data. This will provide a chance for stakeholders to explore both the usability of the calculator, as well as explore the methodology that sits underneath it. This will help ensure that testing is as robust as possible, and stakeholders can better understand how the calculator implements the methodology. We consider this to be an important part of the process in developing a calculator. We are currently exploring the most effective way of doing this and will communicate in due course. In the meantime, we would like to hear from you if you would be interested in taking part in testing.

> **Q71:** **Is your firm interested in taking part in testing the redress calculator for the proposed British Steel redress scheme?**

Calculator updates

8.63 Once the calculator is operational, it will be updated monthly with new economic assumptions and annually for updates to the mortality assumptions. If there are any other changes to the methodology for calculating redress, we will also make these changes in the calculator.

Calculation output record

8.64 The calculation output record will provide the values of the key assumptions used to perform the calculation, so that the calculation can be checked by the consumer for accuracy. For example, the retirement age, rate of return they need to achieve if retirement is in the future, and how the calculation allows for product and advice charges. Firms must include this information in their redress determination letters.

8.65 As the economic assumptions will be updated each month, and there may be ad hoc updates from time to time, the calculator output will clearly show the valuation date valuation and release number of the calculator. The output will explain that the calculation result reflects the market conditions and calculation methodology on the valuation date, and these will vary over time and produce different calculation results.

> **Q72:** **Do you have any other proposals on how to make redress calculations for the proposed British Steel redress scheme more consistent?**

> **Q73:** **Do you have any other comments on the development of the calculator?**

Annex 1
Questions in this paper

Q1: **Do you agree that we should consolidate the pension transfer redress methodology as a new appendix in the Dispute Resolution: Complaints sourcebook covering pension transfer redress cases within the current scope of Finalised Guidance 17/9? If not, what alternative approach would you propose?**

Q2: **Do you agree with our decision not to retain the Securities and Investments Board/Personal Investment Authority provisions specified in Table 1? If not, why do you think we should retain them?**

Q3: **Do you agree with our proposal that firms should continue to calculate redress as the difference between the estimated value of the benefits given up in the defined benefit scheme and the current value of the consumer's defined contribution pension and pay that redress as a lump sum? If not, what alternative approach would you propose?**

Q4: **Do you agree with the high-level description of the steps that we propose firms should take to calculate redress and with our proposal to no longer specify separate approaches for actual and prospective loss cases? If not, what alternative approach would you propose?**

Q5: **Do you agree with our proposal that all valuations of benefits must be undertaken on a same date basis, referred to as the 'valuation date'?**

Q6: **Do you agree with our proposal that firms should issue calculations within three months of the valuation date? If not, what timeframe would you propose for issuing calculations to consumers and why?**

Q7: **Do you agree with our proposals for actuarial oversight of redress calculations? If not, what alternative approach would you propose?**

Q8: **Do you agree with the information we have proposed that firms obtain to calculate redress? If not, what alternative approach would you propose?**

Q9: **Do you agree with our proposed approach to requesting information from consumers, including what should happen if consumers do not respond to reasonable requests? If not, what alternative approach would you propose?**

Q10: **Do you agree that compensation should include losses outside the redress calculation methodology? If not, why not?**

Q11: **Do you agree with our proposed approach to keeping the methodology under review? If not, do you have any other suggestions for how we could ensure the methodology and individual assumptions remain appropriate?**

Q12: **Do you agree with our proposal that firms should update the economic assumptions they use for redress calculations no less frequently than the last working day of each month? If not, what frequency and timeframes would you propose for updating the economic assumptions and why?**

Q13: **Do you agree with our proposal to retain the 'UK instantaneous implied inflation forward curve (gilts)' for deriving retail price index inflation and our proposed changes to improve consistency of redress calculations? If not, which alternative approach would you propose?**

Q14: **Do you agree with our proposed approach to setting an inflation risk premium? If not, what alternative approach would you propose?**

Q15: **Do you agree with our proposal to introduce a formula-based approach to calculating the future differential between the retail price index and the consumer price index? If not, which alternative approach would you propose?**

Q16: **Do you agree with our proposal to introduce an earnings inflation assumption? If so, do you agree it should be set at +1.0% above the consumer price index? If not, what alternative approach would you propose?**

Q17: **Do you agree with our proposed approach to pre-retirement pension increases? If not, what alternative approach would you propose?**

Q18: **Do you agree with our approach to pension increases in payment, including the use of the Black-Scholes model? If not, what alternative approach would you propose?**

Q19: Do you agree that we should continue to retain the existing pre-retirement discount rate assumption consistent with a 50% return on equity? If not, what alternative approach would you propose?

Q20: Do you agree with the proposed formula for calculating the pre-retirement discount rate? If not, what alternative approach would you propose?

Q21: Do you agree with the proposed changes to the dividend yield, GDP growth and inflation elements used in the pre-retirement discount rate formula? If not, what alternative approach would you propose?

Q22: Do you agree with our proposal not to make an allowance for lifestyling within the pre-retirement discount rate? If not, how do you think we should allow for lifestyling?

Q23: Do you agree with our assessment that we do not need to specify an alternative pre-retirement discount rate for use where the consumer's investments are unlikely to achieve the proposed rate? If not, what alternative approach would you propose?

Q24: Do you agree with our proposal to continue calculating the post-retirement discount rate by using the Bank of England gilt curve to derive gilt yields at the consumer's retirement date? If not, what alternative approach would you propose?

Q25: Do you agree with our proposal to apply a 0.6% deduction to the post-retirement discount rate to allow for the margins built into annuity pricing? If not, what alternative approach would you propose?

Q26: Do you agree that where a consumer has already retired, the consumer's term to retirement for annuitisation purposes will be zero and the post-retirement discount rate will be based only on the consumer's discounted mean term at the valuation date? If not, what alternative approach would you propose?

Q27: Do you agree with our approach for allowing for the pension commencement lump sum? If not, what alternative approach would you propose?

Q28: Do you agree with our proposal to update the post retirement mortality basis with the PxA16 mortality tables? If not, what alternative basis would you suggest?

Q29: Do you agree with our proposal that firms should allow for pre-retirement mortality? If not, what alternative approach would you suggest?

Q30: **Do you agree that we should move from a single assumption based on a constant probability of a consumer being married or in a civil partnership to a probability table based on term to retirement and current marital or civil partnership status? If not, what alternative approach would you propose?**

Q31: **Do you agree that the approach to the spouse's age difference assumption remains appropriate? If not, what alternative approach would you propose?**

Q32: **Do you agree with our proposal to introduce a 'rebuttable presumption' to ensure that firms make appropriate assumptions about when the consumer would have retired in their defined benefit scheme? If not, what alternative approach would you propose?**

Q33: **Do you agree with our proposal to allow for a reasonable level of product charges of 0.75% and ongoing adviser charges of 0.5%? If not, what alternative approach would you propose?**

Q34: **Do you agree that redress should allow for initial advice charges when consumers are not currently in an advice arrangement or where their ongoing advice charges are above the reasonable level? If not, what alternative approach would you propose?**

Q35: **Do you agree with the proposed initial advice charge of 2.4% if a consumer needs to find a new adviser, with a minimum charge of £1,000 and maximum charge of £3,000? If not, what alternative approach would you propose?**

Q36: **Do you agree with the default early and late retirement factors we have proposed? If not, what alternative approach would you propose?**

Q37: **Do you agree with our approach to cash enhancement payments? If not, what alternative approach would you propose?**

Q38: **Do you agree with our approach to valuing illiquid assets? If not, please suggest an alternative approach and the rationale for your suggestion. Are there any other circumstances when it is difficult to obtain defined contribution fund values?**

Q39: **Do you agree with our approach to valuing liquid assets where an up-to-date defined contribution fund value is not available? If not, please suggest an alternative approach and the rationale for your suggestion. Are there any other circumstances when it is difficult to get DC valuations?**

Q40: **Do you agree with our clarification that a State Earnings Related Pension Scheme adjustment to the redress calculation is no longer needed for transfers occurring after 6 April 2016? If not, why not?**

Q41: **Do you agree that we should not propose a specific approach to Guaranteed Minimum Pension (GMP) equalisation? If not, how do you think GMP equalisation should be taken into account when undertaking redress calculations? Please consider materiality and consistency across the industry.**

Q42: **Do you agree that past payments should be increased from date of payment to the valuation date in line with Bank of England Base Rate over the period? If not, what alternative approach would you propose?**

Q43: **Do you agree with our proposal that where a DB scheme has entered the Pension Protection Fund (PPF), redress should be calculated on the basis of the PPF benefits unless the firm knows that the scheme is shortly going to be secured outside of the PPF, resulting in members receiving higher benefits? If not, what alternative approach would you propose?**

Q44: **Do you agree with our proposals to adopt the FTSE UK Private Growth Total Return Index for returns post 1 January 2005? If not, please could you indicate what alternative benchmark index should be used.**

Q45: **Do you agree that firms should pay as much of the redress as possible directly into the consumer's defined contribution pension by augmentation? Do you also agree that payment should only be by cash lump sum where augmentation is likely to mean consumers incur a tax charge or where the consumer specifically requests that redress is provided in this way? If not, how do you think redress should be provided to consumers and why?**

Q46: **Do you agree with the factors that are likely to be relevant in judging whether augmentation would result in a consumer exceeding their annual or lifetime allowance? If not, which factors do you think are likely to be relevant?**

Q47: Do you agree with our proposal on how firms should allow for tax and means-tested state benefit entitlements on lump sum augmentation of redress payments? If not, what alternative approach would you propose?

Q48: Do you agree with our proposal on how firms should allow for tax and means-tested state benefit entitlements on cash lump sum redress payments? If not, what alternative approach would you propose?

Q49: Do you agree with our proposal that calculations should be valid for three months from date of issue to the consumer? If not, what alternative timeframe would you propose?

Q50: Do you agree that redress payments should be increased between the valuation date and the payment date using, as appropriate, the pre-retirement or post-retirement discount rate to compensate consumers for foregone investment returns? If not, what alternative approach would you propose?

Q51: Do you agree with the proposed content of the calculation explanation? If not, what information do you think consumers should be given to help them understand their calculation?

Q52: Do you agree with the proposed wording for the warning when consumers receive redress as a cash lump sum? If not, what wording do you suggest would be more impactful for consumers?

Q53: Do you agree that consumers should be encouraged to read their explanations carefully and that firms should be required to and set out clearly the process the consumer should follow if they have any questions, wish to challenge any of the information used in the calculation, or make a complaint?

Q54: Do you agree that, subject to the differences set out in Chapter 8, the same redress calculation methodology should be used for British Steel cases as all other cases? If not, what alternative approach would you propose?

Q55: Do you agree with our proposal to follow our general approach on the method of payment of redress for BSPS consumers? If not, what alternative approach would you propose?

Q56: **Do you agree that where the Pension Protection Fund is used as the comparator scheme, consumers should be redressed based on the upcoming Pension Insurance Corporation benefits when available? If not, what alternative approach would you propose?**

Q57: **Do you agree that where consumers made an active selection of either the new British Steel Pension Scheme (BSPS2) or the Pension Protection Fund at the time of the transfer, the redress calculation should be based on the benefits of the selected scheme? If not, what alternative approach would you propose?**

Q58: **Do you agree that where there is no evidence of consumers making an active selection of either the new British Steel Pension Scheme (BSPS2) or the Pension Protection Fund at the time of the transfer, firms should calculate what the redress would be for both and pay the higher amount to the consumer? If not, what alternative approach would you propose?**

Q59: **Do you agree that where consumers have not made an active selection, firms should consider information from the time of the transfer advice to see if there is any evidence that demonstrates the consumer would have been more likely than not to have chosen one of the two schemes? If so, what evidence do you consider could help firms demonstrate this?**

Q60: **Do you agree that if the firm cannot demonstrate with evidence which scheme the consumer would have chosen, the calculation should be based on the scheme that provides the higher redress to the consumer?**

Q61: **Do you agree that where further information is needed for a redress calculation, firms should obtain the consumer's consent to request this from a third party?**

Q62: **Do you agree that the calculation methodology for British Steel cases should use the same assumptions as the general approach? If not, what alternative approach would you propose?**

Q63: **Do you agree with the proposed redress calculation methodology for the British Steel redress scheme? If not, what alternative approach would you propose?**

Q64: **Do you agree with our proposals for adjusting the redress payment to take account of the consumer's tax position and accumulated interest between the valuation date and payment date? If not, what alternative approach would you propose?**

Q65: **Do you agree with our proposals for issuing redress determinations to consumers? If not, what alternative approach would you propose?**

Q66: **Do you agree with our proposals for paying redress to consumers? If not, what alternative approach would you propose?**

Q67: **Do you have any other comments on the stages of the process that firms must follow to calculate redress under the proposed British Steel redress scheme?**

Q68: **Do you agree that the calculator should significantly reduce or eliminate the need for actuarial input? If not, why not?**

Q69: **Do you agree that the use of the calculator should be limited to firms, the Financial Services Compensation Scheme and the Financial Ombudsman?**

Q70: **Do you agree that the use of the calculator should be mandatory? If not, why not?**

Q71: **Is your firm interested in taking part in testing the redress calculator for the proposed British Steel redress scheme?**

Q72: **Do you have any other proposals on how to make redress calculations for the proposed British Steel redress scheme more consistent?**

Q73: **Do you have any other comments on the development of the calculator?**

Q74: **Do you agree with our estimates of the costs and benefits of our proposals?**

Annex 2
Cost benefit analysis

Introduction

1. FSMA, as amended by the Financial Services Act 2012, requires us to publish a cost benefit analysis (CBA) of our proposed rules. Specifically, section 138I requires us to publish a CBA of proposed rules, defined as 'an analysis of the costs, together with an analysis of the benefits that will arise if the proposed rules are made'.

2. This analysis presents estimates of the significant impacts of our proposal. We provide monetary values for the impacts where we believe it is reasonably practicable to do so. For others, we provide estimates of outcomes in other dimensions. Our proposals are based on carefully weighing up these multiple dimensions and reaching a judgement about the appropriate level of consumer protection, taking into account all the other impacts we foresee.

Rationale for our proposal

3. Our Consultation Paper (CP) proposes changes to help ensure our redress calculation methodology advances our objective of securing an appropriate degree of protection for consumers by ensuring calculations:

- are consistent across the large number of firms carrying out calculations,
- are as responsive as possible to consumers' individual circumstances,
- result in calculations consumers can easily understand, and
- are less subject to market volatility.

4. We consider the proposed changes to the methodology may also improve consumer confidence and trust in financial advice or financial markets more broadly. Consumer confidence is likely to be most improved where the consumer has an increased level of assurance that the total amount of redress paid most closely matches the total loss they experienced. However, these factors are not reasonably practicable to quantify.

Counterfactual

5. If we do not make the changes to the methodology, then firms could continue to calculate redress using the current methodology. Following our extensive periodic review, we consider the current methodology less likely to deliver the outcomes set out in paragraph 3 than the proposed methodology.

6. Another possibility is that, because the current methodology is not in our Handbook, the industry could depart from using it and develop various alternative methodologies, resulting in inconsistencies between the way that individual firms carry out calculations.

7. We have assessed the proposal against a 'counterfactual' that shows the position if the current methodology continued to be used.

Who will be impacted by our proposals

Firms

8. Firms with current DB transfer permissions and who have provided DB transfer advice could be affected by our proposals. Firms who previously held DB transfer permissions and are still in business may also be affected if they receive complaints or carry out past business reviews about DB transfer advice they gave when they held those permissions.

9. Our data shows that, since September 2015, 2,507 firms have advised on 272,849 DB transfers. This timeframe broadly aligns with statutory limitation periods and Financial Ombudsman time limits (which, in some circumstances, can extend beyond six years). It is unlikely that firms would have to calculate redress for earlier advice. Once firms who are in liquidation or administration are removed, this reduces to 2,362. This is our baseline figure for the number of potentially affected firms.

10. Of the affected firms, we have classed 2,100 as small (5 advisers or fewer), 242 as medium-sized (6-50 advisers) and 20 as large. This is based on the firm size distribution we published in our analysis of the retail intermediary market in 2020.

Consumers

11. We estimate that between 250 and 300 consumers could have redress calculated under the methodology each month. This is based on complaints data reported to us by firms and figures from the Financial Ombudsman and the Financial Services Compensation Scheme. However, in our complaints data, complaints about pension transfer advice are reported within a wider category so this is likely to be a significant overestimate.

12. There are indications that the number of consumers being advised to transfer out of their DB scheme is falling, meaning the number of consumers requiring calculations will be lower in future, once legacy cases are settled. For example, in the 18 months to September 2021, 34,053 people were advised to transfer out of their DB scheme. This compared to 49,456 in the previous 18 months.

The Financial Ombudsman Service

13. The impact on the Financial Ombudsman is likely to be minimal because the Financial Ombudsman requires firms to calculate redress, rather than calculating redress itself.

The Financial Services Compensation Scheme

14. Firms that default because of redress liabilities will be passed to the Financial Services Compensation Scheme (FSCS). FSCS redress for pension transfer advice is capped at £85,000. Redress paid and fees incurred by FSCS will in turn be reflected in the FSCS levy and paid for by industry. For the reasons set out in this CBA, we have not estimated the overall impact of the proposals on firms' redress costs. We are therefore not able to estimate the impact on FSCS.

Assessing the overall impact of our proposals

15. We do not consider that any changes in the amount of redress paid by advice firms to consumers because of our proposals should be recorded as increasing or decreasing the cost to firms. This is because redress is a transfer of wealth from firms found to have given unsuitable advice to consumers who have been harmed by firms' non-compliance with our rules. This reflects our view that the objective of redress is to put the consumer, so far as possible, back in the position they would have been in if they had received compliant advice and not transferred out of their DB scheme.

16. Our CBA in Guidance Consultation 17/1 (GC17/1) for the changes we proposed following the last periodic review of the methodology in 2016 considered whether we could estimate the overall impact of our proposal on redress payments. We found difficulties doing this, largely because the redress amount is very sensitive to the characteristics of the individual seeking redress. We noted that it particularly depends on the individual's:

- current age
- retirement age
- DB pension benefits they were otherwise entitled to
- DB pension scheme structure, for example, whether the level of payments changed, and whether it included an adjustment for inflation
- date of leaving the DB pension scheme
- enhanced transfer value
- pension commencement lump sum amount
- savings in the personal pension

17. To estimate the overall impact of the new methodology, we said we would need to get these details for a representative sample of consumers. We would then need to estimate how much redress the consumers would, in aggregate, have been entitled to under the current methodology and compare this to their entitlement under the proposed methodology.

18. We said we did not consider it reasonably practicable to do this because of the difficulty in acquiring a representative sample of data. This continues to be our position. Further, as we explain elsewhere in this CP, our revised approach to determining some key inputs to the calculation, such as retirement date and tax position, may require information from the consumer themselves.

19. Given the above, we continue to believe that it would be disproportionate to invest significant time and other resources to calculate the overall impact of our proposed changes. And it could delay the commencement of the BSPS redress scheme, which will use the wider calculation methodology.

20. Table 1 summarises the outcome of Deloitte's modelling of the impact of the current and revised methodology on the valuation of DB benefits for a set of notional consumers. Although this is a not a representative sample of real consumers, we nonetheless consider that our notional consumers have the characteristics that some real consumers who would have remained in their DB scheme but for the non-compliant transfer advice from their financial adviser are also likely to have.

Table 1: Overall impact of our proposed changes

The table below shows Deloitte's modelling of the impact of the proposed changes to the redress methodology on eight example consumers. All calculations are undertaken as at 1 April 2022, the same calculations undertaken at a different date may have produced different results. It should be noted that the values stated in the table show the change in the value of the DB benefits. The impact on redress would differ depending on the value of the DC benefits.

Deloitte have assumed that the consumers identified as Actual Loss cases are treated as Actual Loss under both the current methodology and the methodology incorporating the proposed changes. Whether this is the case would depend on how the firm assesses the consumer's retirement date (see Chapter 6). Deloitte have not included any allowance for a SERPS adjustment in the figures below.

Example consumers								
	1	**2**	**3**	**4**	**5**	**6**	**7**	**8**
Date of birth	17/02/68	18/05/57	27/04/82	13/10/55	21/12/67	05/11/45	02/04/67	01/05/59
Retirement age	65	58	60	65	60	60	65	60
Term to retirement	10	-	20	-	5	-	10	-
Actual or prospective loss	Prospect.	Actual	Prospect.	Actual	Prospect.	Actual	Prospect.	Actual
Marital/civil partnership status	Married	Single	Single	Married	Single	Married	Married	Single
Charges (% p.a.)	1%	-	1%	-	0.50%	-	0.50%	-
Results								
Value of DB at valuation date (current methodology)	£498,312	£370,729	£280,159	£379,654	£598,256	£675,936	£496,024	£210,314
Value of DB at valuation date (proposed methodology)	£527,670	£361,045	£274,253	£372,238	£566,728	£669,764	£540,390	£204,830
Change in Value	£29,358	(£9,684)	(£5,906)	(£7,415)	(£31,528)	(£6,172)	£44,366	(£5,483)
Change in value	5.9%	(2.6%)	(2.1%)	(2.0%)	(5.3%)*	(0.9%)	8.9%	(2.6%)

* This reduction for consumer 5 is primarily caused by the fact the consumer is single and therefore under the proposed assumptions the proportion married/in a civil partnership assumption would be 11% compared to the 85% assumed in the current FG 17/9 Guidance.

Source: Deloitte

21. Deloitte's analysis helps to demonstrate the strong distributional effects of the proposed changes. Compared to the counterfactual, some groups and cohorts receive more redress (due to higher valuation of their DB benefits) and some receive less (due to lower valuation of their DB benefits). The change in the value of the consumer's DB benefits ranges from a decrease of 5.3% to an increase of 8.9%. As we

do not have any information about the client base of firms who may need to provide redress (and note that a firm's past client base may not be a good predictor of the consumers it may serve in future), we are not able to draw any meaningful conclusions about the impact of our proposals on the redress liabilities of individual firms. However, to the extent that the cases modelled by Deloitte are typical, they show that, in most cases, the impact of our proposals is likely to be modest.

22. We have, however, considered the potential individual impact of the most significant changes we have proposed. We set out our assessment of this below.

Updating our cost benefit analysis for the proposed consumer redress scheme for former British Steel Pension Scheme members

23. In the CBA for our BSPS consumer redress scheme consultation (CP22/6), we estimated an average cash equivalent transfer value (CETV) for BSPS members of around £374,000. Based on a sample of 132 cases where either the firm itself or the Financial Ombudsman found the advice to be unsuitable, we estimated the average financial loss per unsuitable transfer at around £60,000, representing around 16% of the transfer value. We used this 16% figure as our central assumption for the CBA.

24. As we intend the BSPS redress scheme to use broadly the same calculation methodology as non-BSPS cases, we will update the CP22/6 CBA to take account of the impact of any changes to the methodology on the average financial loss figure before we make our final decision on whether to go ahead with the redress scheme. However, our expectation at this stage is that the same strong distributional effects of the proposed changes noted in Table 1 and paragraph 21 would apply to BSPS cases too. In other words, for some consumers redress may increase and for other consumers it may decrease. We will publish our updated CBA in the policy statement announcing our final decision on the proposed consumer redress scheme later this year.

25. In the meantime, we have considered the impact of our proposals on the costs and benefits of the proposed BSPS scheme in light of the changes in the value of the consumer's DB benefits seen in Deloitte's modelling of typical cases (see Table 1). While the cases modelled by Deloitte are typical of pension transfer redress cases, we recognise that they may not be fully representative of the sample used for our CBA in CP22/6. If the cases are not representative then the provisional assessment below may be inaccurate. However, on the basis that many cases subject to the BSPS scheme are likely to be typical, we think it not unreasonable to use Deloitte's modelling as an indicator of the potential scale of the impact of our proposals at this stage.

26. Importantly, Deloitte's modelling suggests that there may be significant increases or decreases in redress for some consumers compared to the counterfactual. However, because of the distributional effects noted above, the change in total redress payable under the scheme may be modest. For example, the mean percentage change in the value of the consumer's DB benefits in Deloitte's modelling is close to zero (-0.1%). This would have a negligible impact on the current assessment of the scheme's estimated costs and benefits. The median change in the value of DB benefits, on the other hand, is negative (-2.1%).

27. Our proposals are intended to ensure consumers receive appropriate redress. However, we recognise that firms will be concerned if our proposals result in a material increase in overall redress. As noted in paragraph 24, we will carry out a detailed reappraisal of the impact of our proposals on the costs and benefits of the BSPS scheme before we make

our final decision on whether to go ahead with the scheme. For this CP, we consider the sensitivity analysis in the CP22/6 CBA remains an appropriate way of dealing with uncertainty at this stage. This analysis already includes an average financial loss of 22% of the transfer value as an upper bound. A financial loss of 22% rather than the 16% equates to an increase of roughly 5% increase in the value of the consumer's DB benefits. It is, therefore, consistent with the upper end of increases seen in Deloitte's modelling.

28. It is our view that our proposal to require firms to obtain the consumer's consent to request information from third parties (to assess suitability or calculate redress) would not result in any additional costs for firms to those already outlined in CP 22/6. In CP 22/6 we estimated that each file review would cost £1,000. This figure is based on our evidence to date of costs charged by consultants to review the contents of each case, analyse them as necessary, and record information in the appropriate manner. This cost would also include requesting any further information to assess suitability from either the consumer or a third party. We also estimated that the cost of a redress calculation if the advice was assessed as unsuitable is £1,000. This is additional to the costs of file review. It is our view that the cost of the calculation includes the cost of obtaining the relevant data to carry out the calculation, either from consumers or from third parties.

Assessing the impact of our proposals in isolation

How redress should be paid to consumers

Impact on redress payments

29. We know that some firms provide redress as a cash lump sum rather than by augmentation. By reinforcing our preference for redress by augmenting the DC pension wherever this is possible, cash lump sum payments direct to consumers may become less common in future.

30. The extent to which firms move towards redress by augmentation will depend on the tax position of the individual consumer. Pension contributions in any tax year are limited to 100% of a consumer's taxable income. Accordingly, a consumer earning the UK median income of approximately £32,000 would be limited to pension contributions up to £32,000 before incurring any annual allowance change, regardless of any additional annual allowance carried forward from previous years. As explained in Chapter 7, we do not expect firms to pay higher redress to consumers for the benefit of HMRC.

31. Based on the average financial loss figure of £60,000 used as the basis for our CBA for the proposed BSPS redress scheme, we do not consider augmentation of the full redress amount will be possible for the typical (ie median income) consumer. However, we would expect firms to augment as much of the redress they owe into the consumer's DC pension as possible. For example, a firm owing redress of £60,000 to a typical consumer may be able to augment up to £32,000 of the redress with the remainder paid as a cash lump sum.

Other impacts

32. The other significant change we have proposed relating to the tax treatment of redress payments is the proposal that firms ensure consumers understand how the firm has taken their tax position into account through disclosures that are clear, fair and not misleading. We consider the impact of this proposal in the section below on disclosure requirements.

Retirement age

Impact on redress payments

33. The proposed rebuttable presumption in Chapter 7 could 'correct' cases of both under- and overcompensation that may arise under the current methodology. Under-compensation would occur where the firm incorrectly assumes the consumer would have retired before their DB scheme's normal retirement age (NRA). Over-compensation would occur where the firm incorrectly assumes the consumer would not have retired before their DB scheme's NRA.

34. However, we think that firms are likely to be incentivised to make assumptions that result in lower redress. On this basis, we think that, where calculations are settled based on incorrect retirement age assumptions, under-compensation is the more likely outcome under the current methodology. Accordingly, other things being equal, we think our proposal on retirement age, making the current position more explicit in a case where a firm had used an incorrect assumption it is more likely than not to increase redress compared to the counterfactual.

35. Deloitte modelled how the valuation of a consumer's DB benefits (a key input in the calculation) could change depending on whether a consumer is deemed to have retired in their DB scheme at or before the valuation date. The notional consumers modelled by Deloitte found that the value of the consumer's DB benefits could reduce by between 12% and 33% depending on the consumer's circumstances and the time to normal retirement age in their DB scheme. This can result in even greater reductions in the redress amount as the value of the DC pension would not change depending on whether the consumer is deemed to have retired in their DB scheme. Table 2 sets out Deloitte's analysis in more detail.

Table 2: How the valuation of a consumer's DB benefits could change depending on whether a consumer is deemed to have retired in their DB scheme at or before the valuation date

Assumed retirement age in DB scheme (and marital status where assumed retired)	Value placed on DB scheme benefits	Reduction in value of DB benefits compared to not assumed retired
1. Not assumed retired	£41.9k	-
2. Assumed to have retired at age 60, married	£36.7k	12%
3. Assumed to have retired at age 60, single	£32.0k	24%
4. Assumed to have retired at age 55, married	£31.7k	24%
5. Assumed to have retired at age 55, single	£27.9k	33%

The over-arching assumptions in Deloitte's illustrative calculations are:

Prospective Loss Basis:

- Assumed to retire at earliest age unreduced in the DB scheme: Age 65
- Allowance for PCLS is made via an adjustment to the Post Retirement Discount Rate (in line with paragraph 29 of FG 17/9)
- Allowance for 85% proportion married regardless of actual marital status (in line with paragraph 36 of FG 17/9)
- Assumed charges of 0.75% p.a. (pre-retirement)

Actual Loss Basis:

- Assumed to retire at age accessed benefits in the DC scheme
- Early retirement factor of 5% p.a. compound (typically Deloitte would expect early retirement factors to range between 3% p.a. and 7% p.a. in most DB schemes)
- PCLS factor of 15.0. PCLS factors in DB schemes can vary significantly between a range as large as 9 to 35. The smaller the factor the lower the value placed on the DB benefits. The individual is assumed to commute the HMRC maximum from the DB scheme.

The illustrative calculations are based on the following example member which Deloitte consider is a reasonable example of a typical DB member and typical benefits:

- Date of Valuation: 01/04/2022 (based on assumptions based on market conditions at 31/03/2022)
- Date of Birth: 01/01/1961 (the individual is aged 61.25)
- Date of Leaving the DB Scheme: 01/01/2012
- Pension at Date of Leaving (01/01/2012): £1,000 p.a.
- Pension revaluation in deferment. Statutory (i.e. CPI capped at 5% p.a. over the whole deferment period)
- Pension increases in payment: LPI5 (i.e. RPI capped at 5% p.a.)
- Spouse's pension (death in payment): 50% of the pre commuted pension

Based on the above assumptions, Deloitte has calculated the value of this illustrative member's DB benefits at 1 April 2022 in line with the current FG 17/9 Guidance.

Source: Deloitte

36. The extent of any under-compensation (and therefore the extent to which redress would increase as a result) will clearly depend on individual circumstances. Without a representative sample that provides this information, we cannot estimate the impact on individual firms. However, as we explain in paragraph 34, it is important to note that we are not changing the need for firms to make an assumption about the consumer's retirement age in the valuation of the consumer's DB benefits. Rather, we are explaining the way we expect firms to determine this assumption to ensure greater consistency, because the current provisions do not set this out.

Other impacts

37. Firms are already expected to determine, at the point of calculating redress, whether a consumer would have already retired in their DB scheme. Our proposal does not change this and, should, therefore, not result in additional costs for firms. By being clearer about the factors firms should take into account when determining a consumer's retirement age, our proposals should make it easier for firms to comply with our proposed rules.

38. Consumers may incur costs due to firms asking them for information to help determine whether they would have already retired in their DB scheme. We expect these costs to take the form of time spent dealing with such requests. Our proposals to restrict firms to making 'reasonable requests' for such information (see Chapter 3) mean this impact should be minimal.

39. Finally, we propose that firms ensure consumers understand what assumption they have made about the age at which the consumer would have retired in their DB scheme. We consider the impact of this proposal in the section below on disclosure requirements.

Proportion married or in a civil partnership at retirement

Impact on redress payments

40. The proposal is to move from a single assumption about a consumer's probability of being married at retirement to a table of probabilities based on the consumer's current marital status and their term to retirement. This takes account of actual marital status at the time of the calculation and the probability of a change in status before retirement.

41. Other things being equal, married consumers with 15 or less years to retirement will benefit from the change (ie will receive higher redress), compared to the current assumptions. This increases to 25 or less years if we retained the current methodology with a lower proportion married assumption. Single consumers will generally receive less redress, as they will be compensated a lower proportion for benefits paid to a spouse/partner based on the probability of those payments being made.

42. Deloitte modelled two notional cases to demonstrate the impact on redress payments of its recommendations on the demographic assumptions used in the methodology (mortality, spouse's age difference and proportion married at retirement). Table 3 shows how the change to the proportion married assumption (and the impact of the proposed changes to mortality assumptions) can both decrease and increase redress depending on the consumer's individual circumstances.

43. In Deloitte's examples, 'Member 3', a 40-year-old single male at the time of the calculation with an assumed retirement age of 60, sees a 7.3% reduction in the value of their redress, most of which is due to changing the probability of him being married at retirement from 85% to 40%. On the other hand, 'Member 7', a 55-year-old married female at the time of the calculation with an assumed retirement age of 65, receives slightly higher redress because of their probability of being married at retirement changing from 85% to 90%.

Table 3: How the valuation of a consumer's DB benefits could change as a result of changing the proportion married assumption (and mortality assumption)

Member	Value of DB benefits at date of calculation – current approach (£)	Value of DB benefits at date of calculation – current approach (£)	Change in value (£)	Change in value (%)
'Member 3' • Male • Age 40 • Retirement age 60 • Single	280,159	259,647	(20,512)	(7.3)
'Member 7 • Female • Age 55 • Retirement age 65 • Single	496,024	493,454	(2,570)	(0.5)

Source: Deloitte

Other impacts

44. We consider the impact of our proposal that firms ensure that consumers understand what assumption they have made about a consumer's marital status at retirement in the section on disclosure requirements. We do not foresee any other significant impacts from this proposal.

Product and adviser charges

Impact on redress payments

45. For product charges, we are proposing to replace the current cap of 0.75% of the DC fund value with a fixed percentage of 0.75%. This means that, according to recent the DB transfer data reporting by firms, redress amounts would increase for the approximately 45% of consumers identified through our file review as currently paying product charges below 0.75%. Other consumers currently pay 0.75% or more in product charges and would, therefore, not see their redress amount change by our proposal.

46. For ongoing advice charges, the current methodology compensates the full level of charges consumers are incurring at the date of the calculation. We are proposing to compensate these charges at a fixed rate of 0.5% of the DC fund value. Based on our DB transfer file review, we estimate that 47% of consumers are currently paying charges equivalent to 0.5% and would, therefore, not be affected by our proposed change. 46% are paying above 0.5% and would see their redress reduce compared to the counterfactual, while 6% are paying less than 0.5% and would see their redress increase. It would also increase for the 25% of consumers not currently in an advice arrangement, because they are not compensated for these charges under the current methodology.

47. Redress would also increase because we are proposing that calculations allow for initial advice fees for some consumers. These would be set at 2.4% of the DC fund, subject to a £1,000 minimum rate and a £3,000 maximum rate and would apply where consumers are not currently in an advice arrangement. We estimate that around 25% of consumers are not currently in an advice arrangement. The allowance for initial advice fees would also apply where consumers are currently paying ongoing advice charges above the new fixed rate of 0.5%, unless their adviser agrees to reduce their changes to the fixed rate or below.

Other impacts

48. The allowance for ongoing advice fees is fixed at 0.5% for the purpose of calculations. We also propose that firms compensate consumers for any initial advice fees where consumers are paying above the 0.5% rate for ongoing advice if the advice firm is unwilling to reduce its fees to the proposed 0.5% level. So, there is a possibility consumers will switch to a new advice arrangement, with individual firms losing or gaining customers as a result.

Monthly assumption updates

Impact on redress payments

49. We explain in Chapter 3 that moving from updating the assumptions used in calculations from no less frequently than quarterly to no less frequently than monthly is desirable to mitigate the impact of market volatility on calculations. This should result in the calculation of redress that more appropriately reflects the difference between the current value of the consumer's DC pension and the discounted value of the benefits from their former DB scheme. This is because it makes it less likely that the DC pension value will change between calculating redress and payment.

Other impacts

50. We understand most calculations are carried out on firms' behalf by actuarial specialists using proprietary software. We know of at least one actuarial specialist that updates assumptions daily, so we do not believe there should be technological barriers to requiring that assumptions are updated at least monthly.

51. Accordingly, we think the main impact of more frequent updates to the assumptions is that firms' maximum time to complete calculations before the assumptions are superseded and a new calculation becomes necessary will be reduced by two thirds. However, while this may require more careful scheduling of calculations by firms and their actuarial advisers, we do not think the additional cost of this outweighs the benefit of reducing the impact of market volatility on calculations. Further, we still intend to allow firms the current 3 months to issue calculations to consumers.

Disclosure requirements

Impact on redress payments

52. Our proposal in Chapter 7 that firms provide certain information to consumers to help explain calculations will not impact the amount of redress paid because it has no bearing on the calculation itself.

Other impacts

53. We do not consider our proposed disclosure requirements will materially add to firms' costs compared to the counterfactual. Firms should already be providing clear, fair and not misleading explanations of calculations to consumers. Our proposals simply require them to explain to consumers information they will have already collected and used in the calculation.

Compliance and other impacts

Compliance impacts

54. We expect firms will incur costs to familiarise themselves with our proposed rules, including legal review of our rules on pre-scheme checks and insistent clients. We draw on standardised assumptions to estimate these for all the estimated 2,362 advice firms in scope of our proposal, comprising an estimated 20 large firms, 242 medium-sized firms and 2,100 small firms. Taking into account the length of this CP and the legal instrument, we estimate these costs to be approximately £2.5m (comprising approximately £1.5m familiarisation costs and £1m gap analysis costs). We have used standardised assumptions to estimate these costs.

Training, data reporting and monitoring impacts

55. We do not foresee material training costs for firms compared to the counterfactual, as, overall, we are not making significant changes to a methodology that has been used for many years and with which firms should be familiar. Nor are we introducing any new data reporting or monitoring requirements.

Other impacts

56. Finally, while we recognise our proposals will require one-off changes to software used to calculate redress. These could result in minor increases in costs to firms if we assume that software providers pass these costs through. There may also be costs resulting from a short-term delay to settling claims while these changes are made.

Conclusion

57. Our proposals have strong distributional effects. The impact on redress payments will, therefore, depend on the individual circumstances of the consumers for whom redress is being calculated. Estimating the impact on individual firms and the industry overall would require an extensive data gathering and modelling exercise, which, for the reasons set out in this CBA, we do not consider proportionate. However, we do intend to model the impact of our proposals on the discrete population of firms and consumers subject to the proposed BSPS consumer redress scheme (see paragraph 24).

58. Any increase in redress payments represents a transfer from firms to consumers by amending the current methodology so that the consumers are more likely to be put back into the position that they would have been in if they had not received non-compliant advice to transfer out of their DB pension scheme, so we are fulfilling our consumer protection objective.

Q74: Do you agree with our estimates of the costs and benefits of our proposals?

Annex 3
Compatibility statement

Compliance with legal requirements

1. This Annex records the FCA's compliance with a number of legal requirements applicable to the proposals in this consultation, including an explanation of the FCA's reasons for concluding that our proposals in this consultation are compatible with certain requirements under the Financial Services and Markets Act 2000 (FSMA).

2. When consulting on new rules, the FCA is required by section 138I(2)(d) FSMA to include an explanation of why it believes making the proposed rules is (a) compatible with its general duty, under s. 1B(1) FSMA, so far as reasonably possible, to act in a way which is compatible with its strategic objective and advances one or more of its operational objectives, and (b) its general duty under s. 1B(5)(a) FSMA to have regard to the regulatory principles in s. 3B FSMA. The FCA is also required by s. 138K(2) FSMA to state its opinion on whether the proposed rules will have a significantly different impact on mutual societies as opposed to other authorised persons.

3. This Annex also sets out the FCA's view of how the proposed rules are compatible with the duty on the FCA to discharge its general functions (which include rule-making) in a way which promotes effective competition in the interests of consumers (s. 1B(4)). This duty applies in so far as promoting competition is compatible with advancing the FCA's consumer protection and/or integrity objectives.

4. In addition, this Annex explains how we have considered the recommendations made by the Treasury under s. 1JA FSMA about aspects of the economic policy of Her Majesty's Government to which we should have regard in connection with our general duties.

5. This Annex includes our assessment of the equality and diversity implications of these proposals.

6. Under the Legislative and Regulatory Reform Act 2006 (LRRA) the FCA is subject to requirements to have regard to a number of high-level 'Principles' in the exercise of some of our regulatory functions and to have regard to a 'Regulators' Code' when determining general policies and principles and giving general guidance (but not when exercising other legislative functions like making rules). This Annex sets out how we have complied with requirements under the LRRA.

The FCA's objectives and regulatory principles: Compatibility statement

7. The proposals set out in this consultation are primarily intended to advance the FCA's operational objective of protecting consumers.

8. Our consumer protection objective is to secure an appropriate degree of protection for consumers. In considering this, we are required to have regard to the matters listed in FSMA s.1C(2)(a)-(h).

9. When consumers transfer out of a DB scheme, they lose the security of a guaranteed income and bear the risk that their pension investments might not perform well enough to give them the income they need for the rest of their life. Consumers are therefore required to make complex, major, and irreversible choices about their financial futures.

10. Our proposals are intended to ensure consumers receive appropriate redress when firms provide advice that is not compliant with our rules or their legal obligations, nor provide the level of care that should be appropriate having regard to the degree of risk involved in relation to transferring out of a DB scheme. Our proposals are also intended to ensure consumers receive timely information and advice to allow them to understand redress calculations carried out by firms.

11. We have recognised the general principle that consumers should take responsibility for their decisions. However, legislation generally requires that members must take regulated advice before transferring out of a DB scheme, and we believe that consumers should not be held responsible for losses suffered in consequence of a a firm failure to provide compliant advice. Where consumers have transferred out despite receiving compliant advice that doing so would not be in their best interests, there is no entitlement to redress.

12. Our proposals have been informed by information that we have received from the Financial Ombudsman Service.

13. We consider these proposals are compatible with the FCA's strategic objective of ensuring that the relevant markets function well because they will ensure confidence among firms and consumers that the methodology will continue to enable calculation of an appropriate amount of redress where consumers have been harmed because of a firm's failure to provide compliant advice. For the purposes of the FCA's strategic objective, "relevant markets" are defined by s. 1F FSMA.

14. In preparing the proposals set out in this consultation, the FCA has had regard to the regulatory principles set out in s. 3B FSMA.

The need to use our resources in the most efficient and economic way

15. Our proposals support the need to use our resources in the most efficient and economical way by retaining a common methodology for calculating redress where a firm failed to provide compliant pension transfer advice. A common methodology provides greater clarity and certainty to firms on our expectations and so reduces the supervisory and policy resource required to engage with firms.

The principle that a burden or restriction should be proportionate to the benefits

16. In Annex 2 we have set out our analysis of the costs and benefits of our proposals for consultation, including consideration of other options available to us. Overall, we believe that our proposals are a proportionate response to the harm that we have found.

The desirability of sustainable growth in the economy of the United Kingdom in the medium or long term

17. Our proposals support the desirability of sustainable growth in the economy by ensuring consumers who have suffered a financial loss are able to receive appropriate redress. This additional income for consumers will support the medium- and long-term growth in the economy. We have considered this principle and do not believe our proposals undermine it.

The general principle that consumers should take responsibility for their decisions

18. As set out in our assessment at paragraph 11, we have considered this principle and do not believe our proposals undermine it.

The responsibilities of senior management

19. Relevant senior management will need to ensure that firms comply with our proposed rules, having regard to their responsibilities under the Senior Managers and Certification Regime. We have had regard to this principle and do not believe that our proposals undermine it.

The desirability of recognising differences in the nature of, and objectives of, businesses carried on by different persons including mutual societies and other kinds of business organisation

20. We have had regard to this principle and do not believe that our proposals undermine it.

The desirability of publishing information relating to persons subject to requirements imposed under FSMA, or requiring them to publish information

21. We have had regard to this principle and do not believe that our proposals undermine it.

The principle that we should exercise of our functions as transparently as possible

22. We will continue to engage with stakeholders throughout the consultation process before making final rules. We have had regard to this principle and do not believe that our proposals undermine it.

23. In formulating these proposals, the FCA has had regard to the importance of taking action intended to minimise the extent to which it is possible for a business carried on (i) by an authorised person or a recognised investment exchange; or (ii) in contravention of the general prohibition, to be used for a purpose connected with financial crime (as required by s. 1B(5)(b) FSMA). We do not consider this relevant in relation to our proposals.

Expected effect on mutual societies

24. The FCA does not expect the proposals in this paper to have a significantly different impact on mutual societies than other authorised persons subject to our proposals or present them with any more or less of a burden than other authorised persons subject to our proposals

Compatibility with the duty to promote effective competition in the interests of consumers [delete if dealt with separately]

25. In preparing the proposals as set out in this consultation, we have had regard to the FCA's duty to promote effective competition in the interests of consumers.

26. Our proposed changes to the methodology, specifically to the adviser and product charges assumption, will advance our objective to promote effective competition in the interests of consumers. They will do this by ensuring redress provides for a reasonable level of future charges, enabling consumers to switch to a different adviser if they wish to.

27. We have considered whether our proposals could lead to wider deterioration in the PII market or any material impact on the DB transfer advice market. As our proposals do not obviously lead to a significant increase in redress costs for firms compared to the current approach, we think this is unlikely.

Equality and diversity

28. We are required under the Equality Act 2010 in exercising our functions to 'have due regard' to the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by or under the Act, advance equality of opportunity between persons who share a relevant protected characteristic and those who do not, to and foster good relations between people who share a protected characteristic and those who do not.

29. As part of this, we ensure the equality and diversity implications of any new policy proposals are considered. The outcome of our consideration in relation to these matters in this case is stated in paragraph 2.20-2.27 of the Consultation Paper.

Legislative and Regulatory Reform Act 2006 (LRRA)

30. We have had regard to the principles in the LRRA for the parts of the proposals that consist of general policies, principles or guidance and consider that our proposals are transparent and proportionate as set out above. Our proposals would apply in a consistent manner to all firms who have given non-compliant advice to consumers to transfer out of their DB schemes and would only apply to cases where action is needed (ie where there has been financial loss).

31. We have had regard to the Regulators' Code for the parts of the proposals that consist of general policies, principles or guidance and consider that the proposals are proportionate to the harm suffered by some consumers or risks to our statutory objectives identified.

Treasury recommendations about economic policy

32. We have considered the most recent recommendations from the Treasury under s. 1JA FSMA. Our proposals are consistent with these recommendations as they aim to improve outcomes for consumers who received non-compliant advice to transfer out of their DB scheme.

Annex 4
Abbreviations used in this paper

Abbreviation	Description
AVC	additional voluntary contribution
BSPS	British Steel Pension Scheme
BSPS2	new British Steel Pension Scheme
CBA	cost benefit analysis
CETV	cash equivalent transfer value
CGT	capital gains tax
CMI	continuous mortality investigation
COBS	Conduct of Business Sourcebook
COD	contracted out deduction
CONRED	Consumer Redress Schemes sourcebook
CP	consultation paper
CPI	consumer price index
CPT	compensation protection trusts
DB	defined benefit
DC	defined contribution
DISP	Dispute Resolution sourcebook
DMT	discounted mean term
DOB	date of birth
DOL	date of leaving (active service in the DB scheme)
DWP	Department for Work and Pensions

Abbreviation	Description
EA2010	Equality Act 2010
FCA	Financial Conduct Authority
FG	finalised guidance
FSAVC	Free Standing Additional Voluntary Contribution
FS	feedback statement
FSCS	Financial Services Compensation Scheme
FSMA	Financial Services and Markets Act 2000
GMP	guaranteed minimum pension
IRP	inflation risk premium
IFoA	Institute and Faculty of Actuaries
LRRA	Legislative and Regulatory Reform Act 2006
MaPS	Money and Pensions Service
NRA	normal retirement age
ONS	Office for National Statistics
PBR	past business review
PCLS	pension commencement lump sums
PI	professional indemnity
PIA	Personal Investment Authority
PIC	Pension Insurance Corporation
PII	professional indemnity insurance
PPF	Pension Protection Fund
PPI	payment protection insurance
PS	Policy statement

Abbreviation	Description
RPI	retail price index
SERPS	State Earnings Related Pension Scheme
SIB	Securities and Investments Board
SPA	state pension age
VAT	value added tax

We make all responses to formal consultation available for public inspection unless the respondent requests otherwise. We will not regard a standard confidentiality statement in an email message as a request for non-disclosure.

Despite this, we may be asked to disclose a confidential response under the Freedom of Information Act 2000. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by the Information Commissioner and the Information Rights Tribunal.

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Appendix 1
Draft Handbook text

PENSION TRANSFER REDRESS INSTRUMENT 2022

Powers exercised

A. The Financial Conduct Authority ("the FCA") makes this instrument in the exercise of the following powers and related provisions in the Financial Services and Markets Act 2000 ("the Act"):

(1) section 137A (The FCA's general rules);
(2) section 138C (Evidential provisions);
(3) section 137T (General supplementary powers);
(4) section 139A (Power of the FCA to give guidance);
(5) section 395(5) (The FCA's and PRA's procedures);
(6) section 404(3) (Consumer redress schemes); and
(7) section 404A (Rules under s404: supplementary).

B. The rule-making powers listed above are specified for the purposes of section 138G(2) (Rule-making instruments) of the Act.

Commencement

C. This instrument comes into force on [*date*].

Amendments to the Handbook

D. The modules of the FCA's Handbook of rules and guidance listed in column (1) below are amended in accordance with the Annexes to this instrument listed in column (2).

(1)	(2)
Dispute Resolution: Complaints sourcebook (DISP)	Annex A
Consumer Redress Schemes sourcebook (CONRED)	Annex B

Notes

E. In this instrument, the "notes" (indicated by "**Note:**") are included for the convenience of readers but do not form part of the legislative text.

Citation

F. This instrument may be cited as the Pension Transfer Redress Instrument 2022**.**

By order of the Board
[*date*]

Annex A

Amendments to the Dispute Resolution: Complaints sourcebook (DISP)

In this Annex, the text is all new and is not underlined.

After, Appendix 3 (Handling Payment Protection Insurance complaints), insert Appendix 4, Handling pension transfer redress calculations.

App 4 Handling pension transfer redress calculations

App 4.1 Definitions

App 4.1.1 R The following definitions are used in this appendix:

(1) ‘annual allowance’ is the maximum amount that can be added to an individual’s pension each tax year without the individual being liable for an annual allowance tax charge;

(2) ‘annual allowance tax charge’ includes:

(a) the standard annual allowance limit of £40,000 saved into a pension in the current tax year; and

(b) the money purchase annual allowance which is triggered when a consumer has flexibly accessed their pension, which reduces their annual allowance to £4,000; and

(c) the tapered annual allowance which reduces the annual allowance for those earning above £200,000;

(3) ‘assumptions’ are the economic, demographic and other assumptions to be used in the redress calculation set out at *DISP* App 4 Annex 1;

(4) ‘augmentation’ is the payment of redress into the *consumer’s* chosen defined contribution pension scheme;

(5) ‘calculation date’ is the date on which the *firm* completes the calculation at Step 3 at *DISP* App 4.3.17R;

(6) ‘compliant pension transfer advice’ is *advice* to a *consumer on the conversion or transfer of pension benefits* from a *defined benefit occupational pension scheme* to a DC pension arrangement, which complies with the following:

(a) (as applicable) the suitability requirements in *COBS* 9 and *COBS* 19.1; and

(b) the common law duty in contract or tort to exercise reasonable skill and care in advising the *consumer*; and

(c) (where the advice is to remain in the *defined benefit occupational pension scheme* and the *firm* arranges the *pension transfer* or conversion) a *firm's* obligations when dealing with insistent clients (from 1 January 2018, see *COBS* 9.5A);

(7) 'DC pension arrangement' means any pension arrangement holding the value of the *consumer's* pension benefits which originated from the non-compliant pension transfer advice;

(8) 'defined contribution pension scheme' means an occupational or non-occupational pension scheme with a right or entitlement to *flexible benefits*;

(9) 'non-compliant pension transfer advice' is *advice* to a *consumer on the conversion or transfer of pension benefits* from a *defined benefit occupational pension scheme* to a DC pension arrangement, which does not comply with one or more of the following:

(a) (as applicable) the suitability requirements in *COBS* 9 and *COBS* 19.1;

(b) the common law duty in contract or tort to exercise reasonable skill and care in advising the *consumer*; or

(c) (where the advice is to remain in the *defined benefit occupational pension scheme* and the *firm* arranges the *pension transfer* or conversion) a *firm's* obligations when dealing with insistent clients (from 1 January 2018, see *COBS* 9.5A);

(10) 'non-joiner' is a *consumer* who declined or failed to join an *occupational pension scheme* for which they were or are eligible, while continuing in the relevant employment;

(11) 'normal retirement age' is the earliest age at which the *consumer* could have retired from the *defined benefit occupational pension scheme* without both the employer's consent and actuarial reduction;

(12) 'payment date' is the date that the redress is paid to the *consumer*;

(13) 'pension tranche' is an element of pension benefit which typically has a unique combination of revaluation increases before coming into payment and pension increases during

payment, but may also have a unique payment starting age or payment end age;

(14) 'primary compensation sum' is the redress sum calculated in accordance with *DISP* App 4.3.18R;

(15) 'redress offer' is an offer of redress made to a *consumer* after a *firm* has determined that the *consumer* suffered loss as a result of non-compliant pension transfer advice;

(16) 'retirement date' is the *consumer's* presumed or alternative retirement date determined in accordance with *DISP* App 4.3.13R-4.3.16R;

(17) 'secondary compensation sum' is the redress sum comprising the components in *DISP* App 4.3.25R(2);

(18) 'SERPS' is the state earnings related pension scheme;

(19) 'settlement date' is the date on which the *firm's* redress offer is accepted by the *consumer*;

(20) 'unauthorised payment' is defined in section 160 of the Finance Act 2004;

(21) 'unauthorised payment charges' include any tax charges levied pursuant to chapter 5, part 4 of the Finance Act 2004; and

(22) 'valuation date' is the date at which the benefits in the *defined benefit occupational pension scheme* and benefits in the DC pension arrangement must be valued for the calculation at Step 3 at *DISP* App 4.3.17R.

App 4.2 Application

App 4.2.1 G This appendix sets out the *rules* and *guidance* about the steps *firms* should take and the assumptions *firms* should use to:

(1) calculate the redress (if any) to offer to a *consumer*, their spouse or dependant for non-compliant pension transfer advice which resulted in the *consumer* transferring into a defined contribution pension scheme; and

(2) make a redress offer to a *consumer* or their beneficiary.

App 4.2.2 R This appendix applies to any redress calculation and redress offer relating to non-compliant pension transfer advice arising as a result of:

(1) a *complaint* received by a *firm* after [date instrument made];

(2) a *complaint* received before [date instrument made] but not settled on a full and final basis on or before that date;

(3) the *FCA's* approach to supervising *firms* (*SUP* 1A.3); and

(4) any other redress exercise carried out by a *firm*.

App 4.2.3 R This appendix also applies to redress calculations and redress offers where a *firm* upholds a *complaint* received after 3 August 2016 about a *pension transfer* between 29 April 1988 and 30 June 1994 in circumstances where either:

(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; or

(2) the particular circumstances of the case were not addressed by those standards.

App 4.2.4 G Where a *firm* upholds a *complaint* concerning a non-joiner, *pension opt-out* or *FSAVC* case, the *firm* may use this appendix as a basis for calculating and offering redress, to the extent that it is appropriate to do so and subject to the particular circumstances of the case.

App 4.2.5 G (1) This appendix should be considered alongside applicable *rules* and *guidance* in *DISP* 1. Where this appendix does not address the particular and individual circumstances of a *consumer's* complaint, a *firm* should address such circumstances:

(i) in a way which is consistent with the *rules* and *guidance* in this appendix; and

(ii) in accordance with their obligations in *DISP* 1.4.1R.

(2) *Firm*s should also consider how the *Financial Ombudsman Service* has taken account of such circumstances when determining similar *complaints* (*DISP* 1.4.2G).

App 4.3 Steps for redress calculation

App 4.3.1 R A *firm* must take the 5 steps set out in this section to carry out a redress calculation.

App 4.3.2 G The diagram at *DISP* App 4 Annex 3 explains the 5 steps for the redress calculation in diagrammatic form, with reference to the relevant sections of the *rules* and *guidance*. To the extent there is any inconsistency between the diagram and the *rules,* the *rules* will prevail.

Step 1: obtain the necessary information to calculate redress

App 4.3.3 R The first step is for the *firm* to obtain the necessary information about the *consumer's*:

(1) DC pension arrangement;

(2) *defined benefit occupational pension scheme*; and

(3) personal and financial situation,

to enable it to complete the redress calculation and make a redress offer.

App 4.3.4 R A *firm* is entitled to rely on information previously provided by the *consumer* unless it is aware or ought to be aware that the information is out of date, inaccurate or incomplete.

App 4.3.5 G Information that may be relevant to calculating redress is set out at *DISP* App 4 Annex 2.

App 4.3.6 R To obtain the necessary information required to calculate or offer redress a *firm* must:

(1) identify whether there is any relevant information held on its client file or in publicly available records; and

(2) if the information in (1) is not sufficient or could have changed:

(a) request information from the *consumer*; and

(b) with the *consumer's* authority, contact the provider of the *consumer's* DC pension arrangement and *defined benefit occupational pension scheme*, and where relevant HMRC or DWP, to obtain the information.

App 4.3.7 R Requests for information in *DISP* App 4 4.3.6R must be in a *durable medium*.

App 4.3.8 R The *firm* must only make requests for information that are necessary for the redress calculation and, in relation to requests made to the *consumer*, information which the *consumer* can reasonably be expected to provide.

App 4.3.9 R (1) A *firm* must give a *consumer* a clear description of the information needed and explain why the information is needed to calculate redress and the consequence if the *consumer* does not provide the information.

(2) A *firm* must give a *consumer* at least 14 *days f*rom receipt of the request to respond to any request for information.

(3) If the *consumer* does not respond to the first request for information, or responds with insufficient information, the *firm* must make a second request for information and give the *consumer* at least 14 *days* to respond.

(4) If the *consumer* does not respond to the second request for information, or responds with insufficient information, the *firm*

must contact the *consumer* again, indicating that the *firm* may have to discontinue the redress calculation if no reply is received.

(5) A *firm* may make one or more subsequent requests for information if the *consumer's* personal circumstances support the making of such further requests.

App 4.3.10 G A *firm* should take care to adapt the procedures in *DISP* App 4.3.6R to 4.3.9R to the individual circumstances of the *consumer* and exercise sensitivity when requesting information about a *consumer's* personal circumstances. It may be appropriate to allow the *consumer* more time to provide a response or to make more attempts to contact the *consumer*.

App 4.3.11 R If, after following the procedures in *DISP* App 4.3.6R to 4.3.9R, a *firm* does not have the necessary information about the *consumer*'s DC pension arrangement, *defined benefit occupational pension scheme* and personal and financial situation to enable it to properly assess whether the *consumer* has suffered loss, the *firm* must:

(1) in the first instance, attempt to calculate redress on the basis of the information it holds;

(2) if it is not possible to calculate redress without further information, consider whether it is appropriate to discontinue the redress calculation.

App 4.3.12 G Before deciding to discontinue a redress calculation (see *DISP* App 4.3.11R(2)), a *firm* should consider whether it can extrapolate from information on the client file or make assumptions based on public sources of information (for example, on typical retirement ages for the *consumer's* occupation) to use in the redress calculation.

Step 2: determine when the consumer would have taken retirement benefits from the defined benefit occupational pension scheme

App 4.3.13 R (1) The second step is for the *firm* to determine whether the *consumer* would have already taken retirement benefits from their *defined benefit occupational pension scheme* if, at or prior to the valuation date, they had remained a member of that scheme.

(2) To determine whether the *consumer* would have taken retirement benefits from their *defined benefit occupational pension scheme* at or prior to the valuation date, *firm*s must apply the rebuttable presumption at *DISP* App 4.3.14R.

App 4.3.14 R A *firm* must presume that a *consumer* would have taken pension benefits from their *defined benefit occupational pension scheme* at their normal retirement age in their *defined benefit occupational*

pension scheme or on death if their death preceded their normal retirement age.

App 4.3.15 G The presumption in *DISP* App 4.3.14R will be rebutted where the evidence shows that it is more likely than not that the *consumer* or a beneficiary would have taken benefits from their *defined benefit occupational pension scheme* on an alternative date. Examples of such evidence include:

(1) the *consumer* has used some or all of their transfer proceeds to purchase an annuity; or

(2) the *consumer* would have taken early or late retirement benefits from their *defined benefit occupational pension scheme*, having regard to:

(a) the *consumer's* demands, needs and intentions at the time of the *pension transfer* advice (evidence from the time of the advice is more likely to be relevant if it shows that the *consumer* had a considered plan for taking retirement benefits early from their *defined benefit occupational pension scheme*);

(b) any information gathered by the *firm* subsequently about the *consumer*'s reasons or plans for accessing pension benefits from their DC pension arrangement; and

(c) any evidence that demonstrates that the *consumer* or members of their household changed or plan to change their working pattern at a similar time to the *consumer* taking regular benefits from their DC pension arrangement; or

(3) the *firm* has written confirmation that the *consumer* considers themselves to be retired from a date which is earlier than normal retirement age.

App 4.3.16 G The presumption in *DISP* App 4.3.14R is unlikely to be rebutted where there is:

(1) evidence from the time of the pension transfer advice that indicates that there is a risk that the *consumer's* intentions were influenced by the *firm's* non-compliant pension transfer advice; or

(2) evidence of irregular *pension commencement lump sum* withdrawals, particularly if the *consumer* is still working; or

(3) evidence of full withdrawal of a *pension commencement lump sum* unless:

(a) the *pension commencement lump sum* is being or has been used for regular income payments; or

(b) the *consumer* was in financial difficulty or in ill health at the time of the non-compliant pension transfer advice.

Step 3: carry out redress calculation

App 4.3.17 R The third step is for the *firm* to calculate whether (1) is greater than (2) on the valuation date using the formula at *DISP* App 4.4.2R, where:

(1) (1) is the estimated value of the benefits in the *defined benefit occupational pension scheme* together with the difference in SERPS had the *consumer* remained a member; and

(2) (2) is the value of the benefits from the *consumer's* DC pension arrangement.

App 4.3.18 R Where (1) is greater than (2), the *consumer* has suffered a loss and the amount calculated is the primary compensation sum to be used when producing a redress offer at *DISP* App 4 3.25R.

Dates for calculation

App 4.3.19 R The valuation date must be the first day of the *month* (for calculations undertaken within that *month*).

App 4.3.20 R The redress calculation date must fall within the same *month* as the valuation date but does not have to be the same date as the valuation date.

App 4.3.21 R Redress calculations must be based on the new assumptions available on the first day of each new *month*, using publicly available data from the final business day of the month immediately before.

App 4.3.22 R Redress calculations remain valid for 3 *months* from the date the redress offer is sent to the *consumer*, irrespective of *monthly* changes to the assumptions.

Step 4: work out redress offer

App 4.3.23 R A *firm* must offer a *consumer* redress that, as far as possible, puts the *consumer* into the position they would have been in if they had received compliant pension transfer advice.

App 4.3.24 R Redress offers must be issued to the *consumer* promptly following the calculation date and within 3 *months* of the valuation date.

Redress components

App 4.3.25 R The redress offer must consist of the sum total of:

(1) the primary compensation sum calculated in accordance with *DISP* App 4.3.17R and 4.3.18R adjusted to take account of the *consumer's* tax position and any entitlement to means-tested state benefits; and

(2) a secondary compensation amount comprising any consequential losses, including any initial *adviser charges* on the DC pension arrangement and the primary compensation sum at (1) calculated using the formula at *DISP* App 4.4.19R; and

(3) interest equivalent to:

(a) the pre-retirement discount rate; or

(b) the post-retirement discount rate,

for foregone investment returns on (1) between the valuation date and the payment date calculated in accordance with *DISP* App 4 Annex 1 13.1 and 13.2G.

App 4.3.26 R A *firm* must adjust the redress offer to take account of:

(1) the *consumer's* individual tax position including (for full or partial augmentation) allowances on pension contributions eligible for tax relief; and

(2) the *consumer*'*s* entitlement to means tested state benefits.

App 4.3.27 G (1) *Firms* should have regard to where the redress methodology in this appendix already factors in tax, such as when taking into account of *pension commencement lump sums*.

(2) Where redress is paid (or partially paid) by augmentation, a *consumer* will usually pay income tax when accessing their funds.

(3) A *firm* may adjust cash lump sum payments to take account of tax on income from the *consumer's* pension.

(4) Where a cash lump sum payment could affect a *consumer's* entitlement to means-tested state benefits, a *firm* should ensure that the *consumer* does not suffer a reduction in income as a result of the redress payment.

App 4.3.28 G Consequential losses may include the cost of initial *adviser charges* necessary to enable the *consumer* to switch to a suitable defined contribution pension scheme.

Means of payment

App 4.3.29 R (1) A *firm* must offer to pay the total amount of redress in *DISP* App 4.3.25R (with adjustments in *DISP* App 4.3.26R) by full augmentation, unless:

(a) the total redress payment would exceed the *consumer's*:

(i) annual allowance for personal contributions in the tax year the augmentation would occur including any carry forward from previous tax years; or

(ii) lifetime allowance; or

(b) payment into the *consumer's* chosen defined contribution pension scheme is not in the *consumer's* best interests; or

(c) the *consumer* directs the *firm* otherwise in writing.

(2) If pursuant to (1) it is not possible to pay redress by full augmentation the *firm* must offer to pay the redress by partial augmentation with the remainder by lump sum cash payment, unless:

(a) the *consumer* has exceeded their:

(i) allowance for personal contributions in the tax year the augmentation would occur; or

(ii) annual allowance, including carry forward; or

(iii) lifetime allowance; or

(b) payment into the *consumer's* chosen defined contribution pension scheme is not in the *consumer's* best interests; or

(c) the *consumer* directs the *firm* otherwise in writing.

(3) If pursuant to (1) and (2) redress is not made by full or partial augmentation the *firm* must offer to pay redress by a lump sum cash payment.

App 4.3.30 G Factors that may indicate that full or partial augmentation may not be in the *consumer's* best interests include if:

(1) the *consumer* is in ill health; or

(2) the *consumer* is in financial difficulty or would otherwise be unable to pay professional fees due to a *claims management company* or legal representative.

App 4.3.31 G Factors which may be relevant to whether full or partial augmentation would result in a *consumer* exceeding their annual or lifetime allowance or allowance for personal contribution include:

(1) the *consumer's* relevant earnings in the current tax year;

(2) the value of all pension contributions already made in the current tax year;

(3) if the redress payment would result in the *consumer's* unused annual allowance in the current and previous 3 tax years being exceeded; and

(4) the expected value of all pensions held by the *consumer* up to the age of 75.

Step 5: communicate outcome of redress calculation

App 4.3.32 R The fifth step is for the *firm* to communicate the outcome of the redress calculation and any redress offer to the *consumer*.

App 4.3.33 R The communication in *DISP* 4.3.32R must be in a *durable medium.*

App 4.3.34 R The communication in *DISP* App 4.3.32R must include the following information:

(1) an explanation of the redress calculation and redress offer including:

(a) confirmation that the redress has been calculated in accordance with the *FCA's rules* and *guidance* using an approach which has been approved by an *actuary*; and

(b) an explanation that the redress calculation takes account of the market conditions at the valuation date and this could mean that the redress might be different if it was calculated on a different date; and

(c) the information and assumptions used in the redress calculation, including:

(i) the retirement date used in the calculation; and

(ii) whether the *firm* has determined that the *consumer* would have retired in their *defined*

benefit occupational pension scheme at or prior to the valuation date, and, if so:

(A) the basis for this determination;

(B) the impact of the determination on the valuation of the *consumer's defined benefit occupational pension scheme* including the percentage reduction applied for early retirement; and

(C) any assumptions made about the allowance for the *pension commencement lump sum*.

(iii) the level of future investment returns assumed by the calculation, including an invitation for the *consumer* to review their current investment strategy to ensure it is in line with this assumption; and

(iv) the level of any charges, including product, platform and *adviser charges*, that the *consumer* is currently paying compared to the level assumed in the redress calculation, including any allowance made for initial advice from a new adviser; and

(v) any assumption made about the *consumer's* marital or civil partnership status;

(2) an explanation of the redress offer, and:

(a) if there is no loss on the valuation date, a clear explanation of why this is the case; and

(b) if the result is a loss on the valuation date:

(i) the total amount of redress calculated, with any consequential or related losses and interest and settlement date adjustments shown separately;

(ii) an explanation of how the redress is proposed to be paid (by full or partial augmentation, by cash lump sum or any other method) and why this method of payment has been selected with reference to the factors in *DISP* App 4.3.15G or 16G where relevant; and

(iii) an explanation of how the *consumer's* tax position and entitlement to state benefits has been taken into account, including an

allowance for any tax charges for which the *consumer* will be liable (and where the *consumer* is responsible for any payment of tax, this should be made clear and a recommendation that they contact HMRC provided); and

(iv) if any of the redress is to be paid by cash lump sum, the warning in the form at *DISP* App 4.3.35R.

(3) the terms and conditions of any redress offer, including the following information:

(a) a statement requesting the *consumer* review the assumptions used in the redress calculation and may raise any questions about them with the *firm*;

(b) that the redress offer is valid for a minimum 3-*month* period from the issue date for the *consumer* to consider their options, during which period the offer will remain open for acceptance;

(c) how to accept or reject the redress offer; and

(d) the process for resolving any complaints about the redress calculation or redress offer.

App 4.3.35 R Where any of the redress is proposed to be paid in the form of a cash lump sum to the *consumer*, a *firm* must provide:

(1) a warning that this amount is intended to provide the *consumer* with the retirement income they would have received if they had not transferred out of their *defined benefit occupational pension scheme*, but only as long as the *consumer* invests it prudently; and

(2) a warning that if the *consumer* does not invest the redress prudently, they risk losing out on the retirement income their redress amount is meant to provide; and

(3) information about trusted sources of advice and guidance on making investment decisions and avoiding investment scams, such as Pension Wise, *MoneyHelper* and the *FCA's* 'Scam Smart' guidance; and

(4) an explanation of the risk and consequences of making an unauthorised payment, including the risk of unauthorised payment charges being levied.

App 4.3.36 G When a *firm* communicates a redress offer to a *consumer*, it should comply with *Principle 7* (communications with clients) and:

(1) take reasonable steps to communicate in a way that is fair, clear and not misleading;

(2) take into account the *consumer's* understanding of financial services; and

(3) where possible, use plain language and avoid the use of jargon, unfamiliar or technical language.

App 4.4 Redress calculation

App 4.4.1 G (1) This section sets out the formula to complete the redress calculation at Step 3 (*DISP* App 4.3.17R), using the assumptions in *DISP* App 4 Annex 1 to calculate the capitalised values of the *consumer's defined benefit occupational pension scheme* pension benefits (had they remained in the scheme) and any gains or losses arising from changes in the consumer's SERPS and DC pension arrangement.

(2) The formula is set out at *DISP* App 4.4.2R with *rules* and *guidance* for how to calculate the components (A) to (H) at *DISP* App 4.4.4R to 4.4.18R.

(3) There is technical guidance on the calculation of the components (A) to (H) at *DISP* App 4.5.

App 4.4.2 R To complete the redress calculation at Step 3 (*DISP* App 4.3.17R), a *firm* must undertake the following computation at the valuation date:

(A) + (B) + (C) – (D) - (E) - (F) - (G) + (H)

where:

(1) A is the capitalised value of pension benefits which would not yet have been taken from the *defined benefit occupational scheme*;

(2) B is the capitalised value of future death benefits before the *consumer's* retirement date, to the extent not already included in A, which would have been payable from the *defined benefit occupational pension scheme*;

(3) C is the accumulated value of past payments which would have been paid to the *consumer* from the *defined benefit occupational pension scheme* between the *consumer's* retirement date and the valuation date;

(4) D is the current value of the DC pension arrangement;

(5) E is the accumulated value of past benefits paid to the *consumer* or beneficiary from the *consumer's* DC pension arrangement from the retirement date to the valuation date;

(6) F is the capitalised value of previously secured annuity benefits which will be paid from the *consumer's* DC pension arrangement to the valuation date;

(7) G is the value of any increase in SERPS as a result of the transfer; and

(8) H is the value of any reduction in SERPS as a result of the transfer.

App 4.4.3 G The *consumer* has suffered a loss if the computation in *DISP* App 4.4.2R is greater than zero.

Calculation of value of A

App 4.4.4 G A is the capitalised value of pension benefits which would not yet have been taken from the *defined benefit occupational scheme*.

App 4.4.5 R To calculate the value of A in *DISP* App 4.4.2R(1):

(1) where:

(a) the *consumer's* retirement date would have been prior to the valuation date; or

(b) a beneficiary would have received benefits prior to the valuation date because the *consumer* is deceased,

use the sum of [K x L x M - (N/O)] x P x Q] across all pension tranches; or

(2) where the retirement date is after the valuation date, use the sum of [K x LA x MA x QA x R x S] across all pension tranches.

App 4.4.6 R For the purpose of *DISP* App 4.5.5R(1) or (2):

(1) K is the annual value of the pension at the date of leaving active membership, split by each pension tranche;

(2) L and LA are the cumulative revaluation factors for each pension tranche from the date of leaving active membership to the retirement date (including the date of the *consumer's* death), where:

(a) L is based on known revaluation;

(b) LA is based on known and assumed revaluation, where the assumed revaluation is based on the relevant assumptions in *DISP* App 4 Annex 1 3.1G or 4.1G;

(3) M and MA are the early or late retirement factor applicable to each pension tranche at the retirement date, determined in accordance with *DISP* App 4 Annex 1 10.1 and 10.2G;

(4) N is the assumed *pension commencement lump sum* which would have been taken from each pension tranche, determined in accordance with the technical guidance at *DISP* App 4.5.4G;

(5) O is the *pension commencement lump sum* commutation factor applicable to each pension tranche, determined in accordance with *DISP* App 4 Annex 1 10.3G;

(6) P is the cumulative known pension increases, including discretionary increases, that would have been applied to each pension tranche from the retirement date or the date beneficiary payments commenced, to the valuation date, in accordance with the scheme rules;

(7) Q is the relevant annuity factor to apply to each pension tranche at the valuation date, taking into account the guidance on relevant annuity factors in *DISP* App 4.5.1G and made up of the assumptions at *DISP* App 4 Annex 1 including those relating to:

(a) the initial post-retirement discount rate (which allows for the annuity pricing margin) at *DISP* App 4 Annex 1 6.1, based on the discounted mean term at the valuation date;

(b) post-retirement pension increases, as amended by the Black Scholes model at *DISP* App 4 Annex 1 5.1, where relevant;

(c) mortality at *DISP* App 4 Annex 1 9.1G;

(8) QA is the relevant annuity factor to apply to each pension tranche at the retirement date, taking into account the guidance on relevant annuity factors in *DISP* App 4.5.1G and made up of the assumptions in *DISP* App 4 Annex 1 including those relating to:

(a) the final post-retirement discount rate (which allows for the annuity pricing margin and the adjustment for the pension commencement lump sum), based on the discounted mean term at the retirement date;

(b) post-retirement pension increases, as amended by the Black Scholes model, where relevant; and

(c) mortality assumptions;

(9) R is the discount factor for the period from the valuation date to the retirement date, based on the pre-retirement discount rate, netted down by product and *adviser charges*, following the technical guidance at App 4.5.3G and using the relevant assumptions in *DISP* App 4 Annex 1; and

(10) S is the probability of survival for the period from the valuation date to the retirement date, using the relevant assumptions in *DISP* App 4 Annex 1 9.1G.

Calculation of value of B

App 4.4.7 G B is the capitalised value of future death benefits before the *consumer's* retirement date which may have been payable from the *defined benefit occupational pension scheme*;

App 4.4.8 R To determine the value of B in *DISP* App 4.4.2R(2), a *firm* must:

(1) identify the lump sum and regular pension payments that would be payable on the death of the *consumer* between the valuation date and the retirement date, based on the *defined benefit occupational* scheme rules; and

(2) calculate the present value of the potential payments:

(a) using the pre-retirement discount rate, netted down for charges, from *DISP* App 4 Annex 1 7.1G;

(b) allowing for the probability of each payment being made, using the mortality assumptions in *DISP* App 4 Annex 1 9.1G; and

(c) allowing for any pension increases in payment that would be applied to regular payments, using the assumptions in *DISP* App 4 Annex A 5.1G.

Calculation of value of C

App 4.4.9 G C is the accumulated value of past payments which would have been paid to the *consumer* from the *defined benefit occupational pension scheme* between the *consumer's* retirement date and the valuation date.

App 4.4.10 R To determine the value of C in *DISP* App 4.4.2R(3), a *firm* must, for each pension tranche:

(1) assume the value is zero if the retirement date is after the valuation date;

(2) if the retirement date is before the valuation date, use the factors K, L, M, N, O and P from *DISP* App 4.4.6R to determine the level of the *pension commencement lump sum* and each scheme pension payment which would have been made to the *consumer* or their beneficiaries;

(3) apply an accumulation rate to each payment, at the rate specified in *DISP* App 4 Annex 1 11.1G between the date of payment and the valuation date, allowing for changes in the rate over time; and

(4) calculate the sum of all the accumulated payments which would have been made.

Calculation of value of D

App 4.4.11 G D is the current value of the DC pension arrangement.

App 4.4.12 R To determine the value of D in *DISP* App 4.4.2R(4), a *firm* must:

(1) use the value of all investments and holdings within the *consumer's* DC pension arrangement at the valuation date, in accordance with the technical guidance at *DISP* App 4.5.5G;

(2) where any payments were made from the DC pension arrangement prior to the retirement date:

(a) identify all payments made before the retirement date;

(b) apply an accumulation rate to each payment, at the rate specified in *DISP* App 4 Annex 1 11G between the date of payment and the valuation date, allowing for changes in the rate over time;

(c) add the total of all the accumulated payments in (2)(b) to the value in (1);

(3) deduct the accumulated value of any contributions and transfers to the DC pension arrangement, allowing for investment returns, not resulting from the *pension transfer* advice;

(4) add on the present-day value of any cash enhancements paid to the *consumer* in connection with the transfer, in accordance with the technical guidance at *DISP* App 4.5.5G and using the assumption at *DISP* App 4 Annex 1 12.1G.

Calculation of value of E

App 4.4.13 G E is the accumulated value of past benefits paid to the *consumer* or beneficiary from the *consumer's* DC pension arrangement from the retirement date to the valuation date;

App 4.4.14 R To determine the value of E in *DISP* App 4.4.2R(5), a *firm* must:

(1) identify all payments from the assumed retirement date to the valuation date, including:

(a) *pension commencement lump sums*;

(b) *uncrystallised funds pension lump sums*;

(c) *income withdrawals*; and

(d) annuity payments;

(2) apply an accumulation rate to each payment, at the rate specified in *DISP* App 4 Annex 1 11.1G between the date of payment and the valuation date, allowing for changes in the rate over time; and

(3) calculate the sum of all the accumulated payments which would have been made.

Calculation of value of F

App 4.4.15 G F is the capitalised value of previously secured annuity benefits which will be paid from the *consumer's* DC pension arrangement after the valuation date.

App 4.4.16 R To determine the value of F in *DISP* App 4.4.2R(6), a *firm* must:

(1) Calculate the value of:

(T) x (U)

where:

(a) T is the annual value of the annuity income at the valuation date;

(b) U is the is the relevant annuity factor to apply to current level of the secured annuity income at the valuation date, following the guidance at *DISP* App 4.5.1G and made up of the assumptions in *DISP* App 4 Annex 1 including those relating to:

(i) the initial post-retirement discount rate (which allows for the annuity pricing margin), based on the discounted mean term at the valuation date;

(ii) pension increases that apply to the secure annuity income, as amended by the Black Scholes model, where relevant; and

(iii) mortality assumptions.

Calculation of value of G and H

App 4.4.17 G G is the value of any increase in SERPS as a result of the transfer and H is the value of any reduction in SERPS as a result of the transfer, only if the transfer took place prior to 6 April 2016.

App 4.4.18 G To determine the value of G and H a *firm* should have regard to the technical guidance in *DISP* App 4.5.11G.

Calculation of value of initial adviser charges (consequential loss)

App 4.4.19 R To determine the value of any *initial adviser charges firms* must:

(1) calculate the value of all the elements of the computation in *DISP* App 4.4.2R;

(2) add the value in (1) to the current value of the *consumer's* DC pension arrangement;

(3) multiply the result by the relevant assumed percentage *initial adviser charges* in *DISP* App 4 Annex 1 8.1G;

(4) where the resulting *initial adviser charges*:

(a) exceeds the maximum level for the *initial adviser charges* in *DISP* App 4 Annex 1 8.1G, set the *initial adviser charges* to the maximum level; or

(b) falls below the minimum level for the *initial adviser charges* in *DISP* App 4 Annex 1 8.1G, set the *initial adviser charges* to the minimum level.

App 4.5 Technical guidance

Annuity values

App 4.5.1 G When calculating the relevant annuity factor to value future payments from either the *defined benefit occupational pension scheme* or a guaranteed income previously secured from the proceeds of the DC pension arrangement, *firms* should allow for:

(1) the form of the payments they are valuing, such as the proportion of spouse's benefits on death, frequency and timing of payments, annual increases, remaining guaranteed payment

and whether survivor payments are with or without overlap relative to the guaranteed period;

(2) the proportion married:

(a) where the presumed retirement date is after the valuation date, using the assumptions in *DISP* App 4 Annex 1 9.3G;

(b) where the presumed retirement date is prior to the valuation date:

(i) using the actual marital/civil partnership status; or

(ii) where the actual marital/civil partnership status is not known, using the assumption that the *consumer* is unmarried or not in a civil partnership.

(3) the possibility that there may be other dependants who could have received benefits under the rules of the *defined benefit occupational pension scheme* or under the contract of any previously secured guaranteed income, and the same principles should be applied to such dependants.

Scheme benefits and rules

App 4.5.2 G When calculating the value of benefits in the *defined benefit occupational pension scheme*, *firms* should take account of the differences in pension tranches. This includes tranches such as bridging pensions which are payable only for a fixed period. The valuation of benefits should take account of how the *consumer's defined benefit occupational pension scheme* provided for the interaction of any guaranteed minimum pension (GMP) tranches with the rest of the scheme benefits (the excess) when pensions are revalued in deferment and increased in payment, including the impact of anti-franking legislation.

Discount factor

App 4.5.3 G When the presumed retirement date is after the valuation date, *DISP* App 4.4.6R(9) requires *firms* to use a discount factor ('R') to discount the annuity value at the future retirement date to the present day. The discount factor should be calculated as:

$$\left(\frac{1}{(1 + r)}\right)^n$$

where:

(1) r is the pre-retirement discount rate net of charges, as set out in *DISP* App 4.5.15G; and

(2) n is the term to retirement.

Pension commencement lump sums

App 4.5.4 G (1) Where the retirement date is at or prior to the valuation date, a *firm* should assume that the *consumer* would have commuted the maximum *pension commencement lump sum* permitted by legislation, using the actual lump sum commutation factors at the retirement date unless:

(a) the *consumer* has used the full value of their DC pension arrangement to secure a guaranteed annuity income, in which case *firms* should use the actual *pension commencement lump sum* taken by the *consumer* where this is lower than the maximum permitted by legislation from the *defined benefit occupational pension scheme;* or

(b) the *pension commencement lump sum* was additional to the pension benefit, in which case *firms* should assume no cash commutation; or

(c) the *pension commencement lump sum* could have been funded by an additional voluntary contribution fund or a defined contribution section within the *defined benefit occupational scheme*, in which case *firms* should assume that those sources would have been used first to take the maximum permitted under legislation.

(2) A *firm* should base the order of commutation on the *defined benefit occupational pension scheme* rules but where this is not known, the commutation should be proportionate across all pension tranches, excluding any guaranteed minimum pension.

(3) Where the actual lump sum commutation factors at the retirement date are unknown, a *firm* should use the default rate in *DISP* App 4 Annex 1 10.3G.

Valuing the DC pension arrangement

App 4.5.5 G Step 1 at *DISP* App 4.3.3R(1) requires a *firm* to collect the necessary information about the *consumer's* DC pension arrangement. This information should include the value of the investments and holdings within the *consumer's* DC pension arrangement at the valuation date.

App 4.5.6 G (1) If an up-to-date valuation is not readily available for an investment (for example, if the investment is held in illiquid or unquoted assets or because the manager or provider of the DC pension arrangement is unable to provide a valuation), a *firm*

should take the following action to place a value on those investments:

(a) where the investment is illiquid or unquoted, obtain the most recent historical valuation and unless there is clear evidence that the value has otherwise moved materially increase it in line with the consumer price index, from the date of the historical valuation to the valuation date;

(b) where the investment is liquid, such as a fund, calculate the notional value of the fund by on the valuation date using available information. For example, using the known number of units and an available unit price, or a last known value and the change in the unit price (and allowing for known charges);

(c) where the investment is illiquid or unquoted, appears to have no value, and there is no recent historical valuation, the *firm* should disregard the value of the investment.

(2) Where a *consumer* received a cash enhancement (which was paid in addition to and not as part of the cash equivalent transfer value), a *firm* should calculate the current value of the cash enhancement by increasing it in line with returns indicated in the relevant assumptions in *DISP* App 4 Annex 1, from the date of payment to the valuation date.

Early and late retirement

App 4.5.7 G When a *consumer* is presumed to have retired at a date which they would not have been able to retire in the *defined benefit occupational pension scheme*, then the retirement date used to value the *defined benefit occupational pension scheme* benefits should be the earliest date at which the consumer could have retired from the *defined benefit occupational pension scheme*.

App 4.5.8 G Early and late retirement factors at the retirement date are key items of data and every attempt should, therefore, be made to obtain them. Where it is not possible to obtain the relevant information, a *firm* should use the default rates in *DISP* App 4 Annex 1. These factors should be applied to the pension revalued to early/late retirement date.

Other policies in conjunction with the transfer

App 4.5.9 G Any additional policies taken out in conjunction with the transfer (eg, life cover with a S.32) to replace life cover provided by the scheme should be taken into account. Consequently, where a claim arises under these policies, the amount paid offsets the loss. Where the investor has paid for this cover, the loss should be increased by the accumulated value of the premiums paid accumulated at bank base rates. This adjustment should be strictly limited both in terms of claims and

premiums to that proportion of the benefits under the additional policies that replaced those under the scheme.

Contracted out schemes

App 4.5.10 G Where retirement took place following a transfer from a contracted-out scheme, the precise formula depends on whether the contracted-out pension rights were also transferred. If they were not transferred, then they should not be taken into account when assessing loss.

Adjustment for SERPS

App 4.5.11 G (1) A SERPS adjustment is not needed when the *consumer* transferred out or opted out of their contracted out *defined benefit occupational pension scheme* from 6 April 2016.

(2) Where contracted out pension rights from the *defined benefit occupational pension scheme* were transferred into the DC pension arrangement / section 32 buy out plan before 6 April 2016, a *consumer's* state pension entitlement may differ from that which would have been payable had the transfer not taken place.

(3) Allowance should be made for this difference by making a SERPS adjustment which values the difference in the *consumer's* state pension entitlement before and after the transfer. A *firm* will need to obtain the detailed information on the *consumer's* state pension entitlement to assess the impact on their starting amount of state pension.

Pension increases in deferment (revaluation)

App 4.5.12 G (1) When the *defined benefit occupational pension scheme* provides fixed rates of revaluation, a *firm* should use fixed rates for future revaluation.

(2) When the *defined benefit occupational pension scheme* provides revaluation increases based on *RPI* and *CPI*, a *firm* should try to obtain information on how the scheme applies increases. This would include the *month* in which each index is both sourced and applied.

(3) A *firm* should apply increases for guaranteed minimum pensions for complete tax years.

(4) Unless the *defined benefit occupational pension scheme* provides otherwise, a *firm* should treat benefits linked to inflation as increasing by the inflation index over the whole period of revaluation rather than on a year-by-year basis. A *firm* should not make an adjustment for an individual year of negative inflation.

Pension increases in payment

App 4.5.13 G Where a *firm* values income benefits with increases in payment which are:

(1) fixed, they should use those fixed rates; or

(2) dependant on *RPI* or *CPI*, they should use the relevant assumptions in *DISP* App 4 Annex 1.

Multiple product providers

App 4.5.14 G Where the transfer value was split between 2 product providers, the loss may be assessed in 2 parts, with the occupational scheme benefits split in proportion to the transfer value.

Ongoing charges

App 4.5.15 G (1) Where the *consumer's* retirement date is after the valuation date, *DISP* App 4.4.6R(9) requires a *firm* to net down the pre-retirement discount rate for the default product and adviser charges using the relevant assumptions in *DISP* App 4 Annex 1. Ongoing *adviser charges* should be included in all circumstances.

(2) When netting down the pre-retirement discount rate, a *firm* should use the following formula:

$$[(1 + i\%) \times (1 - c\%)] - 1$$

where:

(a) i% is the pre-retirement discount rate (unadjusted for charges) each year; and

(b) c% is the sum of the default product and *adviser charges* each year.

Free standing additional voluntary contributions performance comparator

App 4.5.16 G Where *firms* need to make an assumption on returns within an in-house additional voluntary contribution arrangement, they should use the relevant assumption in *DISP* App 4 Annex 1.

App 4 Annex 1 Assumptions for calculation of redress

This Annex belongs to *DISP* App 4.4.

1 Assumption updates

1.1 R (1) A *firm* must use the following assumptions which are updated at least *monthly:*

(a) the *RPI* inflation rate;

(b) the *CPI* inflation rate;

(c) the post-retirement discount rate; and

(d) the pre-retirement discount rate.

(2) Redress calculations must be based on the new assumptions available on the first day of each new month, using publicly available data from the final business day of the month immediately before.

(3) Where a *firm* uses assumptions which are updated more frequently than *monthly*, it should use a regular schedule and update the assumptions in a way which is consistent with the requirement in (2) above.

(4) *Firms* must use the updated mortality assumptions in *DISP* App 4 Annex 1 at 9.1G from 1 April each year.

2 Alternative assumptions

2.1 R A *firm* must not use assumptions that are less conservative than those specified in *DISP* App 4 Annex 1. Where this appendix does not address the particular and individual circumstances of a *consumer's* complaint, a *firm* should address those circumstances in accordance with the guidance at *DISP* App 4.2.5G.

2.2 G Where a *consumer* is likely to be disadvantaged by applying a pre-retirement discount rate calculated in accordance with *DISP* App 4 Annex 1 7.1G, *firms* should apply an appropriate alternative discount rate which reasonably reflects the expected rate of return from the *consumer's* DC pension arrangement investments to avoid that disadvantage.

3 RPI inflation

3.1 G (1) A *firm* should use the *RPI* inflation rate which is based on the 'UK instantaneous implied inflation forward curve (gilts)' published by the Bank of England by taking:

(a) the spot rate for the number of integer years to retirement, for a pre-retirement *RPI* inflation rate; or

(b) a derived forward rate commencing from the date of retirement for the number of integer years indicated by the discounted mean term, for a post-retirement *RPI* inflation

rate, using the approach set out in *DISP* App 4 Annex 1 6.1G.

(2) A *firm* should use the 40-year rate where the number of integer years exceeds 40.

(3) A *firm* should use the rate for shortest term available on the curve (including half-years) where the number of integer years required is fewer than shown in the curve.

(4) A *firm* should deduct an inflation risk premium of 0.2% from the pre-retirement *RPI* when deriving a *RPI* inflation rate for pre-retirement revaluation increases and the pre-retirement discount rate (but not for post-retirement increases).

(5) A *firm* should round the RPI inflation rate to the nearest 0.05% unless it is being used to derive another assumption.

4 Consumer Price Index (CPI) inflation

4.1 G (1) A *firm* should deduct an unrounded *CPI* adjustment factor from the unrounded *RPI* inflation rate, then round the resulting *CPI* inflation to the nearest 0.05%.

(2) A *firm* should derive the pre-retirement *CPI* adjustment (to apply to the pre-retirement *RPI* rate) as follows:

(a) if 20YY + a ≤ 2030, an adjustment of 1.0%; or

(b) if 20YY + a > 2030, of [the result of output from / using] the formula:

$$\frac{[\,1\%\ \mathrm{x}\ (2030\ -20YY)\,]\ +\ 0.5\%}{a}$$

where:

(i) the calculation has a valuation date in year 20YY;

(ii) the *consumer* has a term to retirement of x years where:

$$a \leq x < b$$

(and a and b are the integer values either side of x); and

(iii) a > 0 (as the pre-retirement inflation assumptions are not required when a=0).

(3) A *firm* should derive the post-retirement *CPI* adjustment (to apply to the post-retirement *RPI* rate) as follows:

(a) if 20YY + a > 2030, a rate of 0%; or

(b) if 20YY + a ≤ 2030, of [the result of output from / using] the formula:

$$\frac{[\,1\%\ \mathrm{x}\ (2030\ -20YY)\,]\ +\ 0.5\%}{d}$$

where:

(i) the calculation has a valuation date in year 20YY;

(ii) the *consumer* has a term to retirement of x years where:

$$a \leq x < b$$

(and a and b are the integer values either side of x); and

(iii) the *consumer* retires at an age with associated discounted mean term of d.

5 Pension increases in payment

5.1 G (1) Where a pension tranche increases in payment with either *RPI* or *CPI* and the scheme rules impose a cap and/or a floor, the pension increase assumption should be derived using a standard Black Scholes model with an inflation volatility of 1.0%.

(2) The final assumption in (5.1G) should be rounded to the nearest 0.05%.

6 Post retirement discount rate

6.1 G To calculate the initial post-retirement discount rate, *firm*s should:

(1) determine the relevant rate on the Bank of England nominal government bond (gilt) yield curve, using the following formula:

$$\left(\frac{(1\ +\ r)^{(n\,+\,d)}}{(1\ +\ \mathrm{rs})^{n}}\right)^{\left(\frac{1}{d}\right)}\ -\ 1$$

where:

(a) r is the spot rate for a term equal to the sum of the integer period to retirement and the relevant discounted mean term;

(b) rs is the spot rate for the integer period to retirement;

(c) n is the integer number of years to retirement; and

(d) d is the discounted mean term;

(2) derive an 'initial rate' by deducting 0.6% from the rate in (1) above, as an allowance for annuity pricing margins

6.2 G (1) Where the *consumer's* presumed date of retirement is after the valuation date, *firms* should use the discounted mean term in the table below based on the *consumer's* age at the presumed date of retirement; otherwise, they should use the discounted mean term based on the *consumer's* age at the valuation date:

Age	**Discounted mean term**
55	23
60	20
65	16
70	13
75	11

(2) Where the *consumer's* age is in-between the ages shown in the tables, *firms* should use linear interpolation to derive the discounted mean term, and round the resulting figure to the nearest integer.

6.3 G Where the *consumer's* date of retirement is after the valuation date, *firms* should derive a final post-retirement rate, as follows:

(1) 75% of the initial rate, plus;

(2) 25% of the initial rate plus 1.6%.

6.4 G *Firms* should round the final post-retirement rate to the nearest 0.05%.

7 Pre-retirement discount rate

7.1 G (1) Where the retirement date is after the valuation date, the pre-retirement discount rate represents the assumed rate of return for the period from the valuation date to the *consumer's* retirement date and targets a rate of return of one-half of the return on equities.

(2) A *firm* should round down the period of retirement to the number of integer years remaining to the retirement date.

(3) A *firm* should derive the pre-retirement discount rate as follows:

(1 + *CPI* spot inflation rate) x (1+ average dividend yield) x (1 + growth in dividends) - 1

where:

(a) the *CPI* spot inflation rate is derived in line with the (unrounded) approach for setting the CPI assumption;

(b) the average dividend yield is taken as the arithmetic average of the dividend yield on the FTSE All Share Index of the last business day over the last 12 month ends; and

(c) the growth in dividends is assumed to be 1.0 % each year.

(4) *Firms* should round the final assumption to the nearest 0.05% per annum.

8 Charges

8.1 G (1) Default product charges: 0.75% each year

(2) Default ongoing *adviser charges*: 0.5% each year

(3) Default initial adviser charges: 2.4% of investment value

(4) Minimum initial advice amount: £1,000

(5) Maximum initial advice amount: £3,000

9 Demographic assumptions

9.1 G A *firm* should use pre- and post-retirement mortality assumptions based on:

(1) the year of birth mortality rate derived from each of the Institute and Faculty of Actuaries' Continuous Mortality Investigation tables PMA16 and PFA16 and including mortality improvements derived from each of the male and female annual mortality projection models, in equal parts; and

(2) mortality improvements derived from 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.

9.2 G A *firm* should use the actual age of a spouse or civil partner who is eligible for benefits on the *consumer's* death unless their age is unknown, in which case the *firm* should assume they are the same age as the *consumer*.

9.3 G (1) Where the presumed date of retirement is after the valuation date, *firms* should use the *consumer's* current marital/civil partner status to determine which status to use at the presumed date of retirement, using the table below:

Term to retirement (in years)	**Married/Civil partner**	**Not married/No civil partner**
0	100%	0%
5	95%	10%
10	90%	20%
15	85%	30%
20	80%	40%
25	75%	45%
30	70%	50%
35	70%	55%
40	70%	55%

(2) When deriving status rates from the table in (1), *firms* should:

(a) interpolate for terms that are not shown and round to the nearest 1%;

(b) not apply any adjustments for mortality of the spouse/civil partner before the retirement date.

(3) Where the retirement date is prior to the valuation date, a *firm* should use the *consumer's* actual marital/civil partner status, at the valuation date, where known.

(4) Where the actual marital/civil partnership status is not known, a *firm* should use the assumption that the *consumer* is not married or in a civil partnership.

10 Default factors for early retirement, late retirement and lump sum commutation

10.1 G Where the date of retirement is at or prior to the valuation date and the actual early retirement factors are unknown, *firms* should use a default early retirement factor of 4.0% per annum compound, applied after the pension has been revalued to the assumed date of retirement.

10.2 G Where the *consumer* has already passed their normal retirement age and the actual late retirement factors are unknown, *firms* should use a default late retirement factor of 5.0% per annum compound, applied after the pension has been revalued to the late date of retirement.

10.3 G Where the date of retirement is prior to the valuation date and the actual lump sum commutation factor is unknown, *firms* should use a default lump sum commutation factor of 20.

11 Accumulation rate for rolling up past payments to the valuation date

11.1 G To calculate the accumulated value of past payments at the valuation date, a *firm* should ensure the accumulation rate from the date of payment to the valuation date reflects the cumulative return, as if each payment had been invested in line with the Bank of England Base Rate over the period.

12 Cash enhancement rate of return

12.1 G The cash enhancement rate of return is: 50% of the return on the FTSE 100 Total Return Index.

13 Interest between valuation date and payment date

13.1 G Where the date of retirement is after the valuation date, *firms* should increase the redress amount using a rate equal to the pre-retirement discount rate (with an adjustment for charges) between the valuation date and the payment date.

13.2 G Where the date of retirement is at or prior to the valuation date, *firms* should increase the redress amount using a rate equal to the post retirement discount rate (with no adjustment for annuity pricing or pension commencement lump sums) between the valuation date and the payment date.

14 Free standing additional voluntary contributions comparator returns

14.1 G The benchmark index for the rate of return within an in-house additional voluntary contribution arrangement is:

(1) the CAPS ‘Mixed With Property Fund’, for returns prior to 1 January 2025, and

(2) the FTSE UK Private Investor Growth Total Return Index for returns from 1 January 2005.

App 4 Annex 2 Information for redress calculation

This Annex belongs to *DISP* App 4.3.5G

The following information may be relevant to the redress calculation:

Category	**Information needed**

Information about the consumer	• Date of birth (DOB)
	• Date of death (if applicable)
	• Marital or civil partnership status
	• Spouse or civil partner's DOB
	• Children's ages if the *consumer* has children who pension benefits would potentially be payable to
	• Whether the *consumer* is assumed to have retired and, if so, the date at which the consumer is assumed to have retired
	• Information to help determine any adjustment to take the *consumer's* tax position into account:
	  o annual taxable income
	  o expected total contributions to *consumer*'s DC pension in the tax year in which redress is being paid
	  o annual allowance carry forward from previous years
	  o current lifetime allowance usage
	  o expected future lifetime allowance usage
	  o details of any lifetime allowance protections
	  o marginal tax rate expected in retirement

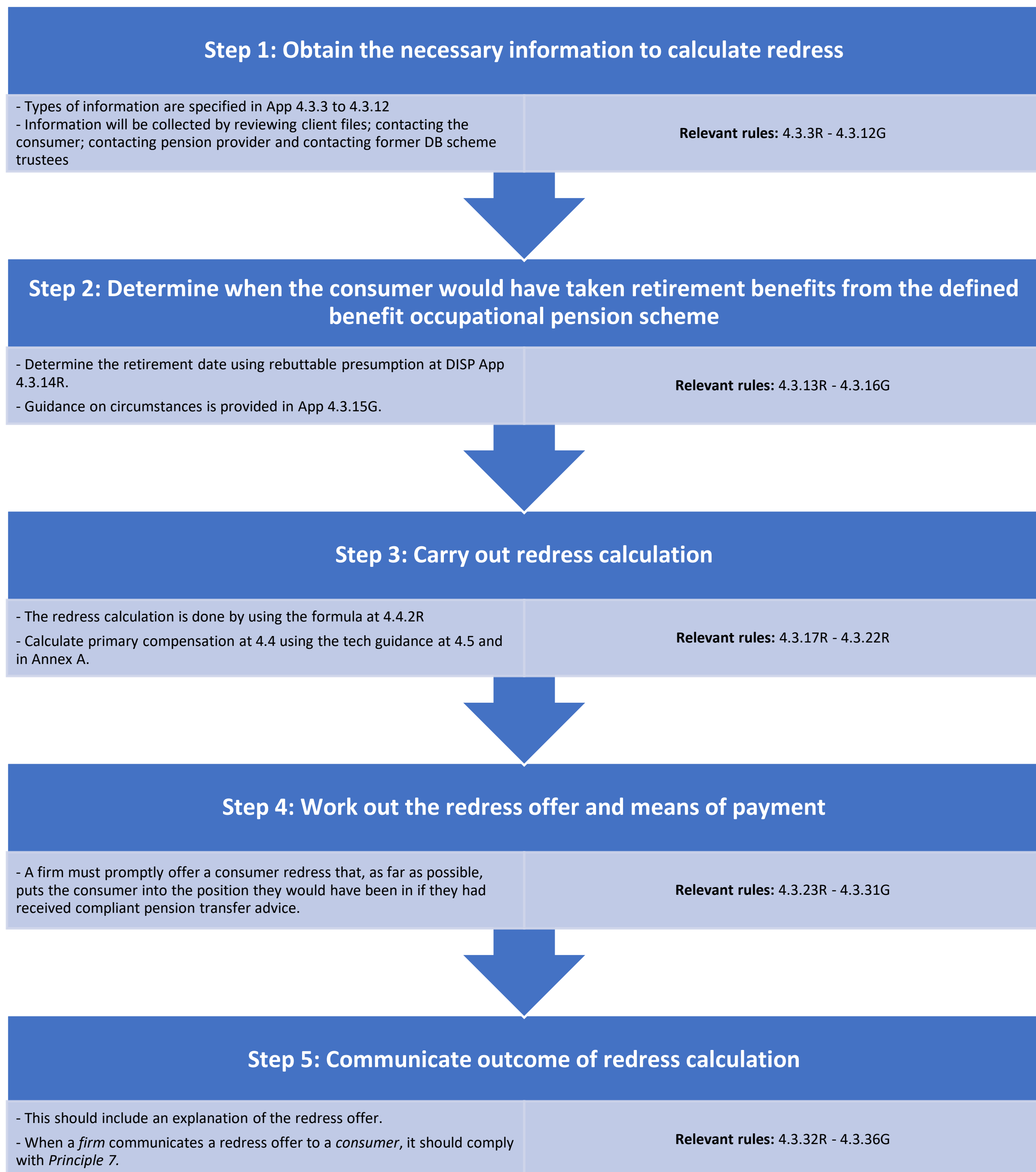
Information about the *consumer*'s former DB scheme	• Date of leaving active service in the DB scheme ("DOL") • Section • Annual DB pension at DOL split by tranche, as applicable to each section, including GMP splits • Automatic lump sum entitlement due at retirement at DOL split by tranche, as applicable to each section • Normal retirement age applying to each tranche • Early and later retirement factors • Confirmation of any lower unreduced retirement age that applies to any tranches due to any enhanced early retirement provision • Amount of any other associated benefits (eg bridging pension, death benefit entitlements pre- and post-retirement • PCLS factors in force at date of retirement

	• Details of any adjustment applicable to the transfer as part of a pension sharing order entered into
Information about the *consumer*'s current DC pension (relating to funds from the transfer)	• Date of transfer out of the DB scheme • Fund value at valuation date • Product and adviser percentage charges, including annual management charges • Product and adviser non-percentage charges, including ongoing adviser charges • Amount of any PCLS taken and dates of payment • Amount of any funds accessed flexibly and dates of payments • Date of any annuity purchased • Annuity terms (if applicable): o amount o increases (RPI linked, CPI linked, applicable cap, applicable floor) o spouse's pension – proportion on death o remaining guarantee period from the valuation date o payment in arrears or advance o payment frequency

App 4 Annex 3 **Redress steps in diagrammatic form**

This Annex belongs to *DISP* App 4.3.2G

The diagram illustrates the steps to take to calculate redress and to make a redress offer.



Annex B

Amendments to the Consumer Redress Schemes sourcebook (CONRED)

In this Annex, underlining indicates new text and striking through indicates deleted text.

[*Editor's note*: This instrument takes into account the changes proposed by the British Steel Pension Scheme Consumer Redress Scheme Instrument 2022 as if they were made final.

This instrument does not take into account the changes made by FCA 2022/11.]

3 British Steel Consumer Redress Scheme

3.1 Application and subject matter of the scheme

Definitions used in this chapter

3.1.1 R (1) …

(2) …

(2A) 'BSPS calculator' is the calculator used to complete Step 3 of the pension transfer redress calculation in *DISP* App 4 4.3.14R.

…

(4) …

(4A) 'calculation date' has the same meaning as in *DISP* App 4 1.1(3);

…

(6) …

(6A) 'DOL' means the date that the *consumer* left active service in the BSPS

…

(11) …

(11A) 'redress offer' has the same meaning as in *DISP* App 4 1.1(12);

…

…

3.3 Consumer redress scheme: case review

…

Third step: case review letters to consumers

3.3.15 R (1) Where the *firm* concludes that the advice provided to the *consumer* was unsuitable and the *consumer's* loss was caused by the *firm's* failure to comply with any of the suitability requirements (so it has answered 'yes' to the causation question in the BSPS DBAAT or FCA DBAAT) it must:

(a) …

(b) send the *consumer* a request for information in the form set out in *CONRED 3* Annex 9R including a list of the necessary information to complete the redress calculation using the BSPS calculator.

…

…

3.4 Consumer redress scheme: calculating and paying redress

…

First step: calculate redress and send redress determination

3.4.2 R The first step is for a *firm* to calculate the amount of redress owed to a *consumer*:

(1) in accordance with the relevant *rules* and *guidance* set out in *DISP* App 4 and *DISP* App 4 Annex 1 as modified by *CONRED* 4;

(2) by completing the BSPS calculator in accordance with the instructions set out in *CONRED* 3 Annex 16R; and

(3) to send the *consumer* a *redress determination* in the form of the letter set out in ~~CONRED 3 Annex 12R~~ *CONRED 3* Annex 12AR;

3.4.2A R A *firm* must comply with the provisions of *DISP* App 4 specified in the table when carrying out the redress calculation, as modified by this section:

Table: application of *DISP* App 4 rules

DISP App 4 provisions	Application / modification
Step 1 at *DISP* App 4.3.3R to 4.3.12G	Does not apply. A *firm* must instead follow the steps to obtain information in *CONRED* 4.
Step 2 at *DISP* App 4.3.13R to 4.3.16G	Apply in full with the following modification: any reference to '*defined benefit occupational pension scheme*' is to be replaced with a

	reference to the appropriate comparator scheme identified in *CONRED* Annex 12 13.21R to 13.26R.
Step 3 at *DISP* App 4.3.17R to 4.3.22R.	Applies in full. A *firm* must use the BSPS calculator to complete Step 3.
Step 4 at *DISP* App 4.3.23R to 4.3.31G	Applies in part. A *firm* must use the BSPS calculator to complete *DISP* App 4.3.23R to 4.3.28G and determine the redress components. A *firm* must determine the means of payment in accordance with the *rules* and *guidance* in this Annex (and not in accordance with *DISP* App 4.3.29R to 4.3.31G).
Step 5 at *DISP* App 4.3.32	Applies in part. *Firms* complete Step 5 by sending out the *redress determination* at *CONRED* 4 Annex 16R in accordance with the instructions at *CONRED* 3.4.6AR.

3.4.3 R A *firm* must pay the redress determined to be payable to a *consumer*, calculated in accordance with the relevant requirements in *DISP* App 4 and using the BSPS calculator in accordance with the instructions at *CONRED* 3 Annex 16R:

(1) within 28 days of receiving a claim from the consumer for the redress determined to be payable, following the issue of the *redress determination*; ~~and~~

(2) in accordance with the instructions set out by the consumer in his response to the redress determination in which they make their claim, and

(3) in the form of the letter set out in *CONRED* 3 Annex 13R.

…

3.4.6 G …

3.4.6A R The *redress determination* in the form of the letter set out in *CONRED* 3 Annex 16R must enclose the following:

(1) a copy of the report from the BSPS calculator;

(2) the information at *DISP* App 4.3.34R-4.3.35R; and

(3) an explanation of how to accept or reject the redress offer and query the redress calculation including the process for resolving any complaints about the *redress determination*; and

(4) a pre-paid envelope for the *consumer* to use when confirming acceptance of the redress offer in the *redress determination.*

3.4.6B G When a *firm* communicates a redress offer to a *consumer*, it should comply with *Principle* 7 (communications with clients) and:

(1) take reasonable steps to communicate in a way that is fair, clear and not misleading;

(2) take into account the *consumer's* understanding of financial services; and

(3) where possible, use plain language and avoid the use of jargon, unfamiliar or technical language.

Second step: cases of insufficient information

3.4.7 R …

3.4.7A G *CONRED* 3 Annex 16R 13.9R specifies the necessary information to complete the redress calculation using the BSPS calculator.

3.4.8 R To complete the second step, the *firm* must take the following actions:

(1) Within 5 *business days* of determining that a scheme case falls within *CONRED* 3.4.7R:

(a) send a letter in the form set out in *CONRED* 3 Annex 10R to the *consumer*;

(b) (in a scheme case involving a two-adviser model) and with the *consumer's* authority send a letter requesting the information in *CONRED* 3 Annex 10R to the *firm* which provided the advice on the *proposed arrangement* (F2); and

(c) (in all other cases) and with the *consumer's* authority send a letter requesting the information in *CONRED* 3 Annex 10R to any other *firm* that was involved in the BSPS pension transfer.

…

3.4.9 R A *firm* which, having carried out the second step, has sufficient information to ~~calculate the amount of redress owed to the consumer~~ complete the redress calculation using the BSPS calculator, must then complete the first step in accordance with *CONRED* 3.4.2R.

3.4.10 R Where a *firm* has carried out the second step in relation to a scheme case and has taken reasonable steps to obtain further information from the *consumer* or any *firm* specified in *CONRED* 3.4.8(1) but still does not have sufficient information to calculate redress using the BSPS calculator, the *firm* may

determine that the scheme case no longer falls within the subject matter of the consumer redress scheme created by this chapter.

…

3.4.12 G Where the *firm* has not received, within the timeframes in *CONRED* 3.4.8R, a response from the *consumer* to the letter required by *CONRED* 3.4.8R(1), the *firm* should handle any complaint received from the *consumer* after this date in relation to advice about a BSPS pension transfer in accordance with the complaint handling rules in *DISP* and, where possible, calculate redress using the BSPS calculator.

…

Guidance on taking reasonable steps to ascertain missing information

3.4.15 G …

3.4.15A G A *firm* should have regard to *Principle* 6 and *Principle* 7 when taking reasonable steps to ascertain missing information and when they contact a *consumer* should:

(1) only make requests for information that are necessary for the redress calculation using the BSPS calculator and which the *consumer* can reasonably be expected to provide;

(2) exercise sensitivity when requesting information about a *consumer's* personal circumstances;

(3) ensure the *consumer* understands what information they have been asked to provide and in what format;

(4) only ask for information that is likely to be readily accessible to the *consumer* (and obtain the *consumer's* authority to approach third parties for information on their behalf);

(5) allow the *consumer* at least 14 *days* to respond; and

(6) make clear why the *firm* is asking for the information and the consequence if the information is not provided.

Interest payable on redress

3.4.16 R (1) ~~Simple interest is payable on redress from the end of the 28-*day* period referred to in *CONRED* 3.4.3R until the date of payment, at a rate of 8% per annum~~. Interest for foregone investment returns is payable on redress between the valuation date and the payment date, calculated in accordance with the pre-retirement discount rate formula at *DISP* App 4 Annex 1 7.1G.

…

3 Annex 4R Further information request (1): initial request

[Please delete or amend any drafting instructions in italics before sending]

Rydym yn hapus i ddarparu copi o’r llythyr hwn yn y Gymraeg ar gais. Cysylltwch gyda ni ar cymraeg@fca.org.uk ac fe wnawn anfon copi atoch.

[Firm details]

[Date]

[Consumer details]

British Steel consumer redress scheme

ACTION REQUIRED – We need some information to help us review the advice we gave you to transfer out of the British Steel Pension Scheme

Dear [*Insert name*],

We need ~~you to give us~~ some information so we can review the advice we gave you to transfer out of the British Steel Pension Scheme.

The information we need ~~from you~~ is listed [below/~~in the enclosed questionnaire~~].

~~Please send this information to us by~~ [*If information is being requested from a third party*] **To enable us to collect this information please sign and return the attached form and return it to us by [*insert Day Date Month Year*].**

[*If information is being requested from the consumer*] **Please send this information to us by [*insert Day Date Month Year*]. You can send this information to us by post (return envelope included) or by email: [*insert firm email*].**

~~IF YOU DO NOT RESPOND, WE WILL NOT BE ABLE TO REVIEW OUR ADVICE GIVEN TO YOU AND YOU MAY END UP WITH LESS MONEY DURING YOUR RETIREMENT THAN YOU SHOULD HAVE HAD.~~ We need this information so we can continue to review the advice we gave you. If we do not receive it, we may not be able to complete our review and you may end up with less money during your retirement than you should have had.

The Financial Conduct Authority (FCA) has identified that many people received unsuitable advice to transfer out of the British Steel Pension Scheme (BSPS).

We wrote to you on [insert date] to confirm we will review the advice we gave you. If our review finds that the advice we gave you was unsuitable and resulted in a financial loss, we will be required to calculate whether we are required to give you compensation. you have suffered a financial loss. Compensation aims to put you in the position you would have been in had we given you suitable advice and you remained in BSPS.

Please send us the information by [*insert day date month year*]

We now need more information so we can review the advice we gave you to transfer out of BSPS.

[*Where questionnaire not being used*] Please provide us with the following information:

• [insert information required in bold, bulleted list]

[*Where questionnaire being used*] Please complete and return the enclosed

questionnaire.

Please do this by [insert day date month year].

[If the information is being requested from a third party]

To enable us to collect this information for you from [*complete who data will be sought from if known*] please sign and return the attached form and return it as soon as possible.

[If the information is being requested from the consumer rather than a third party]

[Please send us the information listed below by [*insert day date month year*]

- [***Insert information required in bold, bulleted list].***

Please note this information box is to be deleted before you send this letter to the consumer. It is to assist you to prepare the letter.

Firms should only request the information set out in CONRED 3 that is necessary to complete the case review.

When you request information from a consumer you should have regard to Principles 6 and 7 and should:

- *only make requests for information that are necessary and which the consumer can reasonably be expected to provide;*
- *exercise sensitivity when requesting information about a consumer's personal circumstances;*
- *ensure the consumer understands what information they have been asked to provide and in what format;*
- *only ask for information that is likely to be readily accessible to the consumer (and obtain the consumer's authority to approach third parties for information on their behalf)*
- *allow the consumer at least 14 days to respond; and*
- *make clear why the firm is asking for the information and the consequence if the information is not provided.*

If you do not give us this information you may end up with less money during your retirement than you should have had.

You do not need to use a claims management company (CMC) and ~~it will only cost you money if you use their services.~~ if you do, they will charge you for the service.

If you have any difficulties providing this information or any queries about our review, you can contact us by phone or by email [insert contact details]. We are available between [insert contact hours].

If you consent to us collecting the information on your behalf by returning the enclosed form, you can withdraw that consent at any time by contacting us [*using the same contact details*.]

Yours sincerely,

<signature>

<name of adviser or customer service>

LETTER OF AUTHORITY

To whom it may concern

RE: authority to obtain information on behalf of [*enter consumer name*] [*enter consumer date of birth*][*enter consumer current address and previous addresses where relevant*] [*enter policy number if known / applicable*] in connection with the Financial Conduct Authority's British Steel consumer redress scheme

I, [*enter consumer name*] [*enter consumer date of birth*], authorise [*enter firm name*] [*enter firm address*], to collect information on my behalf in relation to my previous and current pension arrangements for the purpose of assessing the advice I received to transfer my British Steel Pension Scheme pension benefits as part of the British Steel consumer redress scheme.

Signature:

Date:

3 Annex 5R Further information request (2): final reminder

[Please delete or amend any drafting instructions in italics before sending]

Rydym yn hapus i ddarparu copi o'r llythyr hwn yn y Gymraeg ar gais. Cysylltwch gyda ni ar cymraeg@fca.org.uk ac fe wnawn anfon copi atoch.

[Firm details]

[Date]

[Consumer details]

British Steel consumer redress scheme

FINAL REMINDER – We still need some information from you to help us review the advice we gave you to transfer out of the British Steel Pension Scheme

Dear [*Insert name*],

We have not yet received the information we need to review the advice we gave you to transfer out of the British Steel Pension Scheme.

This information we need from you is listed below.

Please send this information to us by [*Day Date Month Year*].

You can send this information to us by post (return envelope included) or by email: [*insert firm email*].

~~**IF YOU DO NOT RESPOND, WE WILL NOT BE ABLE TO REVIEW OUR ADVICE GIVEN TO YOU AND YOU MAY END UP WITH LESS MONEY DURING YOUR RETIREMENT THAN YOU SHOULD HAVE HAD.**~~ **We need this information so we can continue to review the advice we gave you. If we do not receive it, we may not be able to complete our review and you may end up with less money during your retirement than you should have had.**

The Financial Conduct Authority (FCA) has identified that many people received unsuitable advice to transfer out of the British Steel Pension Scheme (BSPS).

We wrote to you on [*insert date*] to say that we will review the advice we gave you to transfer out of BSPS to see if the advice was unsuitable. If our review finds that the advice we gave you was unsuitable and resulted in a financial loss, we will be required to give you compensation. The compensation will aim to put you in the position you would have been in if we had given you suitable advice and you remained in the BSPS. Whatever the outcome of our review, you will not have to pay anything.

~~**Please send us this information by [day date month year].**~~

~~We now need more information so we can review the advice we gave you to transfer out of BSPS.~~

~~[*Where questionnaire not being used*] Please provide us with the following information:~~

~~**• [insert information required in bold, bulleted list]]**~~

~~[*Where questionnaire being used*] Please complete and return the enclosed questionnaire.~~

~~Please do this by [day date month year].~~

[If the information is being requested from a third party]

To enable us to collect this information for you from [*complete who data will be sought from if known*] please sign and return the attached form and return it as soon as possible.

[If the information is being requested from the consumer]

(Please send us the information listed below by [*insert day date month year*]

- ***[Insert information required in bold bulleted list]***

Please note this information box is to be deleted before you send this letter to the consumer. It is to assist you to prepare the letter.

Firms should only request the information set out in CONRED 3 Annex 16R 13.9R that is necessary to complete the case review.
When you request information from a consumer you should have regard to Principles 6 and 7 and should:

- *only make requests for information that are necessary and which the consumer can reasonably be expected to provide;*
- *exercise sensitivity when requesting information about a consumer's personal circumstances;*
- *ensure the consumer understands what information they have been asked to provide and in what format;*
- *only ask for information that is likely to be readily accessible to the consumer (and obtain the consumer's authority to approach third parties for information on their behalf)*
- *allow the consumer at least 14 days to respond; and*
- *make clear why the firm is asking for the information and the consequence if the information is not provided.*

If you do not provide this information ~~you may end up with less money in your retirement than you should have had.~~ we may not be able to complete our review and you may end up with less money during your retirement than you should have had.

You do not need to use a claims management company (CMC) and ~~it will only cost you money if you use their services~~ if you do, they will charge you for the service.

If you have any difficulties providing this information or any queries about our review, you can contact us by phone or by email [*insert contact details*]. We are available between [*insert contact hours*].

If you do consent to us collecting the information on your behalf by returning the enclosed letter, you can withdraw that consent at any time by contacting us [*using the same contact details*.]

Yours sincerely,

<signature>

<name of adviser or customer service>

LETTER OF AUTHORITY

To whom it may concern

RE: authority to obtain information on behalf of [*enter consumer name*] [*enter consumer date of birth*] [*enter consumer current address and previous addresses where relevant*] [*enter policy number if known / applicable*] in connection with the Financial Conduct Authority's British Steel consumer redress scheme

I, [*enter consumer name*] [*enter consumer date of birth*], authorise [*enter firm name*] [*enter firm address*], to collect information on my behalf in relation to my previous and current pension arrangements for the purpose of assessing the advice I received to transfer my British Steel Pension Scheme pension benefits as part of the British Steel consumer redress scheme.

Signature:

Date:

…

3 Annex 9R Redress calculation, further information: initial request

[Please delete or amend any drafting instructions in italics before sending]

Rydym yn hapus i ddarparu copi o'r llythyr hwn yn y Gymraeg ar gais. Cysylltwch gyda ni ar cymraeg@fca.org.uk ac fe wnawn anfon copi atoch.

[Firm details]

[Date]

[Consumer details]

British Steel consumer redress scheme

ACTION REQUIRED – We need information from you to calculate whether we owe you any compensation

Dear [*Insert name*],

We need you to provide further information so we can calculate whether you suffered financial loss and whether we owe you any money. **Please send this information to us by [*insert day date month year*].** **You can send this information to us by post (return envelope included) or by email: [*insert firm email*].** ~~**IF YOU DO NOT RESPOND, WE WILL NOT CALCULATE WHETHER WE OWED YOU ANY MONEY AND YOU MAY END UP WITH LESS MONEY IN YOUR RETIREMENT THAN YOU SHOULD HAVE HAD.**~~ **If we do not receive it, we might not be able to calculate whether we owe you any compensation. This could mean that you end up with less money during your retirement than you should have had.**

We wrote to you on [*insert date*] to say that the advice we gave you to transfer out of the British Steel Pension Scheme (BSPS) was unsuitable. We said we would calculate whether you had suffered a financial loss, and if so, how much money we owe you. Any money we pay you will aim to put you in the position you would have been in had you received suitable advice and remained in the BSPS. Whatever the result of our calculation, you will not have to pay any money.

~~**Please send us this information by [insert day date month year]**~~

~~We now need some information from you so we can complete the calculation.~~

~~[*Where questionnaire not being used*] Please provide us with the following information:~~

~~**• [insert information required in bold, bulleted list]]**~~

~~[*Where questionnaire being used*] Please complete and return the enclosed questionnaire.~~

~~Please do this by [*insert day date month year*] and we will calculate how much money we may owe you.~~

We need more information so we can calculate whether we owe you any compensation.

[If the information is being requested from a third party]

To enable us to collect this information for you from *[complete who data will be sought from if known]* please sign and return the attached form and return it as soon as possible.

[If the information is being requested from the consumer]

Please provide us with the following information by [*insert date month year*] so we can calculate how much money we may owe you:

Please note this information box is to be deleted before you send this letter to the consumer. It is to assist you to prepare the letter. ***Firms should only request the information set out in CONRED 3 Annex 16R 13.9R that is necessary to complete the case review.*** *When you request information from a consumer you should have regard to Principles 6 and 7 and should:* • *only make requests for information that are necessary and which the consumer can reasonably be expected to provide;* • *exercise sensitivity when requesting information about a consumer's personal circumstances;* • *ensure the consumer understands what information they have been asked to provide and in what format;* • *only ask for information that is likely to be readily accessible to the consumer (and obtain the consumer's authority to approach third parties for information on their behalf)* • *allow the consumer at least 14 days to respond; and* • *make clear why the firm is asking for the information and the consequence if the information is not provided.*

If you do not provide this information you may end up with less money in your retirement than you should have had.

You do not need to use a claims management company (CMC) and ~~it will only cost you money if you use their services~~ if you do, they will charge you for the service.

If you need more help with the information we need from you or any queries about our review, you can contact us by phone or by email [*insert contact details*]. We are available between [*insert contact hours*]. If you do consent to us collecting the information on your behalf by returning the enclosed letter, you can withdraw that consent at any time by contacting us [*using the same contact details*.]

~~If you have any difficulties providing this information or any queries about our review, you can contact us by phone or by email [insert contact details]. We are available between [insert contact hours].~~

You can find out more about the consumer redress scheme at www.fca.org.uk/bsps. If you want to contact the Financial Conduct Authority, you can call its Consumer Helpline on 0800 111 6768 or email consumer.enquiries@fca.org.uk. If you would like to call using next generation text relay, please call on (18001) 0207 066 1000.

Yours sincerely,

<signature>

<name of adviser or customer service>

LETTER OF AUTHORITY

To whom it may concern

RE: authority to obtain information on behalf of [*enter consumer name*] [*enter consumer date of birth*] [*enter consumer current address and previous addresses where relevant*] [*enter policy number if known / applicable*] in connection with the Financial Conduct Authority's British Steel consumer redress scheme

I, [*enter consumer name*] [*enter consumer date of birth*], authorise [*enter firm name*] [*enter firm address*], to collect information on my behalf in relation to my previous and current pension arrangements for the purpose of assessing the advice I received to transfer my British Steel Pension Scheme pension benefits as part of the British Steel consumer redress scheme.

Signature:

Date:

3 Annex 10R **Redress calculation, further information: final reminder when information is requested from the consumer**

[Please delete or amend any drafting instructions in italics before sending]

Rydym yn hapus i ddarparu copi o'r llythyr hwn yn y Gymraeg ar gais. Cysylltwch gyda ni ar cymraeg@fca.org.uk ac fe wnawn anfon copi atoch.

[Firm details]

[Date]

[Consumer details]

British Steel consumer redress scheme

FINAL REMINDER – We need some information from you to help us calculate any money we may owe you due to advice we gave you to transfer out of the British Steel Pension Scheme

Dear [*Insert name*],

We have not yet received the information we need from you to calculate whether we owe you any money due to unsuitable advice we gave you to transfer out of the British Steel Pension Scheme. **The information we need is listed below.** **Please send this information to us by [*insert day date month year*].** **You can send this information to us by post (return envelope included) or by email: [*insert firm email*].** ~~**IF YOU DO NOT RESPOND, WE WILL NOT CALCULATE ANY MONEY YOU MAY BE OWED AND YOU MAY END UP WITH LESS MONEY OR IN YOUR RETIREMENT THAN YOU SHOULD HAVE HAD.**~~ **If we do not receive it, we might not be able to calculate whether we owe you any compensation. This could mean that you end up with less money during your retirement than you should have had.**

We wrote to you on [*insert date*] to say that the advice we gave you to transfer out of the British Steel Pension Scheme (BSPS) was unsuitable. We are now required to calculate whether this advice resulted in a financial loss and, if so, how much money we owe you. This would aim to put you in the position you would have been in had you received suitable advice and remained in the BSPS. Whatever the outcome of our calculation, you will not have to pay anything.

~~**Please send us this information by [insert day date month year]**~~

We need information so we can complete this calculation.

~~[Please provide us with~~

~~**• [insert information required as a bold, bulleted list]]**~~

~~OR~~

~~[Please complete and return the enclosed questionnaire.]~~

[If the information is being requested from a third party]

To enable us to collect this information for you from *[complete who data will be sought from if known]* please sign and return the attached form and return it as soon as possible.

[If the information is being requested from the consumer]

Please provide us with the following information by [*insert date month year*] so we can calculate how much money we may owe you:

Please note this information box is to be deleted before you send this letter to the consumer. It is to assist you to prepare the letter. ***Firms should only request the information set out in CONRED 3 Annex 16R 13.9R that is necessary to complete the case review.*** *When you request information from a consumer you should have regard to Principles 6 and 7 and should:* • *only make requests for information that are necessary and which the consumer can reasonably be expected to provide;* • *exercise sensitivity when requesting information about a consumer's personal circumstances;* • *ensure the consumer understands what information they have been asked to provide and in what format;* • *only ask for information that is likely to be readily accessible to the consumer (and obtain the consumer's authority to approach third parties for information on their behalf)* • *allow the consumer at least 14 days to respond; and* • *make clear why the firm is asking for the information and the consequence if the information is not provided.*

~~Please do this by [insert day date month year] and we will calculate how much money we may owe you.~~

If you do not provide this information you may end up with less money in your retirement than you should have had.

You do not need to use a claims management company (CMC) and ~~it will only cost you money if you use their services~~ if you do, they will charge you for the service.

~~If you have any difficulties providing this information or any queries about our review, you can contact us by phone or by email [insert contact details]. We are available between [insert contact hours].~~

If you need more help with the information we need from you or any queries about our review, you can contact us by phone or by email [*insert contact details*]. We are available between [*insert contact hours*]. If you do consent to us collecting the information on your behalf by returning the enclosed letter, you can withdraw that consent at any time by contacting us [*using the same contact details*.]

Yours sincerely,

<signature>

<name of adviser or customer service>

LETTER OF AUTHORITY

To whom it may concern

RE: authority to obtain information on behalf of [*enter consumer name*] [*enter consumer date of birth*] [*enter consumer current address and previous addresses where relevant*] [*enter policy number if known / applicable*] in connection with the Financial Conduct Authority's British Steel consumer redress scheme

I, [*enter consumer name*] [*enter consumer date of birth*], authorise [*enter firm name*] [*enter firm address*], to collect information on my behalf in relation to my previous and current pension arrangements for the purpose of assessing the advice I received to transfer my British Steel Pension Scheme pension benefits as part of the British Steel consumer redress scheme.

Signature:

Date:

…

3 Annex 12R **Redress determination**

[Please delete or amend any drafting instructions in italics before sending]

Rydym yn hapus i ddarparu copi o'r llythyr hwn yn y Gymraeg ar gais. Cysylltwch gyda ni ar cymraeg@fca.org.uk ac fe wnawn anfon copi atoch.

[Firm details]

[Date]

[Consumer details]

British Steel consumer redress scheme

ACTION REQUIRED – Compensation for unsuitable advice to transfer out of the British Steel Pension Scheme

Dear [*Insert name*],

We have found that we [*do/do not*] owe you money for the advice we gave you to transfer out of the British Steel Pension Scheme.

[If owed compensation] ~~**The amount we owe you is: [£xxx] If you want to accept this payment, you must do it by [insert day date month year]. Please [confirm/sign below/etc.] by [insert date] and we will send you the money through the method you indicated.**~~

[*Where compensation is paid as augmentation*]

FCA guidance recommends that compensation payments should be invested for retirement and paid directly into your current pension where possible. If you accept this offer we will arrange to pay £[*insert offer amount*] into your current pension / to send you a cheque for £[*insert offer amount*] which you should arrange to pay into your current pension. Please see the attached report for a breakdown of how this amount has been calculated.

Your pension provider will claim £[*insert amount*] tax relief from HMRC which means that the total amount that will be added to your pension is £[*insert amount*]

[*Where compensation is paid as part augmentation part lump sum*]

FCA guidance recommends that compensation payments should be invested for retirement and paid directly into your current pension where possible. If you accept this offer we will pay [*you / your current pension provider*] £[*insert amount*]. Please see the attached report for a breakdown of how this amount has been calculated.

We will also pay you £[*insert amount*] as a lump sum. You may wish to obtain advice on how to invest the lump sum. If you do not invest this money you risk losing out on the income your compensation amount is intended to provide to you during your retirement.

If you want to accept our offer you must tell us by [*insert day date month year*]. Please [*confirm/sign below/etc.*] by [*insert date*] and we will arrange payment.

[if not owed compensation] **This is because we have carried out a calculation and found that you have not suffered any financial loss as a result of the transfer.**

What should you do now?

If you would like to accept this offer you must sign and return the attached form by [*Insert date – 3 months from the date of this letter*].

If you are unhappy with this outcome, you should contact the Financial Ombudsman Service within six months of the date of this letter.

How did we reach this decision?

[*Insert how compensation was calculated and refer to calculator report*]. This amount has been calculated in accordance with the FCA's methodology, and you can check the information we used to calculate your compensation in the attached report.

~~[Insert how redress was calculated].~~

In the compensation calculation, we have specified [*BSPS2 / PPF/PIC*] as the comparator scheme. This is because [*add explanation*]

If you do not wish to receive compensation as outlined above you can choose to receive £[*insert amount*] compensation as a lump sum paid directly to you. The lump sum has been adjusted to take into your account your tax position. We have assumed that you will be a [*insert rate*] taxpayer at retirement and therefore your tax rate would be [*insert %*]. If you disagree please contact us.

Pensions are designed to help support you financially in your retirement. This could be for a long period of time, so it is important that your pension fund lasts as long as possible. This amount is intended to provide you with the retirement income you would have received if you had not transferred out of your British Steel Pension Scheme. If you receive compensation as a lump sum you should obtain advice on how to invest it. If you do not

invest it, you risk losing out on the income your compensation is meant to provide you during your retirement.

Help with your decision:

If you are unsure about whether to accept the offer or how to invest any money you may receive you can contact free services such as MoneyHelper or PensionWise or a financial adviser. You may also find the FCA's Scam Smart guidance helpful.

Your compensation offer also covers your future investment costs, and this money is there to help reach your retirement goals. In your current investment arrangement, you pay [*insert %*] [*enter current product charges rate*] in product charges per year and [*insert %*] [*enter current advice charges rate*] in adviser charges per year. And this offer compensates you for 0.75% in product charges and 0.5% in adviser charges [*only if offer covers initial advice fees*] and £[*insert amount*] [*enter initial advice compensation if applicable*] for you to enter a new advice arrangement if you wish to do so.

***[If owed compensation]* You must accept this ~~payment~~ offer by [*insert day date month year, 3 months from letter date*].**

If you want to accept this ~~payment~~ offer, please [*confirm/sign below/etc.*] ~~and we will~~. We will arrange for you to receive compensation ~~send you the money~~ through the method you indicated within 28 days of receiving your acceptance. We will also calculate and add interest to the compensation amount to cover the period between the date compensation was calculated and the date you receive compensation.

You do not have to accept this ~~payment~~ offer but if you want to, you must respond by [*insert date 3 months from letter date*], unless there are exceptional circumstances.

~~We intend to pay you within 28 days of receiving your acceptance.~~

If we do not pay or contact you within 28 days of receiving your acceptance, you can contact the Financial Conduct Authority (FCA) using the contact details below.

[Optional wording] If you accept this payment, it will be in full and final settlement of all claims against [*me/us/name of firm which provided the advice*] arising out of the advice given by [*me/us/it*] to you to invest in the above-named fund.

[All letters] If you are unhappy with this outcome, you can contact the Financial Ombudsman Service within six months of the date of this letter.

We have enclosed a leaflet explaining the role of the Financial Ombudsman Service, which you can contact by telephone: 0800 023 4567 or 0300 123 9123, or by email: bspsqueries@financial-ombudsman.org.uk.

You can find out more about the consumer redress scheme at www.fca.org.uk/bsps. If you want to contact the FCA, you can call its Consumer Helpline on 0800 111 6768 or email consumer.enquiries@fca.org.uk. If you would like to call using next generation text relay, please call on (18001) 0207 066 1000.

If you have any queries about the offer or this letter, you can contact us by phone or by email [*insert contact details*]. We are available between [*insert contact hours*].

Yours sincerely,

<signature>

<name of adviser or customer service>

Enclosures:

1) Settlement form
2) Calculator Report
3) Pre-paid envelope
4) FAQs

Settlement form

Method of payment

[*I/We*] have enclosed two copies of this letter.

If you ~~want to receive payment~~ would like to accept this offer:

1) Tick the box next to your preferred payment method on one copy of the letter;
2) Complete any required fields;
3) Sign and print your name; and
4) Send the completed letter to [me/us] by [date].

CONFIRMATION OF PAYMENT METHOD

[*If method of payment is augmentation*:] I would like ~~to receive payment~~ compensation payment:

☐ To be paid into my current pension

Or:

☐ To be paid to me as a lump sum

[Where method of payment is part augmentation part lump sum]

I would like to receive the compensation:

☐ £[*insert amount*] to be paid into my current pension and £[*insert amount*] to be paid to me as a lump sum

Or

☐ To be paid to me as a lump sum

[Where method of payment is lump sum:]

I would like to receive the payment:

☐ By cheque

☐ By payment into bank account
Sort code:________________ Account number:________________

Print name: _________________________________

Signed: ____________________________________

FAQs

1) **How do I accept the offer?**

   If you would like to accept the offer, please sign and return the attached form by the date specified in the letter.

2) **Can I negotiate the offer?**

   No. The offer is not negotiable. Compensation has been calculated in line with FCA rules and guidance.

3) **Do I have to accept the offer?**

   No. You do not have to accept the offer if you do not wish to do so. If you have any questions about the offer you can contact us.

4) **What should I do if I am concerned that the offer is incorrect?**

   If you have any questions about how compensation has been calculated, you can contact us. If you are unhappy with the offer you can refer the matter to the Financial Ombudsman Service who will consider whether we have complied with the scheme rules when calculating compensation. If you want to refer the matter to the Financial Ombudsman Service, you must do so within 6 months of the date of this letter.

5) **What should I do if I am concerned that the information used to calculate compensation is incorrect?**

   If you think the information we have used to carry out the calculations is incorrect please contact us. If you are unhappy with the offer you can refer the matter to the Financial Ombudsman Service who will consider whether we have complied with the scheme rules when calculating compensation. If you want to refer the matter to the Financial Ombudsman Service you must do so within 6 months of the date of this letter.

6) **If I am not happy with the offer can I take legal action or refer my case to the Financial Ombudsman Service**

   If you are unhappy with the offer you can refer the matter to the Financial Ombudsman Service who will consider whether we have complied with the scheme rules when calculating compensation. If you want to refer the matter to the Financial Ombudsman Service, you must do so within 6 months of the date of this letter.

7) **<u>What impact will accepting the offer have on my personal tax allowance or tax liabilities?</u>**

   <u>If you are unsure how accepting the offer may impact your tax position, including whether receiving your compensation payment as a cash lump sum may give rise to an unauthorised payment or unauthorised payment charges, you may wish to contact HMRC.</u>

8) **<u>Who can I contact if I am not sure how I would like compensation to be paid?</u>**

   <u>If you are unsure about whether to accept the offer or how to invest any money you may receive you can contact free services such as MoneyHelper or PensionWise or a financial adviser. You may also find the FCA’s Scam Smart guidance helpful.</u>

Insert 3 Annex 13A (Redress determination) after 3 Annex 13 (Summary of scheme flow diagram [CONRED 3.1.9R]). The text is all new and is not underlined.

3 Annex 13AR Redress determination

[Please delete or amend any drafting instructions in italics before sending]

Rydym yn hapus i ddarparu copi o'r llythyr hwn yn y Gymraeg ar gais. Cysylltwch gyda ni ar cymraeg@fca.org.uk ac fe wnawn anfon copi atoch.

[Firm details]

[Date]

[Consumer details]

British Steel consumer redress scheme

Compensation for unsuitable advice to transfer out of the British Steel Pension Scheme

Dear [*Insert name*],

Thank you for confirming how you would like to receive compensation.

We have added interest of £[*insert amount*] to the compensation amount to cover the period between the date compensation was calculated and the date you receive compensation.

[If compensation is augmentation]:

We have arranged to pay £[*insert amount*] into your current pension / We have enclosed a cheque for £[*insert amount*] / We have paid £[*insert amount*] into your bank account using the details you provided. You should contact your current pension provider and arrange to pay this amount into your current pension. This amount is broken down as follows:

- £[*insert amount*] compensation amount
- £[*insert amount*] interest,

[If compensation is part augmentation part lump sum:]

We have arranged to pay *£[insert amount]* into your current pension. We have also enclosed a cheque for *£[insert amount] / paid £[insert amount]* into your bank account using the details you provided.

You should contact your current pension provider and arrange to pay £[*insert amount]* into your current pension. The rest of the money is intended to provide you with the retirement income you would have received if you had not transferred out of your British Steel Pension

Scheme. You should obtain advice on how to invest it. Pensions are designed to help support you financially in your retirement. This could be for a long period of time, so it is important that your pension fund lasts as long as possible. If you do not invest it you risk losing out on the retirement income your compensation is meant to provide.

The total amount is broken down as follows:

- ***£[insert amount]*** **compensation amount**
- ***£[insert amount]*** **interest**

[If compensation is paid as a lump sum]

We have enclosed a cheque for *£[insert amount] /* We have paid *£[insert amount]* into your bank account using the details you provided. Pensions are designed to help support you financially in your retirement. This could be for a long period of time, so it is important that your pension fund lasts as long as possible. This amount is intended to provide you with the retirement income you would have received if you had not transferred out of your British Steel Pension Scheme. You should obtain advice on how to invest it. If you do not invest it you risk losing out on the retirement income your compensation is meant to provide.

The total amount is broken down as follows:

- **£[*insert amount*] compensation amount**
- **£[*insert amount*] interest**

If you have any queries about this letter, you can contact us by phone or by email [*insert contact details*]. We are available between [*insert contact hours*].

Yours sincerely,

<signature>

<name of adviser or customer service>

…

Amend the following as shown.

3 Annex 16R **BSPS DBAAT and BSPS Redress Calculator Instructions**

…

12 **Attestation Section**

…

13 **Redress calculation: BSPS calculator instructions**

13.1 R The following definitions are used in this section:

(1) ‘assumptions’ are the economic, demographic and other assumptions to be used in the redress calculation set out at *DISP* App 4 Annex 1;

(2) ‘BSPS calculator’ has the meaning in *CONRED* 3.1R(2A);

(3) ‘calculation date’ has the meaning in *DISP* App 4.1.1R(5);

(4) ‘comparator scheme’ is the scheme identified at *CONRED* 3 Annex 16 13.23G to 13.24R;

‘DC pension arrangement’ means any pension arrangement holding the value of the *consumer’s* pension benefits which originated from the BSPS;

(5) ‘DOL’ is the date that the BSPS member left active service in the BSPS;

(6) ‘input’ is information entered into the BSPS calculator;

(7) ‘output’ is the report produced by the BSPS calculator setting out the redress calculation, together with a summary of the inputs and the effect of any adjustments made;

(8) ‘PPF’ includes any benefits bought out by PIC. The BSPS PPF benefit structure will be automatically mapped to PIC Scheme Benefits that are expected to be secured with PIC in 2022/2023; and

(9) ‘PIC’ is the Pensions Insurance Corporation.

(10) ‘primary compensation sum’ is the amount calculated in accordance with DISP App 4.3.17R and 4.3.18R adjusted to take account of the

consumer's tax position and any entitlement to means-tested state benefits;

(11) 'secondary compensation sum' is the amount comprising any consequential losses, including any initial *adviser charges* on the DC pension arrangement and the primary compensation sum;

(11) 'Section' is each former *defined benefit occupational pension scheme* that was merged into the BSPS over time;

(12) 'tranche' is an element of pension benefit which typically has a unique combination of revaluation increases before coming into payment and pension increases during payment, but may also have a unique payment starting age or payment end age; and

(13) 'valuation date' has the meaning in *DISP* App 4.1.1R(9).

Using the BSPS calculator

13.2 R This section sets out the instructions for using the BSPS calculator. The BSPS calculator is used to calculate the redress (if any) payable to a *consumer*, their spouse or dependant in a scheme case where the *firm* has determined that:

(1) the *firm* has failed to comply with the suitability requirements; and

(2) the *firm's* non-compliant conduct was the effective cause of the BSPS pension transfer.

13.3 R The BSPS calculator carries out Step 3 at *DISP* App 4.3.17R to 4.3.22R and Step 4 at *DISP* App 4.3.25R to 4.3.31G.

13.4 R The BSPS calculator compares the position the *consumer* is in with the position they would have been in if the *firm* had complied with the suitability requirements.

13.5 R The BSPS calculator has a number of sections which must be completed in full except where indicated in these instructions.

13.6 R All inputs into the BSPS calculator must be based on information obtained by the *firm* until the valuation date.

13.7 G The BSPS calculator will indicate whether the *firm* has input the necessary information to complete a redress calculation.

13.8 G The diagram at *CONRED* 3 Annex 18G explains the steps to complete the redress calculation using the BSPS calculator in diagrammatic form, with reference to the relevant sections of the instructions, *DISP* App 4 and *CONRED* 4 *rules*.

Limitation on use

13.9 G The BSPS calculator and instructions in this Annex are to be used only for the purpose of complying with the requirements under *CONRED* 3 to calculate redress owed to a BSPS member as a result of a *firm's* failure to comply with the suitability requirements. They should not be used for any other purpose.

13.10 G Nothing in the BSPS calculator affects how the *FCA* DBAAT or BSPS DBAAT works.

General instructions

13.11 R A *firm* must carry out a separate calculation on the BSPS calculator for each period of the *consumer's* service or membership of the BSPS.

13.12 R The valuation date will be the first day of the *month* (for calculations undertaken within that *month*).

13.13 G The redress calculation date will fall within the same *month* as the valuation date but does not have to be the same date as the valuation date.

13.14 R The BSPS calculator will base calculations on the new assumptions available on the first day of each new *month*, using publicly available data from the final business day of the *month* immediately before.

13.15 R Redress calculations using the BSPS calculator will remain valid for 3 *months* from the date the *redress determination* is sent to the *consumer*, irrespective of monthly changes to the assumptions.

Steps for redress calculation

13.16 G The BSPS calculator can be accessed online at [*Editor's note*: to be confirmed].

13.17 R A *firm* must take the following steps to complete the redress calculation using the BSPS calculator:

(1) step 1: obtain the necessary information to calculate redress, including identifying the relevant comparator scheme by following the instructions at *CONRED* 3 Annex 16 13.18G to 13.20R;

(2) step 2: identify when the *consumer* would have taken retirement benefits from the comparator scheme by following Step 2 of *DISP* App 4;

(3) step 3: carry out redress calculation by:

(a) inputting the necessary information into the calculator, overriding default settings where appropriate, as specified in *CONRED* 3 Annex 16 13.30R; and

(b) running the BSPS calculator and obtaining a calculator report; and

(4) step 4: work out the redress offer and the means of payment for the *redress determination* in accordance with the requirements at *DISP* App 4.25R-31R and *CONRED* 3.4.2R-3R;

(5) step 5: send the *redress determination* to the *consumer* in accordance with the requirements at *CONRED* 3.4.2R(3) and 3.4.6AR.

Step 1: obtain necessary information

13.18 G A *firm* should follow the steps in *CONRED* 4.3.15R and where applicable at *CONRED* 3.4.7 to 3.4.12G obtain the necessary information to carry out a redress calculation using the BSPS calculator.

13.19 G The necessary information to carry out a redress calculation using the BSPS calculator is specified at *CONRED* 3 Annex 16 13.30R.

13.20 R A *firm* is entitled to rely on the information provided by the *consumer* unless it is aware that the information is out of date, inaccurate or incomplete.

Step 2: identify comparator scheme and retirement date

13.21 R A *firm* must identify the appropriate comparator scheme to:

(1) complete Step 2 in *DISP* App 4.3.13R to 4.3.16G; and

(2) use for the purpose of the redress calculation.

13.22 G Former BSPS members who did not complete a *pension transfer* had two options during the 'Time to Choose exercise' implemented by the BSPS:

(1) move to the new BSPS scheme ('BSPS2'); or

(2) remain in the original BSPS scheme, which would move into the Pension Protection Fund ('PPF').

13.23 R Where there is evidence in a *firm*'s client file that a *consumer* had selected either the BSPS2 or PPF during the Time to Choose exercise, a *firm* must use the scheme chosen by the *consumer* as the comparator scheme in the BSPS calculator.

13.24 R Where the *consumer* had not selected the BSPS2 or the PPF during the Time to Choose exercise, a *firm* must determine whether the evidence on the client file demonstrates that the *consumer* would have been more likely than not to choose the BSPS2 or the PPF.

13.25 E (1) The following evidential provisions provide examples of circumstances which make it more likely than not that the *consumer* would have chosen BSPS2 over the PPF:

(a) the *consumer* was under 50 at the time of the advice;

(b) the *consumer* could not accept a reduction in the starting pension entitlement at retirement; or

(c) the *consumer* wanted to retain the option to transfer benefits in the future.

(2) If the *consumer* needed to take the highest *pension commencement lump sum* available at their retirement date it is more likely than not that they would have chosen the PPF over the BSPS2:

13.26 R Where the *firm* is unable to determine which scheme a *consumer* would have been more likely than not to choose during the Time to Choose, it must calculate the amount of redress using each of the BSPS2 and the PPF as the comparator scheme and use the higher amount of redress calculated for the primary compensation sum at *CONRED* Annex 16 13.34R.

Retirement date

13.27 R A *firm* must determine the *consumer's* retirement date using the *rules* and *guidance* at *DISP* App 4.3.13R to 4.3.16G, with the following modification: any reference to the *defined benefit contribution scheme* is to be replaced with a reference to the comparator scheme identified in accordance with *CONRED* 3 Annex 16 13.21R to 26R.

Step 3: carry out redress calculation

13.28 R The third step is for the *firm* to carry out the redress calculation using the BSPS calculator. The BSPS calculator will calculate whether 'A' is greater than 'B' on the valuation date, using the formula at *DISP* App 4.4.2R, where:

(1) 'A' is the estimated value of the benefits in the *defined benefit occupational pension scheme* together with the difference in SERPS had the *consumer* remained a member; and

(2) 'B' is the value of the benefits from the consumer's DC pension arrangement.

13.29 R Where 'A' is greater than 'B', the *consumer* has suffered a loss and the amount calculated is the primary compensation sum to be used at Step 4.

13.30 R A *firm* must input the following information into the BSPS calculator to carry out the redress calculation:

(1) information relevant to the *consumer's* personal and financial situation including, where relevant, and overriding the default setting where different:

(a) date of birth;

(b) marital status;

(c) spouse/civil partner's date of birth;

(d) the appropriate comparator scheme identified in accordance with *CONRED* 3 Annex 16 13.21R to 3.26R;

(e) the *consumer's* presumed date of retirement from the appropriate comparator scheme, identified in accordance with *CONRED* 3.4.2R and Step 2 of *DISP* App 4.3.13R to 4.3.16G;

(f) whether the *consumer* is alive or deceased on or before the calculation date (default is that the *consumer* is still alive). If the *consumer* is deceased, the *consumer's* date of death;

(g) *consumer's* expected marginal tax rate in retirement (default is 20%);

(h) current lifetime allowance usage (default is none used, unless withdrawals from the defined contribution fund are indicated in subsequent data fields);

(i) expected future lifetime allowance usage (default is sufficient capacity will be available);

(j) details of any lifetime allowance protections (default is *consumer* does not have lifetime allowance protections);

(k) current income levels (default is nil);

(l) expected total contributions by *consumer* to the DC pension arrangement in the tax year in which redress is being paid (default is the *consumer's* annual allowance is fully used up);

(m) annual allowance carry forward from previous years (default is no carry forward available).

(2) where the comparator scheme is the BSPS (PPF) data relating to the *consumer's* former benefit entitlement in the BSPS, including:

(a) the relevant Section (the BSPS calculator will provide a list of options);

(b) date that the member left active service in the BSPS ('DOL');

(c) annual BSPS pension at DOL split by tranche, as applicable to each section. The tranches expected will be pre-populated based on the Section selected. All tranches will be optional however there must be one or more non-zero amounts. (the BSPS calculator will provide a list of tranches by Section);

(d) the value at DOL of the automatic lump sum entitlement due at retirement split by tranche, as applicable to each Section;

(e) confirmation of any lower unreduced retirement age that applies to any tranches due to any enhanced early retirement provision (optional - default is Section's retirement age will apply);

(f) the value at DOL of any other associated benefits, for example for a bridging pension; and

(g) details of any adjustment applicable to the transfer as part of a pension sharing order entered into (optional - default is no adjustment).

(3) where the comparator scheme is the BSPS2, data relating to the *consumer's* former benefit entitlement in the BSPS2, including:

(a) Section (the BSPS calculator will provide a list of Sections);

(b) date that the member left active service in the BSPS ('DOL');

(c) annual BSPS2 pension at DOL split by tranche, as applicable to each Section. The tranches expected will be pre-populated based on the Section selected. All tranches will be optional however there must be one or more non-zero amounts. (the BSPS calculator will provide a list of tranches by Section);

(d) the value at DOL of the automatic lump sum entitlement due at retirement split by tranche, as applicable to each Section;

(e) confirmation of any lower unreduced retirement age that applies to any tranches due to any enhanced early retirement provision (optional - default is the BSPS2's retirement age will apply);

(f) the value at date of leaving of any other associated benefits, for example for a bridging pension; and

(g) details of any adjustment applicable to the transfer as part of a pension sharing order entered into (optional - default is no adjustments apply).

(4) data relating to the DC pension arrangement including:

(a) date of transfer out of the BSPS;

(b) fund value of each investment fund attributable to the original transfer value at the valuation date;

(c) valuation date for each investment fund;

(d) product and adviser related percentage charges, including annual management charges;

(e) non percentage charges in addition to the charges at (4)(d) (option - default is nil); and

(f) whether the *consumer* requires initial advice in future, and an initial *adviser charge* needs to be applied.

(5) where the *consumer* has already commenced taking their pension benefits:

(a) amount of any *pension commencement lump sum* taken and dates of payment;

(b) amount of any funds accessed flexibly and dates of payments; and

(c) date of any annuity purchased and for that annuity:

(i) its amount;

(ii) increases (*RPI* linked, *CPI* linked, applicable cap, applicable floor);

(iii) spouse/civil partner's pension – proportion on death;

(iv) remaining guarantee period from the calculation date (enter in years);

(v) payment in arrears or advance and whether payable monthly or annually; and

(vi) annuity commencement date.

Use of assumptions from DISP App 4

13.31 G The BSPS calculator uses the assumptions in *DISP* App 4 Annex 1 for the purpose of calculating redress. These assumptions may include (depending on the type of case and the information entered in the calculator):

(1) pre-retirement discount rate, adjusted for percentage charges applicable to the personal pension benefits (see *DISP* App 4 Annex 1 7.1G);

(2) post-retirement discount rate, adjusted for tax free as applicable (see *DISP* App 4 Annex 1 6.1G);

(3) *RPI* inflation (see *DISP* App 4 Annex 4 3.1G);

(4) *CPI* inflation (see *DISP* App 4 Annex 4 4.1G);

(5) pension increases in payment, with reference to the relevant inflation index, caps and floors (see *DISP* App 4 Annex 1 5.1G);

(6) future personal pension charge % (see *DISP* App 4 Annex 1 8.1G);

(7) fixed adviser charge inflation (see *DISP* App 4 Annex 1 for inflation assumptions);

(8) Bank of England Base Rate;

(9) mortality for *consumer* and spouse / dependant (see *DISP* App 4 Annex 1 9.1G);

(10) spouse / dependant age difference (if spouse/dependant date of birth is not available) (see *DISP* App 4 Annex 1 9.2G); and

(11) proportion married / having a dependant at retirement age (if status unknown) (see *DISP* App 4 Annex 1 9.3G).

13.32 G These assumptions will be derived in line with *DISP* App 4 Annex 1 and will be updated on a monthly basis. All the assumptions needed will be automatically calculated based on information inputted and market conditions at the calculation date.

13.33 G The BSPS calculator will be temporarily unavailable at quarter ends for a short period whilst updates for latest market conditions are made.

Step 4: work out redress offer for redress determination

13.34 R The BSPS calculator will produce the following outputs:

(1) a primary compensation sum, calculated in accordance with *DISP* App 4.3.17R and 4.3.18R adjusted to take account of the *consumer's* tax position and any entitlement to means-tested state benefits;

(2) a secondary compensation sum for any consequential losses including any initial adviser charges calculated in accordance with *DISP* App 4.4.19R; and

(3) interest for foregone investment returns on (1) between the valuation date and the payment date calculated in accordance with the formula at *DISP* App 4 Annex 1 7.1G.

13.35 R The BSPS calculator will adjust the redress calculation for each means of payment (full or partial augmentation or full lump sum):

(1) the *consumer's* individual tax position including allowances on pension contributions eligible for tax relief; and

(2) the *consumer's* entitlement to means tested state benefits.

13.36 G Consequential losses may include the cost of initial *adviser charges* necessary to enable the *consumer* to switch to a suitable defined contribution pension scheme.

Means of payment

13.37 R (1) A *firm* must determine the means of payment in accordance with the instructions at *CONRED* 13.38-40G.

(2) The BSPS calculator will provide adjusted calculations for each means of payment.

(3) The means of payment identified in (1) and the corresponding calculator redress calculation in (2) are to be used where indicated in the *redress determination* letter at *CONRED* 3 Annex 12AR.

13.38 R (1) A *firm* must offer to pay the total amount of redress in *CONRED* Annex 16 13.34R (with adjustments in *CONRED* Annex 16 13.35) by full augmentation, unless:

(a) the total redress payment would exceed the *consumer's*:

(i) annual allowance for personal contributions in the tax year the augmentation would occur including any carry forward from previous tax years; or

(ii) lifetime allowance; or

(b) payment into the *consumer's* chosen defined contribution pension scheme is not in the *consumer's* best interests; or

(c) the *consumer* directs the *firm* otherwise in writing.

(2) If pursuant to (1) it is not possible to pay redress by full augmentation the *firm* must offer to pay the redress by partial augmentation with the remainder by lump sum cash payment, unless:

(a) the *consumer* has exceeded their:

(i) allowance for personal contributions in the tax year the augmentation would occur; or

(ii) annual allowance, including carry forward; or

(iii) lifetime allowance; or

(b) payment into the *consumer's* chosen defined contribution pension scheme is not in the *consumer's* best interests; or

(c) the *consumer* directs the *firm* otherwise in writing.

(3) If pursuant to (1) and (2) redress is not made by full or partial augmentation the *firm* must offer to pay redress by a lump sum cash payment.

13.39 G Factors that may indicate that full or partial augmentation may not be in the *consumer's* best interests include if:

(1) the *consumer* is in ill health; or

(2) the *consumer* is in financial difficulty or would otherwise be unable to pay professional fees due to a *claims management company* or legal representative.

13.40 G Factors which may be relevant to whether full or partial augmentation would result in a *consumer* exceeding their annual or lifetime allowance or allowance for personal contribution include:

(1) the *consumer's* relevant earnings in the current tax year;

(2) the value of all pension contributions already made in the current tax year;

(3) if the redress payment would result in the *consumer's* unused annual allowance in the current and previous 3 tax years being exceeded; and

(4) the expected value of all pensions held by the *consumer* up to the age of 75.

Step 5: redress determination

13.41 R The sum total of the amounts in *CONRED* 3 Annex 16 13.34R, with adjustments made for each means of payment, is the redress determined to be payable to a *consumer* for the purpose of *CONRED* 3.4.3R.

Record of redress payable

13.42 G The BSPS calculator will produce a record which can be saved in a PDF format which consists of:

(1) the total redress payable, together with and the effect of any adjustments made;

(2) a summary of the inputs including any assumptions made; and

(3) an explanation that the methodology takes account of the market conditions at the valuation date and this could mean that the calculation and any offer of redress might be different if it was completed on a different date.

13.43 R A *firm* must store a record of the redress calculation carried out by the BSPS calculator in a *durable medium*.

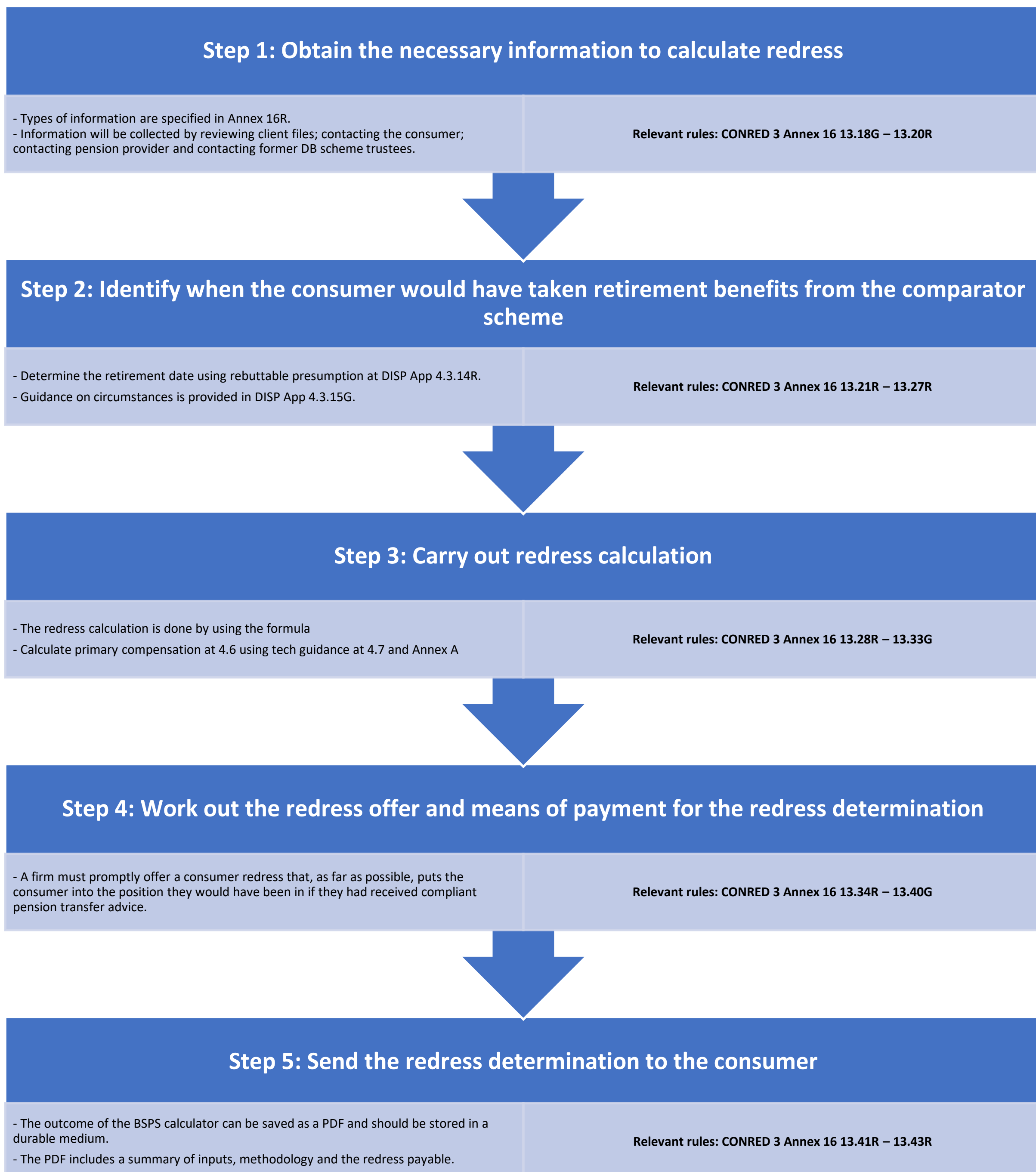
…

Insert 3 Annex 18 after 3 Annex 17 (BSPS DBAAT Annex). The text is all new and is not underlined.

3 Annex 18G **BSPS Calculator steps in diagrammatic form**

This Annex belongs to *CONRED* 3 Annex 16 13.8G

The diagram illustrates the steps to take to calculate redress and to complete a *redress determination* using the BSPS calculator.



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