

Sandra Graham and David Berenbaum,
Financial Conduct Authority,
12 Endeavour Square,
London
E20 1JN

30 October 2019

Dear Sandra and David,

CP19/25: PENSION TRANSFER ADVICE: CONTINGENT CHARGING AND OTHER PROPOSED CHANGES

The Practitioner Panel has the following comments in response to Consultation CP19/25 on pension transfer advice.

We broadly consider that the pensions market should be addressed by looking at the issue of consumer needs relating to retirement, and that there should be coordinated thinking in this area. We welcome the Joint Protocol which was developed from the work around the British Steel Pension Scheme (BSPS) in conjunction with the Pensions Regulator (TPR), the Financial Ombudsman Service (FOS), Financial Services Compensation Scheme (FSCS) and the Money and Pensions Service (MaPS). Ensuring that the relevant bodies are sighted on issues arising at DB schemes and can share intelligence and act on it in a coordinated way is welcome.

Identification of harm

For many people the decision to move their DB pension into a DC arrangement may be the biggest financial decision they ever make and therefore it is extremely important they have access to appropriate financial advice. We support the intention of the FCA to reduce the scope of conflicts of interest and empower consumers to make better decisions, but we have concerns that the consultation moves too far towards discouraging appropriate transfers.

The consultation paper, and much of the commentary around it, focuses on the FCA's findings that 69% of consumers taking advice are advised to transfer, and the conclusion that this figure is inappropriately high. We believe that focusing on this figure is misleading and that further context is required to understand the market better. We would ask that the FCA cross check that the figure of 69% takes properly into account the numbers of customers who go through the whole process from start to finish and is not just a proportion, of customers who proceed, out of those who reach the final stages of the advice process.

Many advice firms set rigorous standards to ensure clients for whom this is not a suitable option are not taken forward into the advice process in the first place. These standards include not dealing with insistent customers.

The figure of 69% stated in the consultation appears broadly consistent with the outcome for customers who actually enter into the advice process, but, importantly, does not appear to take into account all those customers who are rightly triaged out of the process at the initial stage by firms. It therefore does not represent the number of customers who express a wish to transfer versus the number who ultimately do. We attach a case study provided by one of our Panel members providing an illustration of the above.

The triage stage of the advice transfer process must be taken into account when considering the volume of transfers ultimately effected. By the very nature of this triage process, one would expect a reasonably high proportion of those who go through into the formal advice process to actually proceed to transfer. A transfer rate of 69% of those who go on to take formal advice is not in itself an indication of harm.

Contingent charging

The Panel has previously stated, in its response to Consultation Paper CP18/7, Improving the Quality of Transfer Advice¹, that it has not seen evidence of a causal link between contingent charging and poor advice. Although we acknowledge that there is potential for conflicts of interest to arise where contingent charging is used, we note that a cause and effect link has still not been established.

Removing the option of contingent charging will reduce the range of customers who can be served by firms. Contingent charging is one of a range of business models which allow firms to provide services to a range of customers with different needs in a way that benefits both parties.

In order to mitigate the risk of conflicts of interest we suggest that firms transacting DB transfer business must be able to evidence that they have appropriate controls in place, such as the rigorous triage and advice standards described above, and that responsibility for these controls is clearly accountable within the Senior Managers and Certification Regime.

Carve outs

If a ban is to be in place, then 'carve outs' for ill health and financial hardship would reduce the potential harm, but we have some reservations about how these can be made to work objectively and, in the case of ill-health, how the interaction with the medical profession will be managed. The FCA must ensure that the carve outs are sufficiently objective to be practical for adviser use, but not so prescriptive that they exclude individuals they are intended to help.

Professional Indemnity Insurance (PII)

The context in which firms decide whether or not to offer transfer advice is strongly influenced by the ability to access PII. The market for such insurance is currently contracting, even though the demand for pension transfer advice is still strong, and in the cases of larger pots, it is mandatory. We consider there is a very real danger that firms will no longer be prepared to offer advice if they are not able to access PII, and that the market will cease to function. This would reduce still further the access to advice for those who need it.

We would be happy to discuss these points further if required.

Kind regards,

Tulsi Naidu
Chair, FCA Practitioner Panel

¹ https://www.fca-pp.org.uk/sites/default/files/pp_response_to_cp18-7_pension_transfers.pdf

Appendix – Case study

The following case study was supplied by a Panel member's firm:

Lighthouse Group was invited, due to its affinity relationships, to put two advisers on site within the British Steel bases in Scunthorpe and Teesside. Between 2015 to 2018, approximately 2,500 referrals were made to Lighthouse by British Steel from these two bases, however, only 258 positive recommendations to transfer were actually made – equating to around 1 in 10.

Over the course of this period the Lighthouse team provided numerous seminars (in conjunction with HR and Union representatives) as well as daily surgeries, to ensure anyone who had questions or was looking for guidance/advice had it available to them.