

28 November 2022

Dear CEO

Professional Indemnity Insurance (PII) for firms that advised on the British Steel Pension Scheme (BSPS)

This letter is for:

- insurers who provide or have provided PII to; and
- intermediaries that have arranged PII for, (together 'insurance firms')

firms that gave defined benefit ('DB') pension transfer advice to British Steel Pension Scheme members between 26 May 2016 and 29 March 2018, in relation to which we have announced a consumer redress scheme ('the scheme').

We are taking this opportunity to highlight our announcement of this scheme and set out our expectations of insurers (and where relevant, intermediaries) in relation to the treatment of these policyholders.

The Scheme

We have been reviewing the advice given to members of the BSPS since 2017. Our work to date shows that high levels of unsuitable DB pension transfer advice were given to BSPS members. These levels of unsuitable advice are significantly higher than those we have seen for advice given to members of other DB pension schemes.

We have now published the rules on a redress scheme for pension transfer advice given to members of the BSPS. Under the scheme, firms which advised on BSPS transfers (BSPS scheme firms) are required to review their advice. If the advice is unsuitable and results in a financial loss for former BSPS members, firms are required to provide compensation. These firms are required to assess the adequacy of their financial resources to meet potential liabilities arising from unsuitable BSPS advice. This assessment includes consideration of the availability of any cover under the firm's PII policy. Further details, including the scope of the scheme, are provided in the [Policy Statement](#).

What we expect from insurance firms in relation to PII

Insurance firms involved with the provision of PII will appreciate that BSPS adviser firms wish to have certainty about the extent of their PII cover and that it responds appropriately to claims in connection with the scheme. Where adviser firms have certainty over their coverage this will support our objectives of ensuring protection for consumers and ensuring that markets function well, by aiding the smooth operation of the redress scheme.

Whilst consulting on the scheme, we became aware that some BSPS scheme firms involved in advising on BSPS transfers are concerned that their PII cover may not respond to claims in connection to matters covered by the scheme.

This has resulted in some uncertainty on whether PII will meet claims that may result from the scheme. We have now announced that a redress scheme is going ahead. Therefore, we want firms involved with the provision of PII to understand our expectations in relation to meeting the information needs of their policyholders and how to deal with claims made under PII policies in connection with the scheme.

Information requests

As we have explained above, BSPS scheme firms will need to assess their financial resources including the potential for any PII cover to respond in relation to the scheme. To do that, these firms may need to contact the insurance firm who arranged the cover.

To comply with the Insurance Conduct of Business Sourcebook (ICOBS) rules (including the customer's best interest rule and ICOBS 6 appropriate information) and Principle 7 (communication with clients) you should consider the information needs of the customer and how to respond when dealing with such a request.

- We expect that insurance firms should be able to give an opinion of whether their PII policy/ies are likely to respond to claims about BSPS advice, based on the information available at the time of the request (an 'indication of cover'). We expect that such information is readily available given wider obligations to understand the cover you provide and so you would be able to provide this information without undue delay to support the assessment BSPS scheme firms need to undertake. When providing this indication of cover we expect insurance firms should be able to say whether the PII policy is expected to provide cover for claims falling within the scheme (or a specified subset of claims).
- Where the PII policy is not expected to respond to such claims, a summary of the reasons for this. For example, whether you consider the policy is subject to an exclusion for such business or in relation to liabilities resulting from a consumer redress scheme.
- If there is any other relevant information in relation to the cover – for example around the process under the contract for making a notification or claim – that may be appropriate to draw to the attention of the policyholder.

Notifications / claims under PII policies

Where BSPS scheme firms make notifications/claims we expect that PII insurers will:

- consider notifications promptly and fairly (including whether any notification that has already been made by the BSPS firm under the policy has in the insurer's opinion engaged or preserved cover in respect of some or all BSPS advice),
- communicate to BSPS scheme firms the outcomes of their notification (to understand their position and how to make a claim), and
- handle claims promptly and fairly including to pay out claims promptly (once settlement terms are agreed).

This is to ensure that the scheme runs as smoothly as possible. It will support BSPS scheme firms so they have certainty over the cover that is available to them, and can help consumers receive the redress they are due.

We also encourage insurers to develop or maintain approaches that facilitate and expedite the reporting and consideration of claims that may arise as a result of the redress scheme, with no unreasonable barriers, having regard to the requirement to handle claims promptly and fairly.

If you use the services of insurance intermediaries or other third parties to provide claims handling services on your behalf, you should take the necessary steps to ensure they are aware of our expectations in this letter to enable you to comply with your obligations under our rules.

Product governance

We have previously published our expectations for manufacturers and distributors of PII products in [Finalised guidance on advising on pension transfers \(FG 21/3\)](#), in which we highlighted that we expected PII contracts to be clear about what business is covered and that ongoing notification requirements are reasonable and do not create a burden which risks the availability of PII cover.

New Consumer Duty

These expectations are aligned with the forthcoming new Consumer Duty, where applicable, and will be set out in Principle 12 which will require firms to 'act to deliver good outcomes for retail customers. We make clear that both you and the insured party have a responsibility to avoid causing foreseeable harm and help ensure that customers are compensated for any harm they may have received. This includes ensuring that PII policies respond appropriately where this includes cover for claims in scope of the scheme.

It is, therefore, incumbent on you to deliver on your own obligations to insured firms and in doing so ensure that the process works smoothly for all parties without impediment.

Yours sincerely

Sheldon Mills
Executive Director of Consumers & Competition