

## **BSPS DBAAT Instructions**

In this document we copy across the relevant extracts of CONRED 4 which set out the instructions on how to use the BSPS DBAAT. This document reflects CONRED 4 as of 28 February 2023<sup>1</sup>. These instructions are drawn from the relevant parts of the rules detailed in CONRED 4.

### **4 BSPS DBAAT and BSPS Redress Calculator Instructions**

#### **Annex 21R**

#### **1 Introduction**

##### Limitation on use

- 1.1 G The suitability assessment toolkit reproduced at *CONRED 4 Annex 20R* (referred to in these instructions as the ‘BSPS DBAAT’) and instructions in this Annex are to be used only for the purpose of complying with the requirements under *CONRED 4* to assess *pension transfer* advice provided to BSPS members during the relevant period. They should not be used for any other purpose.
- 1.2 G Unless otherwise stated, nothing in *CONRED 4* affects how the FCA DBAAT operates.

##### Definitions

- 1.3 R In this section we use the following definitions:
- (1) ‘assessor’ means the person filling in the BSPS DBAAT, either at the *firm* or on behalf of the *firm*;
  - (2) ‘available evidence’ means the information collected by the *firm* and held on the *consumer* file or information received from a *consumer*;
  - (3) ‘BSPS’ has the meaning in *CONRED 4.1.1R(1)*;
  - (4) ‘BSPS2’ has the meaning in *CONRED 4.1.1R(2)*;
  - (5) ‘BSPS DBAAT’ has the meaning in *CONRED 4.1.1R(4)*;
  - (6) ‘Causation Section’ is the tab on the BSPS DBAAT Excel Spreadsheet that records whether the *firm*’s failure to comply with the suitability requirements is the effective cause of the *consumer*’s loss;

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<sup>1</sup> The definitive version of the rules is the legal instrument in CONRED 4. The legal instrument takes priority, and should be followed if there are any discrepancies between it and this text.

- (7) ‘comparator scheme’ means, other than as provided by *CONRED 4 Annex 21 13.1R(4)*:
- (a) (if the advice was given on or before 16 May 2017) BSPS;
  - (b) (if the advice was given from 17 May 2017 to 11 October 2017) either or both of BSPS and PPF; and
  - (c) (if the advice was given on or after 12 October 2017) BSPS2 and PPF;
- (8) ‘FCA DBAAT’ has the meaning in *CONRED 4.1.1R(11)*;
- (9) ‘information requirements’ are the requirements in force during the relevant period and are:
- (a) *COBS 9.2.1R(2)*;
  - (b) *COBS 9.2.2R*;
  - (c) *COBS 9.2.3R*;
  - (d) *COBS 9.2.6R*; and
  - (e) *COBS 19.1.2R*;
- (10) ‘instructions’ means this Annex;
- (11) ‘Information Section’ is the tab on the BSPS DBAAT Excel Spreadsheet that collects information about the *firm’s* compliance with the information requirements that is relevant to the assessment of suitability;
- (12) ‘material information gap’ has the meaning in *CONRED 4.1.1R(12)*;
- (13) ‘NRD’ is the normal retirement date in the comparator scheme;
- (14) ‘pension benefits’ has the meaning in *CONRED 4.1.1R(13)*;
- (15) ‘PPF’ means the Pension Protection Fund;
- (16) ‘relevant period’ is defined at *CONRED 4.1.1R(16)*;
- (17) ‘scheme case’ is defined at *CONRED 4.1.1(17)*;
- (18) ‘suitability requirements’ are the requirements in force during the relevant period specified at *CONRED 4 Annex 21R 7.1R* and are:
- (a) *COBS 9.2.1R(1)*; and
  - (b) the common law duty in contract or tort to exercise reasonable skill and care in advising the *consumer* on *pension transfers*;

and that were in force during the relevant period and applicable to a scheme case;

- (19) ‘Suitability Section’ is the tab on the BSPS DBAAT Excel Spreadsheet that records the assessment of the *firm*’s compliance with the suitability requirements;
- (20) ‘transfer value’ is the cash equivalent transfer value or CETV;
- (21) ‘transfer value analysis’ is the analysis a *firm* was required to carry out during the relevant period, in accordance with the requirements at COBS 19.1.2R; and
- (22) ‘two-adviser model’ has the meaning in CONRED 4.1.1R(21).

## 2 Using the BSPS DBAAT

- 2.1 G The BSPS DBAAT contains factors for the *firm*’s assessor to take into account to determine whether there has been a failure to comply with the suitability requirements in a scheme case. The instructions are addressed to the assessor carrying out the review.
- 2.2 R The BSPS DBAAT is a Microsoft Excel workbook divided into 5 ‘sections’, using worksheet tabs, which must be completed in full except where indicated in these instructions.
- 2.3 R Before completing the BSPS DBAAT, an assessor must familiarise themselves with the features, benefits and risks of a *pension transfer* from BSPS, including the features, benefits and risks in general of a *pension transfer* that a reasonably competent *firm* should have identified, as illustrated in CONRED 4 Annex 22G at Table 1.
- 2.4 R The assessor must answer the questions in the BSPS DBAAT and complete the assessment by reference to the available evidence, and where specified the information available to advisers during the relevant period listed in CONRED 4 Annex 22G at Tables 2 and 3.
- 2.5 R All answers should be based on information obtained up until the date the *firm* gave the advice or arranged the *pension transfer*, unless otherwise stated.
- 2.6 G When completing the BSPS DBAAT, an assessor should ensure that the information they enter, including, without limitation, all values, notes, additional comments, rationale and evidence, is sufficiently detailed for a third-party assessor to:
  - (1) gain an accurate and complete overview of the relevant evidence on the *consumer* file; and
  - (2) form a view without the need to refer to the relevant evidence as to whether the *firm* has collected the necessary information to assess

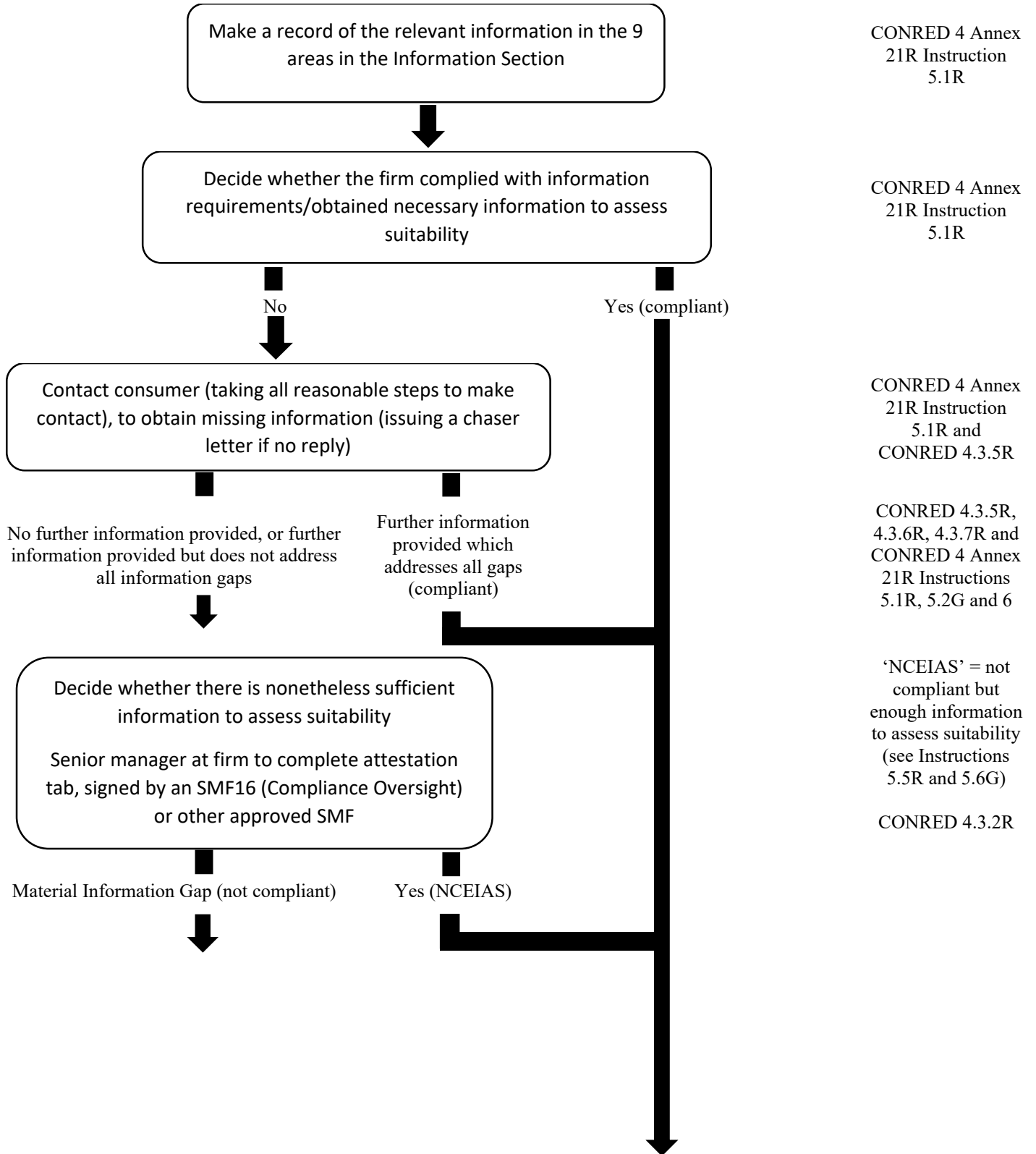
suitability and, where applicable, complied with the suitability requirements.

- 2.7 G The BSPS DBAAT uses colours to indicate whether fields have been completed. Blue indicates fields still to complete. Grey indicates fields that may not have to be completed, depending on the answer to a question.
- 2.8 G The diagram at 2.9G explains the scheme steps in diagrammatic form, with reference to the relevant sections of the instructions and *CONRED* 4 rules.
- 2.9 G The steps to complete a BSPS DBAAT are set out below.

**Steps to complete a BPS DBAAT**

Note this diagram should be considered alongside other scheme diagrams

**Using the available evidence:**



Senior manager at firm to complete attestation tab, signed by an SMF16 (Compliance Oversight) or other approved SMF

Out of scope. Write to consumer and make record

CONRED 4.3.7R,  
CONRED 4.3.8R  
and  
CONRED 4 Annex  
21R Instruction  
5.7R

Assess suitability of the personal recommendation.  
(Are any of the 12 examples present?)

CONRED 4.3.2R  
and  
CONRED 4 Annex  
21R Instructions 9  
and 10

Unsuitable (not compliant with COBS 9.2.1R(1))

Suitable (compliant with COBS 9.2.1R(1))

Answer causation question in Causation Section

Senior manager at firm to complete attestation tab, signed by an SMF16 (Compliance Oversight) or other approved SMF

Redress determination (no loss)

Senior manager at firm to complete attestation tab, signed by an SMF16 (Compliance Oversight) or other approved SMF

CONRED 4.3.2R,  
CONRED 4.3.14R  
and  
CONRED 4 Annex  
21R Instructions 11  
and 12

No

Yes

Redress determination (no loss)

Redress calculation and redress

CONRED 4.4 and  
CONRED 4 Annex  
21R Instructions 12

### 3 Use of FCA DBAAT

- 3.1 G If *CONRED* 4.3.2R(2) applies and the *firm* uses a non-BSPS DBAAT to complete the first step under *CONRED* 4.3.2R, it should have regard to the differences between the BSPS and non-BSPS DBAAT and refer to relevant sections of the instructions to identify whether their FCA DBAAT or assessment requires amendment. The material changes include:
- (1) In the Information Section:
    - (a) Information Area 4 is not present in the BSPS DBAAT and the remaining Information Areas have been renumbered;
    - (b) Information Area 7 in the BSPS DBAAT on the comparator scheme (area 8 in the non-BSPS DBAAT) has been significantly revised;
    - (c) Information Area 9 in the BSPS DBAAT on the transfer analysis (area 10 in non-BSPS DBAT) has been significantly revised.
  - (2) In the Suitability Section:
    - (a) the addition of *evidential provisions* in respect of Examples 1 to 11;
    - (b) new Example 11 has been inserted in the BSPS DBAAT;
    - (c) Example 11 from the non-BSPS DBAAT becomes Example 12;
    - (d) Example 12 from the non-BSPS DBAAT has been removed.
  - (3) The Suitability Investment Advice, Disclosure and Insistent Client Sections have been removed.

### 4 General instructions

- 4.1 R An assessor must complete a separate BSPS DBAAT for each *consumer* and:
- (1) if the *consumer* has more than one period of service in the BSPS, complete a separate BSPS DBAAT for each period of service;
  - (2) if the *consumer* received connected *advice on pension transfers* from a non-BSPS *ceding arrangement* within 6 months of the BSPS advice, have regard to how the connected advice factors into the advice to transfer the *consumer's* BSPS scheme.
- 4.2 G For the purpose of 4.1R, advice on a *pension transfer* from a non-BSPS *ceding arrangement* is likely to be connected with advice to transfer from

BSPS if the advice on the other scheme is integral to the *consumer's* decision to transfer from the BSPS.

- 4.3 R Where the *consumer* is married or has a partner, complete the BSPS DBAAT on a joint life basis unless the *consumer* has instructed the *firm* to advise on a single life basis and their spouse or partner has confirmed that they have sufficient retirement provision of their own.
- 4.4 R Where it is necessary to use multiple BSPS DBAATs:
- (1) use the first BSPS DBAAT for the *ceding arrangement* offering the largest transfer value;
  - (2) label the completed BSPS DBAATs with the *consumer's* name and the number in sequence order that the BSPS DBAATs were completed;
  - (3) re-use the relevant information from the first BSPS DBAAT in any connected BSPS DBAATs and ensure that the following sections are completed using the available evidence about the *consumer* and the *ceding arrangement* the BSPS DBAAT relates to:
    - (a) case details;
    - (b) Information Area 1 – ‘has the *firm* obtained the essential facts about the *consumer*?’;
    - (c) Information Area 7 – ‘has the *firm* obtained the necessary information about the consumer’s pension benefits?’;
    - (d) Information Area 8 – ‘has the *firm* obtained necessary information regarding the *proposed arrangement*?’; and
    - (e) Information Area 9 – ‘has the *firm* carried out the transfer analysis?’; and
  - (4) clearly cross refer between the BSPS DBAATs.

## 5 Information Section

- 5.1 R An assessor must take these 6 actions to complete the Information Section:
- (1) Enter ‘case details’ of the file review and assessor alongside details of the *firm*, adviser and *pension transfer specialist* (as recorded on the *Financial Services Register*) and the charging basis for the advice.
  - (2) Record the relevant information from the available evidence under each of the 9 Information Areas, following the instructions under each area heading.
  - (3) For each Information Area, decide whether the *firm* has complied with the information requirements and obtained the necessary information to assess suitability and answer ‘yes’ or ‘no’ to each ‘area question’.



- (4) Depending on the answers to questions in Information Areas 1 to 9, the BSPS DBAAT will give the *firm's* information collection 1 of 3 indicative ratings. To complete this action, refer to the instructions at *CONRED* 4 Annex 21R from 5.3R to 5.7R and select from the drop-down list one of the following 'assessor' ratings:
  - (a) 'Compliant – Proceed to suitability assessment' – the *firm* has complied with the information requirements and collected the necessary information to assess suitability. Proceed to the Suitability Section of the BSPS DBAAT.
  - (b) 'Non-compliant – Material Information Gap' – the *firm* has not complied with the information requirements and so it is not possible to assess suitability. Complete action (5) before finalising this rating.
  - (c) 'Non-compliant - However enough information to assess suitability' – the *firm* has not complied with the information requirements and has taken the steps at *CONRED* 4.3.5R but there is sufficient information to conclude that the advice was likely to be unsuitable. Proceed to the Suitability Section of the BSPS DBAAT.
- (5) If 4(b) applies, follow the steps in *CONRED* 4.3.5R to obtain the missing information, then carry out actions 5.1R(2) to (4) again and finalise the assessor rating.
- (6) Explain, with reference to the *consumer* file, the reasons for the rating and any actions taken to obtain missing information.

5.2 G The overall assessment part of the Information Section has 2 boxes:

- (1) Tool rating: the BSPS DBAAT's indicative rating of whether the *firm* has obtained the 'necessary information' to make a *personal recommendation* based on the answers to Information Area questions 1 to 9 in the Information Section.
- (2) Assessor rating: this is the assessor's own informed assessment in the round of whether the *firm* has obtained the necessary information to make a *personal recommendation*. The assessor can come to a different rating.

5.3 R To complete the overall assessment of whether the *firm* has collected the necessary information at 5.1R(4), take the following steps. Using the available evidence and with reference to the information requirements:

- (1) review the information recorded and the ratings in each Information Area of the BSPS DBAAT;
- (2) answer 'yes' or 'no' depending on whether the *firm* has complied with the information requirements; and

- (3) insert commentary on whether or not the *firm* has complied with the information requirements.
- 5.4 R If the answer to all of the Information Area questions 1 to 9 is ‘yes’, select ‘compliant – proceed to suitability section’ and proceed to the Suitability Section.
- 5.5 R If one or more of the answers to the Information Area questions 1 to 9 is ‘no’, decide, with reference to the information requirements, whether there is nonetheless sufficient information to assess the suitability of the recommendation and:
  - (1) if there is sufficient information, select ‘non-compliant however enough information to assess suitability’ and make a record of the reasons for the assessment in accordance with *CONRED* 4 Annex 21R 5.3(3)R; or
  - (2) if there is not sufficient information, select ‘Non-compliant - Material Information Gap’ and take the second step at *CONRED* 4.3.5R to obtain the missing information then proceed to 5.1R(2).
- 5.6 G There may be sufficient information to assess the suitability of the advice in circumstances where the *firm* has been unable to obtain the necessary information in one or more Information Area. For example:
  - (1) where the *consumer* was in *serious financial difficulty* and had a proven urgent need for the transferred funds and the *firm* was unable to obtain the necessary information in Information Area 1, 3, 4 or 5. The types of circumstances in which a *consumer* is likely to be able to show they are experiencing *serious financial difficulty* include where continuing to pay domestic bills and credit commitments is a heavy burden on the *consumer* and the *consumer* has missed payments for any credit commitments and/or any domestic bills in any 3 or more of the last 6 months; or
  - (2) where the *consumer* was in ill health, with death expected imminently, and wanted to transfer in order to pass the value of their pension benefits to beneficiaries and the *firm* was unable to obtain the necessary information in Information Area 3, 4, 5, or 6.
- 5.7 R If, after taking the steps at *CONRED* 4.3.5R, and having regard to the guidance in *CONRED* 4.3.12G to *CONRED* 4.3.13G, the conclusion is that the *firm* has not obtained the necessary information and it is not possible to assess the suitability of the transfer (such that the ‘assessor rating’ is ‘Non-compliant – Material Information Gap’), record:
  - (1) a brief summary of the missing information and its significance to the suitability assessment (for example, ‘the *firm* has not recorded any *consumer* objectives and so it cannot form a view on whether the transfer meets the *consumer*’s investment objectives’); and

- (2) that the *firm* has not complied with the information requirements but it is not possible to assess whether the *firm* has complied with the suitability requirements; and
- (3) where the failure relates to the transfer analysis, that the *firm* has not carried out the required transfer analysis in accordance with *COBS* 19.1.2R.

## 6 Instructions for Information Areas

- 6.1 G This section sets out how to assess whether the *firm* has collected the necessary information across 9 Information Areas to make a *personal recommendation*. It is also to be used to determine whether the assessor has sufficient information to assess suitability.

Information Area 1: has the firm obtained the essential facts about the consumer?

- 6.2 R Refer to the available evidence and take the following steps:
- (1) Select 'yes' or 'no' depending on whether the *firm* has obtained the essential facts about the *consumer*.
  - (2) Enter the information about the *consumer* and (if relevant) their spouse or partner from the available evidence.
  - (3) Record any information inferred from the available evidence in the comment box.
- 6.3 R Complete the BSPS DBAAT as follows:
- (1) Where advice is on a joint life basis, complete the essential information for the *consumer* and their partner.
  - (2) If the *consumer's* tax rate is not recorded, it can be inferred from the *consumer's* salary at the date of the advice.
  - (3) Record in the additional comments box whether the *consumer* intends to transfer the pension to a Qualifying Recognised Overseas Pension Scheme. Record the relevant currency and overseas tax rates.
  - (4) Where health status is not recorded, absent any evidence suggesting otherwise, infer that the *consumer* is in good health.
  - (5) Record details about any dependants and the *consumer's* responsibility for them.
  - (6) Include details about whether the *consumer* had characteristics of vulnerability. This means someone who, due to their personal circumstances, is especially susceptible to detriment.

Information Area 2: has the firm obtained the necessary information regarding the consumer's objectives?

- 6.4 R Take the following steps to complete this area. Using the available evidence, identify the information recorded on the *consumer's* objectives and:
- (1) if no objectives have been recorded, answer 'no' to this question; or
  - (2) if objectives are recorded, answer 'yes'; and
  - (3) complete the BSPS DBAAT by recording the *consumer's* objectives, using the same wording and ranking or prioritisation as the *firm* and include any observations in the additional comments box.

- 6.5 G For each objective identified, the BSPS DBAAT will indicate fields where further information can be recorded, in the right-hand columns, relating to:
- (1) the amount wanted (to achieve the objective); and
  - (2) the date the amount is needed.

Information Area 3: has the firm obtained the necessary information regarding the consumer's preferences regarding risk taking and their risk profile?

- 6.6 R Take the following steps to complete this area. Using the available evidence:
- (1) select 'yes' or 'no' depending on whether the *firm* has obtained the necessary information about the *consumer's* preferences regarding risk taking and their risk profile;
  - (2) record in the boxes provided the *firm's* description of the *consumer's*:
    - (a) attitude to investment risk;
    - (b) attitude to the risks associated with a *pension transfer*, including the loss of *safeguarded benefits*;
    - (c) capacity for loss (in general); and
    - (d) capacity for loss of *safeguarded benefits*;
  - (3) select 'yes' or 'no' depending on whether the *firm* used a tool for any of the above assessments. If the *firm* used a tool record the name of that tool in the 'name of tool' box; and
  - (4) record in the 'comments' box any additional comments or observations on the *firm's* approach to obtaining this information.
- 6.7 G 'Capacity for loss' refers to the *consumer's* ability to absorb falls in the value of their investment. If any loss of capital would have a materially detrimental effect on their standard of living, this should be taken into account in assessing the risk that they are able to take.

- 6.8 G *COBS 9.2.2R(2)* requires a *firm* to obtain, where relevant, information about the *consumer's* (a) preferences regarding risk taking and (b) risk profile. *COBS 19.1.7G* and *COBS 19.1.7AG* contain guidance to which a *firm* giving *pension transfer* advice should have had regard when identifying the *consumer's* risk preferences and risk profile.
- 6.9 G A *firm* advising a *consumer* during the relevant period should have obtained sufficient information to enable it to consider the *consumer's* attitude to the investment risks specific to a *pension transfer*, including:
- (1) the rate of growth that would have to be achieved to replicate scheme benefits in the *proposed arrangement* (*COBS 19.1.7G* and *COBS 19.1.7AG*);
  - (2) the extent to which benefits may fall short of replicating those in the *defined benefits pension scheme* or other scheme with *safeguarded benefits* (*COBS 19.1.7AG(1)*);
  - (3) the uncertainty of the level of benefit that can be obtained from the purchase of a future *pension annuity* and the investment risk to which the retail *consumer* is exposed until a *pension annuity* is purchased with the proceeds of the proposed *personal pension scheme* or *stakeholder pension scheme* (*COBS 19.1.7AG(2)*);
  - (4) the potential lack of availability of *pension annuity* types (for instance, *pension annuity* increases linked to different indices) to replicate the benefits being given up in the *defined benefits pension scheme* as set out in *COBS 19.1.7AG(1)*; and
  - (5) the risks relevant to a *pension transfer* from the BSPPS to a scheme with *flexible benefits* listed at *CONRED 4 Annex 22G* at Table 1.

Information Area 4: has the firm obtained the necessary information regarding the consumer's knowledge and experience?

- 6.10 R Take the following steps to complete this area. Using the available evidence:
- (1) identify the information relevant to the *consumer's* knowledge and experience of *defined benefits pension schemes* and *pension schemes* with *flexible benefits*, including:
    - (a) the types of service, transaction and investments with which the *consumer* is familiar;
    - (b) the nature, volume and frequency of the *consumer's* transactions in *investments* and the period over which they have been carried out; and
    - (c) the level of education, profession or relevant former profession of the *consumer*;

- (2) answer 'yes' or 'no' depending on whether the *firm* has obtained the necessary information about the *consumer's* knowledge and experience; and
- (3) record the *consumer's* knowledge and experience relevant to *pension transfers* in the 'additional comments' box.

Information Area 5: has the firm obtained the necessary information regarding the consumer's estimated expenditure?

- 6.11 R Take the following steps to complete this area. Using the available evidence:
- (1) identify the information relevant to the *consumer's* financial situation;
  - (2) answer 'yes' or 'no' depending on whether the *firm* has obtained the necessary information regarding the *consumer's* estimated expenditure;
  - (3) record relevant information under the headings 'current regular' and 'retirement regular', including the *consumer's* expenditure on:
    - (a) basic cost of living;
    - (b) lifestyle expenditure; and
    - (c) discretionary expenditure/savings; and
  - (4) record any additional comments about the steps the *firm* has taken to obtain this information, including any inferences made about current or retirement regular expenditure.
- 6.12 E Answer 'yes' to the question at 6.11R(2) if the *firm* has taken reasonable steps to obtain the information under the headings 'current regular' and 'retirement regular expenditure' but there is information missing and:
- (1) the *consumer* is 5 years or less from their intended retirement age and taking account their personal circumstances, it is possible to use the current regular expenditure as a proxy for retirement regular expenditure; or
  - (2) it is possible to use the current regular expenditure, with *consumer-specific* adjustments, as a proxy for retirement regular expenditure.
- 6.13 G The BSPS DBAAT records the necessary information about the *consumer's* estimated expenditure throughout retirement in 3 categories:
- (1) Basic cost of living: this includes all non-discretionary expenditure. For example, utility bills, council tax, food and any outstanding accommodation payments (such as mortgages and rents) or care expenses if these are ongoing.

- (2) Lifestyle expenditure: this is expenditure to support the *consumer's* lifestyle. For example, *consumers* may wish to spend money on entertainment, holidays or home help.
- (3) Discretionary expenditure/savings: this is expenditure which is discretionary and could easily be cut back by the *consumer* at any time. It may include current savings into pensions or investments which may well cease upon retirement. This may also be labelled as 'disposable income'.

6.14 G If the *firm* has estimated the *consumer's* expenditure in retirement, consider whether it took reasonable steps to do so. Reasonable steps might include:

- (1) gathering the necessary information on the *consumer's* current level of expenditure and liabilities;
- (2) considering how the *consumer's* personal circumstances and lifestyle (for example, living arrangements, mortgage position, provision of financial support for dependents, recreational activities, and travel) are likely to change upon retirement, and how this might affect future expenditure and liabilities;
- (3) challenging low estimates of expenditure by using comparative figures derived from (for example) the *firm's* experience with other *consumers* in similar situations, statistical averages, actuarial data and other reliable sources (though it is unlikely that the use of generic data would by itself satisfy the requirement to take reasonable steps);
- (4) where a *firm* has used a cashflow modelling tool to estimate the *consumer's* level of expenditure in retirement as part of demonstrating how reliant the *consumer* is on this income in retirement;
- (5) challenging inconsistent information, for example, where the *consumer* suggests they have a high level of available disposable income but low levels of savings, suggesting that their lifestyle expenditure may be more than they represent.

Information Area 6: has the firm obtained the necessary information regarding the consumer's financial situation?

6.15 R To complete this area, take the following steps. Using the available evidence:

- (1) identify the information relevant to the *consumer's* financial situation;
- (2) answer 'yes' or 'no' depending on whether the *firm* has captured the necessary information regarding the *consumer's* financial situation; and
- (3) record the relevant information for the *consumer* and (for joint advice) their spouse or partner under the headings:
  - (a) *consumer's* current income;

- (b) income sources in retirement (excluding income from the comparator scheme, which is captured in Information Area 7);
  - (c) other assets (excluding the *consumer's* main residence); and
  - (d) liabilities.
- 6.16 G The *consumer's* main residence should not usually be counted as an asset which can be used as an income source in retirement. The *consumer's* main residence typically provides secure accommodation throughout retirement. Where the *firm* has a reasonable basis for treating the main residence as an asset, for example because the *consumer* has a legitimate plan to downsize and the *firm* has a contemporaneous record of these plans, include the value of the main residence in the 'other assets' box.
- 6.17 G If the *consumer* file is incomplete or it is unclear whether the *firm* has collected the necessary information on the *consumer's* financial situation, it may be possible to estimate the *consumer's* income or assets from other information on the *consumer* file. For example:
  - (1) if the 'other assets' section in a fact-find is blank, and there is evidence that the *consumer's* income does not exceed or marginally exceeds their expenditure, it may be reasonable to assume that the *consumer* has no other assets;
  - (2) if the 'state pension' section of the fact-find is blank:
    - (a) where there is evidence of the *consumer's* employment history on file or length of service at the scheme employer, it may be possible to estimate entitlement to a state pension;
    - (b) where a *consumer* expects to continue in employment until retirement, it is reasonable to infer, unless there is specific information to the contrary, that the *consumer* would continue to accrue state pension entitlement throughout that period;
  - (3) if details on the 'spouse's/partner's' assets are missing, it may be possible to infer information based on the spouse's circumstances. For example:
    - (a) if the spouse or partner was employed at the time of the advice, it is likely they will have some eligibility for state pension;
    - (b) if the spouse or partner was not employed, this may indicate that they have modest assets, in the absence of evidence suggesting otherwise;
  - (4) if the *consumer* or their spouse or partner held other *defined benefits* of material value, where a benefits statement was delayed, these benefits could be reasonably estimated by contemporaneous records of their salary, length of service and publicly available scheme details;



- (5) if there is an indication that the spouse or partner has a defined contribution pension scheme or other assets but the value is not quantified, where it has already been demonstrated that the *consumer* and spouse or partner have sufficient other guaranteed pension provision to cover their expenditure in retirement, the value of this scheme may not be necessary to assess the suitability of the recommendation to transfer.
- 6.18 G (1) If the available evidence suggests that the *consumer* has a significant amount of disposable income, but the *firm* has obtained limited or no information on them, it is more likely than not that the *firm* has not obtained the necessary information.
- (2) If the available evidence demonstrates that the *consumer* has other assets or liabilities, but the *firm* has obtained limited or no information on them, it is likely that the *firm* has not obtained the necessary information.
- 6.19 G If the *consumer* was concerned about the security of their employment with Tata Steel Ltd and the security of income over the remaining term to retirement, this should have been recorded on the *consumer* file. The *firm* should have inquired as to whether redundancy or loss of income was imminent and was likely to cause significant financial hardship.

Information Area 7: has the firm obtained the necessary information regarding the consumer's pension benefits?

- 6.20 R To complete this area, take the following steps. Using the available evidence:
- (1) (where the *firm* has advised on multiple periods of service in the BSPPS record under the heading 'number of schemes':
- (a) the number of periods of service in the BSPPS advised on;
  - (b) whether the outcome was to transfer all periods of service;
- (2) record the relevant information for the *consumer's* BSPPS membership, including:
- (a) the statement of benefits and date obtained;
  - (b) whether the Time to Choose pack was obtained;
  - (c) what the *consumer's* Time to Choose election was (BSPPS2 or PPF);
  - (d) the date of the CETV and the CETV amount;
  - (e) the dates they joined and left the BSPPS (the BSPPS DBAAT will then automatically calculate the length of service);

- (f) their retirement date (NRD) in the BSPS;
  - (g) BSPS minimum retirement age;
  - (h) whether the client opted out of the scheme in advance of its closure and the date of any opt-out;
  - (i) any additional comments;
- (3) answer 'yes' or 'no' depending on whether the *firm* has captured the necessary information regarding the *consumer's* BSPS membership, Time to Choose election, and benefits; and
- (4) record any comments relevant to the *consumer's* CETV and the comparator scheme(s) in the 'additional comments' box.

Information Area 8: has the firm obtained the necessary information regarding the proposed arrangement?

6.21 R To complete this area, take the following steps. Using the available evidence:

- (1) identify information about the *proposed arrangement*;
- (2) answer 'yes' or 'no' depending on whether the *firm* has captured the necessary information regarding the *proposed arrangement*;
- (3) if the *firm* has not identified a *proposed arrangement*, answer 'no' to this question;
- (4) record the relevant information under the headings 'proposed arrangement'; and
- (5) in the 'additional comments' box, record any relevant information about product and adviser costs and charges.

Information Area 9: has the firm carried out the transfer analysis?

6.22 R To complete this area, take the following steps. For the relevant comparator scheme(s), using the available evidence and with reference to the *firm's* transfer value analysis:

- (1) record the *consumer's* preferred retirement age;
- (2) record the relevant comparator schemes(s);
- (3) record relevant information under the heading 'comparison of benefits' from the comparison carried out by the *firm* to comply with COBS 19.1.2R; and
- (4) record relevant information under the heading 'critical yield', including:

- (a) the critical yield on a joint and single basis to the *consumer's* NRD and preferred retirement date; and
  - (b) identify which critical yield is more relevant (joint or single) by selecting the critical yield which corresponds to the *consumer's* intentions; and
    - (i) if the evidence on file demonstrates that the *consumer* does not intend to take any *pension commencement lump sum*, record the critical yield for a full pension and make a note in the 'additional comments' box; and/or
    - (ii) if the *consumer* is single and there is nothing on file to suggest that this is likely to change, then insert the critical yield calculated on a single life basis and make a note in the 'additional comments' box; and
  - (c) record the critical yield to match the comparator scheme(s) at the *consumer's* preferred retirement date; and
- (5) record commentary on any other comparison of benefits, for example on cashflow modelling or analysis of how long funds are likely to last in the *proposed arrangement*.
- 6.23 G The BSPS DBAAT records the necessary information about the *consumer's* benefits at the comparator scheme(s) and their preferred retirement date in 3 categories:
- (1) Pension (no commutation) per annum (p.a.): the income benefits the *consumer* would receive at NRD if they were to take all their benefits as income only.
  - (2) Pension (full commutation) per annum (p.a.): the (reduced) income benefits the *consumer* would receive at NRD if they chose to maximise their *pension commencement lump sum* by commuting income benefits up to the full permitted limit.
  - (3) *Pension commencement lump sum* (PCLS): the lump sum benefits the *consumer* would receive at their NRD if they chose to maximise their PCLS by commuting income benefits up to the full permitted limit.
- 6.24 G To assess whether the *firm* has carried out the transfer analysis, identify whether:
- (1) (with reference to the assumptions in *COBS* 19.1.4R to *COBS* 19.1.4BR and taking into account the dates these rules were in force) the analysis has been undertaken on the correct assumptions, including whether, if more cautious assumptions have been used, those assumptions are reasonable; and

- (2) the analysis is consistent with product-related documents such as the *key features illustration*.

## 7 Suitability requirements

- 7.1 R The following requirements are specified as ‘suitability requirements’:
- (1) *COBS 9.2.1R(1)*, which requires a *firm* to take reasonable steps to ensure that a personal recommendation is suitable for its *client*; and
  - (2) the common law duty in contract or tort to exercise reasonable skill and care in advising the *consumer* on *pension transfers*.
- 7.2 G The contract between the *firm* and the *consumer* may have included a specific term providing that the *firm* would exercise reasonable skill and care in advising the *consumer* on investments. If it did not do so, such a duty is likely to have been implied into the contract.
- 7.3 G The standard of care under the *FCA rules* and the common law is that of a reasonably competent *firm* carrying on a similar business to that of the *firm* assessed.
- 7.4 G The suitability requirements arise from *FCA rules* and the common law. For the requirements specified, the standards required of the *firm* are materially similar, regardless of whether their origin is a *rule* or the common law.
- 7.5 G *COBS 9.2.1R(2)*, *COBS 9.2.2R* and *COBS 9.2.3R* indicate matters of which a *firm* must take account when assessing whether the *firm* failed to comply with the suitability requirements. In summary, these are the *consumer*’s:
- (1) investment objectives;
  - (2) financial situation; and
  - (3) knowledge and experience in the *investment* field relevant to the specific type of designated *investment* or service.
- 7.6 G The starting point for *pension transfer* advice is the *guidance* in *COBS 19.1.6G* that a *firm* should only consider a transfer, conversion or opt-out to be suitable if it can clearly demonstrate, on contemporary evidence, that the transfer, conversion or opt-out is in the *client*’s best interests.

## 8 Assessing scheme cases for compliance with suitability requirements

- 8.1 R (1) The ‘Suitability Section’ in the BPS DBAAT and associated additional provisions in these instructions contain ‘examples’ which tend to show failure to comply or compliance with the suitability requirements specified at 7.1R.

- (2) The examples are indicators that advice may be unsuitable, and an overall view of suitability or unsuitability must be reached taking account of all of the circumstances.

8.2 R For each scheme case, the assessor must:

- (1) fairly consider and give appropriate weight to all available evidence of the *firm's* compliance or non-compliance with applicable suitability requirements; and
- (2) decide, including with reference to the examples in the BPS DBAAT, whether it is more likely than not that the *firm* complied or failed to comply with the suitability requirements.

8.3 R In considering the available evidence, the assessor must:

- (1) not assume that a *firm* complied with a suitability requirement solely on the basis that:
  - (a) the *consumer* signed documentation that records their understanding or agreement to matters set out in that documentation;
  - (b) the advice was given to a *consumer* who had transferred from a *defined benefit occupational pension scheme* in the past;
- (2) give more weight to evidence of the *consumer's* particular circumstances or the circumstances at the time than to general evidence of the selling practices of the *firm* or its advisers at the relevant time;
- (3) determine that an example is present on the 'balance of probabilities' when it is more likely than not to have occurred.

8.4 R When assessing whether a *firm* complied with the suitability requirements, the assessor must take into account the following:

- (1) the *consumer's* investment objectives, including their willingness to bear the risks associated with transfer (transfer risk);
- (2) the *consumer's* financial situation, including their ability, financially, to bear the risks associated with the recommended transfer consistent with their investment objectives;
- (3) the *consumer's* ability, in the light of the following, to understand the risks associated with a *pension transfer*:
  - (a) the experience and knowledge of the *consumer* relevant to a *pension transfer*; and
  - (b) any communications received from the comparator scheme(s) regarding the *pension transfer*.

- 8.5 R When assessing the reasonableness of a *firm*'s conduct, the assessor must:
- (1) assess the *firm*'s conduct against what was reasonable at the time when the *firm* gave the advice; and
  - (2) have regard to the information available at various times, including the information listed at Table 3 of *CONRED* 4 Annex 22G; and
  - (3) conclude that the conduct of the *firm* assessed was reasonable only where that *firm* displayed the degree of skill, care and diligence that would at that time have been exercised in the ordinary and proper course of a similar business to that of the *firm*.
- 8.6 G Where the advice is given using a two-adviser model and the advisers are employed by different *firms*:
- (1) identify which *firm* is responsible for the *pension transfer* advice and which *firm* is responsible for the investment advice;
  - (2) take into account that it will generally be reasonable for the *firm* providing *pension transfer* advice to rely on information provided to it in writing by the *firm* providing investment advice, unless it is aware or ought reasonably to be aware of any fact that would give reasonable grounds to question the accuracy of that information (*COBS* 2.4.6R and *COBS* 2.4.8G).

## 9 Completing the Suitability Section of the BSPS DBAAT

- 9.1 G The Suitability Section is used to record the assessment of whether the *firm* has complied with the suitability requirements.
- 9.2 R The assessor must take the following steps to complete the Suitability Section:
- (1) review the available evidence and the information recorded in the Information Section of the BSPS DBAAT;
  - (2) take the steps in Section 10 of this Annex to determine whether the available evidence shows overall that an example is present, or not;
  - (3) indicate whether any or all of Examples (1) to (12) are present, or not, by selecting 'yes' or 'no';
  - (4) conclude, taking into account all of the available evidence and the presence of any examples indicating unsuitable advice, whether the *firm* complied with the suitability requirements; and
  - (5) comment on whether or not the *firm* complied with the suitability requirements, with reference to the example or examples that support their conclusion.
- 9.3 G If an example is present, this will tend to indicate the *firm*'s potential non-compliance with the suitability requirements. There may be other factors

which mean that the *firm* has, despite the presence of the example, complied, or not complied, with the suitability requirements. For example:

- (1) if Example 9 is present because the transfer analysis does not support a recommendation to transfer, but the recommendation is nonetheless suitable because the *consumer* has little or no reliance on the transfer value from the comparator scheme and no requirement to replicate the amount or shape of the comparator scheme benefits; or
- (2) if Example 1 is present but the recommendation is nonetheless suitable because the *consumer* is in serious ill health with a shortened life expectancy and:
  - (a) the *consumer's* objective is to transfer to preserve the value of their scheme benefits for beneficiaries; and
  - (b) the beneficiaries would be financially better off if the funds were transferred to a scheme with *flexible benefits* rather than remaining in the comparator scheme(s).

- 9.4 G The BSPS DBAAT rating will indicate a conclusion of 'Compliant' or 'Non-Compliant' based on the answer to the example questions in the BSPS DBAAT. The BSPS DBAAT rating is not definitive of suitability; it is an indication of the *firm's* compliance with the suitability requirements.

## 10 Examples that indicate unsuitable advice

- 10.1 G This section contains rules, evidential provisions, and guidance for determining whether the available evidence shows overall that an example is present, or not.

Example 1: the consumer is, or will be, reliant on income from the comparator scheme

- 10.2 R Take the following steps to determine whether this example is present:
- (1) Review the available evidence in Information Areas 5, 6, 7, 8 and 9 of the Information Section.
  - (2) Using the available evidence, identify the amount the *consumer* needs to meet anticipated expenses and personal outlays throughout retirement, taking into account:
    - (a) any forecast expenditure plans that the *firm* has identified with the *consumer*;
    - (b) any intention or preference for early retirement;
    - (c) any existing liabilities that the *consumer* continues to pay off (for example, their mortgage) and their plans for clearing these debts;

- (d) whether the forecast expenditure appears reasonable in light of their current expenditure patterns and plans to pay off liabilities; and
  - (e) where the *firm* has not collected a forecast expenditure plan, an estimate (if possible) of the *consumer's* likely expenditure patterns based on the information on file.
- (3) Using the available evidence, identify the anticipated income from the comparator scheme at NRD or the *consumer's* preferred retirement date, whichever is earlier. Where the *consumer* wishes to retire early, assess whether the *consumer* can afford to retire early or whether this will give rise to or increase the risk of the *consumer* running out of income in retirement.
- (4) Assess how the income from the comparator scheme, including inflationary increases, contributes to the *consumer's* income needs in (2).
- (5) Assess whether the *consumer* can produce the same or similar contribution towards their planned expenditure needs throughout retirement (using a range of possible life expectancies) as identified in (2) using the available assets, including from:
- (a) contribution-based pension schemes, including the *proposed arrangement*, taking into account the impact of the following factors on the sustainability of these schemes throughout retirement:
    - (i) the frequency of withdrawals (ad hoc or regular payments);
    - (ii) the timing of withdrawals (monthly, yearly);
    - (iii) the amount of the withdrawals; and
    - (iv) investment performance;
  - (b) savings and investments;
  - (c) other *pension schemes* with *safeguarded benefits*;
  - (d) (if the *consumer* is eligible) state pension;
  - (e) (if the *consumer* is managing income on a joint basis) the spouse's/partner's other assets, pensions and entitlement to the state pension, and how this contributes to their total household income.
- (6) Using the assessments in 10.2R(4)-(5) decide (yes or no) whether:



- (a) the *consumer* can produce the same or similar contribution towards their income needs, as identified in 10.2R(2), from the *proposed arrangement*; and
  - (b) the *consumer* has the requisite capacity for loss, taking into account the impact of the factors considered at 10.2R(5)(a) on the sustainability of the *proposed arrangement*.
- 10.3 E (1) If the answer to 10.2R(6)(a) and (b) is ‘yes’, conclude that the *consumer* is not likely to be reliant on income from the comparator scheme.
- (2) If the answer to either 10.2(6)(a) or (b) is ‘no’, conclude that the *consumer* is likely to be reliant on income from the comparator scheme.
- (3) If the *firm* has not obtained the necessary information in all of the Information Areas 5, 6 and 7 of the Information Section and so it is not possible to carry out the steps in 10.2R(1) to (6), conclude that the *firm* has not demonstrated that it has a reasonable basis for believing that the *consumer* is able to bear the risk of the *pension transfer* to achieve their objective.

Example 2: the aim of the transfer is to pass the value of the pension to beneficiaries on the member’s death, but the firm has not demonstrated that the consumer can bear the risk of the transfer that would be needed to achieve this objective

- 10.4 R Refer to Information Area 2 of the Information Section:
  - (1) if the *consumer* has a priority objective to pass the value of the pension to beneficiaries on their death, take the steps in 10.5R; or
  - (2) if the *consumer* does not have this priority objective answer ‘no’ to this question and proceed to Example 3.
- 10.5 R Take the following steps to determine whether this example is present:
  - (1) Review the available evidence in Information Areas 2, 5,6 and 7 of the Information Section.
  - (2) Refer to Tables 1 and 2 in *CONRED 4 Annex 22G* and the available evidence to identify what death benefits were likely to be available for beneficiaries on the member’s death:
    - (a) (in all cases) in the *proposed arrangement* having regard to the way the *consumer* is likely to access their pension scheme throughout retirement; and
    - (b) in the comparator scheme.

- (3) Identify whether there was an alternative way to meet the *consumer's* objective without giving up comparator scheme benefits, including:
  - (a) level term assurance for the required sum; or
  - (b) decreasing term assurance for an appropriate term; or
  - (c) using available death in service cover.
- (4) Decide whether the *firm* has a reasonable basis for believing that:
  - (a) the recommendation to transfer in order to pass the value of the pension to beneficiaries on the member's death meets the *consumer's* investment objectives; and
  - (b) the *consumer* is able financially to bear any transfer-related risks consistent with their investment objectives.

10.6 E Answer 'yes' to this question when the available evidence demonstrates that:

- (1) the *consumer* did not have the requisite capacity for loss because they were not able to forego comparator scheme benefits to achieve this objective; and/or
- (2) a lower risk suitable alternative was available to achieve this objective; and/or
- (3) it was likely that the *consumer* would exhaust their pension savings during their lifetime (having regard to how the *consumer* will access their pension savings and the factors listed at 10.2R(5) above) and so there will be minimal death benefits available; and/or
- (4) the *firm* has not obtained the necessary information in both of the Information Areas 5 and 6 of the Information Section and so it is not possible to complete the assessment in 10.4R because the *firm* has not demonstrated that it has a reasonable basis for believing that the *consumer* is able to bear the risk of the *pension transfer* to achieve this objective; and/or
- (5) the *firm* has not obtained the necessary information in Area 2 of the Information Section and so it is not possible to understand the *consumer's* rationale for pursuing this objective.

Example 3: the aim of the transfer is to access income-related benefits flexibly but the firm has not demonstrated that the consumer can bear the risk of the transfer that would be needed to achieve this objective

10.7 R Refer to the available evidence in Information Area 2 of the Information Section:

- (1) if the *consumer* has a priority objective to access income-related benefits flexibly or to take control of their benefits, take the steps in 10.8R; or
  - (2) if the *consumer* does not have this priority objective, answer ‘no’ to this question and proceed to Example 4.
- 10.8 R Take the following steps to determine whether this example is present:
  - (1) Review the available evidence in Information Areas 2, 5 and 6 of the Information Section.
  - (2) Identify why the *consumer* requires flexible access to or control over their income-related benefits and how the features of the *proposed arrangement* meet their objective(s).
  - (3) Identify whether any alternatives are available to meet the *consumer’s* objective.
  - (4) Decide whether the *firm* has a reasonable basis for believing that the recommendation to transfer to access income-related benefits flexibly:
    - (a) meets the *consumer’s* investment objectives; and
    - (b) the *consumer* is able financially to bear any related risks consistent with their investment objectives.
- 10.9 E Answer ‘yes’ to this question when the available evidence demonstrates that:
  - (1) the *consumer* does not have the requisite capacity for loss because they were not able to forego scheme benefits to achieve this objective; and/or
  - (2) there is an alternative way for the *consumer* to meet their objectives using other assets instead of transferring their BPS scheme; and/or
  - (3) the *firm* has not collected the necessary information in both of the Information Areas 5 and 6 of the Information Section and so it is not possible to complete the assessment in 10.8R because the *firm* has not demonstrated that it has a reasonable basis for believing that the *consumer* is able to bear the risk of the *pension transfer* to achieve this objective; and/or
  - (4) the *firm* has not collected the necessary information in Information Area 2 of the Information Section and so it is not possible to understand the *consumer’s* rationale for pursuing this objective.
- 10.10 G (1) The objective may be recorded as ‘flexibility’ or ‘control’ without further explanation. It is up to the *firm* to demonstrate what is meant by ‘flexibility’ or ‘control’ with reference to the *consumer’s* circumstances and how the recommendation meets the *consumer’s*

objectives and is suitable for their financial situation. The following examples may demonstrate a need for flexibility:

- (a) if the *consumer* wishes to retire early and would like to access a higher amount of income in the short term in order to bridge an income gap until other guaranteed income commences, such as state pension;
  - (b) if the *consumer* is in *serious financial difficulty* or facing financial hardship and needs to pay off or reduce debt prior to its planned redemption date, and the *pension commencement lump sum* from the comparator scheme(s) would be insufficient to meet this objective. The types of circumstances in which a *consumer* is likely to be able to show they are experiencing *serious financial difficulty* include where continuing to pay domestic bills and credit commitments is a heavy burden on the *consumer* and the *consumer* has missed payments for any credit commitments and/or any domestic bills in any 3 or more of the last 6 calendar *months*;
  - (c) the *consumer* intends to reduce their working hours or take alternative work which may produce a lower income, prior to retiring fully, and it can be demonstrated that the transfer value is of sufficient value to support this objective without the risk of running out of money in the *consumer's* lifetime.
- (2) A *consumer* may have a strong desire to transfer to obtain flexibility and control where they have real or perceived concerns regarding the financial viability in the scheme. The circumstances of the BSPS restructuring may have encouraged a greater than usual proportion of members to seriously consider the option of transferring out, which may in turn have led to an increased occurrence of *consumers* expressing a strong desire to transfer. However, this does not absolve the *firm* from its responsibility to only recommend a transfer if it can demonstrate that it is suitable.

Example 4: the aim of the transfer is to maximise PCLS but the firm has not demonstrated that the consumer can bear the risk of the transfer that would be needed to achieve this objective

- 10.11 R Refer to the available evidence in Information Area 2 of the Information Section:
- (1) if the *consumer* has a priority objective(s) to maximise their *pension commencement lump sum* (PCLS), take the steps in 10.12R; or
  - (2) if the *consumer* does not have this priority objective, answer 'no' to this question and proceed to Example 5.
- 10.12 R Take the following steps to determine whether this example is present:

- (1) Refer to the available evidence in Information Areas 2, 5 and 6 of the Information Section on the *consumer's* objectives and financial situation.
- (2) Identify the PCLS option in the relevant comparator scheme(s).
- (3) Identify why the *consumer* wants to access their PCLS.
- (4) Identify whether the *consumer* needs to transfer to the *proposed arrangement* to access their PCLS or could have used:
  - (a) the PCLS from the comparator scheme; or
  - (b) other assets to create a lump sum without transferring the pension.
- (5) Identify the impact taking their PCLS may have on the level of other benefits which the *consumer* may obtain from the comparator scheme.

10.13 E Answer 'yes' to this question when the available evidence demonstrates that:

- (1) the *consumer* did not have the requisite capacity for loss because they were not able to forego scheme benefits to achieve this objective; and/or
- (2) there was an alternative way for the *consumer* to access income-related benefits flexibly without transferring their pension benefits; and/or
- (3) Example (1) is present and taking higher PCLS makes it likely that the *consumer* would exhaust their pension savings during their lifetime (having regard to how the *consumer* will access their pension savings and the factors listed at 10.2R(5) above); and/or
- (4) the *firm* has not collected the necessary information in both of the Information Areas 5 and 6 of the Information Section and so it is not possible to complete the assessment in 10.11R because the *firm* has not demonstrated that it has a reasonable basis for believing that the *consumer* is able to bear the risk of the *pension transfer* to achieve their objective; and/or
- (5) the *firm* has not obtained the necessary information in Information Area 2 of the Information Section and so it is not possible to understand the *consumer's* rationale for pursuing this objective.

10.14 G For the purposes of 10.12R(4)(b), the *firm* should have considered the following alternative options, where they were available:

- (1) where the lump sum need/objective relates to paying off a debt, whether they can restructure a mortgage or other debt;

- (2) making increased contributions to a workplace pension scheme to increase the PCLS;
- (3) whether using the PCLS provision in the comparator scheme(s) will meet the *consumer's* lump sum need/objective;
- (4) whether the *consumer* can meet their lump sum need/objective using other available funds in a scheme with *flexible benefits* or from other savings or investments;
- (5) taking a short-term loan.

Example 5: an aim of the transfer is to preserve or protect the value of the consumer's pension benefits but the comparator scheme(s) benefits would meet the consumer's needs

- 10.15 R Refer to the available evidence in Information Area 2 of the Information Section:
- (1) if the *consumer* has any objective related to preserving the value of their pension benefits or protecting their benefits from the PPF, take the steps in 10.16R; or
  - (2) if the *consumer* does not have this objective, answer 'no' to this question and proceed to Example 6.
- 10.16 R Take the following steps to determine whether this example is present:
- (1) Refer to the available evidence in Information Areas 2, 5 and 6 of the Information Section on the *consumer's* objectives and financial situation.
  - (2) Identify the relevant comparator scheme(s) benefits.
  - (3) Identify whether the comparator scheme(s) benefits would have met the *consumer's* needs. To do this:
    - (a) identify the *consumer's* needs in retirement;
    - (b) refer to the available evidence and Table 2 in *CONRED 4 Annex 22G* to identify the pension benefits the *consumer* would be likely to receive from the comparator scheme(s), having regard to the PPF income cap as it applied prior to 19 July 2021; and
    - (c) decide whether the level of comparator scheme benefits would meet the *consumer's* needs in (a).
- 10.17 E (1) Answer 'yes' to this question when the available evidence demonstrates that:

- (a) the level of comparator scheme benefits meets the *consumer's* income needs; and/or
  - (b) where Example 7 is present, the *consumer* wanted guaranteed income or returns and the comparator scheme met those needs; and/or
  - (c) the *firm* has not collected the necessary information in both of the Information Areas 5 and 6 of the Information Section and so it is not possible to complete the assessment in 10.16R because the *firm* has not demonstrated that it had a reasonable basis for believing that the *consumer* was able to bear the risk of the *pension transfer* to achieve their objective.
- (2) Answer 'no' to this question where the level of comparator scheme benefits was not likely to meet the *consumer's* income needs in retirement.

Example 6: the consumer wants to retire early but can meet their objective(s) in the comparator scheme(s)

- 10.18 R Refer to the available evidence in Information Area 2 of the Information Section:
- (1) if the *consumer* has a priority objective related to accessing benefits from their pension prior to the relevant scheme NRD (an 'early retirement objective'), take the steps in 10.19R; or
  - (2) if the *consumer* does not have this priority objective, answer 'no' to this question and proceed to Example 7.
- 10.19 R Take the following steps to determine whether this example is present:
- (1) Refer to the available evidence in Information Areas 2, 5 and 6 of the Information Section on the *consumer's* objectives and financial situation.
  - (2) Refer to the available evidence and Table 2 in *CONRED 4 Annex 22G* to identify what early retirement options were likely to be available and any protected retirement ages in:
    - (a) the *proposed arrangement*; and
    - (b) the comparator scheme(s).
  - (3) Consider whether the *consumer* may have retired at a protected retirement age in the comparator scheme(s).
  - (4) If (3) was not an option, identify whether there was an alternative way to meet the *consumer's* objective without giving up the comparator scheme(s) benefits, including using:

- (a) other pensions (defined benefit or defined contribution);
  - (b) income from part time work; and
  - (c) savings, investments or other assets.
- (5) Decide whether the *firm* has a reasonable basis for believing that the recommendation to transfer to retire early:
- (a) meets the *consumer's* investment objectives; and
  - (b) the *consumer* is able financially to bear any risks consistent with their investment objectives.

10.20 E Answer 'yes' to this question when the available evidence demonstrates that:

- (1) the *consumer* could have retired in the comparator scheme(s) at a protected retirement age; and/or
- (2) the *consumer* did not have the requisite capacity for loss because they were not able to forego comparator scheme benefits to achieve this objective; and/or
- (3) a lower risk suitable alternative was available to achieve this objective; and/or
- (4) it was likely that the *consumer* would exhaust their pension savings during their lifetime (having regard to how the *consumer* will access their pension savings and the factors listed at paragraph 10.2R(5) above) and so there will be minimal death benefits available; and/or
- (5) the *firm* has not collected the necessary information in both of the Information Areas 5 and 6 of the Information Section and so it is not possible to complete the assessment in 10.19R because the *firm* has not demonstrated that it has a reasonable basis for believing that the *consumer* is able to bear the risk of the *pension transfer* to achieve this objective; and/or
- (6) the *firm* has not collected the necessary information in Information Area 2 of the Information Section and so it is not possible to understand the *consumer's* rationale for this objective.

Example 7: the consumer wants or prefers guaranteed income or returns

10.21 R Refer to the available evidence in Information Areas 2 and 3 of the Information Section:

- (1) if the *consumer* wants or indicates a preference for guaranteed income or returns, take the steps in 10.22R; and/or



- (2) if the *consumer* does not have this objective, answer ‘no’ to this question and proceed to Example 8.

10.22 R Take the following steps to determine whether this example is present:

- (1) Refer to the available evidence in Information Areas 2, 6 and 7 of the Information Section on the *consumer’s* objectives and financial situation.
- (2) Identify whether the *proposed arrangement*:
  - (a) guarantees the *consumer’s* income or returns; or
  - (b) takes into account the *consumer’s* preference for a guarantee and puts in place a sustainable strategy to achieve this end.
- (3) Determine whether the recommendation to transfer met the *consumer’s* preference for guaranteed income or returns.

10.23 E Answer ‘yes’ to this question when the available evidence demonstrates that:

- (1) the *consumer* wants or has indicated a preference for guaranteed income or returns throughout retirement; and
- (2) the *firm* has recommended that the *consumer* transfer into a *proposed arrangement* that does not meet these needs; or
- (3) the *firm* has not collected the necessary information in Information Area 3 of the Information Section about the *consumer’s* attitude towards secure income or guarantees and so it is not possible to complete the assessment in 10.22R because the *firm* has not demonstrated that it has a reasonable basis for believing that the *consumer* has the requisite attitude to risk; or
- (4) Example 8 is present.

Example 8: the consumer does not have the necessary attitude to risk

10.24 R Take the following steps to determine whether this example is present:

- (1) Refer to the available evidence in Information Areas 3 and 5 of the Information Section regarding the *consumer’s* preferences regarding risk taking and risk profile and their understanding of the risk of transfer.
- (2) Compare (a) with (b):
  - (a) the *consumer’s* preferences regarding the risks specific to *pension transfers* in general, focusing on the *consumer’s* attitude to:

- (i) *safeguarded benefits* or guarantees;
  - (ii) *flexible benefits* or the ability to control how and when they withdraw money from their pension savings;
  - (iii) managing their investments or paying for someone to manage their investments on their behalf; and
  - (iv) the long-term sustainability of their fund;
- (b) the risks associated with a *pension transfer* that the *consumer* must have been willing to take for a recommendation to transfer to be suitable. The relevant transfer risks are:
- (i) that their investments in the *proposed arrangement* will not perform as expected, and they will have less income in retirement (investment risk);
  - (ii) that the withdrawals from the *proposed arrangement* (planned and/or ad hoc) are not sustainable and the *consumer* will run out of money in retirement (longevity risk);
  - (iii) that inflation will erode the real value of the income they are able to draw from the *proposed arrangement* (inflation risk); and
  - (iv) that the *consumer* and/or their partner may become less able to make the necessary financial decisions in relation to their income as they age (for example, due to illness or diminishing capacity).
- (3) Decide, with reference to (2)(a), whether the *consumer* was willing to take the risks associated with a *pension transfer* in (2)(b).

- 10.25 E (1) Answer 'yes' when the available evidence demonstrates that:
- (a) the *consumer* was not willing to take the risks in 10.24R(2)(a); and/or
  - (b) Example 7 or 10 is present; and/or
  - (c) the *firm* has not collected the necessary information in Information Area 3 or 4 of the Information Section and so it is not possible to complete the assessment in 10.24R(3) because the *firm* has not demonstrated that the recommendation meets the *consumer's* objectives.

Example 9: the firm's transfer analysis does not support a recommendation to transfer

- 10.26 R Take the following steps to determine whether this example is present:
- (1) Refer to the available evidence in Information Areas 7, 8 and 9 of the Information Section, the transfer value analysis and the *suitability report*.
  - (2) Identify the benefits and options available in the *proposed arrangement*.
  - (3) Identify the benefits and options likely (on reasonable assumptions) to be paid in the comparator scheme(s).
  - (4) Review the *firm's* analysis of the effect of replacing the benefits in the comparator scheme with the benefits in the *proposed arrangement*, having regard to the *consumer's* circumstances, including their age, marital status and, where relevant, their objectives for taking a PCLS or early retirement.
  - (5) Compare (a) with (b):
    - (a) the rate of return required on investments in the *proposed arrangement* to match the income benefits in the comparator scheme(s) that is relevant to the *consumer's* circumstances and objectives:
      - (i) if the *consumer* is single or unmarried, use the single life critical yield;
      - (ii) if the *consumer* is taking a PCLS, use the critical yield that factors in the *consumer* taking the PCLS;
      - (iii) if the *consumer* wishes to retire early, use the critical yield at the early retirement date;
    - (b) the investment risk that the *consumer* must be willing and able to take in the *proposed arrangement* (taking into account a realistic rate of return) to match the desired income benefits in the comparator scheme(s).
  - (6) Review how the *firm* says the transfer analysis supports the *firm's* recommendation to transfer.
  - (7) Decide whether the *firm* has demonstrated that the transfer analysis supports the recommendation to transfer, taking into account:
    - (a) the comparison undertaken at (5); and
    - (b) the analysis carried out by the *firm* and assessed at (4) and (6).
- 10.27 E (1) Answer 'yes' to this question when the available evidence demonstrates that:

- (a) the *firm* has not demonstrated that the transfer analysis supports the recommendation to transfer, for example because:
  - (i) the critical yield indicated in the transfer value analysis is likely to be unattainable, factoring in the term to retirement and the *consumer's* attitude to investment risk; or
  - (ii) the capitalised value of death benefits (where this is a priority objective) is significantly higher under the comparator scheme(s) than that available from the *proposed arrangement*; and/or
- (b) the *consumer* would not have been able to match the rate of return to replicate the benefits being given up if they invested in line with their attitude to risk; and/or
- (c) Example 8 is present; and/or
- (d) Example 1 is present; and/or
- (e) the *firm* has not collected the necessary information in Information Area 7 or 9 of the Information Section and so it is not possible to complete the assessment in 10.26 because the *firm* has not demonstrated that the recommendation meets the *consumer's* objectives.

Example 10: the firm did not have a reasonable basis for believing that the consumer had the necessary knowledge and experience to understand the risks involved in transferring their DB scheme

- 10.28 R Take the following steps to determine whether this example is present:
- (1) Refer to the available evidence and the information recorded in Information Area 4 of the Information Section, including:
    - (a) the correspondence with the *consumer*;
    - (b) the transfer analysis; and
    - (c) the *suitability report*.
  - (2) Establish the *consumer's* level of investment experience and knowledge of *pension transfers*, pensions and investments at the time of the advice:
    - (a) in relation to *defined benefit occupational pension schemes*;
    - (b) in relation to defined contribution schemes;

- (c) in relation to the cash equivalent transfer value offered, including any actuarial reductions;
  - (d) in relation to the separate roles of the trustee and the sponsoring employer of a scheme;
  - (e) in relation to the features, benefits and risks of the comparator scheme available to it at the time; and
  - (f) generally, in relation to pensions and investments.
- (3) Identify the steps that the *firm* took to establish that the *consumer* could appreciate the nature of the risks they were taking with this transfer.
- (4) Identify the steps the *firm* took to address the *consumer's* behavioural response to their situation in a balanced and rational way, including:
- (a) any misunderstandings the *consumer* had about the benefits available in the comparator scheme(s);
  - (b) the roles of trustee and the employer where the *consumer* was concerned about belonging to a scheme where the employer would continue to be involved;
  - (c) the level of the cash equivalent transfer value on offer, including any actuarial reductions that were being applied at the time the value was prepared;
  - (d) any concerns the *consumer* had about the financial viability of the comparator scheme(s); and
  - (e) the role of the *firm* and their professional duties when providing *pension transfer advice*.
- (5) Identify the steps that the *firm* took to ensure that the *consumer* understood the *firm's* transfer analysis and its advice.
- (6) Decide whether the *consumer* had the necessary experience and knowledge to understand the risks involved in transferring to the *proposed scheme*, taking into account, in particular:
- (a) what the *consumer* already understood, including information such as:
    - (i) information about the *consumer's* existing investment and pensions portfolio and the nature, volume and frequency of the *consumer's* transactions in pensions and investments;
    - (ii) how long the *consumer* has been an investor;

- (iii) the *consumer's* experience with, and knowledge of, personal, stakeholder or workplace pension schemes;
  - (iv) the *consumer's* experience of managing their pension or other investments or using a financial adviser to manage these investments;
  - (v) the *consumer's* profession (if any), including whether it is relevant to understanding defined benefit *pension transfer* advice and investment advice;
  - (vi) whether the *consumer* had characteristics of vulnerability and the impact this had on the suitability of advice;
- (b) how the *firm* communicated the following to the *consumer*:
- (i) the risks of transferring the *consumer's* pension and investing in a scheme with *flexible benefits*;
  - (ii) the outcomes from the transfer analysis and whether the *firm* drew the attention to the factors that did, and did not, support the *firm's* advice;
  - (iii) the option to remain in BPS while it entered the PPF assessment period, and the overall safety of their pension savings during this time; and
  - (iv) the option to transfer to BPS2, including the role of the trustee and the sponsoring employer and the ability to transfer out of BPS2 at a later date;
- (c) if the *consumer* approached the *firm* for advice before 12 October 2017 and the Time to Choose period, consider:
- (i) whether the *firm* should have waited until more information was available about the comparator scheme(s) to provide the recommendation;
  - (ii) what information the *firm* was able to provide the *consumer* with about the options in the comparator scheme(s); and
  - (iii) the effect of any failure to obtain information about the comparator scheme(s) on the *consumer's* understanding of their options and the risk of transfer;
- (d) what the *consumer* is likely to have understood after this information was provided, taking into account the overall impression that the *consumer* would reasonably have had of the features and risks of a transfer, particularly in the light of:

- (i) the entirety of the *firm's* communications with the *consumer*, including communications the *consumer* received from the scheme trustees;
- (ii) the extent to which the *firm's* communications were balanced and rational in their presentation of features and risks; and
- (iii) the *consumer's* relevant experience and knowledge in (2) above.

10.29 E Answer 'yes' to this question where:

- (1) the *firm* did not communicate in substance the risks of transferring in a way the *consumer* would have understood; and/or
- (2) the *firm* did not take reasonable steps to ensure that the *consumer* understood the *firm's* transfer analysis, their option to transfer to a comparator scheme, and its advice; and/or
- (3) the *firm* did not take reasonable steps to correct any misunderstandings the *consumer* had in relation to the benefits available and/or the security of their benefits in the comparator schemes; and/or
- (4) the *firm* has not collected the necessary information in Information Area 4 of the Information Section and so it is not possible to complete the assessment in 10.28R because the *firm* does not have a reasonable basis for believing that the *consumer* has the necessary knowledge and experience to transfer.

Example 11: the consumer is under 50 and cannot bear the risks of transfer

- 10.30 R
- (1) Refer to the available evidence in Information Area 1 of the Information Section; and
  - (2) Identify whether the *consumer's* age at the time of the advice is 50 or under and:
    - (a) if the *consumer* is under 50, take the steps in 10.31R; or
    - (b) if the *consumer* is 50 or over, answer 'no' to this question and proceed to Example 12.

10.31 R Take the following steps to determine whether this example is present:

- (1) Refer to the available evidence recorded in the Information Areas 1, 2, 3, 7 and 9 of the Information Section and to the scheme benefits available in the comparator scheme(s) (see *CONRED 4 Annex 22G* at Table 2).

- (2) Identify the minimum age that the *consumer* can draw benefits from the comparator scheme(s), including their option to take any protected retirement benefits.
- (3) Identify the objective for the transfer and:
  - (a) the amount needed;
  - (b) the date the amount is needed; and
  - (c) why the *consumer* needs to transfer their comparator scheme(s) benefits now, taking into account when the *consumer* wants to:
    - (i) release capital and/or tax-free cash from their scheme; and
    - (ii) draw an income from the scheme;
  - (d) the alternatives available to achieve the objective, including:
    - (i) the option to remain in the scheme and wait for the outcome of the PPF assessment;
    - (ii) the option to remain in the scheme and transfer into BPS2; and
    - (iii) use of other assets to achieve the *consumer's* objective.
- (4) Consider the investment strategy in the *proposed arrangement* and whether the *consumer* had the requisite attitude to the risks of investment in the *proposed arrangement*, including inflation risk.
- (5) If the *consumer* approached the *firm* for advice before 12 October 2017 and the Time to Choose period, consider:
  - (a) whether the *firm* should have waited until more information was available about the comparator scheme(s) to provide the recommendation;
  - (b) what information the *firm* was able to provide the *consumer* with about the options in the comparator scheme(s); and
  - (c) evaluate the effect of any failure to obtain information about the comparator scheme(s) on the *consumer's* understanding of their options and the risk of transfer.
- (6) Decide whether the *firm* had a reasonable basis for believing that the *consumer* was able financially to bear the investment risk consistent with their investment objectives and had the knowledge and experience to transfer.



10.32 E Answer 'yes' to this question when the available evidence demonstrates that:

- (1) the *consumer* was unable financially to bear the long-term investment risks associated with an investment in the *proposed arrangement*; and/or
- (2) Example 10 is present and the *consumer* did not have the requisite knowledge and experience to understand their options and the risk of transfer; and/or
- (3) the *firm* should have waited for more information to become available before it advised the *consumer* ahead of the Time to Choose exercise; and/or
- (4) the *consumer's* objectives for the transfer, their intended retirement date, and investments were uncertain or not clearly defined and the *firm's* recommendation to transfer has exposed the *consumer* to financial and other risks that they did not need to take with this investment.

Example 12: the recommendation to transfer is unsuitable for the consumer's investment objectives or for their financial situation for some other reason

10.33 R Take the following steps:

- (1) Refer to the available evidence and the information recorded in Information Areas 2, 6 and 7 of the Information Section.
- (2) Refer to the features and benefits of the comparator scheme(s) at *CONRED 4 Annex 22G*.
- (3) Consider whether there is any reason, other than the reasons at examples 1 to 11 above, why the recommendation to transfer was unsuitable for the *consumer's* investment objectives or financial situation.

10.34 G This example may be present when:

- (1) the transfer would result in a tax liability that the *consumer* is unwilling or unable to pay; and/or
- (2) the *consumer* could have taken an alternative course of action to meet their objectives (other than the specific objectives identified in the examples above) with less cost or less risk; and/or
- (3) the *consumer* has a specific objective in mind for the transfer (other than the objectives listed in Examples 2, 3, 4, 5 and 6 above), but this objective can be met without a *pension transfer*; and/or
- (4) the *firm* has recommended a transfer to mitigate against the risk of future redundancy, when there is no evidence on file that the *consumer*

is at imminent risk of being made redundant or that redundancy was likely to cause significant financial hardship.

## 11 Causation Section

- 11.1 G The Causation Section is used to record the assessment of whether or not the *consumer's* loss was as a result of (or caused by) the *firm's* failure to comply with the suitability requirements.
- 11.2 G The Causation Section proceeds on an assumption that the *consumer* suffered a loss by transferring their BSPS to the *proposed arrangement*. Whether or not there was actually a loss is dealt with in the Redress Section.
- 11.3 R Complete the Causation Section where the assessor has concluded that the *firm* has failed to comply with the suitability requirements.
- 11.4 R Take the following steps to complete the Causation Section:
- (1) Review the available evidence any communications to *consumers* during the relevant period, including those listed in *CONRED 4 Annex 22G* at Table 3, and any other relevant information recorded in the Information Section and Suitability Section of the BSPS DBAAT.
  - (2) Determine whether the *firm's* failure to comply with the suitability requirements ('non-compliant conduct') caused the *consumer* to transfer their BSPS to the *proposed arrangement* (the 'causation question').
  - (3) Answer the causation question by selecting 'yes' or 'no'.
  - (4) Explain the conclusion on the causation question with reference to the evidence at (1).
- 11.5 R To answer the causation question, decide whether it is more likely than not that the *firm's* non-compliant conduct was the effective cause of the *consumer's* decision to transfer.
- 11.6 G The effective cause in 11.5R above does not have to be the sole or primary cause of the *consumer's* decision. In particular:
- (1) as long as the non-compliant conduct was an effective cause of the *consumer's* decision, it is immaterial that other factors (for example, the influence of a third party such as an introducer) also influenced that decision;
  - (2) the *firm's* non-compliant conduct will not have been the effective cause of the *consumer's* loss if it is more likely than not that the *consumer* would have transferred their BSPS to the *proposed scheme* in the absence of non-compliant conduct. This may occur if, for example, the *firm* gave an unsuitable recommendation to transfer but

the *consumer* would still have transferred their BPS to the *proposed scheme* even if the *firm* had complied with the suitability requirements.

- 11.7 G For the purposes of the determination under 11.4R(2), have regard to the impact of the *firm's* non-compliant conduct on the *consumer's* decision to transfer, including:
- (1) the *consumer's* demands, needs and intentions at the time of the advice, including in relation to:
    - (a) the *consumer's* financial situation;
    - (b) any potential tax or other liabilities the *consumer* has;
    - (c) the *consumer's* objectives and future financial needs throughout retirement;
    - (d) the *consumer's* age and expected retirement age;
    - (e) the *consumer's* state of health; and
    - (f) the *consumer's* timeline for making any relevant decision about their BPS in light of the BPS restructuring;
  - (2) the *consumer's* knowledge and experience at the relevant time, including:
    - (a) the *consumer's* knowledge and experience as recorded in the Information Section;
    - (b) the extent to which the *consumer* understood the changes to the BPS, the operation of the PPF, and other relevant matters in the BPS restructuring following the publication of the Regulated Apportionment Agreement, or whether the *consumer* would have made a decision solely or primarily on the *firm's* recommendation;
    - (c) the extent to which the *consumer* understood the detailed reasoning (if any) within the *firm's* advice, or would have made a decision solely or primarily based on the *firm's* recommendation overall;
    - (d) the extent to which the *consumer* read the *firm's* written advice (or would have made a decision solely or primarily based on advice given orally); and
    - (e) the extent to which the *consumer* considered whether to take the relevant step independently of the *firm's* advice.

- (3) whether the *consumer* had characteristics of vulnerability as recorded in the Information Section;
- (4) the relevance of surrounding circumstances, including publicly available information at the time, such as the information listed in *CONRED 4 Annex 22G* at Table 3, paying due regard to the reliance the *consumer* was reasonably likely to place on the *personal recommendation* of the *firm* as compared with generic and/or publicly available information;
- (5) the significance of any particular features of the BSPS, BSPS2, the PPF and the *proposed arrangement*, as regards the *consumer's* specific demands, needs and intentions;
- (6) whether the *consumer* sought specific information from the *firm* and to what extent that information was provided to the *consumer*. If the *consumer* has sought specific information from the *firm*, then it is more likely that the information was relatively important to the *consumer* when making a decision as to whether to take a relevant action;
- (7) whether the *consumer* was informed about the particular risks and benefits of:
  - (a) staying in the BSPS and moving into the PPF;
  - (b) joining BSPS2; or
  - (c) transferring to the *proposed arrangement*,where those risks and benefits were of particular concern to the *consumer* (given their demands, needs and intentions);
- (8) whether a failure to provide information under (7)R above may make it more likely that the non-compliant conduct caused the *consumer* to take the decision they did;
- (9) the *consumer's* knowledge and experience at the relevant time, including:
  - (a) the *consumer's* knowledge and experience as recorded in the Information Section;
  - (b) the extent to which the *consumer* understood the changes to the BSPS, the operation of the PPF, and other relevant matters in the BSPS restructuring following the publication of the Regulated Apportionment Agreement, or whether the *consumer* would have made a decision solely or primarily on the *firm's* recommendation;
  - (c) the extent to which the *consumer* understood the detailed reasoning (if any) within the *firm's* advice, or would have made

a decision solely or primarily based on the *firm's* recommendation overall;

- (d) the extent to which the *consumer* read the *firm's* written advice (or would have made a decision solely or primarily based on advice given orally); and
- (e) the extent to which the *consumer* considered whether to take the relevant step independently of the *firm's* advice.

## 12 Attestation Section

- 12.1 G This section is for the *senior manager* at the *firm* to complete in compliance with *CONRED* 4.3.2R(3).
- 12.2 R The attestation must be signed by an *individual* approved to perform the SMF16 (Compliance oversight) *FCA controlled function* for the *firm* or by an *individual* approved to perform another appropriate *senior management function* within the *firm*.
- 12.3 R For the purposes of 12.2R, a notification is to be treated as signed where any of the following apply:
  - (1) it contains an image of a 'wet ink' signature applied by the appropriate *individual*;
  - (2) it contains an electronic signature applied by the appropriate *individual*; or
  - (3) it contains a typed signature applied by, or with the express consent of, the appropriate *individual*.

**Section 13 covers completion of the BPS calculation and is included in the corresponding [instructions](#).**

#### 4 Annex BSPPS DBAAT Annex 22G

### 1 Features, benefits and risks of a pension transfer

- 1.1 The definitions in *CONRED 4* and *CONRED 4 Annex 21 1.3R* apply to this Annex.
- 1.2 Table 1 illustrates in general the relative features and benefits of a *defined benefit occupational pension scheme* ('DB scheme') and a *non-DB pension scheme* ('DC scheme').
- 1.3 Table 1 should be read alongside the *consumer's* BSPPS Scheme Rules and Handbook to determine how the BSPPS benefits below apply to the *consumer* at the point the *firm* advised the *consumer*. Where there were special benefits in the BSPPS that may be relevant to the *firm's* advice and disclosure of risks and benefits of transfer in general these are mentioned in 'notes' in Table 1.

<i>Table 1:</i>		
	DB Scheme	DC Scheme
<i>Benefits available</i>	<p>Defined by scheme rules.</p> <p>Pay a regular income based on the <i>consumer's</i> salary and length of the <i>consumer's</i> membership in the pension scheme.</p>	<p>Benefits depend on <i>consumer</i> contributions. The <i>consumer</i> builds up a pension 'pot' over time.</p> <p>Benefits available include taking withdrawals directly from the pot either via <i>uncrystallised funds pension lump sums</i> (UFPLS) or flexi-access drawdown (FAD) or using part/all of the pot to purchase an annuity to secure a guaranteed income for life.</p>
<i>When can benefits be taken?</i>	<p>Scheme benefits are intended to be taken at the scheme Normal Retirement Date (NRD), defined in the scheme rules (e.g. at age 65).</p> <p>Most schemes permit benefits to be drawn earlier than NRD (but only once the <i>consumer</i> reaches the scheme's minimum pension age), though with an actuarial reduction typically applied for every year they are taken before NRD.</p>	<p>Benefits can be withdrawn from the pension at any point once the <i>consumer</i> meets their normal minimum retirement age.</p>

	Note – <i>Consumers</i> that joined the BSPS before 6 April 2006 had a protected minimum pension age of 50. This benefit was lost on transfer to a DC pension (unless it was done as part of a block/buddy transfer) but may have been retained in BSPS2 and the PPF.	
<i>Is a pension commencement lump sum (PCLS) available?</i>	A PCLS is available and is typically achieved by ‘commuting’ pension benefits for lump sum benefits using a commutation factor outlined in the scheme rules. This typically leads to a lower PCLS available than from a DC scheme.	25% of the pension ‘pot’ is available to be withdrawn as a PCLS.
<i>Are benefits protected against inflation?</i>	<p>The pension benefits under a DB scheme typically have a level of inflation protection (the income will increase every year) both in deferment (before the <i>consumer</i> accesses the pension) and in payment.</p> <p>The level of inflation protection depends on the type of benefits accrued (for example, Guaranteed Minimum Pension (‘GMP’), excess over GMP) and when they were accrued. It is also impacted by certain minimums set out in legislation. The scheme rules detail the level of indexation and escalation that is applied.</p>	<p>There is no explicit inflation protection for benefits invested in a DC scheme. DC pension pots may be invested in the markets to generate a return to offset inflation.</p> <p>Where a <i>consumer</i> uses their pot to purchase an annuity, they can purchase levels of inflation protection, though this comes at the cost of reducing the initial income payment to the client.</p>
<i>What flexibility is available within the scheme?</i>	DB schemes typically have flexibility around when benefits are taken from the pension, subject to confirmation in the scheme rules on early retirement and the factors that are used.	DC schemes allow for flexibility as to when and how benefits are taken. Further, not all benefits have to be taken at the same time. For example, partial or full PCLS can be taken without starting to withdraw income benefits.

	All benefits are usually taken simultaneously – for example, PCLS and income benefits are usually taken in their entirety at the same time.	
<i>Benefits available on death of consumer</i>	A DB scheme will usually include a spouse's pension, which will continue to pay a proportion of the <i>consumer's</i> income after their death. There may also be pensions for dependent family <i>consumers</i> . Some schemes may make minor lump sum payments depending on when the <i>consumer</i> dies (e.g. if it was not long after they elected to take benefits).	Whatever is left in the pension pot at the <i>consumer's</i> death is an asset which is available to be inherited by a nominated individual. Annuities may also have other benefits (e.g. a spouse's pension) built in at the time of purchase which will continue paying an income to a spouse, though typically at a reduced rate.

1.4 The key risks associated with a transfer from a DB scheme to a DC scheme include:

- (1) the loss of *safeguarded benefits*, in the form of a guaranteed lifetime income from the DB scheme for the *consumer* and their eligible dependants (usually spouses and dependent children);
- (2) the loss of the inflationary protection that is provided by the DB scheme associated with the pension (both in deferment and in payment);
- (3) the transfer of investment risk from the DB scheme (and sponsoring employee) to the *consumer*. Poor investment returns will directly impact on the value of the *consumer's* benefits in a DC scheme. In a DB scheme, investment returns impact on the scheme's funding position and the sponsoring employer must make good any shortfall;
- (4) the transfer of longevity risk, which is the risk of running out of money in retirement and having to rely on the state pension. This is a key risk for *consumers* that choose to withdraw money from their pension via UFPLS or FAD. It is not a risk that is present in a DB scheme;
- (5) the transfer of responsibility for decisions about scheme assets. A *consumer* must keep their DC scheme assets under review, particularly where benefits are withdrawn via either UFPLS or FAD. In these situations, the *consumer* will need to continue monitoring their pension and potentially making complex and important investment and withdrawal decisions for the remainder of their lives. Where professional support is needed to help with



the monitoring and these decisions, this will come at a cost that will reduce the available benefits within the pension.

## 2 Comparison of benefits provided by BPS2 and the Pension Protection Fund (PPF)

2.1 Table 2 compares the benefits available from the proposed BPS2 with the benefits available from the PPF for deferred (rather than retired) *consumers* who were eligible for a *pension transfer*. This information would have become available when Time to Choose packs were sent out between 9 and 11 October 2017 at the beginning of the Time to Choose period.

2.2 The BPS first entered the PPF assessment period on 29 March 2018. During the assessment period, the PPF considers whether the assets of the scheme can be used to secure benefits for the *consumer* in excess of those provided by the PPF. If they cannot, the scheme is transferred to the PPF. During the assessment period, *consumers* who retire receive benefits at PPF levels.

<i>Table 2:</i>			
	Benefits and features of BPS2	Benefits and features of the PPF	Comparison of BPS2 to PPF
<i>'Starting' income benefits by comparison to Old BPS scheme – Consumers aged 65 or over at date of PPF assessment</i>	No reduction	No reduction	Both options are the same.
<i>'Starting' income benefits by comparison to Old BPS scheme – Consumers below age 65 at date of PPF assessment</i>	No reduction	All income benefits reduced by 10% AND subject to the benefit cap (see 3.1(3)): <ul style="list-style-type: none"> <li>April 2016 to April 2017 – £37,420.42 at age 65</li> <li>April 2017 to April 2018 – £38,505.61 at age 65</li> </ul>	BPS2 provides unreduced income benefits for all scheme <i>consumers</i> .
<i>Revaluation of benefits in deferment (pre-retirement)</i>	ts accrued:	Benefits accrued: <ul style="list-style-type: none"> <li>Before 5 April 2006 – CPI</li> </ul>	BPS2 generally provides more favourable

<p><i>Source: Time to Choose Information Pack (for BSPS2)</i></p>	<ul style="list-style-type: none"> <li>• Before 5 April 2006 – CPI with no cap</li> <li>• 5 April 2006 to 5 April 2009 – CPI capped at 4% a year</li> <li>• 5 April 2009 to 5 April 2012 – CPI capped at 4% a year</li> <li>• 5 April 2012 to 5 April 2016 – CPI capped at 3% a year</li> <li>• From 5 April 2016 – CPI capped at 2.5% a year</li> </ul>	<p>capped at 5% a year</p> <ul style="list-style-type: none"> <li>• 5 April 2006 to 5 April 2009 – CPI capped at 5% a year</li> <li>• 5 April 2009 to 5 April 2012 – CPI capped at 2.5% a year</li> <li>• 5 April 2012 to 5 April 2016 – CPI capped at 2.5% a year</li> <li>• From 5 April 2016 – CPI capped at 2.5% a year</li> </ul>	<p>reevaluation in deferment, except for:</p> <ul style="list-style-type: none"> <li>• benefits between 5 April 2006 and 5 April 2009 where PPF revaluation is better</li> <li>• benefits from 5 April 2016 which are revalued at the same rate</li> </ul>
<p><i>Indexation of benefits in payment (post-retirement)</i></p>	<ul style="list-style-type: none"> <li>• GMP benefits between 5 April 1978 and 5 April 1988 – No increases</li> <li>• GMP benefits between 5 April 1988 and 5 April 1997 – CPI capped at 3% a year</li> <li>• Excess over GMP pre-5 April 1997 – No increases</li> <li>• Pension benefits between 5 April 1997 and 5 April 2005 – CPI capped at 5% a year</li> <li>• Pension benefits from 5 April 2005 – CPI capped at 2.5% a year</li> </ul>	<ul style="list-style-type: none"> <li>• GMP benefits between 5 April 1978 and 5 April 1988 – No increases</li> <li>• GMP benefits between 5 April 1988 and 5 April 1997 – No increases</li> <li>• Excess over GMP pre-5 April 1997 – No increases</li> <li>• Pension benefits between 5 April 1997 and 5 April 2005 – CPI capped at 2.5% a year</li> <li>• Pension benefits from 5 April 2005 – CPI capped at 2.5% a year</li> </ul>	<p>BSPS2 generally provides more favourable indexation in retirement except for:</p> <ul style="list-style-type: none"> <li>• GMP benefits between 5 April 1978 and 5 April 1988 where neither provide indexation;</li> <li>• excess over GMP pre-5 April 1997 where neither provide indexation; and</li> <li>• pension benefits from 5 April 2005 where indexation is at the same rate.</li> </ul>

<p><i>Spouse and dependents benefits</i></p>	<ul style="list-style-type: none"> <li>Continued income benefits valued at 50% of the <i>consumer's</i> pension, calculated with reference to the <i>consumer's</i> pension <b>before</b> any is commuted for a PCLS.</li> <li>In Time to Choose packs (issued between 9 and 11 October 2017), there was uncertainty over whether same sex spouses or civil partners would be eligible to pension payments relating to benefits accrued before 1997.</li> <li>The scheme pays out a lump sum if the <i>consumer</i> dies less than 5 years after taking their pension. This equals the total amount of remaining pension they would have received in those 5 years. This is in addition to the spouse's pension.</li> <li>Children's allowance paid for 'qualifying dependent children'.</li> </ul>	<ul style="list-style-type: none"> <li>Continued income benefits valued at 50% of the <i>consumer's</i> pension, calculated with reference to the <i>consumer's</i> pension <b>after</b> any is commuted for a PCLS.</li> <li>PPF treats same sex spouses and civil partners in the same way as an opposite sex spouse – they are eligible for a spouse pension relating to all benefits accrued, regardless of when they were accrued.</li> <li>No lump sum death benefits are paid from the PPF.</li> <li>Dependent's pension available for qualifying children either under 18 or over 18 but under 23 in 'qualifying education' or with a 'qualifying disability'. 50% of</li> </ul>	<p>Death benefits under BSPS2 are generally more beneficial due to higher reference point for calculating spouses' pension plus the presence of a lump sum payment if death occurs in the first 5 years.</p> <p>However, there are question marks over eligibility for payments to same sex spouses and civil partners under BSPS2. These question marks do not apply to the PPF, which treats same and opposite sex spouses/civil partners the same.</p>
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		<i>consumers</i> compensation if there is one child, or 100% split equally if there are 2 or more children.	
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<p><i>Pension commencement lump sum (PCLS)</i></p>	<p>PCLS is available from BPS2 by commuting income.</p> <p>The commutation factors range from £12.60 to £23 of lump sum for every £1 of income, depending on the age at which the <i>consumer</i> retires and when the <i>consumer</i> built up benefits in the old scheme.</p> <p>Where a significant proportion of the <i>consumer's</i> rights are in the form of GMP benefits, this may inhibit the amount of pension they are able to commute for a PCLS in BPS2.</p>	<p>PCLS is available from the PPF by commuting income.</p> <p>The commutation factors range from £20.22 to £43.57 of lump sum for every £1 of income, depending on the age at which the <i>consumer</i> retires and when the <i>consumer</i> built up benefits in the old scheme.</p>	<p>The PPF provides more favourable PCLS commutation factors in all instances.</p> <p>Where a <i>consumer</i> wishes to take the maximum PCLS, the PPF will typically provide both a larger PCLS and a larger starting income (even after accounting for the 10% reduction in the PPF) than BPS2.</p>
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<i>Early retirement</i>	<p>Early retirement is available from BSPS2.</p> <p>The early retirement factor ranges from 0.73 to 0.97, depending on the age at which the <i>consumer</i> retires and when the <i>consumer</i> built up benefits in the old scheme.</p> <p>Where a significant proportion of the <i>consumer's</i> rights are in the form of GMP benefits, this may reduce the level of income they can withdraw if they seek early retirement.</p>	<p>Early retirement is available for the PPF.</p> <p>The early retirement factor ranges for 0.819 to 0.978, depending on the age at which the <i>consumer</i> retires.</p>	<p>The PPF provides more favourable early retirement factors than BSPS2 in all circumstances, regardless of the <i>consumer's</i> age and when they accrued benefits.</p> <p>However, the PPF reduces starting income by 10% (BSPS2 does not). After this reduction is applied, BSPS2 typically provides a higher starting income.</p>
<i>Potential for future transfer requests</i>	<p>BSPS2 allowed <i>consumers</i> the option to transfer out at any time up to a year from the <i>consumer's</i> NRD.</p>	<p>Once a scheme enters the PPF assessment period, <i>consumers</i> are no longer permitted to transfer out of the scheme.</p>	<p>BSPS2 provided <i>consumers</i> with more flexibility of options, in regard to the ability to transfer out at a future date, than the PPF.</p>

### 3 Information available to advisers during the relevant period

3.1 The following information was available to advisers about the PPF benefits:

- (1) Once a scheme enters the PPF assessment period, the benefits that will be available to *consumers* of the BSPS who have not yet commenced drawing a pension are calculated by reference to provisions governing the PPF and will not be the same as the pension that would have been available in the BSPS.
- (2) The PPF treatment of *consumer* benefits throughout the relevant period was published or available:
  - (a) on the PPF website (<https://www.ppf.co.uk/>);
  - (b) directly from the PPF;

- (c) through continuing professional development, including in the study material for the qualifications required to be a *pension transfer specialist*.
- (3) In July 2021, the Court of Appeal ruled that the PPF compensation cap was unlawful on the grounds of age discrimination. The PPF confirmed that the compensation cap would no longer apply and it would be removed from affected PPF pensioners. Whilst this is the case now, advisers at the time would not have been aware of this change, so it would have been reasonable to assume that the cap would still apply to those *consumers* with benefits above the cap. More information is found at <https://www.ppf.co.uk/trustees-advisers/valuation-guidance/compensation-cap-factors>.

3.2 The information in Table 3 was available to advisers about BPS2 benefits during the relevant period.

<b>Table 3:</b>	
<b>Date</b>	<b>Information</b>
<b>30 March 2016</b>	<a href="#">Tata Steel Ltd announcement</a> examining options for restructuring business and calling into question the future of BPS.
<b>26 May 2016</b>	<a href="#">DWP launch consultation on BPS</a> outlining 4 options for the future of BPS.
<b>26 May 2016</b>	<a href="#">Letter to consumers from BPS Trustee</a> (Allan Johnston) outlining Government consultation on potential changes to BPS.
<b>16 June 2016</b>	<a href="#">BPS Trustees response to the DWP consultation</a> .
<b>12 August 2016</b>	<a href="#">Trustee update to consumers</a> .
<b>7 December 2016</b>	<a href="#">Tata Steel UK announcement</a> on proposal to close BPS to future accrual.
<b>7 December 2016</b>	<a href="#">Trustee update to consumers</a> following Tata Steel UK Ltd's announcement on proposal to close BPS to future accrual.
<b>12 January 2017</b>	<a href="#">Trustee statement</a> on potential future of the scheme.

<b>27 January 2017</b>	<a href="#">Trustee letter to consumers</a> providing an update on developments.
<b>31 March 2017</b>	The old BSPS scheme closed to accrual and all active <i>consumers</i> became deferred.
<b>1 April 2017</b>	<a href="#">Trustee amendment</a> to how the CETV was calculated resulting in most <i>consumers</i> seeing an increase in their CETV after 1 April 2017 compared to before.
<b>16 May 2017</b>	<a href="#">PPF</a> and <a href="#">TPR</a> announcements on key commercial terms for an RAA being agreed in principle.
<b>11 August 2017</b>	<a href="#">TPR announcement</a> on initial approval of RAA for BSPS.
<b>25 August 2017</b>	<a href="#">Trustee announcement</a> to <i>consumers</i> on CETV change.
<b>11 September 2017</b>	<a href="#">Trustee announcement</a> on RAA.
<b>9-11 October 2017</b>	Time to Choose packs sent out to <i>consumers</i> (received by <i>consumers</i> between 9 and 11 October 2017) which detailed personalised benefits for <i>consumers</i> under BSPS2.
<b>29 November 2017</b>	The deadline for <i>consumers</i> to make a decision under Time to Choose was extended from 11 December to 22 December 2017.
<b>16 February 2018</b>	The trustees stated deadline for receiving transfer applications.
<b>29 March 2018</b>	The old BSPS scheme entered the PPF assessment period and was closed to transfer.