

Training on the Defined Benefits Advice Assessment Tool (DBAAT)

Full two day training course

Agenda

Day 1	
Introduction	09:00 – 09:15
Basics on a DB transfer	09:15 – 09:45
The rules	09:45 – 10:05
<i>Coffee break</i>	<i>10:05 – 10:20</i>
The DBAAT	10:20 – 10:50
Information tab	10:50 – 12:00
<i>Lunch</i>	<i>12:00 – 13:00</i>
Suitability – Pension transfer tab (<i>including coffee break</i>)	13:00 – 16:00

Day 2	
Suitability – Investment advice tab	09:00 – 10:30
<i>Coffee break</i>	<i>10:30 – 10:45</i>
Insistent client tab	10:45 – 11:30
Disclosure tab (part 1)	11:30 – 12:15
<i>Lunch</i>	<i>12:15 – 13:15</i>
Disclosure tab (part 2)	13:15 – 14:00
Causation tab	14:00 – 15:00
<i>Coffee break</i>	<i>15:00 – 15:15</i>
Results and feedback tab	15:15 – 15:30
Summary & questions	15:30 – 15:45



1. Introduction

Objective

To:

- provide practical assistance when considering advice relating to DB pension transfers.
- ensure consistency of assessment.
- Help identify the root cause of any non-compliant advice files.



1. Introduction

Scope

- Focussed on advice relating to DB pension transfers
- Does cover Enhanced Transfer Value (ETV) exercises
- One tool covering the different rule regimes



1. Introduction

Golden rules

1: Quality commentary

- First point of reference when review is challenged.
- Must be immediately clear what the rating is and why.
- Feedback ready.

2: Evidenced-based

- Reference to evidence relied upon.
- Fairly considered, giving appropriate weight to all evidence on file.
- Explain how evidenced used to formulate assessment.

3: Keep it balanced

- Comments **must** be balanced.
- No emotive comments.
- Do not write comments that you would not be prepared for the firm to see.



2. What is a DB pension scheme?

What is a defined benefit pension?

- The “gold standard” of pensions
- Benefits are defined under the scheme rules by reference to
 - Final salary
 - Career averaged revalued earnings (CARE) schemes
- A promise to pay a ‘guaranteed’ level of pension until death
- Other lucrative benefits too (IHRP, dependents’ pensions)



2. What is a DB pension scheme?

How is the pension calculated?

Scheme rules, but broadly:

- 1) The member's salary
 - a) final salary
 - b) average salary (CARE schemes)
- 2) Number of year's "service"
 - a) time / complete years in the scheme
 - b) 1/60th or 1/80th
 - c) historic cap at 40 years



2. What is a DB pension scheme?

How is the pension calculated?

For example:

Member A is approaching retirement. They have been a member of their employer's 1/60th final salary scheme for 23 years. Their salary at the point of retirement was £35,000.

The pension received at retirement will be:

$$23/60 \times £35,000 = £13,416.67 \text{ p.a. gross}$$



2. What is a DB pension scheme?

Other DB benefits under scheme rules

- Escalation in deferment (revaluation)
- Escalation in payment
- Pension commencement lump sum - commutation
 - Also possibility to accrue separate lump sum benefits
- Death benefits
- Ill-health early retirement benefits



2. What is a DB pension scheme?

When can members take DB benefits?

- Depends again on the scheme rules
- What is Normal Retirement Date (NRD) under the scheme's rules? At NRD full benefits based on
 - on number of years service accrued
 - scheme's accrual rate
 - relevant salary
- Early retirement reduction (often 3-4% per year) means lower benefits.
 - Some schemes have no reduction for early retirement
- Late retirement – uplifted benefits



2. What is a DB pension scheme?

Members' advantages and disadvantages (1/2)

- Guaranteed income for life (including generous discretionary benefits) vs rigidity
- Member bears no investment risk / decisions vs no benefit from investment returns
- Dependents' benefits on member death but not so good if no dependents or member dies young (or dependent dies young) (whereas in DC lump sum to spouse)



2. What is a DB pension scheme?

Members' advantages and disadvantages (2/2)

- No longevity risk for member vs rigidity of benefits
- Risk of inflation generally mitigated but positive investment returns won't affect benefit levels
- No ongoing fees/charges
- Tax free cash at the outset of retirement by giving up part of the member's scheme income but PCLS typically smaller than under a personal pension scheme. If PCLS is taken then income has to also be drawn not deferred.



2. What is a DB pension scheme?

Employers' advantages and disadvantages

- Extremely attractive employee benefit
- Meets automatic enrolment legislation requirements

But...

- Significant ongoing cost to a business (contributions)
- Employer bears all the risks, including running costs and investment risk. Group companies and directors have liability under TPR powers.
- Deficit – can apply actuarial reduction to CETV to reflect the scheme's funding position



2. What is a DB pension scheme?

The end of DB schemes?

- Changing future accrual rate or increasing member contributions
- Closing scheme to new members
- Closing scheme to all future accruals
- Incentivising transfers – CETV / ETV
- Winding up the scheme / PPF drop-in



2. What is a DB pension scheme?

Involvement and the Pension Protection Fund (PPF)
(1/2)

- PPF as the “safety net” for DB schemes
- Assessment process up to 2 years
- Admission: PPF takes on scheme and pays compensation
- Less generous than DB scheme – material impact on benefits.
 - Especially if pre-97 service or GMP benefits revalued at very high rates
 - Additional benefits but subject to PPF rates not scheme rules



2. What is a DB pension scheme?

Involvement and the Pension Protection Fund (PPF)
(2/2)

Compensation levels:

- NRD+ pensioners – broadly 100%
- Pre-NRD but retired – broadly 90% pension in receipt of, subject to cap
- Pre-NRD and not retired – 90% pension subject to cap, but note
 - top-up for those with 20+ years service
 - *Hampshire* case implications – PPF benefits must be at least 50% value of original benefits



2. What is a DB pension scheme?

Pension transfers (1/4)

- Transfer from safeguarded benefits to flexible benefits
- S48 Pension Schemes Act 2015 – appropriate independent advice where proposed DB/safeguarded benefit transfer worth over £30k.
- S48 advice must be provided by a firm with FCA permission to advise on pension transfers (Art 53E RAO)
- FCA rules apply to such firms



2. What is a DB pension scheme?

Pension transfers (2/4)

Why transfer?

- Small pots: small but useful; tidying up multiple arrangements; tide-over between retirement and state benefits?
- Medium pots: pass money to children for education, house deposit, weddings; partial transfer potentially
- Larger pots: lower PPF protection; can afford to take risk; pass wealth to children; desire to manage own money
- Generally: state of health, marital status, debts and perceived lack flexibility of DB schemes



2. What is a DB pension scheme?

Pension transfers (3/4)

FCA rules

- Rules to require all advice on the conversion or transfer of safeguarded benefits to result in a personal recommendation. A personal recommendation must be based on an individual consumer's needs and circumstances.
- Starting point for most people is that keeping safeguarded benefits is likely to be in their best interests.



2. What is a DB pension scheme?

Pension transfers (4/4)

- Guidance on suitability when giving a personal recommendation to convert or transfer safeguarded benefits
- Guidance on the role of pension transfer specialists (PTS)
- Replaced transfer analysis requirement (TVA) with requirement to undertake appropriate analysis of client's options
- Additional requirements for advice on pension opt-outs to those cases where the consumer could potentially lose safeguarded benefits



3. The relevant rules

Overview

- COBS 9 and 19.1 (information collection)
- COBS 9 and 19.1 (suitability)
- COBS 4.2.1R “fair, clear and not misleading”
- COBS 2.1.1R “client’s best interests”



3. The relevant rules

Information collection rules

COBS 9.2.1R(2) obtain the necessary information regarding:

- (a) the client's knowledge and experience in the investment field relevant to the specific type of designated investment or service;
- (b) financial situation; and
- (c) investment objectives

so as to enable the firm to make the recommendation which is suitable for the client



3. The relevant rules

Information collection rules

- **COBS 9.2.2R(1)**: gather the information necessary to understand the essential facts about the client
- **9.2.2R(2) investment objectives** information must include information on:
 - the length of time they wish to hold the investment
 - preferences regarding risk-taking/risk profile
 - purposes of the investment



3. The relevant rules

Information collection rules

COBS 9.2.2R(3) financial situation

information about:

- the source and extent of regular income
- assets including liquid assets, investment and real property
- regular financial commitments



3. The relevant rules

Information collection rules

COBS 9.2.3R knowledge and experience

information includes:

- types of service, transaction and investments the client is familiar with
- nature, volume, frequency of the client's transactions in investments (and how long they've been transacting)
- level of education, profession or relevant former profession of the client



3. The relevant rules

Information collection rules

Transfer analysis

- Information about the ceding and proposed arrangement are COBS 9.2.2R “essential facts”
- Not required if the client is immediately crystallising benefits or is at NRD (COBS 19.1.2AR/19.1.1CR after April 2018)
- It will also be necessary for the firm to collect information on benefits payable under, and other features of, the proposed arrangement in order to comply with the requirement to carry out a TVA/TVAS (COBS 19.1.2R and COBS 19.1.3G) or an APTA and TVC (COBS 19.1.2BR and COBS 19.1.3AR).



3. The relevant rules

Information collection rules

COBS 9.2.6R if a firm does not obtain the necessary information to assess suitability, it must not make a personal recommendation.

“Reasonable steps” e.g. gathering information about expenditure in retirement

In the DBAAT instructions:

- Para 1.20 (general)
- Area 9 and 10 (transfer analysis)
- Annex 3 ‘Information Requirements’



3. The relevant rules

Suitability (General)

COBS 9.2.1R

The overarching suitability requirement, in COBS 9.2.1R, is for a firm to take **reasonable steps** to ensure that a personal recommendation is suitable for its client .

Note:

- The test for whether advice is **suitable** relates to the **result** (recommendation) rather than the process the firm takes to get to the result.
- We look at **process** in the information tab.



3. The relevant rules

Suitability (General)

The obligation on the adviser under this provision is to obtain those facts which establish a reasonable basis for believing that :

- the transaction meets the client's objectives;
- that the client has sufficient assets to bear any risks created by the investment; and
- sufficient understanding to appreciate those risks.

The adviser's role is to provide the client with information on which a decision can be made. It is not to make the decision for the client.



3. The relevant rules

Suitability – Pension Transfer

Starting point

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.

[COBS 19.1.6G\(3\)](#) or, from 8 June 2015 to 1 April 2018, in [COBS 19.1.6G](#)



3. The relevant rules

Suitability – Pension Transfer

[COBS 19.1.6G\(4\)](#) (from October 2018) says take into account (abridged):

- Client's intention for accessing benefits
- Client's attitude to transfer risk
- Client's attitude to, and understanding of investment risk
- Client's realistic income needs
- Alternative ways to achieve the client's objectives



3. The relevant rules

Other areas

Insistent client

- COBS 9.5A is guidance on the requirements in force since 1 November 2007
- COBS 4.2.1R (clear fair and not misleading)
- COBS 2.1.1R (clients best interests)
- COBS 2.2.1R (appropriate information about firm and services)
- COBS 9.2.1R (suitability requirements)
- COBS 9.5 (suitability report)
- SYSC 9 (record keeping)



3. The relevant rules

Other areas

Disclosure

- COBS 2.2.1R (initial disclosure)
- COBS 4.2.1R (fair clear, not misleading)
- COBS 6 (costs and charges)
- COBS 13 and 14 (product documents)
- COBS 9 (suitability reports)
- COBS 19.1 (DB transfer disclosure)



Coffee Break





4. Introducing the DBAAT ...

PLEASE DO NOT:

- i. Copy and paste**
- ii. Drag and drop**



5. Case information

Summary

- Purpose to:
 1. capture evidence on file
 2. create audit trail
 3. assist in MI collection
- Has the firm collected “Necessary information”? (building blocks for the assessor)
- Golden rule 2 – **Evidence-based**

5. Case information

Information areas

1.	Has the firm obtained the essential facts about the client?
2.	Has the firm obtained the necessary information regarding the client's investment and retirement objectives ?
3.	Has the firm obtained the necessary information regarding the client's investment risk profile ?
4.	Has the firm obtained the necessary information regarding the client's attitude to transfer risk ?
5.	Has the firm obtained the necessary information regarding the client's knowledge and experience ?
6.	Has the firm obtained the necessary information regarding the client's estimated expenditure throughout retirement ?
7.	Has the firm obtained the necessary information regarding the client's financial situation ?
8.	Has the firm obtained the necessary information regarding the ceding arrangement ?
9.	Has the firm obtained the necessary information regarding the proposed arrangement ?
10.	Has the firm carried out the transfer analysis ?



5. Back to the DBAAT ...



5. Here's one I created earlier...



Lunch





6. Suitability – Pension Transfer

Summary

- 12 examples of unsuitability
- Tool suggested outcome
- In the round assessment
- Presumption of unsuitability
- Golden rule 1 – **Quality commentary**



6. Suitability – Pension Transfer

Example 1: The client is, or will be reliant on income from this scheme

- Does the client need an income from the DB scheme? Can they meet needs in a DC scheme?
- Household expenditure and/or personal outlays?
- Other income/assets throughout retirement?
- Anticipated expenditure throughout retirement?
- Risk of running out of money?



6. Suitability – Pension Transfer

Example 2: The aim of the transfer is to maximise death benefits but there is insufficient evidence on the client file to demonstrate why this is in the client's best interests

- Client wants to access death benefits, but is it in their best interests to leave the scheme?
- Review information on the client file – come to your own view
 - Is the client willing to forego scheme benefits and guarantees?
 - Is there a lower risk alternative to meeting the client's objectives to maximise death benefits?
 - Is it likely the client will run out of money from this DB scheme during their lifetime?



6. Suitability – Pension Transfer

Example 3: The aim of the transfer is to access flexible benefits but there is insufficient evidence on the client file to demonstrate why this is in the client's best interests

- Client's need for flexibility vs scheme protections
- Review information on the client file – come to your own view:
 - Is the client willing to forego scheme benefits and guarantees?
 - Look at wider client circumstances (including tax position).
 - Identify whether the client could use other available assets (including pensions).



6. Suitability – Pension Transfer

Example 4: The aim of the transfer is to maximise the pension commencement lump sum, or to take it early, but there is insufficient evidence on the client file to demonstrate why this is in the client's best interests

- Client need for a larger lump sum.
- Impact on the level of income benefits.
- Rationality of the desire for a larger lump sum.
- Alternative ways of accessing a lump sum.



6. Suitability – Pension Transfer

Example 5: The aim of the transfer is to protect the client's pension fund but the scheme is not at risk or the Pension Protection Fund (PPF) would provide adequate cover

- Is the scheme actually at risk?
- Level of benefits paid by the PPF.
- Client income needs throughout retirement.



6. Suitability – Pension Transfer

Example 6: The client wants to retire early but can meet their objective(s) while remaining in the scheme

- Is early retirement feasible?
- Early retirement options from the scheme
- Protected retirement ages
- Alternative sources of income and assets
- Can they defer drawing from the scheme?



Coffee Break





6. Suitability – Pension Transfer

Example 7: The client wants guaranteed income or returns

- Consider wider client circumstances.
- Refer to KYC information and APTA
- Consider proposed arrangement



6. Suitability – Pension Transfer

Example 8: The client does not have the necessary attitude to transfer risk

- Client's response to the risk and benefits of giving up 'guaranteed' benefits.
- Explicitly mentioned in COBS 19.1.6G(4)(B) from 1 April 2018
- Prior to 1 April 2018, covered by COBS 19.1.7G
- Questioning client in a fair, clear and non-misleading way



6. Suitability – Pension Transfer

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

Pre 1 October 2018 – TVAS

- Identify the Critical Yield(s) relevant to the client's circumstances
- Consider rates of return in the KFI of the proposed scheme

1 October 2018 onwards – APTA / TVC

- Difference between CETV and TVC
- Consider whether the APTA analysis is robust



6. Suitability – Pension Transfer

Example 10: The firm did not have a reasonable basis for believing that the client has the necessary knowledge and experience to understand the risks involved in transferring their DB pension

- Consider the client's knowledge and experience
- Communicating the risks associated with a transfer
- Client understanding of TVAS or APTA/TVC
- Would the client ever be able to understand the risks?



6. Suitability – Pension Transfer

Example 11: The recommendation to transfer is unsuitable for the client's investment objectives or financial situation for some other reason

- Other situations that may indicate unsuitability
- Example relating to tax liabilities
- State, in the template, what the other reason is



6. Suitability – Pension Transfer

Example 12: The adviser recommended that the client retains the benefits within the scheme when a transfer appears to be suitable and in the client's best interests.

- Applies only to recommendations to remain in the DB scheme
- Was it actually in the best interest of the client to transfer?
- Insistent clients



6. Suitability – Pension Transfer

Overall assessment of suitability

- Tool provides a “suggested” rating only
- Assessors are required to make an overall assessment of whether advice is suitable or not
- Consider all information on the file
- Did the firm take reasonable steps?
- Insert rationale for rating in comments box with reference to evidence, **in all cases.**
- Golden rules 1, 2 and 3 all apply



End of Day 1



7. Suitability – Investment advice

Summary

- 8 examples of unsuitability
- Tool suggested outcome
- In the round assessment
- Neutral starting point
- Golden rule 1 – **Quality commentary**



7. Suitability – Investment advice

Example 1: The recommendation is unsuitable for how the client intends to access their pension savings.

- How does the client intend to access their pension?
- When does the client intend to access their pension?
- What is the likely frequency of access?
- How is the pension invested?
- Illiquid assets?



7. Suitability – Investment advice

Example 2: The client was in ill health or had lifestyle factors indicating eligibility for an enhanced annuity but has been recommended a standard annuity.

- Was the client recommended a standard annuity?
- Consider their health.
- Consider any lifestyle factors.
- Was an enhanced/impaired life annuity explored?



7. Suitability – Investment advice

Example 3: The client has incurred unnecessary or excessive adviser or product charges.

- Proposed arrangement charges (Product, platform and investment costs)
- Advice charges (initial and ongoing)
- Impact on client's savings over time
- Lower cost alternatives
- Unnecessary functionality



7. Suitability – Investment advice

Example 4: The recommended solution requires ongoing review and rebalancing but this has not been explained or arranged.

- Portfolio drift over time
- How will the portfolio be rebalanced?
- Have the risks of this approach been explained?



7. Suitability – Investment advice

Example 5: The client was not willing to take the required risk with the sum invested.

- Subjective measure of willingness to accept risk
- Firm's approach to assessment
- Do the recommended assets align with the client's willingness to take risk?
- Consider against the firm's risk scale



7. Suitability – Investment advice

Example 6: The client does not have the capacity to bear the risk of this investment.

- Objective measure of client's ability to take risk
- Materially detrimental impact on standard of living
- Concentration and exposure to various asset classes
- Client's wider financial situation



7. Suitability – Investment advice

Example 7: The client did not have the necessary knowledge and experience to understand the risks of investing in the proposed arrangement.

- Consider client's investment knowledge and experience
- Existing investments and pensions
- How long they have been an investor
- Profession
- How has the firm communicated with the client?



7. Suitability – Investment advice

Example 8: The recommendation is not suitable for the client's investment objectives or financial situation for some other reason.

- Other situations that may indicate unsuitability
- Example may be tax incurred on accessing pension
- Means tested benefits
- State, in the template, what the other reason is



7. Suitability – Investment advice

Overall assessment of suitability

- Tool provides a “suggested” rating only
- Assessors are required to make an overall assessment of whether advice is suitable or not
- Consider all information on the file
- Did the firm take reasonable steps?
- Insert rationale for rating in comments box with reference to evidence, **in all cases.**
- Golden rules 1, 2 and 3 all apply



Coffee Break



8. Insistent client

Steps to take

Identify:	Is the client an "insistent client"?
Step 1	Has the firm provided the necessary information to the insistent client?
Step 2	Has the firm obtained an acknowledgement that the client is acting against advice?
Step 3	Where a firm gives a further recommendation in relation to the transaction proposed by the insistent client, has the firm made sure it is clear that this recommendation is separate from the firm's initial recommendation?
Step 4	(From 3 January 2018 onwards) has the firm made a record of this process?



8. Insistent client

Definition

A **client** is an **insistent client** (from COBS 9.5A.2G) if:

- the firm has given the **client** a personal recommendation in relation to the transfer of their safeguarded benefits;
- the **client** decides to enter into a transaction which is different from that which the firm has recommended;
- the **client** wishes the firm to facilitate the transaction; and
- the firm arranges the transaction for the **client**



8. Insistent client

Step 1 – necessary information

Communicate the following:

- that the firm has not recommended the transaction, and that the transaction will not be in accordance with the firm's personal recommendation;
- the reasons why the transaction will not be in accordance with the firm's personal recommendation;
- the risks of the transaction proposed by the insistent client; and
- the reasons why the firm did not recommend that transaction to the client.



8. Insistent client

Step 2: Acknowledgment

- That the transaction is not in accordance with the personal recommendation
- That the transaction is being carried out at the client's request
- In the client's own words, if possible



8. Insistent client

Step 3: further recommendation

- This step only arises if the firm gives a further personal recommendation in relation to the transaction proposed by the insistent client.
- If there is a further PR, check if the firm has made clear that:
 - It is distinct from the original PR
 - The further PR does it affect the conclusions of the first one
- If the firm doesn't make the above clear record as 'non-compliant'



8. Insistent client

Step 4: record keeping


- Did the firm retain a record of the advice and communications with the insistent client?
- For example, information and instructions from the client; advice provided; communications; steps taken; fees charged.
- Did the firm record the acknowledgment in Step 2?



9. Disclosure

Summary

No.	Disclosure
1.	Disclosure of firm's services and costs (for advice on or before 30 December 2012)
2.	Initial disclosure of the firm's services and adviser charges (for advice on or after 31 December 2012)
3.	Specific disclosure of the firm's services and adviser charges (for advice on or after 31 December 2012)
4.	Product disclosure
5.	Suitability report disclosure
6a.	DB pension transfer disclosure (for advice on or before 30 September 2018)
6b.	DB pension transfer disclosure (for advice on or after 1 October 2018)





9. Disclosure

1. Disclosure of firm's services and costs (for advice on or before 30 December 2012)

- Pre RDR files
- Appropriate information regarding services
- Appropriate information regarding its costs and associated charges
- Clear and comprehensible form



9. Disclosure

2. Initial disclosure of the firm's services and adviser charges (for advice on or after 31 December 2012)

- Enhanced disclosures following implementation of RDR
- Initial disclosure in good time before making a personal recommendation (or providing related services)
- Charging structure (cash terms examples)
- Scope of advice (Independent or restricted)



9. Disclosure

3. Specific disclosure of the firm's services and adviser charges (for advice on or after 31 December 2012)

- Total advice charge (initial and ongoing)
- As early as practicable
- Cash terms or illustrative cash equivalents
- Durable medium
- Payments over a period of time
- Ongoing services



9. Disclosure

4. Product disclosure

- Relates to the recommended proposed arrangement
- Not required where no recommendation is made
- Provision of KFD / KFI
- Correct funds and adviser charge (where facilitated)



Lunch





9. Disclosure

5. Suitability report disclosure

- Changing rules over time
- Was there a clear recommendation (transfer and investment, where relevant)?
- Client's demands and needs
- Why the recommendation is suitable
- Explain any possible disadvantages
- Clear, fair and not misleading



9. Disclosure

6a. DB pension transfer disclosure (for advice on or before 30 September 2018)

- TVAS regime
- Provided a copy of the TVAS?
- Drawn the client's attention to the factors that do and do not support the advice?
- Includes enough information for the client to make an informed decision?
- Reasonable steps to ensure client understands comparison?
- Explained the risks of the transfer to the client?



9. Disclosure

6b. DB pension transfer disclosure (for advice on or after 1 October 2018)

- APTA / TVC regime
- Provided a copy of the TVC in a durable medium?
- Reasonable steps to ensure client understands key outcomes from the APTA and TVC?



10. Causation

Overview

- Links the firm's conduct (or **action**) to the **outcome** (decision to transfer)
- Factual inquiry on the balance of probabilities (>50%)
- For the client to prove that they relied on the recommendation
- Used to assist the FCA to understand whether there is potential harm



10. Causation

Overview

- Carry out causation test for:
 - Unsuitable pension transfer advice
 - Unsuitable investment advice
 - Non-compliant insistent client process
 - Non-compliant disclosure
- Template will grey out those areas you don't have to assess
- In all cases – **effective cause** test



10. Causation

Step 1: Gather evidence

1. Identify the non-compliant conduct
 - e.g. failure to comply with suitability requirement
2. Identify the action the client took
 - e.g. transfer from DB to DC scheme
3. Identify all other relevant circumstances
 - e.g. client was in ill health



10. Causation

Step 2: Assess evidence

1. What was the impact of the firm's conduct on the client's action?
2. Was the firm's conduct an '**effective cause**' of the client's action?
3. Was there another cause?

Example: disclosure failing alongside suitability failing. In the majority of cases the suitability failing will be the 'effective cause' of the loss.



10. Causation

Step 3: Causation question

Is it more likely than not that the firm's non-compliant conduct caused the client to take **action** to:

- Transfer (their DB pension) to a pension scheme with flexible benefits; or
- Remain in their DB scheme; or
- Invest their pension savings in accordance with the firm's personal recommendation



10. Causation

Step 4: make a record

- **Answer:** Yes or No for each question
- **Disclosure vs unsuitable advice**
 - Where there is a suitability failure alongside a disclosure failure you need to identify which is the **effective cause**
 - E.g. if the client would have followed the firm's advice and transferred even if the disclosure had been compliant, the disclosure failure is not likely to be the effective cause
- **Record:** your reasons on the template



10. Causation

Examples

- Firm advises client to transfer, client transfers. Highly likely client will follow advice unless:
 - Incentivised to leave by high ETV
 - Evidence shows that the client is motivated to leave and they will disregard advice
- Firm advises client not to transfer. Client wants to retire early and becomes insistent to access DC scheme flexi benefits. Firm failed to disclose a valuable early retirement benefit. Ask:
 - Is the failure to disclose the benefit an 'effective cause' of the client's conduct?
 - Would the client have transferred even if they'd known about the early retirement benefit?



Coffee Break





11. Results and feedback

Back to the DBAAT ...



11. Results and feedback

Key points

- Basis for feedback to firm
- Would your comments stand up to external challenge?
- Re-opening the file is not an option
- Top priority for QA



12. Summary

1. Separate assessments of:
 - i. Information collection
 - ii. Suitability – Pension Transfer
 - iii. Suitability – Investment advice

2. Golden rules
 - i. Quality commentary
 - ii. Evidence based
 - iii. Keep it balanced



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