Summary of feedback received

March 2021

Consultation title	GC20/1: Advising on pension transfers
Date of consultation	5 June 2020 to 4 September 2020
Summary of feedback received	In GC20/1, we consulted on non-Handbook guidance designed to help advisers understand our expectations when advising on pension transfers and conversions. This included the data they should collect from the ceding scheme. We also consulted on how firms should use our requirements on professional indemnity insurance (PII) in the context of pension transfers. We also proposed an updated version of the 'Guide for Employers and Trustees on providing support with financial matters without needing to be subject to regulation', a factsheet we published with The Pensions Regulator (TPR) in 2017. The updated version can be found here. This document summarises the feedback we received to GC20/1 and our response. We received 54 responses from a range of respondents. These included pension providers, insurance providers, advisory firms, individuals and professional bodies. Respondents welcomed the draft guidance and were supportive of its intent and content, particularly the use of good and poor practice examples. Many respondents considered some parts could be used across other areas of advice, particularly retirement income advice. Many respondents raised points of detail about specific areas of the guidance. Other respondents indicated misunderstandings of how the rules should be applied. Some respondents raised issues relating to the underlying rules and policy intent behind these, rather than the guidance itself. We addressed the issues surrounding the rules when we made and consulted on them. As these rules were not part of the consultation on this occasion, we have not addressed them further. The areas which received the most responses were: • PII – respondents expressed concern with the current state of the market. • Ceding scheme information – respondents said they struggled to receive the information on time from the schemes and expressed confusion about the introduction of a second data template. • Employer/trustee guide – respondents raised concerns with our view on the use of illustrative values when comparing potential member outcomes. We would like to thank all respondents for their constructive feedback. We have carefully considered all responses and have revised our guidance where appropriate.

Response to feedback received

We have made some amendments and additions based on the feedback we received. We are proceeding with the guidance largely as consulted. For each question in the consultation we have set out a summary of the feedback received and our response.

Intent and scope of guidance (Q1)
We asked whether stakeholders agreed with the scope and intent of the guidance.

Feedback received:
Some respondents were concerned that publishing the document as non-Handbook guidance could make it hard for firms to find and refer to. Respondents suggested we incorporate the guidance in the Handbook.

Our response:
Having considered the available options, we have published the Finalised Guidance in the Policy publications section of the FCA website. We have also signposted to the Finalised Guidance within the relevant Handbook modules. This will ensure that the Guidance can be located and referenced easily in the future.

High level regulatory framework (Q2)
We proposed guidance on the high level regulatory regime for providing pension transfer and conversion advice. This included guidance on:

- the permissions required to give advice on pension transfers and pension conversions
- the definitions included in our Handbook and how these are applied
- how different sections of our Handbook requirements on pension transfer and conversion advice interact with one another

Feedback received:
Many respondents requested clarification on the correct interpretation of the term 'independent' when considering 'appropriate independent advice'.

Some respondents did not agree with our good practice example in which a firm with full pension transfer permissions excludes advice on giving up any DB pensions that the client holds, unless specifically requested in its terms of business.

They considered that the example was inconsistent with the requirement to disclose a firm's services and with a holistic financial planning service.

A respondent suggested that there should be a separate permission for opt-outs with no replacement scheme, rather than requiring full pension transfer permission. They emphasised the difference in the advice processes in each scenario.

Another respondent said that the rules for advising on annuities are confusing. They asked for more guidance on how to provide annuity advice to a DB member without giving full transfer advice.

Our response:
We have added guidance clarifying that the 'independent' requirement within 'appropriate independent advice' is different from the requirement for firms to state whether they offer independent or restricted advice.

We have amended our good practice example so that it is consistent with the requirement to disclose a firm's services. It now shows how a firm with full permissions can disclose their ability to give DB transfer advice, while not automatically charging for such advice.

We have added guidance explaining that a firm does not require the permission for 'advising on pension transfers and opt-outs' for an opt-out where there would be no redirection of contributions to an FCA-regulated replacement scheme. For example, due to lifetime allowance or annual allowance considerations. This is because this type of opt-out is unregulated.

We also provided other examples where the permission is not required:

- advising on transfers from DC occupational pension schemes without safeguarded benefits
- advising a client whether to join a DB scheme
- advising an ex-spouse whether to use a pension credit awarded from a pension sharing order to acquire rights in a DB scheme

Some transfers resulting in an annuity purchase may be classed as a 'safeguarded to safeguarded transfer'. This means the transfer will not trigger the requirement to get advice. But some annuities are bought from flexible benefit products. This means that a transfer resulting in the purchase of 1 of these products will require advice. So we have clarified that as the firm will not know whether a potential transfer is likely to result in a recommendation to another safeguarded benefit scheme when starting the advice process, they should treat the advice process as if it might result in a transfer to flexible benefits.

Professional indemnity insurance (Q3)
We proposed guidance on how personal investment firms (PIFs), manufacturers and distributors should meet our requirements when securing, manufacturing or distributing PII.

Feedback received:
Many respondents expressed concern about the rising cost and availability of PII for personal investment firms advising on pension transfers. It was suggested that we have underestimated the challenge faced by firms to get cover in the current market and that these challenges would widen the advice gap for consumers.

Some respondents thought further examples of good and poor practice would be useful, with the wording of PII policies highlighted as an area of interest.

Some respondents did not think that our guidance on sub-limits was sufficiently clear. They asked us to state whether or not our rules permit the use of sub-limits.

A respondent did not support our guidance to PII manufacturers and distributors on product development. In their view, the language used creates uncertainty about the extent to which insurers must assess the financial standing and capital adequacy strength of firms it offers insurance to.

Our response:
While there is clear evidence that the PII market in relation to DB transfer activities is hardening, we consider that the ultimate root cause is the quality of advice given. We hope that, going forward, firms can demonstrate higher rates of suitable advice and that this guidance can help the market in achieving good advice on a consistent basis. This should eventually be reflected in the PII rates that are charged.

Following requests for further examples, we have added 2 additional examples of good practice to this section. The first highlights the importance of relevant expertise when PII providers review client files. The second looks at how the information in policy schedules issued by a PII distributor can be presented to their client.

We have also amended our guidance to clarify the risk posed by accepting cover which is subject to sub-limits. Sub-limits risk unreasonably limiting the cover under the firms' PII policies, for example meaning they do not provide for the minimum limits of indemnity in the rules.

Our expectations set out in the guidance are in line with our product governance requirements, and our wider Handbook rules and guidance.

Firms' systems and controls (Q4)
We proposed guidance on the systems and controls we expect firms to have when giving DB transfer advice. This included guidance on governance procedures, management information (MI) and managing conflicts of interest.

Feedback received:
Almost all of the respondents agreed with our explanations on how firms should manage systems and controls and conflicts of interest when giving DB transfer advice.

Some respondents asked for more guidance on appropriate MI when dealing with insistent clients.

Our response:
We have added another poor practice example. The example considers a firm with a high proportion of insistent clients that keeps no records about this proportion. This leads to a situation where their records indicate that they advise most of their clients to keep their DB pension, while their new business record shows a high average investment in DC pensions. This emphasises the importance of firms keeping adequate records and monitoring their business appropriately.

Continuing professional development (Q5)
We proposed guidance on how firms can ensure their Pension Transfer Specialists maintain competence after they have been assessed as competent, which includes having attained the appropriate relevant qualifications. This included guidance on reviewing their employees' competence, and the training and competence arrangements firms can set up for their employees. Our guidance states that firms must use an 'external independent provider to provide at least 5 hours of continuing professional development (CPD) each year'.

Feedback received:
Some respondents asked for clarification on the meaning of 'external' in the context of an 'external independent provider'. They asked whether this could be delivered by a product provider.

A respondent suggested by including a list of topics covered by the CPD training session in our good practice example, we are implying that there is a limited list of available topics for CPD.

Our response:
We have clarified what is meant by an 'external independent provider'. It is an organisation or person that is not associated with or influenced by the firm's own view. Another firm in the same group is unlikely to meet this expectation. We have also confirmed that product providers that are not associated with the firm may provide CPD opportunities.

In our first good practice example on CPD, we have clarified that the list of topics suggested is not exhaustive. To demonstrate this further, we have added a further good practice example setting out an approach to a balanced ongoing CPD programme.

Financial promotions (Q6)
We proposed guidance on how firms should meet their obligations when undertaking financial promotions for DB transfer advice. This focused on the obligation on firms not to use misleading commentary to attract clients.

Feedback received:
Some respondents suggested the guidance was not strong enough to eradicate poor behaviour such as factory gating.

Some respondents suggested that the guidance should be clearer on the need to explain the risks of transferring, not just the benefits, when undertaking financial promotions for DB transfer advice.

Our response:
We have added guidance directly addressing verbal communications such as factory gating. This confirms that our financial promotion rules are not restricted to written communications, and apply to firms who approach consumers to promote their services more directly. We have also added factory gating as an example of poor practice.

We have added a good practice example which shows a firm giving a fair weighting to the potential risks as well as the potential benefits of a pension transfer on its website. We have included a list of risks that could be explained, but note that this list is not exhaustive.

Unregulated introducers (Q7)
We proposed guidance on how firms should act when working with unregulated introducers.

Feedback received:
Some respondents stated that the guidance implied we have no issues with how firms work with regulated introducers.

Some respondents suggested that the guidance should specifically include content on using lead generators.

Our response:
We have added guidance for advisory firms that rely on regulated introducers to gather information on their client. This explains that an authorised firm without the permission may not know the scope of information needed to give DB transfer advice. Advisory firms may wish to confirm with the client that all of the information is correct, or to clear up any uncertainties or inconsistencies.

We did not include separate guidance about working with lead generators. We consider that lead generators are a subset of unregulated introducers so are covered by the relevant guidance.

Charges disclosure (Q8)
We proposed guidance on how firms should disclose charges for DB transfer and conversion advice before giving full or abridged advice. This included guidance on the disclosure of the firm's generic charging structure and the client's personalised charges disclosure. We also provided examples of good practice on disclosure of charges.

Feedback received:
Many respondents pointed out that our good practice example did not comply with the requirement to make clear that the advice charge is paid irrespective of the outcome.

Some respondents asked for clarity on our personalised charges disclosure guidance.

When giving abridged advice, they asked whether they can disclose only the charges for the abridged advice process. They also asked whether the personalised charges disclosure must be provided before the advice process starts, rather than before the personal recommendation is presented to the client. They expressed concerns that they would struggle to start the advice process in good time to complete it within the 3-month guarantee window for the cash equivalent transfer value (CETV).

A respondent suggested that if a client uses a different firm to implement a transfer then they could be charged twice for implementation. For example, if the original firm does not act for insistent clients. This is because they have already paid the Pension Transfer Specialist a non-contingent charge that includes the cost of implementation. They considered this would be a form of contingent charging. They also suggested that the guidance did not make clear how firms should split the total charges depending on which firm undertakes implementation in a two-adviser model.

Another respondent suggested that we could do more to make clear that clients can opt out of ongoing advice.

Our response:
We have amended the good practice example to confirm that an advice charge must be paid irrespective of the outcome.

We have added guidance explaining that a firm giving abridged advice must disclose both the charges for abridged advice and full advice at the outset.

We have added guidance clarifying that the personalised charges disclosure must be provided before the advice process starts, not before a personal recommendation is presented to the client.

A firm should not provide a service before they have informed the client of the cost of that service and given them the option to confirm whether they want to proceed.

We have added guidance explaining that we think that it would be good practice for firms to disclose upfront whether they will implement a transfer for an insistent client if they advise against transferring. This also explains that firms should consider including a warning that the insistent client may incur further charges if they choose another firm to implement a transfer in the event of a negative recommendation. Consumers can then make an informed decision about whether to proceed to take advice from the firm and understand the consequences of acting against the firm's advice.

We have added clarification that firms need to work out between them how the split of the total charges works in a two-adviser model. We have also set out further general guidance on how to apply the rules on non-contingent charging.

In the good practice example on the personalised charges communication, we have made it clearer that ongoing advice is optional, and the client can opt out at any time.

Providing triage services (Q9)
We proposed guidance on how firms should deliver a non-advised triage service.

This included guidance on the aim of a triage service, what that service should and should not include, and how to present the information within that service appropriately.

Feedback received:
Some respondents asked for clarification on whether advice firms appointed by schemes or employers should be developing modelling tools for scheme members before they take advice. They considered that such tools are non-personalised as members input their own personal details in the tool and so should be considered non-advised tools.

A respondent suggested that firms may want to use predictive factors within triage. For example, firms may want to use the size of scheme multiples to assess the likely suitability of a transfer.

Another respondent suggested that firms should have a process in place for referring a consumer to the Money and Pensions Service (MaPS) during triage.

Our response:
Based on our existing perimeter guidance, we consider that providing a comparison of what a member could get in their DB scheme with what they might get if they used their personal transfer value to invest and purchase a future annuity or go into drawdown is likely to be advice. This is because it is likely to influence the customer's decision to transfer or remain in the scheme. So we have added text to clarify that the firms using such modelling tools are likely to be crossing the advice boundary when giving triage services.

We think that the use of predictive factors, such as scheme multiples, requires judgement and takes into account the customer's individual circumstances, so would not be appropriate within a triage service. We have added guidance to reflect this. We have also confirmed that triage is not a process for a firm to select consumers they think might be more suited to a transfer.

We have added guidance explaining that firms who do not offer triage services should consider signposting consumers to The Pensions Advisory Service within MaPS.

Advice process and scope of know your client information (Q10)
We proposed guidance on the scope of information firms need to get about their client before making a personal recommendation on a DB transfer or conversion. It covered the key areas of information firms should collect, and how firms can obtain enough information to be able to make a personal recommendation.

Feedback received:
Almost every respondent agreed with our expectations on how firms should approach the advice process and the scope of know your client information.

A respondent was concerned about asking a client about their capacity for loss as part of the information gathering process. They explained that clients will not be able to accurately assess their capacity for loss due to the number of factors impacting it. They suggested that capacity for loss should be assessed as part of the advice process.

Our response:
We do not expect clients to be able to accurately assess their capacity for loss. It is the responsibility of the firm to ask the right questions to be able to make this assessment, rather than simply asking the client what their capacity for loss is. We have added guidance in the attitude to investment risk section to emphasise this. We have clarified that assessing capacity for loss is part of the information gathering exercise. We have also clarified that firms need to assess whether the client has the necessary capacity for loss to achieve their objectives.

Finding out about the client's circumstances, knowledge and experience (Q11, Q12)
We proposed guidance on the information firms should obtain about their client's circumstances. This includes their personal and family circumstances, their financial circumstances and other assets the client may have.

We also proposed guidance on how firms should gauge whether their client has the necessary knowledge and experience to understand the risks involved in transferring their DB pension.

Feedback received:
Almost every respondent agreed with our proposed guidance.

A respondent stated that more should be done to establish whether the client is aware of the value of their DB benefits.

Our response:
Few consumers will have experience of giving up a DB scheme or fully understand the transfer of risk from employer to themselves. So we have added guidance explicitly stating that firms should establish whether the client understands the value of what they are giving up and the risks they will have to accept. This still applies when advising individuals who have worked in financial services. We have emphasised that a firm should have effective conversations to understand what the client knows about DB and DC pensions, as well as managing investments over a long and indeterminable future period.

Assessing attitude to transfer risk and investment risk (Q13)
We proposed guidance on how firms should find out how their client feels about giving up a certain lifetime income in exchange for flexible benefits. We also proposed guidance on how firms should assess their client's ability and willingness to take on investment risk.

Feedback received:
Most of the respondents agreed with our proposed guidance.

Some respondents suggested that our guidance on considering capacity for loss could be clearer.

A respondent pointed out that the impact on an individual's standard of living due to a fall in investment needs to be considered.

Our response:
We have expanded our guidance on considering a client's capacity for loss. This explains that firms need to make a judgement on the extent to which a client has the capacity for loss given the alternative of not having to accept any.

Assessing client needs and objectives (Q14)
We proposed guidance on how firms should assess client needs and objectives. This included guidance on how firms should work through specific compromises with the client, when their needs and objectives conflict.

Feedback received:
Almost every respondent agreed with our proposed guidance.

Some respondents suggested that the guidance should be clearer that the client's best interests are not restricted to financial best interests.

A respondent suggested that we should expand our guidance to cover scenarios where a firm needs to assess the merits of a transfer when the member is not close to their retirement age and is uncertain about their retirement objectives. For example, if the trustee makes a one-time Enhanced Transfer Value (ETV) offer and a younger member seeks advice.

Our response:
We have clarified that firms should consider more than just a client's financial best interests. For example, the potential for a better financial outcome needs to be assessed against other factors such as the client's attitude to transfer risk.

We have added a poor practice example in the section on Appropriate Pension Transfer Advice (APTA), covering a scenario where a young member takes advice on an ETV offer. This emphasises the importance of fully understanding the needs and objectives of the client in retirement, even though the offer was a one-off opportunity.

Considering scheme data (Q15)
We proposed guidance on how firms should gather information about the ceding scheme. This included guidance on what data to gather, that firms should use their best endeavours to get the information and how to use it appropriately.

Feedback received:
Most of the respondents agreed with our proposed guidance.

Some respondents were concerned that the guidance on how to estimate factors for calculating incomes at different retirement ages was open to interpretation.

A respondent pointed out that, from a legal perspective, the term 'best endeavours' requires the firm to do whatever is required, irrespective of cost. This is impractical when considering scheme data. They suggested the term 'reasonable endeavours' is more appropriate.

Our response:
We have added further guidance on the estimation of factors. This includes clearly communicating the uncertainty arising from these estimations, and, if factors can't be estimated, the need to assess whether advice should be given at all.

We agree with the legal implications of the term 'best endeavours', and have changed this to 'reasonable endeavours'.

We have added guidance on how to use the new ceding scheme information. This clarifies that the firm only needs to collect the information relevant to the client's personal circumstances, provided that it is sufficient to understand how the scheme works. It also emphasises the importance of the firm using information about the ceding scheme responsibly and in a measured way. It should not be used in a way that misleads a client into taking a particular course of action.

Delivering abridged advice and identifying clients who meet the carve-out tests (Q16)

We proposed guidance on how firms should deliver abridged advice, including the available outcomes of abridged advice and the types of analysis the firm is and is not permitted to undertake. Firms may also use the abridged advice process as a way of identifying consumers who are eligible for the carve-outs from the ban on contingent charging. The guidance sets out how firms can identify clients who meet the tests for the carve-outs.

Feedback received:
Most of the respondents agreed with our proposed guidance.

Many respondents stated that it would be helpful to have more guidance on what can or cannot be included in abridged advice, including more examples of good and bad practice.

Many respondents asked whether a guaranteed CETV is required as part of abridged advice. They expressed concern that this could lead to a greater risk that the 3-month guarantee will expire. Some respondents asked whether an estimated transfer value could be used to reduce this risk.

Some respondents queried whether there was any difference in information gathering for abridged advice and full advice. It was also suggested that there would be an unclear outcome if insufficient information is collected, and the firm should ask the client if they want to continue to full advice.

Respondents asked:

- whether it is acceptable for firms to encourage a client to take abridged advice instead of full advice, based on their knowledge of the client's circumstances
- for further guidance on carrying out abridged advice when considering multiple schemes or a partial transfer
- for further guidance on the use of cashflow modelling within abridged advice
- for more clarity on how to treat a client who proceeds to full advice as an insistent client after receiving a recommendation not to transfer from abridged advice
- how it would be possible to test for a client's eligibility for carve-outs before starting the regulated advice process

Our response:
We have added a good practice example to demonstrate how a firm may make a recommendation not to transfer, without the need to obtain full scheme information.

We understand the concerns regarding the potential time constraints when carrying out abridged advice. We have added guidance for firms who wish to use an estimated transfer value during this stage of the advice process.

Firstly, firms should be able to evidence that the estimated transfer value has come from the scheme. If a firm uses an estimated transfer value and makes a personal recommendation to remain in the scheme, they should communicate any assumptions and uncertainties about the outcome to the client. If the client gets a guaranteed transfer value and proceeds to full advice, the firm should review the abridged advice using the guaranteed transfer value to confirm if the outcome is still valid. If it changes, the client can then reconsider their decision to proceed to full advice. The firm should also show any change in the cost of full advice from the value provided previously in the personalised charges communication.

We have added guidance to clarify the difference between the information required to carry out abridged advice and full advice. We have also set out that if firms do not gather enough information, then the firm should decline to give advice, including giving an unclear outcome, to prevent a breach of COBS 9.2.6R.

We have added guidance explaining that a firm should consider whether it would be more appropriate to offer a retail client abridged advice rather than a full DB transfer advice, or to wait until they are closer to retirement before seeking advice. This means firms will meet their responsibilities under the client's best interests rule and FCA Principle 6.

If a firm is considering multiple schemes or a partial transfer, they will likely require Appropriate Pension Transfer Advice (APTA) to compare the different potential outcomes. So we have added guidance explaining that abridged advice is less likely to be effective in these scenarios.

We have expanded our guidance on the use of cashflow modelling within abridged advice, to cover specific scenarios raised to us by respondents. The guidance confirms that firms should only provide projections of benefits for options available in the DB Scheme. If they provide any projections of benefits based on the transfer value, firms would be undertaking APTA. This includes the use of generic projections based on the transfer value and modelling of possible annuity or drawdown outcomes.

We have added guidance explaining that a client should not be treated as insistent until they have been through the full advice process.

We have added guidance in the triage section explaining that a firm can find out more about a client's circumstances if the information they provide suggests that they might meet the test for carve-outs. But firms should take care not to imply their suitability for a transfer by doing this.

Preparing and explaining the transfer value comparator (Q17)
We proposed guidance on how firms should prepare and explain the transfer value comparator. This included guidance on when a transfer value comparator is required and why it is important for a client to understand it.

Feedback received:
Almost all the respondents agreed with the proposed guidance.

Our good practice example on firms' explanations of the TCV stated:

'The difference between what you've been offered and the cost of buying the same benefits if you transferred means you're currently getting those benefits cheaply, especially as your contributions to the scheme were relatively low.'

Some respondents pointed out that the words 'especially as your contributions to the scheme were relatively low' are irrelevant. This is because the benefits being considered by the TVC are usually much larger than member contributions.

Our response:
We agree with the feedback on our good practice example, and have removed the words 'especially as your contributions to the scheme were relatively low'. We have modified the example so that it refers to the relative cost-effectiveness of securing the benefits via the DB scheme or in a DC environment.

Appropriate pension transfer analysis description and carrying out cashflow modelling (Q18)
We proposed guidance on carrying out APTA. This included guidance on areas we expect to be included in APTA, the use of cashflow modelling within ATPA, and good and poor practice examples.

Feedback received:
Most of the respondents agreed with our high-level description of APTA and how firms should carry out cashflow modelling.

On APTA, respondents:

- Queried our position and example about firms that have a pre-determined view of circumstances that are likely to result in a positive recommendation, in relation to high transfer values, resulting in high multiples which could give better monetary outcomes.
- Asked if we expect firms to start APTA from a blank slate for every client. They suggested that if firms have an APTA framework, which sets out rules and controls, they could ensure consistent and robust advice outcomes.

On cashflow modelling, respondents:

- Suggested that clients may not understand the impact and interactions of many assumptions used in the process. They suggested that this could lead to a false sense of security for clients.
- Suggested that firms should not only model based on replicating DB income, but also on the actual expected pattern of withdrawals.
- Asked if we consider projections of benefits to be a form of cashflow modelling.

Our response:
We have added additional guidance and a poor practice example emphasising the risk of having a pre-determined view about circumstances which are likely to result in a positive recommendation. For example, a scheme offering very high transfer values does not mean that a transfer is suitable for every member the firm advises as suitability is not based on higher monetary outcomes alone.

As the information in APTA needs to be personalised to each client, we think that having rigid controls in place means there is a risk that specific elements needed for a client could be omitted. We have added a poor practice example to highlight the risks associated with using a formulaic approach to APTA.

We have added guidance highlighting the importance of communicating modelling risk to clients when the cashflow modelling is dependent on many assumptions.

We have added a poor practice example demonstrating the importance of considering the expected patterns of withdrawals when preparing cashflow modelling for a client.

We consider that projections of the future benefits, from either the ceding or proposed scheme, in APTA are likely to be cashflow modelling. We have added guidance outlining best practice when using such analysis produced by a third party in APTA. In this case, they should be in real terms and include stress-tested outcomes if the firm wants to consider the figures as part of APTA and present them to their client.

Approach to appropriate pension transfer analysis under certain scenarios (Q19)
We proposed guidance on how to consider the following areas when carrying out APTA:

- scheme solvency
- death benefits
- early retirement
- pension commencement lump sum (PCLS)
- workplace pension schemes (WPS)
- partial transfers/multiple schemes
- self-investors
- 2-adviser model
- overseas transfers

Feedback received:
Most of the respondents agreed with the proposed guidance and examples we provided.

The feedback generally focussed on WPSs and demonstrated that more guidance on considering a WPS would be helpful.

Many respondents felt that the guidance put too much emphasis on recommending transfers into the default arrangement in a WPS. They think that the guidance overstates the benefits of WPSs and default funds.

A respondent asked for more guidance on whether to consider only the member's most recent WPS default arrangement.

Another respondent suggested that more emphasis should be put on the ability of the WPS to pay for adviser charges when considering it as a transfer destination.

Some respondents were concerned with our guidance on ongoing advice when considering a WPS. They felt that our guidance implies that ongoing advice does not benefit clients. They suggested that not having ongoing advice can exacerbate the transfer risks faced by clients. They stated that our guidance should emphasise that receiving ongoing advice is a positive outcome.

Respondents also suggested that:

- the guidance should be clearer about where the different responsibilities within APTA lie in the 2-adviser model
- there should be more guidance on both APTA and taking a PCLS and APTA and transferring overseas

Our response:
We have added guidance to address concerns in the section on WPSs. We have explained that if the most recent WPS is not available, firms should consider the next most recent qualifying WPS that is available from a previous employment. We have also explained that a previous WPS may also be considered, even if the most recent WPS is available. For example, if the firm knows it will better suit the client.

We have clarified that the requirement to compare the advantages and disadvantages of the proposed scheme and the relevant WPS default arrangement applies even if there are circumstances where there may be consideration for not using a WPS.

Ongoing advice can provide value for clients in certain circumstances. But often the price the consumer pays for this service is more than can be justified by what the service entails. We have amended our guidance to explain that firms should consider alternative ways of reducing transfer risks, rather than through ongoing advice services.

We have added good and poor practice examples dealing with a WPS that does not facilitate ongoing advice charges. The alternative option for the client is to transfer into a non-WPS but pay charges out of the fund resulting in a lower fund and lower disposable income in retirement. These examples emphasise the importance of weighing up the outcomes of both options in this scenario.

We have added another good practice example on the 2-adviser model. This helps to explain the responsibilities of the two firms within this model.

Regarding accessing a PCLS, we have added 2 poor practice examples. The first shows a firm failing to consider a client's alternatives to using the tax free cash to fund an expense, such as taking a loan or extending their mortgage borrowing at low cost. The second focuses on firm placing too high a value on the tax-free status of the lump sum, and assuming that all clients would take the maximum PCLS.

We have also added further guidance on overseas transfers in areas that we think pose particular risks for firms. This includes our expectations of firms when the proposed receiving scheme is a UK based international Self Invested Personal Pension (SIPP), and an overseas advisory firm is advising on the proposed investments within the SIPP. In these circumstances, the UK firm must take care to consider all of the charges within the SIPP wrapper and the underlying investments when carrying out APTA. It also includes guidance for firms on being alert to the additional risks that arise when an overseas adviser is advising on the proposed destination, particularly the influence the overseas adviser may exert on the client to act against the firm's advice.

Demonstrating suitability (Q20)
We proposed guidance explaining how firms should demonstrate suitability. This included guidance on preparing effective and credible suitability reports. It also included guidance on dealing with insistent clients. Finally, we proposed guidance on why firms must have effective record keeping processes.

Feedback received:
Most of the respondents agreed with our explanations of how firms should demonstrate suitability.

Some respondents asked for more guidance on suitability reports, including:

- how to keep suitability reports short while still being able to keep the client informed
- clarification on the meaning of providing suitability reports 'in good time'

Some respondents asked for more guidance on producing the 1-page summary within the suitability report, including:

- Producing the 1-page summary as part of abridged advice. Respondents suggested this implies the need to obtain scheme information and revalue DB benefits.
- How the 1-page summary should be used when the recommendation is to purchase an immediate annuity.

A respondent was concerned about providing the client with a draft suitability report ahead of the advice meeting. They suggested this introduces the risk that the client feels their wants have not been fully addressed and the firm then changes the suitability report to reflect this, rather than what is best suited to their needs.

Another respondent misunderstood the good practice example on demonstrating suitability as part of the suitability report summary.

Some respondents asked for more guidance on advising on estimated or expired transfer values.

Some respondents asked for clarification on the level of understanding that must be demonstrated by their client.

Our response:
We have added guidance explaining our expectations of when firms should provide suitability reports to their clients. This states that the client should have enough time to read and understand the report, and that the firm should have enough time to check this understanding. The amount of time needed to meet these expectations could vary depending on the complexity of the document or the client's knowledge.

We have added further guidance on the 1-page summary within the suitability report. This includes guidance on producing the summary as part of abridged advice. It also explains the option to adjust the column headers in the 1-page summary. They can do this if, for example, a firm recommends a transfer for reshaping income via an immediate annuity. It also sets out that we expect firms to provide information that is not routinely required in the 1-page summary, if that information is contained elsewhere in the suitability report.

We have added further guidance on the use of draft reports. If firms have properly followed the processes for getting to know their clients, final suitability reports should rarely vary from draft reports, unless the client withheld information or there was an inconsistency in a later statement by the client.

We have amended our good practice example on demonstrating suitability to show more clearly that this is part of the suitability assessment, not the suitability report summary.

We have added guidance explaining that clients must understand how the risks of advice apply to them personally, rather than in just a generic way.

We have added further clarification on the use of estimated transfer values. This includes when it may be appropriate to use them, and the communication requirements when they are used. This also considers the use of expired transfer values.

Scheme data (Q21)
We consulted on the data that we consider firms should collect from ceding schemes to give suitable advice. We acknowledged that it was laid out differently to the similar template prepared by the Pension Administration Standards Association (PASA). The PASA template was designed to help administrators understand what scheme data information they should provide to firms and was consulted on at the same time as our guidance. We said that firms should accept the relevant scheme information, regardless of the format used to prepare it.

Feedback received:
Most respondents agreed with our proposed guidance. They recognised that it was aligned with the information that firms need to prepare a TVC and carry out APTA. Some respondents were confused about why we had prepared another form of scheme data collection in addition to the PASA's version and did not recognise that the content was broadly the same.

Many respondents said that obtaining timely and accurate data from DB scheme administrators can be frustrating and time consuming. They said the data they get is rarely as detailed as set out in the proposed template. They said they particularly had trouble getting early and late retirement factors and Guaranteed minimum pension (GMP) information. These respondents wanted the FCA to ask The Pensions Regulator (TPR) to promote the template widely for use by schemes.

A few respondents suggested additional detail for the template, including:

- further information on scheme funding
- whether there are any established customs or practices in place in relation to early or late retirement
- an early retirement quote if above minimum retirement age
- the current value of the revalued pension
- the specific inflation measure used for revaluation or pension increases
- the precise level of any caps or collars that apply
- whether additional voluntary contributions can be transferred independently of the main scheme and vice versa

Our response:
We have liaised with PASA and found that we and PASA received similar feedback expressing concern about having 2 sets of data information in circulation. We understand the need for consistency regarding the information schemes expect to provide and the information advisers expect to receive. So together with TPR, we have worked with PASA to produce a scheme information set that can be used by both schemes and advisers when a member is considering a pension transfer.

TPR have formally co-branded the information set and together, we will maintain the information set going forward.

We hope that by producing a consistent set of information, the information gathering process can be streamlined. Schemes will know what information they should provide, and advisers can avoid making repeated requests to schemes.

The data set is intended to cover most of the benefits found in schemes. As some schemes will have non-standard benefits that may need further clarification, using the data set will not remove the need for further contact between firms and schemes. Schemes may also provide the information in any different form that suits them.

We have worked with PASA on the content of the data set and amended it to reflect feedback received by us and PASA. We have not included all the suggested amendments. In deciding which pieces of information to include, we and PASA considered the benefit to advisers of receiving the information, the ways in which it could be misused, and the willingness and ability of schemes to provide it.

Employer/trustee guide (Q22)
Where an employer or trustee is thinking about helping their employees with their workplace pension scheme, wider retirement planning, or other aspects of their financial affairs, they will generally not need to be authorised by us. We and TPR have previously produced a factsheet to set out what help employers and trustees can provide on financial matters without having to be regulated.

We consulted on an updated version of the factsheet to address specific concerns by employers and trustees on how the regulatory boundaries apply when they are trying to help members of a DB scheme. This included guidance on how employers and trustees might avoid activities which would need authorisation, such as making arrangements for transactions in investments or advising on giving up safeguarded benefits. It also covered matters which employers and trustees should consider when appointing advice firms who are independent or restricted.

Feedback received:
We received a high number of responses to this question compared to others. Many respondents submitted a response to this question alone.

Most respondents agreed with the guidance in the factsheet. They welcomed it as a helpful improvement on existing material.

Many raised concerns about our view on the provision to DB members of illustrative figures to compare potential outcomes for members if they were to take a transfer from a DB scheme and instead purchase a future annuity or a drawdown product.

They stated that these figures lead to members being more informed and engaged with their pension and provide context for a transfer value. They felt that without these figures, members could be more susceptible to scams and unsuitable advice. Many respondents stated that these figures provide no commercial benefit to the employer or trustee so cannot be seen as arranging 'by way of business'. They also pointed out that most of the members receiving these figures will still be required to go through the advice process, should they want to transfer.

Some respondents asked for more guidance on providing a member with a transfer value that they haven't asked for. They asked for clarification on whether they can provide unsolicited transfer values more than on an annual basis.

A respondent stated they are aware of systems used by firms which ask members questions about their attitude to risk before determining an investment return for a drawdown illustration. They expressed concerns about the use of these tools as they believe this constitutes advice.

Some respondents asked for clarity on what is meant by a TVC, and what it means to provide a TVC by way of business.

Respondents also said that:

- it is not clear why employees can't use the pensions advice allowance to pay for advice on giving up safeguarded benefits
- the ability of a restricted adviser to provide advice is artificially constrained by limitations on arrangements made by employers/trustees

Our response:
We understand that employers or trustees of some schemes want to provide context for transfer values. It appears that employers and trustees do recognise the risk that transfer values may create behavioural biases and influence the decisions that members take. Providing illustrative figures about the outcomes that may result from a transfer potentially carries the same risk of swaying a member's decision.

We have clarified that we consider that employers and trustees should not give their scheme members illustrative figures that compare the outcomes a member might get if they keep a safeguarded benefit or transfer/convert it into flexible benefits. This kind of analysis might steer a member towards a specific course of action, which is part of the regulated advice process. As a result, we consider that providing such figures could mean that firms are likely to be giving advice.

But we fully recognise that employers often want to help their employees. With this in mind, we have also added guidance outlining circumstances where illustrative figures can be used, as well as other information that employers and trustees can provide that may be helpful to the client. To summarise, employers and trustees can:

- provide illustrative figures based on member options within the DB scheme, such as the effect of giving up pension increases
- give guaranteed transfer values that members have requested
- provide information on life expectancies and/or typical payment periods to help members understand how long their retirement might last
- signpost reliable sources of independent information, such as annuity comparison tools on MaPS
- give members factual information which is generally available to the public, such as the level of an equivalent immediate annuity

We have also clarified that tools requiring a value judgement, such as asking members questions about their attitude to risk and drawing conclusions from their responses to determine an investment assumption, are likely to be advice. This includes information about future annuities or drawdown.

Employers and trustees can give guaranteed transfer values that members have requested. They may also give transfer values if the member hasn't asked for them. But we think that employees and trustees should consider whether this results in good outcomes for members. We have added guidance on the information employers and trustees might want to give members to help them understand the relationship between the transfer value and the DB scheme income, if they decide to give a transfer value.

We have added guidance explaining a TVC. We have explained that the best way to avoid being considered to be in the business of undertaking arranging or advising activities is to help consumers in ways that do not involve those activities.

We have explained why we concluded that the pensions advice allowance cannot be used to pay for advice. This is because the legislation limits the use of the allowance to pensions and retirement advice which is not advice on safeguarded benefits. This means that it cannot be used for advice on conversion or transfer of pension benefits (Article 53E of the RAO).

We have also re-ordered some of the guidance so that it is clearer which sections are likely to be of interest to employers and trustees of both DB and DC schemes, and which sections are relevant to DB schemes only.

Cost benefit analysis
As part of our guidance consultation, we carried out a cost benefit analysis (CBA) which analysed the expected costs to both firms and us as well as the expected benefits to consumers as a result of the new guidance.

Feedback received:
We did not receive any feedback on our CBA.

Changes made to the guidance as a result of feedback received

We have outlined the changes made in the relevant sections above. In summary, we have:

- Clarified how to appropriately use estimated transfer values when carrying out abridged advice.
- Explained our stance on the use of illustrative values when comparing potential member outcomes if they were to transfer out of a DB scheme.
- Expanded the guidance and added further examples of good and poor practice in a number of areas. These include charges disclosure, abridged advice and APTA.
- Together with TPR, we worked with PASA to amend the set of information that advisers should receive from schemes when advising on a pension transfer
- Made consequential changes to other parts of the guidance to reflect feedback received.

You can access the full text of the guidance consulted on here

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