



FCA-TPR-TPAS joint protocol

January 2019

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Purpose

The purpose of this protocol is to enable early intervention by the Financial Conduct Authority (FCA), The Pensions Regulator (TPR) and the Pensions Advisory Service (TPAS) (known collectively as 'the organisations') to help pension scheme trustees ensure that their members are adequately and fully informed when considering transferring their defined benefit (DB) pensions.

The organisations will also work with the Pension Protection Fund (PPF) as necessary. The organisations will meet quarterly, with PPF invited to attend as appropriate, to provide updates on live issues and discuss potential upcoming areas of concern. The meetings will be hosted and chaired on a rotation basis by each organisation.

This protocol was developed over 2018 and approved by the FCA, TPR and TPAS in November 2018.

Given the changes announced by the government to create a new Single Financial Guidance Body (SFGB) that incorporates TPAS, the organisations will work closely with the SFGB as its services become operational.

Sharing information

The organisations intend to share information, to the extent permitted by law, to better identify when they might want a joint response to an event, and to ensure clear communication between each other when working with pension schemes.

TPR will regularly share (expected to be every two weeks) with the FCA and TPAS, its market intelligence defined benefit report. Where a company regulated by the FCA appears on the report, TPR will let the FCA know if it requires any company specific information.

The FCA, TPR and TPAS will have monthly conference calls at a working level to share relevant intelligence. The PPF will be invited to attend these calls. Annex 4 sets out a standard agenda for these calls. The FCA will keep action and decision logs and circulate these promptly after each call.

Joint communications to pension scheme trustees (general)

The organisations have created template letters that will be adapted for each specific case. These letters include:

- A cover letter to the pension scheme trustees reminding them of their obligations, setting out what the member letters are for, when they should be sent to members, how to contact each of the organisations and the information they should collate and send to the FCA. This information will help with the monitoring of developing risks (see Annex 1).
- A member letter setting out important information on points the members should consider before making a decision and where they should go for impartial guidance. This letter should be sent out by the pension scheme administrators when a member asks for a Cash Equivalent Transfer Value (CETV) quote, or where relevant, to all members or a specific cohort of members (see Annex 2).

Where any of the organisations want to suggest sending any of the above letters to a pension scheme trustee they should send an email to the organisations. The email should set out:

- The name of the company/pension scheme
- The reason for the request
- Any suggested changes to the template letters
- Any relevant deadlines

Each organisation will respond to the request within three working days. If a response is required sooner this should be clearly set out in the requesting email.

Once all the organisations have agreed, TPR will be responsible for sending out the letter to the pension trustees or administrators, copying in the FCA and TPAS within two working days of agreement. TPR will be responsible for maintaining a log consisting of:

- the name of the pension scheme contacted
- the date contacted
- the type of letters sent to the scheme
- confirmation from the scheme trustee that they have issued the letter to members
- the number of scheme members to which the tripartite letter was initially sent (where the letter is being sent to multiple scheme members simultaneously).

Each occasion where letters are sent will be discussed at the quarterly meetings to see whether there are improvements for future issues.

Joint communications to pension scheme trustees (specific)

This protocol sets out the process where the TPR has agreed a pension scheme restructure. It is recognised that the organisations will however want to have a joint response to a wider range of events that may lead to increased CETV activity. The letters and approach that will be used are similar irrespective of the trigger event, although it is the restructuring of a scheme that is detailed below.

Stage 1: Agreement

Where TPR has agreed a pension scheme restructure it shall inform the FCA and TPAS of the following:

- the details of the agreement including deadlines
- the number of members affected
- any other information of relevance

As required TPR will inform the trustees at this stage that the organisations will be providing them with template letters that must be sent with their first communication. TPR will provide a copy of the cover letter to the trustees. These cases will also be discussed during a quarterly meeting, even where discussions are ongoing. This will allow the organisations to consider what action may be needed. Trustees who wish to obtain a template letter (as per Annex 2) should email: **CETV.letters@tpr.gov.uk**

Stage 2: First communication to members

Once notified by TPR at Stage 1, TPAS will consider whether the case is suitable for a dedicated hotline for queries. The FCA will consider any targeted action in specific regions (eg events, correspondence to advisers etc).

If any amendments are required to the template letters, these will be agreed through an expedited sign off process at each organisation (see Annex 3). Once signed off, TPR will provide these to the trustees for them to send with their first communication to members. TPR will get confirmation from the trustees that these have been sent.

If the trustees raise concerns (eg on messaging or costs, etc) these will be dealt with, and any action agreed, quickly by the organisations. Consideration will also be given to engaging with other stakeholders.

Stage 3: Consider further communications

Depending on all of the circumstances and proportionality of doing so, thought will be given to re-sending the letter or further communication to the scheme's members, the trustees or administrators.

Stage 4: Review

Periodically, the organisations will evaluate the process and assess whether there are any further adaptations that can be made. As set out, this would take place, and notes taken, during the quarterly meetings of the organisations. The review will also consider the standard information and guidance available and seek feedback to ensure that the intervention by the organisations is timely, proportionate and effective.

FCA requesting information from pension schemes

Where the FCA wants to contact a particular pension scheme directly to get information from the Trustees on financial advisory firms advising on transferring out the scheme, it will first seek TPR's agreement. The FCA will also inform TPAS.

The FCA will keep a log of the pension schemes it has contacted for information and the information requested and received.

Sharing information

Where TPR is having, or has started, discussions with a company in relation to the restructure of its pension scheme it will inform the FCA and TPAS. Where these discussions are with a company regulated by the FCA, TPR will let the FCA know if it requires any company specific information. The organisations will use the monthly calls to do this.

Key contacts

Each organisation has also agreed a direct contact to act as their key entry and escalation point for these issues. This person can make decisions quickly on behalf of their organisation.

Agreement

This protocol has been created and agreed by the organisations with the intention that it will be kept under review. This has been agreed by the following representatives:



Megan Butler

Executive Director of Supervision
– Wholesale, Investments and
Specialist, Financial Conduct Authority



Nicola Parish

Executive Director of
Frontline Regulation,
The Pensions Regulator



John Govett

Chief Executive,
Single Financial Guidance Body

Annex 1: Sample template letter to be sent to pension scheme trustees



Napier House
Trafalgar Place
Brighton
BN1 4DW

www.tpr.gov.uk
www.trusteetoolkit.com

NAME and ADDRESS

Sent by email:

[Date]

Dear [Trustees/Trustee]

[Name of pension scheme]

We are writing to you because recent announcements about your scheme's sponsor(s). [insert reference/s to scheme specific announcement/s] and the associated press comment [or, where appropriate: recent press attention about the defined benefit sector as a whole] may have caused members of your scheme(s) to consider their transfer options.

We are aware that in such circumstances, and amid the uncertainty and speculation that can be associated with them, some members may request a cash equivalent transfer value (CETV) and transfer their benefits to a defined contribution (DC) arrangement. This may not ultimately be in the best interests of some members and they may be vulnerable to poor advice.

We have also been working closely with the Financial Conduct Authority (FCA) and The Pensions Advisory Service (TPAS) to raise awareness and provide support to trustees, scheme administrators and scheme members. As part of this, we have already written to a number of schemes with the information below.

If you believe that members of your scheme are requesting CETV quotes because of concerns relating to the scheme moving into the PPF, please signpost them to the following information: www.pensionprotectionfund.org.uk/DocumentLibrary/Documents/What_is_the_ppf.pdf

Taking a CETV presents certain risks and we believe it is likely to be in the best financial interests of the majority of members to remain in their defined benefit (DB) scheme. This is set out in our guidance note: www.tpr.gov.uk/docs/db-dc-transfers-conversions-regulatory-guidance.pdf. We would therefore expect you to identify the various risks associated with transfers in your communications with members.

Responding to CETV requests

We appreciate that you may already provide guidance to your members on transfers. However, in light of the risks associated with CETVs, we consider that it would be appropriate and are encouraging a number of scheme Trustees to review their communications to members who have requested a CETV quote. While we appreciate that you may have previously obtained advice about these communications, we would expect the communications to include:

An explanation of the risks of transferring out of the scheme

In particular, we would expect trustees to explain that members would be giving up a guaranteed future pension income in return for income that is not guaranteed and will vary depending on how they manage it.

An explanation of the requirement to obtain financial advice and who is expected to pay for it

In accordance with the regulatory requirements, you should explain to members with a CETV of more than £30,000 that, if they wish to transfer to a DC arrangement, there is a legal requirement for them to obtain financial advice from an adviser who is authorised by the Financial Conduct Authority (FCA) to give advice on pensions transfers. If their CETV is equal to or less than £30,000, we would still expect you to recommend that they take financial advice from an FCA authorised adviser. Authorised advisers are listed on the FCA online register. The requirement for members to obtain the advice (and for you to check the advice is received before making the transfer) is explained further in our guidance on DB to DC transfers: www.tpr.gov.uk/docs/db-dc-transfers-conversions-regulatory-guidance.pdf

An explanation of the services offered by The Pensions Advisory Service (TPAS): You should explain that TPAS is a government funded organisation, staffed by pension specialists, which members can contact for free impartial guidance and when members might seek its guidance: www.pensionsadvisoryservice.org.uk

The risk of pension scams

Please share the following leaflet with your members: www.tpr.gov.uk/docs/pension-scams-booklet-members.pdf. You can also find a trustee checklist and additional information on pension scams on our website: www.tpr.gov.uk/pension-scams.aspx and www.tpr.gov.uk/docs/pension-scams-action-pack.pdf

Please also include the attached letter from TPR, TPAS and the FCA along with your own communications when a member has requested a CETV. This letter sets out some of the key issues they should consider and where to go for impartial information to help them make the right choice.

Transfer value amounts

In light of recent events concerning your scheme's sponsor(s), we would expect you to take advice from your scheme actuary about whether the basis on which CETVs are calculated remains appropriate. We would also expect you to consider whether a new insufficiency report should be commissioned from the actuary. This would allow you to judge whether a reduction or further reduction should be applied to CETVs in light of their assessment of covenant strength: www.tpr.gov.uk/guidance/guidance-transfer-values.aspx

Monitoring of transfer activity

We are aware that the level of transfer activity in the pensions industry has increased significantly in recent years. If you do not already maintain electronic records, we would recommend that you either modify your existing systems to this form or that you at least maintain an electronic record (database or spreadsheet) of members who opt to transfer. Information that might be helpful to include on that record for each member would include:

- the name of the regulated financial adviser who provided advice to the member
- the name of the regulated financial adviser's firm
- the name of the receiving scheme to which the transfer payment is made and its HMRC registration number
- the amount of the payment
- the date of the CETV calculation
- the date of payment
- basic member details, such as, name/age/status (company leaver/company employee but deferred member) and
- a general comment field to note any specific features.

We also encourage you to contact us if you have any concerns about transfers, or about the level of or trends in transfer activity (concentration of activity around funds or organisations).

DB transfers are a key area of focus for the FCA and it has a programme of ongoing work which will consider the wider pensions market and the provision of advice over the coming months. This is a complex subject and members are often faced with the number of decisions which will impact their future financial security. Given the options available to members and the choices they now have to make, it would help the FCA with its work to know which advisers are actively advising scheme members and recommending transfers. It would also like to know which product providers receive the associated transfer values.

Annex 1: Sample template letter to be sent to pension scheme trustees continued...

Please could you therefore provide details on a monthly basis of the transfer activity in the scheme and the names of the firms providing the advice to transfer. Please could you also confirm the recipients of the transfer values, ie the SIPP or personal pension providers. This information should be sent to: **DBTransferSchemeInformation@fca.org.uk**

If you have specific concerns or become aware of specific issues in relation to regulated financial advice provided by an FCA-authorized adviser with respect to individual transfers, please raise your concerns with the FCA. Equally, if you believe someone is providing advice and they do not have the FCA's permission to do so, please inform the FCA as soon as possible.

If you have any questions or difficulties relating to your scheme, information can be found on our website (**www.tpr.gov.uk**). If you would prefer to speak to someone, please contact our customer support phone number on 0845 600 0707.

Yours sincerely

Your name
Case Manager
Contact details

Annex 2: Sample template letter to be sent to pension scheme members



Dear member

We are writing to you because you may be thinking about transferring your pension out of your current scheme into an entirely different pension arrangement. We would urge you to be very careful if you are considering this option.

In this letter we set out some of the key things you should be thinking about, and highlight where you can go to get more information to help you make the right choice for you.

In most cases, transferring out of a defined benefit (DB) pension scheme into a different type of pension arrangement is unlikely to be in your best interests. You can't change your mind once you've transferred out of the scheme, and if you are transferring your benefits to a defined contribution (DC) arrangement, then you will be giving up a valuable level of predictability in your retirement income.

Although a DC pension scheme may be more flexible, and therefore appear more appealing, your income will largely depend on the investment performance of that fund, which may not deliver the returns you are hoping for.

Comparing the risks and benefits of DB and DC pensions is complex and needs to reflect your wider personal circumstances and attitude to risk. You should also understand the level of initial and ongoing fees which apply as these can significantly affect how much money you get. Your regulated Financial Adviser (FA) should set out any costs which may apply in writing to you.

It is important that you get guidance or advice before making a decision. The Pensions Advisory Service (TPAS) offers free guidance and will help answer any questions you may have.

If you're considering transferring your pension, you should also take regulated financial advice from someone who is authorised to advise on pension transfers by the Financial Conduct Authority (FCA). If your transfer value is £30,000 or more and you are seeking to transfer your benefits to a DC scheme, you are required by law to take this advice from a regulated financial adviser. The Government will be banning cold calling for pensions, so if anyone calls you out of the blue about yours, just hang up – it could be a scam.

If you decide to transfer your pension, please look into the scheme you're thinking of transferring to and don't be rushed into making a decision. Take your time to make all the checks you need and ask all the questions you need to ask. The FCA and TPAS have information on their websites on the questions you should ask your FA: <https://fca.org.uk/consumers/what-ask-adviser>.

Annex 2: Sample template letter to be sent to pension scheme members continued...

You can also visit the FCA's ScamSmart website at: www.fca.org.uk/scamsmart to see whether what you're being offered is a known scam or has the signs of a scam.

If you have any questions about your pension, or the information you have received you can contact TPAS. Visit their website at: www.pensionsadvisoryservice.org.uk or call their free helpline on 0800 011 3797.

It's your pension – so whatever choice you make, please make sure it's an informed one.

Yours sincerely



Clive Gordon
Head of Department
Retail Investments, Supervision
The Financial Conduct Authority



Dianne Morgan
Head of Case Management
Frontline Regulation,
The Pensions Regulator



John Govett
Chief Executive,
Single Financial Guidance Body

Annex 3: Agreed sign-off process at each organisation



Clive Gordon
Head of Department
Retail Investments, Supervision
The Financial Conduct Authority



Dianne Morgan
Head of Case Management
Frontline Regulation,
The Pensions Regulator



John Govett
Chief Executive,
Single Financial Guidance Body

All organisations

If any of the designated persons above are unavailable due to leave or sickness (or other reason) sign-off will be allocated to the relevant person who is covering for them.

Annex 4: Standard agenda for FCA, TPR and TPAS monthly call

- TPR update on any relevant ongoing casework
- Update on tripartite letters sent since last call
- Consideration of sending further tripartite letters
- Any FCA regulated firms where TPR would like further information
- Tour de Table – any other relevant work or intelligence
- Action list
- Any other business