



For the attention of
The Financial Conduct Authority
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3 September 2020

GC20/1 - Advising on pension transfers

We welcome the opportunity to comment on the above consultation paper.

This consultation response

This consultation has been considered by Society's Financial Services Regulation Committee, which comprises representatives of actuaries and consultants, insurance companies and lawyers.

The Society would first and foremost like to recognise the importance of the FCA's work in trying to help advisers to fulfil their responsibilities to consumers and welcomes the FCA's production of guidance to help in this regard.

In light of the significance of this topic, the Society suggests that, moving forwards, the overall conclusions of the consultation should be clearly signposted on the FCA website and perhaps even hosted on the dedicated pension transfers page. We are conscious that, as non-Handbook guidance, there is a risk that the potentially market-shaping content could be lost if the guidance is not easily accessible to advisers and consumers alike.

Executive summary

The Society would like to draw the FCA's attention to the following two elements of this letter which are of particular concern to our members:

- 1) the revised "scheme data template" for advisers to use when requesting information from a DB scheme to advise on a transfer or conversion as detailed in Chapter 7 of, and Annex 1 to, the consultation document; and
- 2) the revised version of the FCA's factsheet on "*providing support with financial matters without needing to be subject to regulation*" proposed at Annex 2.

These aspects of the consultation document have the potential to significantly impact on trustees of occupational pension schemes and so this letter focuses on those.

Q21 – Do you agree with the guidance in the revised scheme data template in Annex 1?

The Society agrees with the FCA's objective of helping adviser firms to gather all required information in a timely and accurate way and avoid situations where administrators are faced with multiple or differing requests for information. The proposed new scheme data template set out in Annex 1 of GC20/1 appears to be comprehensive.

That said, we have two comments on the implementation of the new scheme data template in practice:

- Firstly, given the comments in paragraph 7.5, that the section is not guidance in itself, we are seeking clarification on the extent to which the FCA expects advisers to use the template. It is currently unclear as to whether it will be a wholesale expectation of the FCA for the pro forma to be adopted in full or simply used for information purposes only.
- Secondly, it would help the wholesale adoption of the template for the Pensions Regulator to endorse its use by occupational pension scheme trustees in lieu of the current PASA template.

Q22 – Do you agree with the guidance in the proposed factsheet on regulated financial advice in Annex 2?

The Society notes that the FCA and TPR have previously produced a factsheet setting out what help employers and trustees can provide to members on financial matters without needing to be regulated. However, as the consultation makes clear, the FCA understands that many employers and trustees are still worried about how the regulatory boundaries apply when they are trying to help members of DB schemes.

In particular, the Society recognises and accepts the appeal that has been made for greater clarity on:

- how employers and trustees appoint advisers to give advice to members on giving up safeguarded benefits in DB schemes without being seen to be making arrangements for investments for commercial gain;
- how the FCA's perimeter guidance applies if employers and trustees signpost employees to specific product providers; and
- the industry's desire for clearer guidance on how the perimeter guidance affects their ability to appoint advice firms who are independent or restricted.

The consultation's attempt to address these concerns by means of an updated version of the factsheet is therefore timely. However, the Society is concerned about the potential impact for our members and trustee clients of restricting the use of illustrative transfer values and the ambiguity around what could constitute the giving of advice or an inducement in this regard.

In particular, the Society is concerned about the following observation made at page 82 of the consultation document (emphasis added in bold):

*“Some employers and trustees want to 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. **But 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 or an inducement.** If an employer or trustee provides a transfer value comparator, in accordance with the FCA's rules, they should consider whether they are doing it by way of business and need FCA authorisation. A transfer value comparator is different to the statement of entitlement that certain members have a statutory right to request every 12 months.”*

The implications of this guidance are likely to be far-reaching and undoubtedly disruptive to many pension schemes. To limit such information provision seems at odds with the direction of travel in the industry to date which has suggested that trustees should be doing more to effectively communicate

with members. Limiting trustee use of illustrative transfer values runs counter to this industry objective. It appears to be fundamentally at odds with previous guidance from The Pensions Regulator which has encouraged trustees to do more for members in the form of guidance and support to help with decision making. If trustees are to be considered as giving regulated advice to members when they provide an illustrative transfer value or transfer value comparator tool, those schemes providing this information must change their retirement process – likely at a substantial future cost. In addition, the wording is not clear. Is the limitation only in relation to flexible benefits or does it relate to providing a transfer value illustration too?

In practical terms, we fear that limits on, or a withdrawal of, commonly used guidance methods such as illustration models and comparator tools could result in the majority of members drawing their pension from their scheme without having engaged any advice process to determine if a transfer could be suitable. Both trustees and sponsors often take proactive steps involving transfer comparator tools to equip members with useful information to help them navigate an otherwise complex world of retirement and transfer options, not in the least caused by confusing pension freedom options, rising scam activity and costly advice.

The Society is especially concerned about the consultation's silence as to whether providing unsolicited transfer values to members other than once a year will fall on the wrong side of the regulatory line. If the FCA's position is that anything more than an annual transfer value could be caught, a large number of schemes that routinely include transfer value figures in benefit statements would be significantly impacted. Again, such statements are provided to ensure that members are properly informed about their options and any regulatory barrier to doing so would seem to be an impediment to the proper discharge of trustee duties.

Overall, the Society believes it is crucial to point out that comparators, modellers and illustrative transfer values are ultimately provided to help members make better decisions. Of course, examples of poor practice will inevitably be found, but it seems to run against the grain of trustee and sponsor duties to members to prevent the responsible use of such sources of information.

On these points, we are also in agreement with observations already put forward by other industry representatives, including the Joint Industry Forum in their letter to the Pensions Minister dated 4 August 2020.

Yours faithfully



Fred Emden

Chief Executive, The Society of Pension Professionals
For and on behalf of the Society's Financial Services Regulation Committee

The Society of Pension Professionals (the "SPP")

SPP is the representative body for the wide range of providers of advice and services to pension schemes, trustees and employers. The breadth of our membership profile is a unique strength for the SPP and includes actuaries, lawyers, investment managers, administrators, professional trustees, covenant assessors, consultants and specialists providing a very wide range of services relating to pension arrangements.

We do not represent any particular type of pension provision nor any one interest-body or group. Our ethos is that better outcomes are achieved for all our stakeholders and pension scheme members when the regulatory framework is clear, practical to operate, and promotes value and trust.

Many thousands of individuals and pension funds use the services of one or more of the SPP's members, including the overwhelming majority of the 500 largest UK pension funds. The SPP's membership collectively employs some 15,000 people providing pension-related advice and services.