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Good Practice Guide

MAY 2018

A practical guide to Pension Transfers from defined benefit to defined contribution

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This April 2018 update replaces the earlier Good Practice Guide of the same name first published in February 2017.

This paper is in response to member's requests to provide a summary of good practice within one source document and is based upon the Personal Finance Society's understanding of the regulators rules and current stance. Whilst a summary, it is not intended to be exhaustive and should not be relied upon at the exclusion of other sources of information.

Foreword



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Defined benefit pension transfer advice continues to be a key area of focus for the FCA, government and indeed consumer media. In most cases, transferring pension benefits out of a defined benefit scheme is irreversible and in some instances the merits or otherwise of the transfer may only become apparent years into the future. So, it is particularly important that firms advising on pension transfers ensure that their clients understand fully the implications of a proposed transfer before deciding whether to proceed, and only when based on the Personal Recommendation of suitability by their professional adviser.

Whilst the insistent client debate has focused attention on a lack of appetite from many financial advisers to carry out pension transfers from defined benefit to defined contribution schemes, specialist pension transfer firms have seen record levels of enquiries, fuelled by the consumer's desire to benefit from pension freedoms alongside historically high transfer values given the high cost of providing a guaranteed income and continuing low interest rates and gilt yields.

This has not escaped the attention of the Financial Conduct Authority (FCA), who on 24th January 2017 reiterated their expectations on advice on pension transfer, including transfer from a defined benefit (DB) scheme or other scheme with safeguarded benefits. Clients may wish to transfer a DB Pension to a DC Pension in order to have a more flexible retirement income, the possibility of extra tax-free cash or to facilitate inheritance planning (given transferred funds can be passed on to heirs). However, retaining a DB Pension can also provide certainty, a risk-free income and degrees of inflation protection.

Following market consultation in June 2017 (FCA CP 17/16), in October 2017 the FCA published findings from a subsequent programme of specific supervisory work. These found that only 47% of advice reviewed on DB to DC transfers could be shown to be suitable based on the information in the adviser's file. Subsequent file reviews on advice given to members of the British Steel scheme resulted in only a slightly higher percentage figure. As a result, on 26th March the FCA issued PS 18/6 – Advising on Pension Transfers – providing new rules and guidance on how advice should be provided to consumers on pension transfers where consumers are considering giving up safeguarded benefits.

It is not only the FCA that is alive to this issue – professional indemnity insurers have withdrawn cover or increased the cost of cover for many IFAs advising on pension transfers. This overreaction in many instances can only be addressed if we establish a clear picture of 'what good looks like' in the pension transfer space.

The following sections of this updated guide are intended to provide members with further commentary and clarification around these changing advice requirements as well as ongoing good practice.

Ultimately, firms must ensure they comply with both the detail and the spirit of the regulators rules. It is critical that the advances made by the financial advice profession in recent years are not derailed by the actions of a small number of firms and I advise all our members engaged in transfer activity to remain extremely diligent in respect of the much-needed advice they give to clients in this area.

Professional financial advice for safeguarded benefits above £30,000 has been mandated by legislation for good reason – the advice profession is entrusted to a key role from a public interest perspective and we are duty bound to always act in the best interests of the client.

Advice Requirements

(This section covers the basic advice requirements from government and regulator, including specific reference to FCA PS 18/6, specific rules within which are effective either 1st April 2018 or 1st October 2018).

Section 48 of the Pension Schemes Act 2015

This requires that trustees or scheme managers check that 'appropriate independent advice' has been taken before allowing a transfer to proceed, where the proposed transfer involves a DB pension, or other safeguarded benefits, worth more than £30,000.

For the purposes of the definition of 'appropriate independent advice' in section 48 (8) of the Act, *the advice must be specific to the type of relevant transaction proposed by the member or survivor.*

FCA permission and responsibility for advice

Only firms with the FCA permission to advise on pension transfers may do so. It is not acceptable for a firm without the permission to outsource the transfer analysis to a pension transfer specialist or to a firm with the permission and claim to be advising on the pension transfer.

A firm without the permission may refer a client needing pension transfer advice to a firm with the permission. However, it is not acceptable for that second firm to claim to be advising on the pension transfer without taking into account the assets in which the client's funds will be invested as well as the specific receiving scheme. Where both firms may be responsible for different elements of advice given to the client, firms are expected to liaise for consistency.

For a firm with the permission, FCA rules permit an individual who is not a pension transfer specialist to advise on pension transfers. However, the firm must ensure that the advice is checked by a pension transfer specialist. The firm advising on the transfer remains responsible for the advice, including the advice checked by the pension transfer specialist (PTS), even where the pension transfer specialist is not employed by the firm.

FCA position on 'Insistent Client'

An insistent client is a client who wishes to take a different course of action from the one you recommend and wants you to facilitate the transaction against your advice. Where clients are required to take advice (for example in relation to DB pensions and other safeguarded benefits) then some may decide to disregard that advice.

The FCA highlights 3 key steps to take when advising an insistent client:

1. You must provide advice that is suitable for the individual client and this advice must be clear to the client. Advice on pension transfers should follow the normal advice process for pension transfers.
2. You should be clear with the client what the risks of the alternative course of action are.
3. You should be clear with the client that their actions are against your advice.

The Personal Finance Society is of the view that as professionals, advisers should not facilitate a transfer against their own professional advice.

Those that choose to deal with 'insistent clients' are party to arranging an unsuitable solution and as such, might be deemed liable in the event of a future complaint in the absence of any guarantees or input from the regulator on how the Financial Ombudsman Service will interpret such claims.

In the meantime, we continue to urge the government and regulator to define acceptable actions where a client's informed choice differs from the advisers view of 'objectives: needs and wants' and introduce new rules which safeguard advisers against future mis selling claims from 'insistent clients'.

Regulatory requirements for giving advice and assessing suitability

Fair Treatment of Customers

This should be the starting point for any adviser/firm when giving advice and assessing suitability.

We refer readers specifically to COBS 9.2.1 – 9.2.7.

FCA's guidance on the 'starting assumption' for providing advice on a DB transfer

Despite consulting on a change in starting position (CP 17/16), the FCA's guidance for providing advice on a DB transfer within PS 18/6 continues to be that firms should start by assuming that the transfer is not suitable. A recommendation to transfer should only be made if this can be clearly shown to be demonstrably suitable and, in the client's, best interests.

Suitability guidance (COBS 19.1.6) states...

- When a firm is making a personal recommendation for a retail client who is, or is eligible to be, a member of a pension scheme with safeguarded benefits and who is considering whether to transfer, convert or opt-out, a firm should start by assuming that a transfer, conversion or opt-out will not be suitable.
- 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 retail client's best interests.
- To demonstrate client best interest, the factors a firm should take into account include:
 - (a) the retail client's intentions for accessing pension benefits;
 - (b) the retail client's attitude to, and understanding of the risk of giving up safeguarded benefits (or potential safeguarded benefits) for flexible benefits;
 - (c) the retail client's attitude to, and understanding of investment risk;
 - (d) the retail client's realistic retirement income needs including:
 - (i) how they can be achieved;
 - (ii) the role played by safeguarded benefits (or potential safeguarded benefits) in achieving them; and
 - (iii) the consequent impact on those needs of a transfer, conversion or opt-out, including any trade-offs; and
 - (e) alternative ways to achieve the retail client's objectives instead of the transfer, conversion or opt-out.

Whilst the 'starting assumption' may feel a little outdated to some in the post-pension freedoms market and at a time when many DB schemes are in deficit, its maintenance reflects the regulator's concerns following recent supervisory work and until a further review of this assumption takes place, it should remain the starting point for any advice given.

A personal recommendation – effective 1st April 2018

PS 18/6 introduces the requirement (effective 1st April 2018) that all advice on the transfer and conversion of safeguarded benefits should include a personal recommendation to either transfer or remain in the current scheme.

Under COBs 9.2 it remains a firm's responsibility to obtain the necessary information about the client so that a suitable recommendation can be made. If an adviser cannot get the necessary suitability, for example, income needs in retirement for a younger client, the adviser must not make a personal recommendation under the existing suitability requirements (COBS 9.2.6R).

In making personal recommendations, the firm will need to comply with FCA requirements regarding the suitability of the advice provided. The firm should make clear the loss of any safeguarded benefits and the consequent transfer of risk to the client, including:

- investment risk
- longevity risk, and
- the risk that products may not be available or cost effective to meet the client's needs in retirement.

FCA commentary on the suitability of pension transfers (COBS 19.1.6(G)) clearly states that when a firm advises a retail client on a pension transfer it should consider the client's attitude to risk including, where relevant, in relation to the rate of investment growth that would have to be achieved to replicate the benefits being given up.

Advice Requirements Continued

Expectations of the role of the Pension Transfer Specialist (PTS) – effective 1st April 2018

Only a PTS can give or check advice on pension transfers. It is not in line with FCA expectations that this be restricted to numerical analysis. PS 18/6 states that the Handbook has been updated to reflect the regulators requirements that the PTS should check the entirety of the advice process, including assessing and signing-off the receiving arrangements and funds, confirm that the personal recommendation is suitable and inform the firm in writing that they agree with the advice and any personal recommendation **before** any report is given to the client. This means that any disagreements between the PTS and the adviser must be settled and documented before the client is given the suitability report.

Analysis to support advice

With effect from 1st October 2018, the current transfer value analysis (TVAS) requirement will be replaced by a requirement to undertake an 'appropriate pension transfer analysis' (APTA) of the clients' options that includes a prescribed Transfer Value Comparator (TVC) including the value of benefits being given up and the cost of purchasing the same income in a DC environment.

TVAS/APTA

PS 18/6 expresses the FCA's view that, following modifications on the guidance on inducements for non-Mifid business to mirror more closely the new Mifid II inducement rules, it is unlikely that providing or accepting free TVAS or APTA software would fall within the narrower definition and 'so should not be used'. At the time of writing, some providers have acknowledged this potential conflict of interest and have withdrawn free software accordingly.

The role of critical yield

The critical yield is the rate of return that would have to be achieved in the defined contribution (DC) pension scheme to replicate the benefits of the DB benefit scheme. The FCA has stated in the past a clear expectation that firms consider the likely expected returns of the assets in which the client's funds will be invested relative to the critical yield. The firm should also consider the personal circumstances of the client before making any personal recommendation, taking into account specific other factors as they apply to the client.

The FCA's supervisory work in the past has revealed that some firms have been recommending pension transfers based solely on whether the critical yield is below a certain rate set by the firm for assessing transfers generally. This does not meet the regulators expectations, specifically that firms consider the likely expected returns of the assets in which the client's funds will be invested relative to the critical yield.

In addition, firms should be aware of the risks of using critical yield over uncertain future lifetimes where income would not be secure or where consumers may not understand it.

Following the introduction of the APTA and TVC, PS 18/6 states it is for firms to decide if a critical yield approach remains valid in some circumstances as part of a wider assessment.

Expectations re consideration of assets

The FCA expects a firm advising on a pension transfer from a defined benefit (DB) scheme or other scheme with safeguarded benefits to consider the assets in which the client's funds will be invested as well as the specific receiving scheme. It is the responsibility of the firm advising on the transfer to take into account the characteristics of these assets.

FCA rules set out what a firm must do in preparing a comparison. In particular, their rules (COBS 19.1.2R(1)) require a comparison between the benefits likely (on reasonable assumptions) to be paid under a DB scheme or other scheme with safeguarded benefits and the benefits afforded by a personal pension scheme, stakeholder scheme or other pension scheme with flexible benefits.

The comparison should explain the rates of return that would have to be achieved to replicate the benefits being given up and should be illustrated on rates of return which take into account the likely expected returns of the assets in which the client's funds will be invested. Unless the advice has taken into account the likely expected returns of the assets, as well as the associated risks and all costs and charges that will be borne by the client, it is unlikely that the advice will meet FCA expectations (see guidance at COBS 19.1.2 and 19.1.6-19.1.8).

What this means is that a firm advising on a pension transfer should not undertake a comparison using generic assumptions for hypothetical receiving schemes. The firm must take into account the likely expected returns of the assets in which the client's funds will be invested as well as the specific receiving scheme.

The Appropriate Pension Transfer Analysis (APTA) – effective 1st October 2018

An effective APTA should help to demonstrate the suitability of the personal recommendation in the context of the customer's objectives; needs and wants, attitude and ability to manage risk, capacity for and resilience to loss and attitude to investment risk.

The FCA have not been overly prescriptive in terms of providing a detailed framework for the APTA (see COBS 19 Annex 4A & 4C), although PS 18/6 refers to the rules within CP 17/16 as 'an appropriate level of direction' and '...do not limit the adviser's flexibility to complete the analysis in a way which fits a client's individual circumstances'.

CP17/6 states the APTA should include:

- An assessment of the client's outgoings and therefore potential income needs throughout retirement
- The role of the ceding and receiving scheme in meeting those income needs, in addition to any other means available to the client – effectively obtaining an understanding of the client's potential cash flows
- Consideration of death benefits on a fair basis
- The mandatory use of the Transfer Value Comparator.

In addition, Handbook changes include a new rule to clarify that the APTA must consider a reasonable period beyond average life expectancy, particularly where a longer period would better demonstrate the risks of the funds running out.

Stochastic models are currently used mostly to demonstrate future cash flows. The role they might play in preparing an APTA is considered within PS 18/6 where it states (page 22) 'we have added Handbook guidance that a stochastic model can be used as part of an APTA as long as the outcomes at the 50th percentile are at least as cautious as the outcomes from using the assumptions in COBS 19 Annex 4C'.

The wider use of software (including cashflow modelling) is recognised, but the FCA have stressed again that the limitations of such software cannot be used to limit the adviser's responsibility for providing suitable advice. As such, the adviser/firm should take all necessary steps to fully understand the limitations of software being used and ensure these limitations are taken into account when assessing suitability.

The Transfer Value Comparator (TVC) – effective 1st October 2018

The TVC will be mandatory within the APTA and should be seen as the starting point for demonstrating the value of the DB scheme to consumers, with the suggestion from the regulator that it will be easier to understand than critical yield. It is designed to show in graphic form:

1. The Cash Equivalent Transfer Value (CETV) offered by the DB scheme
2. The estimated value needed to replicate the client's DB income in a DC environment, where the result of a recommendation would be the purchase of an equivalent annuity.

Whilst the TVC is heavily prescribed in format, the FCA expects firms to fully account for customer's personal circumstances when preparing the APTA. When undertaking an APTA or preparing a TVC firms need to make financial and demographic assumptions to project future benefits from the current to receiving schemes. Firms should familiarise themselves with these assumptions by reference to the Handbook as well as 3.20 – 3.29 within PS 18/6.

Overseas transfers

Where a client lives overseas and are considering transferring safeguarded benefits abroad, the advice needs to be detailed and PS 18/6 makes it clear that the FCA expects firms to pay particular attention to the characteristics of the transfer and destination that make it different to a UK pension transfer. These should include the levels of return and local inflation rates, fluctuations in exchange rates, levels of charges on overseas arrangements, different tax considerations, different legislative frameworks and local levels of protection (e.g. FSCS equivalent).

Where the advice cannot get sufficient understanding of the above, the adviser should point out the limitations of the advice and consider whether they are able to provide it.

Adviser Good Practice

(This section looks at suggested current good practice in respect of key advice considerations)

1. Sequence of process

Advisers should be aware of the importance of how the advice process is delivered. For example, we know from studies of behavioural finance that seeing or focusing on 'the big number' too early in the process is likely to build 'present bias', potentially undermining any informed decision. Good practice should start with the probability of a transfer not being in the client's best interests and discussing inherent risks before any analysis of individual suitability. In this respect, a good and widely available triage service could perform a valuable function.

2. Understand the DB Scheme

Advisers should be familiar with and seek to fully understand the DB Schemes from which a transfer is being made, their benefit structures and variances. In extreme cases where a scheme is in danger of entering the Pension Protection Fund is the protected amount under the PPF much lower than the amount of the transfer value?

3. Making an informed decision

The adviser should help clients make an 'informed decision' in respect of a transfer, and make sure the client understands the comparison and advice given, not just to simply deliver advice. If the customer cannot demonstrate and evidence they understand what the adviser is saying or writing, there can be no informed decision.

4. Fully assess both 'harder' and 'softer' facts

Some reasons why a member might wish to transfer relate to lifestyle factors rather than whether the DB or DC alternative will pay a comparable or higher income. As such, analysis of 'softer' factors such as risk appetite, health, marital status and dependants need to be considered alongside 'harder' facts such as income levels, TVAS (or APTA) analysis, cash flow modelling etc. Suitability Reports should record the 'colour' as well as the detail of facts surrounding the client's circumstances, particularly their needs and objectives. Some repetition in asking 'why?' should help record an appropriate level of detail on file: for example, exactly why does a client want greater flexibility in terms of benefits?

5. Consider the wider tax issues of the client

A common reason to transfer benefits from a DB to DC scheme is to defer income, often to avoid paying unnecessary income tax. However, a DB transfer can result in taxation issues for the client, particularly where high transfer values are involved. For example, the assessment against the lifetime allowance is often more favourable for a DB scheme pension than for crystallised or uncrystallised personal pension.

In addition, any potential impact on IHT will need to be taken into account, not just in terms of where PCLS is taken or is planned to be taken, but also where an individual dies within two years of making a transfer. In such circumstances, the executors of the person's will are required to report this to HMRC and where the person was in normal health, HMRC deems there no loss to the estate. However, if the person knew they were seriously ill when the transfer took place (for example, expecting to live for less than two years) then an IHT charge can arise. So, if death benefits are a key driver due to the ill health of a member, being aware of the IHT position is critical (albeit that transferring could still be the best outcome even after an IHT charge).

Firms should also follow revised FCA guidance (Handbook) – PS 18/6 – requiring advisers to consider the impact of tax and access to state benefits, particularly where there would be a financial impact from crossing a tax threshold/band.

6. Ensure DB transfer matches client's attitude to, and ability to manage risk.

A transfer from a DB scheme to a DC pension almost always involves a higher amount of risk for the client. DB pension schemes place no personal investment risk on the client, whereas all of the risk is borne by the client under a DC arrangement. It is not possible to set a minimum attitude to risk for which a DB transfer would be appropriate, but it is important that risk is taken fully into account when making a recommendation. Whilst the mandatory TVC assumes the use of investment returns consistent with a client's attitude to risk, ongoing use of critical yields within TVAS do not, so it is important the overall recommendation takes attitude and ability to manage risk into account.

CP 18/7 also states that a focus on the investment risks alone do not adequately address the transfer risk, with the expectation that advisers focus on the client's attitude to both the features of a safeguarded benefits scheme and the features of a flexible benefits scheme.

7. Analysis of clients' retirement income needs

It is critical that a client's income need in retirement (and the income needs of their spouse/partner) are taken into account. When advising on potential DB transfers, the file should record an analysis of the client's income needs in retirement and show how or whether this is likely to be achievable both pre and post transfer. If analysis suggests that the client's income needs cannot be met in the context of their attitude and ability to manage risk, then it is almost certain, in the absence of strong additional factors such as serious ill health with shortened life expectancy, that the transfer will not be in the client's best interest.

Where any recommendation to transfer is based (in part or solely) on the client having sufficient income and assets out with their DB scheme to support a comfortable lifestyle in retirement, the adviser should have robust evidence and analysis to back up this assertion.

8. Analysis of sustainability of income/cash flow modelling

The adviser should ensure they have documented the clients' income objectives, needs and wants, challenging and scrutinising whether expectations and assumptions made are realistic. Where the adviser feels the client is making unrealistic assumptions, these should be documented, and the clients' attention brought specifically to these aspects, with supporting evidence as to why the adviser feels these assumptions are unlikely to be borne out in reality.

Some clients may underestimate both the level of income they will need in retirement, the effects of inflation and their own life expectancy. Income planning should always be in the context of the analysed objectives: needs and wants, with an alternative plan put forward which demonstrates where possible how the client might achieve their requirements whilst minimising risk.

Before any recommendation to transfer from a DB scheme is made, it is important that the file can show that clients and their spouse/partner will have sufficient income for life, considering inflation, using some form of cash flow modelling. Within this, consideration of the level of secure income a client is likely to need to meet essential living expenses and advice to ensure these are covered as far as possible with secure income should be made.

There are several online tools which can assist advisers in demonstrating the sustainability of income, for example cash flow modellers. The adviser is reminded that the objective is an 'informed decision' so careful consideration is needed as to how the information is provided to the client. If the adviser considers the client cannot make an informed decision, then the personal recommendation should be to remain in the Safeguarded arrangement.

Advisers should also be mindful that the new APTA must consider a reasonable period beyond average life expectancy statistics at the point of advice.

9. Use of technology

Technology in general, and where used, should be done so in a way where the adviser/firm can clearly demonstrate the consumer is able to interpret and understand any output and that such output evidentially contributes to an informed decision, not simply a technically focused suitability report.

10. Clear capital requirements

Where a client has a need for capital, and where a transfer from a DB scheme taking immediate PCLS are being considered, it is important that the reason/s for wanting capital is/are made clear, and that a full breakdown is provided on the file. It is also important that the file shows that all available and alternative options for raising capital have been considered.

11. Consideration of death benefits

Good practice in this area should involve clarity in stating whether the objective for wanting to increase death benefits is focused on the client's spouse, other dependants or both. The death benefit analysis should be summarised in the suitability report and the importance of the figures explained in this context.

12. Consideration of using life assurance as an alternative to transfer when death benefits are required.

If one of the client's drivers for a transfer of a DB scheme is to leave a legacy behind for beneficiaries, then it is important to consider and research life assurance options as an alternative to meet this need. Files should show that the life assurance market has been researched to obtain appropriate products and rates, and that these have been presented to and discussed with the client. It could certainly be the case that clients may not wish to pay what could be a high premium for cover, but consideration should be given to the relative attraction of taking income from the DB scheme and using this to pay for a life assurance product.

Advisers should show cost of life cover in cash-flow planning, in terms of keeping the DB scheme and effecting a transfer, and compare the two scenarios via cash-flow planning.

Adviser Good Practice (continued)

13. Correct information and the Transfer Value Analysis Service (TVAS)

Whilst critical yields and hurdle rates should at the time of writing help frame the advice considerations and discussion, the TVAS report uses a series of assumptions to calculate the critical yields, and though these yields are still an important part of the current advice process, the suitability shouldn't be framed solely based on "will this beat a critical yield?" Also, if the data entered onto the report is incorrect, then the outcomes will also be incorrect, so care should be taken to verify data used.

Advisers should understand the TVAS calculation process and its shortcomings, especially for those who want to use drawdown post a transfer and avoid annuitisation. Advisers should consider the requirements of the new APTA and be prepared for it being a requirement with effect from 1/10/18. Advisers should also understand variables that will influence transfer values in years to come and whether this should be a consideration in terms of the timing of a transfer.

In any event, the TVAS or TVC component of the new APTA should only ever be one part of, rather than the focus of advice given.

14. Comparison of benefits in suitability report.

The Suitability Report (SR) should include the retirement benefits available from the existing scheme, in monetary terms. This should then be compared against the likely benefits available via the alternative arrangement. In doing so, it should clearly explain, in a way that is personalised to the client, why the recommended course of action meets his/her objectives

See FCA COBS 19.1.2 to 19.1.4 (inclusive) for the list of requirements where a comparison is being provided for the client.

15. No over reliance on standard terms and lack of personalisation.

Firms should focus on the quality of report writing to avoid a 'cut and paste' and/or commoditised approach to suitability and personal recommendation.

Where a client's objectives are to achieve "flexibility" of retirement income, or "control" of their pension, it is important to determine what the client is trying to achieve, and to investigate what they may mean by "flexibility", or "control", as well as their reasons for wanting this.

Firms offering a commoditised approach to pension transfer advice (which does not entail a complete analysis of a client's personal circumstances or needs and may include some generic assumptions to arrive at a personal recommendation) should be seen as unacceptable, given it is deemed by the FCA to represent significant increased risk of providing unsuitable advice.

16. Consideration of safety nets

Firms should follow revised FCA guidance (Handbook) on considering the safety nets provided by the Pension Protection Fund and the Financial Services Compensation Scheme in the UK, covering both the current and receiving scheme in a balanced and objective manner.

17. Scheme funding position

Firms should follow revised FCA guidance (Handbook) that if information is provided on scheme funding or employer covenants, it should be balanced and objective.

18. Advice should be clearly stated (the file mustn't appear to show "order taking")

The requirement for clients to receive advice on DB transfers can mean that some clients will approach advisers with a clear idea of what they are looking to achieve, and may perceive the advice process as an obstacle, rather than a valued service. This does not mean, however, that the requirement to demonstrate suitability is any different to a case for an established client, where the advice is valued.

In all cases, the adviser should be able to communicate the key costs, risks, potential consequences and benefits of the transfer, along with bespoke member suitability within a concise report. Reference to 'unknowns' should also be made, such as future changes in legislation.

19. Contingent Charging

Where used to cover the review and recommendation (as well as the transaction) and by not separating out the cost of a review and recommendation from the transaction itself, contingent charging implies that the adviser will either be offering a review/recommendation service for free or a transfer is the inevitable outcome – the adviser is conflicted in much the same way as he/she is if they deal with insistent clients. With DB transfers consideration should be given to separating the initial review and recommendation via a separate charge/fee, especially given the ongoing 'starting assumption' that a transfer is unlikely to be in the clients' best interests. In respect of other forms of advice where the starting point is the need to do something (e.g. make a suitable investment), contingent charging is far less of a risk but in the case of DB transfers where there is a strong possibility that a transfer is unsuitable, it is in our view inappropriate.

20. Part of a wider, full financial planning service

Streamlined advice is unlikely to be achievable for pension transfers and in our view good practice should include the starting assumption that it is not possible to advise on DB transfers using a streamlined approach. Indeed, where practical, advice on a DB transfer is best done in the context of a full financial planning service that:

- Takes account the client's wider circumstances
- Takes account of all a client's assets, liabilities, income and expenditure
- Tests outcome with reference to cashflow modelling
- Is subject to ongoing review.

Future Focus

Alongside PS 18/6, the FCA issued Consultation Paper CP 18/7 - 'Improving the quality of pension transfer advice' - on the 26th March 2018. This consultation is seeking views and comments by 25th May 2018 and highlights the likely future focus of the regulator and some further potential changes in respect of pension transfer advice that members should be aware of.

Specifically, it seeks views on:

- Amending the Pension Transfer Specialist (PTS) qualifications and the exam qualifications standards
 - The PTS must hold the level 4 RDR qualification for advising on investments before they can advise on or check pension transfer advice. Existing PTSs must acquire the additional qualification by October 2020.
 - The exam standard will cover personal recommendations and advice boundary issues, APTA and TVC, overseas advice and taxation.
 (see CP 18/7, Chapter 3)
- Amending the definition of a pension transfer (see CP 18/7, Chapter 3)
- Introducing guidance on how a PTS should work with another adviser in a two-adviser model. The intent of the proposed guidance is to confirm the expectation that all parties should work together to:
 - collect necessary information, to inform both the pension transfer advice and the associated investment advice
 - undertake risk profiling, which assesses both the client's attitude to transfer risk and attitude to investment risk
 - recognise that the investment advice should take into account the impact of the loss of any safeguarded benefits on the retail client's ability to take investment risk
 (see CP 18/7, Chapter 4)
- Introducing guidance for firms on the advice boundary when providing triage services to prospective clients.
 - The FCA is currently of the view that if triage is to be a non-advised service, it should be an educational process so that consumers can decide whether to proceed to regulated advice. It suggests firms can achieve this by providing generic, balanced information on the advantages and disadvantages of pension transfers, and that good practice (in the firms' interest) involves keeping records where triage has been provided and the form it took.
 (see CP 18/7, Chapter 4)
- Introducing guidance on assessing clients' attitude to transfer risk
(see CP 18/7, Chapter 5)
- Introducing rules requiring firms to provide suitability reports on a negative recommendation to transfer
(see CP 18/7, Chapter 5)
- Amending the assumptions for valuing limited inflationary pension increases within a DB scheme
(see CP 18/7, Chapter 5)
- Restricting charging structures associated with advising on pension transfers, including a possible ban on contingent charging due to the very real conflicts of interest that can occur.

This Good Practice Guide will be further updated following any future policy statements derived from FCA CP 18/7 or other significant market developments/changes.

Appendix – The Rules and regulatory source material

FCA communications

| Date (last updated) | Nature of FCA communication | Content | Link |
|---------------------|-----------------------------|--|---|
| 26/3/2018 | Consultation Paper CP 18/7 | 'Improving the quality of pension transfer advice' . Consultation open until 25/5/2018 | https://www.fca.org.uk/publications/consultation-papers/cp18-7-improving-quality-pension-transfer-advice |
| 26/3/2018 | Policy Statement PS 18/6 | 'Advising on Pension Transfers – feedback on CP 17/16 and final rules and guidance' . New rules and guidance on how advice should be provided to consumers on pension transfers where consumers are considering giving up safeguarded benefits, primarily for transfers from defined benefit to defined contribution pension schemes. | https://www.fca.org.uk/publications/policy-statements/ps18-6-advising-pension-transfers |
| 03/10/2017 | News | 'Our work on Defined Benefit Pension Transfers' Summary of findings from supervisory work on DB transfers | https://www.fca.org.uk/news/news-stories/our-work-defined-benefit-pension-transfers |
| 21/6/2017 | Consultation Paper CP 17/16 | 'Advising on Pension Transfers' . Consultation closed on 21/9/18 | https://www.fca.org.uk/publication/consultation/cp17-16.pdf |
| 24/1/2017 | Firm | Highlights FCA requirements when providing advice on pension transfers, including advice circumstances. | https://www.fca.org.uk/news/news-stories/advising-pension-transfers-our-expectations |
| 17/1/2017 | Firm | The FCA expects to consult during Q1 2017 on updating the pension transfer redress methodology | https://www.fca.org.uk/news/statements/fca-statement-redress-methodology-pension-transfers |
| 04/12/2016 | Firm | What the FCA considers to be good and poor practice when advising insistent clients | https://www.fca.org.uk/firms/pension-reforms-insistent-clients/good-poor-practice |
| 03/8/2016 | Alert | FCA alert - Advising on pension transfers with a view to investing pension monies into unregulated products through a SIPP | https://www.fca.org.uk/publication/archive/alert-pension-transfers.pdf |
| 10/6/2016 | Consumer | FCA consumer guidance on what to consider if thinking about transferring a defined benefit pension, or if you are moving or combining a defined contribution pension. | https://www.fca.org.uk/consumers/pension-transfer |
| 09/6/2016 | Firm | Help in understanding the FCA's position on insistent clients, following the pension reforms in 2015. | https://www.fca.org.uk/firms/pension-reforms-insistent-clients |
| 08/6/2015 | COBS 19.1 | Pension transfers, conversions, and opt-outs | https://www.handbook.fca.org.uk/handbook/COBS/19/1.html |
| June 2015 | Policy Statement PS 15/12 | 'Proposed changes to FCA pension transfer rules, feedback on CP15/7 and final rules' | https://www.fca.org.uk/publications/policy-statements/ps15-12-proposed-changes-our-pension-transfer-rules-feedback-cp15-7 |

Appendix – The Rules and regulatory source material

Legislation

| Date | Nature of FCA communication | Link |
|---------------|--|---|
| March 2015 | Section 48, Pension Scheme Act, 2015 | http://www.legislation.gov.uk/ukpga/2015/8/pdfs/ukpga_20150008_en.pdf |
| 06 April 2015 | The Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations 2015 | https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/408487/pension-schemes-act-transitional-provisions-regulations-2015.pdf |