AF7 Pension Transfers
Part 7 Compliance issues 2023/2024

New FCA rules and procedures came into effect on October 1 2020.

The main changes are:

- **An almost total ban on contingent charging**
- **The introduction of Abridged Advice**
- **Stricter rules on fees disclosure**
- **Greater emphasis on establishing customers' understanding**
- **Consideration to be given to using a workplace pension to receive the transferred funds**
- **Introduction of a 1 page summary for the suitability report**

Compliance questions tend to come in Section A and will probably be factual questions where candidates are asked to give precise details of the FCA's rules.

In parts 4 & 6 we looked at the practices and behaviours that advisers should follow to ensure the advice is appropriate and meets the needs of the customer. In this section we will look at how this fits in with the rules of the FCA.

The milestones for this part are to understand:

- The background to regulation including the roles of the Department of Work and Pensions (DWP), the Pensions Regulator and the FCA
- The legal timescales on transferring from a DB scheme together with the duties of the ceding scheme's trustees
- The difference between safeguarded and flexible benefits and other key definitions in transfer advice.
- The differences between a **Triage service**, **Abridged Advice and Full Advice**
- The FCA's rules and guidance on ensuring advisers give suitable advice including **contingent charging** and dealing with **insistent customers**
- The content of an Appropriate Pension Transfer Analysis (APTA)
- How the value of the pension in a Transfer Value Comparator is calculated.
- The responsibilities of the ceding scheme's trustees to check that the transfer is legitimate

Background to regulation

The FCA's rules on advising a transfer from a DB scheme are more stringent than any other aspect of personal financial planning because:

- Transferring is a binary decision; the only two recommendations are to stay in the scheme or to transfer. Whilst a few schemes will allow a partial transfer, in the main it's a case of "all or nothing".
- Once someone has transferred they cannot be readmitted into the scheme.
- It is a potentially life changing decision that could affect someone's standard of living for the last years of their life.
- The amount offered in a CETV is likely to be the most capital that has ever been offered to an individual. This can lead to **"present value bias"** because it appears to be worth far more than a guaranteed lifetime income
- It is the only personal finance decision where it is mandatory to receive regulated advice.

AF7 candidates don't need to know the specific Acts of Parliament that govern pension transfers but you must be aware of two aspects of legislation that impact on the FCA's rules.

- The difference between **Safeguarded** and **Flexible Benefits**
- The **Pension Schemes Act 2015** which compels the Trustees of a DB scheme to check that a member who wants to transfer has received appropriate independent advice

Flexible and Safeguarded Benefits

- A pension benefit is classed as safeguarded if there is some form of guarantee about the rate of **secure income** that is provided by the scheme.
- However, a promise or guarantee about the rate on investment growth or future value of the pot is **not** enough for the benefit to qualify as safeguarded benefits
- **All DB benefits where the CETV is more than £30,000 will be safeguarded benefits** and **most MP benefits will be flexible benefits**. However, there are some previously grey areas that have now been clarified.

Guaranteed annuity rates.

These are the most common type of safeguarded benefits that are not salary related. The benefit will be safeguarded even if the GAR is below the rate being currently offered on the open market. If the GAR has an expiry date, the benefits are safeguarded up until that date and flexible after that. Should there be multiple GARs expiring at specific points in the future the whole policy is a safeguarded benefit until the last one expires.

AVC schemes

It's a statutory right that a money purchase AVC scheme can be transferred separately from the main DB scheme. Should it contain a GAR it will become safeguarded benefits and in assessing the total value both the AVC and main benefits must be taken into account.

Guaranteed Minimum Pension and section (2b) benefits

These pensions are related to the member's salary and are therefore safeguarded. However, in a few cases where liability for these have been transferred to a S32 buy-out policy and the fund is greater than needed to provide the guaranteed amount, the excess is not a safeguarded benefit.

If the proposed receiving arrangement will not accept the GMP element, that can be retained in the ceding scheme and the remaining elements transferred.

Pension review top up plans

These were put in place to compensate pension scheme members as a result of the misselling of transfers in the 1980's and 90's. These offer a guaranteed level of income and are therefore safeguarded

Income guarantees on drawdown plans

Occasionally the plan may include a guarantee that the value the member's fund will always be sufficient to provide a specified secure rate of drawdown for the member's lifetime. **These benefits will be safeguarded.**

Guaranteed Lump Sums

If a plan has a guaranteed amount of lump sum but no guarantees as regards pension income the plan will be **not be safeguarded and therefore flexible**.

Scheme specific protected tax-free lump sum

As the guarantee does not relate to income **this is not a safeguarded benefit.**

Statutory advice

The Pensions Schemes Act 2015 made it compulsory for trustees of a DB scheme to check that appropriate independent advice had been given to the member before making a transfer. The effect is that getting independent advice is compulsory **where the CETV is more than £30,000**. If the CETV was over £30,000 but has been reduced because of scheme underfunding, it is still mandatory to receive independent advice. Independent advice in this context means advice given independently of the scheme’s trustees or sponsoring employer.

In other words there is no such thing as an Execution Only transfer from a DB scheme if the CETV is more than £30,000. A member cannot instruct an adviser to arrange a transfer without receiving advice.

The definition of safeguarded and flexible benefits together with the threshold figure of £30,000 come within the orbit of the **Department of Work and Pensions (DWP)** The FCA has no power to change these.

Members have a **Statutory right to transfer** if

- Benefit accrual has ceased.
- The member has received a statement of entitlement.
- The request to transfer must have been made more than 12 months before scheme retirement age
- No previous Benefit Crystallisation Event has occurred.

The Act also legislated a series of minimum timescales for each stage of the transfer process.

Timescales

- The member starts the process by requesting a **Statement of Entitlement**. Within **one month** of receiving the request, the scheme must inform the member of the need to get independent advice.
- The scheme then selects the **guarantee date**. This is significant because it is the date from which all other deadlines will be determined. It must be **within 3 months of the original request.**
- The statement of entitlement which summarises all the benefits they would get by staying in the scheme, together with the CETV must be provided no later than **10 days after the guarantee date**. In addition, it must state:
    - Whether the CETV has been reduced or enhanced
    - Information about potential pension scams.
    - Information about where the member can receive advice or guidance
    - Confirmation that independent advice is required.
    - Details of deadline dates
- They must also inform the member that evidence that independent advice has been received must be produced before they can arrange the transfer.
- The CETV is fixed for three months from the guarantee date and the member must confirm they wish to proceed by the end of this period. The member must also nominate the receiving scheme.

- The deadline for the member to provide proof of independent advice is **three months after receiving the statement of entitlement.** Applicants who are active members must leave the scheme before the transfer can take place
- Finally, the deadline for the trustees making the transfer is **6 months after the guarantee date.**

Joe sends a request for a statement of entitlement on **May 1 2023** By **1 June 2023** the trustees must inform Joe that he must take independent advice if the transfer is to proceed. (Assuming the TV is more than £30,000) The guarantee date could not be later than **1 August 2023** but in this case the scheme selects **3 July 2023**. By **10 July 202** t3he trustees must give Joe his statement of entitlement. (weekends and bank holidays are excluded from the 10 day limit.) In fact he receives this on **7 July.** The final date for Joe to confirm that he wishes to transfer is **3 October 2023** (3 months after the Guarantee Date) and he must provide evidence that he has received independent advice by **7 October 2023** (3 months after receiving the statement of entitlement) The final date for the trustees to transfer the pension is **3 January 2024**

There is a 30 day cooling off period with a pension transfer but as the member cannot rejoin the scheme once they have transferred, most schemes will hold on to the payment until the 30 day period has expired. In that way if the member changes their mind, they won't have left the scheme.

The role of the FCA

The FCA sets out its rules and guidance through the **Conduct of Business (COBS)** sourcebook which cover the interaction between adviser and client. Besides being subject to the normal rules set out in COBS 9, specific issues regarding Pension transfers are covered in COBS 19.

Types of transfer

The FCA has defined three types of pension transfer transaction.

- **Pension switching** is transferring an uncrystallised personal or stakeholder pension to another personal or stakeholder pension. There is no change in the status of the pension arrangement as both old and new are flexible benefits.
- **Pension conversion** is the conversion of safeguarded benefits into flexible benefits in the same scheme or the payment of a UFPLS from safeguarded benefits

- A **Pension transfer** is where individuals transfer deferred benefits from an occupational scheme or from an individual pension contract with safeguarded benefits to a stakeholder or personal pension scheme or a defined contribution scheme.

The exam will focus on the FCA rules for pension conversion and pension transfer Its view is that in most cases individuals should not transfer or opt out of a Defined Benefit scheme. In its policy statement PS 20/06 it stated, "there were *"too many instances where DB transfers were not in consumers' best interest."*

Whilst it's a long read it's worth downloading this,

https://www.fca.org.uk/publication/policy/ps20-06.pdf

Taking a high level view of its process:

- Any firm wishing to give advice on transferring safeguarded benefits must have specific permissions to do this and the advice must be given or checked by a **Pensions Transfer Specialist**
- The adviser should start by assuming that remaining in the scheme is likely to be the best option and should only recommend a transfer if it can be demonstrably shown that it is the best interests of the client.
- A statement showing the costs of receiving advice **(Personal Charges Communication)** must be given to the client before the start of the process. This must be in Pounds and Pence and related to the client rather than being generic.
- The adviser must make a Personal Recommendation as to whether to remain or transfer.
- If the recommendation is to transfer then a recommendation of a receiving arrangement together with details of where the transfer should be invested must also be made.
- The rationale for remaining or transferring must be detailed in an **Appropriate Pension Transfer Analysis (APTA)** which must include a **Transfer Value Comparator TVC** The APTA must give a balanced view of the trade-offs between the benefits offered by the scheme and the receiving arrangement
- A record of the process must be retained indefinitely

Firm Permissions and role of the PTS

In order to give advice on transferring safe guarded benefits a firm needs specific permission.

Advice on pension conversions, opt-outs must be given or checked by a Pension Transfer Specialist. **This does not apply if the only safeguarded benefit is a guaranteed annuity rate.**

The PTS must hold a recognised qualification of which AF7 is one. In addition from October 1 2020 the annual CPD requirements have been strengthened

- Fifteen hours CPD focussed on the PTS role which is in addition to the normal CPD requirement.
- Nine hours need to be structured learning of which five must be from an independent provider.
- Six hours can be unstructured.
- Checking and delivering advice can be included as part of CPD.

Whilst the advice can be given by someone who is not a PTS, the PTS must:

- Check the entirety and completeness of the advice.
- Confirm that any personal recommendation is suitable for the client.
- Inform the firm in writing before the report is given to the client.
- Settle any disagreements between the PTS and adviser before the client is given the suitability report.

In other words the PTS must not be just a “box ticker” but must check that the proposed recommendation is suitable.

The advice process.

Giving advice on pension transfers is probably the most complex process in personal finance which of course results in high fees. The FCA’s rules introduced on October 1 2020 allow a staged approach allowing a client to exit the process at different stages rather than have to go through the full advice process before getting a recommendation.

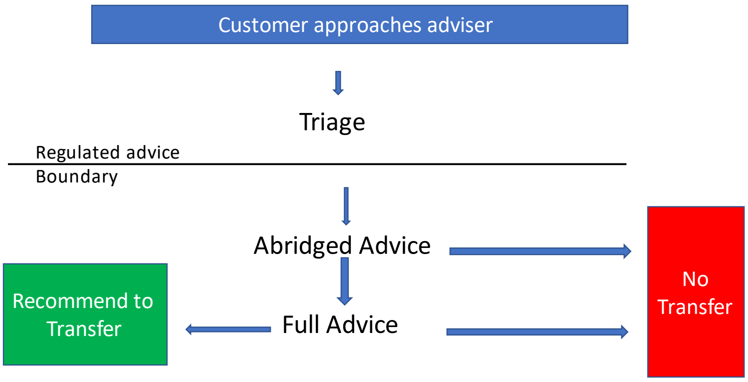
The initial exit point may be the firm’s own policy. It may choose to only engage with clients who are over 50 unless they are suffering from a life-threatening illness.

The next staging point is to offer a **Triage Service**. This is not compulsory but many firms may find it is useful to help clients decide if they want to proceed to the next stage. **A triage service is not regulated advice and an adviser cannot make any recommendation.** If the client decides to receive regulated advice the next stage is **Abridged Advice**.

Abridged advice will either result in a recommendation to stay in the scheme or based on the what the adviser finds, that it is unclear as to whether the client should remain or transfer.

If the latter, the client can elect to take **Full Advice** which could result in a recommendation to transfer

The whole process is illustrated in this diagram



Triage Service

This can be described as a conversation to give a prospective client sufficient **information** about safeguarded and flexible benefits that helps them decide whether to seek advice.

The FCA's view is that information given on a triage service must be **Balanced, Factual, Unbiased and Non-Personalised.**

- **Balanced:** information should be given on the features of both DB and DC schemes
- **Factual:** information should be given without commentating on the value of it.
- **Unbiased**: the adviser should not put disproportionate focus on any specific aspect of a DB or DC scheme
- **Non-personalised.** Only generic information should be given. An adviser should not personalise it to the client's circumstances.

In addition **the use of decision trees or Red, Amber Green (RAG) indicators is prohibited.** The FCA also requires records be kept of triage conversation.

The FCA has confirmed that stating it is their view that most individuals should remain in the scheme is not advice.

Paying for regulated transfer advice: Disclosure rules

Once the client takes regulated advice fees will start to become payable so before either abridged or full advice is provided the firm must provide details of costs to the client. This is the **Personal Charges Communication**.

- This must be in writing
- It must be personalised and distinguishable from letters sent to other clients

- All charges must be in cash terms based on the CETV
- It must show the Initial Advice Charge together with the
- Ongoing charge that would apply in the first year if the fund remained invested and the client opted for ongoing services.
- But ignoring any growth and after reducing the CETV for the initial charge
- It must state that advice charges are payable whether or not a transfer takes place.

In the past some firms offered a **contingent pricing** model where no fee was payable if the client chose not to transfer. This created a conflict of interest and has now been banned apart from a few exceptions.

Ban on contingent pricing

Firms and advisers must charge the same amount for advice to transfer or not to transfer.

- There can be no additional implementation fees.
- No difference in ongoing charges to make up for lost initial fees.
- Fees should be set out in a clear and easy to follow pre-determined criteria and process.

There are specific groups of customers for whom the firm may still offer contingent pricing. These are referred to as **carve outs**.

They are:

- Clients in serious ill health
- Clients in serious financial difficulty

Serious ill health

- The client has a life expectancy of less than 75 years
- No independent medical evidence is required
- Advisers must see some self-evidence from the client about their treatment plans and condition and this should be recorded.
- They do not have the resources to pay for advice.

Serious financial difficulty

- This cannot be used if the client is under 55 as cash cannot be released by transferring the benefits.
- To qualify evidence must be provided that three or more monthly bill or loan repayments have been missed in the last six months.
- Alternatively, if they are in receipt of certain welfare benefits.

- This carve out cannot be used if the client has savings or investments or is able to cover non-essential spending.

- Carve outs can also be used for pension sharing and transfers outside the UK.
- All carve out clients should be considered as being vulnerable.

It is the responsibility of the firm and/or adviser to determine whether a client falls into one of these categories. How this was assessed must be recorded including evidence seen together with the justification for the decision.

Abridged Advice

Firms can now offer **Abridged Advice**. As the name implies this is shorter and can be delivered at a lower cost than full advice. The main difference between abridged and full advice is that there are only two possible outcomes from abridged advice:

- A personal recommendation that the client should **not transfer or convert** their pension
- Inform the client that **it's unclear** whether or not they would benefit from a transfer or conversion based on the information collected.

In other words, abridged advice can never result in a recommendation to transfer.

If the second option is the outcome the adviser must check if the client wants to proceed to full advice and if whether they understand the associated costs.

The process of giving abridged advice can be summarised as follows:

- Adviser carries out a full fact find
- Assess the client's ATR to transfer risk*, capacity for loss, ATR to investment risk together with relevant knowledge and investment experience
- BUT the adviser **must not carry out an APTA nor provide a TVC**
- However collecting further information on the client's existing scheme benefits would not compromise abridged advice

*It has been suggested by a senior FCA official that a client's ATR for the transfer risk is binary. The client either accepts the associated risks of transfer or is unwilling to do so. There can never be a "lower/medium/high ATR"; the risk is either acceptable or unacceptable.

In terms of the rules regarding abridged advice:

- The adviser must consider the risks of staying in the scheme and the risks of transferring and losing the benefits

- The adviser **must not consider how the funds would be invested** if a transfer proceeded
- Abridged Advice must be carried by or checked by a Pension Transfer Specialist
- If the client decides to take full advice they must not be charged for the same work twice.
- Firms must provide a suitability report confirming and justifying the recommendation to stay in the scheme.

Hopefully most clients will accept a recommendation to remain in the scheme. It is the client's right to reject this and request that they get full advice. This can be done but it is good practice to:

- Advise the client that the recommendation to remain is unlikely to change.
- There will be further costs.

Finally note that receiving abridged advice does not enable the applicant to confirm to the ceding scheme's trustees that they have received independent advice.

Full Advice

If the client goes for full advice then the recommendations will either be:

To remain in the scheme
OR
To transfer with a recommendation as to the receiving arrangement, how the transfer should be invested and how it will be used to meet the client's need for income or capital.

In GC20/1 the FCA give the following as an example of good practice in the description of Full Advice

Stage 1: We start by finding out about you and your current financial circumstances. We need to know about your family, your expenditure and financial needs, your plans and retirement goals. We look at what other assets you have to meet those goals and talk to you about financial risks, including asking you to complete a pension transfer risk assessment and investment risk profiling.

At the end of Stage 1, if we can determine that you are best off keeping your DB scheme, we will write a report confirming our recommendation and the reasons for it.

Stage 2: If we cannot determine whether you should keep your DB scheme.at the end of Stage 1, with your permission, we will undertake a comprehensive analysis of the benefits of your DB scheme and a DC scheme that might be suitable for your needs. This will include cashflow modelling of possible financial outcomes allowing for all your assets. We will also consider if there are ways of meeting your objectives without giving up your DB scheme.

At the end of Stage 2, we will write a report confirming whether we think you should keep your DB scheme or transfer. This will explain why we think the recommendation is right for you and making sure you are fully aware of all the advantages and disadvantages.

We will agree our charges with you first and won't start either stage of the work until you tell us to proceed

Moving from abridged to full advice requires the adviser to discuss the importance of the following points with the client

- The level of income the client needs
- When benefits will be taken
- Is this required for a fixed period or for the client's lifetime?
- Income sustainability
- Capital benefits required and when are these to be taken
- Death Benefits
- Tax situation including any potential LTA charges
- Whether alternative methods can meet the client's needs.

Any trade-offs for example between flexibility and guarantees must be identified and explained. The adviser must show how both options (remaining and transferring) match the client's ATR and capacity for loss.

If the recommendation is to transfer the adviser must also recommend where the funds should be invested

In **COBS 19.1.6** (classed as guidance) there is a long list of what the FCA considers should be covered in assessing suitability. This is well worth reading

COBS 19.1. 1C. which is a rule states:

Before making a Personal Recommendation, the firm must:

- Determine the flexible benefits arrangement to which the client will be transferred
- AND carry out the **Appropriate Pension Transfer Analysis (APTA)** which will include the **Transfer Value Comparator (TVC)**. This isn't required if the only safeguarded benefit is a guaranteed annuity rate.
- Take reasonable steps to ensure the retail client understands how the key outcomes from the APTA and the TVC contribute towards the recommendation.
- Prior to making a personal recommendation to effect a pension transfer or conversion a firm must obtain evidence that the client can demonstrate that they understand the risks to them of proceeding with the transfer or conversion.

The last point is new from October 1 2020. In plain English the firm must thoroughly check that the client understands what transferring the pension means to them and in particular what risks they have taken on. The main one being that all the risk is transferred from the employer to the individual.

The FCA doesn't prescribe how this should be done but just getting a signature confirming they understand the risks is unlikely to be sufficient. It should take account the knowledge, investment sophistication and experience of the member.

COBS 19.1.2B, which is a rule and not simply guidance states that to prepare an APTA a firm must

- Assess the benefits likely to be paid and options under the ceding scheme
- Compare with those benefits and options available under the proposed arrangement
- Where the proposed arrangement is a personal pension scheme, stakeholder pension, scheme or a defined occupational contribution scheme that is not a qualifying scheme is available to the client, compare the benefits and options available under the proposed arrangement with the benefits and options under the default arrangement of the qualifying scheme.

The final point in the rule is **new from October 1 2020** and requires the adviser to consider the client's **Workplace pensions (WPS)**as a recipient for the transferred fund

Whilst the client's employer will almost certainly have closed the DB scheme to new members, it will offer a WPS under auto-enrolment. This must be considered as a potential receiving arrangement and if this option is rejected the adviser must clearly demonstrate why the alternative is more suitable (not simply as suitable) than the client's existing WPS.

The most common reason for rejecting the WPS is that the client wants to access the fund immediately and the WPS doesn't allow flexible drawdown or a UFPLS.

Even if the WPS does not allow drawdown and the client plans to draw the money some years later, the WPS may still be the best option. The fund can be transferred into a PP/SIPP when drawdown starts.

What the firm or adviser cannot do is have a standard paragraph rejecting the WPS

Appropriate pension transfer analysis content

The APTA records the process the firm/adviser must follow in making a Personal Recommendation.

Guidance as to the APTA content is in COBS 19 Annex 4A. A link is shown below

https://www.handbook.fca.org.uk/handbook/COBS/19/Annex4A.html

Some of the key points to note in this are:

Point 4 The adviser should take into account

- The impact of the proposed transfer on the **tax position of the client** particularly where there would be a financial impact from crossing a tax threshold or entering a new tax band
- The impact (if any) on the retail client's **access to state benefits.**

Point 5 Have regard to the likely **pattern of benefits that might be taken from both the ceding arrangement and the proposed arrangement**

Point 6. Undertake any **comparisons of benefits and options consistently**

Point 7 **plan for a reasonable period beyond life expectancy** particularly where a longer period would better demonstrate the risk of funds not lasting through retirement

Point 8 Consider how each of the arrangements would play a role in

- **Meeting the client's income needs throughout retirement** (relative to other means available to meet those needs)
- The **provision of death benefits** where relevant (including by providing comparisons on a fair and consistent basis between the ceding scheme and proposed arrangement both now and at various future points

Point 9 Consider **the trade offs that may occur by prioritising differing client objectives**

Point 10 Use more **cautious assumptions** where appropriate

The adviser can use a cash flow or stochastic model. (it is not mandatory but it is difficult to see how the advice wouldn't be compliant if this wasn't done).

- Modelling should be done in real terms. The standard CPI has been defined. Currently 2%
- Sufficient stress testing should be carried out.
- Consider all relevant tax charges in the ceding and proposed arrangements.
- Income tax and Lifetime Allowance charge should be taken into account where appropriate, on a reasonable assumption.

If the assumptions are different to those of the Key Features in the receiving arrangement, the reasons why different assumptions produce different results should be explained to the customer.

Transfer Value Comparator

This compares the transfer value with the estimated value needed to replace the client's DB income through the purchase of an annuity.

It must be undertaken on a fixed basis prescribed by the FCA using the following assumptions;

- No tax-free cash is taken at the scheme's NRD
- The annuity purchased at NRD is always on a joint life basis regardless of the member's marital status. It must also be on the same escalation rate as the scheme pension
- A female member of the scheme is assumed to have a male spouse three years older and a male scheme member has a spouse three years younger
- The cost of the annuity is discounted back to the date of calculation at a risk free net rate of return (gilt returns)
- No adviser charges are deducted from the personal pension but an allowance of 0.4% pa is factored in together with annuity purchase charges of 4%

If this is prepared more than 12 months before retirement the calculation follows a slightly different process to the CETV calculation.

1. Start with pension at date of leaving
2. Revalue to TVC calculation date using known factors. i.e what the level of inflation has been between leaving and today
3. Revalue from TVC calculation date to Normal Retirement Date using FCA prescribed assumptions (either FTSE 5-10 years Actuaries index or 10-15 years)
4. Capitalise the pension using FCA prescribed assumptions
5. Discount back to date of calculation

The difference is that the assumptions at stage 3, 4 and 5 will be lower than the scheme actuary would have used.

Where the client has less than 12 months to scheme retirement age there is no requirement for revaluation to take place.

The FCA requires that it must be given in a "durable format" and prepared to a set format. (see following page)

Table 1

This table belongs to *COBS* 19 Annex 5 1.1R.

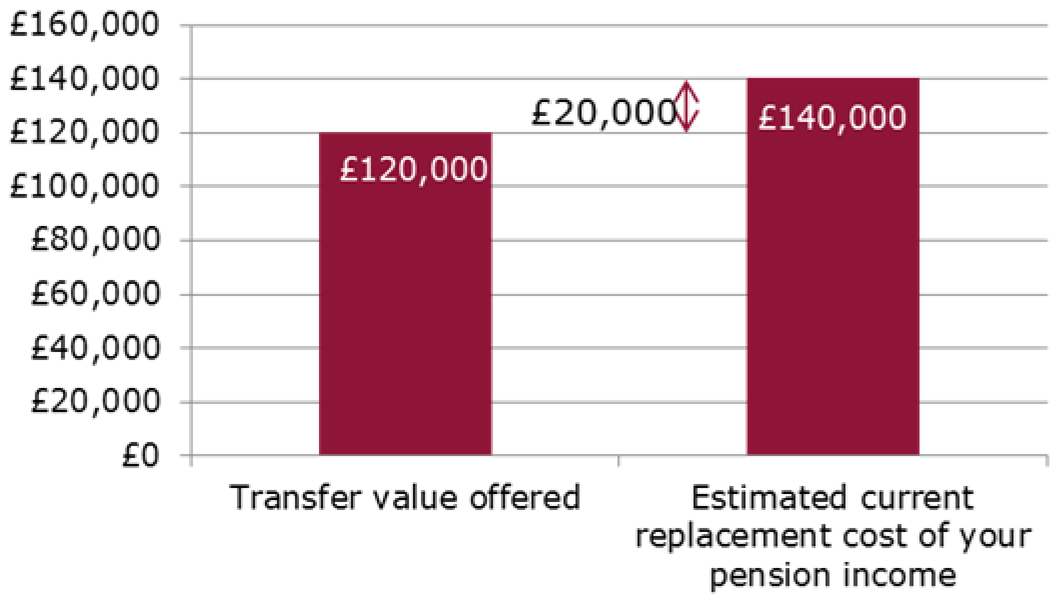
You have been offered a cash equivalent transfer value of £120,000 in exchange for you giving up any future claims to a pension from the scheme.

Will I be better or worse off by transferring?

- We are required by the Financial Conduct Authority to provide an indication of what it might cost to replace your scheme benefits.
- We have done this by looking at the amount you might need to buy the same benefits from an insurer.

It could cost you £140,000 to obtain a comparable level of income from an insurer.

This means the same retirement income could cost you £20,000 more by transferring.



See 'Notes' on the next page for a detailed explanation of this information.

In GC20/1 the FCA gave an example of good and bad practice in explaining the TVC to a client

> The TVC shows that it would be more expensive to secure the same benefits if you transferred. This is partially due to the charges that you'd have to pay and partially due to the cost of buying guarantees. So your DB scheme is the most cost-effective way to take lifetime guaranteed benefits.
>
> 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.
> You can think of the difference between the two numbers as the price of flexibility.

> The TVC is flawed. Firstly, there a number of FCA assumptions on what inflation and interest rates will be in the future and they do not have a trade-off for personal circumstances and needs. Also, it does not take into account current rates, or flexibility.
>
> The TVC is irrelevant as you don't want an annuity.

The suitability report

In addition to the full report there must also be a 1 page summary at the front, limited to one side of A4. This must be personalised to the client's circumstances including:

The suitability letter must start with a one page A4 summary stating:

- A summary of the personal recommendation
- This must point the client to where in the suitability report they can find more information.
- When abridged advice has been given a statement that the client has received abridged advice and state the difference between abridged and full advice.
- Amount payable in cash terms for the initial advice
- Information about ongoing charges
- With a statement that the client can opt out at any time.
- An explanation of the risks associate with pension transfer
- No firm will undertake a transfer or conversion unless full advice has been given
- The anticipated charges of the receiving scheme and a comparison to the revalued income in the ceding scheme.
- The client is asked to sign that they accept the advice.

The full suitability report should include:

- A summary of the advantages and disadvantages of the personal recommendation
- An analysis of the financial implications (if the recommendation is to opt out i.e to leave the scheme while still an active member)
- A summary of the key outcomes from the appropriate pension transfer analysis if the recommendation is to transfer
- A summary of any other relevant information.

If drawdown is being recommended for immediate vesting the recommendation must show why it is appropriate for the client. This should include:

- The immediate income required
- The client's income and capital needs for the next five years. (with evidence).
- The strategy for income drawdown
- Where the funds will be invested

Insistent clients

If after receiving full advice a client wishes to go against the adviser's recommendation, usually when the client has been advised to remain and still wishes to transfer. The FCA states that it must communicate to the client that:

- the firm has not recommended the transaction.
- The adviser must make it clear to the client the risks of the alternative course of action.
- The reasons why it will not be in accordance with the firm's personal recommendation
- The risks of the client's proposed transaction
- The reasons why the client did not recommend the transaction to the client

In addition the FCA recommends that the firm should get an acknowledgement from the client preferably in the client's own words showing that the transaction is not in accordance with the firm's recommendation and is being carried out at the request of the client

Split advice

It is permissible for a PTS to restrict advice to whether of not to transfer and for another adviser (or even another firm) to advise on the investment of the transferred fund.

The FCA requires that:

- Both advisers should have available the same information to provide both the pension transfer advice and investment advice
- They should both establish the client's attitude to investment risk, attitude to transfer risk and capacity for loss along with their knowledge and past experience
- The role of each adviser should be made clear along with the respective adviser charging structures and how to make a complaint to each.

If one firm has given advice and the client wants another firm to complete the transaction , i.e physically transfer the money from the scheme to the another arrangement, the second firm can only proceed if:

- They get confirmation that the first firm made a personal recommendation and whether it was to transfer or not to transfer
- They have confirmation that it was for full and not abridged advice

If the recommendation was not to transfer the second firm must:

- Warn the client that they are acting against the advice of the first firm
- Ask whether they understand the consequences of this
- If the client doesn't understand the consequences they must refuse to arrange the transfer
- And refer the client back to the first firm for an explanation of that advice

Self investors

Whilst it is mandatory to get advice on transferring from a safeguarded benefit, there is no obligation to get advice on investing the transfer value.

The FCA's expectations are that:

- Advisers should take into account the proposed destination of the transferred funds so the adviser should make it clear that the client needs to provide the necessary information about the scheme and its underlying investments.
- If the proposed transfer is unsuitable specifically because of the proposed destination, the adviser should explain that a transfer may be suitable if the client selects a

different destination for the funds. If the adviser gives an opinion on how to amend the proposed destination it is likely to be investment advice.

Duties of the ceding scheme's trustees

The scheme cannot refuse to transfer on the grounds that they believe this is an unwise decision. However, **The Pensions Regulator (TPR)** requires trustees to establish that the transfer is legitimate and is not a scam.

Step 1

The trustees must establish the receiving scheme is either:

- A public service scheme.
- An Authorised Master Trust.
- A collective defined contribution scheme

If this is the case the transfer can take place.

Step 2

If the receiving scheme is not on the list the most likely reason is that will be a workplace scheme or an overseas scheme

If the former the trustees must establish that there is an "employment link", that is the employer confirms that the client is in continuous employment.

If the latter the scheme must establish that the member is resident in the country where the proposed transfer is based.

If this cannot be confirmed then they should check for **Red or Amber flags.**

Red Flags

- The member has failed to provide the required information
- The member has not provided evidence of receiving Money Helper Guidance
- Suspicion that advice has been given by a person/firm without the required permissions
- The member requested a transfer after an unsolicited contact.
- The member has been offered an incentive to transfer
- The member has been pressured to transfer
- If **any** are present the scheme **must** refuse to make the transfer

Amber flags

- The member hasn't **fully** shown an employment link or overseas residency
- The member cannot show an employment link or overseas residency.
- High risk or unregulated investments are included in the scheme.
- The scheme charges are unclear.
- The scheme's investment structure is unclear, complex or unorthodox
- Overseas investments are included (not collective funds)
- A sharp unusual rise in transfers involving the same scheme or adviser.

- If more than one amber flag is present
- The trustees must contact the member in writing to explain what the flags are designed to achieve and that one or more flags are present.
- They must also inform the member that they will be required to attend a guidance session with the **Moneyhelper** service.
- The service will provide the member with a reference number and provide the ceding scheme with this.
- If they don't attend or provide the number, this will be grounds to refuse the transfer

That concludes this part so you should now understand:

- The background to regulation including the roles of the Department of Work and Pensions (DWP), the Pensions Regulator and the FCA
- The legal timescales on transferring from a DB scheme together with the duties of the ceding scheme's trustees
- The difference between safeguarded and flexible benefits and other key definitions in transfer advice.
- The differences between a **Triage service**, **Abridged Advice and Full Advice**
- The FCA's rules and guidance on ensuring advisers give suitable advice including **contingent charging** and dealing with **insistent customers**
- The content of an Appropriate Pension Transfer Analysis (APTA)
- How the value of the pension in a Transfer Value Comparator is calculated.
- The responsibilities of the ceding scheme's trustees to check that the transfer is legitimate.