Personal Finance Society
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Good Practice Guide

SEPTEMBER 2020 - V4

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

This September 2020 update replaces the earlier Good Practice Guide of the same name first published in February 2017 and subsequently revised in both April 2018 and September 2019.

This paper is in response to members' 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 transfer advice has been a focus for the FCA, government and consumer media for some time.

The decision to transfer out of a defined benefit (DB) scheme can be complex and whilst we remain of the view that the vast majority of consumers receive valued and appropriate advice from the majority of professional advisers in this market, it is appropriate we acknowledge the regulator's view that the number of consumers receiving a recommendation to leave their DB scheme has been consistently high for some time and that their assessment of suitability of Defined Benefit transfer advice continues to raise concerns.

On the 5th June 2020 the FCA issued its latest update on its findings from an initial sample of 85 firms most active in this market (responsible for 43% of DB transfers between April 2015 and September 2018) including file samples from 55 firms they deemed most likely to be providing unsuitable advice. From this the FCA found that whilst there has been some improvement in the quality of advice during this time, with 60% of the advice reviewed from 2018 being deemed suitable increasing to 80% in 2019, the level of suitable advice overall was below their objective for the market. Other key findings included too many firms failing to collect the information necessary to be in a position to provide suitable advice (referred to as ‘material information gaps’ or MIGs), a lack of adequate PII insurance and in some cases inadequate financial resources supporting their business.

At the same time, the FCA has set out a package of measures designed to address perceived weaknesses across the defined benefit transfer advice market, including its final rules and guidance, Policy Statement 20/6. This includes a ban on contingent charging and the availability of a form of abridged advice amongst other changes, **most of which are due to come into force on the 1st October 2020**. Whilst we have some concerns in respect of the practical application of these specific changes, we acknowledge that prescriptive regulatory action in these areas may contribute to greater public trust in advice overall. We welcome the best practice and case study examples of what it deems suitable and unsuitable advice in its Guidance Consultation GC20/1 which goes to greater lengths that we have seen in the past in helping firms understand what the regulator sees as good practice. We also acknowledge the introduction of the FCA ‘advice checker’, similar to that produced by the Pensions Advice Taskforce for the Pension Transfer Gold Standard back in 2019 and already adopted as good practice by many including the Pensions Administration Standards Association.

As the largest Professional Body for the Financial Planning profession we continue to signpost good practice to firms and consumers alike. We have now updated our Good Practice Guide: A Practical Guide to Pension Transfers from Defined Benefit to Defined Contribution (September 2020) to reflect the above.

Advice Requirements

(This section covers the basic advice requirements from government and regulator, including specific reference to FCA communications including Policy Statements 18/6, 18/20 and 20/6. It should not be seen as a substitute for reading the full Policy Statements that include additional detail in respect of existing and future advice requirements).

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.

Where a firm accepts business from an introducer, they must not delegate any of its regulated activities to them and must maintain full and complete ownership of the advisory process between itself and the client.

Professional Indemnity Insurance (PII)

PS 20/6 confirms the FCA is proceeding with its proposals on PII data collection as set out in CP19/25, with rules implemented from 1st October 2020. This includes new information on any policy exclusions within PII contracts. Further guidance is available in respect of requirements on firms in GC 20/1 (page 10-14).

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 and PS 20/6 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.

Improved disclosure

PS 20/6 requires advisers to provide information on personalised charges before the advice process starts, in writing (including non-paper methods of communication) and on the assumption that funds would stay invested (to illustrate the upper bound for any ongoing charges).

PS 20/6 confirms the additional introduction of a 1-page suitability report summary that must include charges disclosure, the adviser recommendation, a statement of risks and information on any ongoing services provided. Examples are provided in Annex 2 (page 65). Both this and the full suitability report should be issued before any transfer is effected.

Both above requirements are effective from 1st October 2020.

Abridged advice

Abridged advice can only be given by a qualified PTS or a qualified adviser and signed off by a PTS.

PS 20/6 introduces a short-form advice process which is designed to be more affordable than full advice, the rules for which will be effective from 1st October 2020 (firms should not give abridged advice before this date).

This short form of advice enables an adviser to:

1. Provide the consumer with a personal recommendation NOT to transfer or convert their pension, or
2. Tell the consumer that it is unclear whether they would benefit from a pension transfer or conversion based on the information collected through the abridged advice process. The adviser must then check if the consumer wants to continue to full advice and make sure they understand the associated costs.

The abridged advice process should only contain the initial stages of the full advice process:

- Full fact-find
- Risk assessment (this includes the client's attitude to transfer risks, investment risks and attitude to investment losses)
- Consideration of the benefit structure from the client's existing scheme
- Client objectives, needs and wants.

It must be carried out or checked by a PTS, involve a suitability report for advice not to transfer and cannot involve assistance to transfer or convert unless the client has taken full advice. Firms must not undertake APTA, provide a TVC or consider the clients proposed receiving scheme.

No Section 48 certificate can be produced following an abridged advice process alone.

Firms will need to offset the abridged advice charge from any full advice charge unless the client uses different advisers for abridged advice and full advice. Firms should also be aware that as abridged advice does not permit firms to consider a proposed receiving scheme it may well be subject to VAT, although PS 20/6 does not provide any guidance saying 'the VAT treatment of abridged advice is a matter for HMRC'.

Firms can provide abridged advice free of charge but must not do so in an attempt to circumvent the ban on contingent charging.

The FCA have made clear that firms must have a clearly defined policy in respect of dealing with clients who qualify for abridged advice, and this should include a description of how, and the circumstances in which a firm might move from abridged to full advice.

The following table (GC 20/1 page 9) provides a useful summary of how firms should apply the suitability rules to all forms of DB Transfer Advice including abridged advice:

Type of Advice	COB 9 applies	COBS 19.1 applies	COBS 19.1A applies	COBS 19.1A applies
DB transfer advice	✓	✓		
Abridged advice	✓		✓	
Investment advice on funds that may be transferred	✓			✓

Contingent charging

PS 20/6 bans contingent charging in most cases and advisers must charge the same monetary amount for advice to transfer and advice not to transfer. There is an exception known as a ‘carve-out’ for a small number of vulnerable consumers who:

• have a specific illness or condition that causes a materially shortened life expectancy and are unable to pay for full transfer advice; or

• are facing ‘serious financial difficulty’.

In such cases, the amount they are expected to pay for a transfer and ongoing services should be no greater than it is for those whose transfer advice is charged for on a non-contingent basis. In both cases the client must be unable to pay for full transfer advice. The FCA have set an implementation date for the ban and carve-outs of 1st October 2020.

A personal recommendation

PS 18/6 introduced 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 information, 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.

Assessing a client’s attitude to transfer risk

When advising on the transfer or conversion of safeguarded benefits the FCA expect advisers to focus on the client’s attitude to the features of both a safeguarded benefits scheme and of a flexible benefit scheme. A robust assessment of the client’s attitude to transfer risk is an essential part of the advice process. The assessment should be detailed enough for the adviser to form a view of features which are appropriate to each client’s personal circumstances.

Clients should be told about risks such as longevity risks and investment risks and should also consider sponsor insolvency risk in a balanced way so that any client biases and misconceptions are managed, for instance regarding the benefits provided by the PPF.

Demonstrating understanding of risks

Firms must be able to evidence that the customer can demonstrate they understand the risks of proceeding with a DB transfer before finalising the recommendation and keep a record of this evidence.

Expectations of the role of the Pension Transfer Specialist (PTS)

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.

PS 18/20 introduced the requirement for every PTS to hold qualifications for both a PTS and for advising on investments to ensure sufficient knowledge to assess the suitability of a transfer, including the risk, returns and charges of the proposed scheme and underlying investments. This requirement was meant to come into effect no later than 1st October 2020 but has now been pushed back to 1st October 2021 due to the coronavirus pandemic.

PS 20/6 confirms the new requirement for PTS's to undertake 15 hours of CPD focused specifically on the activities of a pension transfer specialist, with at least 5 hours to be provided by an external provider. 9 of the 15 hours must be structured learning while the remaining 6 hours may be unstructured. These new CPD rules are effective from 1st October 2020 and a PTS can start their PTS CPD year from this date or from a date within the following 12 months that align with other forms of CPD.

Taking account of the proposed destination of a client's transfer funds/the 'two-adviser model'

When advising on a pension transfer, the advice must take account of the proposed destination of the transfer funds if a transfer proceeded. This includes both the proposed scheme and the proposed investments in that scheme. The FCA rules do not prevent two separate advisers providing the pension transfer advice and the advice on the proposed receiving scheme and its investments. However, the FCA expect the two advisers to work with the same information about the client and have in place robust processes to ensure that this happens. The investment advice is included in the contingent charging ban and levelling of fees.

PS 18/20 confirmed proposals detailed in CP 18/7, namely that that both 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 consider the impact of the loss of any safeguarded benefits on the client's ability to take on investment risk.

Workplace Pensions

PS 20/6 confirms that in order to address ongoing conflicts of interest, advisers must consider an available workplace pension as a receiving scheme for a transfer and demonstrate why any alternative is more suitable. Firms need only consider a current WPS, unless it is more appropriate to consider a previous WPS (for example, where the current or most recent WPS doesn't accept additional contributions or if the consumer is not an active member of a WPS at the time).

Suitability reports for negative recommendations

PS 18/20 confirms amendment of FCA rules so that firms are required to provide a suitability report, regardless of whether their advice results in a recommendation to transfer. The FCA consider that advising a client that it is not in their best interests to transfer, and setting out the reasons why, is just as valuable an outcome as a recommendation to transfer.

It also confirms amendments to Handbook guidance to clarify that firms should provide an advice confirmation for both positive and negative recommendations.

Analysis to support advice

With effect from 1st October 2018, the current transfer value analysis (TVAS) requirement was replaced by a requirement to undertake an 'appropriate pension transfer analysis' (APTA) of the client's 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 expressed 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 regarding 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)

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.

PS 20/6 further states that a comparison with a WPS default fund should also be made where one is available, and an alternative proposed scheme should be more suitable than an available WPS.

The Transfer Value Comparator (TVC)

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 clients 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 customers' 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.

Pension increase assumptions

The Transfer Value Comparator (TVC) requires advisers to make assumptions about the inflationary increases applied to DB scheme benefits when valuing these benefits. PS 18/20 confirmed a change to the assumptions to use where minimum (collars) and maximum (caps) rates apply to inflationary increases. To prevent pension increases being overvalued the FCA require that firms should assume fixed rate increases at the collar, for collars above the relevant RPI/ CPI rate; and at the cap, for caps below the RPI/CPI rate. All other increases should be valued at RPI/CPI.

Overseas transfers

Where a client lives overseas and is 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 adviser 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.

PS 20/6 states that ‘Where investment advice on the proposed destination of the funds is given by an overseas firm the ban on contingent charging applies to the charges levied by the UK firm giving the transfer advice and only to the overseas firm if it relies on FCA authorisation when it gives its advice’….’But firms must provide a statement about the possibility of any additional charges in relation to advice given outside of the UK regulatory regime in the personalised charges document’.

Adviser Good Practice

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

1. Financial promotions (including client brochures, website and social media)

Under financial promotion rules, firms have a responsibility to ensure that any commentary is clear, fair and not misleading and should make sure it fairly and prominently mentions any relevant risks when mentioning any potential benefits (COBS 4.5.2R(2))

GC 20/1 suggests good practice should involve consideration of not just clear information about the advantages and disadvantages of transfers, but also possible outcomes from the advice process. For example: 'If you take advice from us, we will give you one of two outcomes: we can show that the transfer is clearly in your best interests and suitable for you, or; we cannot show that the transfer is in your best interests so we believe that remaining in your current scheme is suitable for you'. GC 20/1 also provides a number of examples of what the FCA deem poor practice.

GC 20/1 also highlights good practice in respect of declining to do business, including the setting out clearly and objectively the criteria and circumstances where a firm will give advice and confirmation that 'we will not arrange a transfer for you if we recommend that you should remain in your scheme'.

Firms should not use carve-outs as a way of attracting business.

2. 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.

The FCA has produced a consumer facing video (Defined benefit pension process explained) that seeks to detail the advice process a consumer should expect. Good practice should involve a firm being familiar with this and ensuring their own advice process doesn't undermine or conflict with any of the key messages and content within the video. The video can be found at the foot of the FCA Adviser checker page (see Appendix).

Where a client has no experience of managing investments, the take up of ongoing services should be particularly encouraged (for example, regular reviews).

3. Advice checker at the point of sale

Advisers should be aware of the FCA Advice checker published 5th June 2020 (see Appendix), designed to help consumers identify whether they may have received poor advice in the past, with a focus on those receiving regulated advice since April 2015. Advisers should familiarise themselves with the page in question in case of client approach or to satisfy themselves they have done an appropriate job against the suitability criteria highlighted. A similar type 'checker' but in respect of what consumers should expect BEFORE taking advice is a core part of the Pension Transfer Gold Standard.

4. Establishing client objectives

As well as asking open questions to establish client objectives (e.g. 'how important is it for you to retire early even if this could mean running out of money later in life?'), good practice involves trying to find out the implications for a client if a firm's recommendation is not to transfer (e.g. 'If at the end of the advice process we consider that a transfer isn't the right thing for you, what would that mean for you?'). Such questions help reinforce the possibility of a recommendation not to transfer as well as help understand how much a client's objectives are a 'want' as opposed to a 'need'.

5. Concerns about limited information

If a firm is concerned that the client has only provided insufficient information about their overall financial circumstances, a firm should decline to advise.

6. 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, variances and current funding position. 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?

GC 20/1 (page 73) provides a DB transfer template that sets out the information a firm should consider collecting about the ceding arrangement to be able to give pension transfer advice.

GC 20/1 also suggests routine enquiry about the availability of partial transfers, to enable more cautious clients to keep some of their guarantees whilst still having some flexibility.

7. 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 that they understand what the adviser is saying or writing, there can be no informed decision.

8. Education/Triage service

Whilst a triage service is not a regulatory requirement, in PS 18/20 the FCA state their view that triage can be useful in terms of generic information but expressed concern that some forms of triage were straying into the provision of personal recommendations. Good practice should take account of the perimeter guidance in CP 18/7 and ensure guidance services, such as triage, are educational and present a balanced view of the advantages and disadvantages of transferring. Even if a client tells a firm about their personal circumstances, if the firm wishes to avoid giving advice it should not comment at the triage stage on whether they should consider a transfer based on this information. If an adviser gives an opinion on how a consumer's individual circumstances may affect advice on transferring, it is more likely that regulated advice is being provided.

The FCA have also stated in CP 18/7 that they think it would be helpful in any triage service for firms to explain the transfer process and the total charges that might be incurred, both if a transfer proceeds and if it does not. They also state they consider it good practice for firms to keep records where triage has been provided and the form that it takes.

PS 20/6 confirms that the FCA perimeter guidance on how firms can avoid giving advice when delivering a triage service (as set out in PS 18/20) becomes effective from 15th June 2020. This guidance includes clarification that firms should not use decision trees or traffic-light RAG-rated questionnaires within a non-advised triage service.

GC 20/1 suggests standardised triage content will ensure that a client's personal circumstances are not influencing content and highlights an example of good practice where a firm directs clients to an unconnected third-party triage service. It is for this reason that the Pension Transfer Gold Standard has always required firms adhering to the standard to provide triage-based information 'at arms-length'.

9. 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 or 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?

10. 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.

11. 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 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.

12. 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. In the context of retirement advice an understanding of income needs in retirement is needed in order to make a personal recommendation and this is less likely to be possible the further the client is from their expected retirement. 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.

13. Analysis of sustainability of income/cash flow modelling

The adviser should ensure they have documented the client's 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 client's 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.

GC 20/1 suggests when gathering information about a client's current level of income and expenditure and anticipate changes up until intended retirement date the adviser should consider splitting expenditure into essential, lifestyle and discretionary expenditure.

GC 20/1 also suggests the use of the same growth rates in cash flow modelling as used in the KFI so clients can see consistent outcomes.

14.'Two-adviser model'

The FCA considers it good practice to carry out effective due diligence on partner firms, agree processes and make any arrangements clear to the client. In turn the client should be able to understand the role of the two advisers, as well as their respective charging structures and how to make a future complaint about services provided by either firm.

GC 20/1 highlights an example where a firm giving DB transfer advice worked with introducers who were other regulated firms and who gave the investment advice. Good practice was identified where the firms agreed they would have joint meetings with clients to manage the risks of communications being misinterpreted by either firm or by the client.

15. Using introducers

GC 20/1 provides an example of good practice when working with unregulated introducers when they are not professional services firms such as accountants or solicitors. In such circumstances the FCA deem it good practice not to rely on any client information they provide and verify any such information directly with the client. A firm should also carry out appropriate due diligence on introducers used including oversight on how introducers use the advice firm's documentation and present advice to the client.

16. Use of technology

Technology should be used is such a way that 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. 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.

24. Advice should be clearly stated (the file must not 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.

25. Adviser Charging

In addition to an absolute requirement for transparency of charging, good practice should include checks on consumer understanding BOTH **before** and **during** the advice process.

In respect of the new rules on contingent charging and specifically the carve-out rules that relate to ‘specific groups of customers with certain identifiable circumstances’, we suggest good practice includes the creation by firms of clear policies that seeks to tackle ambiguous situations and clarify how firms will make judgements – for example on a client’s health and its impact on longevity or evidence of gambling and its impact of current and future levels of debt and poverty.

26. 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 into 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.

27. Consideration of financial dependants

There is, generally, an imbalance in pension savings between men and women which reflects the gender pay gap and the differences in rates of employment between men and women. As a result, women are more likely to depended on their spouse’s pension income in retirement, an income which is not in their name and over which they have no direct influence. This may also be the case within same sex relationships if there have been, for example, uneven roles in parenting. When advising a client who is part of a long-term, financially interdependent relationship (marriage, civil partnership or other long-term relationship) it is good practice to ensure that the needs of the client’s partner are considered when assessing options to transfer or in any way alter pension benefits. This is particularly important where safeguarded benefits are concerned.

The Pension Transfer Gold Standard

Consumers need to be able to know they have access to advice and to advisers they can trust. They also need help in recognising professional standards and good practice and what they should expect by way of the advice process and outcomes.

In April 2019, the Pension Advice Taskforce (PAT), an industry-wide representative body whose purpose is to raise advice standards and enhance consumer protection in areas of complex pension advice, launched the Pension Transfer Gold Standard (PTGS), a voluntary code of good practice for safeguarded and defined benefit pension transfer advice, based around the following set of principles:

1. Helping clients understand when advice is appropriate
2. Ensuring advice given supports the clients' overall wellbeing in the context of their stated objectives
3. Ensuring client understanding and acceptance of all charges
4. Ensuring the most appropriate and updated technical skills are applied
5. Transparent management of Conflicts of Interest
6. Helping clients understand the cost of transferring benefits
7. Avoiding unregulated investments and introducers
8. Transparency in advice processes and outcomes
9. Promoting the Consumer Guide to the Pension Transfer Gold Standard.

For those adviser firms who adopt the PTGS it provides a means of differentiation, demonstrating to consumers and market participants such as PI Insurers a clear intent on behalf of a firm to go the extra miles in demonstrating a duty to do the right thing for consumers.

Further details of the PTGS including how advice firms can sign up and adopt the principles can be found via the following:

The adviser landing page – **thepfs.org/ptgs**

Consumers can read about the PTGS and access both short and long versions of the consumer guide via the following:

The consumer landing page – **thepfs.org/ptgsconsumer**

The Gold Standard is primarily about empowering consumers and setting clear expectations of what to expect from financial advice. The success of this initiative will ultimately be measured against the practical extent to which it helps consumers understand what they should expect from good quality advice, how to recognise it and how to access it.

Appendix – The Rules and regulatory source material

FCA communications

Date (last updated)	Nature of FCA communication	Content	Link
05/06/2020	Consumer	**Advice checker**	https://www.fca.org.uk/defined-benefit-pension-transfers/advice-checker
05/06/2020	Guidance Consultation GC 20/1	**Advising on pension transfers**	https://www.fca.org.uk/publications/guidance-consultations/gc20-1-advising-pension-transfers
05/06/2020	Multi-firm reviews	**Defined Benefit (DB) transfers – further update on our work**	https://www.fca.org.uk/publications/multi-firm-reviews/defined-benefit-transfers-further-update
05/06/2020	Policy Statement PS 20/6	**Pension Transfer Advice: feedback on CP19/25 and our final rules and guidance**	https://www.fca.org.uk/publication/policy/ps20-06.pdf
30/7/2019	Consultation paper CP 19/25	**Pension transfer advice:** contingent charging and other proposed changes'. Consultation open until 30/10/2019	https://www.fca.org.uk/publications/consultation-papers/cp19-25-pension-transfer-advice
19/6/2019	Multi-firm reviews	**Defined benefit pension transfers** – market-wide data results	https://www.fca.org.uk/publications/multi-firm-reviews/defined-benefit-pension-transfers
04/10/2018	Policy Statement PS 18/20	**'Improving the quality of pension transfer advice** – feedback on CP18/7 and final rules and guidance'	https://www.fca.org.uk/publications/policy-statements/ps18-20-improving-quality-pension-transfer-advice
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/publication/consultation/cp18-07.pdf
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
3/10/2017	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

Appendix – The Rules and regulatory source material

FCA communications - continued

Date (last updated)	Nature of FCA communication	Content	Link
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
4/12/2016	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
3/8/2016	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
9/6/2016	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
8/6/2015	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

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	http://www.legislation.gov.uk/uksi/2015/742/contents/made