

Chapter 4

British Steel Consumer Redress Scheme

BSPS DBAAT and BSPS Redress Calculator Instructions

1	Introduction	
	Limitation on use	
1.1	G	The suitability assessment toolkit reproduced at CONRED 4 Annex 20R (referred to in these instructions as the 'BSPS DBAAT') and instructions in this Annex are to be used only for the purpose of complying with the requirements under CONRED 4 to assess <i>pension transfer</i> advice provided to BSPS members during the relevant period. They should not be used for any other purpose.
1.2	G	Unless otherwise stated, nothing in CONRED 4 affects how the FCA DBAAT operates.
	Definitions	
1.3	R	In this section we use the following definitions:
	(1)	'assessor' means the person filling in the BSPS DBAAT, either at the <i>firm</i> or on behalf of the <i>firm</i> ;
	(2)	'available evidence' means the information collected by the <i>firm</i> and held on the <i>consumer</i> file or information received from a <i>consumer</i> ;
	(3)	'BSPS' has the meaning in CONRED 4.1.1R(1);
	(4)	'BSPS2' has the meaning in CONRED 4.1.1R(2);
	(5)	'BSPS DBAAT' has the meaning in CONRED 4.1.1R(4);
	(6)	'Causation Section' is the tab on the BSPS DBAAT Excel Spreadsheet that records whether the <i>firm's</i> failure to comply with the suitability requirements is the effective cause of the <i>consumer's</i> loss;
	(7)	'comparator scheme' means, other than as provided by CONRED 4 Annex 21 13.1R(4):
	(a)	(if the advice was given on or before 16 May 2017) BSPS;
	(b)	(if the advice was given from 17 May 2017 to 11 October 2017) either or both of BSPS and PPF; and
	(c)	(if the advice was given on or after 12 October 2017) BSPS2 and PPF;
	(8)	'FCA DBAAT' has the meaning in CONRED 4.1.1R(11);
	(9)	'information requirements' are the requirements in force during the relevant period and are:
	(a)	COBS 9.2.1R(2);
	(b)	COBS 9.2.2R;
	(c)	COBS 9.2.3R;
	(d)	COBS 9.2.6R; and
	(e)	COBS 19.1.2R;
	(10)	'instructions' means this Annex;

- (11) 'Information Section' is the tab on the BSPS DBAAT Excel Spreadsheet that collects information about the *firm's* compliance with the information requirements that is relevant to the assessment of suitability;
- (12) 'material information gap' has the meaning in CONRED 4.1.1R(12);
- (13) 'NRD' is the normal retirement date in the comparator scheme;
- (14) 'pension benefits' has the meaning in CONRED 4.1.1R(13);
- (15) 'PPF' means the Pension Protection Fund;
- (16) 'relevant period' is defined at CONRED 4.1.1R(16);
- (17) 'scheme case' is defined at CONRED 4.1.1(17);
- (18) 'suitability requirements' are the requirements in force during the relevant period specified at CONRED 4 Annex 21R 7.1R and are:
 - (a) COBS 9.2.1R(1); and
 - (b) the common law duty in contract or tort to exercise reasonable skill and care in advising the *consumer* on *pension transfers*;
 and that were in force during the relevant period and applicable to a scheme case;
- (19) 'Suitability Section' is the tab on the BSPS DBAAT Excel Spreadsheet that records the assessment of the *firm's* compliance with the suitability requirements;
- (20) 'transfer value' is the cash equivalent transfer value or CETV;
- (21) 'transfer value analysis' is the analysis a *firm* was required to carry out during the relevant period, in accordance with the requirements at COBS 19.1.2R; and
- (22) 'two-adviser model' has the meaning in CONRED 4.1.1R(21).

2 Using the BSPS DBAAT

- 2.1 G The BSPS DBAAT contains factors for the *firm's* assessor to take into account to determine whether there has been a failure to comply with the suitability requirements in a scheme case. The instructions are addressed to the assessor carrying out the review.
- 2.2 R The BSPS DBAAT is a Microsoft Excel workbook divided into 5 'sections', using worksheet tabs, which must be completed in full except where indicated in these instructions.
- 2.3 R Before completing the BSPS DBAAT, an assessor must familiarise themselves with the features, benefits and risks of a *pension transfer* from BSPS, including the features, benefits and risks in general of a *pension transfer* that a reasonably competent *firm* should have identified, as illustrated in CONRED 4 Annex 22G at Table 1.
- 2.4 R The assessor must answer the questions in the BSPS DBAAT and complete the assessment by reference to the available evidence, and where specified the information available to advisers during the relevant period listed in CONRED 4 Annex 22G at Tables 2 and 3.
- 2.5 R All answers should be based on information obtained up until the date the *firm* gave the advice or arranged the *pension transfer*, unless otherwise stated.
- 2.6 G When completing the BSPS DBAAT, an assessor should ensure that the information they enter, including, without limitation, all values, notes, additional comments, rationale and evidence, is sufficiently detailed for a third-party assessor to:
 - (1) gain an accurate and complete overview of the relevant evidence on the *consumer* file; and

		(2)	form a view without the need to refer to the relevant evidence as to whether the <i>firm</i> has collected the necessary information to assess suitability and, where applicable, complied with the suitability requirements.
2.7	G		The BSPS DBAAT uses colours to indicate whether fields have been completed. Blue indicates fields still to complete. Grey indicates fields that may not have to be completed, depending on the answer to a question.
2.8	G		The diagram at 2.9G explains the scheme steps in diagrammatic form, with reference to the relevant sections of the instructions and CONRED 4 rules.
2.9	G		The steps to complete a BSPS DBAAT are set out below.

Steps to complete a BSPS DBAAT

3 Use of FCA DBAAT

- 3.1 G If CONRED 4.3.2R(2) applies and the *firm* uses a non-BSPS DBAAT to complete the first step under CONRED 4.3.2R, it should have regard to the differences between the BSPS and non-BSPS DBAAT and refer to relevant sections of the instructions to identify whether their FCA DBAAT or assessment requires amendment. The material changes include:
- (1) In the Information Section:
 - (a) Information Area 4 is not present in the BSPS DBAAT and the remaining Information Areas have been renumbered;
 - (b) Information Area 7 in the BSPS DBAAT on the comparator scheme (area 8 in the non-BSPS DBAAT) has been significantly revised;
 - (c) Information Area 9 in the BSPS DBAAT on the transfer analysis (area 10 in non-BSPS DBAT) has been significantly revised.
 - (2) In the Suitability Section:
 - (a) the addition of *evidential provisions* in respect of Examples 1 to 11;
 - (b) new Example 11 has been inserted in the BSPS DBAAT;
 - (c) Example 11 from the non-BSPS DBAAT becomes Example 12;
 - (d) Example 12 from the non-BSPS DBAAT has been removed.
 - (3) The Suitability Investment Advice, Disclosure and Insistent Client Sections have been removed.

4 General instructions

- 4.1 R An assessor must complete a separate BSPS DBAAT for each *consumer* and:
- (1) if the *consumer* has more than one period of service in the BSPS, complete a separate BSPS DBAAT for each period of service;
 - (2) if the *consumer* received connected advice on pension transfers from a non-BSPS ceding arrangement within 6 months of the BSPS advice, have regard to how the connected advice factors into the advice to transfer the *consumer's* BSPS scheme.
- 4.2 G For the purpose of 4.1R, advice on a pension transfer from a non-BSPS ceding arrangement is likely to be connected with advice to transfer from BSPS if the advice on the other scheme is integral to the *consumer's* decision to transfer from the BSPS.
- 4.3 R Where the *consumer* is married or has a partner, complete the BSPS DBAAT on a joint life basis unless the *consumer* has instructed the *firm* to advise on a single life basis and their spouse or partner has confirmed that they have sufficient retirement provision of their own.
- 4.4 R Where it is necessary to use multiple BSPS DBAATs:

- (1) use the first BSPS DBAAT for the *ceding arrangement* offering the largest transfer value;
- (2) label the completed BSPS DBAATs with the *consumer's* name and the number in sequence order that the BSPS DBAATs were completed;
- (3) re-use the relevant information from the first BSPS DBAAT in any connected BSPS DBAATs and ensure that the following sections are completed using the available evidence about the *consumer* and the *ceding arrangement* the BSPS DBAAT relates to:
 - (a) case details;
 - (b) Information Area 1 – ‘has the *firm* obtained the essential facts about the *consumer*?’;
 - (c) Information Area 7 – ‘has the *firm* obtained the necessary information about the consumer’s pension benefits?’;
 - (d) Information Area 8 – ‘has the *firm* obtained necessary information regarding the *proposed arrangement*?’; and
 - (e) Information Area 9 – ‘has the *firm* carried out the transfer analysis?’; and
- (4) clearly cross refer between the BSPS DBAATs.

5 Information Section

5.1 R An assessor must take these 6 actions to complete the Information Section:

- (1) Enter ‘case details’ of the file review and assessor alongside details of the *firm*, adviser and *pension transfer specialist* (as recorded on the *Financial Services Register*) and the charging basis for the advice.
- (2) Record the relevant information from the available evidence under each of the 9 Information Areas, following the instructions under each area heading.
- (3) For each Information Area, decide whether the *firm* has complied with the information requirements and obtained the necessary information to assess suitability and answer ‘yes’ or ‘no’ to each ‘area question’.
- (4) Depending on the answers to questions in Information Areas 1 to 9, the BSPS DBAAT will give the *firm's* information collection 1 of 3 indicative ratings. To complete this action, refer to the instructions at [CONRED 4 Annex 21R](#) from 5.3R to 5.7R and select from the drop-down list one of the following ‘assessor’ ratings:
 - (a) ‘Compliant – Proceed to suitability assessment’ – the *firm* has complied with the information requirements and collected the necessary information to assess suitability. Proceed to the Suitability Section of the BSPS DBAAT.
 - (b) ‘Non-compliant – Material Information Gap’ – the *firm* has not complied with the information requirements and so it is not possible to assess suitability. Complete action (5) before finalising this rating.
 - (c) ‘Non-compliant - However enough information to assess suitability’ – the *firm* has not complied with the information requirements and has taken the steps at [CONRED 4.3.5R](#) but there is sufficient information to conclude that the advice was likely to be unsuitable. Proceed to the Suitability Section of the BSPS DBAAT.
- (5) If 4(b) applies, follow the steps in [CONRED 4.3.5R](#) to obtain the missing information, then carry out actions 5.1R(2) to (4) again and finalise the assessor rating.
- (6) Explain, with reference to the *consumer* file, the reasons for the rating and any actions taken to obtain missing information.

5.2 G The overall assessment part of the Information Section has 2 boxes:

		<p>(1) Tool rating: the BSPS DBAAT's indicative rating of whether the <i>firm</i> has obtained the 'necessary information' to make a <i>personal recommendation</i> based on the answers to Information Area questions 1 to 9 in the Information Section.</p> <p>(2) Assessor rating: this is the assessor's own informed assessment in the round of whether the <i>firm</i> has obtained the necessary information to make a <i>personal recommendation</i>. The assessor can come to a different rating.</p>
5.3	R	<p>To complete the overall assessment of whether the <i>firm</i> has collected the necessary information at 5.1R(4), take the following steps. Using the available evidence and with reference to the information requirements:</p> <p>(1) review the information recorded and the ratings in each Information Area of the BSPS DBAAT;</p> <p>(2) answer 'yes' or 'no' depending on whether the <i>firm</i> has complied with the information requirements; and</p> <p>(3) insert commentary on whether or not the <i>firm</i> has complied with the information requirements.</p>
5.4	R	If the answer to all of the Information Area questions 1 to 9 is 'yes', select 'compliant – proceed to suitability section' and proceed to the Suitability Section.
5.5	R	<p>If one or more of the answers to the Information Area questions 1 to 9 is 'no', decide, with reference to the information requirements, whether there is nonetheless sufficient information to assess the suitability of the recommendation and:</p> <p>(1) if there is sufficient information, select 'non-compliant however enough information to assess suitability' and make a record of the reasons for the assessment in accordance with CONRED 4 Annex 21R 5.3(3)R; or</p> <p>(2) if there is not sufficient information, select 'Non-compliant - Material Information Gap' and take the second step at CONRED 4.3.5R to obtain the missing information then proceed to 5.1R(2).</p>
5.6	G	<p>There may be sufficient information to assess the suitability of the advice in circumstances where the <i>firm</i> has been unable to obtain the necessary information in one or more Information Area. For example:</p> <p>(1) where the <i>consumer</i> was in <i>serious financial difficulty</i> and had a proven urgent need for the transferred funds and the <i>firm</i> was unable to obtain the necessary information in Information Area 1, 3, 4 or 5. The types of circumstances in which a <i>consumer</i> is likely to be able to show they are experiencing <i>serious financial difficulty</i> include where continuing to pay domestic bills and credit commitments is a heavy burden on the <i>consumer</i> and the <i>consumer</i> has missed payments for any credit commitments and/or any domestic bills in any 3 or more of the last 6 months; or</p> <p>(2) where the <i>consumer</i> was in ill health, with death expected imminently, and wanted to transfer in order to pass the value of their pension benefits to beneficiaries and the <i>firm</i> was unable to obtain the necessary information in Information Area 3, 4, 5, or 6.</p>
5.7	R	<p>If, after taking the steps at CONRED 4.3.5R, and having regard to the guidance in CONRED 4.3.12G to CONRED 4.3.13G, the conclusion is that the <i>firm</i> has not obtained the necessary information and it is not possible to assess the suitability of the transfer (such that the 'assessor rating' is 'Non-compliant – Material Information Gap'), record:</p> <p>(1) a brief summary of the missing information and its significance to the suitability assessment (for example, 'the <i>firm</i> has not recorded any <i>consumer</i> objectives and so it cannot form a view on whether the transfer meets the <i>consumer's</i> investment objectives'); and</p>

		(2)	that the <i>firm</i> has not complied with the information requirements but it is not possible to assess whether the <i>firm</i> has complied with the suitability requirements; and
		(3)	where the failure relates to the transfer analysis, that the <i>firm</i> has not carried out the required transfer analysis in accordance with COBS 19.1.2R.
6		Instructions for Information Areas	
6.1	G	This section sets out how to assess whether the <i>firm</i> has collected the necessary information across 9 Information Areas to make a <i>personal recommendation</i> . It is also to be used to determine whether the assessor has sufficient information to assess suitability.	
		Information Area 1: has the firm obtained the essential facts about the consumer?	
6.2	R	Refer to the available evidence and take the following steps:	
		(1)	Select 'yes' or 'no' depending on whether the <i>firm</i> has obtained the essential facts about the <i>consumer</i> .
		(2)	Enter the information about the <i>consumer</i> and (if relevant) their spouse or partner from the available evidence.
		(3)	Record any information inferred from the available evidence in the comment box.
6.3	R	Complete the BSPS DBAAT as follows:	
		(1)	Where advice is on a joint life basis, complete the essential information for the <i>consumer</i> and their partner.
		(2)	If the <i>consumer's</i> tax rate is not recorded, it can be inferred from the <i>consumer's</i> salary at the date of the advice.
		(3)	Record in the additional comments box whether the <i>consumer</i> intends to transfer the pension to a Qualifying Recognised Overseas Pension Scheme. Record the relevant currency and overseas tax rates.
		(4)	Where health status is not recorded, absent any evidence suggesting otherwise, infer that the <i>consumer</i> is in good health.
		(5)	Record details about any dependants and the <i>consumer's</i> responsibility for them.
		(6)	Include details about whether the <i>consumer</i> had characteristics of vulnerability. This means someone who, due to their personal circumstances, is especially susceptible to detriment.
		Information Area 2: has the firm obtained the necessary information regarding the consumer's objectives?	
6.4	R	Take the following steps to complete this area. Using the available evidence, identify the information recorded on the <i>consumer's</i> objectives and:	
		(1)	if no objectives have been recorded, answer 'no' to this question; or
		(2)	if objectives are recorded, answer 'yes'; and
		(3)	complete the BSPS DBAAT by recording the <i>consumer's</i> objectives, using the same wording and ranking or prioritisation as the <i>firm</i> and include any observations in the additional comments box.
6.5	G	For each objective identified, the BSPS DBAAT will indicate fields where further information can be recorded, in the right-hand columns, relating to:	
		(1)	the amount wanted (to achieve the objective); and
		(2)	the date the amount is needed.
		Information Area 3: has the firm obtained the necessary information regarding the consumer's preferences regarding risk taking and their risk profile?	
6.6	R	Take the following steps to complete this area. Using the available evidence:	

		<ol style="list-style-type: none"> (1) select 'yes' or 'no' depending on whether the <i>firm</i> has obtained the necessary information about the <i>consumer's</i> preferences regarding risk taking and their risk profile; (2) record in the boxes provided the <i>firm's</i> description of the <i>consumer's</i>: <ol style="list-style-type: none"> (a) attitude to investment risk; (b) attitude to the risks associated with a <i>pension transfer</i>, including the loss of <i>safeguarded benefits</i>; (c) capacity for loss (in general); and (d) capacity for loss of <i>safeguarded benefits</i>; (3) select 'yes' or 'no' depending on whether the <i>firm</i> used a tool for any of the above assessments. If the <i>firm</i> used a tool record the name of that tool in the 'name of tool' box; and (4) record in the 'comments' box any additional comments or observations on the <i>firm's</i> approach to obtaining this information.
6.7	G	'Capacity for loss' refers to the <i>consumer's</i> ability to absorb falls in the value of their investment. If any loss of capital would have a materially detrimental effect on their standard of living, this should be taken into account in assessing the risk that they are able to take.
6.8	G	COBS 9.2.2R(2) requires a <i>firm</i> to obtain, where relevant, information about the <i>consumer's</i> (a) preferences regarding risk taking and (b) risk profile. COBS 19.1.7G and COBS 19.1.7AG contain guidance to which a <i>firm</i> giving <i>pension transfer</i> advice should have had regard when identifying the <i>consumer's</i> risk preferences and risk profile.
6.9	G	<p>A <i>firm</i> advising a <i>consumer</i> during the relevant period should have obtained sufficient information to enable it to consider the <i>consumer's</i> attitude to the investment risks specific to a <i>pension transfer</i>, including:</p> <ol style="list-style-type: none"> (1) the rate of growth that would have to be achieved to replicate scheme benefits in the <i>proposed arrangement</i> (COBS 19.1.7G and COBS 19.1.7AG); (2) the extent to which benefits may fall short of replicating those in the <i>defined benefits pension scheme</i> or other scheme with <i>safeguarded benefits</i> (COBS 19.1.7AG(1)); (3) the uncertainty of the level of benefit that can be obtained from the purchase of a future <i>pension annuity</i> and the investment risk to which the retail <i>consumer</i> is exposed until a <i>pension annuity</i> is purchased with the proceeds of the proposed <i>personal pension scheme</i> or <i>stakeholder pension scheme</i> (COBS 19.1.7AG(2)); (4) the potential lack of availability of <i>pension annuity</i> types (for instance, <i>pension annuity</i> increases linked to different indices) to replicate the benefits being given up in the <i>defined benefits pension scheme</i> as set out in COBS 19.1.7AG(1)); and (5) the risks relevant to a <i>pension transfer</i> from the BPS to a scheme with <i>flexible benefits</i> listed at CONRED 4 Annex 22G at Table 1. <p>Information Area 4: has the <i>firm</i> obtained the necessary information regarding the <i>consumer's</i> knowledge and experience?</p>
6.10	R	<p>Take the following steps to complete this area. Using the available evidence:</p> <ol style="list-style-type: none"> (1) identify the information relevant to the <i>consumer's</i> knowledge and experience of <i>defined benefits pension schemes</i> and <i>pension schemes</i> with <i>flexible benefits</i>, including: <ol style="list-style-type: none"> (a) the types of service, transaction and investments with which the <i>consumer</i> is familiar; (b) the nature, volume and frequency of the <i>consumer's</i> transactions in <i>investments</i> and the period over which they have been carried out; and

		(c)	the level of education, profession or relevant former profession of the <i>consumer</i> ;
		(2)	answer 'yes' or 'no' depending on whether the <i>firm</i> has obtained the necessary information about the <i>consumer's</i> knowledge and experience; and
		(3)	record the <i>consumer's</i> knowledge and experience relevant to <i>pension transfers</i> in the 'additional comments' box.
		Information Area 5: has the firm obtained the necessary information regarding the <i>consumer's</i> estimated expenditure?	
6.11	R	Take the following steps to complete this area. Using the available evidence:	
		(1)	identify the information relevant to the <i>consumer's</i> financial situation;
		(2)	answer 'yes' or 'no' depending on whether the <i>firm</i> has obtained the necessary information regarding the <i>consumer's</i> estimated expenditure;
		(3)	record relevant information under the headings 'current regular' and 'retirement regular', including the <i>consumer's</i> expenditure on:
		(a)	basic cost of living;
		(b)	lifestyle expenditure; and
		(c)	discretionary expenditure/savings; and
		(4)	record any additional comments about the steps the <i>firm</i> has taken to obtain this information, including any inferences made about current or retirement regular expenditure.
6.12	E	Answer 'yes' to the question at 6.11R(2) if the <i>firm</i> has taken reasonable steps to obtain the information under the headings 'current regular' and 'retirement regular expenditure' but there is information missing and:	
		(1)	the <i>consumer</i> is 5 years or less from their intended retirement age and taking account their personal circumstances, it is possible to use the current regular expenditure as a proxy for retirement regular expenditure; or
		(2)	it is possible to use the current regular expenditure, with <i>consumer-specific</i> adjustments, as a proxy for retirement regular expenditure.
6.13	G	The BSPS DBAAT records the necessary information about the <i>consumer's</i> estimated expenditure throughout retirement in 3 categories:	
		(1)	Basic cost of living: this includes all non-discretionary expenditure. For example, utility bills, council tax, food and any outstanding accommodation payments (such as mortgages and rents) or care expenses if these are ongoing.
		(2)	Lifestyle expenditure: this is expenditure to support the <i>consumer's</i> lifestyle. For example, <i>consumers</i> may wish to spend money on entertainment, holidays or home help.
		(3)	Discretionary expenditure/savings: this is expenditure which is discretionary and could easily be cut back by the <i>consumer</i> at any time. It may include current savings into pensions or investments which may well cease upon retirement. This may also be labelled as 'disposable income'.
6.14	G	If the <i>firm</i> has estimated the <i>consumer's</i> expenditure in retirement, consider whether it took reasonable steps to do so. Reasonable steps might include:	
		(1)	gathering the necessary information on the <i>consumer's</i> current level of expenditure and liabilities;
		(2)	considering how the <i>consumer's</i> personal circumstances and lifestyle (for example, living arrangements, mortgage position, provision of financial support for dependents, recreational activities, and travel) are

		likely to change upon retirement, and how this might affect future expenditure and liabilities;
	(3)	challenging low estimates of expenditure by using comparative figures derived from (for example) the <i>firm's</i> experience with other <i>consumers</i> in similar situations, statistical averages, actuarial data and other reliable sources (though it is unlikely that the use of generic data would by itself satisfy the requirement to take reasonable steps);
	(4)	where a <i>firm</i> has used a cashflow modelling tool to estimate the <i>consumer's</i> level of expenditure in retirement as part of demonstrating how reliant the <i>consumer</i> is on this income in retirement;
	(5)	challenging inconsistent information, for example, where the <i>consumer</i> suggests they have a high level of available disposable income but low levels of savings, suggesting that their lifestyle expenditure may be more than they represent.
		Information Area 6: has the <i>firm</i> obtained the necessary information regarding the <i>consumer's</i> financial situation?
6.15	R	<p>To complete this area, take the following steps. Using the available evidence:</p> <p>(1) identify the information relevant to the <i>consumer's</i> financial situation;</p> <p>(2) answer 'yes' or 'no' depending on whether the <i>firm</i> has captured the necessary information regarding the <i>consumer's</i> financial situation; and</p> <p>(3) record the relevant information for the <i>consumer</i> and (for joint advice) their spouse or partner under the headings:</p> <p>(a) <i>consumer's</i> current income;</p> <p>(b) income sources in retirement (excluding income from the comparator scheme, which is captured in Information Area 7);</p> <p>(c) other assets (excluding the <i>consumer's</i> main residence); and</p> <p>(d) liabilities.</p>
6.16	G	The <i>consumer's</i> main residence should not usually be counted as an asset which can be used as an income source in retirement. The <i>consumer's</i> main residence typically provides secure accommodation throughout retirement. Where the <i>firm</i> has a reasonable basis for treating the main residence as an asset, for example because the <i>consumer</i> has a legitimate plan to downsize and the <i>firm</i> has a contemporaneous record of these plans, include the value of the main residence in the 'other assets' box.
6.17	G	<p>If the <i>consumer</i> file is incomplete or it is unclear whether the <i>firm</i> has collected the necessary information on the <i>consumer's</i> financial situation, it may be possible to estimate the <i>consumer's</i> income or assets from other information on the <i>consumer</i> file. For example:</p> <p>(1) if the 'other assets' section in a fact-find is blank, and there is evidence that the <i>consumer's</i> income does not exceed or marginally exceeds their expenditure, it may be reasonable to assume that the <i>consumer</i> has no other assets;</p> <p>(2) if the 'state pension' section of the fact-find is blank:</p> <p>(a) where there is evidence of the <i>consumer's</i> employment history on file or length of service at the scheme employer, it may be possible to estimate entitlement to a state pension;</p> <p>(b) where a <i>consumer</i> expects to continue in employment until retirement, it is reasonable to infer, unless there is specific information to the contrary, that the <i>consumer</i> would continue to accrue state pension entitlement throughout that period;</p>

		(3)	if details on the 'spouse's/partner's' assets are missing, it may be possible to infer information based on the spouse's circumstances. For example:
		(a)	if the spouse or partner was employed at the time of the advice, it is likely they will have some eligibility for state pension;
		(b)	if the spouse or partner was not employed, this may indicate that they have modest assets, in the absence of evidence suggesting otherwise;
		(4)	if the <i>consumer</i> or their spouse or partner held other <i>defined benefits</i> of material value, where a benefits statement was delayed, these benefits could be reasonably estimated by contemporaneous records of their salary, length of service and publicly available scheme details;
		(5)	if there is an indication that the spouse or partner has a defined contribution pension scheme or other assets but the value is not quantified, where it has already been demonstrated that the <i>consumer</i> and spouse or partner have sufficient other guaranteed pension provision to cover their expenditure in retirement, the value of this scheme may not be necessary to assess the suitability of the recommendation to transfer.
6.18	G	(1)	If the available evidence suggests that the <i>consumer</i> has a significant amount of disposable income, but the <i>firm</i> has obtained limited or no information on them, it is more likely than not that the <i>firm</i> has not obtained the necessary information.
		(2)	If the available evidence demonstrates that the <i>consumer</i> has other assets or liabilities, but the <i>firm</i> has obtained limited or no information on them, it is likely that the <i>firm</i> has not obtained the necessary information.
6.19	G		If the <i>consumer</i> was concerned about the security of their employment with Tata Steel Ltd and the security of income over the remaining term to retirement, this should have been recorded on the <i>consumer</i> file. The <i>firm</i> should have inquired as to whether redundancy or loss of income was imminent and was likely to cause significant financial hardship.
			Information Area 7: has the firm obtained the necessary information regarding the consumer's pension benefits?
6.20	R		To complete this area, take the following steps. Using the available evidence:
		(1)	(where the <i>firm</i> has advised on multiple periods of service in the BSPS) record under the heading 'number of schemes':
		(a)	the number of periods of service in the BSPS advised on;
		(b)	whether the outcome was to transfer all periods of service;
		(2)	record the relevant information for the <i>consumer's</i> BSPS membership, including:
		(a)	the statement of benefits and date obtained;
		(b)	whether the Time to Choose pack was obtained;
		(c)	what the <i>consumer's</i> Time to Choose election was (BSPS2 or PPF);
		(d)	the date of the CETV and the CETV amount;
		(e)	the dates they joined and left the BSPS (the BSPS DBAAT will then automatically calculate the length of service);
		(f)	their retirement date (NRD) in the BSPS;
		(g)	BSPS minimum retirement age;
		(h)	whether the client opted out of the scheme in advance of its closure and the date of any opt-out;

		(i) any additional comments;
	(3)	answer 'yes' or 'no' depending on whether the <i>firm</i> has captured the necessary information regarding the <i>consumer's</i> BSPS membership, Time to Choose election, and benefits; and
	(4)	record any comments relevant to the <i>consumer's</i> CETV and the comparator scheme(s) in the 'additional comments' box.
		Information Area 8: has the firm obtained the necessary information regarding the proposed arrangement?
6.21	R	To complete this area, take the following steps. Using the available evidence:
	(1)	identify information about the <i>proposed arrangement</i> ;
	(2)	answer 'yes' or 'no' depending on whether the firm has captured the necessary information regarding the <i>proposed arrangement</i> ;
	(3)	if the <i>firm</i> has not identified a <i>proposed arrangement</i> , answer 'no' to this question;
	(4)	record the relevant information under the headings 'proposed arrangement'; and
	(5)	in the 'additional comments' box, record any relevant information about product and adviser costs and charges.
		Information Area 9: has the firm carried out the transfer analysis?
6.22	R	To complete this area, take the following steps. For the relevant comparator scheme(s), using the available evidence and with reference to the <i>firm's</i> transfer value analysis:
	(1)	record the <i>consumer's</i> preferred retirement age;
	(2)	record the relevant comparator schemes(s);
	(3)	record relevant information under the heading 'comparison of benefits' from the comparison carried out by the <i>firm</i> to comply with COBS 19.1.2R; and
	(4)	record relevant information under the heading 'critical yield', including:
	(a)	the critical yield on a joint and single basis to the <i>consumer's</i> NRD and preferred retirement date; and
	(b)	identify which critical yield is more relevant (joint or single) by selecting the critical yield which corresponds to the <i>consumer's</i> intentions; and
	(i)	if the evidence on file demonstrates that the <i>consumer</i> does not intend to take any <i>pension commencement lump sum</i> , record the critical yield for a full pension and make a note in the 'additional comments' box; and/or
	(ii)	if the <i>consumer</i> is single and there is nothing on file to suggest that this is likely to change, then insert the critical yield calculated on a single life basis and make a note in the 'additional comments' box; and
	(c)	record the critical yield to match the comparator scheme(s) at the <i>consumer's</i> preferred retirement date; and
	(5)	record commentary on any other comparison of benefits, for example on cashflow modelling or analysis of how long funds are likely to last in the <i>proposed arrangement</i> .
6.23	G	The BSPS DBAAT records the necessary information about the <i>consumer's</i> benefits at the comparator scheme(s) and their preferred retirement date in 3 categories:

		(1)	Pension (no commutation) per annum (p.a.): the income benefits the <i>consumer</i> would receive at NRD if they were to take all their benefits as income only.
		(2)	Pension (full commutation) per annum (p.a.): the (reduced) income benefits the <i>consumer</i> would receive at NRD if they chose to maximise their <i>pension commencement lump sum</i> by commuting income benefits up to the full permitted limit.
		(3)	<i>Pension commencement lump sum</i> (PCLS): the lump sum benefits the <i>consumer</i> would receive at their NRD if they chose to maximise their PCLS by commuting income benefits up to the full permitted limit.
6.24	G		To assess whether the <i>firm</i> has carried out the transfer analysis, identify whether:
		(1)	(with reference to the assumptions in COBS 19.1.4R to COBS 19.1.4BR and taking into account the dates these rules were in force) the analysis has been undertaken on the correct assumptions, including whether, if more cautious assumptions have been used, those assumptions are reasonable; and
		(2)	the analysis is consistent with product-related documents such as the <i>key features illustration</i> .
7			Suitability requirements
7.1	R		The following requirements are specified as 'suitability requirements':
		(1)	COBS 9.2.1R(1), which requires a <i>firm</i> to take reasonable steps to ensure that a personal recommendation is suitable for its <i>client</i> ; and
		(2)	the common law duty in contract or tort to exercise reasonable skill and care in advising the <i>consumer</i> on <i>pension transfers</i> .
7.2	G		The contract between the <i>firm</i> and the <i>consumer</i> may have included a specific term providing that the <i>firm</i> would exercise reasonable skill and care in advising the <i>consumer</i> on investments. If it did not do so, such a duty is likely to have been implied into the contract.
7.3	G		The standard of care under the <i>FCA rules</i> and the common law is that of a reasonably competent <i>firm</i> carrying on a similar business to that of the <i>firm</i> assessed.
7.4	G		The suitability requirements arise from <i>FCA rules</i> and the common law. For the requirements specified, the standards required of the <i>firm</i> are materially similar, regardless of whether their origin is a <i>rule</i> or the common law.
7.5	G		COBS 9.2.1R(2), COBS 9.2.2R and COBS 9.2.3R indicate matters of which a <i>firm</i> must take account when assessing whether the <i>firm</i> failed to comply with the suitability requirements. In summary, these are the <i>consumer's</i> :
		(1)	investment objectives;
		(2)	financial situation; and
		(3)	knowledge and experience in the <i>investment</i> field relevant to the specific type of designated <i>investment</i> or service.
7.6	G		The starting point for <i>pension transfer</i> advice is the <i>guidance</i> in COBS 19.1.6G that a <i>firm</i> 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 <i>client's</i> best interests.
8			Assessing scheme cases for compliance with suitability requirements
8.1	R	(1)	The 'Suitability Section' in the BSPS DBAAT and associated additional provisions in these instructions contain 'examples' which tend to show failure to comply or compliance with the suitability requirements specified at 7.1R.
		(2)	The examples are indicators that advice may be unsuitable, and an overall view of suitability or unsuitability must be reached taking account of all of the circumstances.
8.2	R		For each scheme case, the assessor must:

		<ol style="list-style-type: none"> (1) fairly consider and give appropriate weight to all available evidence of the <i>firm's</i> compliance or non-compliance with applicable suitability requirements; and (2) decide, including with reference to the examples in the BSPS DBAAT, whether it is more likely than not that the <i>firm</i> complied or failed to comply with the suitability requirements.
8.3	R	<p>In considering the available evidence, the assessor must:</p> <ol style="list-style-type: none"> (1) not assume that a <i>firm</i> complied with a suitability requirement solely on the basis that: <ol style="list-style-type: none"> (a) the <i>consumer</i> signed documentation that records their understanding or agreement to matters set out in that documentation; (b) the advice was given to a <i>consumer</i> who had transferred from a <i>defined benefit occupational pension scheme</i> in the past; (2) give more weight to evidence of the <i>consumer's</i> particular circumstances or the circumstances at the time than to general evidence of the selling practices of the <i>firm</i> or its advisers at the relevant time; (3) determine that an example is present on the 'balance of probabilities' when it is more likely than not to have occurred.
8.4	R	<p>When assessing whether a <i>firm</i> complied with the suitability requirements, the assessor must take into account the following:</p> <ol style="list-style-type: none"> (1) the <i>consumer's</i> investment objectives, including their willingness to bear the risks associated with transfer (transfer risk); (2) the <i>consumer's</i> financial situation, including their ability, financially, to bear the risks associated with the recommended transfer consistent with their investment objectives; (3) the <i>consumer's</i> ability, in the light of the following, to understand the risks associated with a <i>pension transfer</i>: <ol style="list-style-type: none"> (a) the experience and knowledge of the <i>consumer</i> relevant to a <i>pension transfer</i>; and (b) any communications received from the comparator scheme(s) regarding the <i>pension transfer</i>.
8.5	R	<p>When assessing the reasonableness of a <i>firm's</i> conduct, the assessor must:</p> <ol style="list-style-type: none"> (1) assess the <i>firm's</i> conduct against what was reasonable at the time when the <i>firm</i> gave the advice; and (2) have regard to the information available at various times, including the information listed at Table 3 of CONRED 4 Annex 22G; and (3) conclude that the conduct of the <i>firm</i> assessed was reasonable only where that <i>firm</i> displayed the degree of skill, care and diligence that would at that time have been exercised in the ordinary and proper course of a similar business to that of the <i>firm</i>.
8.6	G	<p>Where the advice is given using a two-adviser model and the advisers are employed by different <i>firms</i>:</p> <ol style="list-style-type: none"> (1) identify which <i>firm</i> is responsible for the <i>pension transfer</i> advice and which <i>firm</i> is responsible for the investment advice; (2) take into account that it will generally be reasonable for the <i>firm</i> providing <i>pension transfer</i> advice to rely on information provided to it in writing by the <i>firm</i> providing investment advice, unless it is aware or ought reasonably to be aware of any fact that would give reasonable grounds to question the accuracy of that information (COBS 2.4.6R and COBS 2.4.8G).
9		Completing the Suitability Section of the BSPS DBAAT

9.1	G	The Suitability Section is used to record the assessment of whether the <i>firm</i> has complied with the suitability requirements.
9.2	R	<p>The assessor must take the following steps to complete the Suitability Section:</p> <ol style="list-style-type: none"> (1) review the available evidence and the information recorded in the Information Section of the BSPS DBAAT; (2) take the steps in Section 10 of this Annex to determine whether the available evidence shows overall that an example is present, or not; (3) indicate whether any or all of Examples (1) to (12) are present, or not, by selecting 'yes' or 'no'; (4) conclude, taking into account all of the available evidence and the presence of any examples indicating unsuitable advice, whether the <i>firm</i> complied with the suitability requirements; and (5) comment on whether or not the <i>firm</i> complied with the suitability requirements, with reference to the example or examples that support their conclusion.
9.3	G	<p>If an example is present, this will tend to indicate the <i>firm's</i> potential non-compliance with the suitability requirements. There may be other factors which mean that the <i>firm</i> has, despite the presence of the example, complied, or not complied, with the suitability requirements. For example:</p> <ol style="list-style-type: none"> (1) if Example 9 is present because the transfer analysis does not support a recommendation to transfer, but the recommendation is nonetheless suitable because the <i>consumer</i> has little or no reliance on the transfer value from the comparator scheme and no requirement to replicate the amount or shape of the comparator scheme benefits; or (2) if Example 1 is present but the recommendation is nonetheless suitable because the <i>consumer</i> is in serious ill health with a shortened life expectancy and: <ol style="list-style-type: none"> (a) the <i>consumer's</i> objective is to transfer to preserve the value of their scheme benefits for beneficiaries; and (b) the beneficiaries would be financially better off if the funds were transferred to a scheme with <i>flexible benefits</i> rather than remaining in the comparator scheme(s).
9.4	G	The BSPS DBAAT rating will indicate a conclusion of 'Compliant' or 'Non-Compliant' based on the answer to the example questions in the BSPS DBAAT. The BSPS DBAAT rating is not definitive of suitability; it is an indication of the <i>firm's</i> compliance with the suitability requirements.
10		Examples that indicate unsuitable advice
10.1	G	<p>This section contains rules, evidential provisions, and guidance for determining whether the available evidence shows overall that an example is present, or not.</p> <p>Example 1: the consumer is, or will be, reliant on income from the comparator scheme</p>
10.2	R	<p>Take the following steps to determine whether this example is present:</p> <ol style="list-style-type: none"> (1) Review the available evidence in Information Areas 5, 6, 7, 8 and 9 of the Information Section. (2) Using the available evidence, identify the amount the <i>consumer</i> needs to meet anticipated expenses and personal outlays throughout retirement, taking into account: <ol style="list-style-type: none"> (a) any forecast expenditure plans that the firm has identified with the <i>consumer</i>; (b) any intention or preference for early retirement; (c) any existing liabilities that the <i>consumer</i> continues to pay off (for example, their mortgage) and their plans for clearing these debts;

- (d) whether the forecast expenditure appears reasonable in light of their current expenditure patterns and plans to pay off liabilities; and
 - (e) where the *firm* has not collected a forecast expenditure plan, an estimate (if possible) of the *consumer's* likely expenditure patterns based on the information on file.
 - (3) Using the available evidence, identify the anticipated income from the comparator scheme at NRD or the *consumer's* preferred retirement date, whichever is earlier. Where the *consumer* wishes to retire early, assess whether the *consumer* can afford to retire early or whether this will give rise to or increase the risk of the *consumer* running out of income in retirement.
 - (4) Assess how the income from the comparator scheme, including inflationary increases, contributes to the *consumer's* income needs in (2).
 - (5) Assess whether the *consumer* can produce the same or similar contribution towards their planned expenditure needs throughout retirement (using a range of possible life expectancies) as identified in (2) using the available assets, including from:
 - (a) contribution-based pension schemes, including the *proposed arrangement*, taking into account the impact of the following factors on the sustainability of these schemes throughout retirement:
 - (i) the frequency of withdrawals (ad hoc or regular payments);
 - (ii) the timing of withdrawals (monthly, yearly);
 - (iii) the amount of the withdrawals; and
 - (iv) investment performance;
 - (b) savings and investments;
 - (c) other *pension schemes* with *safeguarded benefits*;
 - (d) (if the *consumer* is eligible) state pension;
 - (e) (if the *consumer* is managing income on a joint basis) the spouse's/partner's other assets, pensions and entitlement to the state pension, and how this contributes to their total household income.
 - (6) Using the assessments in 10.2R(4)-(5) decide (yes or no) whether:
 - (a) the *consumer* can produce the same or similar contribution towards their income needs, as identified in 10.2R(2), from the *proposed arrangement*; and
 - (b) the *consumer* has the requisite capacity for loss, taking into account the impact of the factors considered at 10.2R(5)(a) on the sustainability of the *proposed arrangement*.
- 10.3 E (1) If the answer to 10.2R(6)(a) and (b) is 'yes', conclude that the *consumer* is not likely to be reliant on income from the comparator scheme.
- (2) If the answer to either 10.2(6)(a) or (b) is 'no', conclude that the *consumer* is likely to be reliant on income from the comparator scheme.
- (3) If the *firm* has not obtained the necessary information in all of the Information Areas 5, 6 and 7 of the Information Section and so it is not possible to carry out the steps in 10.2R(1) to (6), conclude that the *firm* has not demonstrated that it has a reasonable basis for believing that the *consumer* is able to bear the risk of the *pension transfer* to achieve their objective.

Example 2: the aim of the transfer is to pass the value of the pension to beneficiaries on the member's death, but the firm has not demonstrated that the consumer can bear the risk of the transfer that would be needed to achieve this objective

10.4	R	<p>Refer to Information Area 2 of the Information Section:</p> <ol style="list-style-type: none"> (1) if the <i>consumer</i> has a priority objective to pass the value of the pension to beneficiaries on their death, take the steps in 10.5R; or (2) if the <i>consumer</i> does not have this priority objective answer 'no' to this question and proceed to Example 3.
10.5	R	<p>Take the following steps to determine whether this example is present:</p> <ol style="list-style-type: none"> (1) Review the available evidence in Information Areas 2, 5, 6 and 7 of the Information Section. (2) Refer to Tables 1 and 2 in CONRED 4 Annex 22G and the available evidence to identify what death benefits were likely to be available for beneficiaries on the member's death: <ol style="list-style-type: none"> (a) (in all cases) in the <i>proposed arrangement</i> having regard to the way the <i>consumer</i> is likely to access their pension scheme throughout retirement; and (b) in the comparator scheme. (3) Identify whether there was an alternative way to meet the <i>consumer's</i> objective without giving up comparator scheme benefits, including: <ol style="list-style-type: none"> (a) level term assurance for the required sum; or (b) decreasing term assurance for an appropriate term; or (c) using available death in service cover. (4) Decide whether the <i>firm</i> has a reasonable basis for believing that: <ol style="list-style-type: none"> (a) the recommendation to transfer in order to pass the value of the pension to beneficiaries on the member's death meets the <i>consumer's</i> investment objectives; and (b) the <i>consumer</i> is able financially to bear any transfer-related risks consistent with their investment objectives.
10.6	E	<p>Answer 'yes' to this question when the available evidence demonstrates that:</p> <ol style="list-style-type: none"> (1) the <i>consumer</i> did not have the requisite capacity for loss because they were not able to forego comparator scheme benefits to achieve this objective; and/or (2) a lower risk suitable alternative was available to achieve this objective; and/or (3) it was likely that the <i>consumer</i> would exhaust their pension savings during their lifetime (having regard to how the <i>consumer</i> will access their pension savings and the factors listed at 10.2R(5) above) and so there will be minimal death benefits available; and/or (4) the <i>firm</i> has not obtained the necessary information in both of the Information Areas 5 and 6 of the Information Section and so it is not possible to complete the assessment in 10.4R because the <i>firm</i> has not demonstrated that it has a reasonable basis for believing that the <i>consumer</i> is able to bear the risk of the <i>pension transfer</i> to achieve this objective; and/or (5) the <i>firm</i> has not obtained the necessary information in Area 2 of the Information Section and so it is not possible to understand the <i>consumer's</i> rationale for pursuing this objective. <p>Example 3: the aim of the transfer is to access income-related benefits flexibly but the firm has not demonstrated that the consumer can bear the risk of the transfer that would be needed to achieve this objective</p>
10.7	R	<p>Refer to the available evidence in Information Area 2 of the Information Section:</p> <ol style="list-style-type: none"> (1) if the <i>consumer</i> has a priority objective to access income-related benefits flexibly or to take control of their benefits, take the steps in 10.8R; or

		(2)	if the <i>consumer</i> does not have this priority objective, answer 'no' to this question and proceed to Example 4.
10.8	R		Take the following steps to determine whether this example is present:
		(1)	Review the available evidence in Information Areas 2, 5 and 6 of the Information Section.
		(2)	Identify why the <i>consumer</i> requires flexible access to or control over their income-related benefits and how the features of the <i>proposed arrangement</i> meet their objective(s).
		(3)	Identify whether any alternatives are available to meet the <i>consumer's</i> objective.
		(4)	Decide whether the <i>firm</i> has a reasonable basis for believing that the recommendation to transfer to access income-related benefits flexibly:
		(a)	meets the <i>consumer's</i> investment objectives; and
		(b)	the <i>consumer</i> is able financially to bear any related risks consistent with their investment objectives.
10.9	E		Answer 'yes' to this question when the available evidence demonstrates that:
		(1)	the <i>consumer</i> does not have the requisite capacity for loss because they were not able to forego scheme benefits to achieve this objective; and/or
		(2)	there is an alternative way for the <i>consumer</i> to meet their objectives using other assets instead of transferring their BPS scheme; and/or
		(3)	the <i>firm</i> has not collected the necessary information in both of the Information Areas 5 and 6 of the Information Section and so it is not possible to complete the assessment in 10.8R because the <i>firm</i> has not demonstrated that it has a reasonable basis for believing that the <i>consumer</i> is able to bear the risk of the <i>pension transfer</i> to achieve this objective; and/or
		(4)	the <i>firm</i> has not collected the necessary information in Information Area 2 of the Information Section and so it is not possible to understand the <i>consumer's</i> rationale for pursuing this objective.
10.10	G	(1)	The objective may be recorded as 'flexibility' or 'control' without further explanation. It is up to the <i>firm</i> to demonstrate what is meant by 'flexibility' or 'control' with reference to the <i>consumer's</i> circumstances and how the recommendation meets the <i>consumer's</i> objectives and is suitable for their financial situation. The following examples may demonstrate a need for flexibility:
		(a)	if the <i>consumer</i> wishes to retire early and would like to access a higher amount of income in the short term in order to bridge an income gap until other guaranteed income commences, such as state pension;
		(b)	if the <i>consumer</i> is in <i>serious financial difficulty</i> or facing financial hardship and needs to pay off or reduce debt prior to its planned redemption date, and the <i>pension commencement lump sum</i> from the comparator scheme(s) would be insufficient to meet this objective. The types of circumstances in which a <i>consumer</i> is likely to be able to show they are experiencing <i>serious financial difficulty</i> include where continuing to pay domestic bills and credit commitments is a heavy burden on the <i>consumer</i> and the <i>consumer</i> has missed payments for any credit commitments and/or any domestic bills in any 3 or more of the last 6 calendar <i>months</i> ;
		(c)	the <i>consumer</i> intends to reduce their working hours or take alternative work which may produce a lower income, prior to retiring fully, and it can be demonstrated that the transfer value is of sufficient value to support this objective

without the risk of running out of money in the *consumer's* lifetime.

- (2) A *consumer* may have a strong desire to transfer to obtain flexibility and control where they have real or perceived concerns regarding the financial viability in the scheme. The circumstances of the BSPS restructuring may have encouraged a greater than usual proportion of members to seriously consider the option of transferring out, which may in turn have led to an increased occurrence of *consumers* expressing a strong desire to transfer. However, this does not absolve the *firm* from its responsibility to only recommend a transfer if it can demonstrate that it is suitable.

Example 4: the aim of the transfer is to maximise PCLS but the firm has not demonstrated that the consumer can bear the risk of the transfer that would be needed to achieve this objective

10.11 R Refer to the available evidence in Information Area 2 of the Information Section:

- (1) if the *consumer* has a priority objective(s) to maximise their *pension commencement lump sum* (PCLS), take the steps in 10.12R; or
- (2) if the *consumer* does not have this priority objective, answer 'no' to this question and proceed to Example 5.

10.12 R Take the following steps to determine whether this example is present:

- (1) Refer to the available evidence in Information Areas 2, 5 and 6 of the Information Section on the *consumer's* objectives and financial situation.
- (2) Identify the PCLS option in the relevant comparator scheme(s).
- (3) Identify why the *consumer* wants to access their PCLS.
- (4) Identify whether the *consumer* needs to transfer to the *proposed arrangement* to access their PCLS or could have used:
- (a) the PCLS from the comparator scheme; or
- (b) other assets to create a lump sum without transferring the pension.
- (5) Identify the impact taking their PCLS may have on the level of other benefits which the *consumer* may obtain from the comparator scheme.

10.13 E Answer 'yes' to this question when the available evidence demonstrates that:

- (1) the *consumer* did not have the requisite capacity for loss because they were not able to forego scheme benefits to achieve this objective; and/or
- (2) there was an alternative way for the *consumer* to access income-related benefits flexibly without transferring their pension benefits; and/or
- (3) Example (1) is present and taking higher PCLS makes it likely that the *consumer* would exhaust their pension savings during their lifetime (having regard to how the *consumer* will access their pension savings and the factors listed at 10.2R(5) above); and/or
- (4) the *firm* has not collected the necessary information in both of the Information Areas 5 and 6 of the Information Section and so it is not possible to complete the assessment in 10.11R because the *firm* has not demonstrated that it has a reasonable basis for believing that the *consumer* is able to bear the risk of the *pension transfer* to achieve their objective; and/or
- (5) the *firm* has not obtained the necessary information in Information Area 2 of the Information Section and so it is not possible to understand the *consumer's* rationale for pursuing this objective.

10.14 G For the purposes of 10.12R(4)(b), the *firm* should have considered the following alternative options, where they were available:

- (1) where the lump sum need/objective relates to paying off a debt, whether they can restructure a mortgage or other debt;
- (2) making increased contributions to a workplace pension scheme to increase the PCLS;
- (3) whether using the PCLS provision in the comparator scheme(s) will meet the *consumer's* lump sum need/objective;
- (4) whether the *consumer* can meet their lump sum need/objective using other available funds in a scheme with *flexible benefits* or from other savings or investments;
- (5) taking a short-term loan.

Example 5: an aim of the transfer is to preserve or protect the value of the consumer's pension benefits but the comparator scheme(s) benefits would meet the consumer's needs

10.15 R Refer to the available evidence in Information Area 2 of the Information Section:

- (1) if the *consumer* has any objective related to preserving the value of their pension benefits or protecting their benefits from the PPF, take the steps in 10.16R; or
- (2) if the *consumer* does not have this objective, answer 'no' to this question and proceed to Example 6.

10.16 R Take the following steps to determine whether this example is present:

- (1) Refer to the available evidence in Information Areas 2, 5 and 6 of the Information Section on the *consumer's* objectives and financial situation.
- (2) Identify the relevant comparator scheme(s) benefits.
- (3) Identify whether the comparator scheme(s) benefits would have met the *consumer's* needs. To do this:
 - (a) identify the *consumer's* needs in retirement;
 - (b) refer to the available evidence and Table 2 in CONRED 4 Annex 22G to identify the pension benefits the *consumer* would be likely to receive from the comparator scheme(s), having regard to the PPF income cap as it applied prior to 19 July 2021; and
 - (c) decide whether the level of comparator scheme benefits would meet the *consumer's* needs in (a).

- 10.17 E
- (1) Answer 'yes' to this question when the available evidence demonstrates that:
 - (a) the level of comparator scheme benefits meets the *consumer's* income needs; and/or
 - (b) where Example 7 is present, the *consumer* wanted guaranteed income or returns and the comparator scheme met those needs; and/or
 - (c) the *firm* has not collected the necessary information in both of the Information Areas 5 and 6 of the Information Section and so it is not possible to complete the assessment in 10.16R because the *firm* has not demonstrated that it had a reasonable basis for believing that the *consumer* was able to bear the risk of the *pension transfer* to achieve their objective.
 - (2) Answer 'no' to this question where the level of comparator scheme benefits was not likely to meet the *consumer's* income needs in retirement.

Example 6: the consumer wants to retire early but can meet their objective(s) in the comparator scheme(s)

10.18 R Refer to the available evidence in Information Area 2 of the Information Section:

		<p>(1) if the <i>consumer</i> has a priority objective related to accessing benefits from their pension prior to the relevant scheme NRD (an 'early retirement objective'), take the steps in 10.19R; or</p> <p>(2) if the <i>consumer</i> does not have this priority objective, answer 'no' to this question and proceed to Example 7.</p>
10.19	R	<p>Take the following steps to determine whether this example is present:</p> <p>(1) Refer to the available evidence in Information Areas 2, 5 and 6 of the Information Section on the <i>consumer's</i> objectives and financial situation.</p> <p>(2) Refer to the available evidence and Table 2 in CONRED 4 Annex 22G to identify what early retirement options were likely to be available and any protected retirement ages in:</p> <p>(a) the <i>proposed arrangement</i>; and</p> <p>(b) the comparator scheme(s).</p> <p>(3) Consider whether the <i>consumer</i> may have retired at a protected retirement age in the comparator scheme(s).</p> <p>(4) If (3) was not an option, identify whether there was an alternative way to meet the <i>consumer's</i> objective without giving up the comparator scheme(s) benefits, including using:</p> <p>(a) other pensions (defined benefit or defined contribution);</p> <p>(b) income from part time work; and</p> <p>(c) savings, investments or other assets.</p> <p>(5) Decide whether the <i>firm</i> has a reasonable basis for believing that the recommendation to transfer to retire early:</p> <p>(a) meets the <i>consumer's</i> investment objectives; and</p> <p>(b) the <i>consumer</i> is able financially to bear any risks consistent with their investment objectives.</p>
10.20	E	<p>Answer 'yes' to this question when the available evidence demonstrates that:</p> <p>(1) the <i>consumer</i> could have retired in the comparator scheme(s) at a protected retirement age; and/or</p> <p>(2) the <i>consumer</i> did not have the requisite capacity for loss because they were not able to forego comparator scheme benefits to achieve this objective; and/or</p> <p>(3) a lower risk suitable alternative was available to achieve this objective; and/or</p> <p>(4) it was likely that the <i>consumer</i> would exhaust their pension savings during their lifetime (having regard to how the <i>consumer</i> will access their pension savings and the factors listed at paragraph 10.2R(5) above) and so there will be minimal death benefits available; and/or</p> <p>(5) the <i>firm</i> has not collected the necessary information in both of the Information Areas 5 and 6 of the Information Section and so it is not possible to complete the assessment in 10.19R because the <i>firm</i> has not demonstrated that it has a reasonable basis for believing that the <i>consumer</i> is able to bear the risk of the <i>pension transfer</i> to achieve this objective; and/or</p> <p>(6) the <i>firm</i> has not collected the necessary information in Information Area 2 of the Information Section and so it is not possible to understand the <i>consumer's</i> rationale for this objective.</p>
		Example 7: the consumer wants or prefers guaranteed income or returns
10.21	R	Refer to the available evidence in Information Areas 2 and 3 of the Information Section:

10.22	R	(1)	if the <i>consumer</i> wants or indicates a preference for guaranteed income or returns, take the steps in 10.22R; and/or
		(2)	if the <i>consumer</i> does not have this objective, answer 'no' to this question and proceed to Example 8.
		Take the following steps to determine whether this example is present:	
10.23	E	(1)	Refer to the available evidence in Information Areas 2, 6 and 7 of the Information Section on the <i>consumer's</i> objectives and financial situation.
		(2)	Identify whether the <i>proposed arrangement</i> :
		(a)	guarantees the <i>consumer's</i> income or returns; or
		(b)	takes into account the <i>consumer's</i> preference for a guarantee and puts in place a sustainable strategy to achieve this end.
		(3)	Determine whether the recommendation to transfer met the <i>consumer's</i> preference for guaranteed income or returns.
		Answer 'yes' to this question when the available evidence demonstrates that:	
		(1)	the <i>consumer</i> wants or has indicated a preference for guaranteed income or returns throughout retirement; and
10.24	R	(2)	the <i>firm</i> has recommended that the <i>consumer</i> transfer into a <i>proposed arrangement</i> that does not meet these needs; or
		(3)	the <i>firm</i> has not collected the necessary information in Information Area 3 of the Information Section about the <i>consumer's</i> attitude towards secure income or guarantees and so it is not possible to complete the assessment in 10.22R because the <i>firm</i> has not demonstrated that it has a reasonable basis for believing that the <i>consumer</i> has the requisite attitude to risk; or
		(4)	Example 8 is present.
		Example 8: the consumer does not have the necessary attitude to risk	
10.24	R	Take the following steps to determine whether this example is present:	
		(1)	Refer to the available evidence in Information Areas 3 and 5 of the Information Section regarding the <i>consumer's</i> preferences regarding risk taking and risk profile and their understanding of the risk of transfer.
		(2)	Compare (a) with (b):
		(a)	the <i>consumer's</i> preferences regarding the risks specific to <i>pension transfers</i> in general, focusing on the <i>consumer's</i> attitude to:
		(i)	<i>safeguarded benefits</i> or guarantees;
		(ii)	<i>flexible benefits</i> or the ability to control how and when they withdraw money from their pension savings;
		(iii)	managing their investments or paying for someone to manage their investments on their behalf; and
		(iv)	the long-term sustainability of their fund;
		(b)	the risks associated with a <i>pension transfer</i> that the <i>consumer</i> must have been willing to take for a recommendation to transfer to be suitable. The relevant transfer risks are:
		(i)	that their investments in the <i>proposed arrangement</i> will not perform as expected, and they will have less income in retirement (investment risk);

		(ii)	that the withdrawals from the <i>proposed arrangement</i> (planned and/or ad hoc) are not sustainable and the <i>consumer</i> will run out of money in retirement (longevity risk);
		(iii)	that inflation will erode the real value of the income they are able to draw from the <i>proposed arrangement</i> (inflation risk); and
		(iv)	that the <i>consumer</i> and/or their partner may become less able to make the necessary financial decisions in relation to their income as they age (for example, due to illness or diminishing capacity).
	(3)		Decide, with reference to (2)(a), whether the <i>consumer</i> was willing to take the risks associated with a <i>pension transfer</i> in (2)(b).
10.25	E	(1)	Answer 'yes' when the available evidence demonstrates that:
		(a)	the <i>consumer</i> was not willing to take the risks in 10.24R(2)(a); and/or
		(b)	Example 7 or 10 is present; and/or
		(c)	the <i>firm</i> has not collected the necessary information in Information Area 3 or 4 of the Information Section and so it is not possible to complete the assessment in 10.24R(3) because the <i>firm</i> has not demonstrated that the recommendation meets the <i>consumer's</i> objectives.
			Example 9: the firm's transfer analysis does not support a recommendation to transfer
10.26	R		Take the following steps to determine whether this example is present:
		(1)	Refer to the available evidence in Information Areas 7, 8 and 9 of the Information Section, the transfer value analysis and the <i>suitability report</i> .
		(2)	Identify the benefits and options available in the <i>proposed arrangement</i> .
		(3)	Identify the benefits and options likely (on reasonable assumptions) to be paid in the comparator scheme(s).
		(4)	Review the <i>firm's</i> analysis of the effect of replacing the benefits in the comparator scheme with the benefits in the <i>proposed arrangement</i> , having regard to the <i>consumer's</i> circumstances, including their age, marital status and, where relevant, their objectives for taking a PCLS or early retirement.
		(5)	Compare (a) with (b):
		(a)	the rate of return required on investments in the <i>proposed arrangement</i> to match the income benefits in the comparator scheme(s) that is relevant to the <i>consumer's</i> circumstances and objectives:
		(i)	if the <i>consumer</i> is single or unmarried, use the single life critical yield;
		(ii)	if the <i>consumer</i> is taking a PCLS, use the critical yield that factors in the <i>consumer</i> taking the PCLS;
		(iii)	if the <i>consumer</i> wishes to retire early, use the critical yield at the early retirement date;
		(b)	the investment risk that the <i>consumer</i> must be willing and able to take in the <i>proposed arrangement</i> (taking into account a realistic rate of return) to match the desired income benefits in the comparator scheme(s).

		(6)	Review how the <i>firm</i> says the transfer analysis supports the <i>firm's</i> recommendation to transfer.
		(7)	Decide whether the <i>firm</i> has demonstrated that the transfer analysis supports the recommendation to transfer, taking into account:
		(a)	the comparison undertaken at (5); and
		(b)	the analysis carried out by the <i>firm</i> and assessed at (4) and (6).
10.27	E	(1)	Answer 'yes' to this question when the available evidence demonstrates that:
		(a)	the <i>firm</i> has not demonstrated that the transfer analysis supports the recommendation to transfer, for example because:
		(i)	the critical yield indicated in the transfer value analysis is likely to be unattainable, factoring in the term to retirement and the <i>consumer's</i> attitude to investment risk; or
		(ii)	the capitalised value of death benefits (where this is a priority objective) is significantly higher under the comparator scheme(s) than that available from the <i>proposed arrangement</i> ; and/or
		(b)	the <i>consumer</i> would not have been able to match the rate of return to replicate the benefits being given up if they invested in line with their attitude to risk; and/or
		(c)	Example 8 is present; and/or
		(d)	Example 1 is present; and/or
		(e)	the <i>firm</i> has not collected the necessary information in Information Area 7 or 9 of the Information Section and so it is not possible to complete the assessment in 10.26 because the <i>firm</i> has not demonstrated that the recommendation meets the <i>consumer's</i> objectives.
			Example 10: the firm did not have a reasonable basis for believing that the consumer had the necessary knowledge and experience to understand the risks involved in transferring their DB scheme
10.28	R		Take the following steps to determine whether this example is present:
		(1)	Refer to the available evidence and the information recorded in Information Area 4 of the Information Section, including:
		(a)	the correspondence with the <i>consumer</i> ;
		(b)	the transfer analysis; and
		(c)	the <i>suitability report</i> .
		(2)	Establish the <i>consumer's</i> level of investment experience and knowledge of <i>pension transfers</i> , pensions and investments at the time of the advice:
		(a)	in relation to <i>defined benefit occupational pension schemes</i> ;
		(b)	in relation to defined contribution schemes;
		(c)	in relation to the cash equivalent transfer value offered, including any actuarial reductions;
		(d)	in relation to the separate roles of the trustee and the sponsoring employer of a scheme;
		(e)	in relation to the features, benefits and risks of the comparator scheme available to it at the time; and

- (f) generally, in relation to pensions and investments.
- (3) Identify the steps that the *firm* took to establish that the *consumer* could appreciate the nature of the risks they were taking with this transfer.
- (4) Identify the steps the *firm* took to address the *consumer's* behavioural response to their situation in a balanced and rational way, including:
 - (a) any misunderstandings the *consumer* had about the benefits available in the comparator scheme(s);
 - (b) the roles of trustee and the employer where the *consumer* was concerned about belonging to a scheme where the employer would continue to be involved;
 - (c) the level of the cash equivalent transfer value on offer, including any actuarial reductions that were being applied at the time the value was prepared;
 - (d) any concerns the *consumer* had about the financial viability of the comparator scheme(s); and
 - (e) the role of the *firm* and their professional duties when providing *pension transfer* advice.
- (5) Identify the steps that the *firm* took to ensure that the *consumer* understood the *firm's* transfer analysis and its advice.
- (6) Decide whether the *consumer* had the necessary experience and knowledge to understand the risks involved in transferring to the *proposed scheme*, taking into account, in particular:
 - (a) what the *consumer* already understood, including information such as:
 - (i) information about the *consumer's* existing investment and pensions portfolio and the nature, volume and frequency of the *consumer's* transactions in pensions and investments;
 - (ii) how long the *consumer* has been an investor;
 - (iii) the *consumer's* experience with, and knowledge of, personal, stakeholder or workplace pension schemes;
 - (iv) the *consumer's* experience of managing their pension or other investments or using a financial adviser to manage these investments;
 - (v) the *consumer's* profession (if any), including whether it is relevant to understanding defined benefit *pension transfer* advice and investment advice;
 - (vi) whether the *consumer* had characteristics of vulnerability and the impact this had on the suitability of advice;
 - (b) how the *firm* communicated the following to the *consumer*:
 - (i) the risks of transferring the *consumer's* pension and investing in a scheme with *flexible benefits*;
 - (ii) the outcomes from the transfer analysis and whether the *firm* drew the attention to the factors that did, and did not, support the *firm's* advice;

			<ul style="list-style-type: none"> (iii) the option to remain in BPS while it entered the PPF assessment period, and the overall safety of their pension savings during this time; and (iv) the option to transfer to BPS2, including the role of the trustee and the sponsoring employer and the ability to transfer out of BPS2 at a later date;
		(c)	<p>if the <i>consumer</i> approached the <i>firm</i> for advice before 12 October 2017 and the Time to Choose period, consider:</p> <ul style="list-style-type: none"> (i) whether the <i>firm</i> should have waited until more information was available about the comparator scheme(s) to provide the recommendation; (ii) what information the <i>firm</i> was able to provide the <i>consumer</i> with about the options in the comparator scheme(s); and (iii) the effect of any failure to obtain information about the comparator scheme(s) on the <i>consumer's</i> understanding of their options and the risk of transfer;
		(d)	<p>what the <i>consumer</i> is likely to have understood after this information was provided, taking into account the overall impression that the <i>consumer</i> would reasonably have had of the features and risks of a transfer, particularly in the light of:</p> <ul style="list-style-type: none"> (i) the entirety of the <i>firm's</i> communications with the <i>consumer</i>, including communications the consumer received from the scheme trustees; (ii) the extent to which the <i>firm's</i> communications were balanced and rational in their presentation of features and risks; and (iii) the <i>consumer's</i> relevant experience and knowledge in (2) above.
10.29	E	<p>Answer 'yes' to this question where:</p> <ul style="list-style-type: none"> (1) the <i>firm</i> did not communicate in substance the risks of transferring in a way the <i>consumer</i> would have understood; and/or (2) the <i>firm</i> did not take reasonable steps to ensure that the <i>consumer</i> understood the <i>firm's</i> transfer analysis, their option to transfer to a comparator scheme, and its advice; and/or (3) the <i>firm</i> did not take reasonable steps to correct any misunderstandings the <i>consumer</i> had in relation to the benefits available and/or the security of their benefits in the comparator schemes; and/or (4) the <i>firm</i> has not collected the necessary information in Information Area 4 of the Information Section and so it is not possible to complete the assessment in 10.28R because the <i>firm</i> does not have a reasonable basis for believing that the <i>consumer</i> has the necessary knowledge and experience to transfer. 	
		<p>Example 11: the consumer is under 50 and cannot bear the risks of transfer</p>	
10.30	R	(1)	Refer to the available evidence in Information Area 1 of the Information Section; and
		(2)	Identify whether the <i>consumer's</i> age at the time of the advice is 50 or under and:
		(a)	if the <i>consumer</i> is under 50, take the steps in 10.31R; or

		(b)	if the <i>consumer</i> is 50 or over, answer 'no' to this question and proceed to Example 12.
10.31	R		Take the following steps to determine whether this example is present:
		(1)	Refer to the available evidence recorded in the Information Areas 1, 2, 3, 7 and 9 of the Information Section and to the scheme benefits available in the comparator scheme(s) (see CONRED 4 Annex 22G at Table 2).
		(2)	Identify the minimum age that the <i>consumer</i> can draw benefits from the comparator scheme(s), including their option to take any protected retirement benefits.
		(3)	Identify the objective for the transfer and: <ul style="list-style-type: none"> (a) the amount needed; (b) the date the amount is needed; and (c) why the <i>consumer</i> needs to transfer their comparator scheme(s) benefits now, taking into account when the <i>consumer</i> wants to: <ul style="list-style-type: none"> (i) release capital and/or tax-free cash from their scheme; and (ii) draw an income from the scheme; (d) the alternatives available to achieve the objective, including: <ul style="list-style-type: none"> (i) the option to remain in the scheme and wait for the outcome of the PPF assessment; (ii) the option to remain in the scheme and transfer into BPS2; and (iii) use of other assets to achieve the <i>consumer's</i> objective.
		(4)	Consider the investment strategy in the <i>proposed arrangement</i> and whether the <i>consumer</i> had the requisite attitude to the risks of investment in the <i>proposed arrangement</i> , including inflation risk.
		(5)	If the <i>consumer</i> approached the <i>firm</i> for advice before 12 October 2017 and the Time to Choose period, consider: <ul style="list-style-type: none"> (a) whether the <i>firm</i> should have waited until more information was available about the comparator scheme(s) to provide the recommendation; (b) what information the <i>firm</i> was able to provide the <i>consumer</i> with about the options in the comparator scheme(s); and (c) evaluate the effect of any failure to obtain information about the comparator scheme(s) on the <i>consumer's</i> understanding of their options and the risk of transfer.
		(6)	Decide whether the <i>firm</i> had a reasonable basis for believing that the <i>consumer</i> was able financially to bear the investment risk consistent with their investment objectives and had the knowledge and experience to transfer.
10.32	E		Answer 'yes' to this question when the available evidence demonstrates that: <ul style="list-style-type: none"> (1) the <i>consumer</i> was unable financially to bear the long-term investment risks associated with an investment in the <i>proposed arrangement</i>; and/or (2) Example 10 is present and the <i>consumer</i> did not have the requisite knowledge and experience to understand their options and the risk of transfer; and/or

- (3) the *firm* should have waited for more information to become available before it advised the *consumer* ahead of the Time to Choose exercise; and/or
- (4) the *consumer's* objectives for the transfer, their intended retirement date, and investments were uncertain or not clearly defined and the *firm's* recommendation to transfer has exposed the *consumer* to financial and other risks that they did not need to take with this investment.

Example 12: the recommendation to transfer is unsuitable for the consumer's investment objectives or for their financial situation for some other reason

- 10.33 R Take the following steps:
- (1) Refer to the available evidence and the information recorded in Information Areas 2, 6 and 7 of the Information Section.
 - (2) Refer to the features and benefits of the comparator scheme(s) at CONRED 4 Annex 22G.
 - (3) Consider whether there is any reason, other than the reasons at examples 1 to 11 above, why the recommendation to transfer was unsuitable for the *consumer's* investment objectives or financial situation.

- 10.34 G This example may be present when:
- (1) the transfer would result in a tax liability that the *consumer* is unwilling or unable to pay; and/or
 - (2) the *consumer* could have taken an alternative course of action to meet their objectives (other than the specific objectives identified in the examples above) with less cost or less risk; and/or
 - (3) the *consumer* has a specific objective in mind for the transfer (other than the objectives listed in Examples 2, 3, 4, 5 and 6 above), but this objective can be met without a *pension transfer*; and/or
 - (4) the *firm* has recommended a transfer to mitigate against the risk of future redundancy, when there is no evidence on file that the *consumer* is at imminent risk of being made redundant or that redundancy was likely to cause significant financial hardship.

11 Causation Section

- 11.1 G The Causation Section is used to record the assessment of whether or not the *consumer's* loss was as a result of (or caused by) the *firm's* failure to comply with the suitability requirements.
- 11.2 G The Causation Section proceeds on an assumption that the *consumer* suffered a loss by transferring their BSPS to the *proposed arrangement*. Whether or not there was actually a loss is dealt with in the Redress Section.
- 11.3 R Complete the Causation Section where the assessor has concluded that the *firm* has failed to comply with the suitability requirements.
- 11.4 R Take the following steps to complete the Causation Section:
- (1) Review the available evidence any communications to *consumers* during the relevant period, including those listed in CONRED 4 Annex 22G at Table 3, and any other relevant information recorded in the Information Section and Suitability Section of the BSPS DBAAT.
 - (2) Determine whether the *firm's* failure to comply with the suitability requirements ('non-compliant conduct') caused the *consumer* to transfer their BSPS to the *proposed arrangement* (the 'causation question').
 - (3) Answer the causation question by selecting 'yes' or 'no'.
 - (4) Explain the conclusion on the causation question with reference to the evidence at (1).

11.5	R	To answer the causation question, decide whether it is more likely than not that the <i>firm's</i> non-compliant conduct was the effective cause of the <i>consumer's</i> decision to transfer.
11.6	G	<p>The effective cause in 11.5R above does not have to be the sole or primary cause of the <i>consumer's</i> decision. In particular:</p> <ol style="list-style-type: none"> (1) as long as the non-compliant conduct was an effective cause of the <i>consumer's</i> decision, it is immaterial that other factors (for example, the influence of a third party such as an introducer) also influenced that decision; (2) the <i>firm's</i> non-compliant conduct will not have been the effective cause of the <i>consumer's</i> loss if it is more likely than not that the <i>consumer</i> would have transferred their BSPS to the <i>proposed scheme</i> in the absence of non-compliant conduct. This may occur if, for example, the <i>firm</i> gave an unsuitable recommendation to transfer but the <i>consumer</i> would still have transferred their BSPS to the <i>proposed scheme</i> even if the <i>firm</i> had complied with the suitability requirements.
11.7	G	<p>For the purposes of the determination under 11.4R(2), have regard to the impact of the <i>firm's</i> non-compliant conduct on the <i>consumer's</i> decision to transfer, including:</p> <ol style="list-style-type: none"> (1) the <i>consumer's</i> demands, needs and intentions at the time of the advice, including in relation to: <ol style="list-style-type: none"> (a) the <i>consumer's</i> financial situation; (b) any potential tax or other liabilities the <i>consumer</i> has; (c) the <i>consumer's</i> objectives and future financial needs throughout retirement; (d) the <i>consumer's</i> age and expected retirement age; (e) the <i>consumer's</i> state of health; and (f) the <i>consumer's</i> timeline for making any relevant decision about their BSPS in light of the BSPS restructuring; (2) the <i>consumer's</i> knowledge and experience at the relevant time, including: <ol style="list-style-type: none"> (a) the <i>consumer's</i> knowledge and experience as recorded in the Information Section; (b) the extent to which the <i>consumer</i> understood the changes to the BSPS, the operation of the PPF, and other relevant matters in the BSPS restructuring following the publication of the Regulated Apportionment Agreement, or whether the <i>consumer</i> would have made a decision solely or primarily on the <i>firm's</i> recommendation; (c) the extent to which the <i>consumer</i> understood the detailed reasoning (if any) within the <i>firm's</i> advice, or would have made a decision solely or primarily based on the <i>firm's</i> recommendation overall; (d) the extent to which the <i>consumer</i> read the <i>firm's</i> written advice (or would have made a decision solely or primarily based on advice given orally); and (e) the extent to which the <i>consumer</i> considered whether to take the relevant step independently of the <i>firm's</i> advice. (3) whether the <i>consumer</i> had characteristics of vulnerability as recorded in the Information Section; (4) the relevance of surrounding circumstances, including publicly available information at the time, such as the information listed in CONRED 4 Annex 22G at Table 3, paying due regard to the reliance the <i>consumer</i>

- was reasonably likely to place on the *personal recommendation* of the *firm* as compared with generic and/or publicly available information;
- (5) the significance of any particular features of the BSPS, BSPS2, the PPF and the *proposed arrangement*, as regards the *consumer's* specific demands, needs and intentions;
- (6) whether the *consumer* sought specific information from the *firm* and to what extent that information was provided to the *consumer*. If the *consumer* has sought specific information from the *firm*, then it is more likely that the information was relatively important to the *consumer* when making a decision as to whether to take a relevant action;
- (7) whether the *consumer* was informed about the particular risks and benefits of:
 - (a) staying in the BSPS and moving into the PPF;
 - (b) joining BSPS2; or
 - (c) transferring to the *proposed arrangement*,where those risks and benefits were of particular concern to the *consumer* (given their demands, needs and intentions);
- (8) whether a failure to provide information under (7)R above may make it more likely that the non-compliant conduct caused the *consumer* to take the decision they did;
- (9) the *consumer's* knowledge and experience at the relevant time, including:
 - (a) the *consumer's* knowledge and experience as recorded in the Information Section;
 - (b) the extent to which the *consumer* understood the changes to the BSPS, the operation of the PPF, and other relevant matters in the BSPS restructuring following the publication of the Regulated Apportionment Agreement, or whether the *consumer* would have made a decision solely or primarily on the *firm's* recommendation;
 - (c) the extent to which the *consumer* understood the detailed reasoning (if any) within the *firm's* advice, or would have made a decision solely or primarily based on the *firm's* recommendation overall;
 - (d) the extent to which the *consumer* read the *firm's* written advice (or would have made a decision solely or primarily based on advice given orally); and
 - (e) the extent to which the *consumer* considered whether to take the relevant step independently of the *firm's* advice.

12 **Attestation Section**

- 12.1 G This section is for the *senior manager* at the *firm* to complete in compliance with CONRED 4.3.2R(3).
- 12.2 R The attestation must be signed by an *individual* approved to perform the SMF16 (Compliance oversight) *FCA controlled function* for the *firm* or by an *individual* approved to perform another appropriate *senior management function* within the *firm*.
- 12.3 R For the purposes of 12.2R, a notification is to be treated as signed where any of the following apply:
 - (1) it contains an image of a 'wet ink' signature applied by the appropriate *individual*;
 - (2) it contains an electronic signature applied by the appropriate *individual*; or

		(3)	it contains a typed signature applied by, or with the express consent of, the appropriate <i>individual</i> .
13			Redress Calculation BSPS calculator instructions
13.1	R		The following definitions are used in this section:
		(1)	'assumptions' are the economic, demographic and other assumptions to be used in the redress calculation set out at DISP App 4 Annex 1 ;
		(2)	'BSPS calculator' has the meaning in CONRED 4.1.1R(3) ;
		(3)	'calculation date' has the meaning in DISP App 4.1.1R(6) ;
		(4)	'comparator scheme' is the scheme identified at CONRED 4 Annex 21 13.21R to 13.26R ;
		(5)	'DC pension arrangement' means any pension arrangement holding the value of the <i>consumer's</i> pension benefits which originated from the BSPS, including where the arrangement has been subsequently switched to a new arrangement;
		(6)	'DOL' is the date that the BSPS member left active service in the BSPS;
		(7)	'input' is information entered into the BSPS calculator;
		(8)	'output' is the report produced by the BSPS calculator setting out the redress calculation, together with a summary of the inputs and the effect of any adjustments made;
		(9)	'PPF' includes any benefits bought out by PIC. The BSPS PPF benefit structure will be automatically mapped to PIC Scheme Benefits that are expected to be secured with PIC in 2022/2023;
		(10)	'PIC' is the Pensions Insurance Corporation;
		(11)	'primary compensation sum' is the amount calculated in accordance with DISP App 4.3.19R , adjusted to take account of the <i>consumer's</i> tax position and any entitlement to means-tested state benefits;
		(12)	'quarter' is the period of three <i>months</i> commencing 1 January, 1 April, 1 July and 1 October in each year;
		(13)	'secondary compensation sum' is the amount comprising any consequential losses, including any initial <i>adviser charges</i> on the DC pension arrangement and the primary compensation sum;
		(14)	'Section' is each former <i>defined benefit occupational pension scheme</i> that was merged into the BSPS over time;
		(15)	'tranche' is an element of pension benefit which typically has a unique combination of revaluation increases before coming into payment and pension increases during payment, but may also have a unique payment starting age or payment end age; and
		(16)	'valuation date' has the meaning in DISP App 4.1.1R(25) .
			Using the BSPS calculator
13.2	R		This section sets out the instructions for using the BSPS calculator. The BSPS calculator is used to calculate the redress (if any) payable to a <i>consumer</i> , their spouse or beneficiary in a scheme case where the <i>firm</i> has determined that:
		(1)	the <i>firm</i> has failed to comply with the suitability requirements; and
		(2)	the <i>firm's</i> non-compliant conduct was the effective cause of the <i>consumer's</i> BSPS pension transfer.
13.3	R	(1)	The BSPS calculator carries out Step 3 at DISP App 4.3.19R to 4.3.26R and the parts of Step 4 at DISP App 4.3.27R to 4.3.29R and DISP App 4.3.32 .
		(2)	The BSPS calculator does not calculate the redress sum that would be payable by full or partial augmentation.

13.4	R	The BSPS calculator compares the position the <i>consumer</i> is in with the position they would have been in if the <i>firm</i> had complied with the suitability requirements.
13.5	R	The BSPS calculator has a number of sections which must be completed in full except where indicated in these instructions.
13.6	R	All inputs into the BSPS calculator must be based on information obtained by the <i>firm</i> prior to the calculation date.
13.7	G	The BSPS calculator will only produce a redress calculation where the <i>firm</i> inputs the necessary information.
13.8	G	The diagram at CONRED 4 Annex 23G explains the steps to complete the redress calculation using the BSPS calculator in diagrammatic form, with reference to the relevant sections of the instructions, DISP App 4 and CONRED 4 rules .
Use of the BSPS calculator		
13.9	G	The BSPS calculator and instructions in this Annex are to be used for the purpose of complying with the requirements under CONRED 4 to calculate redress owed to a BSPS member as a result of a <i>firm's</i> failure to comply with the suitability requirements.
13.10	G	Nothing in the BSPS calculator affects how the FCA DBAAT or BSPS DBAAT works.
General instructions		
13.11	R	A <i>firm</i> must carry out a separate calculation on the BSPS calculator for each period of the <i>consumer's</i> service or membership of the BSPS.
13.12	R	The valuation date will be the first day of the quarter (for calculations undertaken within that quarter).
13.13	G	The redress calculation date will fall within the same <i>quarter</i> as the valuation date but does not have to be the same date as the valuation date.
13.14	R	The BSPS calculator will base calculations on the new assumptions available on the first day of each new quarter, using publicly available data from the final <i>business day</i> of the quarter immediately before.
13.15	R	<p>(1) Subject to DISP App 4.3.25R, redress calculations using the BSPS calculator will remain valid for 3 <i>months</i> from the date the <i>redress determination</i> is sent to the <i>consumer</i>, irrespective of quarterly changes to the assumptions.</p> <p>(2) If a <i>firm</i> carries out a further redress calculation after expiration of the validity period in (1), that calculation must be based on the new assumptions for the quarter in which it is carried out.</p>
Steps for redress calculation		
13.16	G	The BSPS calculator can be accessed on the FCA's website from April 2023.
13.17	R	<p>A <i>firm</i> must take the following steps to complete the redress calculation using the BSPS calculator:</p> <p>(1) Step 1: obtain the necessary information to calculate redress, including identifying the relevant comparator scheme by following the instructions at CONRED 4 Annex 21 13.21G to 13.26R.</p> <p>(2) Step 2: identify when the <i>consumer</i> would have taken retirement benefits from the comparator scheme by following Step 2 of DISP App 4.</p> <p>(3) Step 3: carry out a redress calculation by:</p> <p>(a) inputting the necessary information into the calculator, overriding default settings where appropriate, as specified in CONRED 4 Annex 21 13.30R; and</p> <p>(b) running the BSPS calculator and obtaining a calculator report.</p>

		(4)	Step 4: work out the redress offer for the <i>redress determination</i> in accordance with the requirements at DISP App 4.3.27R to 4.3.30R and CONRED 4.4.2R and CONRED 4.4.3R.
		(5)	Step 5: send the <i>redress determination</i> to the <i>consumer</i> in accordance with the requirements at CONRED 4.4.2R, CONRED 4.4.5R and CONRED 4.4.6G.
		Step 1: obtain necessary information	
13.18	G		A <i>firm</i> should follow the steps in CONRED 4.3.14R and, where applicable, at CONRED 4.4.14R to obtain the necessary information to carry out a redress calculation using the BSPS calculator.
13.19	G		The necessary information to carry out a redress calculation using the BSPS calculator is specified at CONRED 4 Annex 21 13.30R.
13.20	R		A <i>firm</i> is entitled to rely on the information provided by the <i>consumer</i> unless it is aware that the information is out of date, inaccurate or incomplete.
		Step 2: identify comparator scheme and retirement date	
13.21	R		A <i>firm</i> must identify the appropriate comparator scheme to:
		(1)	complete Step 2 in DISP App 4.3.15R to 4.3.18G; and
		(2)	use for the purpose of the redress calculation.
13.22	G		Former BSPS members who did not complete a <i>pension transfer</i> had two options during the 'Time to Choose exercise' implemented by the BSPS:
		(1)	move to BSPS2; or
		(2)	remain in the original BSPS scheme, which would move into the PPF.
13.23	G		A <i>firm</i> must determine whether the evidence on the client file demonstrates that the <i>consumer</i> would have been more likely than not to choose the BSPS2 or the PPF.
13.24	E		Where there is evidence in a <i>firm's</i> client file that a <i>consumer</i> selected either the BSPS2 or PPF during the Time to Choose exercise, a <i>firm</i> must take that choice into account in the determination required by CONRED 4 Annex 21 13.23R. The <i>firm</i> must also take account of any other evidence on the client file including where it may have displaced such choice and with reference to the evidential provision at CONRED 4 Annex 21 13.25R.
13.25	E	(1)	The following evidential provisions provide examples of circumstances which make it more likely than not that the <i>consumer</i> would have chosen the BSPS2 over the PPF:
		(a)	the <i>consumer</i> was under 50 at the time of the advice;
		(b)	the <i>consumer</i> could not accept a reduction in the starting pension entitlement at retirement; or
		(c)	the <i>consumer</i> wanted to retain the option to transfer benefits in the future.
		(2)	The following evidential provisions provide examples of circumstances which make it more likely than not that the <i>consumer</i> would have chosen the PPF over BSPS2:
		(a)	the <i>consumer</i> needed to take the highest <i>pension commencement lump sum</i> available at their retirement date; and
		(b)	the <i>consumer</i> had a considered plan for taking retirement benefits early which would have met their income needs in retirement when taking into account the PPF reduction in starting pension entitlement at retirement.
13.26	R		Where the <i>firm</i> is unable to determine which scheme a <i>consumer</i> would have been more likely than not to choose during the Time to Choose exercise, it must calculate the amount of redress using the BSPS2 as the comparator scheme.

		Retirement date
13.27	R	A <i>firm</i> must determine the <i>consumer's</i> retirement date using the <i>rules</i> and <i>guidance</i> at DISP App 4.3.15R to 4.3.18G, with the following modification: any reference to the <i>defined benefit occupational scheme</i> is to be replaced with a reference to the comparator scheme identified in accordance with CONRED 4 Annex 21 13.21R to 13.26R.
		Step 3: carry out redress calculation
13.28	R	The third step is for the <i>firm</i> to carry out the redress calculation using the BSPS calculator. The BSPS calculator will calculate whether 'X' is greater than 'Y' on the valuation date, using the formula at DISP App 4.4.2R, where: <ul style="list-style-type: none"> (1) 'X' is the estimated value of the benefits in the <i>defined benefit occupational pension scheme</i>; and (2) 'Y' is the value of the benefits from the <i>consumer's</i> DC pension arrangement.
13.29	R	Where 'X' is greater than 'Y', the <i>consumer</i> has suffered a loss and the amount calculated is the primary compensation sum to be used at Step 4.
13.30	R	A <i>firm</i> must input the following information into the BSPS calculator to carry out the redress calculation: <ul style="list-style-type: none"> (1) Information relevant to the <i>consumer's</i> personal and financial situation including, where relevant, and overriding the default setting where different: <ul style="list-style-type: none"> (a) date of birth; (b) marital status; (c) spouse/civil partner's date of birth; (d) the appropriate comparator scheme identified in accordance with CONRED 4 Annex 21 13.21R to 13.26R; (e) the <i>consumer's</i> presumed date of retirement from the appropriate comparator scheme, identified in accordance with CONRED 4.4.3R and Step 2 of DISP App 4.3.15R to 4.3.18G; (f) whether the <i>consumer</i> is alive or deceased on or before the calculation date (default is that the <i>consumer</i> is still alive). If the <i>consumer</i> is deceased, the <i>consumer's</i> date of death. (2) Where the comparator scheme is the BSPS (PPF) data relating to the <i>consumer's</i> former benefit entitlement in the BSPS, including: <ul style="list-style-type: none"> (a) the relevant Section (the BSPS calculator will provide a list of options); (b) the DOL; (c) annual BSPS pension at DOL split by tranche, as applicable to each section. The tranches expected will be pre-populated based on the Section selected. All tranches will be optional; however, there must be one or more non-zero amounts (the BSPS calculator will provide a list of tranches by Section); (d) the value at DOL of the automatic lump sum entitlement due at retirement split by tranche, as applicable to each Section; (e) confirmation of any lower unreduced retirement age that applies to any tranches due to any enhanced early retirement provision (optional - default is Section's retirement age will apply); (f) the value at DOL of any other associated benefits, for example for a bridging pension; and

- (g) details of any adjustment applicable to the transfer as part of a pension sharing order entered into (optional - default is no adjustment).
- (3) Where the comparator scheme is the BSPS2, data relating to the *consumer's* former benefit entitlement in the BSPS, including:
 - (a) Section (the BSPS calculator will provide a list of Sections);
 - (b) the DOL;
 - (c) annual BSPS2 pension at DOL split by tranche, as applicable to each Section. The tranches expected will be pre-populated based on the Section selected. All tranches will be optional; however, there must be one or more non-zero amounts (the BSPS calculator will provide a list of tranches by Section);
 - (d) the value at DOL of the automatic lump sum entitlement due at retirement split by tranche, as applicable to each Section;
 - (e) confirmation of any lower unreduced retirement age that applies to any tranches due to any enhanced early retirement provision (optional - default is the BSPS2's retirement age will apply);
 - (f) the value at date of leaving of any other associated benefits, for example for a bridging pension; and
 - (g) details of any adjustment applicable to the transfer as part of a pension sharing order entered into (optional - default is no adjustments apply).
- (4) Data relating to the DC pension arrangement, including:
 - (a) date of transfer out of the BSPS;
 - (b) value of each investment fund attributable to the original transfer value at the valuation date;
 - (c) valuation date for each investment fund;
 - (d) product and adviser-related percentage charges, including annual management charges;
 - (e) non percentage charges in addition to the charges at (4)(d) (option - default is nil); and
 - (f) whether the *consumer* requires initial advice in future, and whether an initial *adviser charge* needs to be applied.
- (5) Where the *consumer* has already commenced taking their pension benefits:
 - (a) the amount of any *pension commencement lump sum* taken and dates of payment;
 - (b) the amount of any funds accessed flexibly and dates of payments; and
 - (c) the date of any annuity purchased and for that annuity:
 - (i) its amount;
 - (ii) increases (fixed, *RPI* linked, *CPI* linked, applicable cap, applicable floor);
 - (iii) spouse/civil partner's pension – proportion on death;
 - (iv) the guarantee period from the commencement date (enter in years);
 - (v) payment in arrears or advance and the payment frequency; and

		(vi) annuity commencement date.
	(6)	An amount for any consequential losses claimed by a <i>consumer</i> pursuant to CONRED 4.3.14R(1)(b)(iii)(C) which the <i>firm</i> accepts are properly payable.
	(7)	The amount at 13.34R(1) and (2) combined and adjusted to take account of the <i>consumer's</i> tax position calculated in accordance with DISP App 4.3.31G.
	(8)	The amount at 13.34R(3) adjusted to take account of the <i>consumer's</i> tax position calculated in accordance with DISP App 4.3.31G.
	Use of assumptions from DISP App 4	
13.31	G	The BSPS calculator uses the assumptions in DISP App 4 Annex 1 for the purpose of calculating redress. These assumptions may include (depending on the type of case and the information entered in the calculator):
	(1)	pre-retirement discount rate, adjusted for the default product charges and default ongoing <i>adviser</i> charges (see DISP App 4 Annex 1 8.1G and 9.1G);
	(2)	post-retirement discount rate, adjusted for a <i>pension commencement lump sum</i> , if relevant (see DISP App 4 Annex 1 7G);
	(3)	RPI inflation (see DISP App 4 Annex 4 3.1G);
	(4)	CPI inflation (see DISP App 4 Annex 4 4.1G);
	(5)	Earnings inflation (see DISP App 4 Annex 4 5.1G);
	(6)	pension increases in payment, with reference to the relevant inflation index, caps and floors (see DISP App 4 Annex 1 6.1G);
	(7)	default product charge % (see DISP App 4 Annex 1 9.1G);
	(8)	default <i>adviser charge</i> % (see DISP App 4 Annex 1 9.1G);
	(9)	Bank of England Base Rate;
	(10)	mortality for <i>consumer</i> and spouse / dependant (see DISP App 4 Annex 1 10.1G);
	(11)	spouse / dependant age difference (if the spouse / dependant date of birth is not available) (see DISP App 4 Annex 1 10.2G); and
	(12)	proportion married / having a dependant at retirement age (if status unknown) (see DISP App 4 Annex 1 10.3G).
13.32	G	These assumptions will be derived in line with DISP App 4 Annex 1 and will be updated on a quarterly basis. All the assumptions needed will be automatically calculated based on the information inputted and the market conditions at the valuation date.
13.33	G	The BSPS calculator will be temporarily unavailable at quarter ends for a short period while updates for latest assumptions are made.
	Step 4: work out redress offer for redress determination	
13.34	R	The BSPS calculator will produce the following outputs:
	(1)	a primary compensation sum, calculated in accordance with DISP App 4.3.19R and 4.3.20R;
	(2)	a secondary compensation sum comprising any consequential losses, including any:
	(a)	initial adviser charges on the DC pension arrangement and the primary compensation sum at (1) in accordance with DISP App 4.3.32G, calculated using the formula at DISP App 4.4.19R;
	(b)	amount as described at 13.30R(6);

		(3)	an additional compensation sum to compensate the <i>consumer</i> for the lapse of time between the valuation date and the payment date, calculated in accordance with the formula at DISP App 4 Annex 1 14.1G to 14.3G; and
		(4)	the total of the amounts in 13.30R(7) and (8).
		Step 5: redress determination	
13.35	R		The amount at 13.34R(4) is the redress payable to a <i>consumer</i> in the form of a cash lump sum for the purpose of CONRED 4.4.2R .