

Appendix 4

Handling pension transfer redress calculations

4.2 Application

App4.2.1 **G** This appendix sets out the *rules and guidance* about the steps *firms* should take and the assumptions *firms* should use to:

- (1) calculate the redress (if any) to offer to a *consumer*, their spouse or their dependant(s) for non-compliant pension transfer advice which resulted in the *consumer* transferring out of a *defined benefit occupational pension scheme* and into a *defined contribution pension scheme*; and
- (2) make a redress offer to a *consumer* or their beneficiary.

App4.2.2 **R** This appendix applies to any redress calculation and redress offer relating to non-compliant pension transfer advice arising as a result of:

- (1) a *complaint* received by a *firm* on or after the commencement date;
- (2) a *complaint* received before the commencement date where the *firm* has not issued a redress offer to the *consumer* on or before that date;
- (3) the *FCA's* approach to supervising *firms* (■ SUP 1A.3);
- (4) any other redress exercise carried out by a *firm*; and
- (5) a requirement in ■ CONRED 4 (British Steel Consumer Redress Scheme).

App4.2.3 **R** This appendix also applies to redress calculations and redress offers where a *firm* upholds a *complaint* received after 3 August 2016 about a *pension transfer* between 29 April 1988 and 30 June 1994 in circumstances where either:

- (1) the *firm* did not review the relevant pension transaction in accordance with the regulatory standards or requirements applicable for the review of the transaction at the time; or

- (2) the particular circumstances of the case were not addressed by those standards.

App4.2.4 **G** Where a *firm* upholds a *complaint* concerning a non-joiner, *pension opt-out* or *FSAVC* case, the firm may use this appendix as a basis for calculating and offering redress, to the extent that it is appropriate to do so and subject to the particular circumstances of the case.

App4.2.5 **G**

(1) This appendix should be considered alongside applicable *rules* and *guidance* in **■ DISP 1**. Where this appendix does not address the particular and individual circumstances of a *consumer's complaint*, a *firm* should address such circumstances:

(a) in a way which is consistent with the *rules* and *guidance* in this appendix; and

(b) in accordance with their obligations in **■ DISP 1.4.1R**.

(2) *Firms* should also consider how the *Financial Ombudsman Service* has taken account of such circumstances when determining similar *complaints* (**■ DISP 1.4.2G**).

(3) To the extent that taking them into account would be consistent with a *firm's* obligations in this appendix and **■ DISP 1.4.1R**, relevant guidance in **■ DISP 1.4.2G(3)** includes the provisions designated by the Financial Services Authority in November 2001 in the Designation of Pensions Review Provisions Instrument 2001 (as amended).

(4) When calculating redress in accordance with this appendix, *firms* should:

(a) take into account all relevant factors, including any known or anticipated changes in circumstances which may impact on the value of the redress which would be appropriate; and

(b) act fairly when assessing what redress is appropriate in light of such circumstances.

(5) In **■ DISP App 4.2.5G(4)(a)**, relevant changes in circumstances may include changes in the value of the *consumer's* notional rights in a ceding *defined benefit occupational pension scheme*, which are certain and quantified, and which are known, or reasonably ought to be known, by the *firm* at the calculation date.

App4.2.6 **R** A *firm* must use an *actuary* or an approach approved by an *actuary* when undertaking calculations in accordance with this appendix to calculate:

- (1) the valuation of the benefits in a *defined benefit occupational pension scheme* given up by a *consumer*; and
- (2) the value of the *consumer's* DC pension arrangement, where adjustments are necessary to obtain the current value.

App4.2.7 **G** (1) A *firm* may use actuarial software which is compliant with technical actuarial standards to undertake the relevant calculations, to the extent that they have the competence to do so.

- (2) The type of adjustments where *firms* should confirm their approach with an *actuary* include removing the effect of contributions into the *consumer's* DC pension arrangement that were not part of the cash equivalent transfer value.
- (3) If a *firm* has had confirmation from an *actuary* that its approach to relevant elements of the valuation is appropriate, that approach can be used for materially similar cases without needing to obtain actuarial approval each time.
- (4) If a *firm* lacks competence to carry out any parts of the redress calculation in this appendix, including rolling up payments to allow for the passage of time, it should refer to an *actuary*.

App4.2.8 R

- (1) Notwithstanding this appendix, a *firm* may offer to arrange for the *consumer* to be reinstated into a *defined benefit occupational pension scheme*, where it is possible to do so, or offer to set up a pension arrangement with *safeguarded benefits* for the *consumer* in place of paying redress if it is agreed to by the *consumer*.
- (2) A *firm* may only offer to set up a pension arrangement with *safeguarded benefits* (such as a deferred annuity or *pension annuity*) in place of the payment of redress after the *firm* has calculated and informed the *consumer* of the redress offer which would otherwise be payable in accordance with this appendix.
- (3) Any pension arrangement with *safeguarded benefits* set up by the *firm* should provide benefits to the *consumer* which are no less than the value of the benefits the *consumer* would have received from their *defined benefit occupational pension scheme*.
- (4) If a *firm* offers to set up a pension arrangement with *safeguarded benefits* in place of paying redress, the *firm* must:
 - (a) make a *personal recommendation* to the *consumer* about the suitability of the pension arrangement with *safeguarded benefits* which complies with the *rules* on assessing suitability in ■ COBS 9;
 - (b) clearly inform the *consumer* that they are not required to accept a pension arrangement with *safeguarded benefits* and can instead receive redress as a cash lump sum payment or by augmentation in accordance with ■ DISP App 4.3.33R; and
 - (c) not require the payment of any *fees* or *charges* by the *consumer* in connection with either the setting up of a pension arrangement with *safeguarded benefits* or the *personal recommendation* made by the *firm*.