

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*.