

IMPROVING THE QUALITY OF PENSION TRANSFER ADVICE

25 MAY 2018

A RESPONSE TO FCA CONSULTATION PAPER CP18/7



ABOUT THE PLSA

The Pensions and Lifetime Savings Association is the national association with a ninety year history of helping pension professionals run better pension schemes. With the support of over 1,300 pension schemes and around 400 supporting businesses, we are the voice for pensions and lifetime savings in Westminster, Whitehall and Brussels. Our purpose is simple: to help everyone to achieve a better income in retirement. Our pension fund members own over £1 trillion of assets and are responsible for the pensions of 20 million people.

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EXECUTIVE SUMMARY

- ▶ The PLSA is supportive of the vast majority of the proposals in CP18/7. They tackle key challenges in the new retirement market that we have previously highlighted concerns over. The proposals strengthen and raise the quality control of advice for consumers.
- ▶ It is crucial that any regulatory interventions to protect retirement outcomes in DB to DC transfers – which may increase the additional training time and monetary investment for advisers – must not translate into costs being passed onto consumers.
- ▶ The PLSA supports a ban on contingent charging in principle, as incentives for poor practice for DB to DC transfers remain too large to allow contingent charging to continue. The FCA found enough evidence of either unethical or improper adviser behaviour for DB transfers in Q4 2017 to merit a tightening of regulation of both charging models and the quality of advice being given.
- ▶ DB to DC transfers should only be carried out for members when it is in their best interests to transfer out of a DB scheme. Attempts must be made to prevent any other factors from influencing the advice to give up safeguarded benefits, including whether or not an adviser will profit from initial assessment efforts.
- ▶ The PLSA strongly urges the immediate collection and swift public release of data in two specific areas of DB to DC transfers: (a) information on the scope and scale of consumer demand, specifically on the transfer value sizes most commonly seeking DB to DC transfers advice and (b) details on different charging structures and fees.
- ▶ At the time of this consultation response, large data gaps persist; there is no publicly available information from the FCA or TPR on the scale or scope of DB to DC transfers to allow for an evidence-based approach to solutions for many issues stemming from DB to DC transfers.
- ▶ Prompt action on data collection is needed, as potentially ill-advised transfers are happening right now. The information would help to safeguard retirement outcomes for consumers by monitoring and evaluating the DB to DC transfers landscape. It would allow a better understanding about:
 - ▶ what profile of consumer tends to participate in DB to DC transfers; and
 - ▶ what profile of consumer is thus more likely to be experiencing real or potential detriment to retirement outcomes.
- ▶ The data would also help to better prevent gaming scenarios.

- ▶ The PLSA's support for a ban on contingent charging will remain until robust evidence is produced to demonstrate that a ban is harmful to consumer retirement outcomes.
- ▶ Financial guidance continues to be an important source of information for all consumers, but especially for those who are unwilling or unable to engage with financial advice. As completed DB to DC transfers continue to increase, the new Single Financial Guidance Body should look to develop further guidance on DB to DC transfers for those with small to medium transfer values.
- ▶ Technological advancements have provided ways for consumers to interact with both providers and advisers through automated advice and other digital tools. This new retirement market innovation may be able to play a part in filling the potential reduction in access to financial advice.
- ▶ FCA proposals for a two-adviser model, where both are working on the same client, should stipulate that firms must carry out due diligence to ensure that the other adviser firm is FCA regulated and legitimate, to reduce client risk to scams.
- ▶ The PLSA recommends that the FCA and the Financial Ombudsman Service (FOS) work together to clarify where explicit liability lies in a two-adviser model.

BACKGROUND

1. The PLSA welcomes the Financial Conduct Authority's (FCA) consultation paper on *Improving the quality of pension transfer advice*. The driving factor behind CP18/7 – strengthening consumer protection by raising the quality control of transfers advice – aligns with our overall aim of ensuring that people can secure the best retirement income possible.
2. Since pension flexibilities, there has been an ongoing shift of responsibility onto the individual, adding complexity to already difficult financial decisions for people at the point of retirement. Not everyone will have the skills, knowledge or motivation to make these choices without financial advice or guidance. These vulnerabilities are present for Defined Benefit (DB) scheme members considering transfers into Defined Contribution (DC) schemes to utilise pension flexibilities.
3. While many advisers will be doing right by their clients by ensuring that they fully understand their transfer risks – including the guaranteed benefits that would be given up – the FCA found evidence of poor practice with pension transfer advice,¹ enough to merit a tightening of regulation in this area.
4. The PLSA is supportive of the vast majority of the proposals in CP18/7, as they tackle key challenges in the new retirement market that we have previously highlighted concerns over. These challenges are highlighted as principles that we would like to see guiding policy and regulatory work on DB to DC transfers:
 - a. ensuring that consumers genuinely understand the safeguarded benefits being given up;
 - b. ensuring income sustainability throughout retirement;
 - c. ensuring that the quality of advice is fit for purpose; and
 - d. protecting consumers from scams.

¹ FCA (2017) “Our work on Defined Benefit Pension Transfers: Suitability of advice”.
<https://www.fca.org.uk/news/news-stories/our-work-defined-benefit-pension-transfers>

ANSWERS TO CONSULTATION QUESTIONS

Q1. Do you agree with the proposed changes to the qualifications for a PTS? If not, how would you suggest we amend it?

5. The PLSA supports the proposed changes:
 - a. the requirement of the Level 4 Retail Distribution Review (RDR) qualifications for advising on investments before advisers can advise on or check pension transfer advice;
 - b. as well as no “grandfathering”, so that all PTSs without the investment advice qualification must achieve it to continue practising.
6. Additional qualifications will necessitate additional training time and monetary investment for advisers. This cost must not be passed on to the consumer.
7. There is already a widely held consumer perception that the cost of financial advice is not accessible for most with small to medium sized pots,² so care must also be taken by both the FCA and the adviser community to ensure that the additional qualifications will not be creating new barriers to financial advice for DB transfers, especially for those who can least afford it, but who are in equal need of expertise for a complex financial transaction.
8. Her Majesty’s (HM) Treasury’s Pension Advice Allowance is an encouraging step towards creating access to affordable financial advice,³ but this issue will likely need to be revisited, as not all schemes currently allow use of the allowance. The PLSA encourages a joined-up approach across Government departments and the regulators for this issue of access to advice, as well as in other areas concerning consumer outcomes in the new retirement market.

Q2. Do you agree with our proposed arrangements for the transition period?

9. Due to the surge in demand for DB to DC transfers since 2015, the PLSA is supportive of truncating timescales as much as possible. However, we defer to the judgment of those with greater knowledge and experience with obtaining financial advice qualifications on whether October 2020 is a fair and achievable deadline.

² Ignition House (2016) “New Choices, Big Decisions: Exploring Consumer Decision Making and Behaviours Under Pension Freedom and Choice”. Sponsored by: The People’s Pension & SSGA (p. 17-18). <https://bandce.co.uk/wp-content/uploads/2016/03/ssga-tpp-report-new-choices-big-decisions.pdf>

³ HM Treasury (2017) “Savers to be able to access £1,500 tax-free for pension advice”. <https://www.gov.uk/government/news/savers-to-be-able-to-access-1500-tax-free-for-pension-advice>

Q3. Do you agree with the proposed changes to the exam qualification standard, ApEx 21? If not, how would you suggest we amend it?

10. The PLSA is supportive of the proposed changes to the exam qualification standard ApEx 21, as they ensure that adviser training is keeping pace with developments in the pensions landscape since the 2015 flexibility reforms.

Q4. Do you agree with the proposed changes to the pension transfer definition? Please indicate if you consider there are any other consequences that have not been identified.

11. The PLSA is supportive of the proposed changes to the pension transfer definition, so that it aligns with the terminology used in the regulated activity of advising on pension transfers. We agree that the definition should be changed to reflect the specific movement of “safeguarded benefits” to “flexible benefits”, avoiding the potential classification of non-safeguarded benefits as transfers unnecessarily.
12. The PLSA also agrees with the proposed definition amendment that will include advice on transactions where safeguarded benefits are being given up for another form of safeguarded benefits.
13. The PLSA is supportive of separately reporting “individual pension transfers” where safeguarded benefits are considered, from other pensions business (including pension switches), so that there is a better understanding of consumer behaviour and demand.
14. The potential impact on data reporting from firms to the FCA is an important issue. It would be necessary to clearly mark in all FCA analysis where the data break in the trend analysis happens, so as not to cause any skewed data interpretations.
15. There are no other consequences identified from the proposed definition changes.

Q5. Do you agree with our proposed guidance for advisers working together? If not, how should we amend it?

16. The PLSA’s concern about a two-adviser model is that it may increase opportunities for scams in overseas transfers. It is not clear on how the FCA’s guidance would apply when one of the advisers is overseas and, therefore, outside the FCA’s jurisdiction. Any additional proposals for how advisers could work together must take this into consideration and try to ensure that there are clear lines of responsibility and liabilities at both adviser ends to safeguard consumers’ best interests.

17. FCA proposals for a two-adviser model where both are working on the same client, should stipulate that firms must carry out due diligence to ensure that the other adviser firm is FCA regulated and legitimate, to reduce client risk to scams.
18. The PLSA recommends that the FCA and the Financial Ombudsman Service (FOS) work together to clarify where explicit liability lies in a two-adviser model.

Q6. Do you have any comments on our explanation for advising self-investors?

19. The explanations are clear and the PLSA has no further comments.

Q7. Do you agree with our proposed guidance on triage? If not, how could we approach it differently?

20. The suggestion to make the triage service an educational process is a good one, as enhancing consumer understanding of their choices and risks will help to bolster income sustainability in retirement.
21. Explaining the transfer process, as well as the total charges that might be incurred in the event of either a transfer or a non-transfer decision, are welcome.
22. The PLSA also supports firms keeping records of triage services, which is important for protecting against unjust consumer complaints.
23. The discussion points in the consultation paper on what constitutes advice on transfers are useful clarifications on the advice and guidance boundary. However, while not being able to provide comment in the triage service on whether a client should transfer is understandable – in order to keep it in the realms of guidance – the triage service is then in danger of becoming too broad to be useful to the client.

Q8. Do you agree with our proposed guidance on assessing attitude to transfer or convert risk?

24. The PLSA supports the proposed guidance, as well as the expectation that the risk profiling is done in a fair, clear and non-misleading language.
25. The psychometric testing and other risk profiling tools that will be used to assess attitude to transfer or conversion risk should try to ensure that it does not rely on self-reporting of risk to

transfers alone. It is important that consumers' understanding of risk aligns with reality testing, as there is a wide spectrum in the perception of what is classified as low or high risk.

26. Efforts must also be made to ensure that consumers have genuinely absorbed the information given to them about the options and possible outcomes to their decisions, which is a financial education piece that could begin with the triage service (see Q7 response), but that carries into the risk assessment phase.

Q9. Do you agree with our proposals to modify the Handbook rules and guidance in respect of suitability reports and the advice confirmation?

27. The proposals are all sensible and would also set out, for the consumer, client objectives and issues taken into account in the decision. It also provides another layer of protection for advisers if any future disputes arise with consumer complaints on the advice given.

Q10. Do you agree with our proposal on pension increase assumptions?

28. The PLSA does not have a view on the pension increase assumptions and will defer to those with experience in applying assumptions to determine inflationary pension increases on scheme benefits.

Q11. Do you think that contingent charging increases the likelihood of unsuitable advice? If so, can you provide any evidence to support intervening in the way pension transfer advice is charged, or would another approach be more effective?

29. The PLSA supports a ban on contingent charging.
30. The PLSA agrees with the view that the purest form of contingent charging – where the adviser only gets paid if the member decides to transfer – has the greatest potential to incentivise unsuitable advice.
31. Additionally, while many advisers will be doing right by their clients by ensuring that they fully understand their transfer risks – including the guaranteed benefits that would be given up – the FCA found evidence in Q4 2017 of poor practice with pension transfer advice,⁴ enough to merit a review and regulatory tightening of DB transfers' charging models alongside that of the quality of advice being given.

⁴ FCA (2017) "Our work on Defined Benefit Pension Transfers: Suitability of advice".
<https://www.fca.org.uk/news/news-stories/our-work-defined-benefit-pension-transfers>

32. At the time of this consultation response, there is no available data from the FCA or TPR on the scale or scope of DB to DC transfers to allow for an evidence-based approach to solutions for many issues stemming from DB to DC transfers.^{5,6}
33. Until this much needed data for DB to DC transfers is collected and released by the regulators – whereby this data then demonstrates consumer detriment from a ban on contingent charging – the PLSA is of the view that incentives for poor practice for pension transfers remains too large to allow contingent charging to continue. Please refer to Q13 for additional commentary on consumer harm.
34. The PLSA strongly urges the immediate collection and swift public release of data in two specific areas: (a) information on the scope and scale of consumer demand, specifically on the transfer value sizes most commonly seeking DB to DC transfers advice and (b) details on different charging structures and fees.
- a. Scope and scale of consumer demand: Please refer to answer to Q13.
 - b. Different charging structures and fees: Charging structures and fees will often differ for new and existing clients. We would need to see a disclosure of common fee and charging structures to offer additional suggestions on what interventions, other than a ban on contingent charging, may help to mitigate against unsuitable advice based on conflicts of interest. This data would also help to identify and stop any gaming scenarios (see Q12 and Q13).
35. Prompt action on data collection is needed, as potentially ill-advised transfers are happening right now. The information is needed to help safeguard retirement outcomes for consumers.
36. Both areas of data are crucial for monitoring and evaluating the DB to DC transfers landscape in order to (see Q12 and Q13 as well):
- a. understand the profile of consumers participating in these transfers (“who is impacted”);

⁵ The Freedom of Information (FOI) requests to TPR published provide broad context of DB transfers, but the information is insufficient for our purposes, as the data supplied is for all DB scheme transfers, not specifically to a DC scheme. Additionally, there is no information given on values transferred out.

<http://www.thepensionsregulator.gov.uk/foi/number-of-transfers-out-of-db-schemes-in-2017-18.aspx>

⁶ Willis Towers Watson released a publication in 2017 with data from their own survey with financial advisers. The report shows a general trend that members with transfer values over £500,000 are almost twice as likely to transfer out than those with transfer values under £100,000. However, as discussed in response to Q11 to Q13, without understanding where the majority of where consumer demand is coming from (i.e. from small, medium or large transfer values), it is not possible to determine the full impact of DB to DC transfers on consumer outcomes.

<https://www.willistowerswatson.com/en-GB/insights/2017/03/DB-member-choice-survey-2017>

- b. understand the profile of consumers who are thus more likely to be experiencing real or potential detriment from these transfers (“who is impacted”); and
- c. help prevent gaming scenarios (“how are they being impacted”).

37. DB to DC transfers should only be carried out for members when it is in their best interests to transfer out of a DB scheme, due to their own particular set of circumstances. Attempts must be made to prevent any other factors from influencing the advice to give up safeguarded benefits, including whether or not an adviser will be paid for their initial assessment efforts.

Q12. If we proceeded to restrict the way in which pension transfer advice can be charged, do you have views on how this should be implemented? In particular, how could we avoid different forms of restriction from being ‘gamed’?

38. Broadly, the PLSA would like to see any action taken to restrict pension transfer advice to reflect the principles highlighted in the *Background* section of this response, which focus on protecting consumer retirement outcomes. The principles include:

- a. ensuring that consumers genuinely understand the safeguarded benefits being given up;
- b. ensuring income sustainability throughout retirement;
- c. ensuring that the quality of advice is fit for purpose; and
- d. protecting consumers from scams.

39. A ban on contingent charging may create a market for short-term loans with high interest rates from adviser firms to consumers unable to afford the initial consultations. The ban may also create additional gaming scenarios, such as one where there is a small initial transfer advice fee alongside a large and ongoing charge. It is impossible for the PLSA to anticipate all potential gaming scenarios, but the best way to begin to protect consumers from poor practices is to begin immediate collection and release of data on different charging structures and fees (see Q11), as well as the scope and scale of consumer demand (see Q13) in order to monitor and evaluate the DB to DC transfers landscape.

40. As discussed in responses to Q11 and Q13, the PLSA urgently calls for the collection and release of the necessary data to better answer CP18/7’s Q11 to Q13 on contingent charging.

41. Urgent data is also needed to understand the overall impacts on consumer outcomes from DB to DC transfers, but the PLSA recognises that this request is outside the remit of CP18/7. The PLSA urges the FCA to work with DWP and HMRC to collect longitudinal data to better understand the role of DB to DC transfers in consumer outcomes in the new retirement market since pension flexibilities.

Q13. How would different forms of restriction on pension charging impact consumers and firms? Are there any ways in which we would mitigate any negative impact? For example, to address concerns about reduced access to advice (due to increased advice costs for consumers who do not transfer), could we require firms to ‘signpost’ consumers to internal or external guidance/triage services, including The Pensions Advisory Service?

42. The extent and scale of consumer harm can only be determined once there is robust, detailed data available on consumer demand, of which there is currently none (please see response to Q11 and Q12). In specific, there is an urgent need to understand where the vast majority of DB to DC transfers is coming from. For instance, are they mainly from transfer values of less than £30K, from small transfer values (i.e. £30K to £100K), from medium transfer values (i.e. £100K to £250K) or large transfer values (i.e. £250K+)?
43. Without this data on the transfer value sizes of completed DB to DC transfers; on the overall trend of transfer value sizes seeking financial advice for DB to DC transfers; and on what is being done with the money once it’s been transferred (see Q12, no. 41), it is impossible to fully understand real or potential negative impacts to consumers. With this information collected, it would be possible to better understand (see Q11):
- a. what profile of consumer tends to participate in DB to DC transfers;
 - b. what profile of consumer is thus more likely to be experiencing real or potential detriment to retirement outcomes; and
 - c. it would help to better prevent gaming scenarios.
44. It is equally difficult to recommend efficient policy or regulatory interventions to mitigate harmful outcomes without this data.
45. It is the urgent recommendation of PLSA that the FCA and TPR work together with pension schemes⁷ and advisers in a collaborative approach to collect the necessary details on DB to DC transfers. The data is crucial to a full understanding of the impact of this consumer behaviour on retirement outcomes and to better understand any policy or regulatory interventions needed.
46. The PLSA recognises that a ban on contingent charging may reduce access to financial advice for clients with small to medium transfer values. However, solutions to this issue may be found in the growing product innovation in the retirement market. New technological advancements have provided ways for consumers to interact with both providers and advisers through

⁷ At the time of this response, schemes are not required to provide the number of DB transfers in its scheme submissions of information to TPR (annual reports and accounts). www.thepensionsregulator.gov.uk/foi/number-of-transfers-out-of-db-schemes-in-2017-18.aspx

automated advice and other digital tools. This new retirement market innovation may be able to play a part in filling the potential reduction in access to financial advice.

47. Additionally, financial guidance remains an important source of information for all consumers, but especially for those who are unwilling or unable to engage with financial advice. As completed DB to DC transfers continue to increase, the new Single Financial Guidance Body should look to develop further guidance on DB to DC transfers for those with small to medium transfer values.

Q14. Do you have any comments on our cost benefit analysis?

48. The PLSA does not have additional comment on the FCA's cost benefit analysis.

If you would like further information, please contact [Tiffany Tsang](#), Policy Lead for LGPS & DB.