



IMPROVING THE QUALITY OF PENSION TRANSFER ADVICE

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ICAEW welcomes the opportunity to comment on *Improving the quality of pension transfer advice* published by the FCA, a copy of which is available from [this link](#).

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GENERAL COMMENTS

1. ICAEW believe the proposals set-out in this consultation are necessary and should help to generally improve the quality of pension transfer advice to consumers.
2. Pension transfer advice is by its nature complicated and time consuming and therefore costly to deliver, but where average consumers tend to struggle to fully understand the complexities of the issues involved. There is no easy solution to delivering cost-effective solutions but consumers need to be able to access affordable professional advice in this increasingly important advice area. We believe that more specific attention is therefore probably needed to try and find solutions to this difficult problem.
3. We provide our response to the specific questions as below.

RESPONSES TO SPECIFIC QUESTIONS

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

4. We support the FCA view that a potential pension transfer cannot be properly assessed without taking account of where the funds would be transferred. Accordingly, we agreed that the proposal for Pension Transfer Specialists to also have a qualification before they can advise on or check pension transfer advice seems sensible. Currently while many advisers hold a pension transfer specialist qualification in addition to the level 4 advice qualification there is no requirement for a PTS to be an adviser. It is difficult to argue that this is not appropriate given the role of the PTS and the aim of the changes to improve the quality of pension transfer advice to consumers.

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

5. We agree with the transitional arrangements in respect of timing for PTSs to acquire the additional qualification by October 2020, and not allowing grandfathering which is consistent with the approach taken under the Retail Distribution Review (RDR). This pragmatic approach helps to maintain access to pension transfer advice for consumers, while at the same time firms remain responsible for assessing and maintaining the competence of their employees.

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

6. We agree with the proposed changes to the appropriate exam standard which reflects the updated rules and guidance and the changes to the pension environment. While qualifications in isolation will not improve the quality of pension transfer advice to consumers they do have an important role to play in setting the standards and expectations upon which pension transfer specialists advise on or check pension transfer advice.

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.

7. We agree with the proposed changes as it seems sensible to have a consistent definition of a pension transfer. We agree there is merit in a definition that aligns with the terminology used in the regulated activity of advising on pension transfers.

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

8. We wish to make it clear that we consider the best advice experience for the client is for one adviser to deliver the whole advice process. However when this is not possible then the proposed guidance for two advisers to work together is sensible. Where two advisers work together it is likely to mean higher fees and consideration should be given as to whether this may be restrictive for certain activities and/or customers seeking advice in relation to their pension arrangements.

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

9. We agree it is important when advising ‘self-investor’ clients that the adviser understands the destination of the transferred fund as this may or may not affect the outcome of the advice given to transfer. For example 100% allocation to a high risk fund or funds should ring alarm bells. It must be explicitly clear at outset whether the adviser will have any involvement in advising on the choice of funds and whether their firm will be managing investments themselves. Pension advice tends to have a long-tail. Detailed unambiguous record keeping on the nature of the advice relationship and detail of the advice that was provided is vitally important for consumers, advisers, regulators and PII insurers, and for an orderly market.

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

10. We believe that Triage is an important stage of the engagement process before formal advice is given. If it is very obvious that a transfer is very unlikely to be recommended and it would not be unethical to engage the client in an expensive advice process when it seems clear at outset that the outcome is very likely to be to remain in the DB scheme. We agree that this stage needs to be better documented so that it can be revisited at a later date if there was ever a complaint made against the adviser. Many advise firms now require advisers to get pre-approval from their compliance team before a DB Transfer advice case can be formally engaged. This is a sensible pre-advice check and delivers a solid audit trail.

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

11. We generally agree with the proposed guidance. In many ways a client’s attitude to transfer/conversion risk is a separate issue to his/her attitude to investment risk.

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

12. We agree with the proposed modifications. A recommendation not to transfer is still advice, which should be detailed and documented in a suitability report. A client should be fully aware of the reasons why, based on contemporary evidence, an adviser has concluded that a transfer would not be in his/her best interests.

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

13. We generally agree with the proposal, although we think that this is really a question for an actuary to decide.

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?

14. Pure contingency charging for something like a DB pension carries the risk of a skewed outcome. Clients may be unwilling to pay an economic fee for this type of work but advisers must do their best to convey the complicated and time-consuming nature of the work and substantial risks associated with not taking professional objective advice on such an important issue. A pension is an equivalent decision to a property purchase in terms of magnitude and importance for the majority of the public. Surveyors and lawyers would not be engaged on a contingency basis and would generally have an abortive fee if the purchase did not go through. The regulatory framework needs to align with a professional advice model, not sales model, and contingency charging should therefore not be permitted. In circumstances where firms also manage investments safeguards are needed to manage any potential conflicts of interest.
15. It is possible to have some form of contingency fees, but more in the form of stage payments for stages of advice. There should be a professional fee for initial client engagement, otherwise the outcome is a “commission only type of proxy”. A sensible structure might be:
 - Stage 1-data gathering on the client/DB pension arrangement
 - Stage 2-pension transfer analysis and recommendation
 - Stage 3 –implementation
16. The bulk of the fee should be in stage 2, but the client has been given a breakdown of cost that should be aligned with the work and risk, with a structure for a transparent predetermined cost. Ideally the costs should be monetary in nature, but advisers may want to cap the cost with a percentage charge.

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’?

17. We would first reiterate the points made in response to Q11 – it is very important that pension transfer advice, particularly where it concerns a DB pension, is viewed by clients in a manner akin to the type of service provided in other professional fields, with improved appreciation of the qualifications/expertise that Pension Transfer Specialists are required to have. This would help lay the context for a fee that is ‘neutral’ in nature (i.e. not linked to the ultimate recommendation).
18. The Stage process set out in Q11 would be a possible approach that works within this framework i.e. the neutral fee would apply to the data gathering and advice phases, but there could an additional fee for implementation if the transfer proceeds. In terms of the level of work involved, the data gathering and advice phases should represent by far the most significant elements and this should in itself act as something of a control mechanism. Some form of fee-cap, perhaps only permitted to be expressed in monetary terms, could be imposed on the implementation phase. Absolute clarity in this respect and a very clear separation between the fees for the pension transfer process and any other service the advisor is providing – in the terms of engagement given to the client at the outset - would be essential to help protect the integrity of the charging arrangements.
19. Bearing in mind the likely cost of pension transfer advice, a very real practical concern would be how a client pays their fee if the transfer does not proceed. At present the majority of clients probably opt to pay fees via a deduction from their pension ‘pot’, which, in itself, may act as an incentive to transfer. (Such an incentive should be

viewed alongside the client's motivations – such as the potential to release a large lump sum – in looking into the option of transferring in the first place). If the recommendation is not to transfer, then requiring advisors to offer a range of options for paying fees will probably be necessary e.g. lump sum, by instalments, the option of increasing agreed advisor charges on other services (within appropriate constraints). In circumstances where advice fees are paid for by pension fund withdrawals, there may be implications in connection with Unauthorised Payment Charges.

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?

20. The CP states that there is a need for consumers to receive more information at an earlier stage as part of a Triage Service. This information should be provided to pension members by the pension trustees and product providers as a precursor to any advice being sought. As the CP suggests this information should be unbiased and, so far as is possible, factual.
21. Such a step should allow customers who seek advice to be better informed prior to the initial meeting with a qualified adviser. The CP itself states that assessment of the facts in relation to an individual case are likely to be considered as advice which will make it difficult for a regulated adviser not to provide advice.
22. It does seem that the collection of the information could be undertaken by an accountant or similar professional on behalf of a client so long as they do not offer any opinion on whether or not to transfer
23. Charges for advice are based on both time and responsibility which will now include the cost of a detailed suitability letter in all transfer cases to ensure that this regulated activity can be documented as compliant. The transfer from the DB scheme marks the point of no return for the customer and the regulated adviser, and the high level of responsibility needs to be recognised and paid for. It is too simplistic to assume that the higher charges are simply to encourage unsuitable transfers. It may disadvantage both advisers and consumers if such value charging is banned.

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

24. Please see below for a table that has attempted to replicate the FCA calculations of annual cost.
25. It looks like they assume redress is paid in 10% of all transfer cases rather than the 30% that they state appears unsuitable/unclear. We believe it should be possible to obtain better data from Financial Ombudsman Service (FOS) to support the redress amounts paid as the numbers used appear rather random.
26. As a general point, increasingly customers require greater flexibility in their financial arrangements and this includes matching income and expenditure during their retirement. A disadvantage in a DB scheme is its inflexibility, which for many people may be regarded by them as a significant drawback.

27. FCA cost benefit analysis

		MINIMUM	MAXIMUM
Number of transfer transactions p.a.		100000	120000
Value of transaction	£250,000	£25,000,000,000	£30,000,000,000
Unsuitable	17%	17000	20400
Unclear	36%	36000	43200
FCA assumption	30%	30000	36000
Redress per cas ex FOS		£40,000	£60,000
Unsuitable		£680,000,000	£1,224,000,000
Unclear		£1,440,000,000	£2,592,000,000
Total		£2,120,000,000	£3,816,000,000
FCA assumption		£1,200,000,000	£2,160,000,000
CP18/7 amount quoted		£400,000,000	£720,000,000
Derived case numbers??????		10000	12000