

## Chapter 4

# British Steel Consumer Redress Scheme

## 4.1 Application and subject matter of the scheme

### Definitions used in this chapter

#### 4.1.1

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- (1) 'BSPS' means the Old British Steel Pension Scheme, which entered a PPF assessment period on 29 March 2018;
- (2) 'BSPS2' means the British Steel Pension Scheme in its new format, following the agreement of the Regulated Apportionment Arrangement with Tata Steel UK Limited and the Time to Choose exercise in 2017 under which the BSPS was separated from its sponsor;
- (3) 'BSPS calculator' is the calculator used to complete Step 3 of the pension transfer redress calculation in ■ DISP App 4.3.19R;
- (4) 'BSPS DBAAT' means the British Steel Pension Scheme Defined Benefit Advice Assessment Tool in the form of an Excel spreadsheet at ■ CONRED 4 Annex 20R;
- (5) 'BSPS pension transfer' means a *pension transfer* of the *consumer's* BSPS pension arrangement;
- (6) 'calculation date' has the same meaning as in ■ DISP App 4.1.1R(6);
- (7) 'causation question' is whether the *firm's* failure to comply with the suitability requirements is the effective cause of the *consumer's* loss;
- (8) 'comparator scheme' means, other than as provided by ■ CONRED 4 Annex 21 13.1R(4):
  - (a) if the advice was given in the period on or before 16 May 2017, BSPS;
  - (b) if the advice was given in the period from 17 May 2017 to 11 October 2017, either or both of BSPS and PPF; and
  - (c) if the advice was given in the period on or after 12 October 2017, BSPS2 and PPF;
- (9) 'DC pension arrangement' means any pension arrangement holding the value of the *consumer's* pension benefits which originated from the BSPS, including where the arrangement has been subsequently switched to a new arrangement;
- (10) 'DOL' means the date that the *consumer* left active service in the BSPS;

- (11) 'FCA DBAAT' means the FCA Defined Benefit Advice Assessment Tool.  
[Editor's note: the FCA DBAAT is available at <https://www.fca.org.uk/firms/defined-benefit-pension-transfers>]
- (12) 'material information gap' means where there is a failure to collect the necessary information so that the *firm* cannot complete an Information Area in the Information Section of the BSPS DBAAT and, as a result, it is not possible to assess the suitability of the advice;
- (13) 'pension benefits' are the benefits available to a consumer in the named *defined benefit occupational pension scheme(s)* and may include income and lump sum benefits, payable to either a *consumer*, their spouse or dependents, which could commence at specified times;
- (14) 'PPF' means the Pension Protection Fund;
- (15) 'redress offer' has the same meaning as in ■ DISP App 4.1.1R(18);
- (16) 'relevant period' means the period commencing on 26 May 2016 and ending on 29 March 2018;
- (17) 'scheme case' is a case falling within the subject matter of the scheme that satisfies each of the conditions in ■ CONRED 4.2.2R, as modified by ■ CONRED 4.2.3R;
- (18) 'scheme effective date' means 28 February 2023 and is the date that the *consumer redress scheme* created by this chapter comes into force;
- (19) 'secondary compensation sum' has the same meaning as in ■ DISP App 4.1.1R(20);
- (20) 'suitability requirements' means the requirements specified in paragraph 7.1R of ■ CONRED 4 Annex 21R and are:
  - (a) the requirements in ■ 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;
- (21) 'two-adviser model' means an arrangement where one *firm* provides the advice on *pension transfers* and a different *firm* provides the advice on the *proposed arrangement*.

4.1.2 **G** Certain words and phrases specific to *CONRED* have the meaning set out in the *Glossary*. All words in italics are defined in the *Glossary*.

**Application to firms which gave advice about a pension transfer**

4.1.3 **R** This chapter applies to a *firm* which gave advice to a *consumer* in relation to a BSPS pension transfer, after which a *consumer* made such a *pension transfer*, and to which advice the suitability requirements applied.

- 4.1.4 **G** This chapter applies:
- (1) regardless of whether a *firm* advised a *consumer* to transfer their BSPS pension benefits to a *pension scheme with flexible benefits* or advised a *consumer* against such a course of action; and
  - (2) to a *firm* even if a *consumer* to whom the advice was given instructed another *firm* to arrange the BSPS pension transfer.
- Application to persons who have assumed a firm’s liabilities**
- 4.1.5 **R**
- (1) This chapter also applies to a *person* that has assumed a liability (including a contingent one) in respect of a failure by a *firm* to whom this chapter applies.
  - (2) A *person* in (1) must either:
    - (a) perform the obligations the *firm* is required to perform under this chapter; or
    - (b) ensure that those obligations are performed by the *firm*, and must notify the *FCA*, by email to [BSPSnotifications@fca.org.uk](mailto:BSPSnotifications@fca.org.uk) within 1 week of the scheme effective date, as to whether that *person* or the *firm*, or both, will be performing those obligations.
  - (3) References in this chapter to a *firm* are to be interpreted as referring to a *person* in (1) where the context so requires.
- Wider application of certain provisions**
- 4.1.6 **R**
- (1) ■ CONRED 4.3.10R and ■ CONRED 4.4.22R also apply to a *firm* which has carried out any of the following *regulated activities* for a *consumer* in relation to a BSPS pension transfer:
    - (a) *advising on investments*;
    - (b) *arranging (bringing about) deals in investments*;
    - (c) *making arrangements with a view to transactions in investments*;
    - or
    - (d) *managing investments*.
- Duration of the scheme**
- 4.1.7 **R** The *consumer redress scheme* created by this chapter comes into force on the scheme effective date and has no end date.
- Subject matter of the scheme**
- 4.1.8 **R** The subject matter of the scheme is whether a *firm* complied with the suitability requirements in scheme cases.
- 4.1.9 **G** Subject to ■ CONRED 4.7.2R(4) and ■ CONRED 4.7.3R(4), a scheme case may cease to be within the subject matter of the scheme where any of ■ CONRED 4.2.7R(1), ■ CONRED 4.2.8R, ■ CONRED 4.3.8R or ■ CONRED 4.4.20R apply.

**Impact of complaints to the Financial Ombudsman Service on scheme deadlines**

4.1.10

**R**

Where a *consumer* makes a *complaint* to the *Financial Ombudsman Service* following a *redress determination* by a *firm* under this chapter, the remaining time period for completing any subsequent scheme steps in, as applicable, ■ CONRED 4.2.1R, ■ CONRED 4.3.1R and ■ CONRED 4.4.1R is suspended between:

- (1) the date the letter from the *firm* communicating the *redress determination* is sent to the *consumer*; and
- (2) the date:
  - (a) the *complaint* is resolved by agreement between the *firm* and the *consumer* pursuant to ■ DISP 3.5.1R; or
  - (b) the *firm* receives notification from the *Financial Ombudsman Service* of the outcome of the *complaint* in accordance with ■ DISP 3.6.6R(5).

**Summary of the scheme**

4.1.11

**G**

■ CONRED 4 Annex 18G contains a flow diagram of the *consumer redress scheme* created by this chapter.

## 4.2 Consumer redress scheme: identifying scheme cases

### Deadline to complete the steps in this section

- 4.2.1 **R** No more than 1 *month* after the scheme effective date, a *firm* must take the first and second steps set out in this section. The deadline for the third step is set out at ■ CONRED 4.2.8R.

### First step: identify scheme cases

- 4.2.2 **R** The first step is for a *firm* to identify all scheme cases. A scheme case is a case that satisfies each of the following conditions:
- (1) a *firm* gave a *consumer* advice in relation to a BSPS pension transfer during the relevant period;
  - (2) the advice in (1) was to transfer their BSPS pension benefits;
  - (3) the suitability requirements applied to the advice in (1);
  - (4) the *consumer* subsequently transferred their BSPS pension benefits;
  - (5) the *consumer* had not, prior to the scheme effective date, accepted an offer of redress from the *firm* or other *person* in full and final settlement of all potential claims arising out of the advice in (1);
  - (6) the *consumer* had not, prior to the scheme effective date, asked the *Financial Ombudsman Service* to deal with a *complaint* against the *firm* arising out of the advice in (1);
  - (7) the advice in (1) was not reviewed in a past business review carried out by a *skilled person* where the *firm* had assessed the *firm's* advice using the FCA DBAAT and notified the *consumer* of the following:
    - (a) the outcome of that review (whether in the *firm's* view the advice met the suitability requirements); and
    - (b) that the *consumer* is entitled to complain to the *Financial Ombudsman Service* if they disagree with the *firm's* assessment;
  - (8) the law applicable to the obligations of the *firm* arising in connection with the advice in (1) is that of a *UK* territory (that is, England and Wales, Scotland or Northern Ireland) (see ■ CONRED 4.2.5R); and
  - (9) if the applicable law in (8) is that of England and Wales or Northern Ireland:

- (a) the *consumer's* BSPS *pension transfer* was on or after 24 November 2016; or
  - (b) the *consumer* did not know, and could not have reasonably been expected to know, before 24 November 2019 that they had cause for a claim; or
- (10) if the applicable law in (8) is that of Scotland:
- (a) the *consumer's* BSPS *pension transfer* was on or after 24 November 2017; or
  - (b) the *consumer* did not know, and could not have reasonably been expected to know, before 24 November 2017 that they had cause for a claim.

4.2.3 **R** The conditions in ■ CONRED 4.2.2R(6) does not apply if a *firm* is declared in *default*.

**Guidance on excluded scheme cases**

4.2.4 **G** ■ CONRED 4.2.2R(1) does not include a case where the *firm* advised the *client* not to transfer their BSPS pension benefits, or to remain in the BSPS, and where the *firm* or a different *firm* subsequently arranged the *pension transfer*.

**Applicable law**

4.2.5 **R** For the purposes of ■ CONRED 4.2.2R(8), the applicable law is:

- (1) that of the *UK* territory where, in connection with the advice:
  - (a) the *consumer* has agreed to the *firm's terms of business*; and
  - (b) these include a clause providing for the application of the law of a particular *UK* territory (that is, England and Wales, Scotland or Northern Ireland); or
- (2) (if (1) does not apply) that of the *UK* territory where the *firm* and the *consumer* both habitually reside and where the advice is given; or
- (3) (if neither (1) nor (2) apply) that of the *UK* territory in which the consumer is habitually resident, provided the conditions in ■ CONRED 4.2.6R(1) to (2) are satisfied; or
- (4) (if neither (1), (2) nor (3) apply) that of the *UK* territory in which the *firm* gave the advice.

4.2.6 **R** The conditions referred to in ■ CONRED 4.2.5R(3) are that:

- (1) in the *UK* territory in which the *consumer* has their habitual residence, either:
  - (a) the contract under which the advice was provided was preceded by a specific invitation addressed to the *consumer*, or by advertising, and the *consumer* took all the steps necessary to engage the *firm*; or

(b) the *firm* or its agent received the *consumer's* order; or

(2) the advice was provided at least in part in that *UK* territory.

### Second step: send letters to consumers

4.2.7

**R**

The second step is for a *firm*:

(1) in relation to cases which do not meet any one of the conditions in ■ CONRED 4.2.2R(1) to (10) (subject to ■ CONRED 4.2.3R) (non-scheme cases), to send to the *consumer* a *redress determination* in the form set out in ■ CONRED 4 Annex 1R;

(2) in relation to all scheme cases, to send to the *consumer* a letter in the form set out in ■ CONRED 4 Annex 2R.

### Third step: acknowledge opt-outs

4.2.8

**R**

Where a *consumer* has responded to a letter sent by a *firm* in accordance with ■ CONRED 4.2.7R(2) stating that they do not wish to have their case considered under this *consumer redress scheme*, the *firm* must, within 5 *business days* of receiving the response, send the *consumer* a *redress determination* in the form set out in ■ CONRED 4 Annex 3R.

4.2.9

**R**

The effect of a *consumer* stating that they do not wish to have their case considered under this scheme and opting out of it is that the scheme case no longer falls within the subject matter of the *consumer redress scheme* created by this chapter.

4.2.10

**G**

After any opt-out, a *firm* should handle any *complaint* from a *consumer* in relation to advice about a BPS pension transfer other than in respect of a *redress determination* in accordance with the complaint handling rules in *DISP*.



## 4.3 Consumer redress scheme: case review

### Deadline to complete the steps in this section

- 4.3.1 **R** No later than *7 months* from the scheme effective date, a *firm* must take the steps set out in this section.

### First step: case review

- 4.3.2 **R**
- (1) The first step is for a *firm* to carry out a review of each scheme case ('a case review').
  - (2) A case review must be carried out by:
    - (a) completing the BSPS DBAAT at ■ CONRED 4 Annex 20R, in accordance with the instructions set out in ■ CONRED 4 Annex 21R; or
    - (b) using a FCA DBAAT that was completed by the *firm* prior to the scheme effective date.
  - (3) Where a BSPS DBAAT is used:
    - (a) it must be accompanied by an attestation in the form specified in the BSPS DBAAT; and
    - (b) the attestation in (a) must be made 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*.
  - (4) If a FCA DBAAT is used to carry out a case review:
    - (a) it must be accompanied by an attestation in the form specified in ■ CONRED 4 Annex 19R; and
    - (b) the attestation in (a) must be made 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* in accordance with the instructions set out at ■ CONRED 4 Annex 21R 12.2 and 12.3.
- 4.3.3 **E** Non-compliance with any of the evidential provisions set out in the instructions at ■ CONRED 4 Annex 21R may be relied upon as tending to establish contravention of ■ CONRED 4.3.2R.

4.3.4

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In complying with ■ CONRED 4.3.2R, a *firm* should have regard to the guidance set out in the instructions at ■ CONRED 4 Annex 21R.

### Second step: cases of insufficient information

4.3.5

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- (1) The second step applies only in respect of a scheme case where a *firm* has attempted to comply with the first step (case review) but does not have sufficient information to determine:
  - (a) whether it has failed to comply with any of the suitability requirements;
  - (b) the causation question; or
  - (c) both (a) and (b).
- (2) To complete the second step, a *firm* must take the following actions:
  - (a) within 5 *business days* of determining that a scheme case falls within (1), send a letter in the form set out in ■ CONRED 4 Annex 4R to the *consumer* including, where necessary, a request that the *consumer* completes a letter of authority to authorise the *firm* to obtain further information on their behalf;
  - (b) within 5 *business days* of receiving any completed letter of authority from the *consumer* or at the same time as sending the letter in (a) if the *firm* already has such authority, send a letter requesting the information in ■ CONRED 4 Annex 4R to one of the following and allow at least 2 weeks to respond:
    - (i) in a scheme case involving a two-adviser model, the *firm* which provided the advice on the *proposed arrangement*; or
    - (ii) in all other cases, any other *firm* that was involved in the BPS pension transfer;
  - (c) if no reply is received by the *firm* within 2 weeks of a letter in (a) being sent:
    - (i) within 5 *business days* of the 2 weeks expiring, send a further letter to the *consumer* in the form set out in ■ CONRED 4 Annex 5R and allow the *consumer* at least 2 weeks to respond; and
    - (ii) within 5 *business days* of receiving the completed letter of authority from the *consumer*, where relevant, send a letter to the *firms* in (b)(i) or (ii) requesting the necessary information and allow the *firms* at least 2 weeks to respond;
  - (d) if no reply is received by a *firm* within 2 weeks of a letter in (b) or (c)(ii) being sent, within 5 *business days* of the 2 weeks expiring, send a further letter to the applicable *firms* requesting the necessary information and allow the *firms* at least 2 weeks to respond;
  - (e) if no reply is received by a *firm* to the letters in (c)(i) or (d), take all reasonable steps to contact the *consumer* or, where applicable, any other *firm* by other means; and
  - (f) if a reply is received from the *consumer* or a *firm* to whom a letter was sent in accordance with this *rule* but that reply contains insufficient information to determine the matters in (1), the *firm* must take all reasonable steps to obtain further

information from the *consumer* or, where applicable, any other *firm* in (b).

**4.3.6** **R** A *firm* which, having carried out the second step, has acquired sufficient information to determine the matters in **■ CONRED 4.3.5R(1)** must proceed to complete the first step (case review) in accordance with **■ CONRED 4.3.2R**.

**4.3.7** **R** A *firm* may determine a scheme case no longer falls within the subject matter of the *consumer redress scheme* created by this chapter if the *firm*:

- (1) has carried out the second step in relation to a scheme case; and
- (2) still does not have sufficient information to complete the first step.

**4.3.8** **R** Where **■ CONRED 4.3.7R** applies, a *firm* must:

- (1) rate the case ‘non-compliant – material information gap’ in the BSPS DBAAT or ‘not-compliant-unclear’ in the FCA DBAAT (as appropriate);
- (2) complete the attestation in **■ CONRED 4.3.2R(3)** or (4) (as appropriate); and
- (3) promptly send the *consumer* a *redress determination* in the form set out in **■ CONRED 4 Annex 6R**.

**4.3.9** **G** Where a *firm* has sent a *consumer* a *redress determination* pursuant to **■ CONRED 4.3.8R(3)**, the *firm* should handle any subsequent *complaint* from a *consumer* in relation to advice about a BSPS pension transfer other than in respect of a *redress determination* in accordance with the complaint handling rules in *DISP*.

**Obligation on firms connected with transfer advice**

**4.3.10** **R** A *firm* receiving a request for information pursuant to **■ CONRED 4.3.5R(2)(b)**, **■ CONRED 4.3.5R (2)(c)(ii)** or **■ CONRED 4.3.5R(2)(d)** must take all reasonable steps to locate and provide the information requested within any reasonable time periods requested and, in any case, no later than 4 weeks after receiving the request.

**Obligation to notify FCA of any failures to elicit response**

**4.3.11** **R** A *firm* that has sent a further letter to another *firm* in accordance with **■ CONRED 4.3.5R(2)(d)** and has not received a response to that letter within 4 weeks must notify the *FCA* of this failure at [BSPSnotifications@fca.org.uk](mailto:BSPSnotifications@fca.org.uk) promptly and, in any case, within 5 *business days* of the 4 weeks elapsing.

**General guidance on second step**

**4.3.12** **G** Scheme cases to which the second step (in **■ CONRED 4.3.5R** (cases of insufficient information)) applies are likely to be exceptional, having regard to the record-keeping requirements applicable to *authorised persons* under *FCA rules* (notably **■ COBS 9.5**, which requires *firms* to retain records relating

to the suitability of *pension transfers* indefinitely and record keeping requirements in SYSC).

4.3.13

G

- (1) A *firm* should not refuse to consider a scheme case if there is sufficient information to conclude that it was likely that the advice did not comply with the suitability requirements (but there is insufficient information to conclude that the advice complied with the suitability requirements).
- (2) A *firm* that has sufficient information to assess whether it complied with the suitability requirements should not refuse to answer the causation question unless there are reasonable grounds for requiring further information from the *consumer* to identify what they would have done if the advice met the suitability requirements.

### Third step: case review letters to consumers

4.3.14

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- (1) Where a *firm* concludes that the advice provided to a *consumer* did not comply with the suitability requirements and has answered 'yes' to the causation question in the BPS DBAAT or FCA DBAAT, it must:
  - (a) send the *consumer* a letter in the form set out in
    - CONRED 4 Annex 7R; and
  - (b) send the *consumer* a letter in the form set out in
    - CONRED 4 Annex 10R, including:
      - (i) a list of any of the information set out in paragraph 13.30R of ■ CONRED 4 Annex 21R which is required to complete the redress calculation using the BPS calculator and which the *firm* does not already have;
      - (ii) if the *consumer* has not already provided the *firm* with authority to enable the *firm* to collect information from third parties on the *consumer's* behalf, a request that the *consumer* provide such authority;
      - (iii) a request that the *consumer* respond to the *firm* to:
        - (A) confirm whether they require the *firm* to calculate the redress sum that would be payable by full or partial augmentation;
        - (B) where the *consumer* requires the *firm* to calculate the redress sum at (A), provide any information set out at (2) which the *firm* does not already have;
        - (C) confirm whether they wish to claim as part of a secondary compensation sum any other consequential losses as described in ■ CONRED 4 Annex 10R; and
        - (D) where the *consumer* does wish to claim an amount described in (C), provide the necessary information as set out in ■ CONRED 4 Annex 10R;
    - (c) where a *firm* already has authority from the *consumer*, at the same time as sending the letter in (b), as necessary, send one or more letters requesting the information in (b)(i) to:
 

in a scheme case involving a two-adviser model, the *firm* which provided the advice on the *proposed arrangement*;

any other *firm* that was involved in the BPS pension transfer or which may hold relevant information (including the provider of the *consumer's* DC pension arrangement and *defined benefit occupational pension scheme*); and

HMRC and DWP; and

- (d) where a *firm* does not have authority at the time of sending the letter at (b) but subsequently receives a letter of authority, send an information request to any of the applicable parties as required by (c)(i) to (iii) within 5 *business days* of receipt of the letter of authority.
- (2) The information to calculate the redress sum that would be payable by full or partial augmentation is:
- (a) the *consumer's* relevant earnings in the current tax year;
  - (b) the value of all pension contributions already made in the current tax year;
  - (c) whether the redress payment would result in the *consumer's* unused annual allowance in the current and previous 3 tax years being exceeded;
  - (d) the expected value of all pensions held by the *consumer* up to the age of 75;
  - (e) any lifetime allowance protections secured by the *consumer*;
  - (f) any applicable lifetime allowance protection enhancement factors;
  - (g) any benefit crystallisation events; and
  - (h) whether the *consumer's* money purchase annual allowance has been triggered.
- (3) Where a *firm* concludes that the advice provided to a *consumer* did not comply with the suitability requirements, but has answered 'no' to the causation question in the BPS DBAAT or FCA DBAAT, the *firm* must send the *consumer* a *redress determination* in the form set out in ■ CONRED 4 Annex 8R.
- (4) Where a *firm* concludes that the advice provided to a *consumer* complied with the suitability requirements, it must:
- (a) send the *consumer* a *redress determination* in the form set out in ■ CONRED 4 Annex 9R; and
  - (b) take the steps in ■ CONRED 4.3.15R to notify the FCA.

#### Suitable redress determinations: notification to the FCA

#### 4.3.15

**R**

- (1) Where a *firm* concludes that its advice to a *consumer* was suitable, it must notify the FCA of the following information:
  - (a) the outcome of the *firm's redress determination*; and
  - (b) the *consumer's* name, address, telephone number(s) and, where available, email address.

- (2) A *firm* must comply with the requirement in (1) to notify the *FCA* in the next progress report required under ■ CONRED 4.8.2R(2), which is due following the 'opt-out deadline' in (3).
- (3) The opt-out deadline is the date which falls 2 weeks after the date when the *redress determination* required by ■ CONRED 4.3.14R(4)(a) is sent by the *firm* to the *consumer*.
- (4) The requirement in (1) does not apply if the *consumer* has informed the *firm* in writing that they do not wish for their details to be passed to the *FCA*.

## 4.4 Consumer redress scheme: calculating and paying redress

### Deadlines to complete the steps in this section

4.4.1

**R**

- (1) A *firm* must make a *redress determination* pursuant to ■ CONRED 4.4.2R or ■ CONRED 4.4.20R where it has determined that the advice provided to the *consumer* did not comply with the suitability requirements and has answered 'yes' to the causation question. Subject to (2), the *firm* must:
  - (a) not take the first step of calculating and sending the *redress determination* pursuant to ■ CONRED 4.4.2R until after 1 April 2023; and
  - (b) make such *redress determination* no later than 10 months from the scheme effective date.
- (2) The deadline to make the *redress determination* referred to in (1)(b) is extended to 12 months from the scheme effective date where a *consumer* has:
  - (a) requested that the *firm* calculate the redress sum that would be payable by full or partial augmentation; or
  - (b) claimed for an amount described at ■ CONRED 4.3.14R(1)(b)(iii)(C).

### First step: calculate redress and send redress determination

4.4.2

**R**

The first step is for a *firm* to calculate the amount of redress owed to a *consumer*:

- (1) in accordance with the relevant *rules* and *guidance* set out in ■ DISP App 4 and ■ DISP App 4 Annex 1, as modified by ■ CONRED 4;
- (2) by completing the BPS calculator in accordance with the instructions set out in ■ CONRED 4 Annex 21R;
- (3) where requested by a *consumer*, by calculating the redress sum that would be payable by full or partial augmentation outside of the BPS calculator in accordance with (1);

and send the *consumer* a *redress determination* in the form of the letter set out in ■ CONRED 4 Annex 13R.

4.4.3

**R**

A *firm* must comply with ■ DISP App 4 when carrying out the redress calculation, as modified by this section:

Table: application of DISP App 4 rules

DISP App 4 provisions	Application / modification
Step 1 at DISP App 4.3.3R to DISP App 4.3.14G	Does not apply. A <i>firm</i> must instead follow the steps to obtain information in CONRED 4.
Step 2 at DISP App 4.3.15R to DISP App 4.3.18G	Apply with the following modification: any reference to <i>defined benefit occupational pension scheme</i> is to be replaced with a reference to the appropriate comparator scheme identified in CONRED 4 Annex 21R 13.21R to CONRED 4 Annex 21R 13.26R.
Step 3 at DISP App 4.3.19R to DISP App 4.3.26R.	Applies in full. A <i>firm</i> must use the BSPS calculator to complete Step 3.
Step 4 at DISP App 4.3.27R to DISP App 4.3.35G	Applies in part. A <i>firm</i> must use the BSPS calculator to complete DISP App 4.3.27R to 4.3.29R as described in CONRED 4 Annex 21R to determine the redress components of a cash lump sum.
Step 5 at DISP App 4.3.36R to 4.3.40G	Applies in part. A <i>firm</i> completes Step 5 by sending out the <i>redress determination</i> at CONRED 4 Annex 13R in accordance with the instructions at CONRED 4.4.5R.

4.4.4 **E** Non-compliance with any of the evidential provisions set out in the instructions for the redress calculation at ■ CONRED 4 Annex 21R may be relied upon as tending to establish contravention of ■ CONRED 4.4.2R.

4.4.5 **R** A *redress determination* in the form of the letter set out in ■ CONRED 4 Annex 13R must include the following:

- (1) a copy of a summary report from the BSPS calculator as well as an offer to provide a detailed calculation report from the BSPS calculator if requested by the *consumer*;
- (2) the information at ■ DISP App 4.3.38R to ■ DISP 4.3.39R; and
- (3) where the firm has reached an arrangement with the *consumer* as described at ■ CONRED 4.4.9R(1)(b), a comprehensive summary of the instalments agreed.

4.4.6 **R** When a *firm* communicates a redress offer to a *consumer*, it should:

- (1) take reasonable steps to communicate in a way that is fair, clear and not misleading;
- (2) take into account the information needs of the *consumer*, including their understanding of financial services; and
- (3) where possible, use plain language and avoid the use of jargon, unfamiliar or technical language.



- 4.4.7** **R** Where a *consumer* requests a copy of the detailed calculation report from the BSPS calculator, a *firm* must send a letter enclosing such report in the form of the letter set out in ■ CONRED 4 Annex 14R within 5 *business days* of receiving such request.
- 4.4.8** **R** Where a *firm* determines that redress is payable to a *consumer* and the *firm* has not received a claim from the *consumer* within 4 weeks of a *redress determination* being sent pursuant to ■ CONRED 4.4.2R, the *firm* must:
- within 5 *business days*, send a further letter to the *consumer* in the form set out in ■ CONRED 4 Annex 16R; and
- if there is no response to the *redress determination* in ■ CONRED 4.4.2R within 3 months, send a letter to the *consumer* in the form set out in ■ CONRED 4 Annex 17R within 5 *business days* of the 3 months expiring.
- 4.4.9** **R** Unless ■ CONRED 4.4.10R applies, a *firm* must pay the redress determined payable to a *consumer*:
- (1) either:
    - (a) within 28 *days* of receiving a claim from the *consumer* for the redress determined to be payable; or
    - (b) as agreed with the *consumer* pursuant to any arrangement providing for the payment of redress in instalments over one or more tax years pursuant to DISP App 4.4.31G(4)(c);
  - (2) in accordance with the instructions set out by the *consumer* in their response to the *redress determination* in which they make their claim;
  - (3) including an additional compensation sum which:
    - (a) is payable to provide redress for the period between the valuation date referred to in ■ CONRED 4 Annex 21 13.1R(16) and the payment date; and
    - (b) must be calculated using the BSPS calculator in accordance with ■ DISP App 4.3.29(3); and
  - (4) accompanied by a confirmation in the form of the letter set out in ■ CONRED 4 Annex 15R including, where appropriate, a comprehensive summary of any arrangement with the *consumer* as described at ■ CONRED 4.4.9R(1)(b).
- 4.4.10** **R** A *firm* does not need to pay redress or otherwise comply with the requirements in ■ CONRED 4.4.9R where the *consumer* did not send a claim for it within 3 *months* of the date of the *redress determination* in ■ CONRED 4.4.2R, unless the *firm* is required to extend the validity of the redress calculation in accordance with ■ DISP App 4.3.25R.
- 4.4.11** **R** (1) A *firm* must complete the steps at (2) where a *consumer* makes a complaint to the *Financial Ombudsman Service* in respect of a *redress determination* made under ■ CONRED 4.4.2R and either of the following apply:

4.4.12

**R**

After the expiry of the 28-day period in ■ CONRED 4.4.9R(1)(a) or in the case of an arrangement referred to at ■ CONRED 4.4.9R(1)(b) after the expiry of the payment period for each instalment, the redress may be recovered as a debt due to the *consumer* and, in particular, may:

- (1) if a county court so orders in England and Wales, be recovered by execution issued from the county court (or otherwise) as if it were payable under an order of that court; or
- (2) be enforced in Northern Ireland as a money judgment under the Judgments Enforcement (Northern Ireland) Order 1981; or
- (3) be enforced in Scotland as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

[**Note:** This *rule* is imposed by the *FCA* using the powers granted to it under section 404A(1)(m) of the *Act* to make *rules* providing for the enforcement of any redress under a *consumer redress scheme*.]

**Second step: cases of insufficient information**

4.4.13

**R**

The second step applies in respect of a scheme case where:

- (1) a *firm* has not received a response:
  - (a) from a *consumer* ('C') to a letter sent in accordance with ■ CONRED 4.3.14R(1)(b) within 2 weeks of the letter being sent; or
  - (b) from another *party* to a letter sent in accordance with ■ CONRED 4.3.14R(1)(c) or (d) within 2 weeks of the letter being sent; or
- (2) a *consumer* requests that the *firm* calculate the redress sum that would be payable by full or partial augmentation.

- 4.4.14** **R** To complete the second step, a *firm* must take the following actions:
- (1) Where **CONRED 4.4.13R(1)** applies within 5 *business days* of:
    - (a) the 2 weeks in **CONRED 4.4.13R(1)(a)** expiring, send a further letter in the form set out in **CONRED 4 Annex 11R** to the *consumer* and allow the *consumer* at least 2 weeks to respond; and
    - (b) the 2 weeks in **CONRED 4.4.13R(1)(b)** expiring, send a further letter to the parties in **CONRED 4.3.14R(1)(c)** requesting the applicable information and allow the parties at least 2 weeks to respond.
  - (2) Where **CONRED 4.4.13R(2)** applies, within 5 *business days* of receiving a request from a *consumer* to calculate the redress sum that would be payable by full or partial augmentation:
    - send a letter to the applicable parties in **CONRED 4.3.14R(1)(c)** requesting the information at **CONRED 4.3.14R(2)** and allow at least 2 weeks to respond; and
    - if no reply is received to the letter at (a), send a further letter to the applicable parties within 5 *business days* of the expiry of the applicable deadline at (a) with a further reminder to provide the applicable information and allow at least 2 weeks to respond.
  - (3) If a reply is received from the *consumer* or the parties specified in **CONRED 4.3.14R(1)(c)** in respect of any information request in connection with the calculation of redress but the information it contains is insufficient to calculate redress in accordance with **CONRED 4.4.2R**, the *firm* should take all reasonable steps to obtain further information from the *consumer* or, where applicable, any other parties in **CONRED 4.3.14R(1)(c)**.
- 4.4.15** **R** A *firm* which, having carried out the second step, has sufficient information to complete the redress calculation using the BSPS calculator and, where requested by the *consumer*, the redress sum that would be payable by full or partial augmentation, must then complete the first step in accordance with **CONRED 4.4.2R**.
- 4.4.16** **G** Paragraph 13.30R of **CONRED 4 Annex 21R** specifies the information required to complete the redress calculation using the BSPS calculator.
- 4.4.17** **R** Where a *consumer* has requested a *firm* calculate the redress sum that would be payable by full or partial augmentation or an amount described at **CONRED 4.3.14R(1)(b)(iii)(C)**, but the *firm* does not have sufficient information to make such calculations having taken the applicable steps at **CONRED 4.4.13R**, the *firm* must proceed to calculate only the redress calculation using the BSPS calculator in accordance with **CONRED 4.4.2R** (excluding any amount claimed as described at **CONRED 4.3.14R(1)(b)(iii)(C)**).
- 4.4.18** **R** A *firm* may determine a scheme case no longer falls within the subject matter of the *consumer redress scheme* created by this chapter if the *firm*:

- (1) has taken all reasonable steps to obtain further information from the *consumer* and the parties specified in ■ CONRED 4.3.14R(1)(c); and
- (2) does not have sufficient information to calculate redress using the BPS calculator.

4.4.19 **R** A *firm* must not make a determination pursuant to ■ CONRED 4.4.18R only because, following a request from a *consumer*, it does not have sufficient information to calculate either or both the redress sum that would be payable by full or partial augmentation or any amount described at ■ CONRED 4.3.14R(1)(b)(iii)(C).

4.4.20 **R** A *firm* must promptly send a *consumer* a *redress determination* in the form set out in ■ CONRED 4 Annex 12R if it determines, in accordance with ■ CONRED 4.4.18R, that the scheme case no longer falls within the subject matter of the *consumer redress scheme* created by this chapter.

4.4.21 **G** Where a *firm* has sent a *consumer* a *redress determination* pursuant to ■ CONRED 4.4.20R, the *firm* should handle any subsequent *complaint* from the *consumer* in relation to advice about a BPS pension transfer other than in respect of a *redress determination* in accordance with the complaint handling rules in *DISP* and, where possible, calculate redress using the BPS calculator.

#### Obligation on firms connected with transfer advice

4.4.22 **R** A *firm* receiving a request for information pursuant to ■ CONRED 4.3.14R or ■ CONRED 4.4.14R must take all reasonable steps to locate and provide the information requested within any reasonable time periods requested and, in any case, no later than 4 weeks after receiving the request.

#### Obligation to notify FCA of any failures to elicit response

4.4.23 **R** A *firm* that has sent a reminder to an initial information request to another *firm* in accordance with ■ CONRED 4.4.14R and has not received a response to that letter within 4 weeks of it being sent, must notify the *FCA* of this failure at [BPSnotifications@fca.org.uk](mailto:BPSnotifications@fca.org.uk) within 5 *business days* of the 4 weeks elapsing.

## 4.5 Taking steps by or on behalf of FCA

- 4.5.1** **G** (1) If the conditions in (2) are satisfied, the *FCA* may:
- (a) instead of the *firm*, take any of the steps at ■ CONRED 4.2 to ■ CONRED 4.4; or
  - (b) appoint one or more competent persons to take any of the steps at ■ CONRED 4.2 to ■ CONRED 4.4.
- (2) The conditions are:
- (a) there has been a material failure by the *firm* to take any of the actions required under this chapter; or
  - (b) the *firm* has informed the *FCA* that it is unable or unwilling to take any of the actions required under this chapter because:
    - (i) to do so would be in breach of a condition of the *firm's* professional indemnity insurance policy; and
    - (ii) the *firm's* insurer has not elected to take such actions on its behalf.
- (3) The *FCA* must give a *firm* prior notice before taking any of the steps under this *rule*.
- 4.5.2** **R** If the *FCA* gives notice in the circumstances described in ■ CONRED 4.5.1R, the *firm* must:
- (1) not carry out (or, as the case may be, continue to carry out) any of the steps to be taken by the *FCA* or the competent person, unless so directed in writing by the *FCA* or competent person (as applicable); and
  - (2) render all reasonable assistance to the *FCA* or competent person (but any assistance, the rendering of which would invalidate the *firm's* professional indemnity insurance policy, is not reasonable for the purposes of this *rule*).
- 4.5.3** **G** A *firm* is expected to make reasonable efforts to obtain the consent of its professional indemnity insurer to take the relevant steps in relation to this redress scheme, in line with its obligations under *Principle 11* (Relations with regulators).

- 4.5.4 **G** Where permitted under the *firm's* professional indemnity insurance policy, a *firm's* insurer can take any of the steps at ■ CONRED 4.2 to ■ CONRED 4.4 acting on the *firm's* behalf.
- 4.5.5 **R** (1) If, where the *FCA* or a competent person takes any steps in accordance with ■ CONRED 4.5.1R, the *FCA* proposes to make a determination of:
- (a) whether a failure by a *firm* has caused loss to a *consumer*; and
  - (b) what the provisional redress sum should be in respect of any failure,
- the *FCA* must give the *firm* a *warning notice* that specifies the proposed determination.
- (2) The provisional redress sum in (1) must be the amount that would be owed to a *consumer* if a *redress determination* were made pursuant to ■ CONRED 4.4.2R on the same date as the *warning notice*.
- 4.5.6 **G** If the *FCA* decides to make a determination of the matters in ■ CONRED 4.5.5R, the *FCA* must give a *firm* a *decision notice* specifying the determination.
- If the *FCA* decides to make such a determination, a *firm* may refer the matter to the *Tribunal*.
- 4.5.7 **G** Part XXVI of the *Act* (including the provisions as to *final notices*) applies in respect of notices given under ■ CONRED 4.5.5R and ■ CONRED 4.5.6R.
- 4.5.8 **G** Where, instead of a *firm*, the *FCA* or, where applicable, a competent person:
- (1) communicates with a *consumer*:
    - (a) they will do so in their own name, making clear in the case of a competent person its authority from the *FCA* to do so; and
    - (b) they may make such amendments to the letters in the forms set out in the Annexes in ■ CONRED 4 as are appropriate to reflect that they are being sent in the name of the *FCA* or competent person; or
  - (2) makes the *redress determination* in the letter at ■ CONRED 4 Annex 13R, the *FCA* or competent person will:
    - (a) update the provisional redress sum no later than 14 *days* after the issue of a final notice in respect of the *FCA's* decision to make a determination of the matters in ■ CONRED 4.5.5(1)R to reflect the amount that is owed at the time such *redress determination* is made; and
    - (b) send the *firm* a copy of the *consumer's* response to the *redress determination*.

- 4.5.9 **G** A fee is payable by the *firm* (or *person* falling within ■ CONRED 4.1.5(1)R in any case where the *FCA* exercises its powers under ■ CONRED 4.5.1R: see the table at ■ FEES 3.2.7R.
- 4.5.10 **G** The completion of steps in ■ CONRED 4.2 to ■ CONRED 4.4 by, or on behalf of, the *FCA* does not affect the ability of the *Financial Ombudsman Service* to consider a *complaint*, in particular where the *firm* has not sent a *redress determination* in accordance with the time limits specified under the *consumer redress scheme* created by this chapter.

## 4.6 Supervision and delegation of scheme process by firms

**4.6.1** **R** A *firm* must ensure that the steps required by this chapter are undertaken or supervised by:

where ■ DISP 1.3.7R applies, the *individual* appointed by the *firm*; or  
a *person* of appropriate seniority in all other cases

- 4.6.2** **G**
- (1) A *firm* intending to outsource any of the obligations imposed on it under this chapter should have due regard to the *rules* and *guidance* on outsourcing which are applicable to it, notably in SYSC.
  - (2) A *firm* which outsources any of the obligations imposed on it under this chapter in respect of communications with *consumers* should ensure that those communications are clear as to the identity of the *firm*.



## 4.7 Provisions relating to communications with consumers

- 4.7.1** **R** Whenever a *firm* is required by a provision of this chapter to send a letter in a form set out in a specified Annex in ■ CONRED 4, it must:
- (1) do so enclosing any relevant documents or pre-paid envelopes which the *firm* is instructed to enclose in the Annex with that letter;
  - (2) where the letter is a redress determination, enclose the *Financial Ombudsman Service* leaflet and bespoke referral form in respect of such determination;
  - (3) complete the letter by following the instructions in the standard form set out in the specified Annex; and
  - (4) comply with any instructions in the specified Annex to insert, delete, select or complete text.
- 4.7.2** **R** All letters to *consumers* required under this chapter must be printed on the letterhead of the *firm* and dispatched by recorded delivery mail.
- (1) Where a *firm* becomes aware that the contact details it holds for a *consumer* are out of date, it must take all reasonable steps to obtain up-to-date contact details and, where appropriate, resend any letter and repeat the steps to contact the *consumer*, required by this chapter.
  - (2) If, having complied with (1), a *firm* is unable to contact a *consumer*, it need not take any further action pursuant to this chapter in relation to that *consumer* unless (3) applies.
  - (3) If, in reliance on (2), the *firm* has ceased taking action but subsequently becomes aware of up-to-date contact details for that *consumer* within 12 months of the scheme effective date, the *firm* must, where appropriate, resend any letter and repeat the steps to contact the *consumer* required by this chapter.
  - (4) Where a *firm* is required in (1) and (3) to resend any letter and repeat the steps to contact the *consumer*, required by this chapter:
    - (a) it must do so even where it has made a *redress determination* pursuant to ■ CONRED 4.3.8R or ■ CONRED 4.4.20R; and
    - (b) such *redress determination* is void.

4.7.3

**R**

- (5) Where a *firm* is resending a letter and repeating steps pursuant to (3), each applicable deadline for those actions by the *firm* is extended according to the length of the delay incurred by the application of (2).

**Provisions relating to communications with other firms**

- (1) Where a *firm* becomes aware that the contact details it holds for a *firm* that it has tried to contact pursuant to ■ CONRED 4.3.5R, ■ CONRED 4.3.14(c)R and (d), or ■ CONRED 4.4.14R ('other *firm*') are out of date, it must take all reasonable steps to obtain up-to-date contact details and, where appropriate, resend any letter and repeat the steps to contact the other *firm* as required by this chapter.
- (2) If, having complied with (1), a *firm* is unable to contact the other *firm*, it need not take any further action pursuant to this chapter in relation to that *firm* unless (3) applies.
- (3) If, in reliance on (2), the *firm* has ceased taking action but subsequently becomes aware of up-to-date contact details for that *firm* within 12 months of the scheme effective date, the *firm* must, where appropriate, resend any letter and repeat the steps to contact the *firm* required by this chapter.
- (4) Where a *firm*:
- (a) has already made a *redress determination* pursuant to ■ CONRED 4.3.8R or ■ CONRED 4.4.20R; and
  - (b) obtains further information from the other *firm* within 12 months of the scheme effective date which means that the *firm* has sufficient information to determine, as applicable, the matters in ■ CONRED 4.3.5R(1) or to calculate redress using the BPS calculator,
- such *redress determination* is void and the *firm* must take the remaining actions in relation to the relevant *consumer's* case as if the *redress determination* had not been made.
- (5) Where a *firm* is resending a letter and repeating steps pursuant to (1) or (3), or where (4) applies, each applicable deadline for those actions by the *firm* is extended according to the length of the delay incurred by the application of (2).

**Guidance on taking reasonable steps to ascertain missing information**

4.7.4

**G**

For the purposes of ■ CONRED 4.3.5R, ■ CONRED 4.3.10R, ■ CONRED 4.4.14R, ■ CONRED 4.4.22R, ■ CONRED 4.7.2 and ■ CONRED 4.7.3, 'reasonable steps' might include, as appropriate:

- (1) checking public sources of information, but without incurring disproportionate cost;
- (2) attempting to contact the *consumer* by telephone (at a reasonable hour when the *consumer* is likely to be available to receive the call) and by email; and

- (3) attempting to contact any other party by telephone (during business hours) and by email.

4.7.5

**R**

When taking reasonable steps to ascertain missing information and when they contact a *consumer* a *firm* must:

- (1) only make requests for information that are necessary for assessing compliance with the suitability requirements, the causation question or for the redress calculation using the BSPS calculator and which the *consumer* can reasonably be expected to provide;
- (2) exercise sensitivity when requesting information about a *consumer's* personal circumstances;
- (3) ensure the *consumer* understands what information they have been asked to provide and in what format;
- (4) only ask for information that is likely to be readily accessible to the *consumer* (and obtain the *consumer's* authority to approach third parties for information on their behalf);
- (5) allow the *consumer* at least 14 *days* to respond; and
- (6) make clear why the *firm* is asking for the information and the consequence if the information is not provided.

**Prohibition against influencing consumers against their interests**

4.7.6

**R**

A *firm* must not make any communication to a *consumer* which seeks to influence, for the benefit of the *firm*, the outcome of the steps taken in this chapter, either by seeking to influence the content of information provided by the *consumer* in response to the *firm's* requests made under this chapter or otherwise.

**Deceased consumers**

4.7.7

**R**

Where a *firm* is required to contact a *consumer* under a provision of these rules whom the *firm* knows to be or becomes aware is deceased, it must take all reasonable steps to instead communicate with:

- (1) a personal representative of the *consumer's* estate; or
- (2) a beneficiary or beneficiaries of their estate or pension.

4.7.8

**R**

The provisions of **CONRED 4.7.2R** also apply in respect of a *firm's* communications with *persons* referred to in **CONRED 4.7.7R**.

## 4.8 Consumer redress scheme: information requirements

### Requests for information by the FCA

- 4.8.1 **R** In relation to any matter concerning or related to the *consumer redress scheme* created by this chapter, section 165 (FCA's power to require information: authorised persons etc) of the *Act* and any provision of Part XI (Information Gathering and Investigations) of the *Act* which relates to that section apply to any *firm* (or person in ■ CONRED 4) which is not an *authorised person* as if it were an *authorised person*.

### Ongoing reporting requirements

- 4.8.2 **R**
- (1) By 6 weeks after the scheme effective date, a *firm* must send the *FCA* an initial 'progress report' with the most up-to-date information held by the *firm* in the information categories in ■ CONRED 4.8.3R as it stood at 1 month after the scheme effective date.
  - (2) A *firm* must submit a further progress report every 2 weeks with the most up-to date information as it stood 2 weeks prior, with the second progress report to be received by the *FCA* no later than 14 days after the date the initial report was provided to the *FCA* until the conditions in (3) apply.
  - (3) The conditions are:
    - (a) there are no further steps which the *firm* is or could be required to take pursuant to this chapter in respect of any scheme case; and
    - (b) the *firm* has notified the *FCA* by email to [BSPSnotifications@fca.org.uk](mailto:BSPSnotifications@fca.org.uk) that the condition in (a) is satisfied and that it intends to stop submitting progress reports in accordance with (2).
  - (4) By 6 weeks after the scheme effective date, the *firm* must send the *FCA* a 'one-off report' with the information held by the *firm* in the information categories in ■ CONRED 4.8.4.
  - (5) The reports required by (1), (2) and (4) must:
    - (a) contain an attestation by a *senior manager* responsible for compliance oversight of the *firm* confirming that:
      - (i) the information provided in each of the reports is complete; and
      - (ii) where the information reflects a *redress determination*, that such a determination has been reached in accordance with any applicable rules; and

- (b) be submitted to the *FCA*:
  - (i) in the case of the reports at (1) and (2) using RegData; or
  - (ii) in the case of the report at (4):
    - (A) using any electronic system which has been made available by the *FCA* for the purposes of submitting the report; or
    - (B) if no such electronic system is available, by email to [BSPSnotifications@fca.org.uk](mailto:BSPSnotifications@fca.org.uk).
- (6) Where a *firm* agrees an arrangement with a consumer providing for the payment of redress in instalments over one or more tax years pursuant to ■ DISP App 4.3.31G(4)(c), it must within 5 *business days* of reaching such an arrangement notify the *FCA* by email to [BSPSnotifications@fca.org.uk](mailto:BSPSnotifications@fca.org.uk).

4.8.3

**R** The progress reports required by ■ CONRED 4.8.2R must contain the following information about each scheme case:

- (1) *consumer* identifier;
- (2) the date the letter at ■ CONRED 4 Annex 2R was sent;
- (3) whether the *consumer* receiving the letter in (2) has opted out of the scheme and the date a *firm* received notification from the *consumer* of their decision to opt-out;
- (4) where the *firm* has carried out the case review at ■ CONRED 4.3.2R:
  - (a) the date the case review was completed;
  - (b) a copy of the completed FCA or BPS DBAAT;
  - (c) whether the scheme case was rated suitable, unsuitable or 'non-compliant due to a material information gap(s)' or 'not-compliant-unclear' (in the case of the FCA DBAAT);
  - (d) for scheme cases rated as unsuitable, the result of the causation assessment;
- (5) in a case where a *firm* has concluded that the advice was suitable:
  - (a) the date a *firm* sent the letter at ■ CONRED 4 Annex 9R;
  - (b) the *consumer's* name, address, telephone number(s) and, where available, email address (in the BPS DBAAT or, where using an FCA DBAAT, in the Reg Data report);
  - (c) whether a *firm* is aware that the *consumer* has complained to the *Financial Ombudsman Service* about the determination communicated in (a);
  - (d) the date a *firm* became aware of any *complaint* in (c); and
  - (e) the outcome of the *complaint* (both suitability and causation as applicable) as notified to the *firm* by the *Financial Ombudsman Service* in accordance with ■ DISP 3.6.6R(5);

- (6) in a case where a *firm* has concluded that the advice was unsuitable and answered 'no' to the causation question, the date a *firm* sent the letter at ■ CONRED 4 Annex 8R;
- (7) in a case where a *firm* has concluded that the advice was unsuitable and answered 'yes' to the causation question the date a *firm* sent the letters at:
  - (a) ■ CONRED Annex 7R; and
  - (b) ■ CONRED Annex 10R;
- (8) where a *firm* has completed the redress assessment as required by ■ CONRED 4.4.2R, the following in respect of the latest offer of redress made pursuant to the *consumer redress scheme* created by this chapter;
  - the date on which the redress calculation was completed;
  - the redress amount rounded to the nearest pound sterling;
  - the date the letter at ■ CONRED 4 Annex 13R was sent to the *consumer*;
  - a copy of the redress calculation from the BSPS calculator;
  - whether the *consumer* has accepted the offer of redress in (c); and
  - the date on which any redress was paid.

4.8.4

**R**

The 'one-off report' required by ■ CONRED 4.8.2R must contain the following information:

- (1) the number of cases in relation to which a *firm* has sent a consumer a letter pursuant to:
  - (a) ■ CONRED 4 Annex 1R;
  - (b) ■ CONRED 4 Annex 2R; and
- (2) in respect of (1)(a), a breakdown of the reasons such cases were excluded from the scheme with reference to the relevant condition or conditions at ■ CONRED 4.2.2R.

4.8.5

**G**

The *consumer* identifier referred to at ■ CONRED 4.8.3R(1) should:

- be a number unique to each *consumer* which starts with a *firm's* FCA firm reference number;
- not include the *consumer's* name or other personal data; and
- be the same *consumer* identifier used on the BSPS DBAAT.

4.8.6

**R**

A *firm* must provide copies of the BSPS DBAAT, FCA DBAAT and the redress calculation from the BSPS calculator in the format of a data string in the applicable RegData report.

4.8.7

G

If the *firm* is to send an encrypted email to the *FCA*, it should use Egress Switch encryption software.

[*Editor's note*: instructions for Egress Switch are available at <https://www.fca.org.uk/egress-switch>]

## 4.9 Record-keeping requirements

### 4.9.1

**R**

- (1) A *firm* must keep the following records:
  - (a) evidence of posting for each letter sent in accordance with this chapter;
  - (b) a copy of each letter sent in accordance with this chapter;
  - (c) a record of any attempts to contact the *consumer*, contact any other relevant *firm*, or obtain further information, in accordance with ■ CONRED 4.3.5R, ■ CONRED 4.3.14R(1)(c) or (d) and ■ CONRED 4.4.14R;
  - (d) a copy of the Excel Spreadsheet containing the completed BSPS DBAAT or FCA DBAAT for each scheme case;
  - (e) a record of the redress calculation performed by the BSPS calculator in Excel Spreadsheet format; and
  - (f) all information on the *consumer* file and any information received from the *consumer*.
- (2) A *firm* must keep the records required by (1) for a minimum of 5 years from the date of their creation or (for the records in (1)(f)) the date when the information was included in the *consumer* file or obtained.



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## Redress determination: consumers outside scope/confirming exclusion

[*Editor's note:* The letter(s) can be found at this address: [https://www.handbook.fca.org.uk/form/conred/CONRED\\_4\\_ANNEX\\_1\\_28022023.docx](https://www.handbook.fca.org.uk/form/conred/CONRED_4_ANNEX_1_28022023.docx).]



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## **Consumer within scope/confirming inclusion**

[*Editor's note:* The letter(s) can be found at this address: [https://www.handbook.fca.org.uk/form/conred/CONRED\\_4 ANNEX 2\\_28022023.docx](https://www.handbook.fca.org.uk/form/conred/CONRED_4 ANNEX 2_28022023.docx).]



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## Redress determination: confirmation of consumer opt-out

[*Editor's note:* The letter(s) can be found at this address: [https://www.handbook.fca.org.uk/form/conred/CONRED\\_4\\_ANNEX\\_3\\_28022023.docx](https://www.handbook.fca.org.uk/form/conred/CONRED_4_ANNEX_3_28022023.docx).]



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## Further information request (1): initial request

[*Editor's note:* The letter(s) can be found at this address: [https://www.handbook.fca.org.uk/form/conred/CONRED\\_4 ANNEX 4\\_20233103.docx](https://www.handbook.fca.org.uk/form/conred/CONRED_4 ANNEX 4_20233103.docx)





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## Further information request (2): final reminder

[*Editor's note*: The letter(s) can be found at this address: [https://www.handbook.fca.org.uk/form/conred/CONRED\\_4 ANNEX 5\\_20233103.docx](https://www.handbook.fca.org.uk/form/conred/CONRED_4 ANNEX 5_20233103.docx)



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## Redress determination: further information not provided

[*Editor's note:* The letter(s) can be found at this address: [https://www.handbook.fca.org.uk/form/conred/CONRED\\_4\\_ANNEX\\_6\\_28022023.docx](https://www.handbook.fca.org.uk/form/conred/CONRED_4_ANNEX_6_28022023.docx).]



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## Notification of finding of unsuitable advice

[*Editor's note:* The letter(s) can be found at this address: [https://www.handbook.fca.org.uk/form/conred/CONRED\\_4 ANNEX 7\\_28022023.docx](https://www.handbook.fca.org.uk/form/conred/CONRED_4 ANNEX 7_28022023.docx).]



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## Redress determination: unsuitable advice, no causation

[*Editor's note:* The letter(s) can be found at this address: [https://www.handbook.fca.org.uk/form/conred/CONRED\\_4\\_ANNEX\\_8\\_28022023.docx](https://www.handbook.fca.org.uk/form/conred/CONRED_4_ANNEX_8_28022023.docx).]





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## Redress determination: suitable advice

[*Editor's note:* The letter(s) can be found at this address: [https://www.handbook.fca.org.uk/form/conred/CONRED\\_4\\_ANNEX\\_9\\_28022023.docx](https://www.handbook.fca.org.uk/form/conred/CONRED_4_ANNEX_9_28022023.docx).]



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## Redress calculation, further information: initial request

*[Editor's note: The letter(s) can be found at this address: [https://www.handbook.fca.org.uk/form/conred/CONRED\\_4 ANNEX 10\\_28062023.docx](https://www.handbook.fca.org.uk/form/conred/CONRED_4%20ANNEX%2010_28062023.docx)*



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## Redress calculation, further information request: final reminder

*[Editor's note: The letter(s) can be found at this address: [https://www.handbook.fca.org.uk/form/conred/CONRED\\_4 ANNEX 11\\_28062023.docx](https://www.handbook.fca.org.uk/form/conred/CONRED_4%20ANNEX%2011_28062023.docx)*



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## **Redress determination: Redress calculation – information not provided**

[*Editor's note:* The letter(s) can be found at this address: [https://www.handbook.fca.org.uk/form/conred/CONRED\\_4 ANNEX 12\\_28022023.docx](https://www.handbook.fca.org.uk/form/conred/CONRED_4%20ANNEX%2012_28022023.docx).]





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## Redress determination: Result of redress calculation

[*Editor's note:* The letter(s) can be found at this address: [https://www.handbook.fca.org.uk/form/conred/CONRED\\_4 ANNEX 13\\_20233103.docx](https://www.handbook.fca.org.uk/form/conred/CONRED_4 ANNEX 13_20233103.docx)



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## Request for detailed calculation report

*[Editor's note: The letter(s) can be found at this address: [https://www.handbook.fca.org.uk/form/conred/CONRED\\_4 ANNEX 14\\_20233103.docx](https://www.handbook.fca.org.uk/form/conred/CONRED_4 ANNEX 14_20233103.docx)*



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## Payment confirmation

[*Editor's note:* The letter(s) can be found at this address: [https://www.handbook.fca.org.uk/form/conred/CONRED\\_4 ANNEX 15\\_20233103.docx](https://www.handbook.fca.org.uk/form/conred/CONRED_4%20ANNEX%2015_20233103.docx)



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## Final reminder to accept offer

*[Editor's note: The letter(s) can be found at this address: [https://www.handbook.fca.org.uk/form/conred/CONRED\\_4 ANNEX 16\\_20233103.docx](https://www.handbook.fca.org.uk/form/conred/CONRED_4%20ANNEX%2016_20233103.docx)*





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## Redress Determination: payment acceptance not provided

[*Editor's note:* The letter(s) can be found at this address: [https://www.handbook.fca.org.uk/form/conred/CONRED\\_4 ANNEX 17\\_28022023.docx](https://www.handbook.fca.org.uk/form/conred/CONRED_4 ANNEX 17_28022023.docx).]



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**Summary of scheme flow diagram [CONRED 4.1.11G]**

Summary of scheme flow diagram



## Form of Attestation for use of FCA DBAAT

I [name] of [firm] attest on [date] that:

- (1) I have read the BSPS Consumer Redress Scheme *rules* in CONRED 4 and in particular the BSPS DBAAT instructions at CONRED 4 Annex 21R;
- (2) I am approved to perform the SMF16 (Compliance oversight) *FCA controlled function* for the *firm* or [another appropriate *senior management function*] within the *firm*;
- (3) I have reviewed the completed FCA DBAAT in light of the *rules* for the BSPS DBAAT referred to in (1);
- (4) where applicable, the completed FCA DBAAT has been amended as a consequence of applying the rules referred to in (1);
- (5) where the FCA DBAAT information section rating was 'non-compliant – unclear' or 'non-compliant – proceed to suitability assessment', the *firm* has taken the steps in CONRED 4.3.5R and has assessed the case in accordance with the *rules, evidential provisions* and *guidance* in CONRED 4.3.2R to CONRED 4.3.4R, CONRED 4.4.12G and CONRED 4.3.13G (or took equivalent steps previously); and
- (6) in my view, the *firm* would have come to the same conclusion (that the advice was suitable, unsuitable or a rating of 'not-compliant – unclear' (as applicable)) if it had used the BSPS DBAAT.

Signed:



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**BSPS DBAAT**

BSPS DBAAT





## BSPS DBAAT and BSPS Redress Calculator Instructions

<b>1</b>	<b>Introduction</b>	
	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 BPS, 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 BPS 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 BPS DBAAT are set out below.

Steps to complete a BPS DBAAT

<b>3</b>	<b>Use of FCA DBAAT</b>	
3.1	G	If CONRED 4.3.2R(2) applies and the <i>firm</i> uses a non-BPS DBAAT to complete the first step under CONRED 4.3.2R, it should have regard to the differences between the BPS and non-BPS DBAAT and refer to relevant sections of the instructions to identify whether their FCA DBAAT or assessment requires amendment. The material changes include: <ul style="list-style-type: none"> <li>(1) In the Information Section:                 <ul style="list-style-type: none"> <li>(a) Information Area 4 is not present in the BPS DBAAT and the remaining Information Areas have been renumbered;</li> <li>(b) Information Area 7 in the BPS DBAAT on the comparator scheme (area 8 in the non-BPS DBAAT) has been significantly revised;</li> <li>(c) Information Area 9 in the BPS DBAAT on the transfer analysis (area 10 in non-BPS DBAT) has been significantly revised.</li> </ul> </li> <li>(2) In the Suitability Section:                 <ul style="list-style-type: none"> <li>(a) the addition of <i>evidential provisions</i> in respect of Examples 1 to 11;</li> <li>(b) new Example 11 has been inserted in the BPS DBAAT;</li> <li>(c) Example 11 from the non-BPS DBAAT becomes Example 12;</li> <li>(d) Example 12 from the non-BPS DBAAT has been removed.</li> </ul> </li> <li>(3) The Suitability Investment Advice, Disclosure and Insistent Client Sections have been removed.</li> </ul>
<b>4</b>	<b>General instructions</b>	
4.1	R	An assessor must complete a separate BPS DBAAT for each <i>consumer</i> and: <ul style="list-style-type: none"> <li>(1) if the <i>consumer</i> has more than one period of service in the BPS, complete a separate BPS DBAAT for each period of service;</li> <li>(2) if the <i>consumer</i> received connected <i>advice on pension transfers</i> from a non-BPS <i>ceding arrangement</i> within 6 months of the BPS advice, have regard to how the connected advice factors into the advice to transfer the <i>consumer's</i> BPS scheme.</li> </ul>
4.2	G	For the purpose of 4.1R, advice on a <i>pension transfer</i> from a non-BPS <i>ceding arrangement</i> is likely to be connected with advice to transfer from BPS if the advice on the other scheme is integral to the <i>consumer's</i> decision to transfer from the BPS.
4.3	R	Where the <i>consumer</i> is married or has a partner, complete the BPS DBAAT on a joint life basis unless the <i>consumer</i> has instructed the <i>firm</i> 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 BPS 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:

		(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.
		(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.
5.3	R		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:
		(1)	review the information recorded and the ratings in each Information Area of the BSPS DBAAT;
		(2)	answer 'yes' or 'no' depending on whether the <i>firm</i> has complied with the information requirements; and
		(3)	insert commentary on whether or not the <i>firm</i> has complied with the information requirements.
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		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:
		(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 <a href="#">CONRED 4 Annex 21R 5.3(3)R</a> ; or
		(2)	if there is not sufficient information, select 'Non-compliant - Material Information Gap' and take the second step at <a href="#">CONRED 4.3.5R</a> to obtain the missing information then proceed to 5.1R(2).
5.6	G		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:
		(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
		(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.
5.7	R		If, after taking the steps at <a href="#">CONRED 4.3.5R</a> , and having regard to the guidance in <a href="#">CONRED 4.3.12G</a> to <a href="#">CONRED 4.3.13G</a> , 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:
		(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

- (2) that the *firm* has not complied with the information requirements but it is not possible to assess whether the *firm* has complied with the suitability requirements; and
- (3) where the failure relates to the transfer analysis, that the *firm* 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 *firm* has collected the necessary information across 9 Information Areas to make a *personal recommendation*. 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 *firm* has obtained the essential facts about the *consumer*.
- (2) Enter the information about the *consumer* 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 *consumer* and their partner.
- (2) If the *consumer's* tax rate is not recorded, it can be inferred from the *consumer's* salary at the date of the advice.
- (3) Record in the additional comments box whether the *consumer* 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 *consumer* is in good health.
- (5) Record details about any dependants and the *consumer's* responsibility for them.
- (6) Include details about whether the *consumer* 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 *consumer's* 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 *consumer's* objectives, using the same wording and ranking or prioritisation as the *firm* 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"> <li>(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;</li> <li>(2) record in the boxes provided the <i>firm's</i> description of the <i>consumer's</i>: <ol style="list-style-type: none"> <li>(a) attitude to investment risk;</li> <li>(b) attitude to the risks associated with a <i>pension transfer</i>, including the loss of <i>safeguarded benefits</i>;</li> <li>(c) capacity for loss (in general); and</li> <li>(d) capacity for loss of <i>safeguarded benefits</i>;</li> </ol> </li> <li>(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</li> <li>(4) record in the 'comments' box any additional comments or observations on the <i>firm's</i> approach to obtaining this information.</li> </ol>
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"> <li>(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);</li> <li>(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));</li> <li>(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));</li> <li>(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</li> <li>(5) the risks relevant to a <i>pension transfer</i> from the BSPS to a scheme with <i>flexible benefits</i> listed at CONRED 4 Annex 22G at Table 1.</li> </ol> <p>Information Area 4: has the firm obtained the necessary information regarding the consumer's 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"> <li>(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"> <li>(a) the types of service, transaction and investments with which the <i>consumer</i> is familiar;</li> <li>(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</li> </ol> </li> </ol>

		(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 *firm's* experience with other *consumers* 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 *firm* has used a cashflow modelling tool to estimate the *consumer's* level of expenditure in retirement as part of demonstrating how reliant the *consumer* is on this income in retirement;
- (5) challenging inconsistent information, for example, where the *consumer* 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 firm obtained the necessary information regarding the consumer's financial situation?

- 6.15 R To complete this area, take the following steps. Using the available evidence:
- (1) identify the information relevant to the *consumer's* financial situation;
  - (2) answer 'yes' or 'no' depending on whether the *firm* has captured the necessary information regarding the *consumer's* financial situation; and
  - (3) record the relevant information for the *consumer* and (for joint advice) their spouse or partner under the headings:
    - (a) *consumer's* current income;
    - (b) income sources in retirement (excluding income from the comparator scheme, which is captured in Information Area 7);
    - (c) other assets (excluding the *consumer's* main residence); and
    - (d) liabilities.
- 6.16 G The *consumer's* main residence should not usually be counted as an asset which can be used as an income source in retirement. The *consumer's* main residence typically provides secure accommodation throughout retirement. Where the *firm* has a reasonable basis for treating the main residence as an asset, for example because the *consumer* has a legitimate plan to downsize and the *firm* has a contemporaneous record of these plans, include the value of the main residence in the 'other assets' box.
- 6.17 G If the *consumer* file is incomplete or it is unclear whether the *firm* has collected the necessary information on the *consumer's* financial situation, it may be possible to estimate the *consumer's* income or assets from other information on the *consumer* file. For example:
- (1) if the 'other assets' section in a fact-find is blank, and there is evidence that the *consumer's* income does not exceed or marginally exceeds their expenditure, it may be reasonable to assume that the *consumer* has no other assets;
  - (2) if the 'state pension' section of the fact-find is blank:
    - (a) where there is evidence of the *consumer's* employment history on file or length of service at the scheme employer, it may be possible to estimate entitlement to a state pension;
    - (b) where a *consumer* expects to continue in employment until retirement, it is reasonable to infer, unless there is specific information to the contrary, that the *consumer* would continue to accrue state pension entitlement throughout that period;

		(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			<b>Suitability requirements</b>
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			<b>Assessing scheme cases for compliance with suitability requirements</b>
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:

- (1) fairly consider and give appropriate weight to all available evidence of the *firm's* 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 *firm* complied or failed to comply with the suitability requirements.
- 8.3 R In considering the available evidence, the assessor must:
- (1) not assume that a *firm* complied with a suitability requirement solely on the basis that:
- (a) the *consumer* signed documentation that records their understanding or agreement to matters set out in that documentation;
- (b) the advice was given to a *consumer* who had transferred from a *defined benefit occupational pension scheme* in the past;
- (2) give more weight to evidence of the *consumer's* particular circumstances or the circumstances at the time than to general evidence of the selling practices of the *firm* 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 When assessing whether a *firm* complied with the suitability requirements, the assessor must take into account the following:
- (1) the *consumer's* investment objectives, including their willingness to bear the risks associated with transfer (transfer risk);
- (2) the *consumer's* financial situation, including their ability, financially, to bear the risks associated with the recommended transfer consistent with their investment objectives;
- (3) the *consumer's* ability, in the light of the following, to understand the risks associated with a *pension transfer*:
- (a) the experience and knowledge of the *consumer* relevant to a *pension transfer*; and
- (b) any communications received from the comparator scheme(s) regarding the *pension transfer*.
- 8.5 R When assessing the reasonableness of a *firm's* conduct, the assessor must:
- (1) assess the *firm's* conduct against what was reasonable at the time when the *firm* 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 *firm* assessed was reasonable only where that *firm* 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 *firm*.
- 8.6 G Where the advice is given using a two-adviser model and the advisers are employed by different *firms*:
- (1) identify which *firm* is responsible for the *pension transfer* advice and which *firm* is responsible for the investment advice;
- (2) take into account that it will generally be reasonable for the *firm* providing *pension transfer* advice to rely on information provided to it in writing by the *firm* 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"> <li>(1) review the available evidence and the information recorded in the Information Section of the BSPS DBAAT;</li> <li>(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;</li> <li>(3) indicate whether any or all of Examples (1) to (12) are present, or not, by selecting 'yes' or 'no';</li> <li>(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</li> <li>(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.</li> </ol>
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"> <li>(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</li> <li>(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"> <li>(a) the <i>consumer's</i> objective is to transfer to preserve the value of their scheme benefits for beneficiaries; and</li> <li>(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).</li> </ol> </li> </ol>
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.
<b>10</b>		<b>Examples that indicate unsuitable advice</b>
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"> <li>(1) Review the available evidence in Information Areas 5, 6, 7, 8 and 9 of the Information Section.</li> <li>(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"> <li>(a) any forecast expenditure plans that the <i>firm</i> has identified with the <i>consumer</i>;</li> <li>(b) any intention or preference for early retirement;</li> <li>(c) any existing liabilities that the <i>consumer</i> continues to pay off (for example, their mortgage) and their plans for clearing these debts;</li> </ol> </li> </ol>

- (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> <ul style="list-style-type: none"> <li>(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</li> <li>(2) if the <i>consumer</i> does not have this priority objective answer 'no' to this question and proceed to Example 3.</li> </ul>
10.5	R	<p>Take the following steps to determine whether this example is present:</p> <ul style="list-style-type: none"> <li>(1) Review the available evidence in Information Areas 2, 5, 6 and 7 of the Information Section.</li> <li>(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: <ul style="list-style-type: none"> <li>(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</li> <li>(b) in the comparator scheme.</li> </ul> </li> <li>(3) Identify whether there was an alternative way to meet the <i>consumer's</i> objective without giving up comparator scheme benefits, including: <ul style="list-style-type: none"> <li>(a) level term assurance for the required sum; or</li> <li>(b) decreasing term assurance for an appropriate term; or</li> <li>(c) using available death in service cover.</li> </ul> </li> <li>(4) Decide whether the <i>firm</i> has a reasonable basis for believing that: <ul style="list-style-type: none"> <li>(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</li> <li>(b) the <i>consumer</i> is able financially to bear any transfer-related risks consistent with their investment objectives.</li> </ul> </li> </ul>
10.6	E	<p>Answer 'yes' to this question when the available evidence demonstrates that:</p> <ul style="list-style-type: none"> <li>(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</li> <li>(2) a lower risk suitable alternative was available to achieve this objective; and/or</li> <li>(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</li> <li>(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</li> <li>(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.</li> </ul> <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> <ul style="list-style-type: none"> <li>(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</li> </ul>



		(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 BSPS 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:

		(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
		(2)	if the <i>consumer</i> does not have this priority objective, answer 'no' to this question and proceed to Example 7.
10.19	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 <i>consumer's</i> objectives and financial situation.
		(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:
		(a)	the <i>proposed arrangement</i> ; and
		(b)	the comparator scheme(s).
		(3)	Consider whether the <i>consumer</i> may have retired at a protected retirement age in the comparator scheme(s).
		(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:
		(a)	other pensions (defined benefit or defined contribution);
		(b)	income from part time work; and
		(c)	savings, investments or other assets.
		(5)	Decide whether the <i>firm</i> has a reasonable basis for believing that the recommendation to transfer to retire early:
		(a)	meets the <i>consumer's</i> investment objectives; and
		(b)	the <i>consumer</i> is able financially to bear any risks consistent with their investment objectives.
10.20	E		Answer 'yes' to this question when the available evidence demonstrates that:
		(1)	the <i>consumer</i> could have retired in the comparator scheme(s) at a protected retirement age; and/or
		(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
		(3)	a lower risk suitable alternative was available to achieve this objective; and/or
		(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
		(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
		(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.
			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:

- (1) if the *consumer* wants or indicates a preference for guaranteed income or returns, take the steps in 10.22R; and/or
- (2) if the *consumer* does not have this objective, answer 'no' to this question and proceed to Example 8.
- 10.22 R Take the following steps to determine whether this example is present:
- (1) Refer to the available evidence in Information Areas 2, 6 and 7 of the Information Section on the *consumer's* objectives and financial situation.
- (2) Identify whether the *proposed arrangement*:
- (a) guarantees the *consumer's* income or returns; or
- (b) takes into account the *consumer's* preference for a guarantee and puts in place a sustainable strategy to achieve this end.
- (3) Determine whether the recommendation to transfer met the *consumer's* preference for guaranteed income or returns.
- 10.23 E Answer 'yes' to this question when the available evidence demonstrates that:
- (1) the *consumer* wants or has indicated a preference for guaranteed income or returns throughout retirement; and
- (2) the *firm* has recommended that the *consumer* transfer into a *proposed arrangement* that does not meet these needs; or
- (3) the *firm* has not collected the necessary information in Information Area 3 of the Information Section about the *consumer's* attitude towards secure income or guarantees and so it is not possible to complete the assessment in 10.22R because the *firm* has not demonstrated that it has a reasonable basis for believing that the *consumer* 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 *consumer's* preferences regarding risk taking and risk profile and their understanding of the risk of transfer.
- (2) Compare (a) with (b):
- (a) the *consumer's* preferences regarding the risks specific to *pension transfers* in general, focusing on the *consumer's* attitude to:
- (i) *safeguarded benefits* or guarantees;
- (ii) *flexible benefits* 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 *pension transfer* that the *consumer* 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 *proposed arrangement* 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 *firm* says the transfer analysis supports the *firm's* recommendation to transfer.
- (7) Decide whether the *firm* 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 *firm* and assessed at (4) and (6).
- 10.27 E (1) Answer 'yes' to this question when the available evidence demonstrates that:
- (a) the *firm* 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 *consumer's* 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 *proposed arrangement*; and/or
  - (b) the *consumer* 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 *firm* 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 *firm* has not demonstrated that the recommendation meets the *consumer's* 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 *consumer*;
    - (b) the transfer analysis; and
    - (c) the *suitability report*.
  - (2) Establish the *consumer's* level of investment experience and knowledge of *pension transfers*, pensions and investments at the time of the advice:
    - (a) in relation to *defined benefit occupational pension schemes*;
    - (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;



- (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) if the *consumer* approached the *firm* for advice before 12 October 2017 and the Time to Choose period, consider:
    - (i) whether the *firm* should have waited until more information was available about the comparator scheme(s) to provide the recommendation;
    - (ii) what information the *firm* was able to provide the *consumer* 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 *consumer's* understanding of their options and the risk of transfer;
  - (d) what the *consumer* is likely to have understood after this information was provided, taking into account the overall impression that the *consumer* would reasonably have had of the features and risks of a transfer, particularly in the light of:
    - (i) the entirety of the *firm's* communications with the *consumer*, including communications the consumer received from the scheme trustees;
    - (ii) the extent to which the *firm's* communications were balanced and rational in their presentation of features and risks; and
    - (iii) the *consumer's* relevant experience and knowledge in (2) above.
- 10.29 E Answer 'yes' to this question where:
- (1) the *firm* did not communicate in substance the risks of transferring in a way the *consumer* would have understood; and/or
  - (2) the *firm* did not take reasonable steps to ensure that the *consumer* understood the *firm's* transfer analysis, their option to transfer to a comparator scheme, and its advice; and/or
  - (3) the *firm* did not take reasonable steps to correct any misunderstandings the *consumer* had in relation to the benefits available and/or the security of their benefits in the comparator schemes; and/or
  - (4) the *firm* 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 *firm* does not have a reasonable basis for believing that the *consumer* has the necessary knowledge and experience to transfer.
- Example 11: the consumer is under 50 and cannot bear the risks of transfer
- 10.30 R
- (1) Refer to the available evidence in Information Area 1 of the Information Section; and
  - (2) Identify whether the *consumer's* age at the time of the advice is 50 or under and:
    - (a) if the *consumer* 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"> <li>(a) the amount needed;</li> <li>(b) the date the amount is needed; and</li> <li>(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"> <li>(i) release capital and/or tax-free cash from their scheme; and</li> <li>(ii) draw an income from the scheme;</li> </ul> </li> <li>(d) the alternatives available to achieve the objective, including:                 <ul style="list-style-type: none"> <li>(i) the option to remain in the scheme and wait for the outcome of the PPF assessment;</li> <li>(ii) the option to remain in the scheme and transfer into BPS2; and</li> <li>(iii) use of other assets to achieve the <i>consumer's</i> objective.</li> </ul> </li> </ul>
		(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"> <li>(a) whether the <i>firm</i> should have waited until more information was available about the comparator scheme(s) to provide the recommendation;</li> <li>(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</li> <li>(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.</li> </ul>
		(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"> <li>(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</li> <li>(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</li> </ul>

- (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> <p>(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;</p> <p>(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.</p>
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> <p>(1) the <i>consumer's</i> demands, needs and intentions at the time of the advice, including in relation to:</p> <ul style="list-style-type: none"> <li>(a) the <i>consumer's</i> financial situation;</li> <li>(b) any potential tax or other liabilities the <i>consumer</i> has;</li> <li>(c) the <i>consumer's</i> objectives and future financial needs throughout retirement;</li> <li>(d) the <i>consumer's</i> age and expected retirement age;</li> <li>(e) the <i>consumer's</i> state of health; and</li> <li>(f) the <i>consumer's</i> timeline for making any relevant decision about their BSPS in light of the BSPS restructuring;</li> </ul> <p>(2) the <i>consumer's</i> knowledge and experience at the relevant time, including:</p> <ul style="list-style-type: none"> <li>(a) the <i>consumer's</i> knowledge and experience as recorded in the Information Section;</li> <li>(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;</li> <li>(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;</li> <li>(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</li> <li>(e) the extent to which the <i>consumer</i> considered whether to take the relevant step independently of the <i>firm's</i> advice.</li> </ul> <p>(3) whether the <i>consumer</i> had characteristics of vulnerability as recorded in the Information Section;</p> <p>(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></p>

- 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			<b>Redress Calculation BSPS calculator instructions</b>
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 <a href="#">CONRED 4 Annex 23G</a> explains the steps to complete the redress calculation using the BSPS calculator in diagrammatic form, with reference to the relevant sections of the instructions, <a href="#">DISP App 4</a> and <a href="#">CONRED 4 rules</a> .
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 <a href="#">CONRED 4</a> 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	<ol style="list-style-type: none"> <li>(1) Subject to <a href="#">DISP App 4.3.25R</a>, 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.</li> <li>(2) If a firm 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.</li> </ol>
Steps for redress calculation		
13.16	G	The BSPS calculator can be accessed on the <i>FCA's</i> 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> <ol style="list-style-type: none"> <li>(1) Step 1: obtain the necessary information to calculate redress, including identifying the relevant comparator scheme by following the instructions at <a href="#">CONRED 4 Annex 21 13.21G</a> to <a href="#">13.26R</a>.</li> <li>(2) Step 2: identify when the <i>consumer</i> would have taken retirement benefits from the comparator scheme by following Step 2 of <a href="#">DISP App 4</a>.</li> <li>(3) Step 3: carry out a redress calculation by: <ol style="list-style-type: none"> <li>(a) inputting the necessary information into the calculator, overriding default settings where appropriate, as specified in <a href="#">CONRED 4 Annex 21 13.30R</a>; and</li> <li>(b) running the BSPS calculator and obtaining a calculator report.</li> </ol> </li> </ol>

		(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: <ol style="list-style-type: none"> <li>(1) complete Step 2 in DISP App 4.3.15R to 4.3.18G; and</li> <li>(2) use for the purpose of the redress calculation.</li> </ol>
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: <ol style="list-style-type: none"> <li>(1) move to BSPS2; or</li> <li>(2) remain in the original BSPS scheme, which would move into the PPF.</li> </ol>
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: <ol style="list-style-type: none"> <li>(a) the <i>consumer</i> was under 50 at the time of the advice;</li> <li>(b) the <i>consumer</i> could not accept a reduction in the starting pension entitlement at retirement; or</li> <li>(c) the <i>consumer</i> wanted to retain the option to transfer benefits in the future.</li> </ol>
		(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: <ol style="list-style-type: none"> <li>(a) the <i>consumer</i> needed to take the highest <i>pension commencement lump sum</i> available at their retirement date; and</li> <li>(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.</li> </ol>
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 *firm* must determine the *consumer's* retirement date using the *rules* and *guidance* at DISP App 4.3.15R to 4.3.18G, with the following modification: any reference to the *defined benefit occupational scheme* 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 *firm* 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:
- (1) 'X' is the estimated value of the benefits in the *defined benefit occupational pension scheme*; and
  - (2) 'Y' is the value of the benefits from the *consumer's* DC pension arrangement.
- 13.29 R Where 'X' is greater than 'Y', the *consumer* has suffered a loss and the amount calculated is the primary compensation sum to be used at Step 4.
- 13.30 R A *firm* must input the following information into the BSPS calculator to carry out the redress calculation:
- (1) Information relevant to the *consumer's* personal and financial situation including, where relevant, and overriding the default setting where different:
    - (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 *consumer's* 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 *consumer* is alive or deceased on or before the calculation date (default is that the *consumer* is still alive). If the *consumer* is deceased, the *consumer's* date of death.
  - (2) Where the comparator scheme is the BSPS (PPF) data relating to the *consumer's* former benefit entitlement in the BSPS, including:
    - (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 BPS2, data relating to the *consumer's* former benefit entitlement in the BPS, including:
  - (a) Section (the BPS calculator will provide a list of Sections);
  - (b) the DOL;
  - (c) annual BPS2 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 BPS 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 BPS2'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 BPS;
  - (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 <i>adviser</i> 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 *consumer* 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 *consumer* in the form of a cash lump sum for the purpose of CONRED 4.4.2R.

BSPS DBAAT Annex

- 1 **Features, benefits and risks of a pension transfer**
- 1.1 The definitions in CONRED 4 and CONRED 4 Annex 21 1.3R apply to this Annex.
- 1.2 Table 1 illustrates in general the relative features and benefits of a *defined benefit occupational pension scheme* ('DB scheme') and a *non-DB pension scheme* ('DC scheme').
- 1.3 Table 1 should be read alongside the *consumer's* BSPS Scheme Rules and Handbook to determine how the BSPS benefits below apply to the *consumer* at the point the *firm* advised the *consumer*. Where there were special benefits in the BSPS that may be relevant to the *firm's* advice and disclosure of risks and benefits of transfer in general these are mentioned in 'notes' in Table 1.

Table 1:

	DB Scheme	DC Scheme
Benefits available	<p>Defined by scheme rules.</p> <p>Pay a regular income based on the <i>consumer's</i> salary and length of the <i>consumer's</i> membership in the pension scheme.</p>	<p>Benefits depend on <i>consumer</i> contributions. The <i>consumer</i> builds up a pension 'pot' over time.</p> <p>Benefits available include taking withdrawals directly from the pot either via <i>uncrystallised funds pension lump sums</i> (UFPLS) or flexi-access draw-down (FAD) or using part/all of the pot to purchase an annuity to secure a guaranteed income for life.</p>
When can benefits be taken?	<p>Scheme benefits are intended to be taken at the scheme Normal Retirement Date (NRD), defined in the scheme rules (e.g. at age 65).</p> <p>Most schemes permit benefits to be drawn earlier than NRD (but only once the <i>consumer</i> reaches the scheme's minimum pension age), though with an actuarial reduction typically applied for every year they are taken before NRD.</p> <p>Note – <i>Consumers</i> that joined the BSPS before 6 April 2006 had a protected minimum pension age of 50. This benefit was lost on transfer to a DC pension (unless it was done as part of a block/buddy transfer) but may have been retained in BSPS2 and the PPF.</p>	<p>Benefits can be withdrawn from the pension at any point once the <i>consumer</i> meets their normal minimum retirement age.</p>
Is a <i>pension commencement lump sum</i> (PCLS) available?	<p>A PCLS is available and is typically achieved by 'commuting' pension benefits for lump sum benefits using a commutation factor outlined in the scheme</p>	<p>25% of the pension 'pot' is available to be withdrawn as a PCLS.</p>

Table 1:

Are benefits protected against inflation?	<p>rules. This typically leads to a lower PCLS available than from a DC scheme.</p> <p>The pension benefits under a DB scheme typically have a level of inflation protection (the income will increase every year) both in deferment (before the <i>consumer</i> accesses the pension) and in payment.</p>	<p>There is no explicit inflation protection for benefits invested in a DC scheme. DC pension pots may be invested in the markets to generate a return to offset inflation.</p>
What flexibility is available within the scheme?	<p>The level of inflation protection depends on the type of benefits accrued (for example, Guaranteed Minimum Pension ('GMP'), excess over GMP) and when they were accrued. It is also impacted by certain minimums set out in legislation. The scheme rules detail the level of indexation and escalation that is applied.</p> <p>DB schemes typically have flexibility around when benefits are taken from the pension, subject to confirmation in the scheme rules on early retirement and the factors that are used.</p> <p>All benefits are usually taken simultaneously – for example, PCLS and income benefits are usually taken in their entirety at the same time.</p>	<p>Where a <i>consumer</i> uses their pot to purchase an annuity, they can purchase levels of inflation protection, though this comes at the cost of reducing the initial income payment to the client.</p> <p>DC schemes allow for flexibility as to when and how benefits are taken. Further, not all benefits have to be taken at the same time. For example, partial or full PCLS can be taken without starting to withdraw income benefits.</p>
Benefits available on death of consumer	<p>A DB scheme will usually include a spouse's pension, which will continue to pay a proportion of the <i>consumer's</i> income after their death. There may also be pensions for dependent family <i>consumers</i>. Some schemes may make minor lump sum payments depending on when the <i>consumer</i> dies (e.g. if it was not long after they elected to take benefits).</p>	<p>Whatever is left in the pension pot at the <i>consumer's</i> death is an asset which is available to be inherited by a nominated individual. Annuities may also have other benefits (e.g. a spouse's pension) built in at the time of purchase which will continue paying an income to a spouse, though typically at a reduced rate.</p>
1.4	<p>The key risks associated with a transfer from a DB scheme to a DC scheme include:</p> <ol style="list-style-type: none"> <li>(1) the loss of <i>safeguarded benefits</i>, in the form of a guaranteed lifetime income from the DB scheme for the <i>consumer</i> and their eligible dependants (usually spouses and dependent children);</li> <li>(2) the loss of the inflationary protection that is provided by the DB scheme associated with the pension (both in deferment and in payment);</li> <li>(3) the transfer of investment risk from the DB scheme (and sponsoring employee) to the <i>consumer</i>. Poor investment returns will directly impact on the value of the <i>consumer's</i> benefits in a DC scheme. In a DB scheme, investment returns impact on the scheme's funding position and the sponsoring employer must make good any shortfall;</li> <li>(4) the transfer of longevity risk, which is the risk of running out of money in retirement and having to rely on the state pension. This is a key risk for <i>consumers</i> that choose to withdraw money from their pension via UFPLS or FAD. It is not a risk that is present in a DB scheme;</li> <li>(5) the transfer of responsibility for decisions about scheme assets. A <i>consumer</i> must keep their DC scheme assets under review, particularly where benefits are withdrawn via either UFPLS or FAD. In these situations, the <i>consumer</i> will need to continue monitoring their pension and potentially</li> </ol>	

making complex and important investment and withdrawal decisions for the remainder of their lives. Where professional support is needed to help with the monitoring and these decisions, this will come at a cost that will reduce the available benefits within the pension.

**2 Comparison of benefits provided by BSPS2 and the Pension Protection Fund (PPF)**

- 2.1 Table 2 compares the benefits available from the proposed BSPS2 with the benefits available from the PPF for deferred (rather than retired) *consumers* who were eligible for a *pension transfer*. This information would have become available when Time to Choose packs were sent out between 9 and 11 October 2017 at the beginning of the Time to Choose period.
- 2.2 The BSPS first entered the PPF assessment period on 29 March 2018. During the assessment period, the PPF considers whether the assets of the scheme can be used to secure benefits for the *consumer* in excess of those provided by the PPF. If they cannot, the scheme is transferred to the PPF. During the assessment period, *consumers* who retire receive benefits at PPF levels.

**Table 2:**

	Benefits and features of BSPS2	Benefits and features of the PPF	Comparison of BSPS2 to PPF
'Starting' income benefits by comparison to Old BSPS scheme – Consumers aged 65 or over at date of PPF assessment	No reduction	No reduction	Both options are the same.
'Starting' income benefits by comparison to Old BSPS scheme – Consumers below age 65 at date of PPF assessment	No reduction	All income benefits reduced by 10% AND subject to the benefit cap (see 3.1(3)):  <ul style="list-style-type: none"> <li>•April 2016 to April 2017 – £37,420.42 at age 65</li> <li>•April 2017 to April 2018 – £38,505.61 at age 65</li> </ul>	BSPS2 provides unreduced income benefits for all scheme <i>consumers</i> .
Revaluation of benefits in deferment (pre-retirement)  Source: Time to Choose Information Pack (for BSPS2)	Benefits accrued:  <ul style="list-style-type: none"> <li>•Before 5 April 2006 – CPI with no cap</li> <li>•5 April 2006 to 5 April 2009 – CPI capped at 4% a year</li> <li>•5 April 2009 to 5 April 2012 – CPI capped at 4% a year</li> <li>•5 April 2012 to 5 April 2016 – CPI capped at 3% a year</li> <li>•From 5 April 2016 – CPI capped at 2.5% a year</li> </ul>	Benefits accrued:  <ul style="list-style-type: none"> <li>•Before 5 April 2006 – CPI capped at 5% a year</li> <li>•5 April 2006 to 5 April 2009 – CPI capped at 5% a year</li> <li>•5 April 2009 to 5 April 2012 – CPI capped at 2.5% a year</li> <li>•5 April 2012 to 5 April 2016 – CPI capped at 2.5% a year</li> <li>•From 5 April 2016 – CPI capped at 2.5% a year</li> </ul>	BSPS2 generally provides more favourable revaluation in deferment, except for:  <ul style="list-style-type: none"> <li>•benefits between 5 April 2006 and 5 April 2009 where PPF revaluation is better</li> <li>•benefits from 5 April 2016 which are revalued at the same rate</li> </ul>
Indexation of benefits	•GMP benefits be-	•GMP benefits be-	BSPS2 generally pro-

Table 2:

in payment (post-retirement)	<p>tween 5 April 1978 and 5 April 1988 – No increases</p> <ul style="list-style-type: none"> <li>•GMP benefits between 5 April 1988 and 5 April 1997 – CPI capped at 3% a year</li> <li>•Excess over GMP pre-5 April 1997 – No increases</li> <li>•Pension benefits between 5 April 1997 and 5 April 2005 – CPI capped at 5% a year</li> <li>•Pension benefits from 5 April 2005 – CPI capped at 2.5% a year</li> </ul>	<p>tween 5 April 1978 and 5 April 1988 – No increases</p> <ul style="list-style-type: none"> <li>•GMP benefits between 5 April 1988 and 5 April 1997 – No increases</li> <li>•Excess over GMP pre-5 April 1997 – No increases</li> <li>•Pension benefits between 5 April 1997 and 5 April 2005 – CPI capped at 2.5% a year</li> <li>•Pension benefits from 5 April 2005 – CPI capped at 2.5% a year</li> </ul>	<p>vides more favourable indexation in retirement except for:</p> <ul style="list-style-type: none"> <li>•GMP benefits between 5 April 1978 and 5 April 1988 where neither provide indexation;</li> <li>•excess over GMP pre-5 April 1997 where neither provide indexation; and</li> <li>•pension benefits from 5 April 2005 where indexation is at the same rate.</li> </ul>
Spouse and dependents benefits	<ul style="list-style-type: none"> <li>•Continued income benefits valued at 50% of the <i>consumer's</i> pension, calculated with reference to the <i>consumer's</i> pension <b>before</b> any is commuted for a PCLS.</li> <li>•In Time to Choose packs (issued between 9 and 11 October 2017), there was uncertainty over whether same sex spouses or civil partners would be eligible to pension payments relating to benefits accrued before 1997.</li> <li>•The scheme pays out a lump sum if the <i>consumer</i> dies less than 5 years after taking their pension. This equals the total amount of remaining pension they would have received in those 5 years. This is in addition to the spouse's pension.</li> <li>•Children's allowance paid for 'qualifying dependent children'.</li> </ul>	<ul style="list-style-type: none"> <li>•Continued income benefits valued at 50% of the <i>consumer's</i> pension, calculated with reference to the <i>consumer's</i> pension <b>after</b> any is commuted for a PCLS.</li> <li>•PPF treats same sex spouses and civil partners in the same way as an opposite sex spouse – they are eligible for a spouse pension relating to all benefits accrued, regardless of when they were accrued.</li> <li>•No lump sum death benefits are paid from the PPF.</li> <li>•Dependent's pension available for qualifying children either under 18 or over 18 but under 23 in 'qualifying education' or with a 'qualifying disability'. 50% of <i>consumers</i> compensation if there is one child, or 100% split equally if there are 2 or more children.</li> </ul>	<p>Death benefits under BSPS2 are generally more beneficial due to higher reference point for calculating spouses' pension plus the presence of a lump sum payment if death occurs in the first 5 years.</p> <p>However, there are question marks over eligibility for payments to same sex spouses and civil partners under BSPS2. These question marks do not apply to the PPF, which treats same and opposite sex spouses/civil partners the same.</p>
Pension commencement lump sum (PCLS)	<p>PCLS is available from BSPS2 by commuting income.</p> <p>The commutation factors range from £12.60 to £23 of lump sum for</p>	<p>PCLS is available from the PPF by commuting income.</p> <p>The commutation factors range from £20.22 to £43.57 of lump sum</p>	<p>The PPF provides more favourable PCLS commutation factors in all instances.</p> <p>Where a <i>consumer</i> wishes to take the max-</p>



Table 2:

	<p>every £1 of income, depending on the age at which the <i>consumer</i> retires and when the <i>consumer</i> built up benefits in the old scheme.</p> <p>Where a significant proportion of the <i>consumer's</i> rights are in the form of GMP benefits, this may inhibit the amount of pension they are able to commute for a PCLS in BSPS2.</p>	<p>for every £1 of income, depending on the age at which the <i>consumer</i> retires and when the <i>consumer</i> built up benefits in the old scheme.</p>	<p>imum PCLS, the PPF will typically provide both a larger PCLS and a larger starting income (even after accounting for the 10% reduction in the PPF) than BSPS2.</p>
Early retirement	<p>Early retirement is available from BSPS2.</p> <p>The early retirement factor ranges from 0.73 to 0.97, depending on the age at which the <i>consumer</i> retires and when the <i>consumer</i> built up benefits in the old scheme.</p> <p>Where a significant proportion of the <i>consumer's</i> rights are in the form of GMP benefits, this may reduce the level of income they can withdraw if they seek early retirement.</p>	<p>Early retirement is available for the PPF.</p> <p>The early retirement factor ranges for 0.819 to 0.978, depending on the age at which the <i>consumer</i> retires.</p>	<p>The PPF provides more favourable early retirement factors than BSPS2 in all circumstances, regardless of the <i>consumer's</i> age and when they accrued benefits.</p> <p>However, the PPF reduces starting income by 10% (BSPS2 does not). After this reduction is applied, BSPS2 typically provides a higher starting income.</p>
Potential for future transfer requests	<p>BSPS2 allowed <i>consumers</i> the option to transfer out at any time up to a year from the <i>consumer's</i> NRD.</p>	<p>Once a scheme enters the PPF assessment period, <i>consumers</i> are no longer permitted to transfer out of the scheme.</p>	<p>BSPS2 provided <i>consumers</i> with more flexibility of options, in regard to the ability to transfer out at a future date, than the PPF.</p>

**3 Information available to advisers during the relevant period**

3.1 The following information was available to advisers about the PPF benefits:

- (1) Once a scheme enters the PPF assessment period, the benefits that will be available to *consumers* of the BSPS who have not yet commenced drawing a pension are calculated by reference to provisions governing the PPF and will not be the same as the pension that would have been available in the BSPS.
- (2) The PPF treatment of *consumer* benefits throughout the relevant period was published or available:
  - (a) on the PPF website (<https://www.ppf.co.uk/>);
  - (b) directly from the PPF;
  - (c) through continuing professional development, including in the study material for the qualifications required to be a *pension transfer specialist*.

(3) In July 2021, the Court of Appeal ruled that the PPF compensation cap was unlawful on the grounds of age discrimination. The PPF confirmed that the compensation cap would no longer apply and it would be removed from affected PPF pensioners. Whilst this is the case now, advisers at the time would not have been aware of this change, so it would have been reasonable to assume that the cap would still apply to those *consumers* with benefits above the cap. More information is found at <https://www.ppf.co.uk/trustees-advisers/valuation-guidance/compensation-cap-factors>.

3.2 The information in Table 3 was available to advisers about BSPS2 benefits during the relevant period.

Table 3:

Date	Information
30 March 2016	Tata Steel Ltd announcement examining options for restructuring business and calling into question the future of BSPS.
26 May 2016	DWP launch consultation on BSPS outlining 4 options for the future of BSPS.
26 May 2016	Letter to consumers from BSPS Trustee (Allan Johnston) outlining Government consultation on potential changes to BSPS.
16 June 2016	BSPS Trustees response to the DWP consultation.
12 August 2016	Trustee update to consumers.
7 December 2016	Tata Steel UK announcement on proposal to close BSPS to future accrual.
7 December 2016	Trustee update to consumers following Tata Steel UK Ltd's announcement on proposal to close BSPS to future accrual.
12 January 2017	Trustee statement on potential future of the scheme.
27 January 2017	Trustee letter to consumers providing an update on developments.
31 March 2017	The old BSPS scheme closed to accrual and all active <i>consumers</i> became deferred.
1 April 2017	Trustee amendment to how the CETV was calculated resulting in most <i>consumers</i> seeing an increase in their CETV after 1 April 2017 compared to before.
16 May 2017	PPF and TPR announcements on key commercial terms for an RAA being agreed in principle.
11 August 2017	TPR announcement on initial approval of RAA for BSPS.
25 August 2017	Trustee announcement to <i>consumers</i> on CETV change.
11 September 2017	Trustee announcement on RAA.
9-11 October 2017	Time to Choose packs sent out to <i>consumers</i> (received by <i>consumers</i> between 9 and 11 October 2017) which detailed personalised benefits for <i>consumers</i> under BSPS2.
29 November 2017	The deadline for <i>consumers</i> to make a decision under Time to Choose was extended from 11 December to 22 December 2017.
16 February 2018	The trustees stated deadline for receiving transfer applications.
29 March 2018	The old BSPS scheme entered the PPF assessment period and was closed to transfer.

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## BSPS Calculator steps in diagrammatic form

This Annex belongs to ■ CONRED 4 Annex 21 13.8G The diagram illustrates the steps to take to calculate redress and to complete a *redress determination* using the BSPS calculator.

