

Briefing

FCA-TPR guidance on DB transfers: how does this affect member support?

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On 30 March 2021, the FCA and TPR published [joint guidance](#)¹ to employers and trustees. It sets out the information they can provide to employees and pension scheme members about financial matters, in particular DB transfers, without giving FCA-regulated advice when not authorised to do so. This note focuses on the guidance in relation to DB transfers.







DB transfers: where is the line between guidance and advice?

Defining the advice boundary

The guidance provides some welcome clarity on the FCA and TPR's views on where the advice boundary lies when it comes to DB transfers. The guidance is not definitive because it is their interpretation of the law. However it does provide comfort that many existing, and emerging, industry practices in this area are on the right side of the boundary. The table below provides a snapshot of the different areas that the guidance comments on and whether an action taken by employers or trustees is deemed to be giving advice or not.

ACTION	OK?	BW COMMENT
Giving information to members		
Providing information that suggests one course of action (e.g. transferring) is better than another (e.g. staying in the scheme).	✗	This is a key test. If the information suggests a transfer value is the right course of action for a member then it is likely to be deemed to be giving advice.
Providing generic, balanced and factual information about DB versus DC benefits.	✓	The guidance includes some helpful examples of what this might be and other sources of information you can point to.
Providing information about options available within the DB scheme including quoting an illustrative or guaranteed transfer value.	✓	Clarifies that simply quoting transfer values on member communications is not giving advice.
Providing a transfer value to members automatically without it having been requested e.g. including transfer values as standard in retirement packs or benefit statements.	✓	Guidance confirms this is also fine, though it states you should consider if it is appropriate to do so.

1. <https://www.thepensionsregulator.gov.uk/-/media/thepensionsregulator/files/import/pdf/tp-r-fca-employers-trustees-financial-matters-guide>

ACTION	OK?	BW COMMENT
Providing illustrative figures (i.e. ones that make assumptions about the future) of potential outcomes outside of the DB scheme, for example future drawdown projections or future annuity purchase.		The guidance draws a clear distinction between showing members illustrative figures of options within the DB scheme compared to options outside of the DB scheme.
Providing an illustrative drawdown projection showing how long the transfer value would last if the member took a certain level of income per year.		This is an illustrative figure that makes assumptions about the future in relation to an option only available outside of the DB scheme.
For a member age 55 or over, comparing the DB pension to an annuity quote, or quotes, of the lifetime income the member could purchase immediately with the DB transfer value. This should use current annuity rates of an annuity that most closely matches the DB income being given up (typically index-linked with a spouse's pension).		Despite this illustrating an option only available outside of the DB scheme, the guidance confirms that this would not be giving advice because it is using factual information readily available (in theory) to the public. The difference with drawdown is that no assumptions are being made because the annuity quote is derived from the open market, though the guidance states care must be taken not to be seen as recommending a particular annuity product.
Providing access to financial advice		
Arranging access to advice through a named IFA because you: - Are in a better position to identify a suitable firm; - Are better able to negotiate good terms; and - See value in experts recommending a firm and reviewing the quality of the service provided on an ongoing basis.		As long as this is done in the right way, the guidance provides confirmation that trustees and sponsors arranging for members to get advice from an IFA is not itself deemed to be giving advice to the member. In addition, there is confirmation of the benefits that trustees and sponsors can bring by doing this on behalf of their members.
Carrying out a one-off exercise of identifying suitable IFAs and providing a list of firms for members to use or arranging for members to get advice from an IFA firm which can advise on a suitably wide range of pension products and providers.		As per above, helping members find a good, reputable IFA is not deemed to be crossing the advice boundary. The IFA should be one able to advise on a wide range of products and providers.
Providing access to an IFA firm that is 'restricted' rather than 'independent' – that is, can only advise on a limited range of products or providers and not the full market.		This is a bit of a grey area. The guidance is not definitive on this point and states only that it may be harder to satisfy the requirement that the adviser is able to advise on a suitably wide range of products and providers.

Everything clear? Not quite

Whilst the guidance is helpful in a lot of areas it does leave some questions unanswered.

Schemes which currently provide illustrative figures

Some schemes will be providing members with illustrative figures of options available outside of their DB scheme. Examples of this are:

- Retirement packs or benefit statements that automatically include illustrations of annuity purchase at a future point in time and / or drawdown projections
- Providing access to an online modelling tool that allows the member to model different 'stay in DB' versus 'transfer out' scenarios, including drawdown.

The rationale for this may have been to improve member understanding about what their options mean for them and to add context to the transfer value.

These schemes will carefully need to consider what amendments are necessary to such communications.

Carrying out a bulk transfer exercise

Bulk transfer exercises, such as a one-off enhanced transfer value offer to a group of members, are designed to comply with the voluntary [code of good practice](#)² to ensure members are treated fairly in such exercises. One of the key principles in the code is around communications. The communications should be unbiased and not attempt to influence the member over what decision to make. This is consistent with the guidance. However, the code also states that for transfer exercises:

"...illustrations of risk (if included) should include a suitably wide range of possible future inflation, investment return and annuity price outcomes."



On the face of it, this appears directly to contradict the guidance because including such illustrations would mean making assumptions about the future for options outside of the DB scheme. This raises some questions for trustees and sponsors about what you can say in member communications for bulk transfer exercises without being deemed to be giving advice to members.

'Restricted' or 'independent' IFA

Some IFAs only provide advice on a subset of products and providers, rather than the whole market. These IFAs are known as 'restricted' advisers (as opposed to 'independent' advisers). The guidance questions whether a restricted adviser is independent enough to ensure that, by partnering with them, trustees and sponsors are not unintentionally carrying out a regulated activity.

In our experience, most IFA firms that specialise in partnering with DB schemes are 'independent'. But where a restricted adviser is in place, the guidance does not provide any clarity as to how schemes should determine whether this would be an issue or not. In the absence of further clarification, it's likely trustees and sponsors will need to take legal advice.

What has been clarified?

Helpfully, the guidance provides clarity that most communications issued by most schemes regarding DB transfers will not be deemed to be giving advice. There were fears that even quoting a transfer value could be crossing the boundary, which is clearly not the case now.

In addition, it confirms that it is acceptable, and indeed can be highly beneficial, for trustees and sponsors to partner with IFA firms able to give advice on a wide range of products and providers. This is a growing trend that we expect to see continue to grow given the clarity provided by the guidance.

2. <https://www.thepensionsregulator.gov.uk/-/media/thepensionsregulator/files/import/pdf/incentive-exercises-industry-code-of-practice.ashx>

Your checklist of actions

Below is a short checklist of immediate actions for you to consider.

ACTION	DONE?
Review 'business-as-usual' member communications to confirm that they are not crossing the advice boundary. Consider next steps carefully if the packs include illustrative figures of options available outside of the DB scheme (e.g. drawdown illustrations or future annuity purchase options).	
Consider adding additional signposting in your standard member communications to the FCA, Money and Pension Service (MaPS) and other useful websites set out in the guidance.	
Consider functionality of any online modelling tools provided to members and whether this crosses the advice boundary. Consider temporarily removing access for all members while this is investigated.	
If the scheme already partners with an IFA firm, check if the IFA is 'independent' or 'restricted' as defined in the guidance. If the IFA is restricted, then consider if that is appropriate in light of the guidance.	
If you are currently running, or planning to run, a bulk transfer exercise, consider the implications of the guidance on the member communications and what can, and cannot, be included.	

Next Steps

If you have been holding off considering further what information you can helpfully provide to members about their options, including a DB transfer, then in our view this guidance provides sufficient clarity to allow you to proceed with confidence. It also provide clarity that partnering with an IFA firm on which you have done some due diligence is not only permitted, but can be beneficial in a number of areas. If you have already taken steps in this area then these should be reviewed in light of the guidance, using the checklist above as a starting point.

Please contact your Barnett Waddingham consultant if you would like to discuss any of the above topics in more detail. Alternatively get in touch via the following:

✉ info@barnett-waddingham.co.uk

☎ 0333 11 11 222

www.barnett-waddingham.co.uk

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