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Work and Pensions Committee

British Steel Pension Scheme

Sixth Report of Session 2017–19

Report, together with formal minutes relating to the report

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Work and Pensions Committee

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Contacts

All correspondence should be addressed to the Clerk of the Work and Pensions Committee, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 8976; the Committee's email address is workpencom@parliament.uk.

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Unsuitable advice

During our ongoing inquiry into pension freedom and choice we received worrying evidence regarding financial advice provided to members of the British Steel Pension Scheme (BSPS). BSPS members have, over the past year, been exploited for cynical personal gain by dubious financial advisers in tandem with parasitical so-called "introducers". Steelworkers yet to reach pension age were encouraged to transfer their defined benefit pension rights into a defined contribution pension, known as a DB transfer. Anyone intending to take a DB transfer with a value over £30,000 is required to take financial advice. This is because, despite the attractive sums on offer (the average BSPS transfer value taken out was £400,000), a DB transfer is not usually in someone's interests. It means giving up generous, indexed and stable benefits in favour of a riskier investment. Many BSPS members were shamelessly bamboozled into signing up to ongoing adviser fees and unsuitable funds characterised by high investment risk, high management charges and punitive exit fees.

Unsuitable advice on DB transfers is not confined to BSPS members. Research by the Financial Conduct Authority (FCA), which regulates advisers, shows that only half of such advice nationwide meets its standards. Yet over 100,000 people a year are taking DB transfers on the back of this advice. Another major misselling scandal is already erupting and we therefore call on the relevant bodies to treat this as such and take urgent action. A key driver of poor advice is contingent charging. Genuine independence is not compatible with a charging model that only rewards advisers for recommending a particular course of action. We recommend a ban on contingent charging for DB transfer advice.

Too little, too late

Since our inquiries into BSPS began, the FCA has gradually picked off firms which were providing unsuitable advice to BSPS members. It has also announced it is conducting a review of information from all UK firms providing DB transfer advice. This is welcome, but it is too little, too late for BSPS members. Though a surge in interest in DB transfers began in April 2017, the FCA did not begin acting until November, by which stage BSPS members were facing a pressing deadline to choose their preferred pension option. This was partly a problem of co-ordination with the BSPS trustees and the Pensions Regulator (TPR), who are responsible for DB schemes. Given they were aware of problems with DB transfer advice, however, the FCA should have been ready to intervene earlier to protect BSPS members against unsuitable advice. It needs an online register of financial advisers that a non-specialist can use. It should also abandon its June 2017 proposal to drop the safeguard of requiring advisers to start from the presumption that a DB transfer is a bad idea for their client. In the light of the BSPS experience it looks reckless.

Confusion and mistrust

The outlines of a deal to save the sponsoring employer of the BSPS, Tata Steel UK, have been in place since May 2017. The scheme's members were apparently neglected

by the signatories: the company, the Government and TPR. Between October and December 2017, they were asked to make a choice between two pension schemes which offered inferior benefits to the BSPS: the Pension Protection Fund (PPF) or a new scheme, BSPS2. Many members had lost trust in the sponsor company and its pension pledges. The scheme was under-resourced and unable to provide basic facts to inform a complex choice. A member communication plan proved woefully inadequate. It was the responsibility of TPR, who oversee trustees and signed off the RAA, to monitor the situation and ensure that members were not left in the dark. All this failed. Instead, faced with making a life-changing choice in a hurry, many members were attracted to a third option of a DB transfer. This was seemingly unforeseen by all those bodies with a duty to watch and act. Under pension freedoms, a transfer offered members control over a substantial sum of their own money. Reputable local IFAs were overwhelmed by demand for advice. The circumstances surrounding the BSPS created perfect conditions for vultures to take advantage.

Around 25,000 BSPS members did not choose between BSPS2 and the PPF, including many very elderly or ill pensioners. They will default irreversibly into the PPF, which for many will be the worse option. The Government considered a system of deemed consent, which would have ensured that those members unequivocally better off in BSPS2 would have been moved there if they did not respond, but opted against it. Deemed consent would have resulted in better outcomes for pensioners and freed administrative resources to support members for whom the decision was less clear-cut. We recommend the Government draw on the BSPS experience and ensure that a legislative framework to enable deemed consent is in place for similar future deals. We also recommend TPR require all DB schemes to be able to calculate what each member's benefits would be under both statutory minimum indexation and PPF compensation rules. Members should expect to know what they are being asked to choose between.

Conclusion

The UK steel industry has been in long-term decline, and Tata Steel UK had become a large pension scheme with a shrinking company attached. The deal to maintain steel production in Port Talbot is very welcome. The outlines of that deal have been in place since May 2017. That ought to have been more than enough time to ensure that scheme members were supported adequately in the decisions they would need to make. They have been let down by all involved, and a minority have been exploited by opportunists. They can quite reasonably feel a sense of betrayal. There may well be similar deals involving other companies in future. Scheme sponsors, trustees, regulators and government—all culpable in this case—must ensure that the same mistakes are not made again.

1 Introduction

Why we did this inquiry

1. During our ongoing inquiry into pension freedom and choice we received worrying evidence regarding financial advice provided to members of the British Steel Pension Scheme (BSPS). We heard reports of large numbers of BSPS members requesting to transfer their defined benefit (DB) final salary pensions into defined contribution (DC) pension pots. We also heard concerns about the conduct of financial advisers and other intermediaries. We therefore took specific evidence on the BSPS. This report focuses on the choices faced by BSPS members in 2017. It does not examine the adequacy of the earlier pension settlement.

2. We intend to produce a separate report on broader pension freedom and choice issues. We also produced a report on the Financial Guidance and Claims Bill, in which we recommended that legislation be amended to provide for free guidance on pension freedoms by default and to ban pension cold calls.[1]

Steel industry

3. The BSPS is a large pension scheme sponsored by Tata Steel UK. On 30 June 2017, the main DB section of the scheme had 124,000 members, comprising 82,000 members who were receiving their pensions and 42,000 others, known as deferred members, who were yet to do so.[2] Just over 8,000 of those deferred members were current employees of Tata.[3] Many of the deferred members are long-serving staff who have been looking forward to a secure retirement after decades of arduous physical labour.[4]

4. The steel industry was once a major employer in the UK. At its peak in the early 1970s, over 300,000 people worked in steel production.[5] In the face of growing international competition, the industry has been in decline in recent decades, a process accelerated by the 2008–09 global recession. Combined with increased automation, this has contributed to a sharp decline in employment in the industry.[6] Current employment in Tata Steel UK is dwarfed by membership of the BSPS.[7]

5. Though steel is now a small UK industry, accounting for 0.1% of gross domestic product, the industry is heavily concentrated in a small number of less affluent areas. Tata Steel UK makes steel in Port Talbot in South Wales, and manufactures steel products in Caerphilly, Llanelli and Shotton in Wales and Corby, Hartlepool and Walsall in England.[8] The steel industry is vital to those and other deindustrialising areas, as both a direct employer and in more broadly supporting the local economy.

1 Work and Pensions Committee, Third Report of Session 2017–19, Protecting pensions against scams: priorities for the Financial Guidance and Claims Bill, HC 404
2 BSPS Information Debriefing following September 2017 Trustee Board Meeting . The BSPS also contains a much smaller defined contribution section.
3 BSPS Annual Report and Financial Statements, 31 March 2017
4 Q184–5 (David Neilly)
5 ONS (2016) The British steel industry since the 1970s
6 International Steel Statistics Bureau (ISSB) UK crude steel production statistics and ONS (2016) The British steel industry since the 1970s
7 Tata Steel employs around 8,500 in the UK. Source: Tata, Tata Steel in the UK [accessed January 2018]
8 Tata, Tata Steel in the UK [accessed January 2018]

Tata and the BSPS

6. In March 2016, in the face of continuing adverse conditions in the global steel market and reported losses of £2 billion over five years, the Tata Steel UK board announced that it would examine options to restructure the business. This raised the prospect of the DB pension scheme being decoupled from the company. While the scheme's assets covered 98% of its liabilities in 2016, a funding ratio far superior to many other schemes, there was considerable doubt about the ability of the company to continue both to operate in the UK and to meet pension obligations estimated at £14 billion.[9] Alasdair McDiarmid of the Community trades union told us that Tata Steel UK would have been unable to afford adequate ongoing deficit recovery contributions.[10]

7. When a company will inevitably be insolvent if it continues to sponsor a pension scheme it can apply to the Pensions Regulator (TPR) for a Regulated Apportionment Arrangement (RAA). Under an RAA, the scheme usually enters the Pension Protection Fund (PPF), which pays reduced benefits to members of schemes without sponsoring employers.[11] Unusually, while Tata Steel UK appeared inevitably insolvent if it remained responsible for its pension scheme, that scheme was well enough funded to pay benefits above PPF levels. In May 2016, the Government launched a public consultation on options for helping the BSPS as part of a wider package of government support.[12]

8. Though the Government has not made a formal announcement on the outcome of its consultation, the terms of a deal intended to keep Tata Steel UK in operation have gradually been put in place:

- In December 2016 agreement was reached with the trade unions to close the DB scheme for the accrual of pension rights from 31 March 2017.[13] An actuarial valuation of the scheme estimated a deficit of £2.5 billion.[14]

- In May 2017, the PPF announced that the key commercial terms of a RAA had been agreed. Under these plans, Tata would set up and sponsor a new pension scheme, BSPS2, subject to certain conditions relating to funding and size being satisfied. BSPS members would be given the opportunity to move into the new scheme prior to the existing scheme entering the PPF.[15]

- In August 2017, TPR approved that proposal because Tata Steel UK would otherwise be inevitably insolvent. BSPS will enter the PPF at the end of March 2018. In return, the PPF will receive will receive £550 million in cash from Tata Steel and a 33% equity stake in Tata Steel UK, enabling it to benefit should the company's fortunes improve.

9 British Steel Pension Scheme Annual Report and Financial Statements, 31 March 2017. The preceding year's report showed a deficit of £485 million as of March 2015, with a funding level of 97%.

10 Q228 (Alasdair McDiarmid)

11 PPF compensation is uprated less generously than under most scheme rules. Members who have not reached the scheme pension age also have their benefits cut by 10%. For full PPF compensation rules see the PPF website.

12 DWP (26 May 2016) British Steel Pension Scheme: public consultation

13 Tata Steel press release (7 Dec 2016) UK reaches agreement with the trade unions to progress towards the closure of its defined benefit pension scheme to future accrual and take important steps towards a more sustainable future

14 Written evidence from the Pensions Regulator (PFC0100)

15 PPF statement on the British Steel Pension Scheme, 16 May 2017

The RAA provided sufficient certainty to enable Tata Steel Europe (which includes the UK subsidiary) to progress its plans to merge with the European steel operations of ThyssenKrupp, a major German conglomerate.

9. **The UK steel industry has been in long-term decline, and Tata Steel UK had become a large pension scheme with a shrinking company attached. The deal to maintain steel production in Port Talbot is very welcome. The outlines of that deal have been in place since May 2017. That ought to have been more than enough time to ensure that scheme members were adequately supported in the decisions they would need to make.**

2 Choices on offer to BSPS members

BSPS2 or the PPF

10. In late September 2017, the 124,000 BSPS members were given the choice of staying in the BSPS, and thereby ending up in the PPF, or transferring to the proposed new BSPS2 scheme. This exercise was known as "Time to Choose". BSPS members were initially given until 11 December 2017 to decide. Allan Johnston, Chair of the BSPS trustee board, explained that the scheme would be liable to pay "£200 million it cannot afford" in benefit indexation if it did not move into the PPF by 29 March 2018.[16] The December 2017 deadline would give time to assess the viability of BSPS2 and assign appropriate assets and liabilities to the two schemes.[17]

11. The "vast majority" of members would be better off in BSPS2 than the PPF.[18] While BSPS2 indexation is lower than in BSPS, it is either equal to or better than the PPF. Unlike the PPF, BSPS2 does not cut starting entitlements for deferred members. It also calculates a spouse's pension on a more generous basis (see table 1). In some specific circumstances, such as if the member wants to take early retirement or a tax-free lump sum, PPF compensation can be better than BSPS2. Given that those factors depend on member preference, the scheme was not in a position to state which, and how many, members would be better off taking each option.[19]

16 Q234 (Allan Johnston)
17 Q234 (Allan Johnston)
18 Q228 (Alasdair McDiarmid), Q252 (Allan Johnston)
19 BSPS Time to Choose website FAQ: "When you say 'most members' would be better off in the new scheme, why don't you give an actual figure?"

Table 1: Comparison of PPF and BSPS2 (New BSPS) benefits

	PPF	BSPS2 (New BSPS)	Which is better?
Level of pension in payment			
Age 65 or over at date of PPF assessment	No reduction	No reduction	Same
Below age 65 at date of PPF assessment	Reduced by 10% (or more if the pension value exceeds the compensation cap)	No reduction	BSPS2
Spouse's pension	50% of member's pension at date of death	50% of member's pension at date of death, calculated as if no lump sum taken at retirement	BSPS2
Annual indexation of payments			
Service up to 5 April 1988	No increases	No increases	Same
Service after 5 April 1988 and up to 5 April 1997	No increases	only Guaranteed Minimum Pension (GMP) element increased - in line with CPI, capped at 3%	BSPS2
Service after 5 April 1997 and up to 5 April 2005	Increased in line with CPI, capped at 2.5 %	Increased in line with CPI, capped at 5 %	BSPS2
Service from 6 April 2005	Increased in line with CPI, capped at 2.5 %	Increased in line with CPI, capped at 2.5 %	Same

The third option - transfer out

12. Deferred members of DB pension schemes who are more than one year away from their normal pension age (65 in the case of BSPS) have the right to request a cash-equivalent transfer value (CETV) of their DB entitlements and then, within three months of that quote, transfer that amount into a DC pension. This is known as a "DB transfer". Once a scheme is being formally assessed for PPF entry, DB transfers are prohibited. In the case of BSPS, however, a transfer was a third option during the decision making process. To execute a DB transfer before BSPS enters the PPF, members need to submit paperwork by 16 February 2018.[20]

13. DB transfers may be in the interests of deferred members with low life expectancies. They offer readier access to cash than a DB pension and can enable members to leave larger bequests to family members. Final salary pensions, however, offer valuable, indexed benefits at minimal risk. The Financial Conduct Authority (FCA), which regulates financial services, said that, as a rule, a DB transfer was "unlikely" to be in someone's best interests.[21] Derek Mulholland, Director of Pensions at BSPS, concurred that, for the majority of scheme members, "transferring out was not the right thing to do". The scheme had sought to emphasise that in its member communications.[22]

20 BSPS Time to Choose website; Written evidence from British Steel Pension Members Group (PFC0096)
21 CP17/16: Advising on Pension Transfers, FCA consultation paper (21 June 2017)
22 Q237 (Derek Mulholland)

14. Uncertainty surrounding the BSPS contributed to a surge in interest in DB transfers. Over the year to 31 March 2017, while the future of the company was in doubt, the scheme completed 482 transfers compared to 170 in the preceding year.[23] Stefan Zaitschenko, a former Teesside steelworker who helps run a Facebook group to support BSPS scheme members, told us that the approval of the RAA in August 2017 marked "the start of all the worries" for the scheme members because of the "lack of information".[24] As we have already noted, it was not clear for some members which of BSPS2 or the PPF was in their best interests. Rich Caddy, a British Steel Shift Operations Manager in Teesside who also helps run the members' Facebook group, told us that the uncertainty was magnified because it would not be clear until the January 2018 viability exercise whether BSPS2 would proceed.[25] BSPS members, many of whom had been largely passive pension savers, found themselves having to make major and irreversible choices about their financial futures.[26] Younger workers, who may not have previously thought about pension planning, suddenly found themselves "being forced to make a life changing decision against hard deadlines".[27] In such circumstances, it was imperative that scheme members were adequately informed and supported in making those decisions.

Inadequate information

15. BSPS sent out personalised 'option packs' to every member,[28] set up a Time to Choose website,[29] and established free telephone helplines.[30] It also held a series of roadshows across the UK (attended by about 13,000 people, or around one scheme member in ten). These communications were reviewed by TPR and PPF.[31] TPR told us that its involvement led the trustee to strengthen its messaging regarding independent financial advice and pension scams.[32]

16. Despite this assurance, the options packs proved inadequate for many scheme members. Stefan Zaitschenko identified several failings. Pension entitlements and pensionable earnings did not tally with annual statements, and basic data such as employment start dates, which were essential for calculating accrued pension rights, were missing. TPR was alerted in October 2017 that 4,300 individuals had received option packs with gaps in basic data.[33] The Pensions Ombudsman was reported to have been "flooded" with complaints.[34]

17. BSPS acknowledged that "some members have no personal figures in their option pack", explaining that it did not have all the information it required in electronic format or have adequate data in time for members who transferred benefits in from one of 17 separate small schemes.[35] Allan Johnston explained that BSPS2 would have different indexation methodologies for rights accrued for both service between 1997 and 2005 and

23 Tata Steel workers cash in final salary pensions, Financial Times, 5 June 2017
24 Q206 (Stefan Zaitschenko)
25 Q223 (Rich Caddy)
26 Q249 (Derek Mulholland)
27 Written evidence from British Steel Pension Members Group (PFC0096)
28 Written evidence from the Pensions Regulator (PFC0100). Packs were received by members from 9 October 2017.
29 http://www.bspensionschoose.com/
30 Q243 (Allan Johnston). There were separate helplines for pensioners and deferred members.
31 Written evidence from the Pensions Regulator (PFC0100) and Letter from PPF to Chair, 15 December 2017
32 Written evidence from the Pensions Regulator (PFC0100)
33 Regulator probes missing data in British Steel pension deal, FT Adviser, 25 October 2017
34 Ombudsman flooded with British Steel pension complaints, FT Adviser, 5 December 2017
35 Statement published on the Time to Choose website; Q211 (Stefan Zaitschenko)

service after 2005. This was not a feature of BSPS and therefore the scheme needed to make new entitlement calculations for all members affected.[36] Mr Johnston said, however, that the overwhelming majority of members had "total and complete information" and the others, when combined with their latest benefit statement, had "sufficient information to make the choice".[37] The BSPS trustees stressed that their record-keeping systems were fully adequate to calculate and provide normal scheme benefits and "comfortably" met TPR's principles of data quality.[38]

18. The BSPS did not provide members with personalised potential entitlements in the PPF for comparison with their BSPS estimates. The scheme told members that this was too complex a task for the time available, and that they had been left off at the PPF's request.[39] Stefan Zaitschenko said roadshow attendees were told that "the existing BSPS system and the PPF were in different formats and the exercise to prepare that data would take all the way up to almost the transfer date in March". He said this implied that the provision of further information would detract "from the priority task, which was to be ready on transfer day."[40] Instead of personalised figures, the option packs contained generic example comparisons which "should help you get a good idea of what you would get, and how that compares to the new scheme".[41]

19. The scheme helplines set up to guide members through their pension choices could only provide the same personalised information as the option pack.[42] For more detailed requests, including on DB transfers, members had to contact the Pensions Office, the administrative function of the scheme.[43] This had a staff of 18 people to cover 124,000 members.[44] While it was acknowledged by scheme members to be an "extremely professional team", it found itself overwhelmed with requests.[45] Stefan Zaitschenko told us that one scheme member tried calling 207 times.[46] Allan Johnston told us in December 2017 that the scheme had not predicted the "massive upsurge" of demand which "began when the scheme closed and it took off exponentially between April and now".[47] Alongside scheme members, the Pensions Office had to deal with calls from financial advisers who were keen to get transfer value quotes "to the top of the queue".[48]

20. On 24 November 2017, The Pensions Advisory Service (TPAS), which provides publicly-funded guidance, set up a dedicated helpline for BSPS members. Henry Tapper, a pensions expert, told us that the TPAS service was "extremely sensitive to the needs of people".[49] It was, however, only set up two working weeks before the initial decision

36 Q241 (Allan Johnston); Letter from Allan Johnston, BSPS Trustee Chair, to Chair, 13 December 2017
37 Q241 (Allan Johnston)
38 Letter from Allan Johnston, BSPS Trustee Chair, to Chair, 13 December 2017
39 Q241 (Allan Johnston)
40 Q211 (Stefan Zaitschenko)
41 BSPS Time to Choose website FAQs ("Why haven't I got personal PPF figures to compare to the new scheme ones?" Date added: 13 October 2017) and member newsletters.
42 Q206 (Stefan Zaitschenko)
43 Q244 (Allan Johnston)
44 Q244 (Allan Johnston)
45 Q206 (Stefan Zaitschenko)
46 Q207 (Stefan Zaitschenko)
47 Q246 (Allan Johnston)
48 Q247 (Derek Mulholland)
49 Q208 (Henry Tapper)

deadline of 11 December and, by that stage many scheme members would have submitted their transfer paperwork. Mr Tapper said "a number of members" had told him they wished they had spoken to TPAS earlier.[50]

21. **Current and former steelworkers had to make very important, and often complex, decisions about their pensions by December 2017. They were woefully under-supported in making those choices. The hard work of BSPS trustees and staff in trying to rectify that should be recognised, but they were ultimately overwhelmed. They did not anticipate the levels of demand on their services, particularly from members interested in DB transfers. It was the responsibility of TPR, who oversee trustees and signed off the RAA, to monitor the situation and ensure that members were not left in the dark. Along with the PPF and the Government, they afforded insufficient priority to ensuring the steelworkers were adequately informed. While the setting up of a dedicated TPAS helpline was welcome, it came too late.**

22. ***We recommend TPR conduct a review of the information and support provided to BSPS members as part of the Time to Choose exercise, incorporating feedback from the scheme members. This review should be published and form the basis of an action plan to counter risks in any similar cases in future. We further recommend that, in the context of a wider effort to enhance and digitise scheme record-keeping in readiness for the pensions dashboard, TPR require all schemes to be able to calculate what each member's benefits would be under both statutory minimum indexation and PPF compensation rules.***

Member engagement

Deadlines

23. Members who did not respond to the Time to Choose exercise would, by default, remain in the existing scheme and then move to the PPF in 29 March 2018. Fewer members than the BSPS hoped responded in advance of the 11 December deadline. Amid mounting concern about the number of non-respondents, BSPS announced on 1 December 2017 that it would extend the deadline for all members from 11 December to 22 December.[51] Allan Johnston told us on 13 December that, of the 84,000 members who had responded, 89% had chosen BSPS2. However, around 30,000 members had yet to return their forms.[52] He estimated that there would probably be around 20,000 non-replies by the revised deadline, which he described as "really sad".[53] On 29 January the scheme reported that 25,000 members ultimately did not respond. This figure includes people who may have opted not to respond as they wanted to default into the PPF (though members were urged to respond regardless), members who had decided to take a transfer payment, and those who failed to engage in the consultation for other reasons.54

24. Mr Johnston detailed the scheme's efforts to encourage more members to make an active choice, including postcards, press advertisements, local radio, roadshows and

50 Q208 (Henry Tapper)
51 FTAdviser Steelworkers pension decision deadline extended 1 December 2017. Members who had obtained a CETV quotation due to expire on or before 25 January 2018 were granted an extension until 26 January 2018.
52 Q234 (Allan Johnston)
53 Q243 (Allan Johnston)
54 Press statement from BSPS, 29 January 2018

encouraging BSPS pensioners to urge other pensioners to respond.[55] He explained, however, that the scheme had 18,000 pensioners aged over 85 and 130 aged over 100. Some of these people had "not even opened the envelope", sometimes because they had long been content with the BSPS scheme. He said that persuading an elderly person that the status quo was not in their interest and that they should move to the new scheme was "a very difficult message to get over". He said that many of the scheme's pensioners were "sadly […] not capable of making these sorts of decisions on their own".[56]

25. Alasdair McDiarmid told us that defaulting thousands of pensioners into the PPF was "something we desperately need to avoid" and called for the decision exercise to be suspended.[57] Allan Johnston said that, as it was apparent that the new scheme would be viable, extending the deadline would be an option.[58] It was not, however, clear that an extension to the deadline would make much difference in persuading the hardest to reach pensioners to participate. The PPF also cautioned that, though it had supported the extension to 22 December, that date "was the latest date possible in order to meet the agreed next steps under the terms of the framework agreement between the scheme and company".[59]

Deemed consent

26. We also considered whether non-respondent members could be moved automatically into BSPS2. Under existing legislation, DB scheme members cannot be moved between schemes without their consent unless the receiving scheme is actuarially certified as providing equal or better benefits.[60] As BSPS2 will offer lower benefits than the existing BSPS does now, this condition is not satisfied, even though BSPS is inevitably destined to end up in the PPF.[61] In recognition of the size of the BSPS and concern from trustees about member engagement with a decision exercise, the Government asked for views on a system of "deemed consent" as part of its 2016 consultation. Under that proposal, regulations would have been amended to enable trustees to move scheme members without consent to ensure they ultimately received better than PPF level benefits.[62]

27. The trustees supported deemed consent as it would have enabled them to improve the position of members for whom a move into BSPS2 was indisputably in their interests.[63] Alastair McDiarmid said deemed consent would have been a "gamechanger", as it would have resulted in improved outcomes for many pensioners and freed up administrative resources to provide support to members whose choice was less clear-cut.[64]

28. Allan Johnston told us that the trustees lobbied the Government in favour of deemed consent for 18 months and had meetings with three successive Secretaries of State. Alasdair McDiarmid said Community union had also "lobbied hard" for deemed consent

55 Q239 (Allan Johnston)
56 Q240 (Allan Johnston)
57 Q228 (Alasdair McDiarmid)
58 Q234 (Allan Johnston)
59 Letter from PPF to Chair, 15 December 2017
60 The Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (SI 1991/167) reg 12
61 Q236 (Allan Johnston)
62 DWP (26 May 2016) British Steel Pension Scheme public consultation Option 4. To give effect to the proposal, the Government would have needed to make regulations under section 73 of the Pension Schemes Act 1993 amending the Occupational Pension Schemes (Preservation of Benefits) Regulations 1991.
63 Q234 (Allan Johnston)
64 Q228 (Alasdair McDiarmid)

and it “was a possibility for quite some time”.[65] However, it was ultimately not pursued by the Government. They have yet to publicly state why. Allan Johnston told us that it was because the precedent could potentially be misused by other schemes.[66] Alasdair McDiarmid suggested that the “main reason” that deemed consent was not included as part of the BSPS2 deal was that Tata “would like BSPS2 to be as small as it possibly can be, to limit their exposure to the liabilities of that scheme”.[67] Allan Johnston told us that, while a late intervention to bring about deemed consent would have been “wonderful”,[68] the immovable timetable for transition left little time to achieve it.[69]

29. **Despite the pension scheme’s efforts, 25,000 of its 124,000 members did not respond to the Time to Choose exercise. They are therefore heading for irreversible default into the PPF. Thousands of those members would have been better off in BSPS2, including some ill or elderly pensioners who may well have been unable to decide in their own interests. A longer deadline may have enabled more members to engage with the process. More clearly, a system of deemed consent would have ensured that members unequivocally better off in BSPS2 would have been moved there if they did not respond. That system would have resulted in better outcomes for pensioners and freed administrative resources to support members for whom the decision was less clear-cut.**

30. **The deal to save Tata Steel UK has been carefully constructed and has a tight timetable. It is vital that it proceeds. It is too late now to extend the decision deadline further or introduce deemed consent for this scheme. The Government should, however, draw on the BSPS experience and ensure that an adequate legislative framework is in place for similar future deals.** ***We recommend that, in its forthcoming white paper on defined benefit pension schemes, the Government bring forward proposals for a system of deemed consent. This should enable the bulk transfer of members from a DB scheme certain to enter the PPF into an alternative scheme providing unequivocally better benefits than the PPF to those members. It should be used for future cases similar to BSPS.***

65 Q229 (Alasdair McDiarmid)
66 Q234 (Allan Johnston)
67 Q228 (Alasdair McDiarmid)
68 Q254 (Allan Johnston)
69 Letter from Allan Johnston, BSPS Trustee Chair, to Chair, 15 December 2017

3 DB transfers

The regulatory regime

31. Regulatory responsibilities for DB transfers are split between TPR and the FCA. TPR regulates occupational pension schemes and issues guidance to DB scheme trustees and managers on how to handle pension transfers.[70] Since April 2015, people with CETVs over £30,000 must consult an independent financial adviser (IFA) when seeking a DB transfer. The scheme trustee must confirm this advice has been received and that the transfer is to a properly registered pension arrangement before executing the transfer.[71] The FCA regulates IFAs and the investment products that they recommend to clients.

32. The FCA's requirements of people advising on DB transfers are set out in its Handbook.[72] An adviser must start from the assumption that a DB transfer will not be suitable.[73] If an adviser then goes on to recommend such a transfer, the Handbook requires the adviser to produce a suitability report which explains to the client why the recommendation is suitable for them.[74] This should fully take into account the client's circumstances and appetite for risk. It should inform them about the loss of the safeguarded benefits offered by the DB scheme and the extent to which the benefits offered by the recommended product may fall short of this.[75] The FCA also stipulates that pension transfer advice must be provided or checked by a qualified pension transfer specialist.[76] Megan Butler, FCA Executive Director of Supervision, told us that this requirement is in recognition of the fact that "this advice around the transfer of pensions is perhaps the most complex piece of financial advice that is ever heard by the recipient, the client, but also provided by the adviser".[77]

A boom in transfers and FCA oversight

33. The past three years have seen a boom in DB transfers. Mercer, a pensions consultancy, estimated that 220,000 DB scheme members transferred a total of £50 billion between April 2015 and May 2017.[78] TPR estimated that 80,000 DB transfers took place in 2016–17,[79] while Royal London estimated there were a further 120,000 in 2017–18.[80] This increased demand for DB transfers has been driven by the April 2015 pension freedom reforms. While many people were previously required to use their DC pension pot to buy an annuity, a product with many of the hallmarks of a DB pension, they now have more flexibility. For example, a saver can take a pension as cash or gradually draw down

70 TPR (April 2015) Regulatory guidance: DB to DC transfers and conversions
71 Pension Schemes Act 2015, section 48 and The Pension Schemes Act 2015 (Transitional Provisions and Appropriate Independent Advice) Regulations 2015 (SI 2015/742)
72 FCA COBS 19.1 Pension transfers, conversions, and opt-outs
73 FCA (21 June 2017) consultation paper CP17/16: Advising on Pension Transfers
74 FCA COBS 9.4 Suitability reports
75 COBS 19.1.6 Suitability
76 As set out in the FCA Training and Competence Sourcebook TC Appendix 4.1
77 Q267 (Megan Butler)
78 Defined benefit pensions haemorrhage up to £50bn, FT Adviser, 23 June 2017
79 TPR (22 May 2017) Number of people who transferred out of their DB schemes last year, FOI response
80 Written evidence from Steve Webb, Royal London (PFC0027)

invested funds. The tax treatment of inherited DC pots is also now more favourable.[81] Furthermore, low interest rates act to inflate transfer values and confidence in DB schemes has been undermined by some high-profile failures of scheme sponsors.

34. The FCA has responded to the boom in DB transfer activity by reminding advisers of their responsibilities. In January 2017, prompted by concerns that advisers were not considering where clients intended to invest their transferred pension, the FCA reiterated that it was a requirement to do so.[82] At the same time, the FCA also warned pension scheme operators of the evolving and increasingly sophisticated nature of investment scams.[83] In June 2017 the FCA launched a consultation on how DB transfer advice should be provided to consumers, with a view to publishing a policy statement on DB transfers in the first quarter of 2018.[84]

35. The FCA has also undertaken some limited research into the quality of DB transfer advice. In October 2017, it published findings from a review of 88 DB transfer recommendations made by a range of advice firms since October 2015. The FCA found that only 47% of them were demonstrably suitable, 17% were unsuitable and in 36% of cases it was unclear whether the recommendation was suitable.[85] Where a transfer is rated as 'unclear', this is a breach of FCA rules which require firms to be able clearly demonstrate they have taken reasonable steps to ensure that a recommendation is suitable for the client.[86] The suitability of the recommended product could only be established in 35% of cases, with 24% unsuitable and 40% unclear. The FCA found that "some firms had 'industrialised' their defined benefit transfer business so that they were no longer focused on their clients' individual circumstances and needs."[87] The quality of advice was far lower for DB transfers than for other forms of pension advice—an earlier review found that nine tenths of broader pension accumulation and retirement income advice was suitable.[88]

Transfers from the BSPS

36. There was an surge in interest in transferring out of the BSPS from its closure to new accruals on 31 March 2017. Between April and September 2017, 7,000 deferred members, one in six of the total, requested CETV quotations and 700 transfers were concluded.[89] This trend accelerated during the Time to Choose exercise. By mid December, 13,000 members, more than 30%, had asked for CETV quotations. Around 1,280 transfers had been processed and 550 were still in progress, which in total would take an estimated £760 million out of the scheme.[90] This implied an average transfer value of over £400,000.

81 The tax charge on unused DC pension funds bequeathed by a pensionholder who died aged 75 or over was reduced from 55% to 45% from April 2015 and then to the inheritor's rate of income tax from April 2016. Where the pensionholder dies before reaching 75, the pension pot is inherited tax-free (as announced at Autumn Statement 2014 para 2.65).
82 FCA (24 January 2017) Advising on pension transfers – our expectations
83 FCA (24 January 2017) Pension scheme operators are at risk from smarter scams
84 FCA (21 June 2017) consultation paper CP17/16: Advising on Pension Transfers
85 FCA (3 October 2017) Our work on Defined Benefit Pension Transfers
86 FCA Conduct of Business Sourcebook COBS 9.2 Assessing suitability and COBS 19.1.6 Suitability
87 Letter from Megan Butler, FCA, to Chair, 21 December 2017
88 FCA (3 October 2017) Our work on Defined Benefit Pension Transfers
89 British Steel pensioners take out more than £200m in transfers, FT Adviser, 31 October 2017
90 Q264 (Allan Johnston)

As of 15 January, 2,054 transfers had taken place.[91] Allan Johnston explained that transfer values were large because BSPS members tend to be long-serving and the steel industry is relatively well paid.[92] He had signed off around 20 transfers worth over £1 million.[93]

Confusion and mistrust

37. The restructuring of the BSPS took place during a period of increasing interest in DB transfers. A series of factors specific to the BSPS contributed to far greater interest among its members:

- the protracted period of uncertainty around the BSPS and the steel industry more broadly;
- confusion and mistrust bred by the Time to Choose exercise and the lack of information provided;[94]
- higher CETVs would be available in the BSPS than in BSPS2 (reflecting the lower benefits in the new scheme);
- uncertainty about the level of benefits available in the PPF;[95]
- the gradual erosion of benefits in the BSPS over time reducing its attractiveness;[96]
- "peer pressure" to consider what appeared a financially attractive option;[97] and
- the toll of hard manual work in the steel industry, making retirement before the standard scheme retirement age of 65 appealing.[98]

Stefan Zaitschenko said BSPS members wanted to leave the scheme because "they had been let down", whereas with a transfer and pension freedoms, they had "total control".[99]

Lack of local support

38. As we noted earlier in the chapter, the BSPS Pensions Office struggled to cope with the demand for guidance from members.[100] Stefan Zaitschenko said the scheme had "quite rightly" concentrated on the complex and pressing task of splitting the membership and assets of the BSPS.[101] The scheme was not, permitted to offer advice on the suitability of a DB transfer or a subsequent investment. This, however, left "a void" for members who had questions about DB transfers, but no clear means of getting answers.[102]

91 Letter from Andrew Bailey, Chief Executive, FCA, to Chair, 18 January 2018
92 Q264 (Allan Johnston)
93 Q265 (Allan Johnston)
94 Q203 (Stefan Zaitschenko)
95 Written evidence from British Steel Pension Members Group (PFC0096)
96 Q184 & Q185 (David Neilly)
97 Q203 (Stefan Zaitschenko)
98 Q184–185 (David Neilly)
99 Q203 (Stefan Zaitschenko)
100 Q244 (Allan Johnston)
101 Q208 (Stefan Zaitschenko)
102 Q208 (Stefan Zaitschenko)

39. Henry Tapper told us that "much of the trouble at Port Talbot could have been avoided if the Trustees had been more proactive". Though the BSPS had warned of the risk of bad advice and pointed members to the FCA register of approved advisers in its standard communications,[103] he recommended they set up a separate helpline on DB transfers.[104] This was eventually offered in December 2017.[105] The scheme was, however, very stretched. As part of the framework agreement between BSPS and Tata Steel, the sponsor provided additional resources to enable BSPS to recover most of the extra costs of the Time to Choose exercise. This did not, however, make provision for resources to handle demand for transfers out, which was a statutory right irrespective of the RAA. David Neilly, a Plant Process Operator in Port Talbot, said "the scheme and the financial industry simply wasn't prepared for what has happened".[106]

40. We heard that IFAs in areas with high concentrations of current and former steelworkers were "inundated with requests" for DB transfer advice.[107] Some, facing a "huge burden on the local resources",[108] closed their books to new business.[109] Stefan Zaitschenko told us that it was "first-come, first-served", and that members who did not consider a DB transfer until the Time to Choose exercise in October were turned away by advisers recommended to them.[110] The bottleneck was exacerbated by the time constraints faced by BSPS members, who wished to have the option of considering a DB transfer before moving into either the BSPS2 or PPF. The time constraints around the process intensified the pressure on local IFA capacity and left BSPS members racing to find an IFA.[111] Rich Caddy told us that he returned to an IFA he was not comfortable with because his preferred option had reached full capacity.[112]

41. **BSPS members were faced with a life-changing choice in a hurry. Many had lost trust in the sponsor company and its pension pledges. The scheme was under-resourced and unable to provide basic facts to inform a complex choice. Its members were apparently neglected by the company, Government, and TPR in their focus on the deal to keep the company going. A member communication plan sanctioned by TPR proved woefully inadequate. Against hard deadlines to choose one of two options worse than their promised pension, many members of working age were attracted to a third option. There was a surge in interest in DB transfers, seemingly unforeseen by all involved. Under pension freedoms, a transfer offered members control over a substantial sum of their own money. Foregoing a generous, indexed and secure retirement income is not, however, the right option for most people. Reputable local IFAs were overwhelmed by demand for advice. The circumstances surrounding the BSPS created perfect conditions for vultures to take advantage.**

103 Written Question 113177 (Tata Steel: Occupational Pensions) answered 20 November 2017
104 Written evidence from Henry Tapper (PFC0093)
105 Q247 (Derek Mulholland)
106 Written evidence from David Neilly (PFC0099)
107 Written evidence from British Steel Pension Members Group (PFC0096)
108 Q202–203 (Stefan Zaitschenko)
109 Written evidence from British Steel Pension Members Group (PFC0096)
110 Q202–203 (Stefan Zaitschenko)
111 Q203 (Stefan Zaitschenko)
112 Q199–202 (Rich Caddy)

4 Vultures

Unsuitable advice

42. Opportunistic IFAs deployed inventive tactics in trying to attract customers for supposedly impartial advice. Steelworkers were "factory-gated" by financial advice promoters at the workplace or at promotional seminars arranged nearby.[113] Promoters characterised as "vultures" were also seen "hanging around" outside the BSPS's roadshow events for scheme members.[114] The PPF expressed concern at "instances where advisors have seemingly touted for business through the media looking to encourage transfers".[115] The British Steel Pension Members Group provided an example of a Google search for "British Steel pension" for which the top results were advertisements for firms promoting advice on transfer options.[116] Some IFAs worked in concert with "introducers",[117] who recruited clients and encouraged them to get a CETV quotation in return for a share of the initial advice fee. Celtic Wealth, which worked closely with the regulated Active Wealth, told us it provided sausage and chips lunches at meetings with steelworkers.[118] In January 2017, the FCA warned that introducers could exert "an inappropriate influence" on regulated advice.[119] The FCA could not, however, take action against them unless they strayed into providing financial advice.[120]

43. We heard that much of the advice offered was heavily geared towards pushing transfers. Henry Tapper told us that some advisers exploited the state of mind of individuals:

> A lot of people were simply wanting out without any kind of rational decision-making going on, and a lot of advisers were allowing that kind of emotional approach to prevail without any friction whatsoever, so they were not pushing back and asking people to consider the long-term implications of what they were doing.[121]

44. IFAs also encouraged members to invest their transferred pension pot in risky or expensive funds.[122] Active Wealth placed clients who requested a low-risk investment in an algorithmic trading fund, which Eugen Neagu told us was "unlikely to be suitable for anyone, apart from very, very experienced retail clients".[123] Mr Neagu described the explanations accompanying investment recommendations as "bamboozling at best, taking into consideration that the report was addressed to a steelworker with low investment

113 Written evidence from Alistair Rush (PFC0094)
114 PPF: we have seen 'concerning' behaviour on British Steel pension advice, Sara Protheroe, chief customer officer at the PPF, writing for New Model Adviser, 30 November 2017
115 Written evidence from the Pension Protection Fund (PFC0097)
116 Written evidence from British Steel Pension Members Group (PFC0096)
117 Under the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, reg 33, introducers have a specific exemption from FCA regulatory action provided they restrict their activities to referring the client to an FCA-authorised provider of independent financial advice.
118 Letter from Clive Howells, Celtic Wealth Management, to Chair, 10 January 2018.
119 FCA (2 Aug 2016, updated 24 Jan 2017) Investment advisers' and authorised firms' responsibilities when accepting business from unauthorised introducers or lead generators
120 Letter from Megan Butler, FCA, to Chair, 21 December 2017
121 Q187 (Henry Tapper)
122 Steelworkers lured into transferring millions out of pension funds, Financial Times, 1 December 2017; Community union considers steel pensions advice action, BBC News, 5 December 2017; Day the pension vultures swooped on our steelworkers, Daily Mail, 5 December 2017
123 Written evidence from Eugen Neagu (PFC0098)

experience".[124] Al Rush, an IFA who offered free counselling to BSPS members, told us that it was easy to create a case to transfer which "has a veneer of respectability, but which can consign a duped scheme member to a lifetime of poor outcomes based on high charges, poor performance and unsuitable advice".[125] He said this was advice that might "pass a compliancy test, but which most certainly would not pass a sniff test".[126]

Charging structures

45. The structure of fees paid to unscrupulous introducers and IFAs incentivised poor advice. Introducers were paid a share of the initial advice fee.[127] This encouraged them to persuade BSPS members to get CETV quotations "on a bulk basis".[128] In turn, DB transfer advisers tended to be paid on a contingent charge basis. Under this fee structure, the IFA was only paid (or is paid significantly more) if the client acted on a recommendation to proceed with a DB transfer. Fees charged to BSPS members who chose to transfer would, in effect, subsidise the free advice given to those who did not. We heard that contingent fees in respect of BSPS clients were typically around 2% of the transfer value—£8,000 on a CETV of £400,000—and could be as high as 4%.[129] IFAs could also receive further fees for providing an ongoing advice service. This created an "inbuilt bias" towards promoting transfers.[130] Henry Tapper claimed there was "little evidence" of some advisers recommending anything other than transfers.[131]

46. Given the high value of many of the pension pots, an apparently small percentage charge could constitute a substantial sum. Mr Tapper said that BSPS members typically "did not understand the financial cost or the impact of IFA charges" and "did not generally get a schedule of services in price".[132]

47. The FCA's policy on contingent fees is that they are "higher-risk than a time-cost charging model due to the need to sell products to generate revenue", and that firms should "ensure they have adequate controls in place to manage this risk."[133] Megan Butler acknowledged that this charging mechanism "gives rise to an inherent conflict around the provision of advice". The FCA's role, she explained, was to make sure those firms "are overwhelmingly aware of that possibility for conflict and managing it really, really carefully".[134] The FCA's June 2017 consultation on DB transfer advice contained no questions on the effect of contingent charging models on adviser behaviour.[135] Eugen Neagu told us the FCA was "reluctant" to countenance a ban on contingent charging for DB transfers.[136] Paul Lewis, a financial journalist, described this reluctance as "one of a long list of puzzles about its behaviour".[137]

124 Written evidence from Eugen Neagu (PFC0098)
125 Written evidence from Alistair Rush (PFC0094)
126 Written evidence from Alistair Rush (PFC0094)
127 Celtic Wealth were paid £750 per transfer (amounting to half of Active Wealth's initial advice fee). See letter from Clive Howells, Celtic Wealth Management, to Chair, 10 January 2018
128 Written evidence from Henry Tapper (PFC0093)
129 Q188 (Henry Tapper), written evidence from Alistair Rush (PFC0094)
130 Q189–190 (Henry Tapper)
131 Cost and value of advice in Port Talbot, Henry Tapper 'Vision of the Pension Playpen' blog, 9 November 2017
132 Written evidence from Henry Tapper (PFC0093)
133 FCA (July 2013) TR13/5 – Supervising retail investment advice: how firms are implementing the RDR
134 Q294 (Megan Butler)
135 FCA (21 June 2017) consultation paper CP17/16: Advising on Pension Transfers
136 Written evidence from Eugen Neagu (PFC0098)
137 'Don't do it' is the best advice on DB transfers, Paul Lewis, Money Marketing, 10 November 2017

48. BSPS members were often advised to transfer their funds into investment vehicles with high ongoing charges. Eugen Neagu estimated that one fund used by Active Wealth levied annual charges of over 2% of the investment value. This would put "a high strain on investment performance".[138] Henry Tapper said that "many of the investment solutions proposed were inappropriate for drawdown", the product the client thought they were purchasing. To retrieve their money, however, they faced early exit penalties ranging from 5% to 10% of the fund.[139]

49. By 18 January 2018, the FCA had conducted detailed reviews of 129 BSPS transfer cases from 21 firms about which they had concerns. They found that the advice given was suitable in just half of cases (51%), of unclear suitability in one sixth (16%) and clearly unsuitable in the remaining third (33%).[140]

50. **Dubious advisers exploited BSPS members for personal gain. They were supported in this cynical enterprise by unregulated and parasitical introducers, who were incentivised to induce as many steelworkers as possible to consider transfers. The advisers, using contingent pricing models, were then incentivised to push those transfers, often against the interests of the scheme members. While doing so, they shamelessly bamboozled those members into signing up to ongoing adviser fees and unsuitable funds characterised by high investment risk, high management charges and punitive exit fees.**

51. **Contingent charging gives rise to an inherent conflict of interest. The theoretically independent adviser is only paid if they advise a particular course of action. The FCA acknowledges this concern, but hopes that guidance and careful monitoring will ensure adequate consumer protection. This model has failed BSPS pensioners. The FCA's own national research also gives cause for great concern. Another major misselling scandal is already erupting and requires urgent action.** ***We recommend that the FCA ban contingent charging on defined benefit pension transfer advice. Genuinely independent expert advice, on what for many people could be their biggest financial decision, has a value irrespective of whether a transfer is the outcome.***

138 Written evidence from Eugen Neagu (PFC0098)

139 Q195 (Henry Tapper)

140 Letter from Andrew Bailey, Chief Executive, FCA, to Chair, 18 January 2018

5 Action on unsuitable advice

FCA activity on the BSPS

52. Megan Butler told us that the FCA's interest in transfers from the BSPS began in October 2017 when it "became obvious […] that there were particular issues on the ground".[141] They began liaising with TPR on the issue in early November.[142] They then held four seminars in Swansea and Doncaster with firms who specialise in pension transfers, to remind them of regulatory requirements around advice and working with introducers, and to gather intelligence.[143] 151 regulated advisers attended these meetings and the FCA wrote to a further 148 in the areas affected.[144]

53. Following "an extensive evidence-gathering exercise" on BSPS transfers, the FCA contacted 109 financial adviser firms, of which they requested further information from 66 and then conducted detailed reviews of the case files of 22.[145] Eight of those firms, starting with Active Wealth in November 2017 and seven others over the course of December,[146] have "voluntarily" suspended their permissions to provide DB transfer advice.[147] This action followed "conversations with the FCA".[148] By 18 January 2018, the FCA's information gathering and compliance activity had encompassed 1,766 of 2,054 transfers. Separately, on 18 January, South Wales Police announced that it was investigating whether BSPS members had fallen victim to pension fraud, including through being deceived into investing money in high-charging funds.[149]

54. The FCA told us that they had "intervened as early as we could to gather information" and had "taken action quickly on the areas we regulate".[150] Witnesses were, however, critical of the speed of their response. Though one in six of all deferred BSPS members, 7,000 people, requested CETV quotations between April and September 2017, Derek Mulholland told us that the FCA did not contact the scheme offices until November 2017.[151] Al Rush said that it was "depressing" that the FCA has acted with "such torpor" and added that they were slow to act on his evidence of unsuitable advice.[152] A BBC News team investigating the BSPS scheme told us they presented evidence about Celtic Wealth and Active Wealth in September 2017. The FCA did not first contact Active Wealth in relation to BSPS transfer activity until two months later, when the Time to Choose exercise was well underway.[153] The FCA assured us on 18 January 2018 that "our work on BSPS is not

141 Q267 (Megan Butler)
142 Q267 (Megan Butler)
143 Letter from Christopher Woolard, FCA, to Chair, 29 November 2017; Q268 (Megan Butler)
144 FCA statement (11 December 2017) FCA updates on its work on financial advice given to members of the British Steel Pension Scheme (BSPS); Q268 (Megan Butler); Letter from Andrew Bailey, Chief Executive, FCA, to Chair, 18 January 2018
145 Letter from Andrew Bailey, Chief Executive, FCA, to Chair, 18 January 2018.
146 Letter from Christopher Woolard, FCA, to Chair, 29 November 2017, Letter from Megan Butler, FCA, to Chair, 8 January 2018.
147 Active Wealth (UK) Ltd (FRN 631415); Pembrokeshire Mortgage Centre Ltd (trading as County Financial Consultants) (FRN 479220); Mansion Park Limited (FRN 209313); Vintage investment Services Ltd (FRN 142806); Retirement & Pension Planning Services Ltd (FRN 542640); West Wales Financial Services Limited (FRN 756482); Bartholomew Hawkins Ltd (FRN 489590); Inspirational Financial Management Ltd (FRN 223511).
148 Letter from Andrew Bailey, Chief Executive, FCA, to Chair, 18 January 2018
149 Police probe British Steel pension fraud claims, Financial Times, 18 January 2018
150 Letter from Megan Butler, FCA, to Chair, 13 December 2017
151 Q262 (Derek Mulholland)
152 Written evidence from Alistair Rush (PFC0094)
153 Letter from Darren Reynolds, Active Wealth (UK), to Chair, 10 January 2018, question 9.

finished, and we are continuing to take action where we have concerns".[154] This will, of course, come as little comfort to BSPS members who regret their transfers or suspect they were poorly advised.

55. **The FCA has been gradually picking off firms who were providing unsuitable advice to BSPS members. This action is welcome, but it came far too late for the vast majority of members who transferred their pensions. While heightened interest transfers began in April 2017 and peaked with the Time to Choose exercise from October 2017, suspensions of FCA firm permissions did not begin in earnest until December 2017. FCA action followed a determined campaign by steelworkers and good Samaritans, substantial media coverage, our select committee work and intervention by local MPs. The delays were partly a problem of coordination—the trustees are responsible for safeguarding the interests of scheme members and TPR is responsible for ensuring that task is performed appropriately with adequate support. They ought to have ensured the FCA was informed and pressed to intervene quickly. The FCA has long been aware, however, of problems with DB transfer advice. They should have been monitoring the developing risks surrounding the BSPS and intervened earlier to protect members against unsuitable advice.**

56. On 21 December 2017, the FCA told us that, in 2018, it would "be collecting data from all firms who hold the pension transfer permission with the intention of assessing practices across the entire market".[155] **We welcome the FCA's decision to review the entire DB transfer advice market. It must be prepared to act decisively to protect consumers.**

The FCA register

57. The FCA's online register is the main public source of information about firms it regulates. It sets out what services financial advisers are authorised to provide and any regulatory action being taken against them. BSPS trustees and members were both reliant on the register to identify which firms could conduct pension transfer business.[156] Both, however, said it was difficult to use.[157] Rich Caddy told us that the complex system of menus and drop down boxes meant "you need some sort of degree to find a suitably qualified financial adviser".[158] The Personal Investment Management & Financial Advice Association (PIMFA), a trade body, criticised the register for its "inadequate" search facility and excessive use of "regulatory jargon" in the register entries.[159]

58. PIMFA also criticised the information provided on individual advisers, observing that "a consumer seeking advice on a DB transfer would not know from the register if their adviser was authorised and permitted by their firm to provide this service".[160] Al Rush told us that steelworkers did not trust the FCA register, partly because "many advisers who act in a scurrilous manner" appeared on it.[161]

154 Letter from Andrew Bailey, Chief Executive, FCA, to Chair, 18 January 2018
155 Letter from Megan Butler, FCA, to Chair, 21 December 2017
156 Q257 (Derek Mulholland)
157 Q257 (Derek Mulholland); Written evidence from British Steel Pension Members Group (PFC0096)
158 Q209 (Rich Caddy)
159 PIMFA (30 October 2017) consultation response to CP 17/25: Individual Accountability: Extending the Senior Managers & Certification Regime to all FCA firms
160 PIMFA (30 October 2017) consultation response to CP 17/25: Individual Accountability: Extending the Senior Managers & Certification Regime to all FCA firms
161 Written evidence from Alistair Rush (PFC0094)

59. Suspensions from the register are not routinely publicised by the FCA. The layout of their register also means it is not immediately apparent to the layperson that a firm's permissions have been restricted. Surprisingly, even the FCA itself was unable to readily list the firms that had been subjected to DB advice restrictions in evidence to us.[162] In the register, an entry for a firm *whose pension transfer permissions were suspended* reads prominently "Status: Authorised - This is a firm that is given permission to provide regulated products and services":

Figure 1: FCA register entry for firm subject to a permission restriction

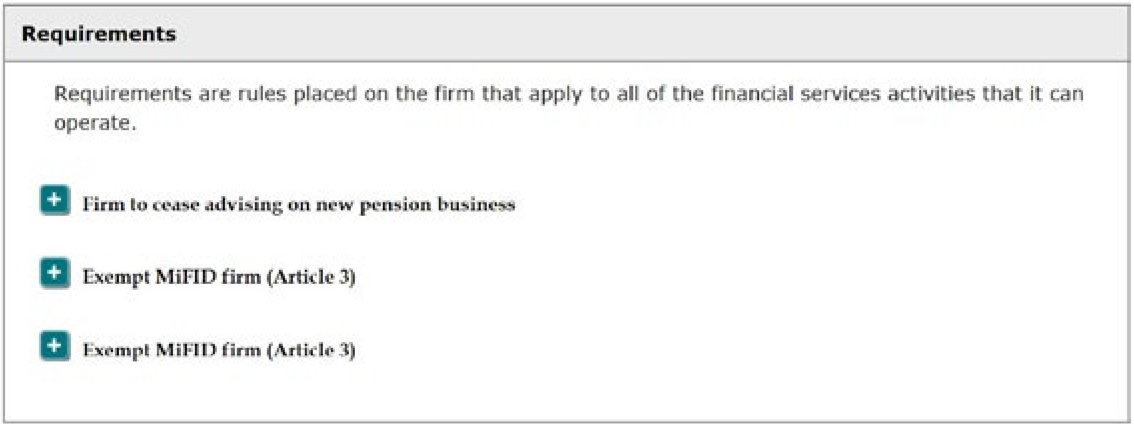
Scrolling down, the user finds a list of basic details of the firm which includes a restatement that the firm is "Authorised […] given permission to provide regulated products and services" but with no indication that the firm is subject to specific restrictions. The user has to scroll further down to the bottom and open the box "Permission":

Figure 2: example of FCA register entry of firm subject to a permission restriction VREQ - box marked 'Permission'

Inside the "Permission" box, a Requirements box, which mentions the restriction, provides further details.

162 Q279-288

Figure 3: example of FCA register entry of firm subject to VREQ: first allusion to VREQ is "firm to cease advising on new pension business".



Megan Butler acknowledged that website required improvement.[163] The FCA have begun examining how to make the register easier to use.[164]

60. **The FCA online register is a potentially valuable resource but is currently very confusing. Vital consumer protection information, such as the suspensions of permissions, must be given far greater prominence. The FCA has rightly acknowledged it must improve its website.** ***We recommend that the FCA name firms and individuals suspended from providing pensions advice. It should take immediate action to make such suspensions clear at the top of register entries and in search results. We further recommend that it publish its broader plans to redesign the register.***

Presumption of unsuitability

61. In its June 2017 consultation paper on transfer advice, the FCA reiterated its view that staying in a DB pension will be "in the best interests of most consumers".[165] This view is shared by TPR and the PPF.[166] Despite this, the FCA proposed to remove the requirement that the adviser starts with the assumption that a transfer would be unsuitable for the client. It argued that the increased flexibility available under pension freedoms "had altered the options available and for some consumers a transfer may now be suitable when it wasn't previously".[167] Henry Tapper told us that a good transfer adviser should ask clients "what makes you special?", putting the onus on them to explain how they think they can secure more favourable terms outside their DB scheme.[168]

62. ***Transferring out is not in the interests of most DB scheme members. Advisers should start from the presumption that it is a bad idea for their client, and be able to justify clearly a change of mind. In the light of the BSPS experience, the FCA's proposal to remove that safeguard looks reckless. It should be abandoned.***

163 Steel workers' pensions: Financial watchdog says four firms are to stop pension transfers, Channel 4 News, 13 December 2017
164 Letter from Megan Butler, FCA, to Chair, 21 December 2017
165 CP17/16: Advising on Pension Transfers, FCA consultation paper (21 June 2017), para 3.11
166 TPR (April 2015) Regulatory guidance: DB to DC transfers and conversions; Written evidence from the PPF (PFC0097)
167 CP17/16: Advising on Pension Transfers, FCA consultation paper (21 June 2017), para 3.11
168 Q214 (Henry Tapper)

Redress

63. In October 2017, the FCA published revised guidance on redress for customers who acted on unsuitable advice to take a DB transfer.[169] It is not possible to reverse a DB transfer. The objective of the redress, however, is to put the customer, so far as possible, into the position they would have been in if they had not received the advice. The redress calculation should reflect the features of the customer's original DB pension scheme, including appropriate benefit reductions should the scheme, like the BSPS, enter the PPF.[170]

64. If the customer has lost money because of unsuitable advice, their first step is to complain to the advisory firm. If they are not satisfied with the firm's response, they can refer their complaint to the Financial Ombudsman Service (FOS), which can require the firm to pay compensation. If the firm is insolvent and cannot pay compensation, the Financial Service Compensation Scheme (FSCS), which is funded by an industry levy, can pay out up to £50,000.[171]

65. **BSPS members who took a DB transfer on poor advice can seek redress. Ultimately, some bills may end up being footed by reputable advice firms through a compensation levy. Financial compensation for steelworkers will not, of course, make up for the sense of betrayal many feel for how they have been treated.**

169 FCA, FG17/9: Guidance for firms on how to calculate redress for unsuitable defined benefit pension transfers, October 2017
170 FCA, FG17/9: Guidance for firms on how to calculate redress for unsuitable defined benefit pension transfers, October 2017
171 Money Advice Service Compensation if you've lost money through mis-selling

Conclusions and recommendations

Introduction

1. The UK steel industry has been in long-term decline, and Tata Steel UK had become a large pension scheme with a shrinking company attached. The deal to maintain steel production in Port Talbot is very welcome. The outlines of that deal have been in place since May 2017. That ought to have been more than enough time to ensure that scheme members were adequately supported in the decisions they would need to make. (Paragraph 9)

Choices on offer to BSPS members

2. Current and former steelworkers had to make very important, and often complex, decisions about their pensions by December 2017. They were woefully under-supported in making those choices. The hard work of BSPS trustees and staff in trying to rectify that should be recognised, but they were ultimately overwhelmed. They did not anticipate the levels of demand on their services, particularly from members interested in DB transfers. It was the responsibility of TPR, who oversee trustees and signed off the RAA, to monitor the situation and ensure that members were not left in the dark. Along with the PPF and the Government, they afforded insufficient priority to ensuring the steelworkers were adequately informed. While the setting up of a dedicated TPAS helpline was welcome, it came too late. (Paragraph 21)

3. *We recommend TPR conduct a review of the information and support provided to BSPS members as part of the Time to Choose exercise, incorporating feedback from the scheme members. This review should be published and form the basis of an action plan to counter risks in any similar cases in future. We further recommend that, in the context of a wider effort to enhance and digitise scheme record-keeping in readiness for the pensions dashboard, TPR require all schemes to be able to calculate what each member's benefits would be under both statutory minimum indexation and PPF compensation rules.* (Paragraph 22)

4. Despite the pension scheme's efforts, 25,000 of its 124,000 members did not respond to the Time to Choose exercise. They are therefore heading for irreversible default into the PPF. Thousands of those members would have been better off in BSPS2, including some ill or elderly pensioners who may well have been unable to decide in their own interests. A longer deadline may have enabled more members to engage with the process. More clearly, a system of deemed consent would have ensured that members unequivocally better off in BSPS2 would have been moved there if they did not respond. That system would have resulted in better outcomes for pensioners and freed administrative resources to support members for whom the decision was less clear-cut. (Paragraph 29)

5. The deal to save Tata Steel UK has been carefully constructed and has a tight timetable. It is vital that it proceeds. It is too late now to extend the decision deadline further or introduce deemed consent for this scheme. The Government should, however, draw on the BSPS experience and ensure that an adequate legislative framework is in place for similar future deals. *We recommend that, in its forthcoming white paper*

on defined benefit pension schemes, the Government bring forward proposals for a system of deemed consent. This should enable the bulk transfer of members from a DB scheme certain to enter the PPF into an alternative scheme providing unequivocally better benefits than the PPF to those members. It should be used for future cases similar to BSPS. (Paragraph 30)

DB transfers

6. BSPS members were faced with a life-changing choice in a hurry. Many had lost trust in the sponsor company and its pension pledges. The scheme was under-resourced and unable to provide basic facts to inform a complex choice. Its members were apparently neglected by the company, Government, and TPR in their focus on the deal to keep the company going. A member communication plan sanctioned by TPR proved woefully inadequate. Against hard deadlines to choose one of two options worse than their promised pension, many members of working age were attracted to a third option. There was a surge in interest in DB transfers, seemingly unforeseen by all involved. Under pension freedoms, a transfer offered members control over a substantial sum of their own money. Foregoing a generous, indexed and secure retirement income is not, however, the right option for most people. Reputable local IFAs were overwhelmed by demand for advice. The circumstances surrounding the BSPS created perfect conditions for vultures to take advantage. (Paragraph 41)

Vultures

7. Dubious advisers exploited BSPS members for personal gain. They were supported in this cynical enterprise by unregulated and parasitical introducers, who were incentivised to induce as many steelworkers as possible to consider transfers. The advisers, using contingent pricing models, were then incentivised to push those transfers, often against the interests of the scheme members. While doing so, they shamelessly bamboozled those members into signing up to ongoing adviser fees and unsuitable funds characterised by high investment risk, high management charges and punitive exit fees. (Paragraph 50)

8. Contingent charging gives rise to an inherent conflict of interest. The theoretically independent adviser is only paid if they advise a particular course of action. The FCA acknowledges this concern, but hopes that guidance and careful monitoring will ensure adequate consumer protection. This model has failed BSPS pensioners. The FCA's own national research also gives cause for great concern. Another major misselling scandal is already erupting and requires urgent action. *We recommend that the FCA ban contingent charging on defined benefit pension transfer advice. Genuinely independent expert advice, on what for many people could be their biggest financial decision, has a value irrespective of whether a transfer is the outcome.* (Paragraph 51)

Action on unsuitable advice

9. The FCA has been gradually picking off firms who were providing unsuitable advice to BSPS members. This action is welcome, but it came far too late for the vast majority of members who transferred their pensions. While heightened interest transfers

began in April 2017 and peaked with the Time to Choose exercise from October 2017, suspensions of FCA firm permissions did not begin in earnest until December 2017. FCA action followed a determined campaign by steelworkers and good Samaritans, substantial media coverage, our select committee work and intervention by local MPs. The delays were partly a problem of coordination—the trustees are responsible for safeguarding the interests of scheme members and TPR is responsible for ensuring that task is performed appropriately with adequate support. They ought to have ensured the FCA was informed and pressed to intervene quickly. The FCA has long been aware, however, of problems with DB transfer advice. They should have been monitoring the developing risks surrounding the BSPS and intervened earlier to protect members against unsuitable advice. (Paragraph 55)

10. We welcome the FCA's decision to review the entire DB transfer advice market. It must be prepared to act decisively to protect consumers. (Paragraph 56)

11. The FCA online register is a potentially valuable resource but is currently very confusing. Vital consumer protection information, such as the suspensions of permissions, must be given far greater prominence. The FCA has rightly acknowledged it must improve its website. *We recommend that the FCA name firms and individuals suspended from providing pensions advice. It should take immediate action to make such suspensions clear at the top of register entries and in search results. We further recommend that it publish its broader plans to redesign the register.* (Paragraph 60)

12. *Transferring out is not in the interests of most DB scheme members. Advisers should start from the presumption that it is a bad idea for their client, and be able to justify clearly a change of mind. In the light of the BSPS experience, the FCA's proposal to remove that safeguard looks reckless. It should be abandoned.* (Paragraph 62)

13. BSPS members who took a DB transfer on poor advice can seek redress. Ultimately, some bills may end up being footed by reputable advice firms through a compensation levy. Financial compensation for steelworkers will not, of course, make up for the sense of betrayal many feel for how they have been treated. (Paragraph 65)

Formal minutes

Wednesday 7 February

Members present:

Rt Hon Frank Field, in the Chair

Heidi Allen	Ruth George
Andrew Bowie	Steve McCabe
Jack Brereton	Chris Stephens
Alex Burghart	

Draft report (*British Steel Pension Scheme*), proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 65 read and agreed to.

Summary agreed to.

Resolved, That the Report be the Sixth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

[Adjourned till 21 February at 9.15am

Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the inquiry publications page of the Committee's website.

Wednesday 1 November 2017	*Question number*
Baroness Ros Altmann, Former Pensions Minister, **Michelle Cracknell**, Chief Executive, The Pensions Advisory Service, **Andrew Seager**, Head of Service Development, Citizens Advice, and **Peter Vicary-Smith**, Chief Executive, Which?	Q1–33
Gary Bottriell, Board Member, Personal Investment Management & Financial Advice Association, **Rob Yuille**, Head of Retirement Policy, Association of British Insurers, **Otto Thoresen**, Chairman, National Employment Savings Trust, and **Sir Steve Webb**, Director of Policy, Royal London	Q34–68

Wednesday 15 November 2017

Nicola Parish, Executive Director of Frontline Regulation, The Pensions Regulator and **Christopher Woolard**, Director of Strategy and Competition, Financial Conduct Authority.	Q69–106
Stephen Barclay MP, Economic Secretary to the Treasury, **Guy Opperman MP**, Parliamentary Under Secretary of State for Pensions and Financial Inclusion, Department for Work and Pensions, and **Charlotte Clark**, Director, Private Pensions and Arm's Length Bodies, Department for Work and Pensions	Q107–177

Wednesday 13 December

Rich Caddy, Shift Operations Manager, British Steel (Teesside) BSPS Facebook group co-ordinator, **David Neilly**, Plant Process Operator, Tata Steel UK (Port Talbot), **Stefan Zaitschenko**, Former steelworker (Teesside) and BSPS Facebook group co-ordinator, and **Henry Tapper**, Director, Pension Playpen and First Actuarial	Q178–226
Alasdair McDiarmid, Operations Director, Community trade union, **Allan Johnston**, Trustee Chairman, British Steel Pension Scheme, and **Derek Mulholland**, Director of Pensions, British Steel Pension Scheme	Q227–265
Megan Butler, Director of Supervision (Investment, Wholesale and Specialist) Financial Conduct Authority	Q266–298

Published written evidence

The following written evidence was received and can be viewed on the inquiry publications page of the Committee's website.

PFC numbers are generated by the evidence processing system and so may not be complete.

1 Aegon UK (PFC0022)

2 Age UK (PFC0040)

3 AJ Bell Limited (PFC0047)

4 Alastair Rush (PFC0094)

5 Alistair Cunningham (PFC0066)

6 Association of British Insurers (PFC0062)

7 Association of Consulting Actuaries (ACA) (PFC0060)

8 Aviva (PFC0052)

9 B&CE Ltd (PFC0079)

10 Baroness Ros Altmann (PFC0003)

11 Baroness Sharon Bowles (PFC0064)

12 British Steel Pension Members Group (PFC0096)

13 Cass Business School (PFC0018)

14 Chris Watkins (PFC0101)

15 Citizens Advice (PFC0061)

16 City of London Police (PFC0084)

17 David Neilly (PFC0099)

18 David Neilly (PFC0104)

19 David Penney (PFC0063)

20 Department for Work and Pensions (PFC0076)

21 DRB Pension Assistance Limited (PFC0045

22 Equity Release Council (PFC0034)

23 Eugen Neagu (PFC0098)

24 Experian (PFC0019)

25 Fidelity International (PFC0041)

26 Financial Conduct Authority (PFC0083)

27 Financial Inclusion Centre (PFC0024)

28 Financial Services Consumer Panel (PFC0059)

29 Hargreaves Lansdown (PFC0080)

30 Henry Tapper (PFC0093)

31 Infosculpt Ltd (PFC0087)

32 Institute and Faculty of Actuaries (PFC0044)

33 Investment & Life Assurance Group (PFC0058)

34 JLT Employee Benefits (PFC0009)

35 Just Group plc (PFC00)

36 KPMG (PFC0042)

37 Later Life Academy (PFC0025)

38 LEBC The Retirement Adviser (PFC0039)

39 Legal & General (PFC0032)

40 LV= (PFC0023)

41 Morgan Lloyd Trustees Ltd/Clifton Asset Management plc (PFC0013)

42 Mr Brian Todd (PFC0004)

43 Mr Chris Budd (PFC0055)

44 Mr Paul Stocks (PFC0012)

45 Mrs Edda Stentiford (PFC0015)

46 Name Withheld (PFC0001)

47 Name Withheld (PFC0002)

48 Name Withheld (PFC0005)

49 Name Withheld (PFC0006)

50 Name Withheld (PFC0007)

51 Name Withheld (PFC0008)

52 Name Withheld (PFC0014)

53 Name Withheld (PFC0016)

54 Name Withheld (PFC0021)

55 Name Withheld (PFC0046)

56 Name Withheld (PFC0068)

57 Name Withheld (PFC0071)

58 Name Withheld (PFC0072)

59 Name Withheld (PFC0073)

60 Name Withheld (PFC0082)

61 Name Withheld (PFC0103)

62 National Crime Agency (PFC0092)

63 NEST (PFC0088)

64 NEST Corporation (PFC0033)

65 NEST Corporation Members’ Panel (PFC0031)

66 Nick Paus (PFC0085)

67 NOW: Pensions (PFC0054)

68 Pension Protection Fund (PFC0097)

69 Pension Review Service (PFC0095)

70 Pensions Advisory Service (PFC0075)

71 Pensions and Lifetime Savings Association (PFC0078)

72 Pensions Policy Institute (PFC0026)

73 Personal Investment Management & Financial Advice Association (PIMFA) (PFC0035)

74 Peter Gray (PFC0091)

75 Prospect (PFC0057)

76 Prudential (PFC0051)

77 Retirement Advantage (PFC0050)

78 Retirement IQ (PFC0067)

79 Royal London (PFC0027)

80 Scottish Widows (PFC0056)

81 Squire Patton Boggs (UK) LLP (PFC0029)

82 Standard Life (PFC0037)

83 State Street Global Advisors (PFC0038)

84 The Investment Association (PFC0081)

85 The Low Incomes Tax Reform Group (PFC0011)

86 The Pensions Regulator (PFC0053)

87 The Pensions Regulator (PFC0100)

88 The Transparency Task Force (PFC0102)

89 Trades Union Congress (PFC0010)

90 UK Sustainable Investment and Finance Association (PFC0070)

91 W L Consulting Ltd (PFC0048)

92 Which? (PFC0036)

93 Which? (PFC0086)

94 You & Yours, BBC Radio 4 (PFC0020)

95 Zurich Insurance (PFC0049)

List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the publications page of the Committee's website. The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2017–19

First Report	Universal Credit: the six week wait	HC 336
Second Report	A framework for modern employment	HC 352
Third Report	Protecting pensions against scams: priorities for the Financial Guidance and Claims Bill	HC 404
Fifth Report	Universal Credit Project Assessment Reviews	HC 740
First Special Report	Child Maintenance Service: Government's Response to the Committee's Fourteenth Report of Session 2016–17	HC 354
Second Special Report	Self-employment and the gig economy: Government Response to the Committee's Thirteenth Report of Session 2016–17	HC 644
Third Special Report	Disability employment gap: Government Response to the Committee's Seventh Report of Session 2016–17	HC 652
Fourth Special Report	Victims of modern slavery: Government Response to the Committee's Twelfth Report of Session 2016–17	HC 672