

**NOTICE: ACTUARIAL CERTIFICATION OF BULK MONEY PURCHASE TRANSFERS**

**For:**

* Members/scheme actuaries advising trustees of schemes that include money purchase benefits
* Members providing advice and/or certification relating to a bulk transfer exercise without member consent from one money purchase scheme/arrangement to another

**Purpose:**

* To highlight some issues that can arise when considering bulk transfers of money purchase benefits
* To provide assistance to Members where legal advice is sought on those issues
* To provide an opportunity for Members to feedback on any areas in which there are significantly different interpretations of the legislation and/or draw the IFoA’s attention to any other issues which are arising in practice and which it may wish to address

**Background**

1. The Pension Schemes Act 1993 and the Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (the ‘Preservation regulations’) set out various ways for occupational pension schemes to transfer accrued rights to another occupational pension scheme.
2. One way is the ‘no-consent’ route, for which one of the conditions is that the trustees receive a statutory certificate from a 'relevant actuary' that the 'transfer credits to be acquired for each member ... are, broadly, no less favourable than the rights to be transferred’.
3. The IFoA is aware that this statutory certification is something which has given rise to some issues for Members involved in the process and that a number of queries have been received which raise similar questions. This note is intended both to flag up those issues that may arise and to assist Members with getting appropriate advice and assistance where they encounter them.

**The issue**

1. In applying the legislation referred to above, Members are required to interpret the terms ‘accrued rights’, ‘broadly, no less favourable’ and ‘discretionary benefits or increases in benefits’ within a money purchase context.
2. While this is an issue of legal interpretation, rather than a technical actuarial matter, Members are being expected to interpret the terminology in a reasonable, pragmatic and practical way, while at the same time being subject to their professional responsibilities including the Actuaries’ Code and the TASs (in particular the Transformations TAS). In this context, some Members have reported that the certification requirements for bulk no-consent transfers of money purchase benefits are posing difficulty.
3. Where Members are in doubt as to the appropriate interpretation then the IFoA recommends that they seek independent legal advice. The issues and questions below are designed to assist with obtaining that advice and may be suitable for raising with a legal adviser (be it the trustees’ legal adviser or otherwise).

**Specific issues that a Member should consider (and about which they may wish to seek advice)**

1. What constitutes “accrued rights to be transferred” under the scheme?

The Member may wish to consider:

* 1. Is the cash equivalent transfer value of each member’s fund the only factor to take into account when determining the value of their accrued rights?
  2. If not, what other issues are relevant considerations for the actuary, and which should instead form part of the wider trustee considerations?
  3. For example, should the actuary compare (noting this is not an exhaustive list):
     1. Scheme design before and after the transfer e.g. differences in options, fee structure or services provided to members;
     2. The nature of the funds and the associated risk/return profile e.g. UK equity v global equity, active v passive?

1. How should the “broadly, no less favourable” consideration be interpreted in relation to the scheme?
2. To what extent, if at all, can positive differences in any of the above characteristics be used to offset any negative differences:
   1. within the same category of characteristics e.g. the extent to which explicit charges can be used to offset transaction charges; or
   2. across different categories e.g. the extent to which an expectation of higher returns in the receiving scheme can be taken into account or used to offset a difference in fee structures?
3. Are there any circumstances where a reduction in the size of the fund (or in the cash equivalent) being transferred can be acceptable? For example:
   * 1. If the reduction in the fund is no greater than would have been applied to calculate the member’s cash equivalent at the date of transfer, due to the application of transaction charges, a market value adjustment or an exit charge?
     2. If the substitute fund in the receiving scheme is expected to provide better returns, can this be used to compensate for any reduction?
4. How might the legislative requirement on discretionary benefits and increases affect the proposed transfer?

What (if any) discretionary practices or similar exist under the transferring scheme and have a value which ought to be duplicated or reflected in the receiving scheme to allow the certificate to be given? For example, this could include:

* 1. Some expenses being met by the employer (although the rules do not require it);
  2. The possible availability of an option to secure a pension within the scheme on favourable terms;
  3. Discretionary enhancement of benefits on ill health.

**Wider relevance of this notice**

1. This notice is not confined to transfers from one DC scheme but is also relevant to any other transfers of money purchase benefits, including transfers of Additional Voluntary Contributions from a DB Scheme.

**Feedback**

1. We would be extremely interested to gather views on, or experiences of, these issues and the extent to which Members are finding it problematic to apply the wording in the legislation when signing off bulk transfer certificates in relation to money purchase benefits, and whether the identification of such difficulties creates a perception on the part of their clients that actuaries are being ‘difficult’.
2. This feedback will help to inform the IFoA in terms of any further work or steps that it takes in relation to this issue.
3. Please send any feedback to [regulation@actuaries.org.uk](mailto:regulation@actuaries.org.uk) or to the Regulatory Team (Ref: No consent DC Transfers), IFoA, Level 2, Exchange Crescent, Conference Square, Edinburgh EH3 8RA.
4. We are happy to hear from individual Members, but if you prefer to reply collectively (for example, as a firm) that would also be fine.

**Desmond Hudson,** Chair of Regulation Board

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