

All roads lead to FOS...



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“ The FCA has put down some serious markers with the publication

RE: British Steel Consumer Redress Scheme (CONRED 4)

Policy Statement 22/14 (PS22/14)

Like the three wise men following the bright star, all compliance, calculations, case reviews and redress work as described in British Steel Pension Scheme (BSPS) PS22/14 will lead to the Financial Ombudsman Service (FOS) (in some shape of form).

The FCA has put down some serious markers with the publication of PS 22/14 and the requirements within CONRED 4 for the BSPS Redress scheme.

You might want to start here:

<https://www.fca.org.uk/consumers/pension-transfer-defined-benefit/redress-calculations>

Then here:

<https://www.fca.org.uk/consumers/british-steel-pension-redress-scheme#revisions>

(10 times either the FOS or FSCS are quoted on this one page).

That's where any members of BSPS who were given advice to transfer out of the defined benefit pension scheme, will be directed. The FCA has already written to them. They are aware of what is going on.

You will also have to contact every one of your BSPS DB transfers. They will be expecting your note.

Here is a quick summary of a few things you might want to have a look at before the scheme commences on 28th February 2023.

Firstly, within 1 month of the start date you will be required to identify all scheme cases and write to the BSPS members who received advice to transfer. That will take a wee bit of time - hence the publication now and the timing of the start of the scheme.

PS22/14 sets out conditions that must be satisfied for the case to be deemed a case within the scope of the redress scheme, here's a quick summary of the key points:

1. A firm gave a BSPS member advice to transfer and BSPS DB occupational pension benefits were transferred between 26th May 2016 and 29th March 2018. These dates are important - we'll come back to the time bar in another article, but all these transfers are in scope (they are not time barred).
2. The suitability requirements as per COBS 9.2.1R are applied to the advice and DBAAT work will have to be undertaken to confirm suitability (and then confirmed to the FCA, who will ask the FOS to check it).
3. The consumer had not, prior to the 28th February 2023, accepted in full and final settlement, an offer of redress in respect of the advice. Now, that's an interesting one: is there time to offer a full and final settlement before they come into scope?
4. The BSPS member (a BSPS member advice to transfer and BSPS DB occupational pension benefits were transferred between 26th May 2016 and 29th March 2018) had not, prior to the 28th February 2023, made a complaint to the FOS. Again, interesting - not only did we have PS22/14 issued, we had PS22/13 issued on the same day. FOS complainants will have the choice of redress on the basis of either 17/9 or 22/13 (see previous links for more on that). What works best?
5. The BSPS member as described above, had not already had a review of the case by the firm under a skilled person review, the result of which deemed that the advice was suitable, and that the client had the right to complain to the Financial Ombudsman.

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The other conditions center around the prevailing law and whether the client knew before 24th November 2016 (England, Wales, and Northern Ireland) that they had received unsuitable advice. That's when the discussion about the time bar becomes relevant and whether it applies...and that's a whole different article.

The situation in Scotland is slightly different in that the transfer was on or after 24th November 2017 and that the client could not have reasonably been expected to know that they had cause to complain.

Once you have checked that through, if a case does not meet any one of the conditions a letter must be sent to the consumer between 28th February and 28th March 2023 confirming the reason why the consumer is excluded. The letter offers the consumer the opportunity to



the FOS in respect of the decision (all roads lead to the FOS...). These letters are in a prescribed format and are contained within the Annex to the PS 22/14.

If the consumer meets all the conditions, a letter in a prescribed format (annex to PS22/14) must be sent confirming the inclusion of the case within the scheme.

And, worth noting, there is also a letter which offers the consumer the option to opt out of the scheme and not have their case reviewed (this is an opt-out scheme, not an opt-in).

As you can see from this brief summary, there is a little bit of work to be done prior to the commencement of the scheme. If you'd like to know more about PS22/13 and/or PS22/14, DBAAT training or redress calculations please do give us a call or drop us an email.

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YOUR STUDY TIME IS PRECIOUS
Together, we'll make sure you use it wisely

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