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Summary

The regulated financial advice market is designed to safeguard consumers from making poor financial decisions. However, for members of the British Steel Pension Scheme (BSPS) the advice market failed to protect them and caused serious financial harm. Advisers were financially incentivised to provide unsuitable advice, which led to approximately 7,800 steelworkers transferring out of their defined benefit (DB) pension scheme and as a result, losing an average of £82,600 in life savings.

The FCA has consistently been behind the curve in responding to unsuitable pension transfer advice. Despite being aware of the potential risks to consumers caused by new legislation in 2015, it failed to take preventative action to protect consumers. In 2017, the FCA had limited insight into the risks to members from transferring out of DB schemes. It did not know what was happening in the DB pension transfer market or the BSPS case, and failed to identify the scale of the issue. It had inadequate oversight of the firms involved, and later found out that in 47% of cases the advice provided was unsuitable. The FCA's response involved a light touch regulatory approach failing to take swift action and adequately protect consumers. Focussed on gathering further evidence and issuing letters to firms, rather than enforcing against non-compliance, to date it has issued only one fine. To remedy the financial detriment caused, the FCA adopted a standard complaints-based redress process which proved ineffective for BSPS members, with only 25% of BSPS members raising complaints. Many have not been compensated fully, and for those whose advice firms have entered insolvency, £21 million in compensation has been lost due to financial limits. The FCA has proposed a redress scheme, which the FCA estimates would cost around £71.2 million in compensation to those who received bad advice. However, there are concerns that this figure may end up being significantly higher.

The BSPS case points to wider issues within the regulation of financial advice, such as the FCA's authorisation and oversight of small firms, its access to data and intelligence to identify problems, and its use of enforcement powers to respond to them quickly. It also highlights significant risks including the overall function of the pension advice market and the capacity of redress organisations to manage large scale consumer detriment.

Introduction

There are two main types of workplace pension, a defined benefit (DB) scheme, which provides a guaranteed income to members in retirement based on how many years they have worked and the salary they have earned, and a defined contribution (DC) scheme, which relies on contributions and investment choices made by each member. The British Steel Pension Scheme (BSPS) was a large DB pension scheme, sponsored by Tata Steel UK, with assets worth approximately £13.3 billion. The scheme was restructured in 2017 and 7,834 members chose to transfer out into a DC scheme. Almost all (95%) of these decisions were informed by independent financial advisers, and at least 47% of the advice provided was found to be unsuitable, causing significant financial detriment.

The Financial Conduct Authority regulates over 50,000 financial services firms and is responsible for supervising independent financial advisers, including the estimated 369 firms who advised BSPS members. The FCA also oversees the redress process for consumers when things go wrong, through which the Financial Ombudsman Service resolves complaints between financial services firms and their consumers, and the Financial Services Compensation Scheme (FSCS) pays compensation to consumers in cases where firms have entered insolvency.

Conclusions and recommendations

1. **The regulatory system left British Steel Pension Scheme members open to being manipulated and taken advantage of by unscrupulous financial advisers who personally profited from giving bad advice.** The regulated advice market should be a key safeguard for consumers, protecting them from making financial decisions that are not in their best interest. However, in the BSPS case at least 47% of the transfer advice provided to members was unsuitable. Similarly, across the wider DB pensions advice market, 17% of advice provided to consumers between 2015–2021 was unsuitable, affecting a significant proportion of consumers. BSPS members were put in a vulnerable position by pensions regulators, who failed to provide adequate information and support regarding their options, leaving them open to manipulation. Also, advisers were financially incentivised to recommend that members transfer out of their DB pension, and 79% of the advice provided to BSPS members encouraged them to transfer out, causing serious financial harm. The FCA remains unaware of the total loss experienced by BSPS members or the ongoing costs of advice and product charges. It acknowledged that there were clear issues in its supervision of small advice firms, which limited its response to the BSPS case.

   Recommendation: ***The FCA should provide the committee with an update on:***

   - ***the extent and impact of unsuitable advice on BSPS members; and***
   - ***what it has done to prevent a similar case from occurring again, and in particular, changes to its approach to regulating small advice firms.***

2. **The Financial Conduct Authority has consistently been behind the curve in responding to the catastrophic impact on British Steel Pension Scheme members.** The FCA has been slow to respond at all stages of the BSPS case, for example it failed to take effective preventative action after identifying problems with the advice market in 2015 and it has been slow to implement its regulatory powers including a ban on contingent charging and temporary asset retention restrictions. The FCA's lack of access to timely data and insight into the DB pension transfer market indicates that the regulator was slow to understand the risks to pension members and how to effectively monitor these. This was made worse by the FCA's focus on regulation of big firms which left smaller firms out of the spotlight, as the former Chief Executive of the FCA admitted.[1] This lack of data, and requirements for high levels of evidence to inform its decisions, also led to significant delays in its response. Rather than taking immediate action, it had to gather further information to understand the issue and held consultations to justify the use of certain regulatory powers. The FCA has proved it can act fairly and swiftly in other circumstances, such as taking emergency action to protect firms and consumers during the COVID-19 pandemic. The FCA should therefore take a similar approach in cases like the BSPS, responding quickly to individual detriment and protecting consumers from further harm.

   Recommendation: ***The FCA should examine what can be done to improve the data and insight that they need to inform a more proactive approach to regulation, and what lessons can be learnt from its response to the COVID-19 pandemic.***

1 Q46 Andrew Bailey

3. **The Financial Conduct Authority has not been sufficiently proactive or timely in using its enforcement powers.** To date, the FCA has issued one fine in response to the BSPS case, and while it has 30 more enforcement actions in place, these have been ongoing for years without progress. It relied on ineffective interventions during its initial response such as issuing letters to advice firms reminding them of their obligations, and allowing firms to voluntarily withdraw from the market, rather than taking enforcement action. In doing so, the FCA failed to distinguish between rogue advisers and isolated instances of bad advice. Similarly, within the BSPS case there have been reports of phoenixing, in which rogue advice firms voluntarily leave the market only to repaper under different names; in response the FCA updated its guidance to raise firms' awareness of the issue and is yet to take enforcement action. This highlights the FCA's failure to deter bad actors from operating within the market.

   Recommendation: ***The FCA should report to the committee on the progress being made on its 30 active enforcement cases, how it is updating its approach to make a clearer distinction about how it enforces against poor conduct and rogue advisers, and how it signals the outcome of its actions to the wider market. The FCA should review whether it has sufficient enforcement powers to deal with bad actors in the financial industry. The Treasury should consider how to address concerns about activity relevant to, but not within, the FCA's remit, for example the actions of introducers in cases such as the BSPS.***

4. **The way that compensation has been provided in the British Steel Pension Scheme case has been slow and unfair.** BSPS members face significant delays in receiving compensation. Complaints made to the Financial Ombudsman Service take on average eight months to be completed with many taking significantly longer. Many BSPS members have not received the full amount of compensation owed to them and members who have sought redress through the Financial Services Compensation Scheme (FSCS) have lost £21 million in compensation due to FCA imposed financial limits. There are also significant variations in the amount of compensation awarded to BSPS members based on when redress is calculated. Due to changes in the way redress is calculated, members who sought compensation early have received significantly less than those who claimed compensation after 2021. Only 25% of all BSPS members who received unsuitable advice have raised claims with redress organisations, yet the FCA has taken five years to propose a consumer redress scheme for members. Despite gathering evidence on the case since 2018, the FCA only began considering the potential use of a scheme and analysing its impacts in early 2021.

   Recommendation: ***In considering the implementation of a consumer redress scheme for BSPS members the FCA should consider how further redress mechanisms can be implemented more quickly and provide fair compensation. It should also consider how to resolve differences in the levels of compensation received by BSPS members to date, and how this compares to the amount that other members will receive from the proposed FCA redress scheme.***

5. **Seven years after the Pensions Schemes Act, regulated bodies are still not clear on the Financial Conduct Authority's expectations for consumer protection.** The 2015 Pensions Schemes Act provided consumers with greater flexibility for

accessing their pension savings and allowed DB pension scheme members the opportunity to transfer out to a DC scheme to access their savings. The FCA recognised the potential harm these reforms could cause some consumers and was concerned with the speed at which they were introduced. In response, the FCA provided guidance that advisers should assume that, in most cases, a transfer will be unsuitable, creating confusion among advice firms. Adding to this confusion, the FCA consulted on removing its starting position in 2017, despite finding a 17% unsuitability rate for DB transfer advice across the market. Such contradictions and misalignment between the legislation and regulation of transfer advice contributed to the failings of advisers within the BSPS case. There are also uncertainties around the provision of Professional Indemnity Insurance (PII), as the availability of cover has become constrained by limited providers and high costs. The FCA is yet to define its expectations for the PII industry or fully consider its effects on the stability of pension transfer advice market. The FCA has also failed to clarify its regulatory approach to other areas emerging areas of consumer risk, such as crypto asset investments.

Recommendation: ***The FCA should be more proactive and consumer-focused in its engagement with stakeholders. It should have a better mechanism for responding to consumer harms and collect more evidence on a regular basis to pick up on issues that are being raised, especially from emerging risks in financial markets. The FCA must also review how effective the Financial Services Consumer Panel is at consumer protection and how it influences policy debates within the FCA from a consumer angle.***

6. **The current compensation arrangements do not always protect consumers, can create wider costs to firms and may not have the capacity to cope with future risks in the advice market.** The standard approach to redress relies on consumers seeking compensation themselves, but only 25% of BSPS members who received unsuitable advice have raised claims with redress organisations. Similarly, despite the redress process being free to use, 72% of complaints to the Financial Ombudsman and 40% of claims to FSCS being made through third party representatives such as claims management companies and solicitors. This points to the general complexity of the redress system and the FCA's failure to recognise the specific vulnerabilities of BSPS members that prevent them from seeking compensation directly. For redress arrangements to work effectively firms should have PII cover to afford the cost of compensation, however many advice firms are unable to access the insurance and, since 2018, 60% of firms have left the DB pension transfer market entirely. For firms that have entered insolvency, compensation is funded by an FSCS levy, which forces compliant firms to shoulder the cost of unsuitable advice. Given that the Financial Ombudsman is dealing with a significant backlog of complaints and the FSCS levy is forecast to increase to £406 million in 2022–23, the redress system may not have the capacity to respond to further instances of significant consumer detriment within financial services.

Recommendation: ***The FCA, FOS and FSCS should write to the committee in 6 months to explain what they are doing to manage risks in the redress system for financial service. The FCA's handling of the wider DB pension market should be reviewed as there could be thousands more cases of mis-selling which may be eligible***

for financial redress, given the significant amount of unsuitable advice seen across the sector. The review should include consideration of solutions in circumstances in which an industry-wide levy is insufficient to pay out compensation to those who are eligible.

1 The Financial Conduct Authority's handling of the BSPS case

1. On the basis of a report by the Comptroller and Auditor General, on 27 April 2022 we took evidence from the Financial Conduct Authority (FCA), the Financial Ombudsman Service (FOS) and the Financial Services Compensation Scheme (FSCS) on the British Steel Pension Scheme (BSPS).[2] The session included evidence provided by the Personal Investment Management & Financial Advice Association (PIMFA), the legal firm Clarke Willmott, and a former BSPS member. Separately, on 13 June 2022 we also took evidence from the former Chief Executive of the FCA, who is the current Governor of the Bank of England.

2. After Tata Steel faced financial difficulty in 2017, the BSPS was restructured, forcing all 130,000 members to decide between two options for managing their pension benefits. Following the Pension Schemes Act in 2015, some 44,000 members also had the option to transfer their savings out of the DB scheme and into a DC scheme. The Act required members with over £30,000 in pension savings to seek independent financial advice, and approximately 7,500 members received advice to transfer out of the scheme.[3] In 47% of cases the advice provided was unsuitable, and in a further 32% it was unclear whether the advice provided was in members' best interest. By transferring out some BSPS members lost significant amounts of money, with an average loss of £82,600 and individual losses that range from £0 to £489,000.[4]

3. There are a wide range of bodies involved in the BSPS restructure, the regulation of pension transfer advice, and the delivery of compensation to affected consumers. The FCA regulates over financial services firms is responsible for the regulation of the pension transfer advice market. It is also responsible for overseeing the provision of redress, through which the FOS resolves complaints between financial advice firms and BSPS members, and the FSCS pays compensation to members in cases where firms have entered insolvency.[5]

Transferring out of the BSPS

4. During the BSPS restructure members were put in a vulnerable position by pensions regulators.[6] The former Chief Executive of the FCA told us he considered transferring a DB pension into a DC scheme to involve the most complex piece of financial advice a person can take.[7] Members were forced to make difficult decisions regarding their pension benefits within tight deadlines and without adequate information or support.[8] The FCA was also aware of steelworkers' mistrust towards Tata Steel, the Pension Protection Fund and the way that the Time to Choose exercise was being handled.[9] The lack of regulatory action to counter this created a culture of distrust and misinformation.

2 C&AG's Report, *Investigation into the British Steel pension scheme*, Session 2021–22, HC 1145, 18 March 2022
3 C&AG's Report, para 2, 11
4 C&AG's Report, para 2.13, 2.15
5 C&AG's Report, figure 3
6 C&AG's Report, para 10
7 Q 8, Oral evidence: British Steel Pension Scheme (Post-panel), HC 251, Monday 13 June 2022
8 C Rookes, *Independent review of communications and support given to British Steel Pension Scheme members*, January 2019
9 Q 30, Andrew Bailey

5. The requirement for regulated financial advice for transfers over £30,000 was intended to be a key safeguard for consumers, and the bodies involved in the BSPS restructure believed the advice market would protect members from harm.[10] Similarly, BSPS members trusted and relied upon on their advisers to help them understand their pension options, and 91% of members surveyed believed their financial adviser had their best interest at heart.[11]

6. However, the financial advice market failed to protect members and instead profited off their vulnerability.[12] Members had built up large pension pots with an average transfer value of £365,000, and some worth more than £1 million.[13] Due to a contingent charging model, in which advisers are paid only if a transfer takes place, advisers were financially incentivised to recommend members transfer out and transfers took place in 79% of advice cases. This led to many unscrupulous advisers misleading people about the financial risks posed and offering free gifts and meals to manipulate members to transfer.[14]

7. The impact on members has been catastrophic, both financially and emotionally.[15] Alongside losses caused by unsuitable advice to transfer, many members face ongoing advice charges to manage their remining pension savings.[16] The FCA is unaware of the total financial loss experienced by members, it told us that it is conducting further analysis as part of its consultation on a BSPS consumer redress scheme to understand the losses experienced by members.[17]

The FCA's response

8. The FCA failed to take swift and effective action at all stages of the BSPS case. It first became aware of the risks of unsuitable transfer advice in 2015 after the introduction of the Pensions Schemes Act but failed to take sufficient action to prevent consumers from being harmed. At the time, it did not have adequate insights into the behaviour of smaller advice firms and its work was limited to high-level market wide research to identify high-risk firms, rather than specific, targeted interventions.[18] This lack of proactive intervention highlights clear limitations with the FCA's supervisory approach, and the impacts of the BSPS case demonstrate its failure to prevent harm before it has fully manifested itself in the market.[19] The FCA recognised that there were significant issues in its supervision of small advice firms, which did not deliver the necessary oversight, and told us that this was a key contributing factor to the financial harm experienced by members.[20]

9. The former Chief Executive of the FCA told us that, as the BSPS case unfolded, the FCA did not have the data to tell it which firms had provided advice to members and found it difficult accessing this information when it needed it. This delayed its response and meant it was unable to warn BSPS members of the risks as soon as it would have liked.[21]

10 C&AG's Report, para 2.4
11 C&AG's Report, para 3.8
12 Q 9 (27 April)
13 C&AG's Report, para 10
14 Qq 2, 36, 53 (27 April)
15 Q 8 (27 April)
16 Q 23 (27 April)
17 Q 57 (27 April)
18 Qq 59–63 (27 April)
19 Written evidence submitted by PIMFA dated April 2022
20 Qq 39, 40 (27 April); Q 46 (13 June)
21 Qq 23, 36 (13 June)

The FCA's lack of market data meant it was also unaware of the scale of BSPS transfers taking place to enable it to initiate a proactive response.[22] Transfer data is monitored by The Pensions Regulator (TPR), the regulator of occupational pension schemes, but was not collected in real-time or shared with the FCA.[23] Since the BSPS case, the FCA told us it has made significant changes to its co-operation and data sharing with TPR and where similar risks have been identified, such as in the Rolls-Royce case, the regulators have worked together to issue early warnings to consumers.[24]

10. In response to the BSPS case, the FCA had to gather further evidence to understand the scale of the problem and in June 2018, out of a sample of 192 files, it found that 47% of transfer recommendations were unsuitable.[25] In order to take action against regulatory non-compliance, the FCA is required to collect high levels of evidence of wrong-doing and this led to significant delays in its use of regulatory powers.[26] For example, in its inquiry into the BSPS case, the Work and Pensions Select committee identified contingent charging as "a key driver of poor advice".[27] However, rather than taking immediate action, the FCA took 32 months to ban the charging structure.[28] It delayed making changes to contingent charging rules as it was not convinced by the alternative charging models.[29] It told us that, to justify the use of its regulatory powers it had to seek further evidence and had held a consultation to understand the wider impacts on consumers and the market.[30] Similarly, five years after the BSPS case the FCA has implemented emergency asset retention powers to ensure firms are able to pay compensation to members, however Clarke Willmott described the FCA's use of powers as woefully late.[31] By contrast, the FCA has proved it can respond quickly in other circumstances. For example, it took swift emergency action in response to the immediate harm posed during COVID-19.[32] It is unclear which metrics the FCA use to assess whether measures can be established instantly or whether they require consultation.

11. The FCA implemented ineffective regulatory interventions in its initial response to the BSPS case. For example, the FCA issued letters to advice firms reminding them of their obligations to provide advice that is in consumers' best interests, showing its naivety in failing to understand the behaviour and motivations of unscrupulous advisers.[33] Similarly, as part of its suitability assessments the FCA allowed 44 firms to withdraw from the market voluntarily, rather than taking enforcement action.[34] In doing so, the FCA has failed to distinguish between rogue advisers who targeted BSPS members and isolated instances of bad advice.[35]

12. To date, the FCA has only issued one fine in response to the BSPS case.[36] It told us that it is working on a further 30 enforcement cases, but despite working as "swiftly

22 Qq 37, 38 (27 April)
23 Qq 37, 38 (27 April)
24 Qq 72–75 (27 April)
25 C&AG's Report, para 2.12, 2.13
26 Qq 45, 46 (27 April)
27 HC Work and Pensions Committee, *British Steel Pension Scheme*, HC 828, 15 February 2018
28 Q 76 (27 April)
29 Qq 19–22 (13 June)
30 Q 63 (27 April)
31 Qq 28, 109 (27 April)
32 Q 91 (27 April)
33 Qq 12, 13 (27 April)
34 C&AG's Report, para 2.18
35 Q 29 (27 April)
36 C&AG's report, figure 10

as possible" these have been ongoing for years without progress. The former Chief Executive of the FCA noted that meeting the legal tests for conducting an enforcement case involves a long period of investigation and to rush this may risk losing the case.[37] In this investigation period, the FCA does not publish lists of firms or advisers who are under investigation, so consumers are not aware, for example, when searching the FCA Register to find firms which have their permission. The FCA must look into whether it would be an option to publish lists of those under investigation, where there are significant grounds to believe they are committing serious harm to consumers. Two enforcement investigations have been reported publicly by the FCA; however, the remaining cases are subject to legal restrictions and obligations until final decisions are made.[38] The FCA maintains a register of regulated advice firms and works to ensure that consumers can quickly identify where non-compliance has occurred.[39] However, as unsuitable advice is linked to firms rather than individual advisers, consumers do not know which advisers have provided unsuitable advice.[40] These issues risk signalling to consumers that the advice market is safer than it is and highlights the FCA's failure to deter bad actors from operating within the market.[41] This problem is made worse by the FCA's focus on professional sanctions, rather than referrals for criminal activity.

13. Alongside the unsuitable advice provided by firms, there have been other issues of non-compliance within the BSPS case, including unregulated introducers and phoenixing. The FCA has identified that in 30% of BSPS cases members were introduced to their adviser by third parties, and whilst some introducers are authorised and regulated by the FCA, it identified that in eight cases introducers were unregulated.[42] The FCA's regulatory remit prevents it from taking enforcement action against unregulated third parties, and instead the FCA issued an alert reminding firms of their obligations.[43] Similarly, the FCA has identified instances of phoenixing, in which rogue advice firms voluntarily leave the market only to reappear under different names. In response, the FCA updated its guidance to raise firms' awareness of the issue and is yet to take enforcement action.[44]

The FCA's work to put things right

14. The FCA oversees the consumer redress process which intends to put consumers back into the financial position they would have been in if unsuitable advice had not been given.[45] Consumers must raise complaints directly with advice firms or the FOS within six years of receiving unsuitable advice. However, BSPS members face significant delays in receiving compensation and those that have not yet raised complaints risk falling victim to the six-year limitation period.[46] The FOS is yet to resolve 480 complaints and, due to

37 Q 48 (13 June)
38 Qq 77, 78 (27 April)
39 Q 110 (27 April)
40 Q 30 (27 April)
41 Q 26 (27 April)
42 C&AG's Report, para 2.14
43 Q 77 (27 April)
44 Q 110 (27 April)
45 C&AG's Report, para 3.2
46 Q 19 (27 April)

their complexity, complaints take an average of 8 months to be completed with some taking as long as 31 months.[47] The FOS told us that it has increased resources and added 25 specialists to address the complex backlog of BSPS cases.[48]

15. The FCA provides guidance on how compensation should be calculated and sets the rules for how compensation is delivered. Calculations use complex financial assumptions which are updated every three months in accordance with market performance, and therefore are subject to changes in the market which causes significant variation in the amount of compensation delivered to BSPS members. The FCA updated the calculation in 2021 causing members who sought compensation early to receive significantly lower amounts than those who claimed after 2021.[49] Similarly, the FCA has imposed limits on the compensation awarded by the FSCS, which is capped at £85,000 for firms that failed after April 2019 and £50,000 for firms that failed before. This further unfairly penalises those who followed the FCA's guidance and sought compensation early.[50] Members are unable to seek further compensation, and many feel they have been treated unfairly because of the timing of their complaint; as described by one former member, the prospect of not getting their rightfully deserved compensation is both un-just and heart-breaking.[51]

16. Many BSPS members have not received the full amount of compensation owed to them due their advisers being unable to pay compensation. The FCA imposes limits on the compensation awarded by both FOS and FSCS, and the FSCS's compensation limits are significantly lower.[52] This unfairly impacts those whose advice firms have entered insolvency, and in total BSPS members have lost £21 million in compensation due to FSCS's financial limits.[53]

17. The FCA and redress organisations worked to engage with and encourage BSPS members to seek compensation through direct letters and in-person events.[54] Despite these efforts only 25% of all members who received unsuitable advice have raised claims with redress organisations, and the remaining 75% of members who may be eligible for compensation have received nothing at all.[55] This highlights a problem in the way the FCA communicated with steelworkers, given the low rate of complaints. The FCA did not take proactive steps early enough to engage with the affected BSPS members and find out which methods were most appropriate to contact them and build trust. Their approach lacked the data, enquiry and empathy required. It has taken the FCA five years to propose a redress scheme for BSPS members, and when questioned on its delayed approach the FCA told us that a scheme was considered consistently during its response to the BSPS case, but a complaints-based approach was deemed the fastest way to provide compensation.[56] The former Chief Executive of the FCA told us that the regulator needed to collect the necessary evidence to undertake a redress scheme, including an unbiased sample of BSPS cases, which required additional work and time.[57]

47 C&AG's Report, para 3.18, figure 13
48 Q 92 (27 April)
49 C&AG's Report, para 3.14
50 Q 17 (27 April)
51 Written evidence submitted by Mr Anthony Lewis dated April 2022
52 Q 17 (27 April)
53 Q 103 (27 April)
54 Qq 45, 66 (27 April)
55 Qq 55, 67 (27 April)
56 Qq 18, 81 (27 April)
57 Qq 61, 62 (13 June)

2 Wider issues within the regulation of pension transfer advice

18. The FCA's response to the BSPS case highlights wider issues within its regulatory approach. Alongside the estimated 369 firms and advisers that provided unsuitable advice to BSPS members, the FCA found that 17% of DB transfer advice was unsuitable within the wider market. This is a significant proportion of non-compliance, especially when compared to the 4% unsuitability rate for other advice sectors.[58] Based on the level of unsuitability found, thousands more consumers are likely to have been mis-sold DB pension transfer advice from 2015–2021 and are due compensation. When we questioned the FCA on its plans to contact and support these consumers, it failed to provide details of its approach and merely stated its general consumer protection duty.[59]

Confused regulatory expectations

19. There is a fundamental misalignment between legislation and regulation of the DB pensions advice market, which has caused confusion over the suitability of transfer advice.[60] The 2015 Pensions Schemes Act introduced by HM Treasury was intended to provide greater freedom and flexibility for consumers to manage their pensions, allowing DB pension scheme members the opportunity to transfer out to a DC scheme in order to access their savings.[61] The FCA told us that it was concerned by the speed at which the Act was introduced, and by the potential risks it posed to consumers. The FCA described how it worked with HM Treasury, collected further evidence and conducted a consultation, in order to manage the significant regulatory challenges posed.[62]

20. In direct response to the 2015 Act, the FCA announced a new starting position for advisers who should assume that in most cases a transfer will be unsuitable.[63] Subsequently in 2017, the FCA sought to align itself with the government's underlying philosophy of choice within pensions policy and consulted on removing its starting position, which created further confusion within the advice market.[64] Within the BSPS case, the British Steel Adviser Group has highlighted the inconsistent nature of the FCA's suitability requirements. We received written evidence from multiple advice firms highlighting that in November 2017, the FCA visited advice firms and outlined their 'neutral' stance to DB transfers. They also stated that the FCA conducted file reviews during firm visits and deemed advice to be suitable despite subsequent upheld complaints from the FOS.[65] This confusion within the pension adviser market was not speedily resolved.

21. There are also wider uncertainties within the advice market, including the provision of Professional Indemnity Insurance (PII). PIMFA told us that the availability of PII has become severely limited because insurers are struggling to accurately predict the risk of

58 C&AG's Report, para 9, 2.5
59 Qq 83, 86 (27 April)
60 Written evidence submitted by PIMFA dated April 2022
61 Q 1 (27 April)
62 Letter from FCA to Committee dated 18 May 2022; Q 12 (13 June)
63 Q 52 (27 April)
64 Qq 39, 52 (27 April); Q 17 (13 June)
65 For example written evidence submitted by British Steel Adviser Group, dated April 2022, written evidence submitted by Burley Financial Services Ltd, dated April 2022

DB transfer advice, reducing the number of providers willing to provide cover.[66] Similarly, the costs of insurance have risen significantly, increasing from an average of 1%–1.5% of turnover in 2015 to 3%–6% in 2021.[67] The FCA is yet to define its expectations for the PII industry or fully consider its effects on the wider stability of pension transfer advice market, leaving the market in an uncertain position. It highlighted other areas of financial policy where greater clarity is needed in order to respond to emerging areas of consumer risk, such as the digitalisation of financial markets, including promotions of financial products and crypto asset investments.[68]

Capacity of the redress process

22. The standard complaints-based approach to redress, which relies on consumers seeking compensation themselves, has proved ineffective in the BSPS case. Only 25% of members who received unsuitable advice have raised a claim with redress organisations.[69] The FCA told us that it was surprised that more members hadn't raised a complaint themselves, which highlights a clear lack of awareness of consumer behaviour and the specific vulnerabilities that prevent consumers from seeking compensation directly.[70] Similarly, despite the redress process being free to use, 72% of complaints to the Financial Ombudsman and 40% of claims to FSCS were made by BSPS members through claims management companies or solicitors.[71] Therefore a very small proportion of eligible BSPS members have sought compensation, and even less have received the full amount of compensation owed to them. This highlights the complex and inaccessible nature of the wider redress system and calls into question its overall effectiveness to provide compensation when things go wrong.

23. Redress arrangements also impact on the wider pension's advice market. Firms should have PII cover to afford the cost of compensation, and whilst firms had cover when they provided advice, many are unable to access insurance for subsequent years.[72] This leads to firms being unable to pay compensation and forced to enter insolvency. Since 2018, 60% of firms have left the DB pension advice market entirely. For insolvent firms, compensation is funded by an FSCS levy, which forces compliant firms to shoulder the cost of unsuitable advice. Given the levy is forecast to increase to £406 million in 2022–23, and the FOS is dealing with a significant backlog of 34,000 complaints, the redress system may not have the capacity to respond to further instances of significant consumer detriment within financial services.[73] Given this compensation is a remedy for consumers who have faced financial detriment, alternatives to the industry-wide levy must be considered for a potential situation where the levy is insufficient to pay out compensation to those who are eligible.

66 Q 10 (27 April)
67 Q 55 (13 June); C&AG's Report, para 3.11
68 Qq 58, 75 (27 April)
69 Q 26 (27 April)
70 Q 45 (27 April)
71 Qq 94, 95 (27 April)
72 Q 101 (27 April)
73 Q 92 (27 April); C&AG's Report, para 3.12, 3.13,

Formal minutes

Monday 18 July 2022

Members present:

Dame Meg Hillier

Olivia Blake

Dan Carden

Mr Mark Francois

Craig Mackinlay

Sarah Olney

Nick Smith

Investigation into the British Steel Pension Scheme

Draft Report (*Investigation into the 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 23 read and agreed to.

Summary agreed to.

Introduction agreed to.

Conclusions and recommendations agreed to.

Resolved, That the Report be the fourteenth 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.

Adjournment

Adjourned till Wednesday 20 July at 1.00pm.

Witnesses

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

Wednesday 27 April 2022

Tim Fassam, Director of Government Relations & Policy, Personal Investment Management and Financial Advice Association (PIMFA); **Rich Caddy**, Former Member, British Steel Pension Scheme; **Philippa Hann**, Managing Director Financial Litigation, Clarke Willmott LLP — Q1–38

Nikhil Rathi, Chief Executive, Financial Conduct Authority; **Sheldon Mills**, Executive Director of Consumers and Competition, Financial Conduct Authority; **Nausicaa Delfas**, Interim Chief Executive and Chief Ombudsman, Financial Ombudsmen Service; **Caroline Rainbird**, Chief Executive, Financial Services Compensation Scheme (FSCS) — Q39–111

Monday 13 June 2022

Andrew Bailey, Governor, Bank of England — Q1–68

Published written evidence

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

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

1 Anonymous (BPS0017)

2 Anonymous (BPS0030)

3 Anonymous (BPS0038)

4 Anonymous (BPS0031)

5 Anonymous (BPS0037)

6 Abbey Lane Financial Associates Limited (BPS0033)

7 Acumen IFP Ltd (BPS0021)

8 AEON Financial Services Ltd (BPS0042)

9 AMG Wealth Solutions (BPS0027)

10 Association of Pension Transfer Specialists (BPS0041)

11 Belmayne Independent Financial Services (BPS0018)

12 British Steel Adviser Group (BPS0034)

13 British Steel Adviser Group (BPS0015)

14 Burley Financial Services Ltd (BPS0035)

15 Chapelwood Financial Planning Limited (BPS0022)

16 D.C Financial Ltd (BPS0012)

17 Dobson & Hodge Ltd (BPS0024)

18 Esteem Money Ltd (BPS0013)

19 Evans, Mr Martin (BPS0007)

20 FB Wealth Management Ltd (BPS0029)

21 Financial Solutions Wales Ltd (BPS0011)

22 Future Asset Management (BPS0010)

23 GM2 Limited (BPS0023)

24 Goldwag, Ms Wanda and Hewitt, Mr Jonathan (BPS0019)

25 Harvest Associates Limited (BPS0025)

26 Ideal Financial Management Ltd (BPS0008)

27 Informed Financial Planning (BPS0026)

28 Lewis, Mr Antony (BPS0001)

29 Neilly, Mr David (BPS0003)

30 Pensionhelp (BPS0036)

31 Phillips, Mr Christopher Gary (BPS0002)

32 PIMFA (BPS0045)

33 PRISM Independent Financial Advisers Ltd (BPS0020)

34 QED Financial Associates Ltd (BPS0014)

35 Quadrant Financial Associates Ltd (BPS0009)

36 Rich Caddy (BPS0005)

37 Roberts Boyt Limited (BPS0016)

38 Tapper, Mr Henry (BPS0004)

39 The Personal Finance Society (BPS0046)

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.

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11th	The rollout of the COVID-19 vaccine programme in England	HC 258
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1st Special Report	Sixth Annual Report of the Chair of the Committee of Public Accounts	HC 50

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19th	Protecting consumers from unsafe products	HC 180
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24th	Crossrail: A progress update	HC 184
25th	The Department for Work and Pensions' Accounts 2020–21 – Fraud and error in the benefits system	HC 633
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27th	Green Homes Grant Voucher Scheme	HC 635
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35th	The pharmacy early payment and salary advance schemes in the NHS	HC 745
36th	EU Exit: UK Border post transition	HC 746
37th	HMRC Performance in 2020–21	HC 641
38th	COVID-19 cost tracker update	HC 640
39th	DWP Employment Support: Kickstart Scheme	HC 655
40th	Excess votes 2020–21: Serious Fraud Office	HC 1099
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43rd	Reducing the backlog in criminal courts	HC 643

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45th	Progress with trade negotiations	HC 993
46th	Government preparedness for the COVID-19 pandemic: lessons for government on risk	HC 952
47th	Academies Sector Annual Report and Accounts 2019/20	HC 994
48th	HMRC's management of tax debt	HC 953
49th	Regulation of private renting	HC 996
50th	Bounce Back Loans Scheme: Follow-up	HC 951
51st	Improving outcomes for women in the criminal justice system	HC 997
52nd	Ministry of Defence Equipment Plan 2021–31	HC 1164
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34th	Covid-19: Support for jobs	HC 920
35th	Improving Broadband	HC 688
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37th	Whole of Government Accounts 2018–19	HC 655
38th	Managing colleges’ financial sustainability	HC 692
39th	Lessons from major projects and programmes	HC 694
40th	Achieving government’s long-term environmental goals	HC 927
41st	COVID 19: the free school meals voucher scheme	HC 689
42nd	COVID-19: Government procurement and supply of Personal Protective Equipment	HC 928
43rd	COVID-19: Planning for a vaccine Part 1	HC 930
44th	Excess Votes 2019–20	HC 1205
45th	Managing flood risk	HC 931
46th	Achieving Net Zero	HC 935
47th	COVID-19: Test, track and trace (part 1)	HC 932
48th	Digital Services at the Border	HC 936
49th	COVID-19: housing people sleeping rough	HC 934
50th	Defence Equipment Plan 2020–2030	HC 693
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