

Summary of the Final Report

The Commissioner's Final Report into the issues that arose in connection with the British Steel Pension Scheme (BSPS) in 2017 and the years that followed finds that the pension transfer advice market, which was intended to protect consumers making complex decisions, instead exposed many members of the BSPS to unsuitable advice and significant financial harm. The FCA's own analysis concludes that that 46% of BSPS transfers were unsuitable. It is important to acknowledge this.

It is also the case that, although a redress scheme was put in place, steelworkers have not been put back in the position they would have been in had they not received unsuitable advice and remained in the British Steel Pension Scheme.

The FCA regulates this market and had identified, prior to these events, that the defined benefit pension transfer market posed serious risks to consumers. Despite this prior awareness of risk, the FCA was consistently behind the curve in that it did not act sufficiently early to strengthen the regulatory framework or address harmful practices, and did not respond with sufficient urgency and effectiveness once those risks began to materialise.

Separately, the Commissioner also considered the FCA's use of enforcement powers. The Commissioner found no evidence of undue delay in enforcement action in relation to the firms against which the FCA took action, and in specific cases examined, those actions were found to be reasonable. The Commissioner does not make findings on the overall effectiveness of enforcement across the wider market, as this was not assessed by the FCA.

Although BSPS Members have lost out financially, based on the available evidence, the Commissioner has not been able to establish from the information received from the FCA and Complainants that a sufficiently developed alternative redress method, which would have produced fairer results than the s404 Scheme, was proposed to the FCA which the FCA unreasonably rejected.

FCA response and the Commissioner's position

The Final Report is not unique in finding that the FCA's actions in relation to BSPS were not sufficiently robust, proactive, or timely to address the scale of unsuitable advice. Multiple independent reviews, including the January 2019 Independent review of communications and support given to British Steel Pension Scheme members, the National Audit Office's Investigation into the British Steel Pension Scheme, and the House of Commons Public Accounts Committee's Fourteenth Report of Session 2022–23, have reached similar conclusions. Notwithstanding this consistent body of findings, the FCA, in its published response, does not accept these conclusions.

The Commissioner notes that position but remains of the view set out in the Final Report.

The FCA's response relies on the rules in place and the actions it took as evidence that its approach was adequate. The Final Report does not dispute that those rules existed and that actions took place.

However, the FCA's own analysis found that 46% of BPS transfers were unsuitable, indicating a level of harm that was systemic rather than isolated.

The FCA's response also highlights the volume of redress paid to affected BPS members. The Final Report recognises that redress has been delivered. However, the scale of that redress reflects the extent of unsuitable advice and resulting harm. The issue addressed in the Report is whether earlier and more effective intervention could reasonably have reduced the need for that redress in the first place

The Final Report therefore concludes that those measures were not sufficient in light of known risks, and that earlier and more effective intervention could reasonably have reduced the scale of consumer harm.

The FCA's response implies that the Commissioner's findings rely on hindsight (but has not identified specific examples to support that assertion). The Commissioner does not accept that this is the case.

The Final Report is based on contemporaneous evidence available to the FCA at the time, including its own thematic reviews and supervisory work. These identified a number of significant risks in the DB transfer advice market, including:

- conflicts of interest arising from contingent charging;
- gaps in adviser expertise and qualifications;
- capital adequacy requirements that were not sufficient to withstand systemic issues;
- limitations in regulatory returns, reducing visibility of transfer activity; and
- evidence that advisers were consistently not complying with existing rules.

The FCA's position is that it was "not behind the curve" and that its regulatory framework was adequate, relying on the actions it took to support that view. The issue however, is not whether rules existed, but whether the framework as a whole was sufficient to address risks that had already been identified in practice.

The Final Report assesses whether, in light of these and other known risks, the FCA's actions were sufficient and whether more could reasonably have been done, at an earlier stage, to protect consumers. It reaches a different conclusion and finds that the framework did not sufficiently address known risks in a timely manner.

The FCA's own response acknowledges limitations in information sharing, incomplete data on DB transfer activity, and an inability to identify all firms advising BPS members at an early stage. There were, additionally, gaps in its visibility of firms' professional indemnity insurance (PII) coverage. These factors are directly relevant to a regulator's ability to act in a timely and effective manner.

The Final Report also finds that the FCA has not demonstrated that it had a clear, coordinated strategy for responding to the BPS issues. Its approach was primarily reactive, fragmented, and focused on restricted, retrospective reviews of past business.

The Final Report concludes that earlier and more proactive steps could reasonably have been taken, including strengthening the regulatory framework in light of known risks, improving data collection, engaging more directly with firms - such as by writing to advisers to identify those

providing advice to BPS members at the relevant time; and progressing a redress scheme at an earlier stage.

The FCA appears to accept the Commissioner's recommendation in principle, insofar as it points to existing publications as evidence of lessons learned. However, those publications pre-date the current report and therefore do not engage with, or reflect, the new findings identified by the Commissioner.

For complainants who have questions about the report, a FAQ section has been provided.