

## Chapter 4

# British Steel Consumer Redress Scheme

## 4.2 Consumer redress scheme: identifying scheme cases

### Deadline to complete the steps in this section

- 4.2.1 **R** No more than 1 *month* after the scheme effective date, a *firm* must take the first and second steps set out in this section. The deadline for the third step is set out at ■ CONRED 4.2.8R.

### First step: identify scheme cases

- 4.2.2 **R** The first step is for a *firm* to identify all scheme cases. A scheme case is a case that satisfies each of the following conditions:
- (1) a *firm* gave a *consumer* advice in relation to a BSPS pension transfer during the relevant period;
  - (2) the advice in (1) was to transfer their BSPS pension benefits;
  - (3) the suitability requirements applied to the advice in (1);
  - (4) the *consumer* subsequently transferred their BSPS pension benefits;
  - (5) the *consumer* had not, prior to the scheme effective date, accepted an offer of redress from the *firm* or other *person* in full and final settlement of all potential claims arising out of the advice in (1);
  - (6) the *consumer* had not, prior to the scheme effective date, asked the *Financial Ombudsman Service* to deal with a *complaint* against the *firm* arising out of the advice in (1);
  - (7) the advice in (1) was not reviewed in a past business review carried out by a *skilled person* where the *firm* had assessed the *firm's* advice using the FCA DBAAT and notified the *consumer* of the following:
    - (a) the outcome of that review (whether in the *firm's* view the advice met the suitability requirements); and
    - (b) that the *consumer* is entitled to complain to the *Financial Ombudsman Service* if they disagree with the *firm's* assessment;
  - (8) the law applicable to the obligations of the *firm* arising in connection with the advice in (1) is that of a *UK* territory (that is, England and Wales, Scotland or Northern Ireland) (see ■ CONRED 4.2.5R); and
  - (9) if the applicable law in (8) is that of England and Wales or Northern Ireland:

- (a) the *consumer's* BSPS *pension transfer* was on or after 24 November 2016; or
  - (b) the *consumer* did not know, and could not have reasonably been expected to know, before 24 November 2019 that they had cause for a claim; or
- (10) if the applicable law in (8) is that of Scotland:
- (a) the *consumer's* BSPS *pension transfer* was on or after 24 November 2017; or
  - (b) the *consumer* did not know, and could not have reasonably been expected to know, before 24 November 2017 that they had cause for a claim.

4.2.3 **R** The conditions in ■ CONRED 4.2.2R(6) does not apply if a *firm* is declared in *default*.

#### Guidance on excluded scheme cases

4.2.4 **G** ■ CONRED 4.2.2R(1) does not include a case where the *firm* advised the *client* not to transfer their BSPS pension benefits, or to remain in the BSPS, and where the *firm* or a different *firm* subsequently arranged the *pension transfer*.

#### Applicable law

4.2.5 **R** For the purposes of ■ CONRED 4.2.2R(8), the applicable law is:

- (1) that of the *UK* territory where, in connection with the advice:
  - (a) the *consumer* has agreed to the *firm's terms of business*; and
  - (b) these include a clause providing for the application of the law of a particular *UK* territory (that is, England and Wales, Scotland or Northern Ireland); or
- (2) (if (1) does not apply) that of the *UK* territory where the *firm* and the *consumer* both habitually reside and where the advice is given; or
- (3) (if neither (1) nor (2) apply) that of the *UK* territory in which the consumer is habitually resident, provided the conditions in ■ CONRED 4.2.6R(1) to (2) are satisfied; or
- (4) (if neither (1), (2) nor (3) apply) that of the *UK* territory in which the *firm* gave the advice.

4.2.6 **R** The conditions referred to in ■ CONRED 4.2.5R(3) are that:

- (1) in the *UK* territory in which the *consumer* has their habitual residence, either:
  - (a) the contract under which the advice was provided was preceded by a specific invitation addressed to the *consumer*, or by advertising, and the *consumer* took all the steps necessary to engage the *firm*; or

(b) the *firm* or its agent received the *consumer's* order; or

(2) the advice was provided at least in part in that *UK* territory.

### Second step: send letters to consumers

4.2.7

**R**

The second step is for a *firm*:

(1) in relation to cases which do not meet any one of the conditions in ■ CONRED 4.2.2R(1) to (10) (subject to ■ CONRED 4.2.3R) (non-scheme cases), to send to the *consumer* a *redress determination* in the form set out in ■ CONRED 4 Annex 1R;

(2) in relation to all scheme cases, to send to the *consumer* a letter in the form set out in ■ CONRED 4 Annex 2R.

### Third step: acknowledge opt-outs

4.2.8

**R**

Where a *consumer* has responded to a letter sent by a *firm* in accordance with ■ CONRED 4.2.7R(2) stating that they do not wish to have their case considered under this *consumer redress scheme*, the *firm* must, within 5 *business days* of receiving the response, send the *consumer* a *redress determination* in the form set out in ■ CONRED 4 Annex 3R.

4.2.9

**R**

The effect of a *consumer* stating that they do not wish to have their case considered under this scheme and opting out of it is that the scheme case no longer falls within the subject matter of the *consumer redress scheme* created by this chapter.

4.2.10

**G**

After any opt-out, a *firm* should handle any *complaint* from a *consumer* in relation to advice about a BPS pension transfer other than in respect of a *redress determination* in accordance with the complaint handling rules in *DISP*.