

Chapter 4

British Steel Consumer Redress Scheme

4.4 Consumer redress scheme: calculating and paying redress

Deadlines to complete the steps in this section

4.4.1

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- (1) A *firm* must make a *redress determination* pursuant to ■ CONRED 4.4.2R or ■ CONRED 4.4.20R where it has determined that the advice provided to the *consumer* did not comply with the suitability requirements and has answered 'yes' to the causation question. Subject to (2), the *firm* must:
- (a) not take the first step of calculating and sending the *redress determination* pursuant to ■ CONRED 4.4.2R until after 1 April 2023; and
 - (b) make such *redress determination* no later than 10 *months* from the scheme effective date.
- (2) The deadline to make the *redress determination* referred to in (1)(b) is extended to 12 *months* from the scheme effective date where a *consumer* has:
- (a) requested that the *firm* calculate the redress sum that would be payable by full or partial augmentation; or
 - (b) claimed for an amount described at ■ CONRED 4.3.14R(1)(b)(iii)(C).

First step: calculate redress and send redress determination

4.4.2

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The first step is for a *firm* to calculate the amount of redress owed to a *consumer*:

- (1) in accordance with the relevant *rules* and *guidance* set out in ■ DISP App 4 and ■ DISP App 4 Annex 1, as modified by ■ CONRED 4;
- (2) by completing the BSPS calculator in accordance with the instructions set out in ■ CONRED 4 Annex 21R;
- (3) where requested by a *consumer*, by calculating the redress sum that would be payable by full or partial augmentation outside of the BSPS calculator in accordance with (1);

and send the *consumer* a *redress determination* in the form of the letter set out in ■ CONRED 4 Annex 13R.

4.4.3

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A *firm* must comply with ■ DISP App 4 when carrying out the redress calculation, as modified by this section:

DISP App 4 provisions	Application / modification
Step 1 at DISP App 4.3.3R to DISP App 4.3.14G	Does not apply. A <i>firm</i> must instead follow the steps to obtain information in CONRED 4.
Step 2 at DISP App 4.3.15R to DISP App 4.3.18G	Apply with the following modification: any reference to <i>defined benefit occupational pension scheme</i> is to be replaced with a reference to the appropriate comparator scheme identified in CONRED 4 Annex 21R 13.21R to CONRED 4 Annex 21R 13.26R.
Step 3 at DISP App 4.3.19R to DISP App 4.3.26R.	Applies in full. A <i>firm</i> must use the BSPS calculator to complete Step 3.
Step 4 at DISP App 4.3.27R to DISP App 4.3.35G	Applies in part. A <i>firm</i> must use the BSPS calculator to complete DISP App 4.3.27R to 4.3.29R as described in CONRED 4 Annex 21R to determine the redress components of a cash lump sum.
Step 5 at DISP App 4.3.36R to 4.3.40G	Applies in part. A <i>firm</i> completes Step 5 by sending out the <i>redress determination</i> at CONRED 4 Annex 13R in accordance with the instructions at CONRED 4.4.5R.

4.4.4 **E** Non-compliance with any of the evidential provisions set out in the instructions for the redress calculation at ■ CONRED 4 Annex 21R may be relied upon as tending to establish contravention of ■ CONRED 4.4.2R.

4.4.5 **R** A *redress determination* in the form of the letter set out in ■ CONRED 4 Annex 13R must include the following:

- (1) a copy of a summary report from the BSPS calculator as well as an offer to provide a detailed calculation report from the BSPS calculator if requested by the *consumer*;
- (2) the information at ■ DISP App 4.3.38R to ■ DISP 4.3.39R; and
- (3) where the firm has reached an arrangement with the *consumer* as described at ■ CONRED 4.4.9R(1)(b), a comprehensive summary of the instalments agreed.

4.4.6 **R** When a *firm* communicates a redress offer to a *consumer*, it should:

- (1) take reasonable steps to communicate in a way that is fair, clear and not misleading;
- (2) take into account the information needs of the *consumer*, including their understanding of financial services; and
- (3) where possible, use plain language and avoid the use of jargon, unfamiliar or technical language.

- 4.4.7** **R** Where a *consumer* requests a copy of the detailed calculation report from the BSPS calculator, a *firm* must send a letter enclosing such report in the form of the letter set out in ■ CONRED 4 Annex 14R within 5 *business days* of receiving such request.
- 4.4.8** **R** Where a *firm* determines that redress is payable to a *consumer* and the *firm* has not received a claim from the *consumer* within 4 weeks of a *redress determination* being sent pursuant to ■ CONRED 4.4.2R, the *firm* must:
- within 5 *business days*, send a further letter to the *consumer* in the form set out in ■ CONRED 4 Annex 16R; and
- if there is no response to the *redress determination* in ■ CONRED 4.4.2R within 3 months, send a letter to the *consumer* in the form set out in ■ CONRED 4 Annex 17R within 5 *business days* of the 3 months expiring.
- 4.4.9** **R** Unless ■ CONRED 4.4.10R applies, a *firm* must pay the redress determined payable to a *consumer*:
- (1) either:
 - (a) within 28 *days* of receiving a claim from the *consumer* for the redress determined to be payable; or
 - (b) as agreed with the *consumer* pursuant to any arrangement providing for the payment of redress in instalments over one or more tax years pursuant to DISP App 4.4.31G(4)(c);
 - (2) in accordance with the instructions set out by the *consumer* in their response to the *redress determination* in which they make their claim;
 - (3) including an additional compensation sum which:
 - (a) is payable to provide redress for the period between the valuation date referred to in ■ CONRED 4 Annex 21 13.1R(16) and the payment date; and
 - (b) must be calculated using the BSPS calculator in accordance with ■ DISP App 4.3.29(3); and
 - (4) accompanied by a confirmation in the form of the letter set out in ■ CONRED 4 Annex 15R including, where appropriate, a comprehensive summary of any arrangement with the *consumer* as described at ■ CONRED 4.4.9R(1)(b).
- 4.4.10** **R** A *firm* does not need to pay redress or otherwise comply with the requirements in ■ CONRED 4.4.9R where the *consumer* did not send a claim for it within 3 *months* of the date of the *redress determination* in ■ CONRED 4.4.2R, unless the *firm* is required to extend the validity of the redress calculation in accordance with ■ DISP App 4.3.25R.
- 4.4.11** **R** (1) A *firm* must complete the steps at (2) where a *consumer* makes a complaint to the *Financial Ombudsman Service* in respect of a *redress determination* made under ■ CONRED 4.4.2R and either of the following apply:

- (a) the *firm* and the *consumer* agree pursuant to ■ DISP 3.5.1R that the *redress determination* was correct; or
 - (b) the *firm* receives notification from the *Financial Ombudsman Service* in accordance with ■ DISP 3.6.6R(5) upholding the *redress determination*.
- (2) Within 2 weeks of the date where either the *firm* and the *consumer* reach agreement under (1)(a) or the *firm* receives the notification under (1)(b), the *firm* must:
- (a) recalculate the amount of redress owed to the *consumer* pursuant to ■ CONRED 4.2.2R in accordance with ■ CONRED 4 Annex 21 13.15R(2); and
 - (b) make a further *redress determination* pursuant to ■ CONRED 4.2.2R in the form of the letter set out in ■ CONRED 4 Annex 13R with an adaptation to the letter to explain the circumstances in which the further *redress determination* is being made.

4.4.12 **R** After the expiry of the 28-day period in ■ CONRED 4.4.9R(1)(a) or in the case of an arrangement referred to at ■ CONRED 4.4.9R(1)(b) after the expiry of the payment period for each instalment, the redress may be recovered as a debt due to the *consumer* and, in particular, may:

- (1) if a county court so orders in England and Wales, be recovered by execution issued from the county court (or otherwise) as if it were payable under an order of that court; or
- (2) be enforced in Northern Ireland as a money judgment under the Judgments Enforcement (Northern Ireland) Order 1981; or
- (3) be enforced in Scotland as if it were an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.

[**Note:** This *rule* is imposed by the *FCA* using the powers granted to it under section 404A(1)(m) of the *Act* to make *rules* providing for the enforcement of any redress under a *consumer redress scheme*.]

Second step: cases of insufficient information.....

4.4.13 **R** The second step applies in respect of a scheme case where:

- (1) a *firm* has not received a response:
 - (a) from a *consumer* ('C') to a letter sent in accordance with ■ CONRED 4.3.14R(1)(b) within 2 weeks of the letter being sent; or
 - (b) from another *party* to a letter sent in accordance with ■ CONRED 4.3.14R(1)(c) or (d) within 2 weeks of the letter being sent; or
- (2) a *consumer* requests that the *firm* calculate the redress sum that would be payable by full or partial augmentation.

- 4.4.14** **R** To complete the second step, a *firm* must take the following actions:
- (1) Where **CONRED 4.4.13R(1)** applies within 5 *business days* of:
 - (a) the 2 weeks in **CONRED 4.4.13R(1)(a)** expiring, send a further letter in the form set out in **CONRED 4 Annex 11R** to the *consumer* and allow the *consumer* at least 2 weeks to respond; and
 - (b) the 2 weeks in **CONRED 4.4.13R(1)(b)** expiring, send a further letter to the parties in **CONRED 4.3.14R(1)(c)** requesting the applicable information and allow the parties at least 2 weeks to respond.
 - (2) Where **CONRED 4.4.13R(2)** applies, within 5 *business days* of receiving a request from a *consumer* to calculate the redress sum that would be payable by full or partial augmentation:
 - send a letter to the applicable parties in **CONRED 4.3.14R(1)(c)** requesting the information at **CONRED 4.3.14R(2)** and allow at least 2 weeks to respond; and
 - if no reply is received to the letter at (a), send a further letter to the applicable parties within 5 *business days* of the expiry of the applicable deadline at (a) with a further reminder to provide the applicable information and allow at least 2 weeks to respond.
 - (3) If a reply is received from the *consumer* or the parties specified in **CONRED 4.3.14R(1)(c)** in respect of any information request in connection with the calculation of redress but the information it contains is insufficient to calculate redress in accordance with **CONRED 4.4.2R**, the *firm* should take all reasonable steps to obtain further information from the *consumer* or, where applicable, any other parties in **CONRED 4.3.14R(1)(c)**.
- 4.4.15** **R** A *firm* which, having carried out the second step, has sufficient information to complete the redress calculation using the BSPS calculator and, where requested by the *consumer*, the redress sum that would be payable by full or partial augmentation, must then complete the first step in accordance with **CONRED 4.4.2R**.
- 4.4.16** **G** Paragraph 13.30R of **CONRED 4 Annex 21R** specifies the information required to complete the redress calculation using the BSPS calculator.
- 4.4.17** **R** Where a *consumer* has requested a *firm* calculate the redress sum that would be payable by full or partial augmentation or an amount described at **CONRED 4.3.14R(1)(b)(iii)(C)**, but the *firm* does not have sufficient information to make such calculations having taken the applicable steps at **CONRED 4.4.13R**, the *firm* must proceed to calculate only the redress calculation using the BSPS calculator in accordance with **CONRED 4.4.2R** (excluding any amount claimed as described at **CONRED 4.3.14R(1)(b)(iii)(C)**).
- 4.4.18** **R** A *firm* may determine a scheme case no longer falls within the subject matter of the *consumer redress scheme* created by this chapter if the *firm*:

- (1) has taken all reasonable steps to obtain further information from the *consumer* and the parties specified in ■ CONRED 4.3.14R(1)(c); and
- (2) does not have sufficient information to calculate redress using the BSPS calculator.

4.4.19 **R** A *firm* must not make a determination pursuant to ■ CONRED 4.4.18R only because, following a request from a *consumer*, it does not have sufficient information to calculate either or both the redress sum that would be payable by full or partial augmentation or any amount described at ■ CONRED 4.3.14R(1)(b)(iii)(C).

4.4.20 **R** A *firm* must promptly send a *consumer* a *redress determination* in the form set out in ■ CONRED 4 Annex 12R if it determines, in accordance with ■ CONRED 4.4.18R, that the scheme case no longer falls within the subject matter of the *consumer redress scheme* created by this chapter.

4.4.21 **G** Where a *firm* has sent a *consumer* a *redress determination* pursuant to ■ CONRED 4.4.20R, the *firm* should handle any subsequent *complaint* from the *consumer* in relation to advice about a BSPS pension transfer other than in respect of a *redress determination* in accordance with the complaint handling rules in *DISP* and, where possible, calculate redress using the BSPS calculator.

Obligation on firms connected with transfer advice.....

4.4.22 **R** A *firm* receiving a request for information pursuant to ■ CONRED 4.3.14R or ■ CONRED 4.4.14R must take all reasonable steps to locate and provide the information requested within any reasonable time periods requested and, in any case, no later than 4 weeks after receiving the request.

Obligation to notify FCA of any failures to elicit response.....

4.4.23 **R** A *firm* that has sent a reminder to an initial information request to another *firm* in accordance with ■ CONRED 4.4.14R and has not received a response to that letter within 4 weeks of it being sent, must notify the *FCA* of this failure at BSPSnotifications@fca.org.uk within 5 *business days* of the 4 weeks elapsing.