Taking a wider view with pension transfers

Jonathan Watts-Lay reveals the key requirements for trustees when providing advice to DB members regarding pension transfers

Recently I had an interesting discussion with pension lawyers and professional financial advisers about the requirements to provide advice on pension transfers, particularly around defined benefit (DB) schemes; a target area for scammers and one that carries risk due to the valuable benefits in these schemes.

The first question discussed was: "What does a person contemplating transferring out get when they receive appropriate advice. Legislation refers to advice specific to the type of transfer but what does this mean?"

Firstly, the Financial Conduct Authority (FCA) is clear that DB transfers should be deemed as unsuitable, unless there is a very good reason for doing so.

Additionally, the FCA specifies that the advice should include a comparison and suitability report. But is this presented in a standard format across the industry?

To answer this, there is no standard format across the industry but best practice in larger firms is to have a consistent templated approach to their client communications, including the comparison and suitability report. This helps ensure advice outcomes are consistent. It is also useful for the employer and adviser as it means the process is likely to be more cost effective, and simpler to run a 'second set of eyes' compliance check, as all the information assessed will be in a standard format.

As well as this, there are other things that need to be taken into account by advisers, including the clients' aims and objectives, if they have dependents or partners, other lifetime savings they have, where the transferring monies are going and what the assessment of the receiving scheme is, what kind of charging structure the receiving scheme has (as this will impact on any transfer value analysis report produced), and if the transfer is in the best interests of the client.

As a final point it should be noted that any advice should be independent from the scheme to ensure no conflicting objectives.

The next question discussed was: "If an employer is obliged to pay for its scheme members to receive appropriate advice (for example, where an employer is encouraging a pension transfer), what would be the minimum level of advice required to satisfy the legislative requirements?"

In this case there has to be a 'personal recommendation' made and a certificate or letter signed by an authorised and qualified (pension transfer specialist) adviser to meet the requirements. This should be sent to the scheme for confirmation that advice has been given. A generic discussion about the implications of a pension transfer, without any receiving scheme in mind, is not sufficient.

Also, remember that trustees do not have to see what advice is given. As long as they know that they have received advice, the appropriateness of the advice is the responsibility of the adviser, who should be acting solely for the scheme member.

When it comes to paying for the advice, is there scope for employers to pay for the advice in relation to their employees' pension only, and to then allow individual members to pay for full advice to include all their assets? As after all, it's not just about pensions. The simple answer here is yes and the easiest way for this to be facilitated is that the employer may contribute towards the fee payable by the employee.

It's evident that amongst the many challenges and opportunities that freedom and choice has created, DB transfers could end up being the one topic that creates the most debate in years to come. Advising on a DB transfer without taking other lifetime savings into account may lead to advice being, at best, compromised. Also the out of sync tax treatment of death benefits in DB and defined contribution schemes should be an important consideration for trustees and employers when thinking about DB transfers. These are issues that we certainly believe merit concern.

Given recent market conditions and exceptional circumstances like the collapse of BHS, it is understandable that DB schemes and their benefits will come under more focus by those that stand to benefit from them. It is more important than ever that when transfers are being contemplated, a wide view is required, not just a narrow focus.

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