



Institute  
and Faculty  
of Actuaries

# DPB Guide:

A guide for licensed firms



by the Designated Professional Body Board

September 2020

# Contents

Introduction	3
1: Routes to authorisation	4
2: What the DPB licence allows you to do (and what it doesn't allow)	6
3: Conduct of business	10
4: Training and competency	12
5: Anti-Money Laundering	14
6: Client money	18
7: Complaints	20
8: Communicating with pension scheme members	22
9: Assisting individuals	25

# Introduction

Actuaries will often be asked to provide advice or comment on investment matters.

In the UK, investment advice is regulated by the Financial Conduct Authority (FCA), but legislation provides for members of certain professions to be regulated under a regime overseen by their professional body.

The Institute and Faculty of Actuaries (IFoA) is a Designated Professional Body (DPB) for this purpose, and the DPB Board oversees the regulation of investment business by firms who are granted a licence under the DPB regime.

## DPB Handbook (the Handbook)

The rules of the DPB regime are contained in the **DPB Handbook**. A copy of the Handbook is available on the IFoA website or by contacting the DPB Manager: [dpb@actuaries.org.uk](mailto:dpb@actuaries.org.uk).

The Handbook has been approved by the FCA and will always take precedence over any other material published by the DPB Board, including this Guide.

## DPB Guide

To help firms comply with the law and associated rules, the DPB Board has prepared this Guide to help actuarial firms licensed by the IFoA. It will also be useful for employees of such firms looking for high level guidance on what is expected in practice.

This Guide covers:

- The various ways in which actuarial firms can be regulated for investment business purposes;
- ‘Can and Can’t Dos’ under the DPB regime;
- The conduct of business requirements;
- How to ensure advisers are competent to provide advice;
- Compliance with anti-money laundering laws;
- A guide to handling client money;
- Complaints procedures;
- Things to consider when communicating with individuals.

If you have a query which is not covered in this Guide, or for further advice or support, please contact:

DPB Manager  
Institute and Faculty of Actuaries  
Level 2 Exchange Crescent  
7 Conference Square  
Edinburgh  
EH3 8RA  
or  
[dpb@actuaries.org.uk](mailto:dpb@actuaries.org.uk)

# 1. Routes to authorisation

There are three routes to authorisation:

- >> DPB licence
- >> APF licence
- >> FCA authorisation

**Financial Services and Markets Act 2000 (FSMA 2000)** requires that certain types of business activities (investment, insurance and mortgage business) can be carried out only by authorised entities. These activities are referred to as regulated activities. The aims of authorisation are to:

- improve confidence and stability in the UK financial system;
- improve customer financial knowledge and protection;
- reduce financial crime.

Authority to act is given by the FCA. It is a criminal offence to carry out regulated activity where you are not permitted to do so.

A firm whose main business is regulated activities must be authorised directly by the FCA.

## DPB Licence

The DPB (Designated Professional Body) Licence is issued by the IFoA. It allows firms to provide regulated investment services (known

as *Exempt Regulated Activities* (ERAs) to business clients. Business clients will typically be companies or the Trustees of occupational pension schemes. The licence does not permit a firm to provide regulated services to individuals, or to hold client money or manage investments.

To be eligible for a DPB licence, a firm must be managed or controlled by actuaries.

Regulated activities as a whole must be only an incidental part of a licensed firm's business and each individual regulated activity must be complementary to other non-regulated work performed by the licensed firm for that client.

Firms are subject to the requirements set out in the IFoA's **DPB Handbook**. That Handbook tailors the requirements of the **FSMA 2000** to the sorts of regulated work that will typically be carried out by an actuarial firm and should therefore be easier to understand than the FCA Handbook.

Application forms and further details are available in the DPB section of the IFoA website.

## APF licence

The APF (Authorised Professional Firm) Licence is also issued by the IFoA. The licence allows dual regulation, with *Non-Mainstream Regulated Activities* (NMRAs)<sup>1</sup> being carried out under the IFoA DPB regime and mainstream regulated activities being carried out under the FCA regime. To be eligible for an APF licence, a firm must be managed or controlled by actuaries.

NMRAs will be carried out under the requirements of the **DPB Handbook** and will be subject to the same restrictions as described in the DPB Licence section above, including the prohibitions on advising individuals, holding client money, managing investments and the need for regulated work to be incidental and complementary to other professional activities.

The mainstream regulated activities will be carried out under the requirements of the **FCA Handbook**. Firms can choose the permissions for the regulated services they wish to carry out, so a firm may if it wishes advise individuals, hold client money and provide regulated services which are not complementary to other professional activities.

Applications must be made to both IFoA and FCA. For the IFoA, forms and further details are available in the DPB section of the IFoA website. For the FCA, applications need to be made using the FCA's online Connect system.

## FCA Authorisation

Firms may apply for authorisation under the FCA and have no licence, DPB or APF, from the IFoA. When doing this a firm can choose appropriate permissions from a wide range of possibilities, enabling it to provide whatever business services it wishes. Such firms must comply with the relevant parts of the **FCA Handbook**. This route will be attractive to those actuarial firms that are unable to satisfy the DPB requirement to be managed or controlled by actuaries, or those who wish to provide any of the services that are not covered under the DPB licence.

### KEY POINT

The IFoA DPB regime is tailored to actuarial business and a DPB or APF licence provides a simpler way to carry out regulated work. It is therefore likely to be attractive to firms if they are able to satisfy the eligibility conditions: the firm must, for example, be managed or controlled by actuaries and regulated work for a client must be only complementary to other professional services. Direct authorisation under the FCA is more complex but allows a greater range of services to be provided.

1. NMRAs M, as defined in the FCA Handbook, are regulated activities undertaken by an APF in relation to which the conditions in PROF 5.2.1 R of the FCA Handbook are satisfied. Mainstream regulated activities are defined as any regulated activities which do not constitute NMRAs. NMRAs are intended to be the same as ERAs to ensure a level playing field between DPB and APF firms.

## 2. What the DPB licence allows you to do (and what it doesn't allow)

The regulated activities which DPB firms may carry out by are referred to as *Exempt Regulated Activities* (ERAs).

The IFoA permits DPB firms to carry out a sub-set of these ERAs and these are set out in the **DPB Handbook**.

Where DPB firms are advising on ERAs, they may advise only business clients. DPB firms cannot advise individuals on ERAs.

DPB firms can only advise on ERAs where they are complying with the conditions of the **DPB Handbook**.

On a high level, ERAs cover:

- advising on regulated investments;
- arranging transactions in regulated investments;
- dealing as agent in investments;
- assisting in the administration and performance of a contract of insurance.

APF firms may carry out the same activities, but they are termed *Non-Mainstream Regulated Activities* (NMRAs) under the DPB licence.

The **DPB Handbook** contains lots of information about the activities that can be carried out under the DPB and APF licence and is a useful reference source. That information has not been repeated in this Guide. The **DPB Handbook** also contains lots of information about the advice that is not regulated (**annex 2.1**) and what is prohibited (**annex 2.2**).

The following tables set out types of advice that DPB and APF firms may be asked to provide and shows whether the advice is regulated, non-regulated or prohibited under the DPB licence.

## Examples of regulated, non-regulated and prohibited activity

Activity	Regulated?	Comment
Your firm quotes a transfer value for a DB scheme deferred member. The member rings and tells you she can transfer to her new employer's DC scheme. She asks what the difference between the two schemes is.	No	This is providing information and is not giving advice.
She then asks if you think she should transfer.	Yes	DPB firms cannot advise individuals. APF firms can only advise on transfers if they have the relevant FCA permissions.
She asks if you can recommend an IFA.	Yes	The DPB licence allows you to recommend an authorised person who can give a member advice. Passing on the name of one or more IFAs is not a regulated activity.
She sees the IFA who advises her to stay in the DB scheme. She asks if you agree.	Yes	Commenting on, endorsing or advising against the IFA's advice is allowed under the DPB licence and is a regulated activity (if you are competent and experienced to provide it). Recommending any other alternative investment is prohibited, and for the purposes of regulated transfer advice, the individual's adviser must be the authorised IFA.
An existing DB client wants to set up a money purchase scheme for new employees. You are asked to advise on:		
whether they should set up a trust based scheme, a GPP, a stakeholder plan etc.	No	As long as your advice is given in general terms and does not refer to specific products from particular providers it is not regulated.
what contributions the employer and members should pay.	No	

who it should be invested with.	No	Currently this is not regulated as the advice is to the employer who is not the ultimate investor. However, you may want to treat this as regulated advice, and you should note that there is currently a proposal to bring this type of situation into the regulatory perimeter.
what funds should be offered to members.	No	As above.
As part of a benefit review, your client is offering members the option to pay extra contributions for an additional multiple of pensionable salary on death in service.		
The client asks you to re-broke the life assurance policy.	Yes	
A member asks if he should buy the extra life cover.	Non-regulated or prohibited	<p>If the life cover is provided under an occupational pension scheme, this is non-regulated advice. However, advice can be provided only if the individual providing the advice is competent to do so.</p> <p>If the life cover is set up under a stand-alone insurance policy, advice to an individual member is prohibited.</p>
The Trustees ask you to liaise with the insurance company when claims are made.	Yes	This is insurance distribution activity.
You are approached by the Trustees of a scheme that is currently insured with an insurance company. The Trustees just want advice on whether they should move the investment from the insurance company.	Yes	Advice to cease investing in a particular product is regulated advice.



The Trustees now employ you as Scheme Actuary. You are asked to draft a SIP.	No	
The Trustees ask you to recommend a managed fund.	Yes	
Having decided on a managed fund, the Trustees ask you to arrange the transfer of assets from the insurance company.	Yes	This is the regulated activity of arranging.
The money is disinvested on Friday but won't be invested in the managed fund until Monday. You are asked to hold the money in your firm's bank account over the weekend.	Prohibited	DPB firms cannot hold client money where it relates to regulated activity.
Following the transfer you are asked to monitor the managed fund and report on its performance.	No	
The Trustees ask you to send an announcement to members on their behalf explaining why the investment Switch has been made.	No	

# 3. Conduct of business

Work done for a client must be carried out according to the rules in the **DPB Handbook**. This section summarises some of the key requirements.

## Relationship with the client

You need to have a clear understanding of who your client is - for example, the exact name of a company to which you will be providing services.

You need to inform your client about your firm's regulatory status. If you choose to do that in an engagement letter then the **DPB Handbook** has some suggested wording.

You need to agree the specific nature and scope of the work to be undertaken. In doing so you must be sure that any regulatory element of the work will be complementary to other services.

You need to act in the client's best interests. Is there anything that might prevent, or seem to prevent, you from doing that? Are there any current or possible future conflicts that might threaten the impartial nature of your work? Conflicts might arise from activities carried out for other clients or from your own personal investments or relationships. Think carefully before accepting gifts or invitations and always keep a record of these.

If it should happen that you end up holding a client's property, for example, title deeds or passports, then you need to keep that property safe and record details of its receipt and location.

## Individuals to be competent

All regulated activity must be carried out or supervised by suitably qualified, competent and experienced individuals within a firm.

Advice needs to be confirmed in writing by a suitably qualified, competent and experienced individual.

## Selection of products

If you are advising a client to buy a regulated product, then you must be reasonably satisfied there is no other product which is likely to better suit the client's requirements. You will, therefore, need to research products from a sufficiently large number of providers to be able to provide that reasonable satisfaction.

## Communication with clients

The work carried out will often be of a technical nature. Firms must ensure that all their communication is clear and contains sufficient information, at an appropriate technical level, so that the intended audience is able to gain a proper understanding. Information must be presented in a way that is accurate and not misleading.

Firms need to listen to their client and make sure they understand their objectives. Correspondence will usually take the form of a statement of the client's relevant circumstances and their objectives. Advice given will include an explanation of the reasoning behind that advice and a statement of how any recommendations meet the client's demands and needs.

## Commission or other benefit

If any commission or other benefit is received then it must be explained to the client that the default position is that the money belongs to the client but that instead of receiving the money the client can choose to allow the firm to retain the money, for example to allow it to be offset against future fees. If any route other than giving the money to the client is chosen, the client must give written consent, specific to the occasion.

### KEY POINT

The client file, paper or electronic, needs to give a complete record of the work done, stating the client's requirements and explaining how the firm's actions and recommendations meet those requirements.

# 4. Training and competency

## The DPB Handbook requires that

*“All regulated activity (including insurance distribution activities) should be carried on or supervised by a suitably qualified, competent and experienced individual within the DPB firm (or Licensed APF)”.*

This means that firms must be satisfied that individuals are competent, and remain competent, to provide advice. Firms will need to keep evidence of how they assessed that competence.

## A proportionate approach

Firms will adopt different approaches depending on the size of the firm, the number of authorised advisers and the amount of regulated advice given.

In order to assist firms, we list a number of approaches which may be considered for both initial authorisation and for assessing ongoing competence.

Firms may wish to adopt some, many or all of these suggestions.

## Initial authorisation

Maintain a list of individuals who may undertake exempt regulated activity.

Establish a process by which someone is deemed suitable to provide regulated advice.

Conditions for approval might include:

- Individuals hold one or more relevant qualifications (as set out in the **DPB Handbook**).
- You have evidence that they were authorised to provide regulated advice in recent employments.
- For new employees, you have a reference from their previous employer.
- They are familiar with your internal compliance manual and/or the **DPB Handbook**, internal/external compliance bulletins and this Guide.
- They have completed a suitable probationary period.
- They have satisfied an appropriate appraiser that they are sufficiently competent.
- You have sought and received feedback from other appropriate individuals confirming that they are ready for approval.
- They have successfully carried out a client file review.

- They have completed a form which sets out their experience in a number of different areas relevant to the advice they will be providing and this form has been signed off by a senior colleague.
- Over the previous 12 months they have completed sufficient hours of continuing professional development relevant to the advice they will be providing.
- In interview they have satisfied a senior colleague that they are ready to provide regulated advice.

You may wish to require that the person maintains a file containing appropriate work carried out prior to the assessment of competence. This can be assessed by an appraiser.

### Ongoing competence

The reassessment – annually or over a longer period - of individuals who are authorised to undertake exempt regulated activity on a regular basis may include a subset of the conditions required for the initial assessment and/or one or all of the following:

- Complete sufficient hours of continuing professional development relevant to the advice they have been, or will be, providing.
- Complete a statement summarising the regulated work that they have completed over the period up to the date of assessment.
- Undertake a written or on-line relevant test.

### KEY POINT

All firms should consider what process is right for their firm to assess competency, and document that process. All firms should consider what documentary evidence is required when they assess the initial and ongoing competence of individuals.

# 5. Anti-money laundering

## Regulatory background

This note is a short guide and firms should refer to the Joint Money Laundering Steering Group (JMLSG) guidance at [www.jmlsg.org.uk](http://www.jmlsg.org.uk) for the definitive picture.

JMLSG also draws firms' attention to the Financial Conduct Authority (FCA)'s "Financial Crime Guide : A firm's guide to countering financial crime risk" and to the relevant enforcement notices issued by the FCA (JMLSG Part I, section 4.52). Firms should study these to see if they raise any areas of risk for their business.

## Money laundering and actuarial firms

Money laundering is the process by which criminals attempt to hide and disguise the true origin and ownership of the proceeds, or any other benefit, of their criminal activities, thereby avoiding prosecution, conviction and confiscation of the criminal funds.

There are three stages in the process:

**Placement** – the way criminal funds enter the system.

**Layering** – how the link between the funds and the criminal is concealed.

**Integration** – investing and/or recovering the funds in a way that looks legitimate.

DPB firms are unlikely to be used for placement but could potentially be targeted by criminals for *layering* and *integration*.

As advisers, actuarial firms may be well-placed to identify suspicious transactions by considering:

- whether the size of a transaction is consistent with what they know about the client and their normal activities;
- is the transaction rational in the context of the client's business or personal position;
- is there a change in the pattern of the client's transactions; and
- if the transaction is international in nature, is there a logical reason for them conducting business through the country concerned?

## Senior management responsibility

Where appropriate, with regard to the size and nature of its business, a firm must (JMLSG Part I, section 2.5):

- ensure that there is a person at Board level or equivalent with responsibility for compliance with Money Laundering requirements. This does not stop a firm from having someone at a more junior level who is responsible for the day to day Money Laundering requirements;

- assess the skills, knowledge and expertise and the conduct and integrity of those staff whose work has relevance to anti-money laundering compliance (JMLSG Part I, section 7.7);
- carry out internal audits to monitor AML compliance.

## Reporting suspicious circumstances

Firms have a responsibility to make a report (JMLSG Part 1, section 6.33 where there are reasonable grounds to know or suspect that another is engaged in money laundering or financial crime. This includes the possession of any benefit from a crime.

If you do think you have spotted something suspicious then you need to take care not to alert the client as it is an offence to tip off a possible suspect.

## Adopt a risk-based approach

Firms are required to take a risk-based approach (JMLSG Part I, sections 4.1ff) on two levels:

- the analysis of the business itself to identify areas of risk; and
- the risk attached to particular clients.

Firms should review risk assessment at the business level at least annually (JMLSG Part I, section 4.82 ).

For assessment of the risk attached to particular clients, firms should consider:

- the nature of the client;
- the source of the client's money;
- the nature of the client's business;
- the location of the client (if outside the UK);
- the services the firm will be providing to them;
- the risk levels of any products involved (see over); and
- connections with Politically Exposed Persons (PEPs), such as senior politicians or senior executives of publicly owned enterprises (JMLSG Part 1, section 5.5.13 and Annex 4-II).

When considering the nature of the services being provided, the JMLSG categorises products into three levels of risk:

Product risk level	<b>Reduced risk products</b> (JMLSG Part II, Chapter 7, sections 7.31ff)	<b>Intermediate risk products</b> (JMLSG Part II, Chapter 7, sections 7.41ff)	<b>Increased risk products</b> (JMLSG Part II, Chapter 7, sections 7.51 ff)
<b>Description</b>	<p>Unlikely to be used for money laundering purposes. The characteristics of the product might include: no surrender value or small regular premiums - perhaps paid by the employer rather than the individual.</p> <p>Such products may qualify for Simplified Due Diligence (see note below).</p>	<p>Products where, although there is a capacity for large sums of money to be invested, there are restrictions on access to funds and some schemes will have an independent pensioner trustee who polices the running of the scheme on behalf of HMRC. In this category, standard Customer Due Diligence (see note below) would apply.</p>	<p>Products for which large sums could be invested and easily taken back out. Enhanced Due Diligence (see note below) may be required with these products.</p>
<b>Examples for DPB firms</b>	<p>Term life assurance, group life protection, occupational pension schemes and pension annuities.</p>	<p>GPPs, EPPs (but not CIMP or COMP), SSAS, SIPP and TIPP (Trustee investment pension plan).</p>	<p>Single premium investment bonds.</p>



## Check the identity of clients

Firms must obtain satisfactory evidence of the client's identity before a business relationship begins (JMLSG Part I, section 5.2.2).

It can be difficult for a firm to establish whether work being carried out for a client is within the scope of the regulations. So we recommend that firms verify the identity of all clients to avoid missing any for whom this is required.

Verification should be tailored according to the level of risk. JMLSG Part I, sections 5.1 to 5.3 define the standard Customer Due Diligence (CDD) verification requirements for different types of client, including companies, partnerships, pension schemes, charities and clubs. JMLSG also sets out the concepts of Simplified Due Diligence (SDD) for low risk situations and Enhanced Due Diligence (EDD) for high risk situations.

SDD means not having to verify a client's identity (JMLSG Part I, section 5.4) but there is still a need to keep a watching brief throughout the client relationship for suspicious circumstances. It may be possible to apply SDD to certain types of organisation (JMLSG Part I, section 5.4.2), including FCA regulated firms, companies listed in a regulated market, UK public authorities and occupational retirement benefit schemes (JMLSG, Part I, sections 5.4.4 and 5.3.228ff). Where firms wish to use SDD, they must be able to show how they determined that SDD was relevant for the client (5.4.1). The decision to apply SDD should be as the result of the whole risk assessment process for the client rather than being based on one aspect, such as type of client.

For the higher risk situations, EDD means collecting more information about the client and additional monitoring of activities (JMLSG Part I, section 5.5).

Sample forms for Trustee and Employer clients, which can be used to record a risk analysis, and to confirm a record of verification of identity, are available from the **DPB section** of the IFoA website.

## Sanctions checking

As it is a criminal offence to provide services to an organisation on the sanctions list you should check that any new client is not on the HM Treasury Consolidated List: <https://www.gov.uk/government/publications/financial-sanctions-consolidated-list-of-targets/consolidated-list-of-targets>. Firms may find it helpful to use the Subscribe link on this HM Treasury page so that they receive notification of additions to the list.

## Training

Firms must provide employees with appropriate training on anti money laundering, terrorist financing and data protection (JMLSG Part 1 section 7.11). It is recommended that DPB firms ensure that all employees undergo training at least every two years.

### KEY POINT

Firms need to ensure that they have appropriate procedures and training in place and maintain good records of the risk assessments and identity checks carried out.

## 6. Client money

In the course of their work, actuarial firms may find themselves holding or controlling money that belongs to their clients – for example, when managing pension scheme bank accounts or handling investment or insurance contracts.

There are obvious risks to clients here, and the regulations related to investment business require that they are managed.

### The principles relating to regulated activities

In relation to DPB firms, the **DPB Handbook** states:

*“A DPB firm must not hold client money, including in the form of cash or cheques made payable to the firm”.*

This also applies to APF firms, although these firms may hold client money if they have the relevant FCA permissions.

The prohibition on holding client money relates only to funds which are connected to regulated activities carried out by a firm under the respective licence. For example, there is no such prohibition on holding client money connected to the provision of another service by the firm which is not conducted under a DPB or APF licence.

### Holding or controlling client money

There is a clear distinction between *holding* and *controlling* client money. Generally, a firm holds client money if it *holds* the legal title to it, either by physically possessing the relevant notes or coins or, in the case of money held in a bank account, if the bank account is in the firm’s name.

A firm *controls* but does not *hold* money where it has a power of attorney or other mandate giving it the power to direct a bank or custodian which holds monies for the account of a third party (the client), to make payments out of those monies without prior reference to the client.

A DPB firm is allowed to *control* client money (and consequently having a mandate on a trustee account is permissible), but is not allowed to *hold* client money.

## Global or pooled client accounts **APF firms**

Some firms operate, on behalf of trustees, a global or pooled client account relating to regulated activities. It is very likely that this is holding client money, and so would not be permitted under the terms of the firm's DPB licence. However, different banks have different systems and definitions, and so it is important that you establish the facts to determine whether your firm is 'holding' client money when it is not permitted to do so.

If you operate Trustee accounts and are concerned that you may hold client money in this way we would encourage you to seek confirmation from the bank as to who holds the legal title to the money;

You should confirm with the bank that in the event of your firm suffering an insolvency event any monies controlled by the firm would be held separate from the firm's assets and returned to the client.

You should also seek confirmation that the client is covered by the **Financial Services Compensation Scheme** to the same level as if it had a completely separate bank account with the bank.

If you are still unsure we encourage you to also seek legal advice regarding your firm's standing in such a situation. If you believe you are in breach, you should approach the DPB Manager: **[dpb@actuaries.org.uk](mailto:dpb@actuaries.org.uk)**.

An APF firm may hold client money for mainstream activities if it has the relevant permissions from the FCA. The FCA's rules are complex and, for example, apply differently to business covered by the Insurance Distribution Directive (IDD) and non-IDD business. The relevant rules are in the CASS (Client Assets) section of the FCA Handbook, in particular CASS 5, CASS 7 and CASS 8.

### KEY POINT

The regulations are intended to protect clients from losing money that is being held by a regulated firm. If the firm goes bust, this client money might be lost. The FCA imposes strict controls over holding client money and, as DPB firms are not covered by these controls, they are not allowed to hold client money.

# 7. Complaints

Firms are required to have a procedure in place to deal with complaints concerning services covered by the **DPB Handbook**.

That procedure should be proportionate to the size of the firm, the activities undertaken and the complexity of any likely complaint.

## Definition of a complaint

A complaint can be an oral or a written expression of dissatisfaction about the provision of, or failure to provide, a regulated activity which alleges that the complainant has suffered – or may suffer – financial loss, material stress or material inconvenience. This includes complaints received directly from an existing, former or potential client, or from another party acting on their behalf.

## How to deal with complaints

The following summarises the key steps to take on receiving a complaint relating to services covered by the **DPB Handbook**.

### On receipt

Acknowledge receipt and advise the complainant of:

- your complaints procedure;
- who will be dealing with the complaint;
- an estimate of the timescales to investigate and respond to the complaint; and
- the complainant's right of referral to the DPB Board (giving the DPB Board's address).

If a complaint is received from a third party, ensure the client's authorisation has been given before disclosing any confidential or personal client information to that third party. Where this authorisation has not been submitted with the complaint, endeavour to obtain it so as not to unduly delay the resolution of the complaint.

### Investigating a complaint

The complaint must be dealt with fairly, impartially and thoroughly by someone with sufficient authority and competence or a Principal<sup>2</sup> and preferably someone who is not directly involved in the subject matter of the complaint.

2. As per the DPB Handbook, a Principal is defined, as the context requires:
  - (a) a sole practitioner, a partner of a partnership, a member of a limited liability partnership, or a director of a company and where any such principal is not a natural person (i.e. an individual) this term will apply to the natural person in control of the relevant legal entity; or
  - (b) where used in the context of appointed representatives, the authorised person who is party to a contract with the appointed representative and who is responsible for the acts of the appointed representative resulting in them being exempt under section 39 of **FSMA 2000** (Exemption of appointed representatives).

## Where a complaint cannot be resolved in a reasonable time

Firms should endeavour to resolve complaints within a reasonable timescale. Where this is not possible, you must write to the complainant advising of this together with the reason – e.g. delays in obtaining information from an insurance company or investment manager – and provide a revised timescale for a formal response. The complainant should be reminded of their right to refer the complaint to the DPB Board.

## On completion of the investigation

On completion of the investigation, the complainant must be informed in writing of the outcome, what – if any – action the firm proposes to take and a further reminder of their right to refer their complaint to the DPB Board if they are unhappy with the response.

You should provide the contact details for the DPB Manager: **[dpb@actuaries.org.uk](mailto:dpb@actuaries.org.uk)**, and highlight that any referral to the Board must be made within 6 months of the firm's resolution letter.

## Other considerations

Ensure everyone within your firm is aware of your complaints procedure.

Be aware of the requirements of the PII policy before making any admission of liability when formally responding to a complaint in case this might invalidate any claim under your PII policy.

### KEY POINT

If you receive a complaint which relates to services covered by the **DPB Handbook**, you must deal with it in line with the Handbook's requirements.

# 8. Communicating with pension scheme members

When communicating with members of pension schemes there is a danger of straying into the territory of providing advice when you are not permitted to do so.

Even where no such advice has been given, there is a danger that members may perceive that advice has been provided.

Communicating may include group presentations, one to one meetings, video presentations and written documents.

## Regulations

Advice on regulated products may be given to individuals only by someone who is authorised by the FCA. Firms that hold a DPB licence are not authorised to advise an individual to invest in or disinvest from a regulated product.

Employees of DPB firms must not promote a specific named regulated product and/or its benefits in a way which encourages an individual to choose that product.

Employees of DPB firms may, however, provide non-regulated advice or generic advice where they are competent and experienced to do so.

Occupational defined contribution schemes (including Mastertrusts) are not regulated

products. Group Personal Pensions and Stakeholder Pension Schemes are regulated products.

APFs with the necessary permissions may advise individuals on regulated products under their FCA authorisation. The remainder of this section of the Guide relates to communication with members by DPB firms or APFs *acting under their licence from the IFoA*.

## Occupational pension schemes

Advice to individual members of an occupational pension scheme is not a regulated activity. This includes advice to a member on their investment options within the scheme as long as the advice does not also relate to them buying or selling a regulated investment e.g. taking out a Free Standing Additional Voluntary Contributions (FSAVC) policy or an annuity policy.

However, people relying on a DPB licence for compliance may give advice to individuals only if they have the relevant competence and knowledge to do so.

Firms may make changes to an individual's investments where they do so on behalf of the Trustees and in line with the member's investment options.

Firms should be careful to distinguish between work conducted for Trustees and for individuals. In particular, any correspondence with an individual must make clear:

- whether or not any advice is being given to them; and, where appropriate,
- the scope of that advice.

For example, if a member who is retiring is also a Trustee and the firm is advising on an investment for retirement, the correspondence should make it clear that the advice is being provided to the Trustee.

When corresponding with a member, firms should make it clear to the member that they act for the Trustees and not the individual. This will help manage the risk that a member may perceive that they have received investment advice from the firm.

Firms advising the Trustees or employer of an occupational pension scheme must not, if there is a conflict of interest that cannot be reconciled, also advise its individual members. A DPB firm must ensure that its ability to provide advice to its clients is not, and cannot reasonably be seen to be, compromised.

### Contract based schemes

DPB firms must not give advice to individuals on regulated investment products. Such advice may be given only by FCA authorised firms.

DPB firms may assist the employer in the preparation of video presentations or written communications giving information about the employer's contract based arrangement.

The following set of dos and don'ts should be considered when presenting to or communicating in any way with individuals where a regulated product is being discussed. The purpose of this list is to help mitigate the risk that a member may perceive that they have received individual advice relating to an investment product.

## Do

**Do** say that you are not authorised by the FCA and, therefore, are not able to give any advice to individuals on investments. Make it clear that you are providing general information and education to help members make their own choices.

**Do** say that, if an individual requires specific financial advice, they must seek it from an appropriately authorised and competent advisor.

**Do** provide factual information on a particular pension arrangement (contributions, funds available, default fund, how life-styling works, AVCs).

When you mention features, **do** state that they are features of the pension scheme rather than the product provider.

You may state that the pension scheme is provided by a particular product provider, but after that **do** avoid mentioning the product provider if possible.

**Do** give general information on different asset classes.

If you mention any particular product name, **do** state that there are alternative providers available and you are not recommending that particular provider.

**Do** help individuals and provide advice where you are able to do so. Section 9 of this Guide sets out a number of examples of how individuals can be helped or advised.

## Don't

**Don't** give advice to any individual to invest in any regulated product e.g. pensions (stakeholder, GPPP).

**Don't** invite or induce anyone to engage in any non-regulated investment activity unless you have the competence and experience to do so.

**Don't** give an opinion that one type of regulated investment is any better than another type.

**Don't** mention, highlight or promote anything related to the past performance of a regulated pension plan or how the plan may 'perform' in the future.



# 9. Assisting individuals

The following table sets out a number of situations where an employee of a DPB firm may be asked to help an individual.

Question	Regulatory position	Should advice be given?	Example responses if not providing full advice
<p><b>Should I transfer out of my defined benefit scheme?</b></p>	<p>A defined benefit scheme is an occupational scheme and is not a regulated product.</p> <p>However, transfer advice is a regulated activity for defined benefit schemes and is therefore prohibited under the DPB regime.</p>	<p>No, it is not possible for a DPB firm employee to advise on pension transfers. However, you may give guidance on the pros and cons of transferring generally.</p>	<p>In many circumstances, it is likely to be difficult to obtain investment returns which make an individual's income from the pension transfer after they transfer out greater than they expect to receive from the pension scheme.</p> <p>However, some individuals may have circumstances which mean that transferring out could be in their favour. This includes individuals who have reduced life expectancy, individuals who have no spouse or partner and individuals with pension benefits significantly above the PPF compensation cap where the individual believes there is a material risk of insolvency of the sponsoring employer.</p> <p>If an individual would like specific advice on the possibility of transferring out, they must seek the advice of a financial adviser.</p>

Question	Regulatory position	Should advice be given?	Example responses if not providing full advice
How much income do I need when I retire?	This is not regulated advice.	Advice may be given by someone who has the necessary competence and experience.	General rules of thumb may be provided.
Should I save in a pension scheme or an ISA?	This is not regulated advice as long as you are not advising on specific products.  If you are referring to a specific regulated pension or ISA product then this is regulated investment advice and employees of DPB firms may not provide this advice.	Where you are not advising on specific products, advice may be given by someone who is competent and experienced to do so.	General features of each type of vehicle may be provided including: <ul style="list-style-type: none"> <li>• Tax position;</li> <li>• How easy it is to access the savings; and/or</li> <li>• Types of underlying investment.</li> </ul>
How much should I contribute to my pension scheme to target the pension income I think I need?	This is not regulated advice provided you are not advising on the suitability of the product itself or appropriateness.	Where you are not advising on specific products, advice may be given by someone who has the necessary competence and experience.	General rules of thumb may be provided, provided it is made clear that the specific circumstances of the individual have not been taken into account.
What is the most tax effective way to save for retirement?	This is not regulated advice as long as you are not advising on specific products.  If you are referring to specific regulated products then this is regulated investment advice and employees of DPB firms may not provide this advice.	Where you are not advising on specific products, advice can be given by someone who is competent and experienced to do so.	General features of each type of vehicle can be provided, including: <ul style="list-style-type: none"> <li>• Tax position;</li> <li>• How easy it is to access the savings; and/or</li> <li>• Types of underlying investment.</li> </ul>

Question	Regulatory position	Should advice be given?	Example responses if not providing full advice
<b>Should I join the share incentive plan at work?</b>	This is not regulated advice.	Advice may be given by someone who has the necessary competence and experience.	General rules of thumb may be provided, provided it is made clear that the specific circumstances of the individual have not been taken into account.
<b>How much life insurance do you think I need?</b>	This is not regulated advice.	Advice may be given by someone who has the necessary competence and experience.	General rules of thumb may be provided, provided it is made clear that the specific circumstances of the individual have not been taken into account.
<b>I have the option to increase the life cover under my occupational pension scheme. Should I?</b>	The life cover is provided by an occupational pension scheme and so is not a regulated product, even though the Trustees may then insure the benefit. Therefore, advice to the member on whether to increase cover is not regulated advice.	Advice may be given by someone who has the necessary competence and experience.	General rules of thumb may be provided, provided it is made clear that the specific circumstances of the individual have not been taken into account.

Question	Regulatory position	Should advice be given?	Example responses if not providing full advice
<p><b>I am a high earner. What is the best way to reduce my annual allowance and lifetime allowance tax bills?</b></p>	<p>This is not regulated advice as long as you are not advising an individual to invest in or cease to invest in a regulated product.</p>	<p>Advice may be given by someone who has the necessary competence and experience.</p> <p>The advice should not recommend ceasing to contribute to a particular regulated product. Rather, it should be couched in terms of ceasing to contribute to any pension arrangement in the future. It should be made clear that you have not taken into account any features of the regulated product such as surrender penalties or guaranteed annuity rates; and that the member may wish to consult with an independent financial adviser before discontinuing contributions to the regulated product.</p>	<p>General rules of thumb may be provided, provided it is made clear that the specific circumstances of the individual have not been taken into account.</p>
<p><b>Should I pay off debt or save?</b></p>	<p>This is not regulated advice as long as you are not advising on specific savings products.</p> <p>If you are referring to specific regulated savings products then this is regulated investment advice and employees of DPB firms may not provide this advice.</p>	<p>Advice may be given by someone who has the necessary competence and experience.</p>	<p>General rules of thumb may be provided, provided it is made clear that the specific circumstances of the individual have not been taken into account.</p>



Institute  
and Faculty  
of Actuaries

## Beijing

14F China World Office 1 · 1 Jianwai Avenue · Beijing · China 100004  
Tel: +86 (10) 6535 0248

## Edinburgh

Level 2 · Exchange Crescent · 7 Conference Square · Edinburgh · EH3 8RA  
Tel: +44 (0) 131 240 1300 · Fax: +44 (0) 131 240 1313

## Hong Kong

1803 Tower One · Lippo Centre · 89 Queensway · Hong Kong  
Tel: +852 2147 9418

## London (registered office)

7<sup>th</sup> Floor · Holborn Gate · 326-330 High Holborn · London · WC1V 7PP  
Tel: +44 (0) 20 7632 2100 · Fax: +44 (0) 20 7632 2111

## Oxford

1<sup>st</sup> Floor · Park Central · 40/41 Park End Street · Oxford · OX1 1JD  
Tel: +44 (0) 1865 268 200 · Fax: +44 (0) 1865 268 211

## Singapore

163 Tras Street · #07-05 Lian Huat Building · Singapore 079024  
Tel: +65 6906 0889

[www.actuaries.org.uk](http://www.actuaries.org.uk)

© 2020 Institute and Faculty of Actuaries