

The complaint

Mr M complains, through his representative, that Bradford & Bingley Plc gave him unsuitable advice to transfer out of his occupational pension scheme in 1994. The representative also said that the compensation Mr M subsequently received as part of the regulator's pension review didn't make good the losses he had suffered as a result of the transfer.

What happened

In brief, in 1994 Mr M was advised to transfer the deferred benefits that he had in a defined benefits occupational pension scheme (OPS) to a personal pension arrangement.

The advice that he'd been given was subsequently investigated as part of the regulator's industry wide pension review. This looked at pension business conducted between 29 April 1988 and 30 June 1994.

Bradford & Bingley sent Mr M a letter dated 30 November 2000 saying that it had completed a review of his pension policy and it was making an offer of redress regarding the advice he'd been given. The letter said Mr M's former OPS wouldn't accept reinstatement. Bradford & Bingley therefore offered to pay compensation into Mr M's personal pension policy. Mr M accepted the offer in December 2000. His pension was augmented in January 2001 with £3,527.

Mr M, through his representative, complained to Bradford and Bingley in February 2020. Bradford and Bingley didn't uphold the complaint. It said Mr M had been offered the opportunity to have the sale reviewed as part of the regulator's pension review. He had agreed for it to be investigated. It said the investigation had been carried out in accordance with the terms set out by the regulator at the time. And Mr M had been offered compensation that he had accepted in full and final settlement of the matter. It said it therefore wasn't prepared to investigate the advice further.

Mr M referred his complaint to us, and it was considered by one of our investigators. The investigator said, in summary, that when Bradford & Bingley had reviewed the advice as part of the pension review it had determined that a transfer wasn't in Mr M's best interests. As it wasn't possible to re-instate Mr M back into the OPS, Bradford & Bingley had calculated the loss that Mr M had suffered using the methodology set out by the regulator at the time. And it had subsequently paid compensation into Mr M's pension plan.

The investigator said although she understood that Mr M had found he was still worse off than if he had stayed in his OPS, she didn't think that meant the calculation needed to be redone. She said the aim of the pensions review was effectively to draw a line under any pension mis-selling, it was a one-off exercise and from everything she'd seen, Bradford & Bingley had carried out the review as it was required to do. So the investigator didn't recommend that Mr M's complaint should be upheld.

Mr M's representative said that Mr M didn't accept the investigator's findings. It said Bradford & Bingley had failed to demonstrate that it had carried out the review in accordance with the

applicable regulatory standards. It said, as such, the FCA's FG2017/9 guidance should be used to determine appropriate redress.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr M has complained about the suitability of the advice that he'd been given to transfer his OPS benefits in 1994. However when Bradford & Bingley reviewed the advice as part of the regulator's industry wide review of pension business, it effectively conceded that the transfer hadn't been in Mr M's best interests and offered Mr M compensation. I've not therefore considered the merits of the advice to transfer itself; it's already accepted that Mr M was due compensation. What I've considered is whether the firm needs to revisit the compensation it offered to Mr M in 2000, and which Mr M accepted.

In the 1990s the regulator had identified there had been potentially widespread pension mis-selling, and as a result set up the industry wide review of pensions business as referred to above. The aim of the review was to provide consumers who had been inappropriately advised with redress, where due.

The firm had a regulatory obligation to carry out its review, and in accordance with the standards that were set out by the regulator at the time. Our investigator said that she thought Bradford and Bingley had carried out the review as it was required to do. In response to the investigator's findings, Mr M's representative said Bradford & Bingley had failed to demonstrate that it had carried out the review in accordance with the applicable regulatory standards.

Mr M's representative hasn't provided any reasons why it considers the review wasn't carried out correctly. And I haven't seen evidence of any failings in the pension review that Bradford & Bingley completed. I'm not persuaded that the review wasn't carried out in accordance with the regulatory standards required at the time.

In making the complaint, Mr M's representative said the compensation Mr M received under the pension review didn't make good the losses he had suffered as a result of the transfer.

As it wasn't possible to re-instate Mr M back into his OPS, the firm were required to calculate Mr M's losses using a methodology that was set out in detail in the regulator's pension review guidance. In many cases investors' retirement dates were several years or more away, and a number of actuarial assumptions were used in the calculations.

Although it was thought that the compensation paid through the review, when added to the value of the personal pension, would be high enough to match the OPS' benefits at retirement date, this hasn't turned out to be the case for a number of investors. This is often a result of a disparity between some of the future assumptions used in the calculations, and what actually turned out to be the case. So I accept that Mr M may not have received sufficient compensation to put him back into the position that he would have been in if he'd remained within the OPS, and clearly I understand he will be unhappy with that position.

However the regulator agreed on the assumptions after careful consideration, they were regularly reviewed, and thought to be reasonable at the time. If things had turned out differently, they could have worked in investors' favour. The pension review was designed to address potential mis-selling for thousands of investors. The regulator decided that firms should review sales and provide compensation, where appropriate, at the time. It was

designed to provide finality to both parties, and as the investigator explained, to draw a line under the matter.

I've seen no persuasive evidence that the pension review wasn't carried out correctly. In my view Bradford and Bingley carried out the pension review and offered appropriate compensation to Mr M as it was required to do at the time by the regulator. I don't think it has acted unfairly in those circumstances. So taking everything into account, I'm not persuaded that there are grounds to require Bradford and Bingley to revisit the matter now.

My final decision

Accordingly, my final decision is that I don't uphold Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 9 February 2022.

David Ashley
Ombudsman