

The complaint

Mr F complains that he was given unsuitable advice by Burley Financial Services Limited ('BFS') to transfer the benefits from his defined benefit (DB) scheme with British Steel (BSPS) to a personal pension.

What happened

In March 2016, Tata Steel UK Ltd announced that it would be examining options to restructure its business including decoupling the BSPS from the company. The consultation with members referred to possible outcomes regarding their preserved pension benefits, one of which was a transfer to the Pension Protection Fund ("PPF") – the PPF is a statutory fund designed to provide compensation to members of defined benefit pension schemes when their employer becomes insolvent. The BSPS was closed to further benefit accrual from 31 March 2017.

In May 2017, the Pension Protection Fund (PPF) made the announcement that the terms of a Regulated Apportionment Arrangement (RAA) had been agreed. That announcement said that, if risk-related qualifying conditions relating to funding and size could be satisfied, a new pension scheme sponsored by Mr F's employer would be set up – the BSPS2.

In October 2017, members of BSPS were being sent a "Time to Choose" letter which gave them the options to either stay in BSPS and move with it to the PPF, move to BSPS2 or transfer their BSPS benefits elsewhere. The deadline to make their choices was 22 December 2017.

Mr F met with BFS in October 2017 for advice as he was worried about his pension. BFS recommended him to transfer his BSPS benefits to a personal pension and Mr F followed this recommendation.

In 2021 Mr F complained about the advice he was given. Mr F says he has been worried that he wasn't given the correct advice and has concerns about his potential future finances.

BFS rejected his complaint and subsequently one of our investigators considered Mr F's complaint and upheld it. He thought Mr F had been given unsuitable advice and asked BFS to compensate Mr F accordingly. The investigator recommended BFS should calculate redress using the Financial Conduct Authority's ('FCA') redress methodology for DB transfers which was in place at the time and pay Mr F an additional £300 for the distress and worry this matter had caused him.

BFS disagreed and asked for the complaint to be referred to an ombudsman for a decision.

In February 2023, BFS decided to complete the calculations as recommended by the investigator. These calculations showed Mr F had not suffered a financial loss by transferring his DB benefits.

Mr F didn't accept this and said he wanted an ombudsman to make a final decision on his case.

In May 2023, BFS carried out another calculation based on updated rules by the FCA on how to calculate redress for non-compliant DB transfer advice. They used a BPS redress calculator which was provided by the FCA. Again this calculation showed that Mr F had not suffered a loss.

Economic assumptions which are used in the calculations are updated every three months by the FCA. In July 2023, BFS updated the calculations again and provided evidence what information they based their inputs into the calculator on. The calculations still showed no loss for Mr F.

The complaint has now been passed to me for a final decision.

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.

BFS has more recently informed us that they are willing to accept this to be considered as unsuitable advice. As the suitability of the advice is not in dispute any longer, I will focus in this decision on the redress method.

The aim is to put Mr F back in the financial position he would have been in at retirement had he remained in the BPS. BFS carried out a calculation using a specific BPS calculator provided by the FCA which is what I would expect them to do in the circumstances.

The calculator uses economic and demographic assumptions to calculate how much a consumer needs in their pension arrangement to secure equivalent BPS retirement benefits that they would have been entitled to under either BPS2 or the PPF (as uplifted to reflect the buy-out), had they not transferred out.

If the calculation shows there is not enough money in the consumer's pension arrangement to match the BPS benefits they would have received, the shortfall is the redress amount owed to the consumer. If the calculation shows there is enough money in the consumer's pension arrangement, then no redress is due.

The BPS calculator has been developed by actuaries and is programmed by the FCA with benefit structures of the BPS, BPS2 and PPF (including the impact of the subsequent buy-out) and relevant economic and demographic assumptions which are updated regularly. This information can't be changed by firms.

The calculator also makes automatic allowances for ongoing advice fees of 0.5% per year and product charges of 0.75% per year which are set percentages by the FCA.

I have checked the inputs that were entered by BFS which are personal to Mr F. These include Mr F's personal details, his individual benefits from the BPS at the date he left the scheme and the value of his personal pension. The calculation also assumes that if he had not been advised to transfer his benefits from the BPS, he would have moved to the BPS2 and that he would have taken his DB benefits at age 65. This would provide the highest benefits for Mr F and are fair assumptions.

Overall, based on what I've seen, the calculation has been carried out appropriately and in line with the rules for calculating redress for non-compliant pension transfer advice, as detailed in the FCA's policy statement PS22/13 and set out in their handbook in DISP App 4: <https://www.handbook.fca.org.uk/handbook/DISP/App/4/?view=chapter>.

The calculation in Mr F's case shows that there is no shortfall to his pension and that he has sufficient funds to be able to replicate his DB benefits in retirement. I'm satisfied that Mr F has not suffered a financial loss by transferring his pension.

BFS has still offered to pay £300 as recommended by our investigator for the distress and inconvenience this matter has caused him. Mr F has said he was worried about his pension and whether he had been given correct advice and this award is in line with what I would recommend.

Putting things right

I think the calculation carried out by BFS is appropriate in the circumstances and no redress for financial losses is due to Mr F. I think their offer to pay him £300 for the distress and worry he experienced is fair and reasonable in the circumstances.

My final decision

I uphold this complaint and require Burley Financial Services Limited to pay Mr F £300 for the worry this matter has caused him as soon as possible.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 7 October 2023.

Nina Walter
Ombudsman