

The complaint

Mr C complains that he was given unsuitable advice by Chapelwood Financial Planning Ltd to transfer the benefits from his defined benefit ('DB') pension with British Steel pension scheme ('BSPS') to a personal pension. He says the advice was unsuitable for him and believes this has caused a financial loss.

What happened

In March 2016, Mr C's employer announced that it would be examining options to restructure its business, including decoupling the BSPS (the employer's DB scheme) from the company. The consultation with members referred to possible outcomes regarding their preserved benefits, which included transferring the scheme to the Pension Protection Fund ('PPF'), or a new defined-benefit scheme ('BSPS2'). Alternatively, members were informed they could transfer their benefits to a private pension arrangement.

In May 2017, the 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 C's employer would be set up – the BSPS2.

In September 2017, the DB scheme administrators sent Mr C information about his entitlement under his current DB scheme including a cash equivalent transfer value ('CETV') illustration. The CETV stated that Mr C had 6 years and 8 months of pensionable service in the DB scheme and that the total transfer value of his benefits was £94,980.51.

In October 2017, members of the BSPS were sent a "Time to Choose" letter which gave them three options; to either stay in BSPS and move with it to the PPF, move to the BSPS2 or transfer their BSPS benefits elsewhere. The deadline to make their choice was 11 December 2017 (and was later extended to 22 December 2017).

Mr C wasn't sure what to do about his pension so he contacted Chaplewood to seek some advice. An initial meeting was arranged between Chapelwood and Mr C at the end of November 2017 along with three further follow up meetings in December 2017.

Chaplewood completed a fact-find to gather information about Mr C's circumstances and objectives. It noted Mr C was aged 40 with two financially dependent children aged twelve and six who lived with their mother and for whom Mr C provided financial support. It was recorded that Mr C earned £33,000 per year, lived in a rented house and had a car loan which cost him £200 per month. Aside from £500 in cash, Mr C had no savings or investments. Chaplewood recorded that Mr C was a member of his employer's new defined contribution ('DC') pension scheme to which he contributed 6% of his salary each month and his employer 10%; he was also a deferred member of another DB pension scheme. Mr C also told Chaplewood that he was hoping to retire at age 57.

Chaplewood carried out an assessment of Mr C's attitude to risk ('ATR'), concluding he was a 7 on a scale of 1 to 10.

In early December 2017, Chaplewood provided Mr C with a letter containing an overview of the BPS scheme. A few days later it sent Mr C a transfer value analysis report ('TVAS') which stated he needed to achieve an annual investment return on his personal pension of 7.86% in order to be able to match the benefits offered by the BPS at the scheme's normal retirement age of 65. Shortly after, Mr C sent Chaplewood an email in which he outlined his objectives for wanting to transfer his DB scheme. These included wanting to be able to leave his pension pot to his partner and his children; to have control over his pension, and to have the flexibility to take early retirement should the opportunity arise.

Mr C signed the discharge forms for his DB scheme and the application form for the personal pension on 12 December 2017. On 18 December 2017, Chaplewood provided Mr C with a suitability report in which it recommended he transfer his BPS DB pension benefits to a personal pension plan. The report noted Mr C's objectives for wanting to transfer. In addition to those included in his recent email to Chaplewood, the report noted that Mr C had concerns about the solvency of the DB scheme and was keen to avoid falling into the PPF and to having his fund devalued by 10% if he did. Mr C was also noted as wanting to know that his fund had the potential to grow in value, to have the flexibility about how he accessed his benefits, to keep his options for the future open and to know that his pension investments were being managed in line with his ATR.

Mr C accepted Chaplewood's recommendation and his DB scheme was transferred to the personal pension shortly after.

In September 2022 Mr C made a complaint to the Financial Ombudsman Service about the advice he'd received from Chaplewood in late 2017. We referred Mr C's complaint to Chaplewood and it issued him with its final response letter in February 2023. Chaplewood didn't uphold Mr C's complaint. Unhappy with the outcome of Chaplewood's investigation, Mr C said he wanted to continue with his complaint to the Financial Ombudsman Service.

In April 2023, whilst the complaint was waiting to be looked at by one of our Investigators, Chaplewood ran a loss calculation using the regulator's (the Financial Conduct Authority – 'FCA') recently established BPS-specific redress calculator. Chaplewood said it performed the calculation to work out if Mr C had suffered a financial loss as a result of its advice. It did so without prejudice to its position that it believed the advice it had given Mr C had been suitable for him. The calculation showed he hadn't suffered a loss and that his personal pension fund was sufficient to be able to replicate the secure benefits of the BPS2 had Mr C chosen to join it. Finally, Chaplewood said that it was prepared to offer Mr C £300 as compensation for any trouble and upset caused in full and final settlement of his complaint.

Our Investigator issued his findings shortly after, concluding that it was unlikely Mr C could improve on the guaranteed benefits offered by the DB scheme and that Mr C had no capacity for loss. The Investigator thought the transfer hadn't been in Mr C's best interests nor did he think the advice Chaplewood gave him was suitable.

Our Investigator thought that Chaplewood should have advised Mr C to opt into the BPS2 so he recommended that it should calculate whether Mr C had suffered a loss as a result of its advice to transfer. He also recommended that Chaplewood pay Mr C compensation of £300 for the trouble and upset he was caused as a result of receiving unsuitable advice to transfer his DB scheme.

Chaplewood responded to our Investigator to say it had already offered Mr C the redress he had recommended and whilst it disagreed with his findings it agreed, on a without prejudice basis, to proceed on the grounds he had proposed.

Our Investigator sent Mr C a copy of the calculation carried out by Chapelwood and asked him if he accepted its offer of £300. Mr C responded to say that he didn't.

In December 2023, Chaplewood carried out the calculation again as the previous one had by now expired; the calculation again showed that Mr C had suffered no loss.

Our Investigator told Mr C that he had checked the calculation and that it had, in his view, been carried out correctly. Our Investigator said that there was no shortfall in Mr C's pension and that he was on track to be able to replicate his DB scheme benefits in retirement. Our Investigator said that Chapelwood's offer to pay Mr H £300 compensation for the distress and inconvenience he had been caused was in line with awards made by the Financial Ombudsman Service in similar complaints.

Mr C advised our Investigator that he didn't accept Chaplewood's offer and wanted his complaint referred for an Ombudsman's final decision.

The complaint has been passed to me to make 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.

I understand Chaplewood hasn't conceded that the advice it gave Mr C was unsuitable. Nonetheless, in order to conclude the matter, it's already carried out loss calculations. So I don't see the need to address the suitability of its advice to Mr C in detail.

That said, I will comment that I agree with our Investigator's view that the advice was unsuitable for broadly similar reasons. In particular I've been mindful that the FCA's guidance for advising firms is that they should assume that a transfer from a DB scheme is unsuitable and they should only recommend one where they can clearly show, based on contemporary evidence, that it was in the consumer's best interests. I don't think that was the case for Mr C. That's because, amongst other things:

- The growth rates required to match the benefits from the DB scheme seem too high to ensure he would be financially better off by transferring out of the DB scheme.
- The difference in death benefits from a personal pension wasn't worth giving up the guarantees offered by the DB scheme for. That's especially the case as both the BPS2 and PPF's own death benefits were guaranteed and didn't rely on investment growth or how much was left in his pension pot at the date of his death.
- Mr C didn't need to give up the guaranteed benefits of his DB scheme in order to take early retirement or have flexible access to his pension funds. That's because both the BPS2 and the PPF gave members an early retirement option. Also Mr C was a member of his employer's DC scheme which provided him with the flexibility he claimed he needed – he wasn't committed to take its benefits in a set way. Mr C was aged only 40 at the time of the advice so had at least 17 years (and possibly 25 years) to go before retirement during which he would have built up a significant fund in his employer's DC scheme which he would be able to access flexibly at whatever age he chose to retire. I can't see that Chaplewood explained to Mr C that there was no requirement for him to give up the safeguarded benefits from the DB scheme in order to have some flexible access to retirement funds.
- Mr C could have taken lump sums from his DC scheme as and when required and adjusted the income he took from it according to his needs. So, I think if Mr C retained his DB pension, this combined with his new workplace pension, would have likely given

him the flexibility to retire early - *if* that was what he ultimately decided.

- I understand that Mr C may have legitimately held concerns about how his employer had handled his pension and that he thought it would be better if he had 'control' of his pension benefits. But it was Chaplewood's role to objectively address those concerns and to explain to him that he wasn't severing links with his employer in any event as he remained a member of his employer's new DC scheme.

Overall, I can't see persuasive reasons why it was in Mr C's best interests to give up his DB scheme guarantees.

Putting things right

The aim is to put Mr C back in the financial position he would have been in at retirement had he remained in the DB scheme. Chaplewood 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 subsequent 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 amount owed to the consumer. If the calculation shows there is enough money in the consumer's pension arrangement, then no redress is due. That means, despite the fact that we might have found that the transfer wasn't in a consumer's best interests, it doesn't automatically mean that they are worse off or will be entitled to compensation. That is something the calculation determines.

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 Chaplewood which are personal to Mr C. These include his personal details, his individual benefits from the BPS at the date he left the scheme and the value of his personal pension. There is one small anomaly with Chaplewood's recent calculation in that it keyed in the amount of his current personal pension value incorrectly. It gave the value as £104,572.58, when it should have been £104,570.02, a difference of £2.56. However, the redress calculation showed that Mr C has a surplus of over £16,000 in his personal pension. So I'm satisfied the £2.56 variance is not material to whether or not Mr C has suffered a financial loss.

The calculation also assumes that if Mr C 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 is in line with the Investigator's recommendation and what the FCA suggests will usually be a reasonable assumption – and I think this is fair here.

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 C'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. So, I'm satisfied that Mr C has not suffered a financial loss by transferring his pension.

Overall, I think the calculation carried out by Chaplewood is appropriate in the circumstances and no redress for financial losses is due to Mr C. I think Chaplewood's offer to pay Mr C £300 for the distress and worry he experienced as a result of realising he was unsuitably advised to move his DB scheme and that he could have suffered a financial loss as a consequence, is fair and reasonable in the circumstances. I've also thought about compensation awards that I've made in complaints with similar circumstances and I'm satisfied that this award is in line with those and with the Financial Ombudsman Service's approach to compensation in general.

My final decision

My final decision is that I uphold this complaint and require Chaplewood Financial Planning Ltd to pay Mr C a sum of £300 for the worry he says this matter has caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 14 March 2024.

Claire Woollerson

Ombudsman