

The complaint

Mr W complains about the advice given by BeaconIFA Limited ('Beacon') to transfer the benefits from his defined-benefit ('DB') occupational pension scheme, the 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 W's employer announced that it would be examining options to restructure its business including decoupling the BSPS (the employers' DB pension scheme) from the company. The consultation with members referred to possible outcomes regarding their preserved pension 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. The BSPS was closed to further benefit accrual from 31 March 2017.

The benefits Mr W held in the BSPS were in two parts. The first part (which I'll call 'part one') related to a period of enrolment in the plan between April 1990 and September 1999. The second part (which I'll refer to as 'part two') related to a period of membership from November 2003 to the closure of the plan to further benefit accrual.

In May 2017, it was announced that the terms of a Regulated Apportionment Arrangement ('RAA') had been agreed between the BSPS trustees, PPF and the pensions regulator. That announcement said that, if risk-related qualifying conditions relating to funding and size could be satisfied, a new pension scheme sponsored by Mr W's employer would be set up – the BSPS2.

The RAA was signed and confirmed in August 2017 and the agreed steps were carried out shortly after. Updated transfer valuations were then provided by the BSPS trustees to qualifying members, reflecting the improved funding position. The cash equivalent transfer value ('CETV') of part one of Mr W's pension was £121,131.43. The CETV of part two of his pension was £195,766.57.

In October 2017 members of the BSPS were sent a "time to choose" letter which gave them the options to either stay in the BSPS and move with it to the PPF, move to the BSPS2 or transfer their BSPS benefits elsewhere. The deadline to make a decision about joining the BSPS2 was 11 December 2017 (later extended to 22 December 2017). And I've seen a letter from the trustees of the BSPS which said Mr W opted into the BSPS2.

Mr W was initially discussing his BSPS benefits with another business. But, when that business ceased providing advice to new customers, he got in contact with Beacon to discuss his pension.

Beacon completed a fact-find to gather information about Mr W's circumstances and objectives. Amongst other things it recorded that he was 48, in good health and single with no dependents. He was employed full time, with his income was recorded as comfortably exceeding his outgoings. In addition to the benefits Mr W held in the BSPS he was also a

member of his employer's new defined contribution ('DC') pension scheme. And Beacon noted that Mr W and his employer were making combined contributions to this equivalent to 16% of his salary.

Beacon said that Mr W hoped to retire between age 55 and 57 and expected to require an income of at least £1,700 per month in retirement. So, he was interested in transferring to obtain the flexibility to retire early without incurring a penalty. And it said he was also concerned about the future status of the BSPS, given what had happened to that point.

Beacon also carried out an assessment of Mr W's attitude to risk ('ATR'). The results, which were summarised in a risk profile report, said it was deemed to be 'medium' or five on a scale of one to ten, with one being lowest risk and ten highest. This assessment said the target portfolio for a 'medium' risk profile investor had an estimated potential annual growth rate of 2.52%. The fact-find made reference though to it being agreed that a 'low medium' approach to risk should be taken.

On 16 January 2018, Beacon advised Mr W to transfer his pension benefits from the BSPS (both part one and part two) into a personal pension with a named provider. The suitability report said the reasons for this recommendation were that Mr W's personal circumstances would benefit from the flexibility a transfer provided, there was the potential to access greater levels of tax-free cash, the CETV offered was 'competitive', there was uncertainty around the future of the BSPS and Beacon's analysis indicated comparable benefits could be achieved by transferring.

Beacon addressed the critical yields calculated as part of its analysis – the level of growth required of a new pension to enable Mr W to purchase benefits at retirement equivalent to those he was giving up. And said it was acknowledged it would likely not be possible to meet this year on year, particularly for early retirement. But Beacon said the relevance of this was limited as Mr W was not going to purchase an annuity. And Beacon said assuming Mr W's pension grew at a rate of 5% it believed the pension would sustainably meet his needs well into retirement.

The cost of the advice was detailed as being 1% of the total amount transferred. And Beacon recommended that Mr W take ongoing support from it, for an annual fee of 0.5% of the pension fund. This, when combined with the pension providers product charges would result in a total ongoing charge of 1.62% of the fund value. It also detailed that Mr W had the right to cancel the ongoing servicing from it at any time. The information about Beacon's charges was also set out in a client agreement which Mr W signed on 16 January 2018.

I understand the transfer went ahead in line with Beacon's recommendation.

Mr W complained to Beacon in 2022 about the suitability of the transfer advice. Beacon didn't uphold Mr W's complaint. It said it didn't agree that Mr W had been made worse off by transferring. And it still felt the transfer was suitable as it provided him with flexibility to meet his income objectives and retire early.

Mr W referred his complaint to the Financial Ombudsman Service. In addition to believing he'd received unsuitable advice, he also questioned the charges he'd incurred since the transfer, saying he wasn't aware they'd be as much and that they were higher than some of his colleagues had paid.

One of our Investigators considered the complaint. He didn't think the advice to transfer was in Mr W's best interests. The Investigator didn't believe the information at the time indicated that Mr W was likely to improve on his existing benefits by transferring. And he thought assumptions about growth Beacon had relied on to say a personal pension would be

sustainable were unlikely to be achieved. He didn't think Mr W necessarily needed to transfer to meet his objectives – as he could take benefits early under his existing scheme and would've built further pension benefits and potentially savings before he came to retire. But, given Mr W was a number of years from retirement, the Investigator also didn't think he needed to transfer at the time of the advice – as his plans could've changed. So, the Investigator recommended Beacon establish if Mr W had suffered a financial loss as a result of its advice using the BSPS-specific redress calculator that the regulator, the Financial Conduct Authority ('FCA'), had introduced.

Beacon accepted the Investigator's opinion and said that it was happy to accept the file as unsuitable. So, it agreed to carry out the redress calculation. Mr W provided information about his pension fund value to enable this. Beacon then ran the redress calculation, which it said showed that Mr W had not incurred a loss. It noted that it had previously offered to pay Mr W £300 as a gesture of goodwill. And it confirmed this offer still stood.

Mr W didn't accept the calculations or Beacon's offer. He said he felt the calculations may have been carried out incorrectly and that the values used in respect of the benefits part one of his BSPS pension entitled him to may be incorrect. And Mr W said he felt a refund of a large portion of the fees he'd incurred would be a fairer way to resolve matters.

Our Investigator thought the calculation had been carried out in line with the requirements set by the FCA. And he noted that the calculation also already accounted for the fees charged. As an agreement could not be reached however, the complaint was referred for an Ombudsman's decision.

While the matter was awaiting an Ombudsman's attention Beacon carried out a further up-to-date redress calculation in January 2024, which also indicated that Mr W has not incurred a loss.

As the matter remains unresolved, 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.

Beacon informed us that it accepted the Investigator's opinion and was willing to agree that the advice be considered unsuitable. And it said it would settle the complaint in the way the Investigator recommended – carrying out a redress calculation – and pay Mr W £300 as a gesture of goodwill. As the suitability of the advice is not in dispute any longer, I don't need to address this. And what is left for me to decide, and what my decision will focus on, is the redress method.

I can understand that consumers like Mr W might have an expectation that, because they received unsuitable advice, they must have suffered a financial loss as a result. But that's not always the case. And when looking at putting things right, our aim is not to fine or punish the business or put Mr W in a better position than he would've been in had he remained in the DB scheme. Rather, where we think an error has been made the aim of any recommendation we make is to put the impacted party, as far as possible, in the position they would've been in but for the error. Here, the Investigator thought, if he hadn't been given unsuitable advice, Mr W would've retained his benefits in the BSPS. And that he'd have joined the BSPS2. And having seen information from the trustees indicating that Mr W had opted into the BSPS2 before he was advised to transfer, I think this is a reasonable conclusion.

Mr W can't though return to the BPS2. The FCA developed and has set out a methodology for calculating redress where unsuitable advice has been given to transfer from a DB scheme (like the BPS). And it has designed a BPS-specific redress calculator. The calculator uses economic and demographic assumptions, which the FCA updates on a regular basis, 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. And I think the Investigator's recommendation that Beacon use this calculator to carry out a redress calculation in Mr W's complaint is appropriate.

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 will determine.

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.

Beacon has carried out calculations, in respect of the benefits Mr W held in the BPS (both part one and part two). And it has updated these recently, so they have used updated fund values and the most recent assumptions set by the FCA.

I have checked the inputs that were entered by Beacon which are personal to Mr W. 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. And this information appears to have been entered correctly.

When Beacon first ran these calculations, Mr W said he didn't believe they were correct. And I understand he thinks the benefit details used in respect of part one of his pension were potentially wrong. This was because Beacon used the benefit figures given in the transfer valuation, obtained at the time of the advice, for his pension benefits as at the 'date of leaving' in respect of that part of his pension. Being the annual pension part one of his pension entitled him to in 1999, when that period of membership within the BPS ended. But the same document showed how these benefits had been re-valued and how they had increased since 1999 and what they were calculated to be worth annually at the time of the advice. Mr W has said he thinks these should've been used. But I don't agree.

The calculator uses the benefit structures of the BPS, BPS2 and PPF to re-value pension benefits from the point of membership of the BPS ending to retirement. And works out the cost of replicating these. Although Mr W had two membership periods within the BPS, these were separate and resulted in separate benefit accrual. As I understand it, the BPS calculator itself is programmed to apply the appropriate revaluation of the various parts of Mr W's pension, from the date he left the scheme until his anticipated date of retirement. So, for part one of Mr W's benefit, the date of leaving was 1999. And inputting the benefits at that date as the basis for the calculation is correct, as Mr W was not entitled to the figures, as of 2017, at the point he left the scheme in respect of that part of his pension.

The calculations assume that if he had not been advised to transfer his benefits from the

BSPS, he would have taken benefits from the BSPS2 at age 65 – the normal scheme retirement age. 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, Beacon has generally carried out the calculations appropriately. I'm satisfied it's done so 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 calculations in Mr W's case shows that there is no shortfall to his pension and he has significantly more than enough funds to be able to replicate his DB benefits in retirement. So, I'm satisfied that Mr W has not suffered a financial loss by transferring his pension. And as an appropriate calculation has now been carried out by Beacon, I don't think it needs to do anything further in respect of any potential financial loss.

Mr W has also said that the charges that he incurred on his pension from the point of the advice until 2023, when he moved his personal pension to a different provider and told Beacon he no longer needed ongoing support from it, were high. And he has said he thinks it would be fair if a large portion of these were refunded. But the suitability report and client agreement, which Mr W signed, outlined the applicable fees, and indicate these were agreed at the outset. And, based on the information I've been provided, the fees applied appear to have remained in line with this agreement.

In addition, the redress calculation compares the value of Mr W's personal pension against the cost of purchasing the DB benefits on the open market. As the fees reduced the value of Mr W's personal pension those have already been factored into the calculation. If he had suffered a loss, then Beacon would have compensated him appropriately. But that's not the case here as the most recent calculation shows that the value of Mr W's personal pension equivalent to the transferred BSPS benefits is over £100,000 more than he requires to replicate his DB benefits. As a result, I don't think it would be fair to instruct Beacon to refund the fees which were agreed to at the time of the advice, particularly as those are factored into the redress calculation.

Beacon has told the Financial Ombudsman Service that it previously offered to pay Mr W £300 as a gesture of goodwill and that it is still willing to honour that offer. Mr W has said that the impact of the transfer has caused him a lot of upset and distress and has suggested that offer does not fairly reflect this.

I've thought about Mr W's comments carefully and I recognise his strength of feeling. But I think many people when bringing complaints feel strongly about them. Because they are usually of the opinion something has gone wrong which has caused them to suffer as a result. But any award for distress is not intended to punish Beacon. Nor is it intended to make up for any loss of expectation that a redress calculation may result in.

I do accept Mr W is likely to have worried, especially after complaining, that he might've made the wrong choice about his pension. Particularly given the circumstances under which he first asked for this advice - when there was a lot of uncertainty regarding the pension scheme. But I think it's likely that, even some of those BSPS members who didn't take advice and remained in the scheme suffered similar worries, wondering if they'd made the right choice. I think that was likely to be a consequence of the circumstances they found themselves in. And the calculations Beacon have carried out have shown Mr W hasn't incurred a financial loss, which I hope provides some reassurance.

It appears that Mr W's relationship with Beacon broke down towards the end of the period in

which it was advising him. But while I gather that this has impacted Mr W's opinion of Beacon, I'm looking at the advice that was the subject of this complaint. The uncertainty Mr W has experienced regarding Beacon's advice, and whether this was suitable, has likely caused some distress and concern. This upset wouldn't have happened but for the advice. And I do think Mr W's concerns, were likely, in my view, to have been more than the levels of frustration and annoyance you might reasonably expect from day-to-day life. But, while I appreciate this will likely come as a disappointment to Mr W, I think the £300 Beacon has offered as a gesture of goodwill is fair and reasonable to address any distress Mr W has been caused by the advice. So, I don't think it needs to take any additional action, beyond making this payment.

My final decision

I uphold this complaint and – unless it has already done so – require BeaconIFA Limited to pay Mr W £300 as it has previously offered to.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 28 February 2024.

Ben Stoker
Ombudsman