

The complaint

Mr P complains about the advice given by AMG Wealth Solutions LLP ('AMG') 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.

Mr P is being represented by a professional third party but for ease of reading this decision I'll largely refer to representations as being made by Mr P.

What happened

In March 2016, Mr P'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 P 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 August 1996 and June 2007. The second part (which I'll refer to as 'part two') related to a period of membership from June 2011 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 P'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 P's pension was £203,783.09. The CETV of part two of his pension was £82,270.90. And 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.

Mr P was introduced to AMG by another business for advice about his pension.

A fact-find was completed in November 2017 to gather information about Mr P's circumstances and objectives. Amongst other things it recorded that he was 48, in good health, married with one child and was employed full time. In addition to the benefits Mr P held in the BSPS he was also a member of his employer's new defined contribution ('DC') pension scheme to which he and his employer were making combined contributions equivalent to 16% of his salary. Mr P also had another personal pension valued at approximately £10,000.

One of the fact-find documents noted that Mr P was interested in potentially retiring at age 60 and thought he'd need an income of £1,000 per month in retirement. But another said he had no intention of retiring early and planned to work to age 65. AMG said Mr P might like the flexibility in terms of access to his pension that a transfer would provide and to have control over it given what had happened with the BPS to that point. And the documents said that Mr P was interested in the alternative death benefits this would provide.

AMG also carried out an assessment of Mr P's attitude to risk ('ATR'). The results, which were summarised in a risk profile report, said it was deemed to be 'lowest medium' or four on a scale of one to ten, with one being lowest risk and ten highest. This assessment said the target portfolio for a 'lowest medium' risk profile investor had an estimated potential annual growth rate of 1.46%.

AMG advised Mr P to transfer his BPS benefits (both parts one and two) into a personal pension with a named provider. The suitability report said the reasons for this recommendation were that AMG felt it best met Mr P's aims of having flexibility and providing the potential for his family to receive the pension as a lump sum in the event of his death. Documents to complete the transfer were signed on 22 November 2017. And I understand the transfer went ahead in line with AMG's recommendation.

Mr P complained to AMG in April 2023 about the suitability of the transfer advice. As he initially didn't receive a response from AMG, Mr P asked our service to consider his complaint.

AMG subsequently provided a response to Mr P. It said it thought its advice was suitable. But AMG also said it had run a redress calculation, making assumptions about the value of Mr P's current pension. And it believed it was unlikely he'd suffered a loss. AMG did though say that it would make a payment of £300 to Mr P, to resolve the complaint.

As the matter was not resolved one of our Investigator's considered the complaint. He didn't think the advice to transfer was in Mr P's best interests. The Investigator didn't believe the information at the time indicated that Mr P was likely to improve on his existing benefits by transferring. He didn't think Mr P needed flexibility to meet his expected level of required income or that having control of the pension was sufficient reason to make the transfer suitable. And the Investigator thought the alternative death benefits weren't a good reason to transfer – particularly as Mr P's DC pension would've provided lump sum benefits and there was the possibility of any legacy that might've been provided by transferring being significantly eroded by withdrawals Mr P made from the pension in his lifetime. So, he recommended that AMG carry out a calculation using Mr P's actual pension value, to establish if he had suffered a financial loss as a result of its advice, using the BPS-specific redress calculator that the regulator, the Financial Conduct Authority ('FCA'), had introduced. He also recommended that AMG pay Mr P the £300 it had offered, to address the distress and upset he'd been caused.

AMG said it accepted the Investigator's opinion and would look to resolve the complaint.

Mr P's representatives also initially said that he accepted the Investigator's opinion.

AMG completed a redress calculation which indicated that Mr P had not incurred a loss. And it told our service that it had contacted Mr P's representatives to inform them of this and to arrange the payment of £300 but hadn't received a response.

Mr P's representatives then told us he'd like an Ombudsman to consider the complaint as the parties had not been able to reach an agreement.

The Investigator reviewed the calculations and explained he believed they had been carried out appropriately. And he asked Mr P's representative why no agreement could be reached as both parties had previously accepted his opinion. Mr P's representative again requested that the matter be referred to an Ombudsman – but provided no additional comment.

While it is unclear why an agreement has not been reached given both parties initially accepted the opinion, as the matter remains in dispute, the complaint has been passed to me to decide.

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.

AMG informed us that it accepted the Investigator's opinion, and it said it would settle the complaint in the way the Investigator recommended. As the Investigator's findings have been accepted and 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 P 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 P in a better position than he would've been in had he remained in the DB scheme. Rather, the aim is to put Mr P back in the financial position he would have been in at retirement had he remained in the DB scheme. AMG has carried out calculations in respect of both part one and part two of Mr P's benefits in the BPS, using the specific BPS calculator provided by the FCA – which is what the Investigator recommended and what I would expect it 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 the 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, even though we might have found a transfer wasn't in a consumer's best interests, it doesn't automatically mean 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.

I have checked the inputs that were entered by AMG which are personal to Mr P. These include Mr P'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 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, AMG has generally carried out the calculations 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 calculations in Mr P's case shows that there is no shortfall to his pension, and he has more than enough funds to be able to replicate his DB benefits in retirement. So, I'm satisfied that Mr P has not suffered a financial loss by transferring his pension. And as an appropriate calculation has now been carried out by AMG, I don't think it needs to do anything further in respect of any potential financial loss.

Our Investigator recommended that AMG pay £300 to Mr P, as it offered to in its response to his complaint, to address the distress and upset this has caused him. And I think that is fair.

I do accept Mr P was likely worried, after talking to his representative, that the advice might not have been suitable for him. And this wouldn't have occurred but for the advice that is the subject of this complaint. But I haven't seen anything that suggests the advice caused Mr P ongoing distress from the point it was given to when he made his complaint via his representative. And the calculations AMG have carried out have shown Mr P hasn't incurred a financial loss, which I hope provides some reassurance. So, while I do think Mr P's concerns, since raising the complaint, 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, I think the award of £300 recommended by the Investigator, and previously offered by AMG, is fair and reasonable in the circumstances.

My final decision

I uphold this complaint and require AMG Wealth Solutions LLP to pay Mr P £300 for the distress this matter has caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 29 February 2024.

Ben Stoker
Ombudsman