DRN-4720604

The complaint

Mr S complains about the advice given by Lighthouse Advisory Services Limited ('Lighthouse') to transfer the benefits from his defined-benefit ('DB') occupational pension scheme to a personal pension. He says the advice was unsuitable for him and believes this has caused a financial loss.

What happened

In June 2019, Mr S approached Lighthouse to discuss his financial affairs, particularly his pension and retirement needs. Mr S was aged 55 at the time and wanted to explore his options with regards to the potential transfer of his DB scheme to a personal pension. He wanted to access tax-free cash so that he could purchase a property of his own.

On 8 June 2019, Lighthouse completed a fact-find to gather information about Mr S's circumstances and objectives. It noted the following: -

- Mr S was aged 55, divorced with two non-dependent children. Since his divorce in 2010, he had experienced a period of unemployment but was now employed earning a net monthly income of £2,600.
- Mr S lived in rented accommodation for which he paid £350 per month. It was noted that Mr S considered his rental expenditure to be 'dead money'.
- Mr S had a modest lifestyle. His monthly expenditure was noted as being £1,000.
- Mr S had experienced credit issues in the past and had been in debt which he had worked hard in recent months to pay off. He was now debt free.
- Mr S was now in a position where he could start saving and had already built up an emergency fund of £3,500. Mr S said that he now anticipated being able to save £1,000 per month, and possibly more, now he had no debt repayments to meet.
- Mr S anticipated that his monthly retirement expenditure would be the same as it currently was. He thought the £350 he spent on rent would, once he had a property of his own, be spent on leisure activities.
- Mr S told Lighthouse that now he was debt free and saving each month, he wanted to purchase a property of his own. In the area where he lived, Mr S said he expected to be able to buy a property for between £60,000-£80,000 and that doing so would save him £350 per month in rent.
- Mr S had no other savings, investments or assets. He wanted no debt in any form, including a mortgage. Mr S told Lighthouse that he would prefer to own a lower value house outright than a higher value one that required a mortgage.
- Mr S wanted to access the tax-free cash ('TFC') from his pension to buy a property. He intended to leave the balance of the fund invested until he retired which he expected to be at his state pension age of 67.
- Mr S said that the transfer would also mean he could ensure that his pension was left to his children if he died.
- Mr S was aware that the transfer would take a few months to proceed and told Lighthouse he would use this time to build his savings as much as possible. He also said he would focus on properties at the lower end of his price range in an attempt to complete the purchase as a pure cash buyer.

- In addition to his DB scheme and state pension entitlement, Mr S had a group personal pension plan with his current employer along with a couple of other smaller personal pensions. In all, Mr S thought the total approximate value of his other pensions was about £70,000.
- Mr S's DB scheme had a cash equivalent transfer value ('CETV') of £195,454.45.

Lighthouse also carried out an assessment of Mr S's attitude to risk ('ATR'), which it deemed to be 'low-medium' or 5 out of 10.

On 15 July 2019 Lighthouse provided Mr S with its suitability report in which it recommended he transfer his pension benefits into a personal pension plan with a provider I shall call 'R' and invest the proceeds in a governed pension portfolio. The suitability report said the primary reason for this recommendation was so that Mr S could release money from his pension to buy a property. It also said the recommendation was based on Mr S's objective to have flexibility around the way he took his pension benefits and to enable named beneficiaries to benefit from his pension after his death.

Mr S accepted Lighthouse's recommendation and the transfer went ahead on 9 September 2019. The total amount transferred was £195,454.45 and Mr S immediately took his full TFC entitlement of £48,863.61. Lighthouse charged Mr S £5,800 for arranging the transfer. There was also an ongoing annual adviser charge of 0.5% of the fund value and an 0.45% annual management charge made by R. It was agreed that Lighthouse would conduct an annual review of Mr S's investment on the anniversary of the plan's commencement.

Between 10 July 2020 and 21 October 2020 Mr S contacted R directly and made a total of six withdrawals from his personal pension. The last of the withdrawals was for £19,366.36 and meant there was nothing left in Mr S's pension.

In August 2020, Lighthouse left a message for Mr S inviting him to have his first annual review. Mr S phoned Lighthouse on 18 September 2020 to say he no longer needed its services as he was able to arrange things himself with R directly. As a consequence, Lighthouse notified R that it would cancel Mr S's ongoing fee arrangement with immediate effect.

Mr S complained to Lighthouse in July 2023 about the suitability of the transfer advice he had received in 2019 and because he didn't understand why his other personal pensions had not been transferred. Mr S said that during Covid-19 lockdowns he had been making withdrawals from his plan and had incurred a 40% tax charge. Mr S said he didn't understand why he was paying ongoing adviser charges when his adviser hadn't discussed any of the tax implications of making such withdrawals with him.

Lighthouse looked into Mr S's complaint but didn't think it had done anything wrong.

Lighthouse said that it had made it clear in its suitability report that Mr S's residual fund balance would be held in crystalised funds within a flexi-access drawdown contract and that any further withdrawals (aside from taking his full TFC entitlement upon transfer) would be subject to income tax. So, Lighthouse was satisfied that it had made Mr S aware, prior to him disengaging with its ongoing services, of the tax implications of making further withdrawals. It said that it would have expected R, with whom Mr S was dealing directly, to make him aware of any tax implications associated with the draw down of his residual fund.

Unhappy with the outcome of his complaint to Lighthouse, Mr S complained to the Financial Ombudsman Service. One of our Investigators looked into the complaint and recommended that it was upheld as she thought the transfer wasn't a financially viable one. She also thought that there was no evidence that it was possible for Mr S to achieve his objective of wanting to buy a house for c£48,000 nor how he would make up any potential shortfall.

Mr S accepted our Investigator's recommendation but Lighthouse didn't. It said there were a number of advantages to its advice to transfer including: -

- being able to purchase a property thereby removing the uncertainty around his future accommodation requirements.
- saving £350 per month in rent.
- he had no other means of purchasing a property so he was facing paying rent for the rest of his life or being homeless.
- the loss of his guaranteed income was offset by no longer having to pay £350 in rent.
- The average price for a flat in the area Mr S lived was £65,000, however, there were numerous properties for sale for £50,000 or less.
- It had positioned to him both verbally and within the suitability report that if Mr S needed further funding to make the purchase then releasing TFC from his other pensions could be considered. The reason that hadn't happened at the point of the advice was because Mr S believed he could purchase a property without the need for additional funding.

Our Investigator thought about what Lighthouse had said but wasn't persuaded to change her mind.

Our Investigator also said to Mr S that she had considered whether Lighthouse could have done more regarding the six withdrawals he had made from his pension in a short timeframe which meant his entire residual pension fund was eradicated. Having done so, our Investigator told Mr S that as he had not made the withdrawals through Lighthouse she didn't think there was anything it could have done in the circumstances. Our Investigator also said that she had seen evidence to show that Lighthouse had contacted Mr S to let him know his first annual review was due and that Mr S had called it back to say he no longer required its services.

Mr S responded to say that Lighthouse was lying about the contact between them regarding his first annual review and the cancellation of its ongoing services. Mr S said he had begged Lighthouse for help but it had told him it would stop his fees. Mr S said our Investigator should check with R to confirm that the service agreement on his plan didn't end before his residual fund had been totally withdrawn.

The complaint was passed to me for a 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've taken into account relevant law and regulations, regulator's rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time. This includes the Principles for Businesses ('PRIN') and the Conduct of Business Sourcebook ('COBS'). And where the evidence is incomplete, inconclusive or contradictory, I reach my conclusions on the balance of probabilities – that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances.

The applicable rules, regulations and requirements

What follows below is not a comprehensive list of the rules and regulations which applied at the time of the advice, but provides useful context for my assessment of Lighthouse's actions here.

PRIN 6: *A firm must pay due regard to the interests of its customers and treat them fairly.*

PRIN 7: *A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.*

COBS 2.1.1R: *A firm must act honestly, fairly and professionally in accordance with the best interests of its client (the client's best interests rule).*

The provisions in COBS 9 which deal with the obligations when giving a personal recommendation and assessing suitability. And the provisions in COBS 19 which specifically relate to a DB pension transfer.

The regulator, the Financial Conduct Authority ('FCA'), states in COBS 19.1.6G that the starting assumption for a transfer from a DB scheme is that it is unsuitable. So, Lighthouse should have only considered a transfer if it could clearly demonstrate, on contemporary evidence, that the transfer was in Mr S's best interests. And having looked at all the evidence available, I'm not satisfied it was in Mr S's best interests.

Financial viability

I think it's reasonable to say that in most situations there would be very little point in transferring away from a DB pension scheme only to then see less retirement income overall in the longer-term. So, when looking at whether I thought the advice given by Lighthouse to transfer was suitable, I considered whether transferring appeared viable from a financial comparison perspective. Put another way, was Mr S's situation – and specifically his benefits in retirement - made better or worse from transferring, compared to the pension benefits he already enjoyed within his DB scheme? I don't think transferring from his DB scheme was in Mr S's best interests when viewed through this lens.

The advice was given after the regulator gave instructions in Final Guidance FG17/9 as to how businesses could calculate future 'discount rates' in loss assessments where a complaint about a past pension transfer was being upheld. I've kept in mind that the regulator's projection rates had also remained unchanged since 2014: the regulator's upper projection rate at the time was 8%, the middle projection rate 5%, and the lower projection rate 2%.

Lighthouse referred in its transfer analysis and suitability letter to 'critical yield' rates. The critical yield is essentially the average annual investment return that would be required on the transfer value - from the time of advice until retirement - to provide the same annuity benefits as the DB scheme. It is therefore part of a range of different things which help show how likely it is that a personal pension could achieve the necessary investment growth for a transfer-out to become financially viable.

The critical yield required to match Mr S's DB scheme benefits at age 65 (his DB scheme's normal retirement date 'NRD') was 9.55% if he took a full pension and 7.94% if he took TFC and a reduced pension. In my experience these are quite high yields to expect someone with a low-medium ATR to achieve. So, I think the chances of them being achieved should be viewed as unlikely.

In addition, both these critical yields are based on the presumption that the full CETV remained invested until Mr S reached the age of 65. But given Mr S's stated intention to withdraw 25% of his transferred fund immediately to purchase a property, only 75% of his CETV would go on to be invested. Thus, his residual fund would need to work significantly harder – due to it being that much smaller than the one Lighthouse based its transfer analysis on – to achieve the investment returns Mr S needed just to match the scheme benefits he was giving up. Consequently, the actual critical yields in Mr S's circumstances were, in reality, likely to be much higher than those calculated and cited in the suitability report and transfer analysis. I think it is even less likely therefore, that someone like Mr S, with a low-medium ATR would be willing to take the investment risks necessary in order to achieve the necessary investment growth so he could match the benefits he had given up under his DB scheme.

The transfer analysis undertaken by Lighthouse noted that Mr S's personal pension would need to attain a value of £418,329 just to replicate his DB scheme benefits at retirement. So, the same retirement income as he was entitled to under his DB scheme would cost Mr S £222,875 as a result of the transfer. Similarly, though, these figures were based on the entire transfer fund being invested which was never Mr S's intention. So, I can't say these figures truly reflect the actual cost to Mr S of attaining the same retirement income that he was giving up.

I've taken all this into account, together with Mr S's 'low-medium' ATR and also the term to retirement. There would be little point in Mr S giving up the guarantees available to him through his DB scheme only to achieve, at best, the same level of benefits outside the scheme. However, in this case, given the figures and circumstances I've cited above, I think that Mr S's fund was unlikely to grow within his personal pension in a way that would make transferring financially worthwhile. In my view, I think that Mr S was likely to receive benefits of a substantially lower overall value than the DB scheme at retirement, as a result of transferring.

And Lighthouse's own transfer analysis tends to support this given the fund it estimated would be needed to purchase an annuity of equal value to Mr G's existing DB scheme at retirement was c£418,000.

It seems therefore that from a financial viability perspective, the transfer wasn't in Mr S's best interests. And I can see that Lighthouse agrees that this was the case. In its suitability report it stated: -

"[we] have been clear in confirming to you that you are leaving a scheme which offers guaranteed benefits such as inflation proofed income…in favour of a pension within which you now accept the risks…You understand that your income in retirement may not be higher than the income you could have received from your [DB scheme] and that conceivable [sic] you could even run out of money and be unable to provide any income. [we] must stress that [the] recommendation to transfer is based upon your desire for immediate access to your tax free cash, income flexibility and control over death benefits. If your sole objective was to match or better the scheme benefits then [the] advice would be to not transfer but to leave your benefits in the scheme."

I've thought too about Mr S's capacity for loss and I think it is fair to say he didn't really have any, contrary to what Lighthouse stated in its suitability report. He had minimal savings, no assets, or investments and his DB pension accounted for a significant proportion of his retirement provision. So, on the face of it, Mr S's DB scheme benefits weren't ones he could afford to lose.

But what I have set out here doesn't convey the full picture. Financial viability isn't the only consideration when giving transfer advice; there might be other considerations which mean a transfer is suitable, despite providing overall lower benefits. I've considered these below.

Reasons for transferring

The fact-find and suitability report cite the primary reason for Mr S wanting to transfer his DB scheme benefits: to release money from his pension in order to buy himself a home. Lighthouse says its recommendation to transfer meant that Mr S was able to realise his objective.

During the fact-finding meeting between Mr S, it is clear to me that he came to it with a plan and a specific objective that he was determined to realise. It is documented on the fact-find that Mr S told Lighthouse that his divorce had caused him money issues which had resulted in him getting into debt problems which he had recently worked hard to resolve. He also explained to Lighthouse how he considered his rent to be 'dead money' and was looking to purchase his own property. Mr S was clear that by purchasing a property outright he would then save himself from having to pay rent. And he told Lighthouse that he wanted to access TFC from his pension to help him buy a home and that he intended to leave the residual fund invested until his retired at stage pension age (for him this was age 67). Mr S further explained that he was now managing to save and would continue to save £1,000 per month. He said that by the end of 2019, by taking his TFC and saving, he would have £60,000 and could purchase a property. Lighthouse recorded on the fact-find: -

"[Mr S] is aware that a pension transfer will take a few months and will use this time to build his savings as much as possible. Given his debt problems in the past he would prefer to avoid any borrowing at all… [Mr S] will focus on properties at the lower end of his price range in an attempt to complete the purchase purely as a cash buyer…following his divorce and a period of unemployment [in] 2010, [Mr S] had some credit issues and got behind on his mortgage. He is now in a position where he is putting money aside to save up for a property purchase however he does not want to "go down the mortgage route" and would prefer to have a lower value home than to have one with a mortgage as he would have to pay a "ridiculous" interest rate [due to his credit history issues]…[Mr S] wishes to access his maximum tax free cash to help purchase a property to allow him to stop paying rent."

I acknowledge that Lighthouse has said that transferring and taking TFC was the only way for Mr S to purchase a property, however, I am unable to agree. I've thought about whether Lighthouse considered alternative means for Mr S to achieve his primary objective. I can see from the suitability report that Lighthouse set out the options it considered were available to Mr S. These were: -

- To draw his benefits from his existing pensions
- Move to flexi-access drawdown
- Take an Uncrystalised Pension Fund Lump Sum (UFPLS)
- Move to phased retirement
- Move to a combination of the above
- Take a cash lump sum

Lighthouse approached the administrators of Mr S's DB scheme to ascertain if he could take early retirement. I can see that the scheme permitted early retirement from age 55 so Mr S could have taken his benefits immediately had he wished. However I can see that at that point in time, Mr S was only entitled to a tax-free lump sum of £19,873 and a reduced annual pension of £2,980. Lighthouse assessed that taking his DB scheme benefits early would not appear to allow Mr S to meet his primary objective of purchasing a property outright, nor would it allow him to defer taking an income until he retired. Overall, I can see that Lighthouse, not unreasonably, assessed that taking his DB scheme benefits wouldn't give Mr S the flexibility or control he sought to achieve his objectives. It provided Mr S with sufficient information about this option for him to decide, from an informed decision, that this was an avenue he did not want to pursue.

Having explained to Mr S why drawing his DB benefits was inadvisable, Lighthouse then set out in the suitability report why it was recommending Mr S transfer to a flexi-access drawdown plan with R. I can't see the other options listed above formed part of any discussion between Mr S and Lighthouse. Whilst I agree with Lighthouse that drawing his DB benefits at that time of the advice would not have given Mr S the flexibility he needed to achieve his objectives, there were, I believe, other options that were omitted from the advice discussions – and the list above – which should have formed part of the advice given to Mr S. He may of course have chosen to ignore those options but nevertheless, they existed, and should have formed part of the advice Lighthouse provided.

Mr S's objective to buy a property outright was not without merit, however, it was Lighthouse's role, as the regulated party in the relationship, to ensure that Mr S's information needs were met in full. Only then could Mr S make a fully informed decision about what was in his best interests. It was a regulatory requirement that Lighthouse communicate information to Mr S clearly, fairly and in a way that wasn't misleading.

Mr S was quite clear with Lighthouse that he did not want to take on a mortgage again. It's clear from the evidence that Mr S had previously got into difficulty with a mortgage so his reticence is understandable. Nevertheless, Mr S had 12 more years before he was due to retire and he also had significant disposable income available each month. Furthermore, he lived in a part of the country where property was particularly affordable. As I have mentioned above, Mr S told Lighthouse he was aiming to purchase a property for between £60,000-£80,000 but was prepared to buy a cheaper property if it meant he could do so outright. Lighthouse has also provided evidence of properties available to purchase in the area where Mr S resides for between £30,000-£50,000.

If it had had full regard to Mr S's information needs I think that, despite his statements to the contrary and his preconceived ideas about not wanting to borrow, Lighthouse should still have explored the possibility of obtaining a mortgage with him. That way Mr S would have known if it was possible to obtain one at all, and if it was, how much it would cost. He was already saving a significant portion of his monthly disposable income, and had £3,500 saved, thus within a relatively short period of time he could have saved enough to put down a deposit. Indeed, from the information contained in the suitability report, Mr S thought he would have saved c£11,000 by the end of 2019. Having worked out how much of deposit Mr S might prefer to put down, Lighthouse should then have explored with him what taking a mortgage out for the duration of his remaining working life would have cost him each month. It should have compared a monthly mortgage repayment against Mr S's monthly rent payment so he could see for himself what he might prefer to do.

I don't think that Mr S's conviction about not taking on any borrowing absolved Lighthouse from it's regulatory duty to have regard to Mr S's communication and information needs. It is of course very possible that, had Lighthouse presented Mr S with the option to obtain a mortgage, then he would have rejected it. But it is also possible that if Lighthouse had explained to Mr S how much he would need to accumulate for a satisfactory deposit, what his mortgage options then were, had compared those options to the rent payments he was already paying and told him that he could preserve his valuable DB benefits in the process, that this would have been palatable to him after all

Further, Lighthouse has argued that the transfer of Mr S's DB scheme was the *only* way for him to achieve his primary objective. That without assets, savings or the inclination to borrow, the only way to do purchase a home was for Mr S to transfer his DB scheme and access TFC immediately (adding whatever he had managed to save to that amount). But it seems to me that, in addition to considering the option to take out a mortgage, there was another option that should also have been discussed with Mr S before the irrevocable decision was taken to transfer his DB scheme benefits.

At the time of the advice, Mr S had cleared all his debts and had begun to save. He had already saved £3,500 and told Lighthouse he intended to continue to save at least £1,000 per month going forward. Wanting a home of one's own is a powerful aspiration for anyone, so I fully understand Mr S's desire in this respect. He didn't like renting and didn't want to continue to pay rent. But I can see he had very low monthly outgoings leaving him with a monthly disposable income of £1,600. As I have previously mentioned, Mr S also lived in a part of the country where it was possible to buy a property for as little as £30,000.

Thus, it seems to me that Lighthouse should have investigated with Mr S the possibility of saving up to buy a property. If it was acting in Mr S's best interests it should have taken the time to understand how much of his £1,600 residual monthly income he could save each month and then calculated how many months it would take him to save up the amount needed to purchase a property outright. Furthermore, Lighthouse should also have explained to Mr S that to whatever savings he was able to accumulate, he could add (should he be so minded) the TFC he could take from his other personal pension plans.

At the time of the advice, the value of Mr S's other personal pension plans was estimated at £70,000. This would have provided Mr S with TFC of approximately £17,500. This TFC, if coupled with some aggressive saving over just a two-year period, could have meant Mr S accumulating somewhere between £50,000 and £60,000.

I think this was an alternative option that Lighthouse omitted to suggest and discuss with Mr S. Had it explained how, in just two years, he could have enough money to buy a property outright without foregoing his valuable DB retirement benefits, as well as retaining a significant proportion of his other pension schemes, I think it might have been an option he would have considered. I appreciate that this option would have meant Mr S was unable to buy a property immediately but there is no evidence that an immediate purchase was Mr S's intention in any event. There is no evidence at all that I have seen pertaining to the timescale for Mr S to make his property purchase. But Lighthouse was required to act in Mr S's best interests, so it was also required to provide him with clear, fair and not misleading information. Thus, whether or not Mr S accepted or rejected the option, I think that it should have been put to him by Lighthouse.

I can't know for sure what Mr S would have elected to do had Lighthouse set both these alternative options for him in full as I have detailed above. What I do think however, is that the transfer wasn't the *only* means for Mr S to achieve his objective as maintained by Lighthouse. And the omission of either of these other options from Lighthouse's advice meant it failed to discharge its obligations to Mr S in respect of his communication and information needs and thus it failed to act in his best interests. Regrettably, Mr S was not placed in a position where he was in possession of all the information he needed to make a fully informed decision.

It follows that I don't think Mr S required the flexibility available from a personal pension to achieve his primary objective. Based on the information I have seen, and as I have set out above, I don't think he had a genuine need to access his TFC earlier than the normal scheme retirement age.

I also can't see evidence that Mr S had a strong need for variable income throughout his retirement. I say this because Mr S lived very modestly and anticipated his income needs would be £1,000 per month. So, I'm satisfied Mr S could have met the majority of his income needs in retirement through the DB scheme at 65 and also with the state pension from age

67. Mr S needed £12,000 per year in retirement according to the information gathered by Lighthouse. And under the DB scheme, Mr S was entitled to an annual income of £7,937 from the scheme at 65. He also had his TFC from the scheme which was forecast to provide him with £52,913 at age 65 together with his other personal pension plans and his state pension from age 67.

Death benefits

I can see that Lighthouse and Mr S discussed the death benefits in his deferred DB scheme. I do accept that as Mr S was divorced, had no intention to re-marry and had no dependent children then this was the one feature that could be used to show a personal pension was a better fit to his situation. This is because the spousal and child death benefits didn't really apply to Mr S.

However, I think from the evidence I've seen, a personal pension arrangement was portrayed as being better in terms of death benefits in a wider financial sense, owing to the possible retention of the full value of Mr S's DB funds if he died. I can see that Mr S was attracted by the fact that any funds left in a personal pension plan upon his death could be passed on to his children whereas with the DB scheme, his pension would have just 'died with him'. I've therefore considered this issue.

Death benefits are an emotive subject and of course when asked, most people would like their loved ones to be taken care of when they die. The lump sum death benefits on offer through a personal pension was likely an attractive feature to Mr S as his two adult children might have inherited the value of his transferred funds tax-free in such circumstances. However, Mr S was still only 55 years old and fortunately appeared to have no health issues. So, an obvious drawback with a personal pension's death benefits is that the amount left to pass on – to anyone – may be substantially reduced as the pensioner starts to withdraw his or her retirement income. There was therefore every chance that the amount left to pass on would realistically be depleted, particularly if Mr S lived a long life.

So, whilst I appreciate death benefits are important to consumers, and Mr S might have thought it was a good idea to transfer his DB scheme to a personal pension because of this, the priority here was to advise Mr S about what was best for his retirement provision. A pension is primarily designed to provide income in retirement. And I don't think Lighthouse explored to what extent Mr S was prepared to accept a lower retirement income in exchange for higher death benefits.

I also can't see that life insurance was discussed in this case. At just 55 years old, a modest 'term' life insurance policy may have still been an affordable product if Mr S really did want to leave a reasonable lump sum legacy for his adult children in the event of his sudden death. It also doesn't appear that Lighthouse took into account the fact that Mr S could have nominated a beneficiary of any funds remaining in his other personal pension schemes, valued at approximately £70,000. So, to this end, Mr S already had other options to ensure part of his pension wouldn't just die with him. Overall, I'm not persuaded that the different death benefits available through a transfer to a personal pension justified the likely decrease of retirement benefits for Mr S.

Compensation and other matters

Part of Mr S's complaint to Lighthouse was that he said he didn't understand why he was paying ongoing adviser charges when his adviser hadn't discussed any of the tax implications of making such withdrawals with him.

I can see that it was agreed at the time of the transfer that Lighthouse would carry out an annual review of Mr S's pension arrangements. A monthly charge was made by Lighthouse for providing this service. From the evidence I have seen however, it seems that the sequence of events was such that by the time the first annual review was pending, and by the time Lighthouse contacted Mr S to make the arrangement for the review, he himself had been directly contacting R to make the withdrawals from his plan.

It is my understanding that every time Mr S made a withdrawal from his plan Lighthouse, as the servicing agent noted on R's records, received a payment confirmation. So I am of the view that Lighthouse knew each time that Mr S had made a withdrawal.

Whilst I can see that as soon as Mr S told Lighthouse that he no longer required its services, it notified R to cancel the ongoing charge, it remained as the servicing agent for the plan.

But for Lighthouse's recommendation to transfer, Mr S would not have been able to gain access to his pension benefits in the manner in which he did and he would not have been able to withdraw them in their entirety, failing to purchase a property in the process. I accept that there is no evidence from the time of the advice that could have alerted Lighthouse to the risk of Mr S taking such a course of action. Nevertheless, the fact remains that Mr S was unsuitably advised and the consequences of that unsuitable advice have, for him, been quite impactful. His entire DB scheme has now gone and he faces a diminished retirement without it.

Where a financial business, through its words or deeds, causes avoidable distress or inconvenience to a consumer, the Financial Ombudsman Service can require it to pay the affected consumer compensation. I have thought carefully about the circumstances of Mr S's situation along with this Service's approach to compensation awards in general. Having done so, I require Lighthouse to pay Mr S compensation of £400 for the distress and inconvenience caused to him by the consequences of its unsuitable advice.

Summary

I've considered all the issues in this case with great care.

I acknowledge that Mr S probably went to Lighthouse with a preconceived idea about what he thought he wanted to do. But Mr S wasn't a pensions or investment expert; he paid Lighthouse for its regulated financial advice. So, the adviser's role wasn't to transact what Mr S might have thought he wanted to do, it was to really understand what he needed and recommend what was in his best interests. I do accept that Lighthouse provided Mr S with a lot of information, but it also omitted to provide him with all the options available to him and it still recommended a transfer which I ultimately think wasn't in his best interests.

As I explained above, the transfer was not a financially viable one. The critical yield analysis and reasonable growth assumptions meant Mr S would likely see less retirement benefits overall as a result of transferring away from his DB scheme.

Mr S also already possessed a degree of flexibility that Lighthouse implied would be created by transferring away. With his large monthly disposable income and at least three other personal pension plans, together with what he had already managed to save, there was no immediate need to transfer his DB scheme in order to access TFC to buy a property.

By transferring, what Mr S was irreversibly giving up was a guaranteed pension that would provide him with two thirds of his stated retirement income needs. Mr S's DB scheme made up the majority of his security in retirement, providing as it did, an index-linked pension for the rest of his life. He would be able to use this annual pension, add his state pension entitlement, and complement these with his other personal pension plans. And whilst I understand Mr S's stated desire to own a property outright, I don't think, for the reasons I set out above, that he needed to transfer his DB scheme to achieve his aim. If he saved hard for a couple of years, and added the TFC he would be entitled to under his personal pension plans, he could have achieved his objective in the relatively short term without sacrificing his retirement security. So, I don't think there were any particular reasons which justified the transfer and outweighed this approach.

I've therefore seen no reasons why Mr S wouldn't want to retain his DB pension and use it in exactly the way it was intended. In my view, this would have seen Mr S approach retirement in an agreeable financial situation. On one hand he had the DB pension and on the other he also had at least three other personal pension schemes which provided all the flexibility and options he appeared to want.

Of course, I have to consider whether Mr S would've gone ahead anyway, against Lighthouse's advice. I've considered this carefully as Mr S confirmed to our Investigator that he approached Lighthouse because he wanted to know if he could get money out of his pension as he intended to buy a property. I can see that Lighthouse highlighted the benefits of the DB scheme and what Mr S stood to lose. Notwithstanding these warnings, Mr S chose to transfer away anyway. But I can't ignore either that it was Lighthouse that recommended that he do so and I think he relied on that advice. Mr S was an inexperienced investor with a low-medium attitude to risk whose DB scheme accounted for the majority of his retirement provision. So, if Lighthouse had provided him with clear advice against transferring out of the DB scheme, explaining why it wasn't in his best interests, I think he would've accepted that advice.

I'm not persuaded that Mr S's primary objective – had Lighthouse provided him with the alternative options for achieving it I have set out above – would have been so pressing that he would've insisted on the transfer knowing that a professional adviser, whose expertise he had sought out, didn't think it was suitable for him or in his best interests. If Lighthouse had explained that Mr S could meet his objective without risking his guaranteed pension, I think that would've carried significant weight. So, I don't think Mr S would have insisted on transferring out of the DB scheme.

In light of the above, Lighthouse should compensate Mr S for the unsuitable advice using the regulator's defined benefits pension transfer redress methodology.

Putting things right

A fair and reasonable outcome would be for the business to put Mr S as far as possible, into the position he would now be in but for the unsuitable advice. I consider Mr S would have most likely remained in the occupational pension scheme if suitable advice had been given.

Lighthouse must therefore undertake a redress calculation in line with the rules for calculating redress for non-compliant pension transfer advice, as detailed in policy statement PS22/13 and set out in the regulator's handbook in DISP App 4: https://www.handbook.fca.org.uk/handbook/DISP/App/4/?view=chapter.

For clarity, Mr S has not yet retired, and he has no plans to do so at present. So, compensation should be based on the scheme's normal retirement age of 65, as per the usual assumptions in the FCA's guidance.

This calculation should be carried out using the most recent financial assumptions in line with PS22/13 and DISP App 4. In accordance with the regulator's expectations, this should be undertaken or submitted to an appropriate provider promptly following receipt of notification of Mr S's acceptance of the decision.

If the redress calculation demonstrates a loss, as explained in policy statement PS22/13 and set out in DISP App 4, Lighthouse should:

- calculate and offer Mr S redress as a cash lump sum payment,
- explain to Mr S before starting the redress calculation that:
  - his redress will be calculated on the basis that it will be invested prudently (in line with the cautious investment return assumption used in the calculation), and
  - a straightforward way to invest their redress prudently is to use it to augment his DC pension
- offer to calculate how much of any redress Mr S receives could be augmented rather than receiving it all as a cash lump sum,
- if Mr S accepts Lighthouse's offer to calculate how much of his redress could be augmented, request the necessary information and not charge Mr S for the calculation, even if he ultimately decides not to have any of their redress augmented, and
- take a prudent approach when calculating how much redress could be augmented, given the inherent uncertainty around Mr S's end of year tax position.

Redress paid directly to Mr S as a cash lump sum in respect of a future loss includes compensation in respect of benefits that would otherwise have provided a taxable income. So, in line with DISP App 4.3.31G(3), Mr S may make a notional deduction to allow for income tax that would otherwise have been paid. Mr S's likely income tax rate in retirement is presumed to be 20%. In line with DISP App 4.3.31G(1) this notional reduction may not be applied to any element of lost tax-free cash.

For the reasons given above, Lighthouse should also pay Mr S compensation of £400 for the distress and inconvenience its unsuitable advice caused him.

My final decision

Where I uphold a complaint, I can award fair compensation of up to £415,000, plus any interest and/or costs that I consider are appropriate. Where I consider that fair compensation requires payment of an amount that might exceed £415,000, I may recommend that the business pays the balance.

<u>Determination and money award</u>: I uphold this complaint and require Lighthouse Advisory Services Limited to pay Mr S the compensation amount as set out in the steps above, up to a maximum of £415,000.

<u>Recommendation:</u> If the compensation amount exceeds £415,000, I also recommend that Lighthouse Advisory Services Limited pays Mr S the balance.

If Mr S accepts this decision, the money award becomes binding on Lighthouse Advisory Services Limited.

My recommendation would not be binding. Further, it's unlikely that Mr S can accept my decision and go to court to ask for the balance. Mr S may want to consider getting independent legal advice before deciding whether to accept any final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 8 May 2025.

Claire Woollerson
Ombudsman