DRN-5024392

The complaint

Mr C complained about advice he was given to transfer the benefits of two defined-benefit (DB) pension schemes, to a type of personal pension plan.

St. James's Place Wealth Management Plc is responsible for answering this complaint. To keep things simple therefore, I'll refer mainly to "SJP". Mr C is represented in bringing his complaint by a claims management firm.

Mr C says the advice to transfer both DB pensions was unsuitable for him and believes this has caused him a financial loss.

What happened

I'll be referring to the two DB pensions concerned as "Pension B" and "Pension V" respectively. Mr C was a deferred member in relation to both schemes. Pension B related to employment Mr C was engaged in from the late 1970s until the early 1990s. Pension V related to employment Mr C had between the mid-1990s until around 2005.

By the standards of most people Mr C was relatively wealthy and he had been an existing client of SJP's since around 2012. In December 2015 he obtained regulated pension advice in relation to the two above DB schemes. SJP agreed that Mr C had enough wealth to fund his retirement and recommended that he should transfer these two DB schemes and invest the cash equivalent transfer values (CETV) in one of its own SJP personal pension plans. As I'll explain, the rationale used for the transfer recommendation(s) was mainly around investing in Mr C's business, passing down wealth tax efficiently and maintaining a degree of pension flexibility.

Information gathered about Mr C's circumstances in December 2015 were broadly as follows:

- The two DB schemes in question had CETVs in 2015 of around £292,686 (Pension B) and £398,810[1] (Pension V). Mr C also had a defined contribution[2] (DC) pension linked to his current employer which had a current value invested of £310,937.

- Mr C was 59 years old and in good health. He was married to Mrs C who was 55 and had an adult child and two teenagers. Mr C earned over £100,000 per year from his job.

- Mrs C earned an independent salary and also had two DB pensions of her own. These are not the subject of any complaint.

- In addition, Mr and Mrs C had a wide variety of financial assets. These included 14 investment properties valued at the time at almost £1.9 million yielding £50,000 gross

[1] Elsewhere this is referred to as *£393,810* – either amount could be an error. The £5,000 difference makes no difference to the complaint.
[2] A DC pension builds up a pot of money that can be used to provide retirement income. Unlike DB schemes, the income you might get depends on factors including the amount paid in and the investment performance.

income per year after all mortgage, fees and other costs (although not income tax) had been applied. They also had over £200,000 saved in cash and investments and a classic car portfolio of around £360,000. Their family home was valued at around £1 million.

- Mr and Mrs C had life insurance cover of £600,000 each and other death-in-service benefits through their jobs.

Although Mr C was evidently in agreement with SJPs recommendations about transferring both schemes, there was then a delay in progressing the transfers. The documents I've seen imply the delay was due to Mr C and SJP further considering the advice at length, assessing market conditions, and asking both DB schemes for further CETVs (which increased markedly).

There was therefore a further advice session around 10 months later, for which a recommendation letter was generated, on 14 October 2016. This recommendation letter related to Pension V where it was noted the CETV had increased to £447,161. SJP issued an updated advice letter which re-recommended that Mr C should transfer Pension V to a SJP personal pension. This was duly accepted by Mr C and carried out.

There was another advice session for which a recommendation letter of 24 October 2017 was generated. This related to Pension B where it was noted the CETV had also increased, to £341,918. SJP recommended that Mr C should transfer Pension B to an SJP pension. This noted that he required no income from these funds. The primary transfer objective was to take tax-free cash and to have the option to pass on wealth after Mr C's death in a tax efficient way. This was also duly accepted by Mr C and carried out.

In late 2022, Mr C complained to SJP about its advice. He said it shouldn't have recommended a transfer out of either DB scheme to a personal pension. In response, SJP said it hadn't done anything wrong and was acting on the retirement objectives Mr C had at the time.

Disagreeing with this, Mr C referred his complaint to the Financial Ombudsman Service. One of our investigators looked into it and issued a 'view' saying he thought that Mr C's complaint shouldn't be upheld. Mr C still disagreed with this. Because this matter can't be resolved informally, it falls 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've also 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'). 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

The below is not a comprehensive list of the rules and regulations which applied at the time of this advice, but provides useful context for my assessment of SJP'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.

I have further considered that the regulator, the Financial Conduct Authority ('FCA'), states in COBS 19.1. that the starting assumption for a transfer from a DB scheme is that it is unsuitable. So, SJP should have only considered a transfer if it could clearly demonstrate that the transfer was in Mr C's best interests.

I've used all the information and responses from the parties involved to consider whether transferring away from the DB schemes to a personal pension was in Mr C's best interests.

Having done this, I'm not upholding the complaint. I'm sorry to disappoint Mr C.

<u>Introductory issues – points of complaint</u>

I've started by carefully considering the specific points of complaint brought by the firm representing Mr C.

It says Mr C was financially inexperienced and someone who simply didn't understand the implications of transferring away from a defined benefit scheme. Mr C was portrayed as someone who didn't understand all the risks involved, including the market-based risks associated with the recommended funds he was advised to invest in as a consequence of transferring. It says he was not looking to take any investment risks but was told his income would be higher in retirement if he did. Further allegations were that Mr C was not made aware of the regulatory obligations placed on SJP and the duties it had to act in his interests.

I do fully understand the points being made on Mr C's behalf. But I'm afraid I don't agree with the portrayal of him as a somewhat standard retail client with little or no financial experience; the evidence just doesn't support this.

I've noted, for example, that over the time periods these events relate to, Mr C held a long-standing and relatively senior position in an asset management firm whose focus was on achieving investment returns and which operated across a number of countries. I don't think Mr C's role was investment facing, but I find it implausible that in a position of seniority he didn't have a sound understanding of his employer's primary business, which was investments.

There's also plenty of other evidence in this case demonstrating that Mr C was a relatively experienced investor with a sound understanding of personal financial affairs and investment strategies. The evidence I've seen shows that he understood all the subject matters being discussed and presented during the advice sessions he had with SJP. I've also seen evidence that Mr C had a plethora of personal investments linked to the stock market which included a portfolio of funds and individual company shares, all of which he likely monitored carefully and again, fully understood.

Mr C had also built a considerable property investment portfolio. In my opinion the scale of this business operation shows that Mr C was not financially naïve, and I've seen solid evidence of him having a sound understanding of investing, and business acumen. This business comprised, in 2015, of 14 homes which were funded via a buy-to-let (BTL) business model. A snapshot taken by SJP around 2015 shows the total asset value of this portfolio was estimated at £1.885 million, with £1.022 million outstanding in mortgage debt on an interest-only basis. The conventional concept applied to a BTL investment strategy is that mortgages of around 60% are used to buy the properties. The monthly repayments are all then concurrently paid from the rental income with a view to the underlying value of the original assets increasing. Eventually the properties can be sold or managed into a position where many become mortgage-free, and the net income derived from them therefore rises. The evidence in this case shows that this model was broadly followed by Mr C. This meant that as of late 2015, Mr C had very successfully navigated his way through this business sector and currently had around £863,000 in positive BTL equity in addition to the substantial resources he owned elsewhere.

I also think that when viewed through the lens of that time, the direction of UK house prices and the very low (and apparently static) interest rate environment made it reasonable to assume that Mr C's property equity would probably continue to moderately rise. During sessions with his SJP adviser at the time Mr C spoke of increasing his exposure to property and later updates I've seen did indeed show a substantial increase in the overall asset value to around £2.9 million.

In addition to these things, I've seen that Mr and Mrs C had substantial savings and also had more than sufficient life protection cover. There's further evidence of Mr C being fully aware of his proximity to the pension lifetime allowance (LTA) and of his acute awareness of income and inheritance tax affairs. His ownership of other investments, such as in classic cars, speak to more unusual financial interests and of diversified financial planning.

Of course, none of this is to imply that Mr C's complaint shouldn't be afforded due and proper consideration. I do accept that he probably wasn't a pensions expert. And he was not the regulated party here. Mr C was paying for regulated financial advice and SJP had a duty to provide advice which was clear, fair and not misleading. Above all, the advice had to be in Mr C's best interests.

However, in bringing this complaint, I think it is simply wrong to portray Mr C as being financially inexperienced and somehow lacking in knowledge of financial affairs in the ways I've mentioned above. We see many complaints where this is indeed the case and in my experience it's fair to say that many UK consumers lack the financial education, experience and confidence to navigate these areas. But I certainly don't think Mr C fitted this description.

In my view, Mr C was also made aware – and he probably fully understood – the regulatory duties SJP had. I think he also probably knew there were certain 'downsides' in moving away from guaranteed DB schemes. There's evidence, for instance, that SJP committed considerable time to preparing and delivering the advice. And I think Mr C took several months to digest and decide upon it. There's evidence that SJP told Mr C that transferring from the two DB schemes might mean he'd have less retirement benefits in the long-term. So, again, I'm afraid these specific points of complaint about Mr C not being told about these things aren't borne out in the evidence.

Overall, the information collected about Mr C shows that he was likely a person with a significant financial knowledge base and was a close observer of the pensions and investment landscape. Everything I've seen points to him having an informed view of how to invest, where to invest, when to invest and a medium attitude to investment risk.

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. However, as I've set out above and as I'll explain more about below, I don't think Mr C's circumstances fitted neatly into 'most' cases.

To assess whether transferring from a DB scheme was worthwhile from a direct like-for-like financial comparison perspective, I am usually bound to consider the amount the transferred funds would need to annually grow by, to match the existing DB benefits already in place. This is usually explained by referring to a 'critical yield' rate. 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 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.

Our investigator set out in his 'view' letter, an explanation of the critical yields which were relevant in Mr C's two DB pensions. For both pensions this like-for-like comparison raised a possibility that the retirement income over the long term might be less for Mr C if he transferred to personal pension arrangements, rather than keeping the DB schemes where they were. For Pension B, SJP had said its calculations showed that after taking account of charges, the transferred funds would need to achieve investment growth of 5.3% per year. This was to match Mr C's existing DB scheme if he crystalised his pension and took the maximum allowed tax-free withdrawal. For Pension V, SJP said the investment growth would need to achieve 6.4% per year.

I agree that these critical yields would be difficult to maintain every year over a sustained period. The regulator's upper growth projection rate at the time was 8%, the middle projection rate was 5%, and the lower projection rate 2%. The parties agreed that Mr C had previous experience of investing in equities and bonds both within a pensions wrapper and also using personal ISAs. He also had a capacity to assume some losses if needed. So, SJP categorised Mr C as having a “medium” attitude to risk, which I agree was appropriate.

However, whilst the mid-growth rate assumed by the regulator was below the two critical yields quoted by SJP, I think it's fair to point out that because Mr C was very close to what was then his assumed retirement age of 60, using these types of growth assumptions didn't really fit his personal situation. For example, if observed over a very short period, achieving these yields may well have been possible. But SJP says both DB schemes had normal retirement ages of 60. And so, because Mr C was already aged 59 then using the critical yield methodology was of little use – it was a comparison not suited to such short timescales.

What all this tells us is that the use of forward growth projections and other financial comparisons was of limited use in Mr C's case. This was mainly due to the close proximity of pension crystallisation and an apparent lack of meaningful income being required by Mr C at that point. So, although the critical yield figures were provided, they were likely calculated because the adviser felt required to do so, rather than them being of any real use.

I also disagree with Mr C's representative who said that he was never told about the amount of growth that would be required to match the type of pensions he was being advised by SJP to leave. In my view this is a somewhat generic point of complaint which may indeed be common in many cases his representative sees, but it wasn't a feature of Mr C's case. I don't think there's any evidence showing that SJP was trying to hide the fact that in most cases matching the long-term financial benefits of a DB scheme is quite difficult – they are, of course, generally regarded as very good pensions. I say this because the recommendation letter of December 2015 was clear on this point, saying, *"based on all the above comparisons, these show that if you transferred, you should expect to receive overall lower benefits than you would get* [by] *remaining in the* [Pension B] *and* [Pension V] *schemes"*. So, having considered the circumstances and clarity of the ways this aspect was pitched to him, I think Mr C had all the information he needed. In the event, direct financial comparisons were difficult and not wholly relatable to Mr C's situation.

It's also relevant here that Mr C's wealth and circumstances meant that he didn't intend to draw an income from his DB pensions either straightaway or in the future. What Mr C was very clear about was that he wanted *flexibility* of income as a priority, and his day-to-day living income in retirement would be funded due to the availability of a £50,000 annual return from his property investments. He also had income from many other sources such as a wide portfolio of investments, Mrs C's pensions and, eventually, the state pension. This meant he didn't need to draw pension income from Pensions B and V because he would be deriving it from elsewhere. He was also accumulating further equity in the BTL business.

Having reviewed all the evidence relating to this area, my finding is that the information he was given was clear, fair and not misleading. Full details of Mr C's DB schemes were published and explained to him. But I've seen that Mr C himself assessed the annual pensions amounts and considered them to be insufficient, given his substantial assets held elsewhere. Mr C told the adviser that he was "unimpressed" with the amount of income his DB schemes would generate, particularly as he saw himself as always being a 40% taxpayer, even throughout his whole retirement. He said he'd rather focus on minimising his inheritance tax liability, he wasn't concerned about inflation risk as his BTL income would increase with inflation, and that by transferring away from the DB schemes he would be entitled to more tax-free cash.

With all this in mind, direct financial comparisons aren't the only assessment that's relevant in Mr C's situation. I've therefore considered the more relevant aspects below.

<u>*Other reasons to transfer*</u>

The 2016 updated advice:

By the time of the 2016 updated advice (the transfer of Pension V), Mr C's situation had changed slightly. Whilst he was still working with the same employer as in 2015, I've noted the CETV for Pension V had increased to £447,161. SJP recommended a transfer of this scheme to a personal pension plan, with the withdrawal of a 25% tax-free lump sum. The SJP adviser noted that Mr C wanted to access higher amounts of tax-free cash and continue investing in properties. Mr C therefore required more funds for doing so. So, the 25% (or £111,790) tax-free cash releasable by transferring from his Pension V DB scheme was to be used for this purpose.

Mr C's objectives for transferring Pension V were noted as:

- Reducing of overall mortgage debt on his property portfolio.

- He didn't need an income from the scheme (nor was this anticipated in the short-term) as he was still working and had numerous other sources of income.

- His and Mrs C's assumed joint retirement income needs would be met from their rental income (£50,000), Mrs C's DB pensions (£6,391 per year), their other investment income(s), their state pensions and if needed, Mr C's other DB scheme.

Mr C agreed that he felt that there was a reasonable opportunity for sufficient growth to be achieved after transferring and was willing to accept the risk if not. Pension V had also confirmed Mr C had already passed the normal retirement age for the scheme and the trustees had given their consent for him to transfer, as long as he provided a written statement from a registered medical practitioner confirming he was in good health.

I've therefore considered whether these circumstances were such that transferring was suitable for Mr C. As I've said, his were 'non-standard' circumstances and all the evidence I've seen show his retirement needs would be achieved via the use of his investment income, supported by the other pensions and income I've mentioned above.

I've noted that Mr C appeared also to understand the loss of guarantee provided by DB schemes and the more nuanced loss of index-linking. The evidence shows he'd given this some thought and was prepared to accept that index-linking would be achieved through those other income sources (above). In my view, Mr C evidently understood that this index-linking method was not guaranteed, but I think his positive experience of the BTL market at that point provided comfort that this, together with his other investments and Mrs C's pensions offered sufficient income cover, although it was not yet needed due to their respective employment(s).

Mr C still had a good capacity for absorbing loss and his investment experience and knowledge, evident from the 2015 notes, seem to me to be replicated in the 2016 notes.

Against this backdrop, it's my view that the objectives Mr C had for the 2016 transfer event were logical, well-considered, and discussed at length with SJP's adviser. In short, Mr C's focus was on managing his future income needs in retirement via mainly his property business, supported as this was by other existing sources.

<u>*2017*</u>

By the 2017 transfer event (the transfer of Pension B), Mr C's situation had changed again. However, in my view these changes hadn't fundamentally altered the rationale used for wanting to transfer this remaining DB scheme to a personal pension plan.

Mr C had by now left his employer, but he was still working and earning £50,000 per year on a 'contract' basis. His and Mrs C's rental income had substantially increased to a joint amount of £70,000 per year. The property portfolio had also increased and was now worth £3.905 million with liabilities of £2.171 million. This meant the equity in the BTL business was £1.734 million. Mr and Mrs C also had £2,750 net disposable cash each month from earned income, and they had also built a further emergency fund of £13,000. The 2017 suitability letter recorded that Mr and Mrs C's income needs in retirement was now estimated to be around £60,000 per year (net) but this would now be met in full by the rental income (£70,000), Mr C's pensions, their joint investments and their State Pensions. On this basis, Mr C therefore wanted to review Pension B which was his remaining DB scheme, to secure the funds for the purposes of:

- Better death benefits. In the event of his death Mr C appeared worried that Mrs C would receive approximately 50% of the DB scheme rather than 100% of any funds remaining in a DC scheme.

- He wanted to consolidate Pension B with his overall pension provision.

- He specifically told the adviser that he didn't anticipate *ever* needing an income from the transferred funds but may access the tax-free cash in the future to once again reduce his overall mortgage liability on the property portfolio.

As with the 2016 transfer event, I've noted that Mr C once again appeared to understand the loss of guarantees provided by this remaining DB scheme and the loss of index-linking. Mr C still had good capacity for absorbing loss and his investment experience and knowledge, evident from the 2015 and 2016 notes, seem to me to have been replicated in the 2017 notes.

Against this backdrop, it is once again my view that the objectives Mr C had for the 2017 transfer event were logical, well-considered, and discussed at length with SJP's adviser. In short, Mr C's focus was on managing his future income needs in retirement via mainly his property business, supported as this was by other contingencies.

Specific rationale used for transferring from the DB schemes

I have carefully reviewed all the information and documentation we have to assess whether the collective rationale for transferring was in Mr C's best interests. Due to the large amount of information, I've referred mainly to the three recommendation letters of December 2015 and the 'follow-ups' of October 2016 and October 2017. I've considered with care Mr C's representative's response to our investigator's 'view' and whilst I won't be referring to every issue raised, I think the below areas capture the main features on which both transfer recommendations were based.

- *Increased tax-free lump sums*

I have considered the weight the SJP adviser and Mr C himself applied to transferring from his two DB schemes, based on the tax-free lump sums being higher if his pensions were moved to a type of personal pension plan.

It's often the case that the amount of tax-free cash available upon crystalising a DC scheme is above that which is achievable from a DB scheme. This is because the value and calculations used in the two types of schemes are quite different. However, I've also borne in mind that removing tax-free cash doesn't come without consequences. Removing a larger tax-free cash element will, of course, mean that the remaining pension left to live on in the future is also reduced. I've seen many cases where this remaining amount is overlooked, and much less than the pensioner will need for a comfortable income in their retirement. In nearly all cases, I would say caution is required for these reasons.

However, as I've said, Mr C's situation was far from standard. The circumstances here clearly showed that his income in retirement had been properly assessed by Mr C himself and the SJP adviser. Figures were arrived at and shown in the respective recommendation letters; in my view these figures were realistic and plausible. They showed that Mr C was unlikely to ever need the DB schemes to form part of his retirement income because this was coming from already established sources which were either guaranteed (Mrs C's pensions, the state pensions) or had delivered reliable returns over many years (the BTL business).

As for the lump sums themselves, in my view there was a credible rationale for wanting more tax-free cash, rather than being prepared to leave the DB schemes in place and generate much lower tax-free sums. As was comprehensively explained in the recommendations, the predominant reason used for this was to reduce a substantial mortgage liability on the BTL properties. In my view, it's seldom a bad idea to pay down debt. And in this case, it seems Mr C was taking a controlled and systematic approach to gradually reducing mortgage debts, whilst increasing his property equity and also releasing more of the rental income available for his long-term living requirements.

With all this in mind, it’s my view that the plan to transfer from both DB schemes to achieve what were significantly higher tax-free amounts was a reasonable aspiration *in this case* and one which had been duly thought through. This was in Mr C’s interests.

- *Flexibility of income*

Flexibility is often over used and ill-defined in the context of pension transfer rationale. But again, I think that in Mr C’s case, flexibility was well evidenced as a requirement. He himself spoke of the intermittent nature of renting all of his properties at any one time and made the case for adjusting his future income accordingly. Periods of non-rental and / or repairs were such that Mr C’s objective for increasing or decreasing his earnings was therefore real, and indeed sensible in his situation.

So, I think that a flexible income resource was something that was of use in Mr C’s situation, Again, this rationale was set out clearly in the recommendation reports and was clearly something Mr C understood and agreed with. Whilst there was every reason to think he might never need the income from these two pensions at all, the transfer and incorporation within a DC scheme provided the flexibility to increase Mr C’s income at times of low occupancy or housing market distress, both of which were hard to predict and likely to have consequences.

- *Death benefits*

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. As Mr C himself knew, the DB schemes in question contained certain benefits payable to a spouse if he died.

Mr C introduced the point that his health situation had changed by the second transfer event, in 2017. This subject was also raised as being relevant by Mr C’s representative. I’ve considered this and I acknowledge that changes in one’s health at around the age of 61 could have been a source of concern. However, the condition was high blood pressure which I understand was being controlled with medication and there’s nothing showing that this was likely to shorten Mr C’s life expectancy by either a large amount or any time soon. In that context, whilst respectful of the anxieties these health issues can generate, I think this was of little relevance to his pension transfer considerations.

In a more ‘standard’ situation, I would caution that transferring for reasons of ‘better’ death benefits often lacks logic. The purpose of a pension is after all to draw from, and gradually reduce, as one gets older. So, if in reasonable health, we would expect there to be much less left in a pension by the time of death, particularly if one lives until normal life expectancy age. However, this case was different in that Mr C was intending to draw none of the transferred DB pension funds. I therefore think that the adviser’s approach to this was reasonable in that this was an unusual case where Mr C did indeed intend that these two funds could realistically be passable to his spouse and she could potentially be better off, in a financial sense, if something happened to Mr C.

This was obviously a complex assumption with many moving parts. But a connected rationale used to justify the transfer – with largely the same reasoning – applied to passing on wealth to his children. In many cases people simply don’t have the option to pass down wealth from pension savings. However, Mr C did. And he was taking the opportunity to identify part of his overall estate as being suitable for passing to others, with less inheritance tax payable.

All this shows, in my view, that Mr C understood his pension affairs in some considerable detail. I think inheritance planning was high on his agenda. It probably provided a degree of comfort that in the event of anything unforeseen happening in the short-to-medium term, a much greater part of his funds might be passed on tax-free.

Summary

Upon assessing the evidence, I first took a very careful account of the regulator's position that transferring from a DB scheme should start from the position that it is likely unsuitable. Genuine concerns have been raised that irreversibly transferring away from DB schemes has taken place without the advice being in a client's best interests. Other concerns have been where money has been removed irresponsibly, for example, with plans to withdraw funds at unsustainable rates. We also know of a great many UK consumers who are unable to understand the full and lasting consequences of DB pension transfers.

However, I have also considered that the government, in 2015, enacted substantial changes to pension legislation known as 'pension freedom'. These changes recognised that some consumers have different needs, and so new rules were designed to promote flexibility for those who really require it. It is also important to remember that the value contained within Pensions B and V, belonged to Mr C and he had the right to use the funds in a way which suited him.

With all this in mind, I began my final decision by explaining why I don't think many of the specific allegations made on Mr C's behalf properly reflected the facts. Mr C was not an inexperienced client who didn't understand the effects of transferring. He was, by the standards of most people a successful and wealthy individual who clearly understood these issues. His primary objectives were to increase the amount of tax-free cash he could extract from his pensions, have flexibility of income, manage his tax affairs efficiently and pass on wealth to his family. In Mr C's circumstances, none of these things were unreasonable.

Because Mr C had an extensive portfolio of investment properties, his assumed retirement income was based mainly on this. His stated intention was to use the better tax-free elements found in personal pensions to pay down mortgage debt and so increase his property equity (and future earnings).

Closely related to the above, Mr C demanded a flexibility in income. I've seen many cases where flexibility is overstated or not properly evidenced. But in Mr C's situation, I think there was a clear case for income flexibility based mainly around the BTL business. I've explained this in detail above.

By 2016 and 2017, which is when the transfer processes began to take shape, Mr C's financial situation had changed and was very positive. He was in a strong position where he needed little or no income from any 'regular' pension. In my view, he had also considered his future because his stated plan for inflation proofing was that this would come from modestly increasing BTL rents, Mrs C's DB pensions, and their respective state pensions. Overall, I think this was a realistic approach which the adviser rightly took into account.

Having considered this case with great care, I think Mr C's situation was one which parliament likely had in mind when passing legislation to enable the transfer of some DB schemes.

I am therefore not upholding this complaint.

My final decision

I do not uphold this complaint.

I do not require St. James's Place Wealth Management Plc to do anything else.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr C to accept or reject my decision before 27 February 2025.

Michael Campbell
Ombudsman