

The complaint

Mr L complains about the advice he received from WPS Advisory Ltd (WPS) in 2022 not to transfer his preserved defined-benefit (DB) occupational pension scheme to a personal pension arrangement, but to retain it instead. Mr L says the transfer value has since fallen and as a result says he has lost out.

What happened

In June 2022, Mr L approached WPS to discuss his pension and retirement needs. The cost of the advice was shared with the trustees of Mr L's DB scheme.

WPS sent Mr L a fact-find, which he completed to enable WPS to gather information about his circumstances and objectives. Mr L returned the form with a covering email, which provided further background information about his current situation and what he was looking to achieve. In summary:

- Mr L was aged 44, married with two dependent children.
- Both he and his wife were employed with a joint income in excess of £150,000.
- Mr L and his wife owned their home with an outstanding repayment mortgage with 16 years remaining.
- Mr L was now a deferred member of his DB scheme which had an income cap in place since 2015 – the cash equivalent transfer value was just over £716,500.
- Mr L had another deferred DB pension with a current transfer value of around £86,000.
- He had a SIPP valued at around £30,000.
- Mr L's objective was to retire comfortably and have the flexibility to retire at 57. He wanted to look for an investment plan to build a pension pot of around £1.5M.

On 5 July 2022, WPS advised Mr L to retain his DB pension benefits within the scheme. In an advice report, WPS said the key reasons for the recommendation were:

- There was no pressing need for Mr L to take risk now – the decision could be deferred until much later and re-assessed closer to his retirement.
- Once Mr L's retirement plans begin to firm up, he can then look at his options. But for the time being, he should keep his options open, continue to benefit from a risk-free rate of return within the scheme rather than a non-guaranteed (and fluctuating) rate of return outside of the scheme.

The report also referred to the statutory increases in Mr L's pension now it was in deferment, the death in service benefit prior to retirement and that the scheme would pay a 50%

spouse's pension.

In February 2024, Mr L complained to WPS. In summary he said that he'd been advised not to transfer his pension despite saying that he wanted the money and not the guaranteed pension to be able to retire at 58 and for his children to benefit in the event of his death. He said since the advice his transfer value had fallen, and his employer had decided to wind up the scheme. He said he wanted to understand WPS' position on the advice because his ability to retire had changed. He said the adviser told him the transfer value would increase over time, but it had in fact halved. He also expressed his concern about what impact closing the scheme would have on future transfer values.

WPS didn't uphold the complaint. In summary it said the advice was suitable because there was no clear benefit to transferring – investment growth wasn't something it thought was a reason for transfer especially in the absence of significant investment experience. It said while it acknowledged the significant fall in the transfer value since the advice, there was no way to predict future values and the drop didn't make its advice unsuitable.

Dissatisfied with its response Mr L referred his complaint to us. One of our investigators considered the complaint and they didn't uphold it. They said they thought WPS had acted fairly and reasonably in advising Mr L not to transfer out of his DB scheme.

Mr L disagreed. In summary he said he thought the advice was biased because DB pensions are seen as being gold plated. He said he made it clear he wanted the cash and was told by the adviser it would be worth over £1.5M when he came to retire. He said it's only worth £300,000 now. And he said, while WPS did what the advice at the time suggested, he thinks the advice was outdated given the large transfer value at the time.

Because the matter could not be resolved informally, it was 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.

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

The 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 WPS' 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, WPS should have only considered a transfer if it could clearly demonstrate, on contemporary evidence, that the transfer was in Mr L's best interests.

Having considered all of this and the evidence in this case, I've decided not to uphold the complaint for largely the same reasons given by the investigator. My reasons are set out below.

WPS' recommendation

I think the conclusion reached by WPS that Mr L should retain his scheme benefits and that transferring to a personal pension arrangement was not in his best interests, was reasonable in the circumstances.

It is clear from the covering email Mr L provided with his completed fact-find, as well as what he has said in response to the investigator's assessment of the complaint, that he wanted access to the cash equivalent value of his DB pension to have flexibility and to invest it with a goal of achieving a pension pot of around £1.5M at retirement.

But much as Mr L made this desire clear to WPS, I think it's important to stress that it wasn't WPS' role to simply transact what Mr L wanted to do and what he thought was best for his situation. WPS was not an order taker – it was an adviser. So, its role was to advise Mr L, and in doing so it had to look beyond what Mr L wanted and what he felt was the best approach and make a determination, in light of his particular circumstances, of what it believed was in his best interests overall. And I think WPS did that.

Mr L's DB scheme provided a guaranteed and escalating pension. WPS projected that at the scheme's normal retirement age, Mr L would receive an annual pension of more than £37,500 a year. And the analysis and information WPS produced at the time, in my view supports its conclusion that it was not worth Mr L taking on investment risk at this stage. He was only 44 years old and so had many years until his retirement. And as the advice report alluded to, Mr L did not have any firm retirement plans beyond a desire to retire at 57/58 and to have flexibility. But Mr L could still retire early, if that's ultimately what he wanted to do, by remaining in the scheme. And he could still transfer out nearer his intended retirement age if his circumstances meant that it was suitable advice at this stage to do so.

WPS' analysis showed that the cost of purchasing equivalent benefits with a similar level of security to Mr L's DB scheme required a sum in excess of £1,037,000. This meant the difference between this and the transfer value was over £321,000. This was the amount of extra growth Mr L would need to achieve by taking on investment risk with his pension to generate the same level of benefits as remaining in the scheme. So, just to stand still. To improve on his benefits would require growth in excess of this figure. WPS doesn't appear to have assessed Mr L's attitude towards investment risk. But in the circumstances, I think its conclusion that the analysis simply reinforced its advice not to transfer because it had not identified a good reason for Mr L to take on the cost of foregoing the security his DB scheme provided, was fair and reasonable.

Mr L has said that he wanted to transfer so that his estate – his children – could benefit from his pension fund in the event of his death. But a pension is designed to provide an income in

retirement. And in giving advice, the priority for WPS was to make a recommendation concerning Mr L's retirement provision. I'm satisfied this is what it did. I would not have expected WPS to place more weight on the different death benefits available to Mr L through a personal pension arrangement over his security in retirement.

Overall, I'm satisfied from the evidence presented that WPS' advice was based on Mr L's individual needs and circumstances at the time. I'm also satisfied that having considered these, WPS' recommendation that it was in Mr L's best interests to retain his benefits within the DB scheme was a reasonable conclusion for it to have reached in the circumstances. Put simply, there was not a compelling reason for Mr L to transfer out of his DB scheme at this time.

I can see that Mr L considers WPS' advice was biased because DB pensions are seen as being gold plated. He also believes that, because transfer values were high at the time of the advice, the advice and starting point was outdated.

As I said at the start, the FCA's starting presumption for a transfer from a DB scheme is that it is unsuitable. This was the case then as it is now. This is because this type of pension provides valuable guarantees and is why they are often referred to as being 'gold plated.' So WPS' advice was influenced by the FCA rules because it started with the presumption a transfer was unsuitable, and it said as much at the start of the advice letter. This was the right and fair and reasonable approach to take. And just because transfer values might have been high at the time, this doesn't mean the advice not to transfer was biased, unfair or outdated. For the reasons I've given above, I think WPS' conclusion that Mr L should not transfer his pension was a fair and reasonable one.

I can see Mr L believes he's lost out because of the fall in the transfer value. At the time of making his complaint, he said it was around £300,000. But I disagree Mr L has lost out here. Crucially, Mr L's DB pension is intact because the advice was not to transfer. Mr L still has the guarantees afforded by the scheme and his benefits remain within the scheme. Ultimately transfer values can change – something WPS' advice letter made clear. And just because Mr L's cash equivalent transfer value might now be lower, this does not mean its advice at the time was unsuitable. Again, for the reasons above I think it reached a fair and reasonable conclusion in recommending Mr L retain his benefits within the DB scheme.

I understand Mr L disagrees with the advice he received, and I understand he'll be disappointed with my decision. But I'm satisfied that WPS acted fairly and reasonably in its dealings with Mr L and that he has not lost out here. So, I don't uphold his complaint.

My final decision

I've decided to not uphold this complaint, so I make no award in Mr L's favour.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 18 April 2025.

Paul Featherstone
Ombudsman