

The complaint

Mr W complains that Profile Financial Solutions Limited (Profile) misadvised him to transfer his employer sponsored company pension scheme (OPS), causing losses. He wants compensation for the losses.

Mr W is assisted in bringing his complaint by a Claims Management Company (CMC), but I will just refer to Mr W in this decision unless necessary.

What happened

Mr W says Profile cold called him in 2016 offering a pension review. A telephone appointment was undertaken to complete a fact find and Profile obtained information from Mr W's existing pension providers. Being a defined contribution OPS administered by Fidelity, worth around £42,725, a Personal Pension Plan (PPP) with Equitable Life, worth around £34,455, and a deferred annuity buyout plan arising from a defined benefit pension scheme. Profile subsequently recommended Mr W transfer the Fidelity and Equitable Life plans to a PPP with Scottish Widows. Profile's charges were 1.75% of the transfer value plus a fixed fee of £450, a total of around £1,800. There was also an annual ongoing adviser charge of 0.4%, which would be paid from the new PPP. The transfers completed in November 2016

In March 2024 Mr W's CMC complained to Profile that he'd been poorly advised to transfer the Fidelity, but not the Equitable Life plan. It said his former employer had borne all the administration costs of the Fidelity arrangement and valuable guaranteed benefits had been lost. Including a spouse's pension and annual pension increases. Profile didn't accept the complaint. It said the Fidelity plan hadn't offered any guaranteed benefits. It said the recommendations met Mr W's objectives. Which included consolidating his pension and the provision of ongoing advice on which wasn't available from the existing plans. And investment choices that met his attitude to risk, including a phased investment strategy as retirement approached to reduce risk, and the option to take benefits flexibly. Profile said all costs and charges had been fully disclosed in its Client Agreement and Suitability letter.

Mr W didn't agree and referred his complaint to our service. Our investigator looked into it, and she upheld the complaint.

Our investigator said it did seem Mr W had lost potentially valuable guaranteed benefits, and the Scottish Widows PPP arranged was more expensive than the Fidelity plan, with lower projected values under the new plan. And a more expensive plan wasn't justified as Fidelity already offered a wide range of investment funds, including lifestyle strategies, which Mr W was already invested in. She said the fact find wasn't fully completed, and Profile didn't know enough about Mr W's circumstances to give the advice. She said given Mr W's objectives there was no need for ongoing financial advice at a cost of 0.4% per annum. She said as the charges were higher, Profile should establish whether Mr W had suffered a loss by calculating the notional value of the benefits had they remained with Fidelity and compare this to the appropriate portion of the current plan value. And, if the notional value was higher, Mr W had suffered a loss and should be compensated.

Profile didn't agree. It said it had enough information about Mr W's circumstances and objectives to provide the advice. It said the Fidelity plan had offered "*valuable guarantees*", but this had been assessed in context of the greater flexibility and growth potential the transfer provided. It said ongoing advice had been an important consideration and something the regulator was keen to encourage. It said the consolidation exercise was undertaken with a view to the future as it would offer "*greater control and clarity*". It said overall costs of the two plans transferred had been reduced and specifically in respect of the Fidelity arrangement the greater flexibility and growth potential justified the increase in cost.

Our investigator said having listened to the fact find call Profile had conducted with Mr W, she still didn't think it had a clear enough idea of his financial circumstances. And, as Mr W was more than 20 years away from his likely retirement age there was no immediate need for flexible retirement options such as income drawdown.

As Profile doesn't agree it has come 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 have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of the complaint. Having done so I am upholding the complaint.

First, I don't think Mr W gave up any guaranteed benefits on transferring his Fidelity pension. The document which appears to have led to the confusion here, is a Fidelity illustration which sets out an example of the optional retirement benefits that could be provided if Mr W chose them. This included an annuity providing a spouse's pension. But this wasn't something built into his plan or paid for by his former employer as can be the case with some types of pension scheme. Which might be a valuable guaranteed benefit that would be lost on switching to a new provider. But switching a pension won't always be in the best interests of the consumer even if guarantees aren't being given up.

I thought Profile's recommendations and supporting evidence around the initial advice and subsequent contact with Mr W were hard to follow. Various illustrations and comparisons were provided but were to different retirement ages. Fidelity's illustrations were to age 65, the Scottish Widows illustrations to age 67 and the comparative illustrations, comparing charges were to age 60. It isn't even clear from the suitability report where the Scottish Widows pension was to be actually invested, although the illustration suggests this was "*SW Pension Portfolio Two*." Other documents suggested that further transfers had been arranged into the Scottish Widows plan in 2017. But that there was then no further contact with Mr W until 2023, when Profile advised he transfer the Scottish Widows plan to Aegon.

So, I asked Profile for more information. It said it had advised Mr W about a further transfer in 2017 (which he hasn't complained about) and subsequently contacted him to undertake reviews, without response. As a result, it confirmed, in keeping with the Regulator's expectations, it had disengaged and stopped taking the ongoing fees from Mr W's pension in 2018. These fees were one of the reasons the new arrangement was more expensive than the Fidelity plan. It said Mr W had then reengaged with it in 2023, when it recommended transferring to Aegon and that it had provided ongoing reviews since. Profile also made a number of points about the advice provided in 2016, which I'll refer to below.

When providing recommendations, financial advisers have a general duty to act in the best interests of their clients. And switching or transferring a pension plan might not always be in

a consumers best interests. In 2009 the then regulator, the Financial Services Authority (now FCA), published a report and checklist that is still applicable. This set out four main areas where consumers had lost out through unsuitable advice to switch pension provider,

- *They had been switched to a pension that is more expensive than their existing one(s) or a stakeholder pension (because of exit penalties and/or initial costs and ongoing costs) without good reason*
- *They had lost benefits in the pension switch without good reason. This could include the loss of ongoing contributions from an employer, a guaranteed annuity rate (GAR) or the right to take benefits at an earlier than normal retirement age*
- *They had switched into a pension that does not match their recorded attitude to risk (ATR) and personal circumstances*
- *They had switched into a pension where there is a need for ongoing investment reviews but this was not explained, offered or put in place.*

According to the suitability report Mr W's overall financial objectives were,

1. To reduce existing fees and charges.
2. Low ongoing charges.
3. Consolidation of existing pension arrangements, other than his defined benefit pension.
4. Fund choices which met his circumstances, in terms of risk and capacity for loss.
5. An strategy that would transition to lower risk investments as the retirement age approached (lifestyling).
6. The ability to take flexible benefits.
7. Provision of ongoing advice including monitoring of funds.
8. The suitability report also goes onto suggest that on-line access to information about Mr W's new Scottish Widows plan was also a reason to switch.

In respect of the Fidelity transfer 1 and 2 above weren't achieved as initial costs were incurred and ongoing charges were higher. 7 doesn't appear to have been provided after 2017, because Mr W didn't engage with the process, perhaps indicating he wasn't particularly interested in this service. 4 and 5 appear to have been readily available from the lower charging Fidelity contract. It isn't clear whether the Fidelity plan specifically offered 6, although it certainly does for its other plans and in any case, this wasn't something Mr W could take advantage of until he was at least age 55 (so in 2026) at the earliest. 8 was offered by the Fidelity plan, and simple administration of existing arrangements is a counter argument to any perceived benefit of consolidation as under 3 above. So, there don't appear to have been good reasons for the additional charges involved here to have been incurred.

Profile has argued that overall, it's advice to transfer both Mr W's pensions resulted in lower annual charges. It did confirm that the overall charge in respect of the Fidelity arrangement, including its ongoing charge is slightly higher. There would need to be some other compelling advantages to justify switching the Fidelity plan other than just relying on a seemingly significant reduction in charges on the Equitable Life plan to argue that overall charges were lower. Because charges, including Profile's would have been lower still had the Fidelity plan be retained and only the Equitable Life plan switched.

The Fidelity plan offered a wide range of investment fund choices, including a lifestyling strategy which Profile says was important to Mr W. In response to my questions, it said the switch to Scottish Widows was driven by Mr W's "*desire for broader investment choice and*

platform flexibility.” Whilst it’s likely the Scottish Widows plan offered a greater number of investment funds than the Fidelity plan, that isn’t clear from the suitability report, neither is there a clear explanation of why a broader choice was immediately required. In terms of *“platform flexibility,”* again no specific advantages over the Fidelity plan are outlined. And if this related solely to accessing benefits, this wasn’t possible for many years in view of Mr W’s age and there seems little justification for incurring years of higher charges, rather than considering the position near to retirement age. Profile said the new investment recommended was a *“clear risk-aligned model with regular rebalancing,”* but the Fidelity plan was a managed investment solution which also offered lifestyling as retirement age approached. And there was no guarantee that Scottish Widows would generate better investment returns than Fidelity would in future.

So, the only thing the transfer provided not already offered by the Fidelity plan was Profile’s advice. Mr W could of course have paid fees directly for advice on the existing plans, but at the time he wasn’t actively seeking advice, as it was Profile that approached him. And I don’t think the recommendations made required ongoing advice, as the investments would be managed by Scottish Widows and automatically re-balanced back to Mr W’s assessed attitude to investment risk,

The suitability report was also vague in terms of what ongoing services were going to be provided to Mr W. It said it was important to regularly review,

“your financial arrangements including rebalancing your ... investment funds. I recommend that your funds are rebalanced annually as part of their (Scottish Widows) annual process.

Our on-going commitment to you is detailed in our Client Agreement.”

So, I asked Profile for a copy of the Client Agreement and details of the ongoing services to be provided for Mr W. It said it hadn’t been able to locate the Client Agreement, but that internal records confirmed he wanted ongoing services, which were more than just annual reviews. It said the higher costs had been fully disclosed to Mr W, and FCA rules didn’t prohibit higher charging products or services. But as I’ve noted, higher costs shouldn’t be incurred without good reason, and it isn’t clear why Mr W specifically wanted ongoing advice at the time.

The *“Personal Fact Find”* document dated 12 October 2016 has an *“IFA Additional Notes”* section which appears to have a number of prewritten, closed end questions with one-to-four-word answers typed in with no further explanation. A question about whether ongoing advice was important is answered yes, as was a question about whether Mr W would *“benefit”* from an annual telephone review. I think closed questions of this type are very likely to be answered yes by most people, but there isn’t any further explanation or relevant detail of why those services would be required by, and important to Mr W and his failure to respond to invitations to review the plan perhaps indicates he didn’t place the same value on this as Profile.

So, from the evidence available I’m not persuaded the advice to transfer the Fidelity plan to Scottish Widows was suitable for Mr W. It had similar features and investment lifestyling, with no guarantee of better performance to offset the higher charges. Consequently, it’s possible that Mr W has suffered financial losses as a result of the unsuitable advice. If so it’s fair that he should be compensated for that.

Putting things right

My aim in awarding compensation is to put Mr W as closely back into the position he would have been in but for the unsuitable advice given by Profile.

To compensate Mr W fairly Profile must:

- Compare the performance of the proportion of benefits held in Mr W's SW PPP that originated from the Fidelity pension with the notional value if it had remained with the previous provider until the date of the subsequent transfer to Aegon in August 2023. If the actual value is greater than the notional value, no compensation is payable. If the notional value is greater than the actual value, there is a loss and compensation is payable. In which case, Profile must then consider any additional return to date under the Aegon plan to calculate the total loss suffered to date. If Fidelity is unable to provide the notional value calculation, I've set out an alternative benchmark below.
- If there is a loss, Profile should pay into Mr W's pension plan, to increase its value by the amount of the compensation and any interest. The payment should allow for the effect of charges and any available tax relief. Profile shouldn't pay the compensation into the pension plan if it would conflict with any existing protection or allowance.
- If Profile is unable to pay the compensation into Mr W's pension plan, it should pay that amount direct to him. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore, the compensation should be reduced to notionally allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount - it isn't a payment of tax to HMRC, so Mr W won't be able to reclaim any of the reduction after compensation is paid.
- The notional allowance should be calculated using Mr W's actual or expected marginal rate of tax at his selected retirement age.
- It's reasonable to assume that Mr W is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Mr W would have been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.
- Provide Mr W with a simple calculation of how it worked out the figures.

Portfolio name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
SW PPP	No longer exists	Notional value from Fidelity	Date of Transfer from Fidelity	Date of transfer to Aegon, then to date	Not applicable

Actual value

This means the actual amount payable from the investment at the end date.

Notional Value

This is the value of Mr W's investment had it remained with the previous provider until the end date. Profile should request that the previous provider calculate this value.

Any additional sum paid into the SW PPP should be added to the notional value calculation from the point in time when it was actually paid in, in proportion to the amount of the SW PPP that was transferred from the Fidelity pension.

Any withdrawal from the SW PPP should be deducted from the notional value calculation at the point it was actually paid as per the proportion that the Fidelity pension makes up of the SW PPP, so it ceases to accrue any return in the calculation from that point on. If there is a large number of regular payments, to keep calculations simpler, I'll accept if Profile totals all those payments and deducts that figure at the end to determine the notional value instead of deducting periodically.

If the previous provider is unable to calculate a notional value, Profile will need to determine a fair value for Mr W's investment instead, using this benchmark: FTSE UK Private Investors Income Total Return Index. The adjustments above also apply to the calculation of a fair value using the benchmark, which is then used instead of the notional value in the calculation of compensation.

Why is this remedy suitable?

I've decided on this method of compensation because:

- Mr W wanted Capital growth and was willing to accept some investment risk.
- If the previous provider is unable to calculate a notional value, then I consider the measure below is appropriate.
- The FTSE UK Private Investors Income **Total Return** index (prior to 1 March 2017, the FTSE WMA Stock Market Income total return index) is made up of a range of indices with different asset classes, mainly UK equities and government bonds. It would be a fair measure for someone who was prepared to take some risk to get a higher return.
- Although it is called income index, the mix and diversification provided within the index is close enough to allow me to use it as a reasonable measure of comparison given Mr W's circumstances and risk attitude.

My final decision

My final decision is that I uphold the complaint against Profile Financial Solutions Limited.

I direct Profile Financial Solutions Limited to undertake the loss calculations set out above and to pay any compensation due.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 26 August 2025.

Nigel Bracken
Ombudsman