

## **The complaint**

Mr G complained about advice he was given to transfer the benefits of a defined-benefit (DB) pension scheme to a personal pension plan, in 2021. He says the advice was unsuitable for him and believes this has caused him a financial loss.

Grove Pension Solutions Limited is responsible for answering this complaint. To keep things simple, I'll refer mainly to "GPSL".

## **What happened**

The pension concerned related to a DB scheme from previous employment and so Mr G was a deferred member at the point of seeking advice.

Information gathered about Mr G's circumstances were broadly as follows:

- Mr G was almost 57 years old, married and described himself as being a full-time carer for his wife.
- Both Mr and Mrs G were in receipt of numerous state benefits as neither were employed and they each had a number of medical conditions.
- Mr G was described as having ADHD, Autism, was Bipolar, had Asthma, and high cholesterol. He was taking various medications / inhalers although the evidence I've seen tends to suggest his health conditions were at that time controlled and managed.
- I think it's fair to say that the description of Mrs G's health showed she was more currently affected by medical problems at that time. Mrs G was described as suffering from Fibromyalgia, Asthma, Unstable Personality Disorder and Obsessive-Compulsive Disorder. She also had various problems with her joints and had a neurological disorder; she was also described as being wheelchair bound. Like her husband, Mrs G took multiple medications to manage her conditions.
- Mr G told the GPSL adviser that he wanted to consider transferring his DB scheme to a personal pension so he could release money for an electric 4x4 wheelchair for his wife. The cost was around £10,000 and the remaining sum would be invested for growth.
- Mr and Mrs G had no demonstrable savings or investments and were £12,000 in debt. This comprised of vehicle hire purchase and a catalogue debt.
- Mr G was offered a cash equivalent transfer value (CETV) by his DB scheme of £52,593. The normal retirement age (NRA) of the scheme was 65.

It was a requirement to first get regulated financial advice if seeking to transfer away from a DB scheme. GPSL set out its advice in a suitability report in September 2021. In this it advised Mr G to transfer out of his DB scheme and into a personal plan. GPSL said this was

based upon the assumption that he could buy the wheelchair using the 25% tax-free cash element and invest the remainder with a large and well-known fund manager in a balanced portfolio, commensurate with Mr G's attitude to risk.

Mr G says he's since realised he might have been poorly advised to transfer this pension. He is represented by a claims management company and first raised a complaint to GPSL about its advice, saying he shouldn't have been advised to transfer out of his DB scheme at all. In response, GPSL said it was acting on the financial objectives Mr G had at the time.

Disagreeing with GPSL, Mr G then referred his case to the Financial Ombudsman Service in February 2024. One of our investigators looked into the complaint and said it should be upheld. GPSL didn't agree with this and so the complaint was passed to me to make a final decision.

I issued a provisional decision (PD) about Mr G's complaint in February 2025. In this, I comprehensively set out why I wasn't intending to uphold the complaint. Essentially, I thought that Mr G had a real and pressing need to transfer his pension so that he could flexibly access funds. And even if he'd been advised differently, I think the rationale Mr G had for transferring was probably so powerful, that he would have made the decision to transfer anyway.

I then gave the parties a few weeks to consider what I'd said and make any response they felt necessary before I moved on to making a final decision. It's important that my PD should be read in conjunction with this 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 Business (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 the advice but provides useful context for my assessment of GPSL'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 19.1.6 that the starting assumption for a transfer from a DB scheme is that it is unsuitable. So, GPSL should have only considered a transfer if it could clearly demonstrate that the transfer was in Mr G's best interests.

I've used all the information we have to consider whether transferring away from the DB scheme to a personal pension arrangement was in Mr G's best interests. I have considered the responses to my PD<sup>1</sup>. And having done this, I'm afraid I am not upholding Mr G's complaint. I think it was in Mr G's best interests to transfer.

### Financial viability

GPSL referred in its transfer recommendation 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. The critical yield is part of a range of different things which help show how likely it is that a transferred personal pension fund could achieve the necessary investment growth for a transfer-out to become financially viable.

I'll keep this section brief because I don't think GPSL ever tried to persuade Mr G that he would be anything other than worse off in the longer-term, in a direct financial comparison sense, by transferring. I say this because the analysis showed that the critical yield required to match the benefits of Mr G's DB scheme at the NRA of 60, was 8.1%. Given the investment environment at that time, and the attitude to risk Mr G had, I don't think that he would have been realistically able to achieve anywhere near that level of investment growth, year-on-year, until the NRA.

I've also seen that the data that GPSL produced showed that to buy an equivalent pension to Mr G's scheme, this would cost around £35,600 *more* than the CETV he had been offered from his DB scheme provider.

I've noted that Mr G even today still thinks he was told that transferring would yield better results. However, I'm satisfied that both the critical yield figure and - the data explaining how much it would probably cost to buy an equivalent pension - were both explained to Mr G and portrayed by GPSL in a reasonable way. For example, it told Mr G that the critical yield, *"gives an indication of the level and quality of pension you are giving up by transferring and shows the transfer option is not good value. Taking into account your attitude to investment risk this critical yield is unlikely to be achievable"*. And as for the TVC, it told Mr G, *"you will see that this is much greater than the actual transfer value you are being offered"* and *"this means the same retirement income would cost you £35,600 more by transferring"*.

Considering these explanations and also the overall tone of the suitability report, I think any reasonable reading of this would have shown clearly that the basis for the recommendation to transfer was not based on either of these things. Indeed, what Mr G was being clearly told was that the financial viability of the transfer simply didn't 'stack up'. This was because transferring would likely produce lower retirement benefits in the longer-term.

However, the rationale for transferring in this particular case wasn't predicated on the financial comparisons alone. Rather, it was restricted to a quite different category which mainly related to Mrs G's health and wellbeing. On this basis, I think the transfer was merited.

### Other reasons given for the transfer advice

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<sup>1</sup> Reply from Mr G's representatives 3 March 2025.

I've used the documentation from GPSL at the time to help list some of the other themes the recommended transfer-away was based on.

- *The purchase of an electric and 4x4 wheelchair for Mrs G*

I accept that Mr G went to GPSL with a somewhat preconceived idea about what he wanted to achieve. But I've also considered that the adviser's job here wasn't to simply transact the transfer on any grounds. It was GPSL which was the regulated party here and Mr G was being charged for regulated advice.

However, Mr G told the adviser that he wanted to purchase a 4x4 wheelchair for Mrs G and the cost was £10,000. The documentation I've seen from that time – and which Mr G himself would have been given during the advice session(s) – clearly showed that Mr G had conducted some research about the purchase, including the cost and its suitability for his wife. The wider information we have is that Mrs G was effectively housebound at that time and the chair was required to allow her to get her outside and walk their dog. It can also be reasonably drawn from the documentation that Mr G had carried out some research about other forms of funding to buy the chair through charitable organisations and also from the state benefits system. Mr G also said that Mrs G was without any wheelchair at that time.

Our investigator took the view that the use of a pension to purchase of such an expensive chair was hard to justify – and I do accept the point being made. But I don't consider it my role to judge the type of device that best suited Mrs G as I believe that decision was best left to Mrs G herself with the support of a husband no doubt concerned that she would be able to regain a degree of independence, freedom and access to fresh air outside.

I also think the adviser was entitled to take the same view; the plan to purchase this chair was plausible and set against a backdrop of verified medical challenges which both Mr and Mrs G faced at that time. I've seen from the documentation that the adviser also considered other ways of funding this purchase. But in my view, the stark reality here was that Mr and Mrs G were essentially living on state benefits, had no savings, had acquired debt and whose health prospects looked uncertain. Because of this, there were no other obvious funding avenues to fund this important item and Mr G himself seems to have made reasonable attempts at finding any.

- *Were there other options?*

In my view, the purchase of the wheelchair was by far the most powerful rationale used for the transfer and I think it was both a necessary and practical purchase which was entirely justified, if that is what Mr and Mrs G had themselves concluded. I also take the view that the cost and complexity of the model was for them to judge and I have no knowledge that they lacked the capacity to make these types of decision.

Having looked at all the documents we have available, I also think the adviser considered whether it might be possible for Mr G to simply remain in his existing DB scheme and crystallise the benefits early, at his current age of around 57 or 58. I considered whether this would have allowed him to still make the purchase without a need to transfer away. But the aspects of his DB scheme were such that the tax-free lump sum allowable under the rules was relatively small and one which would be unlikely to generate even 20% of the cost of the wheelchair – and Mr and Mrs G had no other funds. Mr G also took the pragmatic view that a crystallised income from his existing scheme might negatively affect his state benefits allowance, thus effectively making him worse off.

- *Health and death benefits*

I can't say whether, or to what extent, the death benefits issue influenced Mr G's decision to transfer away. But Mrs G was some 12 years younger than Mr G. Each also had, by the standards of most, significant and concerning health issues. Had Mr G passed away in the short-to-medium term therefore, the financial benefits passable to Mrs G could potentially be more advantageous by transferring away and into a personal pension plan.

I should stress that I certainly don't think that this issue alone would have warranted transferring, but it wasn't without merit to consider it, in a positive dimension. Rules in place at the time enabled the tax-free transfer of the full fund value of personal pension benefits. And I think this could have been justifiably seen in these particular circumstances as an area supporting the transfer rationale.

### Summary

I've explained why, in this particular case, there were reasons for Mr G to transfer away from his DB scheme to a personal pension arrangement. Having considered all the circumstances, I do think transferring was in Mr G's interests.

I began by considering the financial comparisons. These showed that by transferring away, Mr G would not have a realistic and credible path to growing his pension to a position that would eventually provide higher financial benefits at the point of his retirement. In fact, the opposite was true. However, I don't think GPSL ever sought to hide the fact that transferring on this basis alone wasn't recommended.

But this alone was not everything the adviser needed to consider. The crux of this transfer relates to the purchase of an advanced type of wheelchair for what, in my view, were entirely sound medical and 'quality of life' reasons. Unsurprisingly, Mr G considered the purchase of a 4x4 model to be beneficial to his wife's wellbeing. There were also some associated reasons which also made transferring the better option and I think the fund recommendation for the remaining balance was appropriate.

Many transfers of DB schemes to a personal pension arrangement are simply not suitable, and we do often see 'stock' objectives used as transferring rationale; I have considered this case with this in mind. But I think it's important to remember that this was Mr G's money. He was never told that he'd be better off in the longer-term by transferring, and his decision needs to be considered against the very difficult lifestyle he and Mrs G had no-doubt endured for some years.

I think the desire to purchase this expensive wheelchair was so practical and so powerful, that Mr G probably considered it essential to his and Mrs G's lifestyle. There was simply no other way of funding it - and drawing a pension from his existing scheme was unsuitable for the reasons I've stated above.

In my view, this is the type of situation Parliament had in mind when allowing DB pension transfers to become more flexible and tailored to individual needs. So, for these reasons, I'm not upholding this complaint.

### **My final decision**

I do not uphold this complaint.

I do not require Grove Pension Solutions Limited to do anything more.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 2 April 2025.

Michael Campbell  
**Ombudsman**