

The complaint

Mr F has complained about the advice he received from Corbel Partners Limited ('CPL') relating to his personal pension. Mr F says CPL advised him to switch his pension to a Qualifying Recognised Overseas Pension Scheme ('QROPS') and this has led to a loss.

What happened

Mr F explains that in late 2018 he was informed by an ex-colleague that he'd transferred a pension into a QROPS. Mr F says he researched the matter online and says he came across a website for a business called 'Pension Cash Solutions' ('PCS'). He says he entered his contact details in a form on the website.

Mr F says he then received a phone call from someone I'll refer to as 'Mr W' from PCS. Mr F says Mr W told him he was a qualified independent financial adviser ('IFA') and proceeded to advise Mr F that he should transfer his personal pension to a QROPS provided by a business I'll refer to as 'C'. Mr F says he met Mr W in person at a hotel and he was told that in order to transfer his pension, his existing pension provider required two IFAs to be involved, at which point he was introduced to CPL.

On 6 February 2019, CPL sent an instruction to Mr F's pension provider ('P'), appointing CPL as Mr F's new adviser and requesting details of his pension.

The application for the QROPS with C was signed by Mr F on 6 February 2019. It included CPL's details, however, a different adviser's name was given to the adviser who Mr F actually dealt with. The form was witnessed by Mr W. It also included an authority letter authorising P to share details with C, signed by Mr F.

Mr F signed a client service agreement for CPL for the provision of financial advice on 19 February 2019. It appears Mr F spoke to CPL on that day and it completed a fact-find with him. The fact-find noted that a job opportunity had arisen abroad and he was looking to move his pension with him.

C wrote to Mr F informing him the QROPS had been established on 26 February 2019.

P sent the requested information to CPL on 26 February 2019.

Mr F received a suitability report from CPL dated 11 March 2019. The report noted Mr F's intention to move abroad in September 2019 but ultimately recommended that he did not transfer his existing pension to a QROPS. The reasons given for this were that there was no value to be gained from doing so at this time because he couldn't access his benefits for at least five years and moving his pension now would expose him to currency risks. There was also an added risk that his move abroad may not work out. Mr F signed the report, noting that he accepted the recommendation, on 12 April 2019.

Mr F sent a signed typed letter dated 5 April 2019 directly to P asking it to proceed with his transfer as he was moving abroad in January 2020 and wanted to take his pension with him. He said he was receiving financial advice from CPL. The transfer went ahead in May 2019.

Mr F's funds were sent for investment in June 2019 and the value of his pension ultimately declined.

Mr F complained about the advice he received in March 2024 with the help of a representative ('CMC'). The CMC said that the advice Mr F received was based on inaccurate information relating to his circumstances. It said Mr F had no intention of moving abroad at this time because he had recently been diagnosed with cancer and was due to start treatment. It also said that although the suitability report recommended he did not transfer his pension, this isn't what he was told. Mr F said he contacted Mr W to discuss the recommendation not to transfer and was reassured that he should proceed with it. Mr F says he believed that CPL and PCS were working together and ultimately recommended he should transfer to a QROPS. He did not recall signing the letter sent to P.

CPL didn't uphold Mr F's complaint. It said it had provided Mr F with clear advice against transferring his pension and its adviser hadn't had any further involvement. It said it couldn't comment on how Mr F came to transfer his pension to the QROPS.

Mr F referred his complaint to the Financial Ombudsman Service. The CMC said that CPL continued to have additional involvement after the suitability report was issued and provided evidence of this.

Our Investigator ultimately didn't uphold the complaint as she didn't think the contemporaneous evidence showed that CPL had advised Mr F to transfer his pension to a QROPS.

Mr F's CMC appealed and made the following points:

- Mr F had no intention of moving abroad as he was undergoing treatment for cancer at the time – CPL knew this.
- The written advice provided by CPL was contrary to the discussion Mr F had with CPL.
- It acknowledged that Mr F had signed the suitability report but said Mr F included additional wording that he would not be moving abroad because of his diagnosis and upcoming appointments. This had been omitted by CPL.
- CPL didn't gather any information about where Mr F intended to invest his funds and this was a significant failing. The Conduct of Business Sourcebook ('COBS') 9.2.6R provides that CPL should not have provided any recommendation if it hadn't obtained the necessary information to assess suitability. CPL had been penalised by the Regulator for these practices between March 2010 and December 2012.
- P required Mr F to have taken advice so if CPL hadn't provided the advice, the transfer wouldn't have gone ahead.
- Mr F maintains that he didn't sign the letter of 5 April 2019. He says he recalls being asked to sign the letter by Mr W but he refused because it included inaccurate information. He says Mr W told him the transfer would go ahead anyway.
- Mr F adds that he didn't sign any authority letter permitting P to share information with C.
- Mr F did not receive an invoice from CPL; he was told that PCS would pay for the advice. This suggests CPL had an agreement with PCS. CPL should have alerted Mr F that PCS was not regulated.
- Previous decisions issued by Ombudsmen at our Service had found adviser firms to be liable even where the advice was not to transfer, as in Mr F's case.
- It maintained CPL played a pivotal role in Mr F's transfer and that CPL understood that Mr F would be transferring regardless of its advice.

The Investigator wasn't persuaded to change her opinion so the complaint was passed to me to make a final decision on the matter.

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'm required to determine this complaint by reference to what I consider to be fair and reasonable in all the circumstances of the case. When considering what is fair and reasonable in the circumstances, I need to take account of relevant law and regulations, Regulators' rules, guidance and standards, codes of practice and, where appropriate, what I consider to have been good industry practice at the relevant time.

Having taken account of everything that's been said by Mr F and CPL, I'm not upholding this complaint. I appreciate this will be very disappointing for Mr F so I'll explain why.

First I wish to acknowledge Mr F's circumstances which have led to this complaint. As I understand it, as a result of moving his pension to the QROPS Mr F has suffered a loss and I appreciate the impact this would've had on his retirement plans. I also acknowledge that he's struggled with his health over the last few years but I'm pleased to note that he is in remission now.

Based on the evidence I've seen, and Mr F's testimony, I think it's likely that Mr W of PCS, an unregulated firm, played a significant role in this transaction going ahead. Mr F says he was encouraged to transfer his pension by Mr W, particularly after receiving the suitability report from CPL and he was also asked to sign documents that he didn't agree with. But this complaint concerns the actions of CPL and I haven't seen enough evidence to persuade me that CPL, separately, advised Mr F to transfer his pension to the QROPS or that but for CPL's involvement, the transfer wouldn't have gone ahead.

I say this because the evidence demonstrates that Mr F applied for the QROPS and to transfer his existing pension to it prior to speaking with CPL. Both the QROPS application and the transfer forms for P were signed by Mr F on 6 February 2019.

The QROPS application form included the details of an adviser at CPL (not the adviser Mr F dealt with) but it was witnessed by Mr W. So, on balance, it seems to me that the details in the form were completed by Mr W and the form was sent to C by Mr W rather than any representative of CPL. Mr F then signed a 'Deed of Adherence' for the QROPS, dated 18 February 2019. Again, this was witnessed by Mr W. As such, I think steps had already been taken by PCS to facilitate the transfer of Mr F's pension before he engaged with CPL.

I appreciate that Mr F signed a new adviser instruction form for CPL on 6 February 2019, but I haven't seen evidence to persuade me that Mr F had spoken to CPL at that point. Instead, the evidence I've seen demonstrates that the meeting with CPL (over the phone) took place on 19 February 2019, which is the date Mr F's fact-find, terms of engagement and client service agreement was dated. I can see that CPL sent these documents to Mr F, asking him to sign them where denoted so that the adviser could then complete the recommendation letter.

Mr F's QROPS was established on 26 February 2019, and C then took steps to engage with P about transferring Mr F's pension funds to it via a letter dated 20 February 2019. The letter said it had included a number of attachments, including transfer discharge documents and proof of Mr F's identity. And, given what I've said above, I don't think CPL had a hand in this.

Mr F's CMC has said that Mr W told him he needed another IFA involved in order to transfer his pension. That's essentially because PCS was not regulated and P wouldn't allow the transfer to proceed without evidence that Mr F had taken advice. So, I've considered the advice provided to Mr F by CPL.

Having done so, I'm satisfied that the suitability report clearly stated that CPL's recommendation was that Mr F should not transfer his pension to the QROPS. The report noted that Mr F was expecting to move abroad in September 2019 and he'd already sourced an overseas pension in that country. It said Mr F wanted CPL to review the suitability of transferring his pension to that arrangement. The report demonstrated that it had considered Mr F's circumstances, his attitude to risk and his objectives and clearly explained why transferring his pension to a QROPS was not in his best interests.

I also think Mr F understood that the recommendation was clearly against transferring. That's because in the original complaint letter sent to CPL, the CMC said that Mr F had contacted Mr W about the recommendation he'd received not to go ahead with the transfer. And it was Mr W who reassured him that he should proceed.

The CMC has also said that Mr F had a zoom call with the adviser after receiving the suitability report. It's suggested that he was then given advice that was different to what was set out in the report that CPL prepared. The CMC insists that CPL did advise Mr F to go ahead with the transfer. But I think that contradicts what Mr F has said about discussing the adviser's recommendation not to transfer with Mr W and Mr W providing him with the reassurance to do so. Ultimately, I haven't seen enough evidence to persuade me that CPL advised Mr F to transfer. Instead, it seems to me that it was Mr W who encouraged Mr F to transfer, against CPL's advice.

I acknowledge what the CMC says about the inaccuracies in the fact-finding process, for example, there not being any mention of Mr F's illness and that he wasn't intending to move abroad. But I can see that Mr F signed the fact-find confirming the information it contained was accurate. And although I can see Mr F was undergoing medical investigations at the time of the advice, I note that the CMC told us he didn't receive his diagnosis until May 2019. So, that may also explain why CPL didn't have a record of Mr F's illness at the time.

I've considered the CMC's point that CPL should not have provided advice to Mr F at all because it did not know how his funds would be invested. And if CPL hadn't provided the advice, the transfer would not have gone ahead.

Under COBS 9.2.6R, it states that if a firm doesn't obtain the necessary information to assess suitability, it must not make a personal recommendation to the client. The CMC argues that not knowing how Mr F's pension funds would be invested breaches this. But I'm satisfied that it was reasonable for CPL to conclude that transferring from the personal pension to the QROPS was unsuitable for Mr F based on what it knew about his circumstances, particularly that Mr F wouldn't be able to access his pension for over five years and that he had nothing to gain by exposing himself to currency fluctuations during that time. As such, I'm satisfied it was reasonable for CPL to provide Mr F with a personal recommendation despite not knowing how his funds would be invested. Furthermore, I'm not persuaded that CPL had anything further to do with the transfer at that point, so I don't think it would've known that Mr F would be proceeding against the advice.

As I understand it, the transfer ultimately went ahead because of ongoing contact between C, P and Mr F. I haven't seen evidence of any further interaction or that arrangements were made by CPL to effect the transfer from P to C. Instead, I've seen a copy of an email from P

to C, where it confirmed receipt of C's letter of 20 February 2019. The email said it had written to Mr F, asking him for the following:

- Copies of promotional material received about C's QROPS;
- Details of how he became aware of C and what he'd been told about it;
- To confirm whether he had received financial advice in respect of the transfer, and if so, the adviser's name and address;
- To confirm why he was seeking to transfer his pension to a QROPS when he resided in the UK; and
- Details of the investment providers.

So, it does seem that P wanted to know whether Mr F had taken advice and if so, who from. However, I haven't seen evidence that P *required* Mr F to have taken advice in order to transfer his pension to a QROPS. While Mr F would've been required to take regulated financial advice if he was seeking to transfer a pension with guaranteed benefits, that requirement did not apply to personal pensions. And I'm satisfied that Mr F's pension with P was a personal pension that did not contain any guarantees. Nevertheless, even if P required Mr F to confirm he'd taken financial advice, it doesn't appear that P required sight of Mr F's suitability report or otherwise required a positive recommendation to transfer in order to proceed. In the letter Mr F sent to P dated 5 April 2019, he simply said he was receiving financial advice from CPL and reaffirmed that he would be moving abroad in January 2020. So, it's difficult to see how CPL's advice actually affected things here.

I know that Mr F has said he did not write the letter of 5 April 2019 and he refused to sign it because it wasn't accurate. He said Mr W told him the transfer would go ahead anyway. I think the letter was most likely typed by Mr W on Mr F's behalf. But I find it hard to believe that Mr F would've allowed things to continue if Mr W was writing letters that contained inaccuracies and especially that he was being asked to sign documents containing inaccuracies. I note that Mr F didn't question the transfer going ahead or complain about things until 2024. So, on balance, I think Mr F probably did sign the letter which ultimately caused the transfer to proceed.

Mr F's CMC has also said that when he signed the suitability report on 12 April 2019, accepting the recommendation, he made a note explaining that he was no longer moving abroad. I haven't seen evidence to this effect, and I would've expected Mr F to have made notes under the declaration, or at least somewhere else in the document. But assuming that Mr F did make a note to that effect, I don't think that would've had any impact – CPL advised Mr F not to transfer his pension so this information would not have changed things. Furthermore, as I've said above, I'm not persuaded that CPL had any further part to play in the transfer proceeding. Mr F had already applied for the QROPS and signed the transfer paperwork for P before he interacted with CPL. And the letter of 5 April 2019 provided the information that P required to proceed with the transfer.

I note that in May 2019, P provided CPL with confirmation that the transfer had been completed. Mr F may argue that this evidences that CPL had a hand in effecting the transfer. But I think it's more likely than not that P was simply informing CPL, as Mr F's adviser attached to the pension plan, that it had been transferred. As I've set out above, I think the transfer actually went ahead due to correspondence between Mr F, P and C.

Lastly, the CMC says that CPL and PCS must have had some sort of arrangement, and CPL should have drawn this to Mr F's attention along with PCS's unregulated status. It also points out that Mr F never received an invoice from CPL or paid for the advice as Mr W said it would pay for it. The CMC says this is unusual and this should've been drawn to Mr F's attention.

It's possible that CPL and PCS had some sort of introducer arrangement between them, though CPL hasn't confirmed this to be the case. But such an arrangement isn't unusual and ultimately, I don't think it would be fair or reasonable to hold CPL liable for any loss Mr F suffered because of the role PCS played in transferring his pension to a QROPS. As I've said above, I think CPL provided clear advice to Mr F against transferring and it did not assist further thereafter.

I've considered what the CMC has said about other cases where we have required businesses to pay compensation even where they gave the client advice not to transfer. But each case is decided on its own merits, and I'm satisfied, for the reasons I've given above, that it was not because of CPL's actions that the transfer went ahead.

My final decision

For the reasons given above, I'm not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 14 May 2025.

Hannah Wise
Ombudsman