DRN-5634060

The complaint

Ms F complains about the advice given by Pi Financial Ltd to transfer the benefits from her defined-benefit ('DB') occupational pension scheme to a personal pension. She says the advice was unsuitable for her and believes this has caused a financial loss.

What happened

In February 2019 Pi Financial provided advice to Ms F regarding her deferred DB pension that she had been a member of between 1986 and 1989. Pi Financial had separately provided advice to Ms F's late husband – Mr F – in early 2018 about the transfer of one of his deferred DB pension schemes.

Pi Financial completed a fact-find to gather information about Ms F's circumstances and objectives. Pi Financial also carried out an assessment of Ms F's attitude to risk, which it deemed to be 'medium'. It identified Ms F's circumstances to be as follows:

- Ms F was married, and had no financial dependents.
- Her salary was around £13,000 a year, her husband's was £42,000 a year.
- They had a net disposable household income of £3,606 a month.
- Monthly debt costs included a mortgage (£1,200), loans (£190), credit cards (£700).
- The outstanding debt on credit cards was £7,000 and £9,500 on a car loan.
- Ms F's recorded preferred retirement age was 55 (although realistically was expected to be closer to state retirement age), although her husband's was recorded as 68.
- Ms F had no target minimum income in retirement but would like as much as possible.
- Ms F was an active member of her employer's pension since 2006.
- Mr F was an active member of his employer Group Personal Pension, and also had a personal pension with a fund value of £169,000 and a deferred DB pension with a cash equivalent transfer value around £173,000.
- Mr and Ms F had a mortgage with an outstanding value of £100,000 against a property valued at £230,000.
- Mrs F didn't consider the DB pension to represent a significant proportion of her financial wealth.
- She wished for this pension to maximise benefits to her in her lifetime as her spouse had significant pension benefits of his own.
- She didn't think she could retire early but wanted the option of flexibility in case things changed in the future.

On 7 February 2019, Pi Financial advised Ms F to transfer her pension benefits into a personal pension with Prudential and invest the proceeds in one of the PruFunds. The suitability report said the reasons for this recommendation were to enable her to meet her objectives which it summarised as:

- Wanting her pension to be under her control and accessible at age 55,
- Wanting to take her maximum tax-free cash at age 55,

- For her husband to be able to receive the residual fund as death benefits rather than the scheme's spouse benefit.

Pi Financial recommended that it was suitable for Ms F to transfer her DB pension's cash equivalent transfer value ('CETV') to a personal pension with Prudential and invest in line with a medium attitude to risk.

In March 2019 the CETV, of £40,310, was transferred to Prudential. Ms F was 52 years of age at that time.

In August 2021 Ms F transferred her personal pension to a self-invested personal pension ('SIPP'). On 24 February 2022 Ms F transferred her other pension (valued at £15,045.91) to the SIPP. Then, in March 2022, Ms F took a tax free lump sum from her SIPP of £14,075.23.

In July 2022 Ms F's husband sadly passed away. Ms F then took drawdown income payments from the SIPP as follows:

13 April 2023 - £12,500

28 June 2023 - £11,000

22 August 2023 - £7,000

13 October 2023 - £10,314.71

Ms F complained to Pi Financial in November 2023 via a claims management company. The complaint was about the suitability of the transfer advice because it considered that Ms F was only a low-risk retail customer who is now worse off in retirement.

Pi Financial didn't uphold Ms F's complaint. It said that the Prudential pension and chosen investment were mainstream offerings. It explained that it had assessed Ms F's attitude to risk as being medium and the investment chosen was suitable. The fund had performed well so it didn't see what losses Ms F had suffered. It said that the transfer met her recorded objectives.

Ms F referred her complaint to our service. An investigator upheld the complaint and recommended Pi Financial should pay compensation.

Pi Financial disagreed, providing the same arguments and information that had already been provided and asking that an ombudsman consider the matter again. The complaint was referred to me to make a final decision. I issued a provisional decision to let both parties know why I thought Ms F's complaint should be upheld and what I thought Pi Financial should do to put things right. I summarise my reasons for reaching that opinion as follows:

- I set out what I thought the applicable rules, regulations and requirements were at the time Pi Financial gave its advice.

- I explained that the transfer analysis that Pi Financial completed showed that transferring Ms F's DB pension was likely to provide a pension of a lower overall value than the DB scheme already offered. Which I said was the conclusion that Pi Financial reached.

- I considered whether the benefit of greater flexibility that the transfer allowed, was something that Ms F needed enough to put her in a position where she would most likely receive lower pension benefits over the whole of her retirement. And I didn't think that she did. I didn't think Pi Financial really understood how much tax free cash she may need or whether that could be achieved another way.

- I noted that Pi Financial had documented that Ms F wanted to maximise her income from her pensions and that transferring failed to meet this objective.

- I considered whether the different way that death benefits would be paid after transfer was something that Ms F prioritised enough to warrant the transfer, in spite of the lack of other reasons to make it in her interests. But I didn't think it did. Ms F had been clear that her husband's pension provision was already good.

- I concluded that it was unsuitable for Pi Financial to recommend the DB transfer to Ms F.

- I explained why I thought that Ms F would not have transferred if Pi Financial had clearly explained to her why it was not in her best interests.

Ms F responded to accept what I had said in my provisional decision. Pi Financial disagreed. I summarise the arguments it offered as follows:

- It disagreed with my view that Ms F would not have transferred her DB pension if it had recommended against it. It considered that the letter Ms F sent it, prior to its advice, set out her intention to transfer her DB pension. And was compelling evidence that she already had a clear intention with regards that DB pension.

- It referred to the fact that Ms F's husband had transferred a DB pension a few months earlier, following its advice not to do so. Which, it says, further supported its view that Ms F had already made up her mind.

- It claimed that Ms F had no contact from her former employer's DB scheme for over 19 years which would have caused her uncertainty about its financial future. Which, it says would have been a strong motivator to want to transfer.

- It argued again that the household pension income for Ms F and her husband would have been sufficient without Ms F's DB pension. So the increased tax-free cash from the transfer would have been far more useful.

- It points out that the flexibility that the transfer allowed was fully utilised by Ms F after her husband passed away which highlights the importance of flexibility.

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 Pi Financial'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 interest 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.

Having considered all of this and the evidence and arguments in this case, I still find that Pi Financial's advice to Ms F was not suitable, for the reasons that I gave in my provisional decision and elaborate on below.

Ms F was approaching 52 at the time of the advice and Pi Financial recorded an objective of wanting to access benefits from this pension at 55. I understand that the DB pension had a normal retirement age of 60, but allowed access to benefits from 55. The documentation that Pi Financial have from the time consistently refers to Ms F's desire to access benefits from this scheme at age 55. This documentation includes a letter from Ms F setting out this wish. HMRC pension regulations allowed a pension to be accessed from age 55. I conclude that Ms F was aware of this and likely had a genuine desire to do this if her future circumstances allowed. I note that Pi Financial agree with this, having highlighted this same letter in its response to my provisional decision. I still accept that the DB pension was hers to access and spend when and how she wished. And, as I said in my provisional decision, I think that Ms F had an idea in mind about what to do with this pension which prompted the advice. As I said in my provisional decision though, Ms F was not a pension transfer expert, and it was Pi Financial's job to independently assess whether this transfer was in her best interests. And if not, explain clearly why not.

Financial viability

I will start by considering whether the conclusions Pi Financial made about the financial viability of this transfer were reasonable and whether they were clearly explained.

Because Ms F was not yet at her DB scheme's retirement age, Pi Financial obtained a transfer value comparator report ('TVC'), as required by the regulator. This provided information to help establish the likelihood of being able to match or exceed the benefits of the DB scheme with a transfer to an alternative pension. This indicated that the estimated replacement cost of Ms F's pension at age 60 could cost around £30,000 more by transferring. This indicated that the CETV offered by her scheme was low and would not likely enable Ms F to get close to the value of benefits her DB scheme would offer at age 60.

The TVC also indicated the critical yield required to match Ms F's benefits at age 55 (which was an annual pension of £1,458) was 24.96% (with the recommended personal pension) if she took a full pension and 17.24% if she took TFC and a reduced pension.

For comparison, the regulator's upper projection rate at the time was 8%, the middle projection rate 5%, and the lower projection rate 2%. The required investment returns to 55 along with the TVC figure made it pretty clear that achieving sufficient growth to improve on the benefits available in the DB scheme would have been extremely unlikely for any investor. As an investor with a medium attitude to risk, like Ms F was assessed to be, then a transfer would mean that the benefits in retirement would likely be of an overall lower value.

Pi Financial reached the same conclusion as I have here. It highlighted in its suitability report in bold red font that the critical yield to age 60 (which was 9.91%) would not be achieved. And for the critical yield to age 55 it was similarly clear in stating, "*…you will not achieve the critical yield of 24.96% by the age of 55 to allow your benefits to match those that are offered by the* [DB pension]*. Should you wish to match the benefits offered by* [DB scheme] *then I recommend that you DO NOT transfer."* I think that Pi Financial were very clear that this transfer would not achieve an improvement in the DB benefits in the specific way that they were taken.

I think that, given Pi Financial's recommendation, Ms F would therefore have understood that by transferring she would not be able to match her DB benefits. But Pi Financial went on to give Ms F the recommendation that the transfer was still suitable in spite of that. It argued that the availability of additional ways to take pension benefits, which were not available via her deferred DB scheme, meant that the transfer was still in her best interests. So I have considered whether the other reasons that Pi Financial gave meant that the transfer was, overall, suitable for Ms F in spite of the lack of financial viability.

Flexibility

As I explain above, I am persuaded that Ms F had a genuine interest in making use of the funds available from her pension from age 55. I say that because it is reflected very clearly in the fact find and suitability report that Pi Financial have shared. Ms F also stated this intention in an undated handwritten letter. I think that Pi Financial's understanding of her objective was clear and that Ms F would probably have corrected that understanding if it was incorrect. Furthermore, shortly after turning 55 Ms F took a maximum tax-free lump sum. Which was higher than the tax-free lump sum of £5,073 available at age 55 from her DB scheme.

In considering whether Ms F's objective was a suitable way to use this pension, I would expect Pi Financial to consider Ms F's reasons for wanting to access more tax-free cash than her DB scheme allowed. And I'm not sure that her reasons were particularly compelling or thoroughly explored. Whilst I don't doubt that Ms F wanted to maximise her tax-free cash at 55 the reasons given were to allow the clearing of certain debts prior to selling her and her husband's existing home to build a new home. But I cannot see that it was very clear how much was needed to clear debts or when. I think this objective was more of a desire than it was a necessary thing. And it wasn't very thoroughly explored by Pi Financial. It means that I don't think proper consideration had been given to whether the risk, or harm to Ms F by giving up her DB pension for this reason had been properly considered.

Pi Financial have shown us that it provided some cash flow modelling. But I can't see that Pi Financial ascertained what her other pension fund was or how that would factor into her retirement provision. It only seemed to focus on her DB scheme and her potential state pension. I am not convinced that Pi Financial gave full consideration of all the sources of income available to Ms F and her husband in the future.

Mr F had reasonable pension provision but Pi Financial were aware, from its advice to Mr F, that he had already given up one of his DB pensions, so had a DC Scheme that would have afforded the access of a much larger amount of tax free cash than Mrs F's DB scheme CETV would produce. And Ms F was also a contributing member of her current employer's pension scheme. Had Pi Financial properly explored that scheme it may well have established that it already provided the potential to take income from age 55 without needing to give up the DB scheme benefits.

Ms F's letter to Pi Financial and the fact find persuade me that Ms F most likely considered that this deferred DB pension was not going to form a significant part of her income in retirement. It would be small compared to the state pension for instance. Whilst valuable additional income, I think that Ms F would reasonably have considered she had scope to explore her options with this pension. But it was Pi Financial's role to consider the relative value of the options independently and give advice that was in her best interests. Not to simply mirror Ms F's view that maximising her tax-free cash was the best thing for her to do.

I have looked at the cash flow model that Pi Financial used in the main body of the suitability report and it is lifted from the retirement modeller that was provided by the intended personal pension provider. This relied on assumptions that, having taken 25% tax-free cash at 55 Ms F would then take an annual drawdown income of £1,458 a year from the pension for life. Of course, this did not reflect the benefits given up. The tax-free cash she was taking was far greater than the DB scheme allowed, but the ongoing drawdown would not have been level, but increasing each year. Put simply this model didn't compare with what she was giving up, but neither did it model her intentions with this pension as it did not appear to be an objective of Ms F to take a regular income from it at 55 anyway. It showed Ms F's total income but did not, as I have stated, factor in her other workplace pension.

In the appendix for the suitability report there is a brief section on drawdown income. In that it says that taking an equivalent income to the estimated income from the DB pension would cause the transferred fund to run out by age 78. This was based on a medium rate of return. And is unclear about whether that was starting benefits at age 55 or 60. But it does highlight the likely risk of the fund being depleted, and the fact that it would not provide a suitable means to replicate the DB benefits albeit with more flexibility.

In making its recommendation, Pi Financial were not working to a specific income need in retirement. It simply recorded in its fact find that Ms F wanted as much income as possible. It appears to me that the objective of maximising the income in retirement would have meant using the DB scheme benefits. The TVC showed that to be the case. Even by taking those benefits at age 55.

In response to my provisional decision, Pi Financial have provided a breakdown of the likely pension income that Ms F and her husband would have had, based on the position at the time of advice. Which it said already exceeded likely household expenditure without the transferred pension. Whilst that may have been accurate at the time, it does not alter the fact that Ms F, quite reasonably, had the objective of maximising her household income in retirement. Which I don't think the transfer helped achieve.

The arguments for improved flexibility, that Pi Financial gave when recommending this transfer, depended entirely on the acceptance that Ms F needed tax free cash at 55 that she couldn't obtain another way. But the amount she thought she might need was insufficiently understood. It was simply indicated that she wanted to clear debts. But they were debts that would continue to be repaid for a further three years and may well be virtually clear by age 55 anyway. And little consideration was given to the tax free cash from the DB scheme at age 55 and the available income from her other pension. I am not persuaded that Ms F needed this flexibility enough to sacrifice the objective of obtaining as high an income in retirement as possible. It follows that I don't think the arguments for taking tax free cash or benefits in a different way made Pi Financial's recommendation suitable for Ms F.

I understand that Ms F accessed her pension after turning 55 and that she transferred another pension to her SIPP to do so. So I think that reflects her interest in using her pension from age 55 if possible. But accessing her other pension was always open to her, as was accessing her DB scheme benefits. And insufficient consideration was given to that, or to why that would not similarly have met her needs.

I am also aware that Ms F went on to take significant drawdown payments from her SIPP and referred to that in my provisional decision. But I am not persuaded that is a reflection of what she had intended or foreseen for her pensions at the time of the advice. I say that because those withdrawals came after the sudden passing of her husband in 2022. But for that, I am persuaded that her use of her own pensions and her income needs would likely have been very different. Put simply, at the time Pi Financial gave the advice, it was not reasonable to conclude that Ms F had a genuine need for the flexibility of the transfer in her circumstances.

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. The lump sum death benefits on offer through a personal pension was likely an attractive feature to Ms F. But whilst I appreciate death benefits are important to consumers, and Ms F might have thought it was a good idea to transfer her DB scheme to a personal pension because of this, the priority here was to advise Ms F about what was best for her retirement provisions. A pension is primarily designed to provide income in retirement. And I don't think Pi Financial explored to what extent Ms F was prepared to accept a lower retirement income in exchange for higher death benefits. I say that because Pi Financial were specifically aware of her husband's pension position. Which was significantly better than Ms F's. I accept that the death benefits available through the DB scheme may not have appeared particularly important given Mr F's own pensions, but they were still of a comparatively higher capital value than the fund value of the personal pension would have been in the future.

Overall, I don't think different death benefits available through a transfer to a personal pension justified the likely decrease of retirement benefits for Ms F.

Summary

I don't doubt that the flexibility, control and potential for higher death benefits on offer through a personal pension would have sounded like attractive features to Ms F. But Pi Financial wasn't there to just transact what Ms F might have thought she wanted. The adviser's role was to really understand what Ms F needed and recommend what was in her best interests. Even where that may not have been what she had thought might be the case prior to the advice process.

Ultimately, I don't think the advice given to Ms F was suitable. She was giving up a guaranteed, risk-free and increasing income. By transferring, she was very likely to obtain lower retirement benefits which undermined her basic objective of maximising her income in retirement. In my view, there were no other particular reasons which would justify a transfer and outweigh this. Ms F shouldn't have been advised to transfer out of the scheme just to repay debts where the repayments were affordable, and the potential for different death benefits wasn't worth giving up the guarantees associated with her DB scheme.

So, I think Pi Financial should've advised Ms F to remain in her DB scheme.

Of course, I have to consider whether Ms F would've gone ahead anyway, against Pi Financial's advice. I can't know how Ms F would have responded to a clear and well evidenced recommendation not to transfer, because Pi Financial never gave her any reason to suppose that it wasn't in her best interests. Or why it wasn't.

I've considered this carefully again, and would reassure Pi Financial that I considered the letter that Ms F wrote and the fact that her husband had previously transferred against advice. I agree that it makes it finely balanced, but I'm not persuaded that Ms F would've insisted on transferring out of the DB scheme, against Pi Financial's advice. I say this because Ms F was herself an inexperienced investor with a medium attitude to risk. And, had she been given suitable advice, she would have understood that it still accounted for a valuable part of her own retirement provision. Had Pi Financial found out about the value of her other workplace pension it would have understood this and been able to put the value of the DB Scheme to Ms F in a much clearer way. The fact that her husband had already sacrificed the guaranteed benefits that he held in one of his pensions (and would soon sacrifice the other on Pi Financial's advice) ought to have added weight to the value in retaining some guaranteed benefits that were not subject to investment returns.

I am also minded that Ms F was paying Pi Financial for its expert opinion. If it had provided her with clear advice against transferring out of the DB scheme, explaining why it wasn't in her best interests, and how her objectives could be best served by retaining the DB benefits, I think she would more likely than not have accepted that expert opinion.

In light of the above, I think Pi Financial should compensate Ms F for the unsuitable advice, in line with the regulator's rules for calculating redress for non-compliant pension transfer advice.

Putting things right

A fair and reasonable outcome would be for Pi Financial to put Ms F**,** as far as possible, into the position she would now be in but for the unsuitable advice. I consider she would have likely remained in the occupational scheme.

Pi Financial should therefore undertake a redress calculation in line with the rules for calculating redress for non-compliant pension transfer advice, as detailed in Policy Statement PS22/13 and set out in the regulator's handbook in DISP App 4.

For clarity, Ms F started taking benefits from this pension in March 2022**.** So, compensation should be based on Ms F taking these benefits on that date.

This calculation should be carried out using the most recent financial assumptions in line with PS22/13 and DISP App 4. In accordance with the regulator's expectations, the calculation should be undertaken or submitted to an appropriate provider promptly following receipt of notification of Ms F's acceptance.

If the redress calculation demonstrates a loss, as explained in PS22/13 and set out in DISP App 4, Pi Financial should:

- calculate and offer Ms F redress as a cash lump sum payment,
- explain to Ms F before starting the redress calculation that:
    - redress will be calculated on the basis that it will be invested prudently (in line with the cautious investment return assumption used in the calculation), and
    - a straightforward way to invest the redress prudently is to use it to augment the current defined contribution pension
- offer to calculate how much of any redress Ms F receives could be used to augment

the pension rather than receiving it all as a cash lump sum,

- if Ms F accepts Pi Financial's offer to calculate how much of the redress could be augmented, request the necessary information and not charge Ms F for the calculation, even if she ultimately decides not to have any of the redress augmented, and

- take a prudent approach when calculating how much redress could be augmented, given the inherent uncertainty around Ms F's end of year tax position.

Redress paid directly to Ms F as a cash lump sum in respect of a future loss includes compensation in respect of benefits that would otherwise have provided a taxable income. So, in line with DISP App 4.3.31G(3), Pi Financial may make a notional deduction to allow for income tax that would otherwise have been paid. Ms F's likely income tax rate in retirement is presumed to be 20%**.** In line with DISP App 4.3.31G(1) this notional reduction may not be applied to any element of lost tax-free cash**.**

My final decision

For the above reasons I uphold Ms F's complaint and direct Pi Financial Ltd to compensate her as set out above.

Where I uphold a complaint, I can award fair compensation of up to £150,000, plus any interest and/or costs that I consider are appropriate. Where I consider that fair compensation requires payment of an amount that might exceed £150,000, I may recommend that the business pays the balance.

Determination and money award: I require Pi Financial to pay Ms F the compensation amount as set out in the steps above, up to a maximum of £150,000.

Recommendation: If the compensation amount exceeds £150,000, I also recommend that Pi Financial pays Ms F the balance.

If Ms F accepts my decision, the money award is binding on Pi Financial. My recommendation is not binding on Pi Financial. Further, it's unlikely that Ms F can accept my decision and go to court to ask for the balance. Ms F may want to consider getting independent legal advice before deciding whether to accept this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms F to accept or reject my decision before 17 July 2025.

Gary Lane
Ombudsman