

The complaint

Mr T's representative has complained, on his behalf, about the advice Mr T received from Citrus Financial (an appointed representative of Quilter Financial Services) when it recommended he transfer two defined benefit pension plans to a personal pension arrangement.

What happened

The investigator who considered this matter set out the background to the complaint in her assessment of the case. I'm broadly setting out the same background below, with some amendments for the purposes of this decision.

Mr T held defined benefits with two occupational pension schemes. In November 2015, he approached a different firm for advice on his pensions. A fact find regarding his personal and financial circumstances was completed on 3 November 2015. The fact find confirmed the following:

- Mr T was 58 years old, married with no financial dependants.
- He jointly owned his property with his wife and had outstanding unsecured debts totalling £49,692.
- Mr T had deferred defined benefit pensions from two occupational pension schemes.
- Mr T wasn't in good health and had suffered several heart attacks previously.
- Mr T was in receipt of Statutory Sick Pay ("SSP") totalling £389.16 per month but was approaching the 28-week limit of receiving this benefit.
- He had a preferred retirement age of 58 due to his poor health and inability to work.

An Attitude to Risk Questionnaire ("ATRQ") was completed on 4 November 2015. After answering a series of questions, Mr T was described as a balanced risk investor, which was suitable for people who preferred not to take too much risk with their investments but would do so to an extent. They tended to prefer lower risk assets, but appreciated that riskier investments were likely to provide better longer-term returns.

That separate firm told Mr T that it was unable to offer Mr T advice on his defined benefit pension plans because it wasn't authorised to do so, so passed his details to a different business – Citrus Financial.

On 21 December 2015, a further ATRQ was completed by Citrus Financial. Mr T responded with the same answers to the questions he was asked and was once again categorised as a balanced risk investor.

On 23 February 2016, Citrus Financial issued its suitability report. The adviser recommended that Mr T transfer one set of his defined benefits worth £77,875 to a Prudential flexi access drawdown plan.

Mr T accepted the advice and on 10 May 2016, £77,875 was transferred.

On 24 May 2016, Citrus Financial wrote to Mr T again with its recommendation for his

other defined benefits pension plan. Citrus Financial explained that the trustees of that scheme had previously been unable to provide an accurate transfer value, but now it had been re-valued, the adviser was in a position to offer a recommendation.

The adviser said that the initial charge for the advice would be 3.75% of the overall amount invested. Based on a total transferred amount of £272,296, the fee would be £10,211.

Mr T's main objective was recorded as being to reduce the amount of unsecured debt he had, which totalled £49,692. The previously transferred defined benefits had released around £19,000 in TFC towards reducing the amount of debt.

The adviser recommended that Mr T transfer his other defined benefits to a flexi-access drawdown plan with Prudential. A transfer of £277,638.11 was made on 3 August 2016 in respect of these. However, this advice wasn't provided by Citrus Financial. It was the investigator's understanding that Mr T felt the transfer of these defined benefits was taking too long, so sought advice elsewhere.

Mr T's representative raised a complaint with Quilter on 9 June 2023. It said the following in support of Mr T's complaint:

- Mr T was concerned the advice he received was poor because his pension plan had reduced substantially from £400,000 (including a transfer of defined contribution funds), and was expected to reduce to zero that year.
- The fund had depleted through poor investment management and performance.
- Given that defined benefits were transferred, the advice was unsuitable.

Quilter responded on 24 August 2023. It didn't uphold the complaint, saying that the recommendations were suitable given Mr T's circumstances. Quilter also raised concerns with the timeliness of Mr T's complaint and said it had been raised out of time.

That particular issue had been reviewed by a different ombudsman who concluded that the complaint had been raised in time.

The investigator proceeded to consider the merits of the complaint, but didn't think it should be upheld. She said the following in summary:

- She began by saying how sorry she was to learn of what had happened here. At the time of the advice, Mr T was in a vulnerable position. Mr T had suffered several heart attacks in the previous 10 years and was concerned about his health. Mr T was unable to work due to his ill-health and was approaching the 28-week limit of receiving SSP. This meant that Mr T would then receive zero income as the fact find recorded this as his sole income source.
- Mr T had two main objectives, the first being to reduce the amount of outstanding debt he and his wife had, and the second was to ensure that his wife was able to repay the outstanding mortgage in the event of his passing. With the SSP ceasing soon, the burden of the debt was causing Mr T considerable stress, which understandably was not good for his health.
- The suitability letter highlighted two important factors which would help Mr T achieve his goals. The first was that, if Mr T left his defined benefits pension as they were, he could receive a Tax-Free Cash ("TFC") lump sum of £12,070 and a reduced income of £1,810 pa.

- However, if Mr T transferred his defined benefits to a private arrangement, he would receive around £19,293 in TFC and an increased annual income of £2,890. The TFC would be immediately available and so he'd be able to reduce his debts straight away. The latter option would allow Mr T to repay a higher proportion of his debts and provide a higher income.
- If Mr T died immediately and the defined benefits had been retained, Mrs T would receive a spousal pension of £1,654.90 pa, whereas following a transfer to a private arrangement, Mrs T would receive a return of the pension fund.
- The suitability letter confirmed Mr T's goal was to receive around £15,000 per annum following the transfer of all of his defined benefits. Whilst Citrus Financial didn't facilitate the transfer of Mr T's other defined benefits, it gave advice on the basis that they would also be transferred as soon as possible. As Citrus Financial had issued a suitability letter for the other defined benefits, it was aware that, following the further transfer of £272,296 the fund would provide a TFC amount of £68,074 and an additional flexible amount of income thereafter. The death benefits following a transfer of the further defined benefits were the same - Mrs T would receive a return of the fund value.
- Therefore, once both the transfers had completed, Mr T would have been provided with TFC of around £87,300, which would have allowed him to pay off his outstanding debts of £49,692 and, in the event of his death, his wife would receive a lump sum.
- On balance, this was what Mr T wanted at the time of the advice, and the investigator said she was aware that Mr T did use the TFC towards clearing his debts, as he'd intended to do from the start of the process.
- The investigator had also reviewed the ATR questionnaire and noted, as above, that Mr T was described as a balanced risk investor. This was an accurate reflection of someone who:
 - Prefers not to take too much risk with their investments.
 - Prefers lower risk investments but are aware riskier investments are likely to provide greater long-term returns.
 - Has moderate levels of knowledge regarding financial matters.
 - Suffers regret when financial decisions do not work out in their favour.
- Having reviewed the answers Mr T gave when completing the questionnaire, the investigator was satisfied that Mr T was a balanced risk investor. This was because Mr T agreed with the statement that people who knew him would describe him as a cautious person - and he agreed that he liked to look for the safest type of investment. He said he wasn't comfortable investing in the stock market and strongly disagreed with the statement that he would be willing to take substantial financial risk to earn substantial rewards.
- However, following further conversations, Mr T's agreed risk rating was increased to a moderate risk investor. A moderate investor was described as someone who:
 - Understands they need to take investment risk to meet their long term goals, and will take risk with a high proportion of their available assets.
 - Has experience investing in higher risk assets such as equities.

- The investigator wasn't satisfied that Mr T's answers to the ATRQ reflected a moderate investor. She noted that Mr T had strongly agreed with the statement that he had little experience of investing in stocks and shares and agreed with the statement that he would rather be safe than sorry. He also confirmed he was concerned by the uncertainty of stock market investments.
- However, Mr T was ultimately invested in the Pru Fund Protected Growth Fund which was suitable for someone with a more cautious approach to investing. This fund selection was appropriate for Mr T.
- In order for a defined benefits pension transfer to be considered to be in Mr T's best interests, there needed to be a significant chance of improving on the benefits offered by the ceding pension scheme following the transfer to a private arrangement with Prudential, and it was unlikely that improving on the benefits was likely, given the fees, charges and TFC withdrawal soon after the transfer.
- However, Mr T wasn't seeking to improve on the benefits the DB scheme offered. Mr T intended to, and ultimately did, withdraw the maximum TFC to clear his outstanding debts. Understandably, after receiving around £68,000 from his pension, and receiving income from his pension straightaway, he was unlikely to improve on the benefits offered by the defined benefits scheme.
- Ordinarily, with defined benefit transfer advice in 2015, there should have been a transfer value analysis (TVAS) report. The purpose of a TVAS was to determine whether the transfer of OPS benefits would be appropriate for an individual. To do this, the TVAS would compare projected retirement benefits from the defined benefit scheme against those in the recommended plan.
- It would also highlight the critical yield, which was the average annual investment return required on the transfer value from the time of the advice to retirement, to provide the same income at retirement as the defined pension scheme. The critical yield would inform an advising firm how likely it was that the recommended private arrangement would be able to achieve the necessary investment growth for the transfer to result in a higher pension income than that offered by the scheme.
- Quilter didn't provide a TVAS within its submissions to this service, and the results of the TVAS were not mentioned in the suitability letter either. Instead, the letter said the following:

"Normally as part of my analysis I would have asked the Trustees how much income and tax-free cash you could take from the scheme if you retired from it immediately, rather than waiting until the normal retirement age of the scheme.

However, as the normal retirement date is just 12 months away there is little point in carrying out this exercise."

- The adviser was correct in saying this. The regulator didn't expect firms to advise on estimated or indicative transfer values where a guaranteed transfer value was available. In some circumstances, a guaranteed transfer value wasn't available or required, e.g. in the 12 months before the scheme's normal retirement age (NRA). This therefore explained why the adviser didn't discuss the critical yield with Mr T.
- Mr T had also said in his complaint form that his pension fund had reduced from around £400,000 to around £60,000 in five years. He said he was advised to

withdraw an unsustainable level of income. However, within the suitability report, the adviser said the following:

“Your current monthly expenditure is £3,243 with joint income of only £2,020 pm. Of course, your monthly expenditure will greatly improve once the debts have been repaid and you estimate that you would need in the region of £14,000 to £15,000 from your pensions. This should be comfortably achieved from your combined pension schemes.”

And also the following in the section entitled “Your Term to Retirement”:

“Ideally you will be looking to draw around £15,000 per annum to supplement the income that (Mrs T) has from her employment.”

- The investigator had enquired as to why Mr T had withdrawn the amounts he did from his pension plan each year when it was recorded in the suitability report that he required £15,000 pa. Mr T had replied to say that the adviser had suggested that for the first year he take the equivalent of his previous employment salary of £36,000 and review in 12 months’ time to discuss his financial situation. He said it was envisaged that he could possibly return to employment although on a lesser salary and reduced hours. Unfortunately, however, the debts he’d accrued and his continuing ill-health meant that this didn’t materialise, and nor did the planned review.
- But having reviewed the available evidence received on this case, the investigator didn’t think that it supported the position that the adviser advised Mr T to withdraw £36,000 pa. Rather, it was documented in the pension transfer suitability letter and that for the additional defined benefits transfer that Mr T’s target annual income in retirement was £15,000. These letters were written on different days which indicated that the target income of £15,000 in retirement was well documented and established.
- Therefore, the investigator couldn’t agree that the adviser had recommended that Mr T take such a large amount of annual income from his pension fund.
- In conclusion, the investigator said that she was sorry to hear that Mr T’s pension fund had been depleted, but she couldn’t agree that it was due to the advice he received to transfer his defined benefits. At the time of the advice, Mr T was in what the investigator considered to be quite an extreme situation. The SSP income he had been receiving, which was his only source of income, was going to stop imminently.
- Mr T had also said that he wasn’t able to work anymore and so wanted access to his TFC to reduce his debts and ease the financial pressure on him and his wife. Furthermore, when the second defined benefit transfer was taking too long, a different adviser stepped in to facilitate the transfer faster for him. This indicated that Mr T was motivated and keen to ensure that the transfer went ahead as soon as possible, and that he wanted access to the funds immediately.
- When considering all the above, the investigator considered that, even if the adviser had advised Mr T to retain his defined benefits within the scheme, it was more likely than not that he would have transferred it in any case to gain access to the funds. It was clear that Mr T wanted to relieve the financial pressure he and his wife were under, especially given that it was unlikely Mr T would return to work.

Mr T’s representative disagreed, however, saying the following in summary:

- Its understanding from what the investigator had said was that she believed that the transfer of the defined benefit schemes was to create capital for Mr T to pay off debts. As a financial adviser, and also of a firm with Part 4A permissions to deal with debt management, it would not be usual for the representative to recommend a client cashes in all his pensions to do this, however.
- It would have been preferable to have entered into a debt management arrangement or even more seriously, bankruptcy, as Mr T had no assets (the property was indebted) and therefore this would have resolved the long-term debt position, or an individual voluntary arrangement (IVA) of between two to five years.
- It was assumed that Citrus Financial didn't have the breadth of knowledge or indeed the permissions to enable it to discuss this far more suitable approach which would have resulted in the debts being frozen and a repayment schedule agreed with all the creditors to pay back a limited amount of the debt over a number of years. So whether Citrus Financial advised Mr T rightly or wrongly about the withdrawals that were being made, the fundamental problem was that the actual advice at the beginning was incorrect and unsuitable and there was a far better solution than destroying Mr T's pension fund, which was effectively what happened.
- Tax free cash was used to pay off unsecured borrowing and the implication was that his pension fund was depleted as a consequence. Whether or not Citrus Financial was the adviser for the pension plan, it was responsible for undertaking reviews, it was taking an annual fee for the ongoing advice and there was no evidence that it cautioned Mr T against the levels of income that he was taking from this plan.
- Having spoken to Mr T, it appeared that the adviser recommended that he take an income equivalent to his mortgage costs and then review it at the end of a year. But that review didn't take place. Citrus Financial was taking fees for reviews that weren't happening.
- There was no evidence that Mr T was advised to reduce that income down to a sustainable level at any point. There was a phone call in which Citrus Financial requested access to the portal to find out what the Pru Fund was doing and then sent a report that didn't address anything - it said there were no issues. But there clearly were issues as the fund depleted down to £60,000 from £400,000 in less than six years. There was no sense of urgency from the adviser to Mr T at any point.
- Mr T wasn't financially sophisticated, was cautious in nature, and acted on the basis that there were no brakes put on him which, given his limited understanding of the financial services environment, he took to mean it was reasonable for him to continue as if everything was fine – but it wasn't.
- Mr T was sufficiently naïve that it took the representative to speak to him during a meeting about his mother to determine that his situation was unacceptable. Had he been aware of this, he would likely have made contact with the adviser beforehand, but he didn't. It was his representative that highlighted the fundamental problem with this case.
- In the same sense as the wider industry problem with self-invested personal pensions (SIPPs), when an individual firm sold a wrapper for a SIPP, it was responsible for the funds invested within it, even if it had no direct involvement with them. In this case, Citrus Financial recommended that Mr T merged three products

into the Prudential and then failed to maintain this fund with Mr T through regular appropriate advice.

- The health history of Mr T was well understood, but that wasn't the point. Rather, the issue was the advice and support provided to Mr T who clearly, if the same advice was given today, would be properly classified as a vulnerable client and there would have been measures put in place to factor in the way a vulnerable client of this nature would be treated. Despite his serious health problems, employment issues and issues with family members, there was no treatment of Mr T as being vulnerable.

In response, the investigator noted the representative's position that a debt management plan would have been a better suggestion. She agreed that this was a possible solution, if clearing debt was Mr T's only objective - but said that he also needed to take an income given that he couldn't work and the SSP was coming to an end.

She also requested any evidence that Mr T had been advised to take an annual income equivalent to his mortgage costs, as the available documents recommended a target annual income of £15,000.

The representative replied to say that Mr T had confirmed that he'd received the advice to take a higher income verbally, and that such a conversation should have been recorded.

However, the investigator wasn't persuaded to change her view on that particular matter, saying that the available evidence didn't support the position that Mr T was advised to take a higher income than that recommended in the suitability report. And although the recommended review may not have taken place, the suitability report warned that Mr T needed to manage his pension fund and not take withdrawals in excess of the recommended amount. It said that, if he did, then the fund wouldn't be able to sustain him through his retirement. And unfortunately this appeared to be what had happened.

The representative then submitted comments directly from Mr T, in which he said that he'd been advised to withdraw an amount equal to the income he received from his last employment to prevent further income being incurred, and that he would be in touch again in 12 months to review the situation. It was the adviser's responsibility to do so and he relied on this taking place, but it didn't happen.

The representative also said that the firm had been taking charges for managing the investment and providing reviews, but this hadn't been happening – and so the charges should be removed. Had the reviews occurred, then it was likely that Mr T wouldn't have been in the situation he now found himself.

The investigator queried as to whether Mr T had complained about the charges before that point, to which the representative confirmed that he hadn't, but that the point was that the annual reviews hadn't happened, which had adversely impacted Mr T.

As agreement couldn't be reached on the matter, it was referred to me for review.

At my request, the investigator enquired of Mr T's representative as to how Mr T would have continued to meet his expenses, especially his mortgage repayment, had a debt management plan been put in place instead of transferring his defined benefits.

The representative conveyed Mr T's comments as follows:

- Financially it was a very difficult period in his life having been the main financial provider in the family. Two things helped him during this period, firstly he was aware

of all his financial commitments including credit card and loans which he meticulously balanced to the penny so he was aware of his monthly outgoings. He did use credit cards very heavily, which he was hoping would be a short term situation, or at least until his health improved and financially he was on a sound footing.

- The second aspect was his mother, a widow and although not in the best of health with mobility it was no doubt without her financial support during this period he wouldn't have been able to meet all his financial obligations. He was also his mother's carer and although she lived some 50 miles away, he saw her at least twice a week and sometimes more. She gave him the financial stability to meet obligations with loans and financial support and she was more than aware of his predicament.
- After a period of time his health improved (although not completely), allowing him to search for employment which he achieved. Although it was only part time, he was able to work additional hours and in some cases days while still caring for his mother. Unfortunately, during that period he sustained a fracture and a crushed vertebrae while completing his employment duties.
- This meant another period of no employment and having to review his financial position. Again after another period of time he secured an office role.
- He survived financially month to month by meticulously balancing his financial obligations which thankfully he always met and the very generous support of his mother who supported him financially until her passing away in March 2024.

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.

And having done so, whilst I know this will disappoint Mr T, I've reached similar conclusions to those set out by the investigator, and for broadly the same reasons.

When considering what's fair and reasonable, and in accordance with the Financial Services and Markets Act 2000 (FSMA) and DISP, I need to take into account relevant: law and regulations; regulators' rules, guidance and standards, and codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

The applicable guidance, rules, regulations and requirements

This isn't a comprehensive list of the guidance, rules and regulations which applied in 2015, but provides useful context for my assessment of the business' actions here.

Within the FCA's handbook, COBS 2.1.1R required a regulated business to *“act honestly, fairly and professionally in accordance with the best interests of its client”*.

The FCA's suitability rules and guidance that applied at the time Citrus Financial advised Mr T were set out in COBS 9. The purpose of the rules and guidance is to ensure that regulated businesses, like Quilter, take reasonable steps to provide advice that is suitable for their clients' needs and to ensure they're not inappropriately exposed to a level of risk beyond their investment objective and risk profile.

In order to ensure this was the case, and in line with the requirements COBS 9.2.2R, Citrus Financial needed to gather the necessary information for it to be confident that its advice met

Mr T's objectives and that it was suitable. Broadly speaking, this section sets out the requirement for a regulated advisory business to undertake a "fact find" process.

There were also specific requirements and guidance relating to transfers from defined benefit schemes – these were contained in COBS 19.1.

COBS 19.1.2R required the following:

"A firm must:

- (1) compare the benefits likely (on reasonable assumptions) to be paid under a defined benefits pension scheme or other pension scheme with safeguarded benefits with the benefits afforded by a personal pension scheme, stakeholder pension scheme or other pension scheme with flexible benefits, before it advises a retail client to transfer out of a defined benefits scheme or other pension scheme with safeguarded benefits;*
- (2) ensure that that comparison includes enough information for the client to be able to make an informed decision;*
- (3) give the client a copy of the comparison, drawing the client's attention to the factors that do and do not support the firm's advice, in good time, and in any case no later than when the key features document is provided; and*
- (4) take reasonable steps to ensure that the client understands the firm's comparison and its advice."*

Under the heading "Suitability", COBS 19.1.6 set out the following:

"When advising a retail client who is, or is eligible to be, a member of a defined benefits occupational pension scheme or other scheme with safeguarded benefits whether to transfer, convert or opt-out, a firm should start by assuming that a transfer, conversion or opt-out will not be suitable. A firm should only then consider a transfer, conversion or opt-out to be suitable if it can clearly demonstrate, on contemporary evidence, that the transfer, conversion or opt-out is in the client's best interests."

COBS 19.1.7 also said:

"When a firm advises a retail client on a pension transfer, pension conversion or pension opt-out, it should consider the client's attitude to risk including, where relevant, in relation to the rate of investment growth that would have to be achieved to replicate the benefits being given up."

And COBS 19.1.8 set out that:

"When a firm prepares a suitability report it should include:

- (1) a summary of the advantages and disadvantages of its personal recommendation;*
- (2) an analysis of the financial implications (if the recommendation is to opt-out); and*
- (3) a summary of any other material information."*

I've therefore considered the suitability of Citrus Financial's advice to Mr T in the context of the above requirements and guidance, and would comment as follows.

Firstly in terms of financial viability, as set out by the investigator, there would have been little point in providing a critical yield given Mr T's proximity to the scheme's normal retirement age.

But there were other considerations to be made to determine whether a transfer was suitable from a financial perspective, such as the benefits which Mr T could have received from the scheme and, if a transfer took place, the sustainability of income withdrawals once Mr T had taken his tax free cash. Citrus Financial said in the suitability report that, following a transfer, Mr T could receive TFC of £19,293 and a residual income of £2,890 pa, compared to £12,070 TFC and a residual income of £1,810 pa with the scheme.

If Mr T retained his other scheme benefits, he would have received a further £47,041 TFC, and so the combination of the two TFC amounts would have been sufficient to repay his unsecured debts. And Mr T would have received a combined residual income of £8,866 pa.

Mr and Mrs T's monthly expenditure, once the unsecured debt repayment was removed, was in the region of £1,900. The joint income at the time was £2,020 pm, and this was due to reduce by the amount of the SSP – so to around £1,630 pm. But with the addition of a combined scheme pension of £8,866 pa, this would equate to a net amount of around £2,300 pm.

And so, assuming that both schemes allowed retirement earlier than the normal retirement age, it seems to be the case that the unsecured debts could have been repaid from TFC and the regular outgoings met through a combination of Mrs T's earned income and Mr T's pension income.

This might ordinarily make it quite difficult to establish the case for a transfer of defined benefits. And to reiterate the above guidance, the starting point should be that it's unsuitable to do so unless it can be clearly demonstrated that a transfer would nevertheless be in an individual's best interests.

But there are circumstances here which I think would reasonably have provided for that type of situation.

To explain, Citrus Financial recommended that Mr T transfer and enter income drawdown, with the rationale being that he wished to leave his pension fund as intact as possible, rather than swapping it for an income, as it would be paid as a lump sum to his beneficiaries in the event of his death. It was recorded that he didn't wish to be locked into an income paying contract and preferred the flexibility (changes in the level of income and death payment) of flexi drawdown. It was also noted that, should Mr T wish to convert to an annuity at a later point, this would also be possible.

In many instances, the need for "flexibility" isn't borne out by the actual circumstances and objectives of a client. But I think the circumstances here were different. Mr T had experienced serious health issues, which might quite conceivably have meant a reduced life expectancy. In such situations – and I'll address the death benefits further below – an unwillingness to swap a significant lump sum for an annuity, even with the possibility of a spouse's benefit, wouldn't in my view necessarily be unwarranted, nor under such circumstances would advice to enter into drawdown to begin with be an unsuitable course of action, with the possibility of converting to an annuity later if health circumstances improved.

In terms of the sustainability of the proposed income withdrawals, it was envisaged that Mr T would withdraw around £14,000 to £15,000 pa, which would be provided by the combined post-TFC fund of £278,000 created by both of the defined benefits transfers at an assumed growth rate of 5% pa. This would ensure that the fund value didn't diminish at all. But even at

a slightly lower growth rate, which I consider would have been more realistic with the cautious growth fund into which Mr T was appropriately invested, the remaining fund would reduce quite slowly, thereby providing the prospect of a still quite significant lump sum in the event of Mr T's death, even many years after beginning drawdown.

As it turned out, Mr T has withdrawn considerably more than this over the years since the transfer. Mr T has said that he was verbally advised to do so, but as with the investigator, the documented evidence doesn't support this position. On the contrary, Mr T was given a clear warning in the suitability report that higher levels of withdrawals would result in the fund not being able to be sustained through retirement.

Mr T's representative has understandably pointed to the lack of reviews which took place after the initial advice, and which it asserts would have prevented the reduction of the pension fund to its current level.

In that particular regard, I'd firstly reiterate the investigator's comments that a complaint about the lack of reviews and the charges which were nevertheless taken hasn't been raised with Quilter yet, and so that specific point isn't something which I can consider in this complaint. Mr T would, however, be able to raise a complaint about the charges incurred, where no reviews were taking place, separately.

But I have considered whether, had those reviews taken place, it's more likely than not that Mr T would have reduced his withdrawals to a more sustainable level. On balance, though, I'm not persuaded that they would. In support of this position, there is the fact that the initial warning was given to Mr T that higher than expected levels of withdrawals would result in an unsustainable reduction in his pension fund. And so I can't see why any later repetition of this would have had a different effect on the pattern of withdrawals.

It could of course be argued that, if the actual effect of the withdrawals was brought to life by showing Mr T the reduction in the fund value, then this might have had more of an impact. But I think that this point is undermined by the fact that Mr T would have been sent annual statements showing the pension fund value. And again, if this didn't result in a reduction in the withdrawals, then it's difficult to conceive that an adviser pointing this out would have had a different effect.

Mr T's representative has further said that the transfer destroyed Mr T's pension fund. But I don't think this is an accurate or fair portrayal of what has happened here. Rather, the pension fund has been depleted by higher than expected income withdrawals.

Turning then to the further matter of death benefits alluded to above, this was described in the suitability as perhaps the most important consideration in transferring. Mr T's poor health was described in detail, along with his desire that his wife receive a lump sum in the event of his death to repay the outstanding mortgage, along with providing some income.

In such circumstances, a transfer can quite feasibly be suitable. The scheme would provide a 50% spouse's income, but in the event of Mr T's death quite soon after the scheme benefits became payable, this would provide poor value compared to the lump sum benefits which would be produced by the transfer. Mr T may of course live for many more years, but the health factors and uncertainty which affected him and informed both the recommendation and his decision making were in my view quite understandable.

As such, and for the reasons given, although it's possible that the scheme benefits could have repaid the unsecured debt and met the monthly outgoings, I don't think in the particular circumstances of this case it could fairly and reasonably be concluded that the transfer was unsuitable for Mr T.

But even if a different interpretation of this was possible, and my conclusion was that Citrus Financial should have recommended that Mr T not transfer his defined benefits, as with the investigator I then need to consider whether Mr T would in any case have proceeded.

There are several factors which need to be taken into account here. Firstly, my understanding is that Mr T approached the separate financial firm for a review of his pension benefits (and was then referred to Citrus Financial which was authorised to make such recommendations), rather than a speculative advance being made by a firm offering to review his pension arrangements. This tells me that Mr T was keen to find out what options he had in terms of accessing his pension funds.

And this is perhaps understandable, given the level of unsecured debt which Mr T held at the time and his proximity to the scheme retirement age. I think the level of Mr T's debt and, given the shortfall in income versus outgoings of around £1,200, the likely increase in that debt each month, would have been a significant driving force behind his decision to transfer and access the significantly higher TFC which could be obtained through the transfer. This would have enabled the repayment of the debts and given him a sound footing in terms of excess funds and income going forward, with flexibility of that income and a lump sum payment for his beneficiaries in the event of his death.

A further actor here which indicates Mr T's determination to transfer is that Mr T grew impatient with the amount of time it was taking for the transfer of his further defined benefits and instructed a different firm to finalise matters more quickly.

And even if the prospect of the scheme benefits repaying the debts and covering the outgoings (again assuming early retirement was possible for both schemes) had been more clearly spelled out and recommended by Citrus Financial, I think that it's more likely than not that Mr T would have found the prospect of the flexible income to be more appealing, especially given the agreed initial income of £15,000 pa (double the available combined scheme income of £8,866) and the actual income level taken (double that again) which has depleted the pension fund.

And so, on balance, I think it's more likely than not that Mr T would in any case have proceeded with the transfer.

Notwithstanding what I've said above about the scheme benefits likely being able to repay the unsecured debt, Mr T's representative has said that a debt management plan, or bankruptcy, would have been suitable alternatives to Mr T transferring his pensions. But I think there are some factors here which, if presented to Mr T as an option, would have meant that he would still have opted for the transfer.

Both an IVA and bankruptcy have significant implications for an individual entering into them, some of which were of particular pertinence to Mr T and his circumstances.

Bankruptcy would have placed Mr T's home (which had significant positive equity) at risk, and given Mr T's commitment to servicing his debts to provide stability for his family (which I address further below), I don't think this possibility would have appealed to Mr T. An IVA would generally be suitable for people with larger unsecured debts, due to its legally binding nature. But any lump sums which are paid to the individual, e.g. TFC which Mr T would likely be taking within a year or so either through a transfer or from the scheme, could be claimed by creditors. There are also costs associated with an IVA, no further credit of more than £500 could be obtained without approval of the IVA supervisor, and Mr T would have needed to live within an agreed budget.

Further, the debt itself wouldn't be entirely eliminated. Mr T would have needed to repay a percentage of the outstanding debt, e.g. 20% for a duration of five to six years. His income would also be reassessed each year and payments may change if his income increased (e.g. due to pension income). There would also be implications for remortgaging, and Mr T may have needed to seek a specialist lender at a higher interest rate.

These effects would have been restrictive and would have had a significant financial impact, especially for someone about to retire and receive TFC amounts and pension income.

Therefore, had Mr T been given the same information (that debt could be repaid, with an excess of TFC, and an income of £15,000 pa which could be sustained with 5% growth with no reduction in the pension fund) alongside the information about defaulting on his unsecured debt, I don't think it's realistically more likely than not that he would have opted for the default and IVA (or bankruptcy), even if Citrus Financial had recommended against the transfer.

Further, Mr T had by his own admission been meticulously servicing the debt, and so it seemed important to him that this be maintained. And if debt re-management was something he was inclined towards, then I think it's more likely than not that he would have investigated this some time before reaching the debt position, and income shortfall, that he had at the time of the advice.

I think Mr T's representative makes an important point about Mr T's vulnerability at the time and, even pre-Consumer Duty requirements, Citrus Financial was required to treat Mr T fairly. And I think this vulnerability was characterised by Mr T's state of health, concerns around needing to repay his debts and being able to afford to pay his mortgage and remain in his home, along with providing for his wife in the event of his death.

But I think Citrus Financial tried to address this. As with the investigator, I'm sorry to hear that Mr T's funds have been significantly depleted, but I don't think that this is a situation which Citrus Financial could reasonably have foreseen. It was of course aware that Mr T had accrued debts, hence one of the main reasons for releasing TFC, but I think it would have been entitled to believe that this was a situation caused by an income shortfall, which, once the transfer and debt repayment had occurred, would have been addressed by what it considered to be a sustainable level of withdrawals.

Overall, therefore, for the reasons given, whilst I'm sympathetic to Mr T's position, I don't think an objective assessment of the facts here would or should lead me to conclude that it would be fair or reasonable to uphold the complaint.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 30 September 2025.

Philip Miller
Ombudsman