

The complaint

Mr K complains that a business, now part of Ascot Lloyd Limited trading as Ascot Lloyd, gave him unsuitable pension transfer advice in 2018. He also says despite paying for ongoing advice, regular reviews did not take place. Mr K says he's lost out as a result and seeks compensation.

What happened

There is limited information available in this case – Ascot Lloyd has been unable to provide the full suite of advice and associated paperwork from the relevant time. The following is based on the available information provided by both parties.

Mr K approached Ascot Lloyd for retirement planning advice in March 2018. In an email he said he had two pensions, and his plan was to retire the following March, take £2,000 a month until his state pension became payable in October 2020, and then reduce his pension drawings to £1,000 a month.

Ascot Lloyd completed / updated a fact-find document, which recorded Mr K's personal details, circumstances and objectives. The key details recorded here are as follows:

- Mr K was 63 years old, married, and he had no financial dependents.
- He was working, he had two existing pensions (values around £200,000 and £16,000), the lower value one he was contributing to monthly as a workplace pension.
- He had around £30,000 as a cash reserve, he was a homeowner and had no other investment or cash-based assets.
- Mr K's objective was recorded as per his email to Ascot Lloyd I noted above.

Ascot Lloyd also carried out an assessment of Mr K's attitude to risk. While Mr K's answers to the questions are recorded here, the outcome and his risk profile is not recorded here. The answers do support that Mr K was willing to take some risk with his pension investment.

There is no suitability report available. But I understand Ascot Lloyd recommended Mr K transfer his larger pension to a new personal pension arrangement to meet his stated objective. A letter Mr K has provided from the new pension provider indicates that an amount of around £34,000 was transferred with an effective application date of 27 April 2018. Mr K has said the whole pension was transferred, so it appears a further payment was made. But whether it was a partial or full transfer is not of vital importance here.

Mr K also signed up to Ascot Lloyd's ongoing advice service, which cost 1.5% a year. But from what's been provided, it's unclear what level of ongoing service was agreed upon in terms of the frequency of review meetings.

Mr K complained to Ascot Lloyds in April 2024, via his professional complaint representative, raising the complaint points I set out at the start.

On 9 October 2024, Ascot Lloyd issued its final response to the complaint. It didn't uphold the complaint. It said, while there was limited information available, including no suitability report, it couldn't demonstrate the advice was unsuitable. It said it asked the adviser for their recollections of the events in question. They said in relation to the advice, Mr K didn't lose any guarantees or protections by transferring, the objective of the transfer was Mr K could benefit from full pension freedom flexibility, cost efficiency, proper diversification, removal of overlapping funds, alignment of risk profile, optimise performance potential and enjoy the logistical improvement of having pensions in one place. In terms on the ongoing reviews, Ascot Lloyd referred to meetings in November 2021 and September 2023, and concluded there wasn't enough to say Mr K hadn't received reviews.

Dissatisfied with its response, Mr K referred his complaint to us.

One of our investigators looked at things, and they concluded the complaint should be upheld. In summary they said, from the limited information available, there wasn't enough to justify the transfer and demonstrate it was suitable. They set out the product cost comparison of Mr K's existing pension with the proposed new plan, which showed the new plan was more expensive. They said Mr K's existing plan already offered flexibility based on the key features document Mr K had provided. And they said there was nothing to persuade them that there was any duplication of funds between Mr K's existing pensions. So, they said there wasn't enough to show the transfer was better, or likely to be better, for Mr K.

In relation to the ongoing advice fees – they said there wasn't enough evidence to show an ongoing service was provided. But in any event, they said the proposed redress calculation to put things right for the advice element of the complaint already took into account that Mr K wouldn't have paid ongoing advice fees if suitable advice had been given.

Because Ascot Lloyd disagreed – it said there was insufficient evidence to say the advice was incorrect – the matter was passed to me to decide.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I've taken into account relevant law and regulations, regulatory rules, guidance and standards, codes of practice, and (where appropriate) what I consider to have been good industry practice at the relevant time. And where the evidence is incomplete or inconclusive I've reached my decision based on the balance of probabilities – in other words, on what I think is more likely than not to have happened, given the available evidence and wider circumstances.

Having considered all of this and the evidence in this case, I've decided to uphold the complaint. I've set out my reasons below, albeit there's not much more I feel I can usefully add to what the investigator has already explained.

In considering this matter, I'm mindful of the following: In 2009 the Financial Services Authority (now FCA) published a checklist following its earlier report about pension switching, that is still applicable today. That checklist identified four main areas where consumers had lost out:

- They had been switched to a pension that is more expensive than their existing one(s) or a stakeholder pension (because of exit penalties and/or initial costs and

ongoing costs) without good reason.

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

It is clear there is limited information available in this case. But this doesn't prevent me from reaching a decision on the matter. My decision is based on the information that has been provided. I can see Ascot Lloyd says there is insufficient evidence to show the advice given to Mr K was incorrect. But I disagree. Based on what I've seen, I'm not persuaded the transfer advice Mr K received was suitable. I'll explain why.

The suitability report is the document which would ordinarily set out the reasons or rationale for the recommendation. It is this which would help demonstrate suitability. In its absence, I've turned to the above checklist and the adviser's testimony and recollection of the reasons for the recommendation, to help me consider the suitability of the advice.

Firstly, the adviser said Mr K gave up no guaranteed benefits or protection by transferring. And I've seen nothing to suggest otherwise. Secondly, they said cost efficiency was a reason for transferring. And cost is one of the points mentioned in the checklist. In this case, Mr K's existing pension product cost was 0.3% a year. The recommended new provider pension had a graduated product cost – 0.5% a year on the first £25,000, 0.35% above £25,000 up to £100,000, and then 0.3% above that up to £500,000. So, based on the information provided, Mr K was transferred to a pension, which was more expensive. Mr K also incurred an initial advice fee of 3% as well as the ongoing advice fee of 1.5% – although I don't think the ongoing advice service and fee was inappropriate here.

So, given the pension Mr K was switched to appears to have been more expensive, was there a good reason for the transfer to outweigh this?

The adviser said another reason for the transfer was to ensure Mr K had full flexibility from the pension freedom legislation. But looking at the key features document from Mr K's existing plan, it said it was up to him how he took his benefits, referring to amongst other things, purchasing an annuity, using drawdown or a combination of methods. I understand Mr K had already accessed his tax-free cash and left the balance invested. So, it would appear Mr K already had flexibility in how he took his benefits.

Alignment to Mr K's risk profile was another reason cited. I don't know how Mr K's existing pension was invested to understand whether it was or was not in line with his attitude to risk. But if it wasn't, I can't see any reason why this couldn't have been addressed via a fund(s) switch. The key features document says funds could be switched without any restrictions.

Proper diversification and removing the risk of funds overlapping in different pots was another reason given. But Mr K only had two pensions. So, I can't see there was much, if any scope for duplication to the extent that it was detrimental to Mr K in anyway. And as I said above, I think a fund switch could have addressed any concerns or anomalies here.

Performance potential was also cited. But without any supporting documentation from Ascot Lloyd to show that a performance comparison was carried out demonstrating how

Mr K might be better off by transferring, I'm not persuaded this was a justified reason.

The final reason given was consolidation and 'logistical improvement' of having everything in one place. But I'm also not persuaded by this. The adviser's testimony makes out that more than one pension was transferred. But that wasn't the case here. The evidence shows Mr K had two pensions prior to the transfer and he ended up with two following the transfer – the new plan and his workplace pension Mr K says he kept in place and then used in the first part of his retirement. So, there was no consolidation here.

So, taking all of the above into account, there is nothing here to show how Mr K was better off as a result of the transfer. From what has been provided, it appears Mr K transferred to a more expensive product without good reason. Which is the first point identified by the regulator where consumers had lost out.

For these reasons, I'm not persuaded the pension transfer advice was suitable. And because I've seen nothing to persuade me that Mr K would have still gone ahead anyway – there's not enough here to persuade me that he was someone who had significant investment experience or otherwise possessed the requisite skill, knowledge or confidence to go against the advice they were given – I think if suitable advice had been given, Mr K would have followed that advice and he would most likely have remained with his existing pension provider.

It follows that I uphold this part of Mr K's complaint and Ascot Lloyd needs to do something to put things right, which I will set out below.

As for the missed review aspect of Mr K's complaint – in light of my above findings, it isn't necessary for me to consider this part of the complaint. This is because the redress calculation I will set out below already takes into account that Mr K would not have paid ongoing advice fees if suitable advice had been given. So, no separate refund would be due anyway.

I can see the investigator recommended an award of £300 for the distress and inconvenience caused as a result of the unsuitable advice. And in the circumstances, I think an award of this nature is warranted here. I think £300 represents a fair award in all the circumstances.

Putting things right – fair compensation

My aim is that Mr K should be put as closely as possible into the position he would probably now be in if he had been given suitable advice.

I take the view that Mr K would have remained with his previous provider, however I cannot be certain that a value will be obtainable for what the previous policy would have been worth. I am satisfied what I have set out below is fair and reasonable, taking this into account and given Mr K's circumstances and objectives when he invested.

What must Ascot Lloyd do?

To compensate Mr K fairly, Ascot Lloyd must:

- Compare the performance of Mr K's investment with the notional value if it had remained with the previous provider. If the actual value is greater than the notional value, no compensation is payable. If the notional value is greater than the actual value, there is a loss and compensation is payable.

- Ascot Lloyd should also add any interest set out below to the compensation payable.
- Ascot Lloyd should pay into Mr K's pension plan to increase its value by the total amount of the compensation and any interest. The amount paid should allow for the effect of charges and any available tax relief. Compensation should not be paid into the pension plan if it would conflict with any existing protection or allowance.
- If Ascot Lloyd is unable to pay the total amount into Mr K's pension plan, it should pay that amount direct to him. But had it been possible to pay into the plan, it would have provided a taxable income. So, the total amount should be reduced to *notionally* allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount – it isn't a payment of tax to HMRC, so Mr K won't be able to reclaim any of the reduction after compensation is paid.
- The *notional* allowance should be calculated using Mr K's actual or expected marginal rate of tax at his selected retirement age.
- For example, if Mr K is likely to be a basic rate taxpayer at the selected retirement age, the reduction would equal the current basic rate of tax. However, if Mr K would have been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation.
- Pay to Mr K £300 for the distress and inconvenience caused as a result of the unsuitable advice given.

Income tax may be payable on any interest paid. If Ascot Lloyd deducts income tax from the interest it should tell Mr K how much has been taken off. Ascot Lloyd should give Mr K a tax deduction certificate in respect of interest if Mr K asks for one, so he can reclaim the tax on interest from HM Revenue & Customs if appropriate.

| Portfolio name | Status | Benchmark | From ("start date") | To ("end date") | Additional interest |
|----------------|-------------------------|---------------------------------------|---------------------|---------------------------|---------------------|
| Mr K's Pension | Still exists and liquid | Notional value from previous provider | Date of investment | Date of my final decision | Not applicable |

Actual value

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

Notional Value

This is the value of Mr K's investment had it remained with the previous provider until the end date.

Ascot Lloyd should request that the previous provider calculate this value¹.

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

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

Ascot Lloyd must pay the compensation within 28 calendar days of the date on which we tell it Mr K accepts my final decision.

If Ascot Lloyd fails to pay the compensation by this date, it should pay 8% simple interest per year on the loss, for the period following the deadline to the date of settlement.

Why is this remedy suitable?

I've decided on this method of compensation because:

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

My final decision

For the reasons above, I've decided to uphold this complaint, and I instruct Ascot Lloyd Limited trading as Ascot Lloyd to put things right in line with the approach above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 9 January 2026.

Paul Featherstone

Ombudsman

¹ Mr K's representative has indicated that it is willing to accept the use of the benchmark to calculate redress. This will likely result in a quicker resolution. Ascot Lloyd should confirm with Mr K's representative that it is still willing to accept the calculation using the benchmark rather than the notional value from Mr K's previous pension provider.