DRN-5713418

Financial Ombudsman Service

The complaint

Mrs L has complained about the advice she received from Quilter Financial Services Limited ('Quilter') in respect of her late husband's pension, which was converted into a dependant's flexi-access drawdown plan. Mrs L also complains about the ongoing advice service provided thereafter.

What happened

Mrs L's late husband held a personal pension with Quilter. After he sadly passed away in 2022, the benefits held in the pension were transferred to dependant's flexi-access drawdown plan set up for Mrs L by her financial adviser, who was a representative of Quilter.

Mrs L instructed Quilter to provide her with a gross monthly income of £2,250 from 1 June 2022. The pension funds were invested in line with the existing conservative strategy.

Quilter carried out reviews in 2023 and 2024. No changes were recommended following the review in 2023. Following the review in 2024, the investment strategy was changed and the pension funds were switched to the balanced portfolio. Mrs L also requested a one-off payment of £10,000 which was actioned.

In September 2024, with the help of a claims management company ('CMC'), Mrs L complained to Quilter about the advice she'd received to open the dependant's pension. The CMC said an annuity should've been explored and the investments within the pension were not suitable for Mrs L's low risk profile. The CMC added that the ongoing advice reviews hadn't been provided and Quilter had facilitated Mrs L's wish to make a withdrawal without considering the impact on her retirement funds.

Quilter issued a final response on 1 November 2024. It maintained the advice was suitable for Mrs L and a full review of her circumstances and attitude to risk was carried out in March 2023. A further review was carried out in April 2024 and a new attitude to risk assessment was completed, which resulted in it changing from conservative to balanced. Quilter said this was a reasonable assessment based on the information gathered. Quilter was also satisfied that a drawdown arrangement was suitable for Mrs L, particularly as her income withdrawals could reduce when her state pension became payable. It added that advice was given to Mrs L in respect of her withdrawal. Mrs L remained unhappy and referred her complaint to the Financial Ombudsman Service.

The Investigator considered the complaint and was satisfied that the advice Mrs L received was suitable for her circumstances and attitude to risk. She was also satisfied that Quilter had carried out the reviews Mrs L had paid for. And she thought that Quilter had provided advice to Mrs L in respect of her withdrawal and hadn't simply facilitated her wishes.

Mrs L's CMC said that Mrs L didn't have sufficient capacity for loss to take risks with this pension as she was wholly reliant on it for her income in retirement. It questioned the likelihood of Mrs L's attitude to risk increasing during retirement and suggested that it wasn't reasonable to simply rely on a risk profiling tool. The CMC maintained that an annuity would have been suitable for Mrs L given her circumstances and added that Mrs L seemed to be drawing surplus taxable income, which Mrs L should've been advised to reduce.

The Investigator wasn't persuaded to change her opinion so the complaint has been passed to me to make a decision.

What I've decided – and why

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

Having done so, I'm not upholding the complaint.

I think it's first important to note the circumstances under which Mrs L's pension plan was set up. As I understand it, Mr L attended a review with Quilter in April 2022. Although only Mr L was present, Mrs L was also listed as a client and her details were included in the fact-find. It was noted at this meeting that Mr L was retired and he was drawing an income of £2,000 per month but he wished to change this to a gross withdrawal of £2,500 per month (£2,200 net). This change was detailed in an annual review report dated 19 April 2022. Sadly, Mr L suddenly passed away the following month.

Based on the information provided by Quilter, Mrs L said she did not feel able to discuss the pension at the time and simply asked for the adviser to continue the existing arrangements, including the reviews. This resulted in the adviser setting up the pension in Mrs L's name in June 2022 and arranging income payments of £2,250 per month. This was essentially a continuation of her late husband's arrangements.

While I might have expected Quilter to have taken Mrs L through an advised process at this time, I don't think it was unreasonable for Quilter to have acted on her instructions to continue the arrangement her late husband had in place, given the circumstances. I'm also not persuaded that a full advice process taking place in May/June 2022 would've resulted in Mrs L being in a different position. That's because I think the advice she received in March 2023, when a full assessment was undertaken, was suitable for her.

In March 2023 Quilter met with Mrs L to provide an annual review where it would discuss her needs and consider whether the arrangements in place remained suitable for her. The fact-find completed noted that Mrs L had retired following the death of her husband and that she was happy with the arrangements, including the level of income she was taking from the pension. An assessment of Mrs L's attitude to risk was carried out and it was noted she had a 'conservative' attitude to risk. As such, Quilter recommended that she retain her existing arrangements, including the investment selections, as they were already in line with her attitude to risk.

Overall, I'm not persuaded that the advice Mrs L received here was unsuitable for her. I appreciate that Mrs L was, according to what Quilter noted her monthly expenses to be, taking more income than was strictly necessary. However, this was the level of income Mrs L was comfortable taking and she didn't want to reduce this. It was also non-taxable.

I think it would've been prudent for Quilter to include some general warnings about how Mrs L's pension would be depleted over time if she continued to make the same level of withdrawals. However, it's evident that Quilter would continue to monitor Mrs L's arrangements each year and provide further advice on this point. Significantly, Mrs L would start to receive her state pension in around four years' time, which would likely have a considerable impact on the income she would take from this pension from that point onwards. So, I don't think the advice provided here overall was unsuitable.

I've considered Mrs L's CMC's assertion that an annuity would've been suitable for her given her circumstances and low risk appetite. While it doesn't appear that purchasing an annuity was considered by Quilter in 2023, I don't think it would've been suitable for her at this time. That's because an annuity would provide a fixed income and Mrs L's guaranteed income was due to increase in around four years when she became entitled to the state pension. Once the state pension was in payment, I think Mrs L would've wanted to reduce the level of income she was taking from her pension and she wouldn't have been able to make this change if she'd already taken an annuity. As such, at the time the advice was given, I'm satisfied that Mrs L required the flexibility this pension provided. It's also evident that purchasing an annuity remains open to Mrs L if this would be suitable for her in future.

Mrs L met with Quilter on 4 April 2024 for her annual review. In the fact-find Quilter noted that she wanted to withdraw £10,000 to pay for a new kitchen. A new attitude to risk assessment was carried out and Quilter found that Mrs L's attitude to risk had increased and she was now considered to be a 'balanced' investor. As a result, Quilter recommended that she switch her pension investments from the conservative to balanced portfolio.

I've considered what Mrs L's CMC has said about the use of the risk profiling tool carefully and I agree that it shouldn't be the sole tool used to determine a customer's risk appetite. I can also see that some of the answers given in the tool are somewhat conflicting. For example, Mrs L said that she preferred bank deposits to riskier investments and she didn't find investment matters easy to understand, but that she was willing to take substantial risk to earn substantial returns. However, overall, I don't think that the assessment of Mrs L's attitude to risk as 'balanced' was unreasonable. I'll explain why.

I note the CMC said Mrs L was relying on this pension to fund her retirement, so she had no capacity for loss. But I don't agree – Mrs L had a guaranteed final salary pension from her employer. According to the information provided by Mrs L, this was currently paying her £750 per month and would increase year on year. She was also expecting to receive the full state pension in three years' time, which, based on current rates, would pay around £12,000 per year. Mrs L had no liabilities, and I think once her state pension became payable she would be in receipt of guaranteed income which would meet her essential expenditure. As such, I think Mrs L had some capacity for loss and she could afford to take some risk with this pension. So, overall, I'm not persuaded that her pension was invested unsuitably as a result of the attitude to risk assessment.

Quilter also advised Mrs L on her request to withdraw £10,000. I am satisfied that Quilter considered the impact of this withdrawal on Mrs L's pension. It also provided her with warnings in both the 'Confirmation of Pension Withdrawal Advice' letter and the 'Your Progress Report'. In the 'Confirmation of Pension Withdrawal Advice' letter it said:

"The risk in taking funds from your pension at this time is that you deplete your pension fund, and as a result, have insufficient funds to meet your essential needs now and for the rest of your life.

It is your choice how you spend the money you have earned, but my role is to support you in making informed decisions about the money you have available to you in retirement, and how you can use it to finance this stage of your life. The purpose of this focused advice is to consider whether your objective is affordable.

We completed a sustainability calculation which looks at the level of investment risk you are taking and the amount of income you are withdrawing. The results are attached and as discussed.

The results indicate that the withdrawal is sustainable.

Based on the sustainability projections and our discussions we agreed that you can afford to make the withdrawal from your pension fund. This will not have a material impact on your overall requirement to use this pension to support your retirement income needs…

…You are using this pension fund for some essential and non-essential expenditure. However, you are not solely reliant on this pension fund. You are using this as your primary account until its exhausted. Once exhausted you have other sources of income to sustain your essential financial needs into retirement. You have your [former employer's] *pension and will also receive your State Pension at age 67. You can afford to make this withdrawal."*

Furthermore, the 'Your Progress Report' said:

"How likely are you to meet your objectives?

- *We have run a forecast for the likelihood of you achieving your income and capital requirements based on your current risk profile*
- *The forecast shows based on your income requirement of £27,000 per annum until your State Pension age when you will reduce your income to £17,000 to take into account receipt of your State Pension and assuming average investment conditions your pension could last until you the age of 81. In practice the outcomes could be considerably worse, and they could be better."*

Given Mrs L's attitude towards this pension, and given that the pension would likely last her until age 81 even if she maintained the level of her overall income, I think the withdrawal of £10,000 was something she could afford and it wouldn't materially impact her retirement. So, I'm not persuaded the advice Mrs L received was unsuitable here.

In summary, I think Mrs L received the annual reviews she had paid for and that the advice provided throughout was suitable for her.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 17 December 2025.
Hannah Wise
Ombudsman