

The complaint

Mr H complains that Insight Financial Associates Limited wrongly advised him to transfer his personal pension into a Family Pension Trust (“FPT”) for the purpose of investing in properties being developed by The Resort Group (“TRG”) in Cape Verde. Mr H says it was unsuitable to use the pension for unregulated investments and this has put his retirement provision at risk.

What happened

Mr H’s complaint was considered by one of our investigators. He sent his assessment of it to Mr H’s representative and Insight Financial Associates Limited (Insight) on 9 July 2025. The background and circumstances to the complaint were set out in that assessment and are known to both parties, so I won’t repeat them all again in full here. However to recap, Mr H was introduced to Insight by The Resort Group (TRG). Mr H and his wife were looking to buy two Cape Verde commercial properties. They wanted to fund the purchase using their pensions via an FPT and needed Insight’s advice.

An initial meeting was held on 30 August 2009 and a fact find was completed. Mr H subsequently met with the adviser in December 2009. He had a personal pension with a transfer value of around £29,600. Mrs H also had pension provision that was part of the advice/proposed transaction. Mr and Mrs H signed an insistent client declaration at this meeting. In summary, it said they knew Insight’s recommendation was not to transfer their pensions. However they wanted to go ahead because they believed the growth and income from the Cape Verde investment would be greater than their existing schemes.

Insight sent its suitability report to Mr H dated 23 December 2009. The adviser recommended that Mr H keep his personal pension. And that Ms H also retain her existing pensions. The purchase of the properties relied on all the transfers going ahead. The report said despite the advice, Mr (and Mrs) H still wanted to go ahead with the transfers to purchase the Cape Verde properties.

The report said that two properties would be bought for around 128,000 and 118,000 euros. The pensions would fund 65% of this and the remainder would need to be paid on completion. The FPT was opened, and the transfer went ahead in 2010.

Mr H, through his representative, complained to Insight in July 2024. It outlined a number of reasons why the advice was unsuitable and didn’t comply with regulatory guidelines at that time.

Insight didn’t uphold Mr H’s complaint. It said it had advised Mr H against transferring, and only facilitated it because Mr H was as an insistent client having already paid deposits to buy the properties. Insight also said Mr H worked with The Resort Group as a Financial Consultant – so he had in depth knowledge of how the investment worked. Mr H didn’t agree with the firm’s findings and referred his complaint to us.

Our investigator didn’t recommend that Mr H’s complaint should be upheld. He said the regulator’s Conduct of Business Sourcebook (‘COBS’) rules required Insight Financial to ‘act

honestly, fairly and professionally in accordance with the best interests of its client'. In addition, Insight was also obliged to provide information that was clear, fair and not misleading. So the investigator said that Insight's recommendation had to be clear, and Mr H had to have understood the consequences of going against its recommendation.

The investigator noted Insight had said that it was only giving advice on a suitable FPT as Mr H was insisting on the transfer and investments in the Cape Verde properties. It had also said that Mr H was a financial adviser himself. However the investigator said Mr H was being treated as a retail client, and Insight had an obligation to consider Mr H's full circumstances and objectives, including his income needs in retirement, and that the investments were suitable to his attitude to risk. The investigator said he thought Insight had referred to these objectives to some extent, but he thought it had fallen short of providing full and clear advice.

The investigator said although Insight had recommended against Mr H transferring the personal pension, in the same letter it had recommending a FPT to allow this to happen. He said doing so made it easier for Mr H to disregard its advice, even if the underlying message in the report was to recommend not transferring the personal pension.

The investigator also noted that Mr H had signed the declaration stating he wanted to go against Insight's advice a day before he was given the recommendation report. So the investigator didn't think Mr H had had a chance to fully understand the reasons why Insight was advising against the transfer before 'insisting' he wanted to do it anyway.

The investigator said although Mr H was introduced to Insight by TRG with the idea of investing in the properties, Insight still needed to take care to follow the correct process without assuming Mr H would want to go ahead anyway. The investigator said for the advice to be clear, Insight needed to set out its recommendation so that Mr H had the opportunity to accept it before exploring the insistent client route. The investigator also didn't think that Insight had made it clear why it recommended that Mr H retain his personal pension or why it was in his best interests to do so.

However, the investigator went on to say that although he thought there were some failings in the advice process, he thought Mr H would likely have gone ahead with the transfers and property purchases anyway.

The investigator said although Mr H was treated as a retail client, and so the relevant regulatory standards still applied, his occupation as a financial adviser was important when considering what Mr H would have otherwise done differently. The investigator said Mr H was approaching Insight with a broader financial understanding compared to a typical person. And the investigator thought the evidence showed the plan to buy the Cape Verde properties was decided on before Insight made its recommendations – he noted the reservation form was signed before Insight gave its advice.

The investigator said the TRG reservation form also showed that Mr H was an agent for TRG. So he said he was satisfied Mr H likely had a good understanding of the investment, including the risks, and that he'd already decided he was going to invest in the properties using his pension.

The investigator also noted that Insight had recommend *against* transferring. He said it provided warnings about the investments; that investing in only one asset class and one with a lack of liquidity made it a high-risk investment. So the investigator said it was difficult to say Mr H was unaware of the risks involved, especially with his background as a financial adviser, or that different advice would have persuaded him to change his intentions to invest in the properties using his pension.

The investigator said he noted Mr H had transferred other personal pensions to the FPT in 2011 and used these funds to purchase a third property in Cape Verde. He said the complaint hadn't specifically referred to this further transfer. But he said it appeared Mr H did this on an execution only basis without advice from Insight. The investigator said he again thought this further supported his view that Insight's advice process wouldn't have changed Mr H's decision to transfer his pensions, and that he was comfortable using his pensions to fund the overseas property investments.

The investigator said having considered all the evidence, he didn't think Insight had done everything it needed to in terms of its regulatory obligations when giving advice to Mr H. However he said he thought Mr H would have gone ahead with the transfer and property purchases even if there hadn't been any failings during the advice process. He said this given Mr H was a financial adviser and an agent for TRG, so likely had a full understanding of the investment and its risks. And he thought Mr H had been referred to Insight by TRG, and Mr H had already decided to use his – along with Mrs H's – pensions to fund the property purchases.

The investigator therefore didn't think the complaint should be upheld.

Mr H's representative didn't agree with the investigator's findings. It said, in summary, that although Mr H was an agent for TRG he wasn't well versed on the investment. It said Mr H, like many other advisers, was persuaded to become an agent for TRG with the promise of commissions. Mr H recalled he was persuaded by someone associated with TRG who he knew and who he trusted who'd had a long career in financial services. This person presented the idea of the investment and the possibility of becoming an agent. No formal training was given. And it said the investment was promoted as providing a steady income from rentals over coming years, along with the possibility of capital growth and the opportunity to then sell the asset at retirement. Mr H said he only ever recommended a TRG investment to one other person who was a friend. He believed the literature and what he was told about its prospects.

It said although Mr H was a financial adviser at the time he was a retail client to Insight. Insight was there to give advice, not take orders. The representative said if the proposed investment was not suitable then this should have been made clear in the recommendation report. It said the regulator's Principles of Business required a firm to carry out its business with due skill, care and diligence and to pay due regard to the interests of its customers and treat them fairly.

The representative said Insight was not only paid by Mr H but was also being paid by TRG for advising on the transfer. It said its understanding was that no fee was due unless the transfer went ahead. It said this was a severe conflict of interest and the fee from TRG was substantially higher than the fee being paid by Mr H, making the investment part of paramount importance. It said a similar approach had been used in other cases - the wording of the recommendation letter was virtually identical. Disclaimers and warnings were word for word. It said this demonstrated a well thought out process to get the business across the line whilst trying to safeguard themselves.

The representative said the recommendation letter said Mr H was acting on advice he'd received from TRG regarding purchasing the investments and using a Family Personal Trust. It asked if this had all been decided then why did Mr H need Insight? It said Insight were there to advise on the entire proposition, but it didn't. It said if Insight had advised properly and truly discussed the risks, Mr H was adamant that he would not have proceeded. And if Mrs H had had got any idea that there was a risk to her pension she would not have taken the risk and would have left her pension where it was. If Mrs H's pension hadn't been transferred it would have put the breaks on Mr H's transfer.

The representative said discussions started with Mr H in late August 2009. It said according to the report, the Terms of Business was signed 30 August 2009. The TRG reservation form was then signed 01 September 2009. Mr H said he had another couple of meetings with Insight and the person mentioned above from TRG. And the final meeting was on 22 December 2009, and this is when all forms were completed and signed. Mr H said the report was then issued the following day.

The representative said had Insight provided proper warnings with no suggesting that “if that’s what you want to do, we will do it” then this unsuitable advice could have been avoided.

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’ve come to the same conclusions as the investigator, and largely for the same reasons.

Like the investigator, I think in deciding what is fair and reasonable in the circumstances the fact that Mr H was a financial adviser is important. It is also relevant that he was an agent for TRG. Ultimately, in my opinion, Mr H more likely than not made an informed decision about the transfer and investment into the Cape Verde properties, irrespective of any weaknesses in the advice process.

The investment was into an overseas commercial property development. So the investment returns and, ultimately, what Mr H’s pension could provide at retirement was entirely dependent on the success, or otherwise, of this single overseas business venture. I appreciate that Mr H may not have had extensive training on becoming an agent of TRG and may have only been involved in the sale of one other property. And that the literature and what he’d been told about the opportunity made it appear an attractive investment proposition.

However I think given Mr H’s background and experience, he would likely have had a reasonable understanding of the nature of this type of investment and the normal risks associated with it. I think as a financial adviser Mr H would likely have been aware that investing in such an overseas commercial property development presented significant and high risks. And so I think it follows that Mr H went into the transaction accepting those risks.

However even if that wasn’t the case, Insight provided warnings about the risks involved in bold text in its recommendation report. These included that the investment was high risk, the developer could get into financial difficulty, there were liquidity risks and Mr H was investing in a single asset class. All these risks are the usual risks associated with this type of investment. And as I’ve said, I think Mr H would likely have been aware of them even without Insight’s warnings.

I appreciate the points made by Mr H’s representative about the nature of the relationship between the different parties involved, commission paid and conflicts of interest. And that Mr H may have been persuaded by the person he trusted who was already involved in TRG. However it seems to me that, whether persuaded by third parties or not, Mr H had decided that investing in the development presented a good opportunity and that he could use his pension to buy into it.

I accept that in some circumstances an advising firm can go through the motions of the

advice process and recommend against a transaction in its written documentation, whilst at the same time encouraging it behind the scenes and then facilitating it. So the outcome is effectively pre-ordained, and in reality the client was never really 'insistent'. However as I've said, Mr H was a financial adviser. And I think he would have been familiar with the normal advice process and regulatory obligations on a firm when providing advice. So I think Mr H likely went into the transaction with his eyes open. and would have been aware of the circumstances and how the transaction was facilitated.

I've carefully considered what Mr H's representative has said in response to the investigator's view. However, ultimately, for the reasons given, I think Mr H was motivated to invest in the development, was able to make an informed decision about going against the firm's recommendation and was always likely to have proceeded with it, irrespective of and failings by Insight.

I appreciate that the transfer and investment has had a significant financial impact on Mr H's pension provision for retirement, and that he will likely be disappointed with my findings. However, taking all the above into account and for the reasons given, I'm not persuaded that it would be fair and reasonable to uphold Ms H's complaint in the particular circumstances of the case.

My final decision

My final decision is that I don't uphold Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 10 October 2025.

David Ashley
Ombudsman