

The complaint

Mr B, via his representative complains that Quilter Financial Services Limited ('Quilter') gave him unsuitable advice to switch an existing pension to a new personal pension arrangement. He says he should have been advised to maintain his existing pension rather than incur extra initial and ongoing advice costs. Mr B also complains he did not receive all of the annual reviews he paid for.

What happened

The following is a summary of the background and key events leading up to the complaint to provide some context. I haven't detailed here every piece of information or evidence provided by the parties. Where it is appropriate to do so, I will refer to specific evidence or expand on what follows in support of my findings, in the section below.

In December 2014, Mr B met with Quilter to discuss retirement planning. Quilter completed a fact-find document and a supplementary retirement questionnaire to record Mr B's personal details, circumstances and objectives. The key details recorded here are as follows:

- Mr B was aged 64, divorced, had no dependents and was in good health.
- He was self-employed earning around £30,000 a year. His disposable monthly income was more than £1,000.
- He owned his own home, he had no liabilities, and he had around £2,000 in the bank as a cash reserve.
- He held an existing pension plan with a value of around £61,000, and his target retirement age was 75.
- His objective was to access his tax-free cash, he didn't need an immediate income, his future need would depend on business growth/profits, he had a pension in payment of around £2,500 a year, his state pension was due at age 67, and his expenditure in retirement was expected to remain at £15,000 a year.

Quilter also carried out an assessment of Mr B's attitude to risk, asking him a series of questions to gauge his thoughts and feelings about investing. The result was he was deemed to have a 'Moderate' risk appetite. This was described as: "In general, Moderate investors understand that they have to take investment risk in order to be able to meet their long-term goals. They are likely to be willing to take risk with a high proportion of their available assets.

Moderate investors typically have a good level of knowledge about financial matters. They usually have some experience of investment, including investing in products containing higher risk assets such as equities. Moderate investors will usually be able to make up their minds on financial matters relatively quickly, but still suffer from some feelings of regret when their decisions turn out badly."

In a suitability letter of 5 February 2015, Quilter recommended Mr B access his maximum

tax-free cash lump sum entitlement, while taking no immediate income. The purpose was to supplement Mr B's income and savings as he moved into partial retirement. To achieve this, it recommended he transfer his existing pension to a new Quilter plan – a Self-Invested Personal Pension Plan (SIPP) – and invest the balance for capital growth potential between now and the point he wanted to take an income. The investment recommendation was for investment in a 'Moderate' risk investment fund, which it deemed was suitable for Mr B's risk appetite. The letter said alternatives had been considered including taking an annuity. But this had been discounted because Mr B did not need an immediate income, and a drawdown arrangement provided him with flexibility. The letter also explained the risks involved in taking a lump sum and that the available income from the pension fund would be reduced by virtue of the reduction in the size of the total fund value. The suitability letter also set out the details of the ongoing advice service agreed to, which included an annual suitability review. The annual charge was 1%.

Quilter also provided Mr B with an illustration, which set out the costs involved, including the initial advice fee of 4%, the ongoing advice service, the product charge of 0.31% a year and the annual fund manager charges of 1.24%.

In February 2017, Mr B disengaged Quilter as his financial adviser moving to a different firm.

In October 2024, Mr B complained to Quilter using the services of a professional complaint representative. Mr B's complaint letter included 15 bulleted complaint points, which included concerns around Quilter's lack of a proper exploration of Mr B's retirement income needs, the available alternatives, and missing annual reviews. But the crux of Mr B's complaint is as I described at the start.

Quilter replied and said it thought the complaint was made out of time. For the advice element, it said it was more than six years since the event complained of in 2015. And it said it was more than three years since Mr B ought to have been aware he had cause for complaint – he'd instructed a new adviser in 2017, who would have alerted him that he may have cause to complain about the advice he received. It nevertheless believed the advice was suitable. For the annual review element of the complaint, it said it was more than six years since the last review was due. And it said Mr B was contacted in 2016 offering him a review and to get in touch to schedule it. So, it said this is the point Mr B ought to have been aware he had cause for complaint. Which, again, because this is more than three years ago, it said this part of the complaint was also out of time.

Mr B then referred his complaint to us. One of our investigators considered the matter and in summary they concluded the following:

- The complaint about the annual reviews was out of time. Mr B ought to have understood from the advice paperwork that reviews would be annual and that he was paying for the service. So, when he didn't get a review on the anniversary in February 2016, by March (he was also reminded in July 2016) he ought to have become aware he had cause for complaint. And similarly for the 2017 review. In both cases its more than six years since the events complained of, and more than three years since Mr B became aware he had cause for complaint. And no exceptional circumstances are at play here.
- The complaint about the pension advice was made in time. Enquiries made of Mr B's new adviser in 2017, showed that the value of Mr B's pension meant they could not offer him ongoing advice. All they had done was switch off Quilter's ongoing advice fee and transfer the servicing rights. They had not carried out any customer due diligence or provided a statement of advice. As such there was nothing that would have prompted Mr B to realise he had cause for complaint. And nothing to show he

had awareness prior to speaking to his complaint representative.

- The pension switch advice was suitable based on Mr B's needs and objectives. His objective of accessing a lump sum without income couldn't be met using his existing plan, he didn't have alternative assets and didn't want to borrow money, his attitude to risk and capacity for loss was reasonable, he had prior investment experience, he had other pension income available, and the nature of his profession meant his work could be flexible and he could continue given his good health.
- Mr B made an informed decision to proceed.
- He benefitted from the advice given his circumstances and the regular reviews offered peace of mind.
- The investment fund recommendation was suitable and in line with Mr B's attitude to risk.
- The costs involved in the switch were higher, but they were adequately disclosed, and the increase was due to the 1% ongoing advice fee, so was suitable. The required outperformance of Mr B's existing pension to show he was better off by transferring wasn't established – but Mr B had a specific need to access his tax-free cash, so this wasn't a crucial factor here.

Quilter simply acknowledged receipt of the investigator's view – but it didn't provide further comment.

Mr B, via his representative, disagreed. In summary he said:

- Quilter did not accurately establish Mr B's attitude to risk and capacity for loss.
- The DSAR evidence provided by Quilter contains two different suitability reports with investment in a 'Balanced' fund and the 'Moderate' fund – this contradicts the investigator's conclusion the advice was consistent with Mr B's attitude to risk and shows it was looking at a 'Balanced' risk.
- Mr B's investment experience based on the accumulation stage of his retirement planning should not be used to determine his risk for the decumulation stage.
- There's no evidence to support a 'Moderate' risk assessment – Mr B had little savings, he was beginning retirement, and his income was going to decrease, albeit Quilter didn't identify by how much.
- Mr B's needs and requirements weren't established to understand his capacity for loss. But he did not have capacity for higher risk given he was reliant on his pension income and this pension made up the majority of his retirement provision.
- Quilter failed to establish Mr B's retirement income needs, the amount he required, how much he needed to supplement his income, how the advice would achieve this, there was no comparison to show the advantages/disadvantages of the pension switch or the sustainability of the product, and the alternatives weren't adequately explored.

- Mr B's need was for income as he was looking to supplement it in retirement.
- Mr B was switched to a more expensive product, incurred higher risks and ongoing advice fees, which were all unnecessary. There is no evidence he would get significant benefit from ongoing advice.

The investigator wasn't persuaded to change their opinion. Further exchanges between the investigator and Mr B's representative took place. They both broadly repeated the key points they made, so I haven't set this all out here.

Because the matter could not be resolved informally, it was passed to for a final 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.

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 not uphold this complaint for largely the same reasons given by the investigator. My reasoning is set out below.

Before I do, I'd like to deal with the important matter of our jurisdiction to consider this complaint. I can see that Mr B's representative did not challenge the investigator's conclusion that we don't have the power to consider Mr B's complaint about the missed ongoing advice reviews because it was brought too late. I've taken their silence on this matter as acceptance of the position. And for the avoidance of doubt, I agree with the investigator's conclusion and for the same reasons. So, we cannot consider this part of the complaint.

Similarly, Quilter has not challenged the investigator's conclusion that we can consider the pension advice aspect of Mr B's complaint. So, again I think it is reasonable to assume that Quilter's silence is acceptance or agreement of the conclusion reached. If it had wanted to challenge the position, I think it would have done so when it acknowledged receipt of the investigator's view. But again, for the avoidance of doubt, I agree with our investigator. Importantly, Mr B's new adviser he sought out in 2017 told us his pension was below their minimum amount for them to provide ongoing advice. And they said they issued no statement of advice or carried out any customer due diligence. So, Mr B would not have been given a reason at this point to question the advice Quilter gave in 2015. Because there is nothing else to evidence that he had cause for complaint earlier than 2024 when he brought his complaint, I'm satisfied this part of the complaint is in time – so, we do have the power to consider it.

Turning to the merits or substance of Mr B's complaint, 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.

Quilter's advice was to transfer Mr B's existing pension held with another provider to a new Quilter personal pension arrangement. So, broadly speaking this was advice to replace a plan or investment Mr B already had with something broadly the same. But here, the rationale was because Mr B wanted to access his benefits immediately and do so in such a way that it appears his existing pension could not support. So, I've carefully looked at whether the transfer and recommendation was suitable.

Having done so, while I accept Quilter could have done more in the way it formulated and documented the advice, overall, I'm not persuaded the advice provided was unsuitable in the circumstances. I'll explain why.

Mr B's primary objective was to access his pension tax-free lump sum to supplement his income and savings as he wanted to partially retire. Quilter's recommendation involved Mr B switching his pension to a SIPP – a drawdown arrangement – which enabled him to access his 25% tax-free cash lump sum and keep the remainder of his pension funds invested until such time as he needed to draw on them.

It appears that Mr B's existing pension would not allow him to only take a lump sum, so a move to another type of arrangement was the only way to achieve this. Importantly, Mr B was not giving up any form of guaranteed benefits, such as a guaranteed annuity rate or a higher tax-free cash entitlement, by transferring. Also, Mr B wanting to access his pension benefits at this time wasn't unreasonable – he was 64 years old and wanted to move into partial retirement and use his pension funds to help him achieve this. It wasn't the case here for example that Mr B wanted to access a lump sum for an unnecessary capital purchase.

Mr B's representative says that Quilter didn't properly assess his needs but says that it's clear his need at this time was for income. I accept that Quilter could have done more to demonstrate that it had thoroughly explored and interrogated Mr B's needs including his income need, how his earned income would reduce and by how much, and so how accessing a lump sum would help meet his needs. But I don't think accessing a lump sum and providing Mr B with flexibility was unsuitable given his circumstances at the time.

I think the nature of both Mr B's self-employed status and his occupation type already meant that it was likely his income was subject to a certain degree of fluctuation. So, I think it's likely he would not have been able to quantify the exact impact beginning to take a step back and reducing the amount of work he did, moving into partial retirement, would have on his income level. And I can see from the supplementary retirement questionnaire Quilter

completed, reference was made here to Mr B's likely future income need as: "not yet certain...depends on business progress / profits."

So, I think Mr B needed some flexibility of arrangement as he moved into this next stage. Mr B had taken the decision to take a regular income from another pension. But despite what Mr B's representative has said, there is no evidence Quilter provided any advice on this or was in any way involved in Mr B's decision to put this into payment – the supplementary questionnaire contains a note, which says this was "...without receiving our advice."

The cash lump sum wasn't just recorded as being to supplement Mr B's income, it was to use as savings as well. And I'm mindful here that Mr B's emergency cash reserve was relatively low at £2,000. Accessing the £15,000 lump sum would boost that considerably, giving Mr B a reasonable cash buffer. Mr B didn't have any other sources he could draw on to raise these funds. Retaining this level of cash as Mr B transitioned into partial retirement, in my view, made sense in the circumstances. And from an income perspective, this cash buffer provided Mr B with the comfort that he could draw on some of the funds, if needed, flexibly to help meet his needs as he established the level of income his reduced level of work would provide. Mr B's current identified surplus income buffer would of course reduce / likely disappear through reduced work. The alternative of Mr B taking a fixed regular income from his existing pension instead, wouldn't boost his cash buffer / reserves or provide Mr B with the flexibility I think he reasonably needed.

Mr B's representative has questioned how taking £15,000 to supplement his standard of living for ten years until his selected retirement age of 75 was ever going to meet his objective – Quilter didn't properly assess his what his income and expenditure was going to be.

As I've already acknowledged, I think Quilter's interrogation of Mr B's income and expenditure needs could have been more detailed and the documenting of the reasons for the recommendation in relation to this could have been clearer and expanded upon. But it did quantify Mr B's basic expenditure need of £15,000 a year and indicated this wasn't likely to change. And given the make-up of the expenditure recorded in the fact-find, this seems reasonable. There was nothing to indicate Mr B's expenditure needs would fundamentally change. I don't think it was the case or the intention that the lump sum would supplement Mr B's income for ten years, or not consistently over this period. I think the intention was as I've described above – to give Mr B flexibility and a buffer over the short to medium term as his work pattern changed. Mr B would receive his state pension at 67 and by this time he would likely better understand the level of income he could earn by taking a step back and reducing his work. I also think the nature of Mr B's work meant he could be flexible about the amount of work he carried out. But I also think this is where Mr B could benefit from the ongoing advice service with regular reviews of his circumstances, attitude to risk, as well as his income needs as he moved through partial retirement to stopping work altogether.

The nature of the recommendation also meant that Mr B's residual pension fund was invested with the objective of achieving growth potential allowing Mr B to draw a future income to meet his needs when he stopped working altogether. I don't think this was an unreasonable approach to take in the circumstances, even if Quilter didn't analyse and document things as fully as it ought to have done. Mr B's target retirement age of 75 was reasonable given his circumstances including his occupation type. In my view, this provided an adequate investment time horizon.

This approach also did not preclude Mr B from securing a guaranteed income in the future – he could still purchase an annuity later on if it was in his best interests at the time.

Much of the suitability of the overall recommendation rests on Mr B's attitude to risk and his capacity for risk. Mr B was assessed as having a 'Moderate' attitude to risk – the definition of

which I set out earlier on. I think the assessment method Quilter carried out was reasonable, and I don't have reason to query the answers Mr B gave to the questions he was asked. I think Mr B likely understood what he was being asked.

As for Mr B's capacity for risk – on the one hand, I'm mindful that he was 64 at the time and the pension in question represented the larger portion of his private pension provision he'd be reliant on for an income. So, it could be argued that he didn't have the capacity for risk, and it wasn't appropriate to recommend he take this level of risk with his pension. But on the other hand, importantly, Mr B wasn't fully retiring at this stage. He still intended to work and earn income, and he didn't intend to draw an income from these pension monies immediately. So, he wasn't fully entering the decumulation stage. Mr B's intended (full) retirement age was 75, so his time horizon for investing was potentially 10 years. And he had two other guaranteed sources of pension income.

So, in my view, his objective of seeking capital growth to build funds for when a regular income was needed when he stopped working, and adopting risk to do so, was reasonable in the circumstances. I don't think Mr B's 'Moderate' risk approach was wholly inappropriate in the circumstances. In reaching this conclusion, I'm mindful that I think there was a risk in Mr B being too cautious here. Taking Mr B's basic income need of £15,000, I can see the suitability report showed that the income available from Mr B's three pension sources – his state pension, his pension in payment and if he drew the maximum permissible income from his transferred pension – showed he still had a shortfall of around £3,000 a year. I think this is important because this would suggest that if Mr B had taken an immediate regular income from his existing pension rather than transfer it – which I think would be at broadly the same level as he could take from the transferred sum given annuity rates at the time – Mr B would still have an income shortfall beyond age 75 when he indicated he expected to fully retire.

So, given these circumstances, I think the recommendation to invest Mr B's pension proceeds for future growth potential by adopting the level of risk indicated, was reasonable in the circumstances. As I said before, Mr B's attitude to risk could be revisited and reviewed as part of the ongoing service to ensure he remained invested within his permitted risk appetite – it wasn't a static approach.

Looking at the investment recommendation, I think this was suitable. I can see Mr B's representative has referred to receiving two different suitability reports, with different investment recommendations, in response to its information request to Quilter, and has therefore questioned the investigator's conclusion that the recommended fund was appropriate. I think this is the nature of requesting information via a subject access request – its required to provide everything including say draft documents. But I think it is reasonable to assume the copy of the suitability report Quilter provided in its file is the correct one. And based on the 'Moderate' risk fund recommended – a relatively broad spread of investments with a maximum equity exposure of 80% – I think this was in line with the level of risk Mr B was prepared to take.

Turning to the costs, based on the information provided about Mr B's existing pension provider costs, it doesn't appear the new Quilter SIPP product costs were more expensive. Mr B was paying annual management costs of 1% to 4.5% a year as well as a monthly administration fee of around £5.50. Mr B's SIPP product cost was 0.31% with an annual fund manager charge of 1.24%.

The additional costs related to the advice – both the initial advice charge and the ongoing advice charge of 1% a year. But I'm satisfied the costs were adequately disclosed, and as I've already said, I think the ongoing advice cost was justified because I think in Mr B's circumstances he would benefit from Quilter's ongoing advice service.

In conclusion, while I accept there were some gaps in Quilter's assessment of Mr B's needs and its recommendation could have been clearer and more detailed in parts, overall, I think the recommendation was suitable for the reasons I've explained. From an information perspective, I think Quilter adequately disclosed the associated costs, the key risks associated with the recommended action, and it documented the alternatives considered and why there were discounted in favour of the proposed transfer. I think it did just enough here to enable Mr B to make an informed decision.

It follows that I do not uphold this complaint.

My final decision

For the reasons above, I've decided to not uphold this complaint, so I make no award in Mr B's favour.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 8 January 2026.

Paul Featherstone

Ombudsman