

The complaint

Mr R is represented.

He previously had a Defined Benefits Pension ('DBP'). In 1989, he transferred the DBP's transfer value (around £8,400) into an Abbey National Retirement Investment Account ('ANRIA'), and he contracted out of his State Earnings Related Pension Scheme ('SERPS') and redirected its contributions to the ANRIA.

His complaint is about the DBP transfer. He says Abbey National, now Santander UK Plc, advised the transfer and that it was unsuitable. He seeks redress in this respect.

Santander says the ANRIA was a non-advised product and that whilst Abbey National staff would have given Mr R information about it (including an illustration of potential benefits) no staff would have given him advice, and there is no record of such advice.

What happened

Documentation from 1989 that has been shared with us include –

- Mr R's application for the ANRIA, with his signature, dated 24 February 1989. Within its contents, and in response to the question "*Where did you find out about the Retirement Investment Account?*", the option for "*Walked into a branch*" is ticked; in response to the question "*What are your current pension arrangements?*", the option for "*SERPS (Contracting-in)*" is ticked, and the application proceeds to confirm that Mr R wished to contract out of the SERPS and to transfer its benefits to the ANRIA; the application also confirms that he was employed at the time but neither him nor his employer was paying contributions into any personal pension scheme or retirement annuity contract, and that no contributions from him or his employer were to be made into the ANRIA.
- A completed Expressed Wishes form for the ANRIA application, with Mr R's signature, and with the same date as in the application form.
- A completed Certificate of Eligibility form for the ANRIA application, with his signature and with the same date as in the application form.
- A completed Transfer In Request Form, with information about the DBP. The document has Mr R's signature, and it is dated 15 March 1989.
- The ANRIA product literature issued to Mr R at the time of the application.
- Two pre-drafted letters, signed by Mr R and dated 10 July 1989, one addressed to Abbey National and the other addressed to the DBP Scheme administrator, both confirming his instruction to transfer the DBP to the ANRIA/Abbey National.

Mr R and his representative mainly say – on or around 27 February 1989 Abbey National

recommended the DBP transfer to him; he was approached and encouraged, by an Abbey National adviser, to conduct the transfer; he was not told about the risks and loss of benefits associated with the transfer, had he been told that he would not have agreed; the transfer was not in his best interest, and it has caused him a financial loss (including loss of benefits); given that it happened between 1988 and 1994, the DBP transfer should have been captured by the Pensions Review ordered by the regulator for such transfers, but he was never invited to take part in it; had the transfer been subjected to the Pensions Review its recommendation would likely have been deemed unsuitable for him.

Santander has addressed both the DBP transfer and SERPS redirection aspects of the ANRIA.

With regards to the DBP transfer, it mainly says – the ANRIA was/is a non-advised deposit-based savings account used to save for pension income (with tax benefits akin to those available in a personal pension); if customers were interested in proceeding with it, branch staff were limited to providing information about it (including an illustration of benefits) and talking customers through the application process, but they could not give advice on suitability; Mr R had around five months, between his February application and his instruction of the transfer in July, to properly consider his decision to transfer; its records show he was invited to take part in the Pensions Review, but he did not respond to the invitation; no copies of the associated letters presently exist, given that this happened around 25 years ago; even though the transfer was not advised and the ANRIA was/is a non-advised product, Abbey National/Santander took the decision to send the invitation to all pension customers (including ANRIA holders) from a best practice viewpoint.

One of our investigators looked into the complaint and concluded that it should not be upheld. She considered that evidence from 1989 – including the ANRIA product document – shows that Mr R transferred the DBP to the ANRIA on a non-advised basis, so his claim about unsuitable advice is unsupported. She found no evidence of advice, and she conveyed Santander's explanation about him not responding to the Pensions Review invitation extended to him.

Mr R's representative disagreed with this outcome. They argued that – Santander's positions on advice and the Pensions Review are in conflict, on the one hand it says no transfer advice was given but, on the other hand, it concedes that the Pensions Review (which catered for advised pension transfers) included Mr R's DBP transfer; Santander's claim about the invitation has not been properly evidenced; there is enough from his account of events and from his interaction with Abbey National in 1989 to show that the latter's service in the transfer and in setting up the ANRIA was in the scope of advice; there is also no evidence that it was made clear to Mr R that the service he received was not advisory (in other words, made clear to him that he was not being advised to conduct the transfer); in the circumstances, he had reasonable grounds to believe he was being advised, and the product was promoted in a way that amounted to advice.

The complaint was referred to an Ombudsman.

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 have reached the same conclusion expressed by the investigator. I do not uphold Mr R's complaint.

On balance, I do not consider that the transfer of his DBP into the ANRIA was advised by

Abbey National, so his complaint against Santander about unsuitable advice in the transfer falls away.

His case is only about the DBP transfer. It does not present the SERPS redirection aspect of the ANRIA as a complaint issue, so I have made no findings in this respect.

The relevant events happened in 1989. As I summarised above, there is evidence of Mr R's ANRIA application in February that year, and of his DBP transfer instruction in July that year. According to his representative, the process was concluded in November that year.

In more recent times, especially since 2001, regulatory provisions have existed on the matter of determining the suitability of DBP transfers. Previously, general suitability of advice provisions applied, and they evolved over time. A form of such provisions existed in 1989. However, before going into this, it is necessary to first establish, on evidence of the facts in Mr R's case, whether (or not) he was advised by Abbey National (as it was at the time) to conduct the DBP transfer into the ANRIA.

If the facts show, on balance, that transfer advice was given (or was probably given) to him, then suitability of advice become relevant. Otherwise, in the absence of evidence of advice, the complaint about unsuitable advice cannot be established and there would be no reason to consider suitability of advice.

Overall, I consider that the balance of evidence does not support Mr R's claim that he was advised and encouraged by Abbey National to open the ANRIA and/or transfer the DBP into the ANRIA.

The application form bears his name and signature, so I consider it fair to say that he probably completed it himself. His representative might say the form could possibly have been completed for him. If so, his signature confirms he agreed with the form's contents. Either way, the form and its contents belong to him and his signature on it confirms that he stood by both.

The question in the form that asked him where he found out about the ANRIA offered six options in reply – newspaper/magazine advertisement, personal recommendation, radio advertisement, television advertisement, direct mailing and walked into a branch. As I said in the previous section, 'walked into a branch' was the only selection he made. If Mr R had been advised, I would expect him to have probably selected the *personal recommendation* option, but he did not do that.

The ANRIA product document includes a summary of its *highlights*. One highlight is stated as "*No charges or commissions*". The information in the document supports this, and further notes that, because no charges are applied "*every penny*" in the ANRIA is invested. There is no wider evidence of any fee or charge paid by Mr R in relation to the ANRIA or the DBP transfer. The provision of professional investment advice commonly includes a fee or charge for such advice, either paid separately around the time of advice or paid later in relation to the advised investment/product. The absence of evidence of any type of fee payment by Mr R to Abbey National, associated with the DBP transfer into the ANRIA, further conflicts with his claim about receiving its advice.

Another highlight in the product document is stated as "*Available at any branch of Abbey National*". In this respect, there is a 'how to apply' section in the document, which sets out the following – first an appointment had to be made at a branch; in attending the appointment the customer had to bring along information listed in an enclosed checklist; at the appointment "*Your Counsellor will prepare a personal illustration for you to show how much your Account could be worth when you retire ... how your Account changes depending*

on the contributions you may make ... and how your various options will affect your benefits"; then *"Should you decide to go ahead with the Account, your Counsellor will help you with the paperwork"*.

In Mr R's case, it would appear that the branch appointment would have been his own initiative. I suppose it is possible that a third party might have assisted him in this respect, but I have seen no evidence of that. More importantly, there is no evidence that he was invited by Abbey National, on an unsolicited basis, to attend a branch appointment and/or apply for the ANRIA. I note this because his representative says his recollection is that he was *"approached"* and encouraged by an Abbey National adviser to transfer the DBP to the ANRIA. According to his representative, he also says – *"I did not ask for this myself or request any advice about moving my pension"*.

The application that was completed and signed on 24 February marked the end of the *how to apply* process. Based on the product document, that process would have begun, in Mr R's case, with a branch appointment. There is no evidence that he was invited, at Abbey National's initiative, to attend a branch appointment, as part of an *approach* and encouragement to transfer the DBP to the ANRIA. Therefore, it is more likely (than not) that he arranged the appointment and prepared for attending the appointment (with the required information) himself.

His representative appears to argue that the title and role of the Counsellor in the process has been used to disguise the adviser who recommended the ANRIA and/or the DBP transfer to Mr R; and that the components of that role are comparable to that of an adviser's. On balance, I disagree.

In the main, and based on the product document, the Counsellor performed the ANRIA illustration and, if an application was to be made, helped with the application paperwork. These activities related to the provision of information about the ANRIA and then the arrangement of the ANRIA. Neither amounts to recommendation of the ANRIA and/or a DBP transfer.

The illustration would have given Mr R information about how the ANRIA would work in practice, in order to better inform any decision he proceeded to make about it. I have seen nothing to say or suggest that the illustration, or its effect, extended to a personal recommendation. Furthermore, his application would have been concluded after the illustration was presented to him, so if there was such an extension he would likely have ticked the 'personal recommendation' option in the application form, but he did not.

In terms of helping with the paperwork for the application, that in itself does not amount to advice. If there was any advice recommending the ANRIA to Mr R, it would have happened before the application/paperwork stage, not within it.

As noted by Santander, there is a five months (approximately) gap between Mr R's ANRIA application and his DBP transfer instruction in July. The transfer in request form was also completed separately, in March, to the February ANRIA application. The reasons behind this sequence of events are not clear. However, I have seen no evidence of advice on the DBP transfer at any time between these events. In addition, I understand and agree with Santander's point that Mr R appears to have had ample time and opportunity to consider his decision to transfer the DBP during the time between February and July.

On balance, I do not accept the arguments that there was enough in the process for him to believe he was being advised to conduct the transfer, or that he reasonably concluded he was being advised because he was not told that he was not being advised.

Based on the above findings, the probabilities are that he was given information illustrating the workings of a product he had made an appointment to enquire into, following the illustration he decided to proceed with the product, and Abbey National assisted him with the application process. I do not consider that any of this conveyed to him that the ANRIA was being recommended to him, and I repeat, he did not select the option for 'personal recommendation' in the application form. With nothing in place within the process to suggest the provision of advice, I am not persuaded that Mr R needed to be told he was not being advised.

Overall and for the above reasons, I do not find that Abbey National advised the ANRIA and/or the DBP transfer. Based on this finding, there is no reason for me to look into suitability of advice.

I also do not find that Santander's position on the Pensions Review conflicts with this conclusion.

I agree with Mr R's representative that there is a lack of evidence on the Pensions Review invitation(s) that Santander says was sent to him. I also understand their reluctance to rely on the internal note that Santander has shared to support its assertion that the invitation was extended to him but was not responded to by him. Copies of the actual invitation(s), from the time(s) it was sent, would be better. However, any such invitation would have happened around 25 years ago. Based on the circumstances, if it was sent it would probably have been sent around 1999. It is not unreasonable for Santander's present records in this respect not to go back that far. However, I also anticipate the counter point that Mr R's representatives might make about the 1989 ANRIA application records still being accessible – so why not the 1999 Pensions Review records?

In any case, I have found, on the balance of evidence, that the DBP transfer was not advised by Abbey National in 1989. Santander explains that the transfer was included in the Pensions Review alongside other non-advised transactions on a best practice basis, so it does not concede that the inclusion happened because it was advised. On balance, I consider this explanation to be plausible. Given my finding that the transfer was not advised as alleged, I have not seen evidence to support Mr R's representative's argument that the Pensions Review would probably have found the opposite.

My final decision

For all the reasons given above, I do not uphold Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 6 January 2026.

Roy Kuku
Ombudsman