

The complaint

Mr E complains about the advice given by Quilter Financial Planning Solutions Limited ('Quilter') to transfer the benefits from his defined-benefit ('DB') occupational pension scheme to a self-invested personal pension ('SIPP') and invest the funds using a discretionary fund manager ('DFM'). He says the advice was unsuitable for him and he believes this has caused a financial loss.

Mr E initially complained to Quilter about both ongoing advice charges and the suitability of the initial advice. He has only asked this Service to consider his complaint about the suitability of the initial advice to transfer his DB scheme to a SIPP. So that's what my decision has focused on.

Mr E is being represented in the complaint by a claims management company ('CMC'). For ease I'll refer to all representations as being made by Mr E.

What happened

Mr E's complaint was considered by one of our Investigators who issued his assessment of the complaint in his letter, dated 30 July 2025. The background and circumstances to the complaint were set out in this letter and are known to both parties, so I won't repeat them again in full here. However to recap, Mr E approached Positive Solutions in 2017 for advice on his pension and retirement needs. At the time, Positive Solutions was an appointed representative of Quilter. This means responsibility for the advice lies with Quilter. So for ease, I'll refer only to Quilter going forward.

Quilter completed a fact-find to gather information about Mr E's circumstances and objectives. Quilter also carried out an assessment of Mr E's attitude to risk, where it initially deemed him to be a Moderate Investor but after discussing this further with him, Mr E wanted to adapt a slightly lower risk so this was reduced to Balanced.

On 1 December 2017, Quilter advised Mr E to transfer his pension benefits into a SIPP and invest the proceeds through Quilter Cheviot, a DFM. The suitability report said the reasons for this recommendation were *"to ensure that the benefit is transferred to an environment that will enable you to access FAD [flexi access drawdown] for immediate and future flexibility and an immediate improvement in the format of prospective death benefits"*.

Mr E complained in 2024 to Quilter about the suitability of the transfer advice. He had initially seen an advert about ongoing advice charges and contacted his CMC. His CMC then made him aware that the advice he received may have been unsuitable.

Quilter didn't review Mr E's complaint about the suitability of the advice to transfer because it said it had been made too late under the rules that apply.

Mr E referred his complaint to the Financial Ombudsman Service. One of our Investigators thought the complaint had been referred in time and so it was one this Service could consider. And having considered the merits of the complaint the Investigator upheld it and required Quilter to pay compensation. In summary the Investigator said:

In terms of jurisdiction

- Quilter says that Mr E dealt with Quilter in 2019 or 2020 but didn't complain. But there's no evidence he became aware, or ought reasonably to have become aware, he'd have cause to complain at those times. It's more likely that had he had cause for complaint, he wouldn't have dealt with the firm in those years;
- Mr E said he'd seen an online advertisement from his CMC about Quilter's ongoing advice charges in 2024. When his CMC called him, it told him it believed he had reason to complain about Quilter's pension advice too. So, it was only at that point Mr E was made aware he may have reason to complain. So, he hadn't complained too late.

In terms of the merits of the complaint

- Transferring doesn't appear to have been in Mr E's best interests, as he was unlikely to improve on the benefits he was entitled to from his DB scheme;
- Mr E was more risk averse than Quilter thought he was. He actually had a low to medium attitude to risk rather than a medium or high attitude to risk;
- Mr E was transferring his main pension plan. He only had one other plan, excluding the state pension;
- If Mr E needed a £17,000 lump sum and £9,000 more a year in income, he didn't need to transfer his DB scheme to a SIPP to achieve this. He could have used his existing savings to fund these – at least until he got his state pension at age 66 or he could have increased the withdrawals from his existing drawdown plan – converting it to flexi access drawdown, if necessary, if it was a capped plan;
- Mr E didn't have a definite requirement for requiring variable income at age 61;
- Quilter shouldn't have placed emphasis on Mr E prioritising death benefits in a SIPP over his security during retirement. And if he genuinely wanted to leave a legacy for his family, the adviser ought to have explored the possibility of Mr E taking out a life insurance policy;
- Mr E had a health condition and was concerned about how this would impact his life expectancy. However, not reaching average life expectancy was only a possibility. It was possible Mr E would exceed his life expectancy, meaning the pension would need to last longer. By transferring out of the DB scheme, Mr E would be relying on investment returns to ensure sufficient capital was left in the SIPP to provide death benefits.

Quilter disagreed with the Investigator's assessment, saying the advice was provided on 1 December 2017, which was more than six years ago. And it considers Mr E became aware, or ought reasonably to have become aware, he would have cause to complain more than three years ago from 18 December 2017. Quilter provided a copy of an email of the same date, which it considered demonstrated that Mr E had confirmed he had read and understood the suitability letter and that he wanted to go ahead with the advice. And the email also explained the reasons why Mr E thought the SIPP was more suitable, and said that he understood the risks involved. So Quilter said that if Mr E thought the advice he had been given was unsuitable, at this point he had the opportunity not to go ahead with the transfer of his DB pension.

The Investigator wasn't persuaded to change their opinion. They responded to Quilter to explain their opinion that the complaint had been referred in time.

In its final submissions, Quilter said the following:

- Whilst accepting that if a consumer thinks advice they've been given is unsuitable, they're unlikely to take the advice, that's not what has happened in the case of Mr E. The advice was given on 1 December 2017 and nearly 3 weeks later, Mr E sent the email to the adviser. The email said that he feels the flexi access drawdown would suit his needs better than a DB pension and that he would not be reliant on this pension alone.
- Whilst his email goes into considerable detail regarding his health and him not being reliant on the pension alone, it is important to note that he states he understood the risks of drawdown and that investments can lose as well as gain.
- The fact that he would not be reliant on this pension alone is clearly evidenced when from a fund in excess of £325,000, Mr E took minimal tax-free cash of £17,000 and monthly income of just £750pm. This is further evidence in May 2019 when his fund was worth £320,777 and he took £70K tax-free cash to purchase a property with a friend as an investment to sell. Mr E didn't want to wait for advice approval, as he did not want to wait in case the value of the pension dropped in that time. This is confirmed in the suitability letter from that time.
- By January 2020, it appears Mr E had decided to postpone the purchase of the property as his friend could not proceed in time. He was advised to find a good return for the funds while he decided what to do, as the funds had previously been growing at a good tax efficient rate.
- There doesn't actually need to be a potential for a complaint but more that the consumer became aware (or ought reasonably to have become aware) that he had cause for complaint. It is abundantly clear from the history of events, that Mr E had multiple occasions where if he did in fact feel he had a cause for complaint, he would have become aware.

The complaint was referred to me to make a final decision.

What I've decided – and why

Jurisdiction

The rules I must follow in determining whether we can consider this complaint are set out in the Dispute Resolution ('DISP') rules, published as part of the regulator's, the Financial Conduct Authority ('FCA'), Handbook.

Quilter says that Mr E hasn't made his complaint in time. The section of the rules that Quilter refers to here means that, unless Quilter consents – which it hasn't - we can't look into this complaint if it's been brought:

- more than six years after the event complained of;
- or, if later, more than three years after Mr E was aware – or ought reasonably to have become aware – he had cause for complaint;

unless the complaint was brought within the time limits, and there's a written acknowledgement or some other record of it having been received; or

unless, in the view of the Ombudsman, the failure to comply with the time limits was as a result of exceptional circumstances.

Mr E referred this complaint to Quilter in late 2024. The complaint I'm considering here is that Quilter gave him unsuitable advice to transfer his DB scheme to a SIPP and invest through a DFM. The advice and transfer took place in December 2017, which was more than

six years before Mr E referred his complaint to Quilter. Therefore, Mr E's complaint has been brought too late under the six-year part of the rule.

So, I have to consider whether Mr E complained within three years of when he was aware, or ought reasonably to have become aware, of his cause for complaint. In other words, should Mr E ought reasonably to have been aware of his cause for complaint before late 2021, three years before he complained to Quilter.

Quilter says that Mr E ought to have been aware of the cause for complaint from three weeks after he received advice because this is when he sent an email to Quilter confirming his reasons for wanting to go ahead with the transfer. Quilter also says there were a number of occasions following this when Mr E ought to have become aware, although in my view its reasoning for believing this is confusing and somewhat illogical.

Mr E says he didn't know that the advice could have been unsuitable for him until he reviewed it with the help of his CMC in 2024, after seeing an advert online. But while he says he didn't know he could complain until then, it still might be the case that there was other reason why he ought reasonably to have known he had reason to complain sooner. So, I've thought about when Mr E ought reasonably to have been aware of having reason to complain about the advice he received in December 2017, and whether this gives him more time under the three-year rule.

The advice to transfer from Quilter explained that it recommended that he do so and made the case that it was in his interests. I haven't seen anything from that initial advice that I think ought to have led Mr E – who answered questions at the time saying he was an inexperienced investor – to question if the professional adviser, whom he was paying for advice, wasn't acting in his interests when making a recommendation. The email Quilter has provided from three weeks after the advice, doesn't in my view support him being aware that he may have had cause to complain about the advice. In this email Mr E explained his reasons for accepting Quilter recommendation. There's nothing in there that suggests to me that he understood, or ought to have understood at that time, that the advice to transfer may have been unsuitable for him.

Mr A then received annual reviews in 2018 and 2019 and, having reviewed the notes from these meetings, I've seen nothing to suggest that Mr E ought to have been aware that the previous advice to transfer the DB scheme may have been unsuitable. And so, I don't think the content of the reviews from Quilter would have given him cause to question if the initial advice was suitable.

Quilter has referred to the fact that Mr E only drew limited funds and withdrew funds to buy a property with a friend. But again, I fail to see how these show that Mr E was aware, or ought reasonably to have been aware of his cause for complaint.

I haven't seen any information or evidence that I think means that Mr E ought to have been aware he had cause for complaint about the suitability of Quilter's initial advice more than three years before he did complain. So, as a result, I'm satisfied the complaint was referred in time.

I've therefore gone on to set out my decision on the merits of the complaint.

Merits

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, regulator's rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time. This includes the Principles for Businesses ('PRIN') and the Conduct of Business Sourcebook ('COBS'). And where the evidence is incomplete, inconclusive or contradictory, I reach my conclusions on the balance of probabilities – that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances.

The applicable rules, regulations and requirements

The below is not a comprehensive list of the rules and regulations which applied at the time of the advice, but provides useful context for my assessment of Quilter's actions here.

PRIN 6: A firm must pay due regard to the interests of its customers and treat them fairly.

PRIN 7: A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.

COBS 2.1.1R: A firm must act honestly, fairly and professionally in accordance with the best interests of its client (the client's best interests rule).

The provisions in COBS 9 which deal with the obligations when giving a personal recommendation and assessing suitability. And the provisions in COBS 19 which specifically relate to a DB pension transfer.

Having considered all of this and the evidence in this case, I've decided to uphold the complaint for largely the same reasons given by the Investigator.

The regulator, the FCA, states in COBS 19.1.6G that the starting assumption for a transfer from a DB scheme is that it is unsuitable. So, Quilter should have only considered a transfer if it could clearly demonstrate, on contemporary evidence, that the transfer was in Mr E's best interests. And having looked at all the evidence available, I'm not satisfied it was in his best interests.

Financial viability

Quilter carried out a transfer value analysis report (as required by the regulator) showing how much Mr E's pension fund would need to grow by each year in order to provide the same benefits as his DB scheme (the 'critical yield').

The advice was given after the regulator gave instructions in Final Guidance FG17/9 as to how businesses could calculate future 'discount rates' in loss assessments where a complaint about a past pension transfer was being upheld. Prior to October 2017 similar rates were published by the Financial Ombudsman Service on our website. Whilst businesses weren't required to refer to these rates when giving advice on pension transfers, they provide a useful indication of what growth rates would have been considered reasonably achievable for a typical investor.

Mr E was 61 at the time of the advice and had retired at the age of 60. His DB scheme had a normal retirement age of 65. The suitability letter said that critical yield required to match Mr E's benefits at age 65 was 22.33% if he took a full pension and 14.8% if he took tax-free cash and a reduced pension.

This compares with the discount rate of 2.8% per year for three years to retirement in this case.

For further comparison, the regulator's upper projection rate at the time was 8%, the middle projection rate 5%, and the lower projection rate 2%.

I've taken this into account, along with the composition of assets in the discount rate, Mr E's balanced attitude to risk and also the term to retirement. There would be little point in Mr E giving up the guarantees available to him through his DB scheme only to achieve, at best, the same level of benefits outside the scheme. But here, given the lowest critical yield was 14.8%, I think Mr E was likely to receive benefits of a substantially lower overall value than the DB scheme at retirement, as a result of investing in line with that attitude to risk.

For this reason alone a transfer out of the DB scheme wasn't in Mr E's best interests. Of course financial viability isn't the only consideration when giving transfer advice. There might be other considerations which mean a transfer is suitable, despite providing overall lower benefits. I've considered this below.

Flexibility and income needs

I don't think Mr E required flexibility in retirement. This is because based on the evidence I've seen, I don't think he had a genuine need to access his tax-free cash earlier than the normal scheme retirement age and leave his funds invested until a later date. I say this because Mr E's main objective was to raise an additional income of £9,000 per year, as his current expenditure exceeded his income. He had determined that he needed an income of £20,000 per year. And he also wanted to take tax free cash of £17,000 for replacement windows and a car.

At age 65, Mr E's DB pension would provide an income of £16,269 per year, increasing in line with inflation. And Mr E was entitled to his full state pension from age 67, which at that time was £10,400 per year. So, I'm satisfied Mr E could have met his income needs in retirement through the DB scheme and his state pension at age 67.

Mr E had already retired and was drawing £11,000 per year from an existing drawdown pension he held. This plan had a capital value of £177,000. Mr E also had £126,000 in savings. So I'm satisfied that Mr E already had access to sufficient funds to meet his £20,000 year income need. There was enough capital available within this plan for Mr E to draw sufficient income until his DB scheme became payable at age 65 at which point the income he was drawing could be reduced until his state pension became payable. Mr E also had more than enough in savings cover the £17,000 lump sum he required.

I also can't see evidence that Mr E had a strong need for variable income throughout his retirement. While he alluded to not needing quite as much as he got older, there doesn't appear to be anything significant that was going to change with his income requirements over the years.

I also accept that Mr E may have said in an email to Quilter that he wasn't going to be reliant on the funds from his DB scheme. And that he may not have actually gone to withdraw large amounts since the transfer. However, Quilter was still required to assess Mr E needs and

circumstances and the fact Mr E may not have gone on to withdraw substantial funds, doesn't mean that I can disregard Quilter's obligation to give suitable advice.

Death benefits

Death benefits are an emotive subject and of course when asked, most people would like their loved ones to be taken care of when they die. The lump sum death benefit on offer through a personal pension was likely an attractive feature to Mr E. But whilst I appreciate death benefits are important to consumers, and Mr E might have thought it was a good idea to transfer his DB scheme to a personal pension because of this, the priority here was to advise Mr E about what was best for his retirement provisions. A pension is primarily designed to provide income in retirement. And I don't think Quilter explored to what extent Mr E was prepared to accept a lower retirement income in exchange for higher death benefits.

I also think the existing death benefits attached to the DB scheme were underplayed. Mr E was married and so the spouse's pension provided by the DB scheme would've been useful to his spouse if Mr E predeceased her. I don't think Quilter made the value of this benefit clear enough to Mr E. This was guaranteed and it escalated – it was not dependent on investment performance, whereas the sum remaining on death in a personal pension was. In any event, Quilter should not have encouraged Mr E to prioritise the potential for higher death benefits through a personal pension over his security in retirement.

Furthermore, if Mr E genuinely wanted to leave a legacy for his spouse, which didn't depend on investment returns or how much of his pension fund remained on his death, I think Quilter should've instead explored life insurance.

I acknowledge that Mr E had a health condition and so appears to have had concerns about his life expectancy. But Mr E not reaching his life expectancy was only a possibility and it was also possible that he would exceed this, in which case Mr E would need his pension to last longer. If Mr E transferred out of the DB scheme he would be relying on investment returns to ensure sufficient capital remained in the personal pension to provide the death benefits, whereas the spouse's pension was guaranteed and escalated.

Overall, I don't think different death benefits available through a transfer to a personal pension justified the likely decrease of retirement benefits for Mr E. And I don't think that insurance was properly explored as an alternative.

Control or concerns over financial stability of the DB scheme

The funding of his employer's DB scheme was not in a position such that Mr E should have genuinely been concerned about the security of his pension. Furthermore, if the scheme did end up moving to the Pension Protection Fund, I think Quilter should have explained that this was not as concerning as Mr E may have thought.

Use of DFM

Quilter recommended that Mr E use a DFM to manage his pension funds. As I'm upholding the complaint on the grounds that a transfer out of the DB scheme wasn't suitable for Mr E, it follows that I don't need to consider the suitability of the investment recommendation. This is because Mr E should have been advised to remain in the DB scheme and so the DFM would not have had the opportunity to manage his funds if suitable advice had been given.

Summary

I don't doubt that the flexibility and potential for higher death benefits on offer through a SIPP would have sounded like attractive features to Mr E. But Quilter wasn't there to just transact what Mr E might have thought he wanted. The adviser's role was to really understand what Mr E needed and recommend what was in his best interests.

Ultimately, I don't think the advice given to Mr E was suitable. He was giving up a guaranteed, risk-free and increasing income. By transferring, Mr E was very likely to obtain lower retirement benefits and in my view, there were no other particular reasons which would justify a transfer and outweigh this. So, I think Quilter should've advised Mr E to remain in their DB scheme.

Of course, I have to consider whether Mr E would've gone ahead anyway, against Quilter's advice.

I've considered this carefully, but I'm not persuaded that Mr E would've insisted on transferring out of the DB scheme, against Quilter's advice. I say this because Mr E was an inexperienced investor with at most a medium attitude to risk and this pension accounted for the majority of Mr E's retirement provision. So, if Quilter had provided him with clear advice against transferring out of the DB scheme, explaining why it wasn't in his best interests, and how he could otherwise meet his objectives I think he would've accepted that advice.

If Quilter had explained that Mr E could meet all of his objectives without risking his guaranteed pension, I think that would've carried significant weight. So, I don't think Mr E would have insisted on transferring out of the DB scheme.

In light of the above, I think Quilter should compensate Mr E for the unsuitable advice, in line with the regulator's rules for calculating redress for non-compliant pension transfer advice.

Putting things right

A fair and reasonable outcome would be for the business to put Mr E, as far as possible, into the position he would now be in but for the unsuitable advice. I consider Mr E would have most likely remained in the occupational pension scheme if suitable advice had been given.

Quilter must therefore undertake a redress calculation in line with the rules for calculating redress for non-compliant pension transfer advice, as detailed in policy statement PS22/13 and set out in the regulator's handbook in DISP App 4:
<https://www.handbook.fca.org.uk/handbook/DISP/App/4/?view=chapter>.

For clarity, Mr E has retired and I'm satisfied that he would have taken the scheme benefits at age 65. So, compensation should be based on him taking benefits at this age.

This calculation should be carried out using the most recent financial assumptions in line with PS22/13 and DISP App 4. In accordance with the regulator's expectations, this should be undertaken or submitted to an appropriate provider promptly following receipt of notification of Mr E's acceptance of the decision.

If the redress calculation demonstrates a loss, as explained in policy statement PS22/13 and set out in DISP App 4, Quilter should:

- calculate and offer Mr E redress as a cash lump sum payment,
- explain to Mr E before starting the redress calculation that:

- their redress will be calculated on the basis that it will be invested prudently (in line with the cautious investment return assumption used in the calculation), and
 - a straightforward way to invest their redress prudently is to use it to augment their DC pension
- offer to calculate how much of any redress Mr E receives could be augmented rather than receiving it all as a cash lump sum,
 - if Mr E accepts Quilter's offer to calculate how much of their redress could be augmented, request the necessary information and not charge Mr E for the calculation, even if he ultimately decides not to have any of their redress augmented,
- and
- take a prudent approach when calculating how much redress could be augmented, given the inherent uncertainty around Mr E's end of year tax position.

Redress paid directly to Mr E as a cash lump sum in respect of a future loss includes compensation in respect of benefits that would otherwise have provided a taxable income. So, in line with DISP App 4.3.31G(3), Quilter may make a notional deduction to allow for income tax that would otherwise have been paid. Mr E's likely income tax rate in retirement is presumed to be 20%. In line with DISP App 4.3.31G(1) this notional reduction may not be applied to any element of lost tax-free cash.

My final decision

For the reasons explained, I uphold the complaint and direct Quilter Financial Planning Solutions Limited to calculate and pay redress as set out above.

Where I uphold a complaint, I can award fair compensation of up to £195,000, plus any interest and/or costs that I consider are appropriate. Where I consider that fair compensation requires payment of an amount that might exceed £195,000, I may recommend that the business pays the balance.

Determination and money award: I uphold this complaint and require Quilter to pay Mr E the compensation amount as set out in the steps above, up to a maximum of £195,000.

Recommendation: If the compensation amount exceeds £195,000, I also recommend that Quilter pays Mr E the balance.

If Mr E accepts this decision, the money award becomes binding on Quilter.

My recommendation would not be binding. Further, it's unlikely that Mr E can accept my decision and go to court to ask for the balance. Mr E may want to consider getting independent legal advice before deciding whether to accept any final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 20 January 2026.

Lorna Goulding
Ombudsman