

The complaint

Mr B has complained about the advice he received from Openwork Limited to transfer two existing pensions to a new arrangement with MetLife.

What happened

In 2015, Mr B received advice from a representative of Openwork to transfer the benefits he held in two existing personal pensions with Zurich and St. James Place ('SJP') to a MetLife Retirement Portfolio ('MRP'). Openwork recommended Mr B take the Secure Capital Option, which meant that the amount he transferred into the MRP, less the initial adviser charge (around £126,000), became the Secure Capital Value ('SCV'), which was guaranteed until his selected retirement age of 66. The MRP also provided the opportunity to 'lock in' growth to increase the SCV.

Openwork assessed Mr B's attitude to risk as 'cautious' and recommended his pension monies should be invested in the MetLife Managed Wealth Portfolio. Mr B accepted the advice and also agreed to take Openwork's ongoing service.

Mr B received contact from Openwork over the years where he was provided with valuations.

In October 2024 Mr B complained about the advice he'd received. He said he was looking to invest in lower risk funds so that his investment didn't fall in value but in real terms the amount he'd invested had decreased. Mr B said he was recommended a costly plan to obtain a guarantee that he didn't want or need. Mr B also didn't think he had received a service in return for the ongoing services charges he'd paid over the years.

Openwork didn't agree the advice Mr B had received was unsuitable for him, as it met his objective of guaranteeing his pension value. It said the cost of taking the Secure Capital Option had been explained and Mr B was happy to pay this to ensure his fund value didn't decrease. Openwork said that Mr B had received the ongoing service he'd paid for which was limited to providing annual valuations, not to provide ongoing advice.

Mr B remained unhappy and referred his complaint to the Financial Ombudsman Service. He said his priority was to maintain the value in real terms as he got closer to needing access. Mr B also said he'd incurred an early exit charge by transferring out of his Zurich pension.

The Investigator considered the complaint and ultimately upheld it. He thought that the advice Mr B had received was unsuitable because he would be paying substantially more for the MRP and he could've simply switched to lower risk investment funds in his existing plans if he wanted to take less risk. The Investigator wasn't persuaded that Mr B had requested that his pension values be guaranteed, or that it was suitable for his risk appetite, bearing in mind his time to retirement and his capacity for loss. He also didn't think the costs of Mr B's existing plans were made available for comparison and the adviser hadn't established the exit charge Mr B would face to transfer out of his Zurich plan.

The Investigator recommended that the value of Mr B's MRP should be compared with the values his previous plans would have achieved if he'd switched to lower risk investments funds and they'd performed in line with a benchmark. If this demonstrated a loss the Investigator recommended this should be paid to Mr B. He also recommended that Openwork should pay Mr B £300 for the distress and inconvenience caused.

The Investigator explained that because Mr B should be compensated for any loss as a consequence of the transfers, this included any additional fees paid for the ongoing service.

Mr B accepted this. Openwork disagreed, maintaining that Mr B's sole objective was to obtain a guarantee that his pension fund value wouldn't reduce, and the recommendation addressed this. Mr B couldn't have achieved this by remaining in his existing pensions. Openwork said the suitability report clearly set out this objective and it explained how much more this would cost Mr B so if this wasn't what he wanted he would've rejected the advice. Openwork pointed to Mr B's complaint letter which it said suggested Mr B still wanted the guarantee.

The Investigator wasn't persuaded to change his opinion. He said he thought Mr B had most likely expressed that he wanted to take less risk so as to limit the potential for losses, rather than explicitly asked for a guarantee. But even if Mr B was interested in guaranteeing his pension funds, Openwork wasn't simply required to transact what Mr B wanted, and he still didn't think the advice was suitable.

As no agreement could be reached, 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 upholding it. I'll explain why.

I've carefully considered what Openwork has said about Mr B's objectives when he approached it for advice. However, I don't think it is likely that Mr B sought advice because he wanted to guarantee the current value of his pension funds. And I don't think that the notes taken by the adviser at the time support this in any event. I think it's more likely than not that the MRP and specifically the Secure Capital Option was introduced to Mr B as a solution to meet his needs, but I'm not persuaded that this recommendation met his retirement needs overall. And moreover, I think he could've achieved his objectives by remaining invested in his existing plans.

I've considered the fact-find completed by the adviser but I don't think this offers much information about Mr B's needs. However, the adviser also completed an 'Additional Information: Realising Pension Benefits Considerations' form and I think this offers more insight into Mr B's initial objectives. I say this because it appears to be a form that the adviser completed by hand during the initial meeting. In the section entitled 'Importance of Full Flexibility', the adviser noted in response to a question about his pension benefits remaining invested:

"[Mr B] is not ready to take his pension benefits now and does want and appreciates continued investment in the stock market will give him the potential for future growth on the fund as he approaches retirement..."

And in response to a question about whether he was happy to take investment risk, it noted:

“[Mr B] is very concerned about investment risk and although he sees it necessary to continue investing he would like some security around the funds.”

Only when a specific question was asked about whether he had considered guaranteeing the original investment, the adviser noted:

“[Mr B] likes the idea of guaranteeing the original investment and is prepared to pay and is comfortable in paying the extra costs associated with this in order to meet his objective of securing the funds at retirement.”

So, it seems to me that Mr B was led towards the idea of guaranteeing his pension value, despite earlier explaining that he understood that he needed to invest his funds in the stock market to achieve future growth. And I think this then became the focus of the recommendation instead of Openwork considering Mr B's wider retirement needs. For example, the fact-find contains no details of what income Mr B thought he would need in retirement, although the recommendation letter refers to an income of £20,000 per year. It doesn't appear that Openwork considered whether this was achievable for Mr B, based on his current provisions.

Although Mr B was contributing to an employer pension scheme, he was only contributing around £32 per month (matched by his employer) and the current value was around £1,000. The pensions with Zurich and SJP had a combined value of around £140,000. The SJP pension wasn't receiving contributions but he was contributing around £380 per month to the Zurich pension. I can't see that Openwork did any analysis to determine whether these provisions were sufficient to meet Mr B's needs in retirement – instead, it appears to have given him the impression in the recommendation letter that he'd built up significant funds and as such, the need to preserve the value was more important than growth. While no analysis has been done, it doesn't seem that these funds alone would be sufficient for Mr B to meet his income needs in retirement, given he was looking to take less risk and particularly if he lived longer than he might have expected to.

Overall, it seems to me that when Mr B approached Openwork for advice, he was still interested in building his retirement funds, and he was prepared to take some risk to achieve this. But when Openwork introduced the idea of a product that guaranteed his pension would never reduce, this appealed to Mr B, much like it would to any consumer. But I think that this came with a significant risk that Mr B's funds wouldn't increase in any meaningful way because in order to do so, it would have to achieve growth above at least the total fees being charged, which amounted to 3.06% (including the ongoing service charge).

Given that Openwork assessed Mr B's attitude to risk as 'cautious' – which I don't think was unreasonable in the circumstances – the likelihood of Mr B's funds consistently achieving growth in excess of 3.06% was unlikely. And I don't think this was made in any way clear to Mr B in the recommendation letter. The letter simply referred to Mr B's new arrangement costing him 1.9% more, but it didn't explain how this compared to his existing arrangements, or how the fees impacted his ability to grow his pension funds.

Ultimately, I don't think the advice to transfer Mr B's existing pensions to the MRP was suitable for him. I think he was most likely interested in reducing the risk his pension was exposed to whilst still providing the opportunity for growth. I think Mr B could've achieved this by remaining in his existing pension schemes, by enacting fund switches at no cost. While Mr B would gain the benefit of a guaranteed pension value by transferring them, I think this came at significant cost which ultimately limited his chance of achieving pension growth. And I don't think Mr B would've accepted the recommendation if he'd truly understood this.

Mr B has also complained about the ongoing service Openwork was supposed to provide him with. But as I'm upholding the complaint and will be requiring Openwork to compensate Mr B on the basis of him having remained in his previous pension schemes, this will put him back into the position as if he hadn't taken the MRP or the ongoing service. So, there is no need for me to consider this further.

I think Mr B has been caused distress and inconvenience as a result of the unsuitable advice he received. He is understandably concerned that his pension hasn't increased in real terms over this time, particularly when taking account of inflation, and worries that this will have an impact on his retirement. I think Openwork should pay him £300 as compensation for this.

Putting things right

My aim is that Mr B should be put as closely as possible into the position he would probably now be in if he had been given suitable advice.

I think Mr B would have remained with his previous providers, but that he would've most likely switched the pension investments to lower risk funds. It isn't possible to say precisely what he would've done, but I'm satisfied what I have set out below is fair and reasonable, given Mr B's circumstances and objectives when he invested.

What must Openwork do?

To compensate Mr B fairly, Openwork must:

- Compare the performance of Mr B's pension with that of the benchmark shown below. If the *fair value* is greater than the *actual value*, there is a loss and compensation is payable. If the *actual value* is greater than the *fair value*, no compensation is payable.
- Openwork should also add any interest set out below to the compensation payable.
- If there is a loss, Openwork should pay into Mr B's pension plan to increase its value by the amount of the compensation and any interest. The amount paid should allow for the effect of charges and any available tax relief. Compensation should not be paid into the pension plan if it would conflict with any existing protection or allowance.
- If Openwork is unable to pay the compensation into Mr B's pension plan, it should pay that amount direct to him. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore, the compensation should be reduced to *notionally* allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount - it isn't a payment of tax to HMRC, so Mr B won't be able to reclaim any of the reduction after compensation is paid.
- The *notional* allowance should be calculated using Mr B's actual or expected marginal rate of tax at his selected retirement age.
- It's reasonable to assume that Mr B is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Mr B would have been able to take a tax free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.

- Openwork should pay Mr B £300 for the distress and inconvenience caused by the unsuitable advice.

Income tax may be payable on any interest paid. If Openwork deducts income tax from the interest, it should tell Mr B how much has been taken off. Openwork should give Mr B a tax deduction certificate in respect of interest if Mr B asks for one, so he can reclaim the tax on interest from HM Revenue & Customs if appropriate.

Portfolio name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
MetLife Retirement Portfolio	Still exists and liquid	For half the investment: FTSE UK Private Investors Income Total Return Index; for the other half: average rate from fixed rate bonds.	Date of pension switch	Date of my final decision	Not applicable

Actual value

This means the actual amount payable from the pension at the end date.

Fair Value

This is what Mr B's pensions would have been worth at the end date had they produced a return using the benchmark.

To arrive at the fair value when using the fixed rate bonds as the benchmark, Openwork should use the monthly average rate for one-year fixed-rate bonds as published by the Bank of England. The rate for each month is that shown as at the end of the previous month. Those rates should be applied to the pension on an annually compounded basis.

Any additional sum paid into the investment should be added to the fair value calculation from the point in time when it was actually paid in.

Any withdrawal from the MRP should be deducted from the fair value calculation at the point it was actually paid so it ceases to accrue any return in the calculation from that point on. If there is a large number of regular payments, to keep calculations simpler, I'll accept if Openwork total all those payments and deduct that figure at the end to determine the fair value instead of deducting periodically.

Openwork must pay the compensation within 28 calendar days of the date on which we tell it Mr B accepts my final decision.

If Openwork fails to pay the compensation by this date, it should pay 8% simple interest per year on the loss, for the period following the deadline to the date of settlement.

Why is this remedy suitable?

I've chosen this method of compensation because:

- Mr B wanted capital growth with a small risk to his capital.

- The average rate for the fixed rate bonds would be a fair measure for someone who wanted to achieve a reasonable return without risk to his capital.
- The FTSE UK Private Investors Income **Total Return** index (prior to 1 March 2017, the FTSE WMA Stock Market Income total return index) is made up of a range of indices with different asset classes, mainly UK equities and government bonds. It's a fair measure for someone who was prepared to take some risk to get a higher return.
- I consider that Mr B's risk profile was in between, in the sense that he was prepared to take a small level of risk to attain his investment objectives. So, the 50/50 combination would reasonably put Mr B into that position. It does not mean that Mr B would have invested 50% of his money in a fixed-rate bond and 50% in some kind of index tracker investment. Rather, I consider this a reasonable compromise that broadly reflects the sort of return Mr B could have obtained from investments suited to his objective and risk attitude.

My final decision

I uphold Mr B's complaint and I require Openwork Limited to pay him compensation as set out above.

Where I uphold a complaint, I can make a money award requiring a financial business to pay compensation of up to £195,000, plus any interest and/or costs that I consider appropriate. If I consider that fair compensation exceeds £195,000, I may recommend that Openwork Limited pays the balance.

Determination and award: I uphold the complaint. I consider that fair compensation should be calculated as set out above. My final decision is that Openwork Limited should pay the amount produced by that calculation up to the maximum of £195,000 plus any interest on that amount as set out above.

Recommendation: If the amount produced by the calculation of fair compensation exceeds £195,000, I recommend that Openwork Limited pays Mr B the balance plus any interest on the balance as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 15 January 2026.

Hannah Wise
Ombudsman