DRN-5856633

The complaint

Mr L complains that the advice WPS Advisory Ltd gave him to stay in his defined benefit occupational pension scheme in 2020 was unsuitable. He considers the advice caused him to suffer a financial loss given the subsequent reduction in the transfer value and the loss of investment growth.

What happened

Mr L's complaint was considered by one of our investigators. He issued his assessment of it to Mr L and WPS Advisory Ltd (WPS) on 19 August 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 L was approaching the scheme retirement age for his defined benefit (DB) pension, and he discussed transferring it with WPS. It was recorded that Mr L was employed and earning around £52,000 per year. His DB pension was due to provide an annual income of £10,188 at age 60, or a lump sum of £34,077 and a reduced annual pension of £6,780.

Mr L had two other DB schemes that were due to provide a total income of approximately £18,700 at age 65. And he had started to contribute to a defined contribution pension scheme with monthly contributions of £1,400, its balance was approximately £6,000. Mr L's wife also had a DB pension scheme which she had been a member of for about 18 years. Mr L had savings of around £30,000. He owned his own home, and the mortgage had been paid off. It was recorded that he was in good health overall.

The investigator said Mr L's retirement objectives were to retire in the next four years, potentially reducing his hours prior to retirement, and that once retired he intended to maintain his lifestyle with longer holidays. It was recorded that he didn't want to take income from the scheme in the short term as he did not need it, and he was already a higher rate taxpayer. It said he liked the idea of having flexible access to income once he retired to help his children move out and supplement his income if required.

WPS advised Mr L to retain his DB scheme and not transfer, as he didn't require any additional income or capital at the time, there was no requirement to take on investment risk and he would benefit from late retirement factors by deferring taking his benefits past the normal retirement age of 60. Mr L followed the adviser's recommendation and did not transfer his pension.

Mr L revisited transferring his pension in 2024. He thought he had been wrongly advised not to transfer in 2020, and the transfer value had subsequently reduced by around £50,000. WPS recommended that Mr L did transfer his DB pension in 2024, which he said demonstrated that the previous advice had been unsuitable. Mr L complained to WPS and subsequently referred the matter to us.

Our investigator didn't think that the complaint should be upheld. He referred to the Financial Conduct Authority's (FCA) Conduct of Business Sourcebook (COBS) rules which provided (COBS 19.1.6), in summary, that where a firm was advising a retail client about a pension transfer it should start by assuming the transfer would not be suitable. And the firm should only then consider a transfer to be suitable if it could clearly demonstrate, on contemporary evidence, that the transfer was in the client's best interests. The investigator said he had therefore considered whether the advice given by WPS had been in Mr L's best interests.

The investigator said that Mr L had no immediate income needs in 2020. And although it was noted that Mr L considered the idea of accessing his pension benefits flexibly appealing, the investigator didn't think Mr L needed that flexibility until he retired. He said Mr L had around four years to build up further benefits in his defined contribution scheme which would be available to provide a flexible source of income when it was needed.

The investigator said he appreciated that Mr L considered he had lost out on the benefit of investing from 2020 to present. However he said at the time of the advice there were no guarantees on investment returns, and any potential losses were only seen with the benefit of hindsight. The investigator said by remaining in the scheme and deferring the decision to transfer or take benefits, Mr L benefitted from yearly revaluations in line with the Retail Prices Index, up to a maximum of 10% per annum. He said as there was no need for income in 2020, he didn't think Mr L needed to take on the investment risk verses the increases his DB scheme was guaranteed to receive.

The investigator said whilst he understood Mr L didn't intend to buy an annuity at retirement, he noted the Transfer Value Comparator (TVC) showed the cost of buying the equivalent level of benefits to the DB scheme was £565,545 – against the transfer value offered of £369,644. The investigator said he thought this showed Mr L would have been financially worse off at that time through transferring, and that significant investment growth would have been required on the transfer value to have matched the benefits the DB scheme was due to provide. He said he thought this was unlikely to be achieved.

In summary, the investigator said he couldn't see any reason to suggest that the transfer was in Mr L's best interests. He said the DB scheme provided a guaranteed level of income to support Mr L's retirement, and there was no identified need for access to any capital. The investigator said if Mr L were to transfer he would be taking on the investment risk and would have been immediately financially worse off when he had no need to access the benefits. The investigator said by deferring the decision Mr L would still have benefitted from increases on the pension and avoided taking on any risks until a decision was required when he retired. So the investigator didn't think WPS had treated Mr L unfairly by recommending that he keep the DB scheme until he came to retire.

Mr L didn't agree with the investigator's findings. He said, in summary, that although the investigator had said he had no immediate need for any income from the Scheme in 2020, that was also the case now. And it didn't support WPS' decision to not give him a positive recommendation - he could have moved to a SIPP and still not accessed the money. He said this is what he was now doing five years later after WPS recommended that he transfer and he had moved his benefits. Mr L said he could also have continued to build up his defined contribution pension scheme which would have happened irrespective of a transfer, and so had no bearing on whether the transfer was the right choice or not.

Mr L said since he had transferred his DB benefits he had benefitted from investment gains (of about 33% in a six-month period) through his own knowledge, and not with the benefit of hindsight. He said one of the reasons he wanted to transfer was that he wanted the benefits to grow faster than RPI and a maximum of 10%, which he felt he could achieve and since had proven so.

Mr L said the decision to wait five years didn't make any sense because he would lose all the growth, and it was always his intention to transfer out as soon as someone would allow him to do so. He said he would also be taking on more risk as he had now retired and had no other income. Mr L said he was in fact worse off as the transfer value was worth £370,000 in 2020 but was only £317,000 when his transfer request was accepted. He asked why if it wasn't a good idea transferring five years ago it was now. WPS had now recommended a transfer yet none of his circumstances had changed, other than having a reduced income and a lower transfer value.

Mr L said the investigator had said talking hypothetically he would have lost £195,900 when compared to buying the same type of benefits. However this wasn't something he was ever going to do. He said no transfer would ever look good when making this comparison, and it would only make sense if someone was actually considering it as an option.

Mr L said the assumption was that he had agreed with the advice and didn't go ahead with the transfer. However he said this wasn't the case, and he had no other choice but to leave the benefits in the original scheme as no one would accept a transfer without a positive recommendation.

The investigator responded to Mr L saying, in summary, that he was only considering the suitability of the advice given in 2020 – not the more recent advice. He said he had based his assessment on the information recorded from the time which was recorded in the fact find and suitability report.

The investigator said the cost of replacing the guaranteed income was £195,900 higher that the transfer value offered. So he said significant growth would have been needed to match the guaranteed benefits of the existing scheme – which gave an indication of the strength of the guaranteed benefits. The investigator said he didn't think Mr L's objectives would have supported a recommendation to transfer, and he didn't think a transfer was in Mr L's best interests.

Mr L didn't accept the investigator's findings. He said, in summary, that it could not be good advice if he was out of pocket by over £200,000 – he said it didn't make sense. Mr L said other work colleagues had tried to transfer and invest in the stock market given returns over the previous five years showed it was the obvious thing to do. And especially given the high transfer values offered. However he said his colleagues encountered the same obstacles as he had.

The investigator responded to say, in summary, that he understood Mr L's comment about being out of pocket by over £200,000, but he said this was only seen with the benefit of knowing what had happened since the advice took place. He explained WPS's role was to review the merits of the transfer in line with the regulator's requirements and guidance, and WPS had determined the transfer was not in Mr L's best interests at the time.

Mr L responded to say that he didn't think it mattered how the matter was dressed up. He said at the end of the day he had was at a considerable financial detriment. He said he thought it was the end result that should be the deciding factor.

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.

In considering the matter I've taken into account any relevant law and regulations, regulator's rules, guidance and standards, codes of practice and what I consider to have been good industry practice at the relevant time.

I'm only considering the complaint about the advice given to transfer in 2020 in this decision. This was in the context of Mr L's circumstances at that time. I haven't considered the subsequent advice given.

Mr L had reached the age where he could have taken benefits from the DB scheme. However he didn't need an income or capital at that time and planned to retire in about four years. I recognise that Mr L says he has lost out as a result of not transferring and this is shown with the significant investment returns he has achieved since he has transferred. However, as the investigator said, these returns are only seen with the benefit of hindsight.

I accept that since he subsequently transferred his DB scheme Mr L has managed to obtain very healthy investment returns to date – he provided evidence showing he had made 33% in a six-month period. However Mr L could equally have lost the same or similar amount. It is not the end result that is the deciding factor in assessing whether advice is suitable/in a client's best interests. Suitability is dependent on a number of interrelating factors that have to be considered in the context of the information that's is available at the time. It's not appropriate to assess whether advice was suitable or not based on the subsequent investment returns actually achieved. On that basis, a firm would never know if the advice it was providing was suitable/appropriate at the time it was being given, as it couldn't know how investments would subsequently perform. Clients or professional investment managers may have their own opinions on future investment returns, but nobody knows for certain - that is the nature of taking 'risk'.

By remaining in the DB scheme the income Mr L was due to receive at retirement date was largely guaranteed. The income that was payable at age 60 was revalued at RPI up to a maximum of 10% in deferment and in retirement. I also understand it benefitted from late retirement increases as Mr L passed age 60.

As the investigator said, given the information available, it would have appeared to be unlikely that Mr L would have managed to obtain returns sufficient enough to match the same value of benefits that would otherwise have been provided by the DB scheme in three to four years' time. So by staying in the scheme Mr L wasn't exposed to any major risks, and would receive a guaranteed income (or be able to transfer the capital value of it) at retirement date.

I accept that transfer values were generally high at the time the advice was given, and this was a factor to consider – in particular if Mr L never intended to take the benefits in the format provided by the DB scheme. However the actual transfer value offered had to be considered in the context of the value of the benefits that would be provided. And a transfer in the context of all Mr L's circumstances at the time. Even if a transfer value offered was quite high relative to that offered at other times, it still has to be considered against the value of the guaranteed benefits that would otherwise have been provided by the DB scheme – even if high at the time, it could still offer poor relative value.

Transfer values have subsequently reduced, and this is a result of the significant reduction in annuity rates, which are dependent on gilt yields and which in turn are influenced by interest rates. Interest rates were at historic lows at the time, and I accept were likely to go up at some point. However the scale of the increase and in such a short space of time due in part to wider world events wasn't generally expected.

The regulator, the FCA, provides firms with rates of growth that they have to use when providing illustrations to clients of what investment returns might be achieved over time when making investments. These were 2,5 and 8% at the time Mr L was advised. So I think the firm would have reasonably assumed expected future returns of around these figures, depending on what level of risk Mr L was willing and able to take.

Like the investigator, taking all the information into account as known at the time and reasonable future expectations, I think it would have been reasonable for the firm to have expected the value of Mr L's benefits at his expected retirement date to have been considerably higher by staying in the DB scheme rather than transferring and investing. And this was without taking any material risks, against having to take significant risks if he transferred and invested to match or improve on what the DB scheme guaranteed to provide. Even if Mr L intended to take benefits flexibly at retirement through a transfer, it would still have been considered likely he would be better off by staying in the DB scheme and considering that option at retirement date. The suitability letter also recorded that Mr L felt uncomfortable with exposing himself to investment risk at that stage, which is indicative of it being suitable for Mr L to stay in the DB scheme.

Taking everything into account, I'm not persuaded WPS' recommendation to stay in the DB scheme was unsuitable in the particular circumstances or that a transfer was in Mr L's best interests at that time.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 19 November 2025.
David Ashley
Ombudsman