

The complaint

Mr P complains that he was misadvised by Liverpool Victoria Financial Services Limited to contract out of the State Earnings Related Pension Scheme (SERPS) and take out an Appropriate Personal Pension (APP) policy.

What happened

Mr P's complaint was considered by one of our investigators. She sent her assessment of it to Mr P and Liverpool Victoria Financial Services Limited (LV) on 26 November 2025. The background and circumstances to the complaint and the reasons why she didn't think it should be upheld were set out in her assessment and are known to both parties, so I won't repeat them all again here. But to summarise, Mr P was advised to contract out of SERPS in 1992. The investigator noted that a fact find was completed at the time which recorded that Mr P was in his mid-twenties, was employed, and he was a member of his company pension scheme which wasn't contracted out of SERPS. The investigator said four rebates were received into the APP totalling £570. Mr P subsequently transferred the plan to another pension provider in 2021 – the amount transferred out was £2,005.

The investigator explained the background to SERPS and the factors that firms took into account in deciding whether it was advisable for a particular client to contract out. She said these included:

- *The “pivotal” age, which was the age when the provider thought it reasonable to assume a consumer would benefit from contracting out – usually thought to be “the younger the better”.*
- *The current salary and whether it met any minimum earnings requirement the provider had set.*
- *The client's attitude to risk (ATR).*
- *Whether there was an Occupational Pension Scheme (OPS) to join.*

The investigator noted that Mr P was a member of his employer's occupational pension scheme and that he remained a member after contracting out. So she said the advice didn't have an impact on his membership.

The investigator said Mr P was in his mid-twenties at the time which was well below the provider's 'pivotal age' (45). She said based on the conservative assumptions used, it was thought in broad terms that men beneath the pivotal age would be better off contracting out of SERPS. So on that basis it would have been thought that it was in Mr P's best interests to contract out.

The investigator said another factor used to determine whether someone was likely to be better off contracting out of SERPS was their earnings. She said Mr P's annual earnings were approximately £14,000. This was above the lower earnings limit which was the amount considered to be sufficient to ensure that rebates forwarded by the government would generally cover the charges of the APP.

The investigator said LV's recommendation was for Mr P's contributions to be invested into

the with-profits fund. She said there wasn't any evidence that Mr P's attitude to risk had been determined in 1992. But she said considering Mr P's age and the amount of time to be invested, she didn't think the fund recommended appeared unreasonable in Mr P's circumstances.

The investigator said LV had a brochure about opting out through an APP and she thought it likely this had been provided to Mr P at the time that he was advised. She said this explained what contracting out with the APP meant, and that it offered no guarantees that contracting out would be better for the client. She said in the late 1980s and early 1990s growth rates were higher than today. And she said at the time it was considered there was a realistic possibility that certain clients would be better off by contracting out.

The investigator noted that Mr P had concerns about the lack of transparency around charges, investment risks and the operation of the with-profits fund. She said exactly what was discussed and what information was given to Mr P at the time was unknown. But she said she thought if Mr P had been given the information about the with-profits fund it was likely he would still have taken the same course of action and contracted out of SERPS, because at the time there appeared to be a realistic possibility he would be better off at retirement by doing so.

Mr P didn't accept the investigator's assessment and raised some further points for consideration.

The investigator responded to say, in summary, that she had explained that she didn't think it was unreasonable for Mr P to have contracted out given the investment landscape at the time and the likelihood he would be better off. She said she appreciated it may not have turned out to be the case, but that she couldn't consider the complaint with the benefit of hindsight.

The investigator said Mr P was in his mid-twenties at the time and with significant time until retirement. So she didn't think it was unreasonable that Mr P took some risk and invested in the with-profits fund given the potential benefits in doing so.

The investigator said there was limited information/documentation from the time of the advice which wasn't unusual given it was from over 30 years ago. She said not having all the point-of-sale documentation didn't automatically mean that the advice was unsuitable. She said she'd explained that exactly what was discussed with Mr P and what information he was given was unknown. But she said it looked likely an APP, invested in the markets, provided a realistic possibility of Mr P improving on the benefits SERPS would have otherwise provided and Mr P would likely have made the same decision in any event.

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 for the same reasons.

As the investigator explained, when the government decided to allow individuals to contract out of SERPS incentives were offered to encourage them to do so. No guidance was given on who should be advised to remain in SERPS or on the type of person it was expected that contracting out would be beneficial for. So, pension provider's actuaries carried out comparisons of the projected benefits from SERPS with those from alternative personal pension arrangements, based on "conservative" assumptions of future investment returns.

Again, as explained by the investigator, given Mr P's age and level of earnings it was considered at the time that he would likely be better off by contracting out of SERPS. But there was no guarantee, as this would depend amongst other things on the growth achieved by the funds in which the pension was invested and the rates available at retirement for converting the pension fund into an annuity.

Mr P has said the investigator's findings assume, without evidence, that he was given clear information about charges, investment risk, the with-profits structure and the impact on state pension benefits. He said the investigator's findings don't really engage with whether the advice was suitable at the time for a 25-year-old, on a modest income, who already had a good company pension scheme.

As the investigator said, the advice was given over 30 years ago and there is limited documentation available from the time. However Mr P's company pension scheme was contracted in, and so Mr P could contract out through an APP without affecting his membership of the company scheme. And contracting out wasn't considered controversial at that time; the government was encouraging it where it was considered likely to be in an individual's best interests.

Clearly I cannot determine with any reasonable degree of certainty exactly what was discussed with Mr P and what information he was given at the time. Although whether or not someone would be better off at retirement was subject to a degree of risk, that risk wasn't considered to be significant where individuals met the age and salary criteria. So even taking the charges and risks into account, the information that would have been provided to Mr P at the time would likely have shown he would obtain higher pension benefits by contracting out. So I can't see any reason why the adviser wouldn't have provided the relevant information to Mr P at the time.

Mr P had a long time until retirement and, generally speaking, his circumstances meant he was in a position to take some risk. I haven't seen any persuasive evidence that Mr P wasn't willing to take *any* risk. And as has been said, given Mr P's age and earnings, at the time it would have appeared likely that Mr P would improve on the benefits that would otherwise have been provided by SERPS by contracting out.

So taking all the above into account, I don't think that contracting out was unsuitable for Mr P given his particular circumstances at the time.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 27 January 2026.

David Ashley
Ombudsman