

The complaint

Mr L complains about the advice he received from JLT Wealth Management Limited to transfer his defined benefit occupational pension (DB) scheme to a personal pension. He says there were flaws in the process the adviser followed and that it wasn't fair to consider him an insistent client. Mr L says he suffered a financial loss as a result of the transfer.

What happened

Mr L's complaint was considered by one of our investigators. He sent his assessment of it to Mr L (through his representative) and JLT Wealth Management Limited (JLT) on 28 November 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 here. But in summary, Mr L received a letter from his DB pension scheme offering an opportunity to transfer his pension on enhanced terms. He could either increase the Cash Equivalent Transfer Value (CETV) by £7,312, or receive a cash payment of £5,704 paid to him directly. The letter referred Mr L to Alexander Forbes Financial Services (who were subsequently acquired by JLT – I'll refer to them as JLT through the remainder of the decision for ease) for advice on the matter, which he wouldn't be charged for.

Mr L discussed the offer with JLT in February 2010. Documentation from the time recorded that Mr L wasn't married and had no dependents. He wasn't contributing to a pension and had no other provision for his retirement. Mr L's income was about £4,940 per annum. An assessment of Mr L's attitude to risk determined he was risk averse and he would prefer to take no real risk of either investment loss or gain. And it was recorded that Mr L wanted to take the additional cash lump sum on offer to buy a car and for home improvements.

A suitability report dated 26 March 2010 recommended that Mr L remain with his DB scheme. This was based on the critical yields and whether they were achievable at the scheme's normal retirement date.

Mr L and the adviser spoke on the phone on 19 April 2010. Notes recorded "*Member received red advice and wanted to know next steps. Informed member our advice was for him to remain in the existing pension plan*".

A further call was made on 21 April 2010 where Mr L requested the transfer paperwork. The adviser followed this with a letter dated 23 April 2010. This letter reiterated the position that the firm's advice was that it was not in Mr L's best interests to transfer his benefits away from the DB scheme. But it went on to say that Mr L had informed it that he wanted to transfer against this advice. It listed important information Mr L should consider before finalising his decision and invited him to contact the adviser if he didn't understand.

The investigator said it wasn't clear where the adviser had recommended that Mr L invest the transferred sum. But he noted the application form said the investments selected were:

- SL Investments Strategic Bond One (50%)
- BG Over 5 Years index-linked GILT (30%)
- SL Investments higher income (20%)

A further letter dated 6 May 2010 confirmed receipt of the pension application forms. It went onto say:

“Having decided not to follow our advice, and transfer away from the [name of OPS], your retirement benefits may be dramatically reduced should your chosen funds not produce the level of growth required to meet your Critical Yield from the date of transfer until your retirement date”.

The pension was transferred and Mr L received the cash incentive.

Mr L subsequently complained to JLT, via his representative, in April 2025. JLT didn't uphold Mr L's complaint about the transfer itself. It said it had advised Mr L not to transfer, but he had wanted to transfer against its advice and had proceeded as an insistent customer. However it also said it thought Mr L hadn't been invested in funds that were aligned to his attitude to risk, and so it offered to calculate whether Mr L had suffered a financial loss on that basis. Mr L didn't accept the offer and subsequently referred his complaint to us.

Our investigator didn't recommend that Mr L's complaint should be upheld. He noted the investment return (critical yield) required to match the DB pension at retirement at age 65 was around 8.8% (given Mr L intended taking the incentive payment as cash). He said the relevant discount rate was 5.8% per year for nine years to retirement. And that the regulator's upper projection rate at the time was 9%, the middle projection 7%, and the lower projection rate 5% per year. The investigator said Mr L had no significant assets or anticipated sources of income in retirement (other than any state pension). And in his view Mr L had no capacity to absorb any losses. The investigator said he thought Mr L was likely to receive benefits of a materially lower overall value than the DB scheme at retirement as a result of the transfer. And that based on these factors alone, he didn't think a transfer was in Mr L's best interests, albeit he recognised Mr L had been advised not to transfer but had decided to go against that advice.

The investigator said at the time of the advice given here, there was no specific regulatory advice or guidance in place in respect of insistent clients. But there were Conduct of Business Sourcebook ('COBS') rules in the regulator's Handbook which required the adviser to 'act honestly, fairly and professionally in accordance with the best interests of its client'. In addition, COBS required the adviser to provide information that was clear, fair and not misleading. So, the adviser's recommendation had to be clear, and Mr L had to have understood the consequences of going against the recommendation not to transfer.

The investigator said that he thought the suitability report was clear that the adviser was recommending against transferring. He said the report provided details of the DB scheme benefits at 65, and the guaranteed benefits Mr L would be entitled to in retirement. The adviser highlighted that the critical yields, for both taking the cash incentive or the increased CETV, meant it was unlikely Mr L would match the benefits of the DB scheme, which was the main reason for recommending against transferring. The investigator also said the suitability report didn't give an option to go against the advice, and it was a few weeks after that this option was discussed.

However the investigator went onto say that he didn't think the suitability report had commented on the reasons why Mr L wanted the cash offer, or if there were any alternative ways to achieve his objective. He said whilst there was no evidence to suggest there was another way to raise the money, he thought the adviser should've looked closer at why Mr L wanted the cash and ensure the reasons to stay with the scheme were clear. The investigator also said Mr L was told he would be charged if he wanted information about the early retirement options. But he said he thought providing this information to Mr L and

assessing this option was a necessary component for the advice to be clear, fair and not misleading.

The investigator said Mr L had a call with the adviser a few weeks after the initial advice. He said it was unclear what was discussed in the call other than the adviser reiterating the position that the advice was to remain with the DB scheme. He said the call notes didn't mention who initiated the idea that Mr L could proceed as an insistent client or if the adviser checked in enough detail that Mr L understood what this meant. The investigator said the insistent client letter listed important information and invited Mr L to let the adviser know if he didn't understand. But the investigator said he didn't think these measures went far enough for him to find the adviser treated Mr L fairly throughout the process – he thought there were shortcomings in the advice process and how Mr L was treated as an insistent client.

Overall however, the investigator said he thought Mr L had been made aware of the guaranteed benefits he was giving up and that even with the cash incentive he would likely be worse off in retirement. He said it wasn't until a few weeks after the initial advice that Mr L then had another conversation with JLT to discuss the matter and what the next steps would be, suggesting he was still interested in the option of transferring for the cash incentive.

The investigator said he thought the cash incentive was an attractive amount compared to the size of Mr L's pension. And he said given Mr L wasn't married and had no dependants, other features of the DB scheme, such as the death benefits, would likely have been less important to him. Taking all this into account, the investigator thought even if the adviser had done everything he should have done, Mr L would still likely have transferred. And he didn't think the firm was wrong to allow Mr L to be treated as an insistent client.

The investigator noted that JLT considered Mr L's investments weren't in line with his attitude to risk and had made an offer to put this right – albeit hadn't specified what investments it would make a comparison against. The investigator went on to outline how he thought the comparison should be calculated.

Mr L's representative didn't agree with the investigator's assessment. It said the investigator had acknowledged shortcomings in the advice process but had then dismissed its impact. It said the conclusion that Mr L would have proceeded with the transfer regardless was speculative and ignored the fact the DB scheme provided early retirement options, allowed members to retire early from age 55 subject to actuarial reduction and this could have met Mr L's needs without exposing him to unnecessary risk. It said JLT hadn't explained this option and so Mr L couldn't make an informed decision about it – it had breached the COBS requirements to provide information that was clear fair and not misleading. It said this not a minor shortcoming and was at the heart of whether the advice process was fit for purpose.

The representative said given Mr L had no other significant assets, no capacity for loss and a very low attitude to risk, he should never have been steered towards the transfer incentive without being firstly shown how the scheme itself could have provided early access to benefits.

The representative said the investigator had also noted that Mr L was unmarried and had no dependants, and had suggested that death benefits under the DB scheme would have been less important to him. The representative said this was flawed reasoning as the primary purpose of a pension was to provide a retirement income for the individual, not for family members. It said this shouldn't be used to diminish the value of the guaranteed lifetime pension Mr L was entitled to and giving up.

The representative said the investigator had concluded that Mr L would still have gone

ahead with a transfer despite failings in the advice process. It said this was conjecture. It said Mr L subsequently bought an annuity, suggesting he valued security. It said if early retirement options had been explained, it was reasonable to argue that Mr L would have remained in the scheme, accessing reduced but guaranteed benefits rather than exposing himself to investment risk.

The representative said it agreed the firm should carry out a calculation to determine any investment loss. However, it also said it thought the losses arising from the transfer itself should be included in any redress, as these flowed directly from JLT's failure to properly consider early retirement and the guaranteed benefits Mr L gave up.

The investigator responded to the representative to say that although he had considered its comments he still thought his assessment was fair. He said, in summary, that although we firstly considered whether there had been any failings by the firm we went on to consider what difference those failings made to the end result. He said he hadn't dismissed the impact of the firm's failings. But he thought on the balance of the evidence available, Mr L would still likely have gone ahead with a transfer irrespective of them.

The investigator agreed there was little information about Mr L's immediate options under the scheme. But he said it was important to consider that taking benefits early resulted in an actuarial deduction. The investigator said the incentive gave Mr L around £5,000 immediately, leaving the pension so Mr L could take more tax-free cash when he wanted to access his pension. The investigator said from what he could see Mr L wasn't ready to take his benefits – he was obtaining advice because of the incentive. The investigator said overall, whilst he accepted Mr L valued security based on his attitude to risk and that he subsequently bought an annuity, he still thought, on balance, that Mr L valued the £5,000 incentive he would get by transferring the pension and he didn't think he would have made a different decision in all the circumstances.

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 reaching my conclusions 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.

As the investigator explained, the firm advised Mr L not to transfer. This advice was repeated in a number of communications with Mr L, and Mr L was told the firm didn't think transferring was in his best interests. So I think the firm made it clear to Mr L that its advice was not to transfer.

However as the investigator said, the transfer was arranged on an insistent client basis. And the firm was obliged to meet the requirements set out by the FCA in handling pension transfer business which included, amongst other things, to provide information that was clear, fair and not misleading and to act in Mr L's best interests.

Like the investigator and Mr L's representative, I think there were shortcomings in the advice/insistent client process. And in particular surrounding what information and advice Mr L had been given about what income and tax free-cash he could obtain from the DB scheme by taking early retirement from it at that time. This would have been required to enable Mr L to make an informed decision about a transfer.

However, ultimately, even though the firm didn't meet the requirement to provide clear, fair and not misleading information (in effect by omission), I still need to decide whether that failing caused Mr L to make a decision he would otherwise not have made; the key question was what Mr L would likely have done if JLT had met its regulatory duties and responsibilities.

Like the investigator, I think one of the key factors here is the amount of pension Mr L had built up in the scheme. It was estimated to provide an income of £2,534, or tax-free cash of £10,995 and a reduced income of around £1,649 at the DB scheme's normal retirement date – around 10 years later. The transfer value offered with Mr L taking the incentive as a cash sum was just over £22,000. So by taking the cash incentive of £5,704, Mr L would have effectively been able to obtain about the same level of tax-free cash in 2010 (if he also chose to take the tax-free cash payable following the transfer) as was due to him 10 years later.

I accept that this was at the risk of a likely lower pension income at age 65. But that was a very modest starting pension of £1,649. I recognise the amount needs to be considered in the appropriate context, and relative to Mr L's income at the time which was also modest. But it wasn't a level of income Mr L would likely have been able to rely on solely to maintain his standard of living in retirement. And I think given how the cash incentive offered in 2010 would have appeared relative to Mr L's then income and the modest level of benefits payable at age 65, I think it would have appeared very attractive to Mr L.

As has been explained above, JLT didn't provide figures showing what Mr L could have taken from the OPS if he'd taken benefits from it at the time he was advised. But they would have been significantly below the tax-free cash and income payable at age 65. If Mr L had taken benefits from the OPS he wouldn't have been eligible for the cash incentive. I accept that, actuarially speaking and given the critical yields and Mr L's low risk preference, it was likely Mr L's pension income would be lower following a transfer (albeit at the time he may have been envisaged he'd arrange a single life pension which could pay more than a joint life per pound purchasing price). But given the amounts involved, I think the cash incentive would have appeared very attractive relative to the benefits at age 65 and in particular the level of income (or if taken from the scheme at that time).

I accept that Mr L used the cash incentive to buy a car and for home improvements - so he used the money on items that were 'nice to have' and it doesn't appear he needed that cash incentive for urgent essential expenditure. But I think this has to be considered in the context of the particular circumstances of the case. The 'benefit' or 'enjoyment' he got from spending the cash incentive has to be weighed up against the very modest level of benefits otherwise provided by the DB scheme and in particular the income payable. I think a reasonable person, weighing up the benefit that each could provide and when, could reasonably decide that the cash incentive and the benefits bought at the time outweighed the benefits that the DB scheme could otherwise provide and when knowing all the facts.

Taking all the above into account and, as I've said, in the context that that in my opinion the cash incentive would have appeared very attractive to Mr L in the particular circumstances, I think Mr L would more likely than not have transferred irrespective of the failings in the advice/insistent customer process. I think he was likely a genuine insistent client and it was reasonable for the firm to process the transfer on that basis.

JLT considered that the funds that Mr L was invested in weren't aligned to his attitude to investment risk. As the investigator said, Mr L was risk averse, and there were some lower risk funds available that were more appropriately aligned than the funds selected. So I think the firm's offer to calculate whether Mr L suffered a loss as a result of being invested in a combination of inappropriate funds is fair in the particular circumstances of the case.

My final decision

My final decision is that JLT Wealth Management Limited should calculate whether Mr L has suffered an investment loss and pay any compensation that is due to Mr L as follows.

To compensate Mr L fairly JLT Wealth Management Limited should:

- Compare the performance of Mr L's investment 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.
- JLT Wealth Management Limited should also add any interest set out below to the compensation payable.
- Mr L has bought an annuity. So if there is a loss, JLT Wealth Management Limited should pay the amount calculated direct to Mr L. Had it been possible to pay into the pension 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.
- Mr L is likely to be a basic rate taxpayer in retirement, so the reduction should equal 20%. However, if Mr L 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%.
- JLT Wealth Management Limited should provide details of the calculation to Mr L in a clear, simple format.
- Income tax may be payable on any interest paid. If JLT considers that its required by HM Revenue & Customs to deduct income tax from any interest, it should tell Mr L how much has been taken off. JLT Wealth Management Limited should also give Mr L a tax deduction certificate in respect of interest if Mr L asks for one, so he can reclaim the tax on interest from HM Revenue & Customs if appropriate.

| investment | Benchmark | from ("start date") | to ("end date") | additional interest |
|------------------|------------------------------------|------------------------|-----------------------------|---|
| Personal pension | Average rate from fixed rate bonds | Date of investment | Date Mr L bought an annuity | 8% simple a year on any loss calculated as at the date Mr L bought an annuity until the date of settlement. |

Actual value

This means the actual amount paid from the investment at the end date – I think the appropriate end date here is the date that Mr L bought an annuity.

Fair value

This is what the investment would have been worth at the end date had it produced a return using the benchmark.

Mr L went onto buy an annuity, so I think for pragmatic purposes and given the modest amounts involved, it would be appropriate for JLT to calculate any difference in the capital values and if compensation is due to Mr L to pay this as a capital sum, taking any tax-free cash and income tax payable on it into account as explained above.

To arrive at the fair value when using the fixed rate bonds as the benchmark, JLT 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. JLT should apply those rates to the investment 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 personal pension should be deducted from the fair value calculation at the point it was actually paid so it ceased to accrue any return in the calculation from that point on. If there were a large number of regular payments, to keep calculations simpler, I'll accept if JLT totalled all those payments and deducted that figure at the end to determine the fair value instead of deducting periodically.

Why is this remedy suitable?

I've chosen this method of compensation because:

- Mr L wanted to achieve a return without risking his capital.
- The average rate for the fixed rate bonds would be a fair measure given Mr L's circumstances and objectives. It doesn't mean that Mr L would have invested only in a fixed rate bond. It's the sort of investment return a consumer could have obtained with little risk to their capital.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 10 March 2026.

David Ashley
Ombudsman