

The complaint

Mr H complains that he was given unsuitable advice by Pension Income Planning Limited ('PIP') to transfer his defined benefit ('DB') pension and an existing personal pension to a new flexi-access drawdown plan.

What happened

Mr H had deferred benefits in a DB scheme with a transfer value of around £124,000 and a personal pension worth around £14,200. In 2016 he discussed his pensions with PIP as he was approaching age 55. Documents from the time show that Mr H was interested in releasing £30,000 from his pensions in order to pay off debts totalling around £23,000. £16,800 of this was credit card debt with the remainder being an overdraft and two smaller loans. He also was looking to use some of the funds to pay for his upcoming wedding.

Mr H's representatives mentioned that he was looking for money to use for cosmetic repairs to his property which had previously been rented out. PIP subsequently said these were essential repairs. I note that none of this was recorded at the time in the fact find or suitability report.

Mr H was advised to transfer both his DB pension and his personal pension to a new plan, take his tax-free cash lump sum and invest the remainder in a drawdown plan in a balanced portfolio.

Mr H, through representatives, complained that the advice he received was unsuitable. PIP rejected the complaint and also thought the complaint had been raised too late.

The complaint was then referred to us. One of our investigators found that the complaint had been raised within the regulator's time limits. The complaint was raised more than six years ago. However, Mr H said he only became aware there might have been a problem with the advice when he saw an advert about mis-sold pensions in March 2024. The investigator didn't consider Mr H reasonably should have had cause for complaint before that.

The investigator then considered the complaint and found that the advice had been unsuitable. He thought that Mr H was likely going to be financially worse off in retirement by transferring and that there were no compelling reasons why it was in Mr H's best interest to transfer and access a lump sum immediately. He also considered there was no need to transfer his personal pension which had some guaranteed growth rates attached to it. The investigator pointed out that Mr H and his future wife had annual disposable income of over £13,000 (about a third of their joint net income) which could have been used to increase debt repayments and save towards a wedding and/or home improvements.

PIP disagreed and explained that Mr H's goals and objectives were discussed in detail and Mr H wanted to repay his debts and free up more disposable income improving his current situation. They said he wasn't prepared to have no spare cash after serving his debts and paying his bills. He wouldn't have wanted to use the disposable income he did have on paying even more towards his debts or taking a long time to save up for his wedding. And if he hadn't accessed his pensions, he very likely would have taken on even more debt to pay

for his wedding. According to PIP, Mr H did not believe £1,000 a month after all bills and servicing debts was enough to save. And working just to pay off his debts was described by Mr H as 'a grind'.

The investigator didn't change his mind so the complaint was passed to me for an ombudsman's decision. I issued a provisional decision agreeing with the investigator that the complaint had been raised in time. I also upheld the complaint however I adapted the compensation slightly and gave both parties further opportunity to comment.

Mr H accepted my decision. PIP disagreed and made further comments which I have considered.

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.

Time limits

PIP's response to my provisional decision focused on their disagreement that Mr H had raised his complaint within the regulator's time limits set out in DISP 2.8.2 (2) R.

Mr H complained in July 2024 about advice given in 2016, so there is no dispute Mr H raised his complaint more than six years after the advice. The relevant consideration here is whether he was aware or ought to have reasonably been aware that he had cause for complaint more than three years before he raised his complaint, so before July 2021.

Mr H said that he had become aware that there might be an issue with the advice he received when he saw an advert about pension mis-sale in early 2024 which stated transferring from final salary pensions may not have been in people's best interest and suggested a possible mis-sale if someone had already transferred. He then contacted his professional representative who raised a complaint on his behalf. Mr H said he didn't have any concerns about the transfer before this.

PIP says relying on this testimony is not enough. Mr H had ongoing access to information about his pension, including policy documents, annual statements and investment performance information. They thought this would have been sufficient to place Mr H on notice well before 2024 if there were grounds for concern.

I have no reason or contrary evidence to doubt Mr H's testimony about when he did become aware the transfer advice he received might have been flawed. However, I completely agree with PIP that it isn't enough to rely on when considering whether he *reasonably ought to have been aware* about cause for complaint earlier than this.

The investigator did consider whether any information provided to Mr H after the advice about his new pension and its performance ought to have reasonably raised concerns about the advice he received in 2016. PIP had argued that Mr H was given information about the DB benefits he gave up and he could have compared this with valuations and projections from his new plan. However, the investigator explained that Mr H was told from the outset that accessing a lump sum at age 55 would reduce his retirement income in future. So in his view Mr H reasonably would have expected lower income projections and so this in itself wouldn't reasonably have caused him concerns. And I agree with the investigator here. The suitability report clearly shows possible significant differences in income between the DB pension and projections in his new plan at age 65 and as I said in my provisional findings I consider Mr H likely would have understood he was giving up income in retirement in order

to receive an immediate lump sum.

The investigator did request the annual statements from Mr H's pension (between 2016 and 2021) which were shared with PIP. I can see that statements over these years showed Mr H could buy an annuity (actual annuity rates at the time) with his fund of sums between around £3,080 to £4,250 per year. And he was still several years away from age 65 at these points. This compared to around £5,000 annual income in the DB scheme after tax free cash (which Mr H had already received 10 years earlier than in the DB scheme). And the annuity figures he was shown in those statements were actually higher than what he was told he might expect in the suitability report.

PIP have not pointed to anything else or any other point in time at which Mr H reasonably should have realised something might have been wrong with the advice in 2016. Based on the evidence I have seen I'm not persuaded that he ought to have reasonably been aware more than three years before he complained that he had cause for complaint. So I remain satisfied I can consider Mr H's complaint.

Transfer advice

PIP said they disagreed with my findings about the suitability of the advice but didn't provide any more specific new comments or evidence. So I see no reason to depart from my provisional findings which I repeat again below.

I don't think there is a dispute that by transferring his pensions and taking a lump sum at 55 Mr H would most likely be worse off financially in retirement. There has been some argument about Mr H preferring a lump sum going to his future wife if he died rather than a spouse's pension from the DB scheme. However, I think the value of a guaranteed spouse's pension was underplayed and there was a risk that by the time Mr H died there wouldn't be a large sum left in the pension to provide significant benefits to his wife. So I don't think this was a reasonable basis to transfer the DB pension.

As I see it the key point here in dispute and for me to decide is whether it was suitable advice to allow Mr H to improve his financial situation in the short to medium term by giving up more income and guaranteed benefits in retirement.

I have no doubt that Mr H was attracted to the idea to use money from his pension to pay off all his unsecured debt which would significantly increase his disposable income and allow him to pay for his wedding. Based on the documents I have seen I also think he would have understood that he would have a lower pension in retirement as a result. However, PIP had to do more than just execute what Mr H might have seen as a good idea. They needed to act in his best interest. What I'm most concerned about is that there wasn't enough focus on what the couple's retirement might look like if he transferred. It was simply accepted that Mr H and his wife only really needed their state pensions in retirement (around £16,000 between them) giving the impression any money they did have in the personal pension at retirement wasn't needed as such but could be used for any non-essential spending. Consumers do often underestimate and might not have properly thought about what they might need in later years. It was PIP's role to challenge and fully explore Mr H's income requirements which I can't see happened here.

The low income requirements in retirement were based on Mr H moving abroad in retirement and he considered living costs there would be lower than in the UK. However, whilst it was recorded at the time that this was something Mr H might have wanted to do, it was also noted there were no concrete plans in place. Mr H was still at least 10 years away from retirement. So I don't think it was reasonable to base retirement income needs on this scenario without showing Mr H what his retirement might look like if his plan changed or he

needed more funds.

I'm also concerned that on the one hand having over £13,000 in disposable income wasn't deemed enough for Mr H to have a reasonable lifestyle (and I note that £150 for leisure costs per month and annual costs of £3,000 for holidays) had already been accounted for in his expenditure before this. However, it was accepted that the couple would have no issue with having only £16,000 between them with potentially a bit of a top up through the personal pension. I don't think this was properly challenged and considered.

Mr H was looking to retire at 65. His state pension would only start at 67 and his wife's three years after that. So at the very least £16,000 would have to be taken from the personal pension for two years and another £8,000 per year for a further three years just to give them the absolute minimum. Realistically and for the reasons mentioned above I think they would likely draw more from the pension in those early years. This in turn would likely leave them with modest funds to top up any state pension payments and if they took further lump sums it was a realistic possibility they would run out of these funds within their lifetime.

I accept Mr H's focus might have been on his current situation and worry less about his retirement needs later in life. This isn't unusual for many consumers. However, it was PIP's obligation here to act in the client's best interest and ensure he wasn't unnecessarily risking being in a very difficult financial situation in retirement.

I'm not saying that sacrificing a higher income in retirement cannot be suitable in some circumstances. However, I consider a transfer here significantly risked Mr H's income security in retirement and that of his future wife who other than her own state pension had absolutely no other retirement provisions and therefore was reliant on Mr H's pension. I don't consider Mr H's situation here justified this risk. I accept that he wanted a lump sum for his wedding and liked the idea of more disposable income, however I consider leaving his DB pension intact which would have secured a guaranteed pension of over £7,000 a year (or a lump sum of around £34,000 and an annual income of around £5,000 per year) and using his personal pension instead to alleviate some of his immediate concerns would have been more prudent here.

Mr H could have taken his personal pension funds as a lump sum which after tax on 75% of the funds would have roughly given him around £12,000. This would have likely allowed him to pay for his wedding, some home improvements and possibly even pay off some of the smaller loans and overdraft. It wouldn't have left him debt free, however he did have substantial disposable income and so I consider the debts were likely manageable. If he really still had debts at retirement age, much of it could have been cleared with a lump sum from his DB scheme if really needed.

Overall, I consider if PIP had properly explained that he would significantly risk his retirement security by transferring his DB scheme and that using only his personal pension at the time to release cash was in his best interest, I think on balance he would have listened to his adviser.

Putting things right

A fair and reasonable outcome would be for PIP to put Mr H as far as possible into the position he would now be in but for the unsuitable advice. I consider he would have likely remained in the DB scheme, but would have taken his personal pension as a lump sum.

DB scheme

Mr H should 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. Compensation should be based on the DB scheme's normal retirement age of 65.

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, the calculation should be undertaken or submitted to an appropriate provider promptly following receipt of notification of Mr H's acceptance.

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

- calculate and offer Mr H's redress as a cash lump sum payment,
- explain to Mr H before starting the redress calculation that:
 - 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 the redress prudently is to use it to augment the current defined contribution pension
- offer to calculate how much of any redress Mr H receives could be used to augment the pension rather than receiving it all as a cash lump sum,
- if Mr H accepts PIP's offer to calculate how much of the redress could be augmented, request the necessary information and not charge Mr H for the calculation, even if he ultimately decides not to have any of the redress augmented, and
- take a prudent approach when calculating how much redress could be augmented, given the inherent uncertainty around Mr H's end of year tax position.

Redress paid directly to Mr H 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), PIP may make a notional deduction to allow for income tax that would otherwise have been paid. Mr H 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.

Personal pension

PIP should work out how much the funds Mr H transferred from his previous personal pension in 2016 are worth on the date of this final decision. Any withdrawals from the pension after tax free cash was taken in 2016 (proportionate to the funds transferred in from the personal pension) can be added to this figure.

This should be compared with how much Mr H would have received in cash (after tax free cash) if he had taken his personal pension as a lump sum in 2016. If Mr H's current pension which derives from the personal pension transfer is worth more than what he would have received in 2016, then any gain can be deducted from any calculated loss for the DB transfer. If it's worth less, then the losses should be added to the DB losses.

My final decision

I uphold Mr H's complaint and require Pension Income Planning Limited to calculate any financial losses as set out above and compensate Mr H accordingly.

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

Nina Walter
Ombudsman