

The complaint

Mr W complains the advice he received from Hills Insurance Services Ltd trading as Hills Financial Planning (HFP) to transfer his Occupational Pension Scheme (OPS) to a personal pension was unsuitable. This complaint relates to the advice given in April 2017. Under a separate complaint reference I have also considered the June 2017 advice relating to another pension transfer.

What happened

I set out the background to this complaint and my provisional findings, in a provisional decision. This is included below and forms part of this decision:

'In February 2017, Mr W approached an HFP adviser about accessing benefits from a particular OPS. Mr W wanted to access a tax-free cash lump sum to help pay off his mortgage and other debt which was costing him £550 per month to service.

HFP requested information from Mr W's scheme administrator which they received on 15 February 2017. When HFP met with Mr W, he confirmed he had recently been made redundant after working in factories for more than 30 years and explained he didn't want to return to work if possible.

HFP gathered further information about Mr W's personal circumstances and financial goals and analysed his answers in the context of his OPS benefits. HFP provided Mr W with their recommendation to transfer on 28 April 2017.

Mr W agreed to transfer his OPS to a Royal London personal pension and the transfer completed on 4 May 2017. Mr W received his 25% tax-free cash lump sum payment of £105,833.63 from Royal London on 24 May 2017.

On 4 July 2024, Mr W raised a complaint with HFP via representatives as he believed he had received unsuitable advice and had lost out financially as a result. HFP responded to Mr W's complaint on 29 July 2024 and, as Mr W was unhappy with their response, he referred the complaint to our service for investigation.

At the time of advice, Mr W says he was struggling with a gambling addiction and wished to access his tax-free cash in order to fund his habit and pay off his debts. Mr W feels that by recommending the transfer, HFP have failed to treat him with due care as a vulnerable person.

Mr W says HFP did not give sufficient consideration to the alternatives available to achieve his goals and recommended a course of action that wasn't in his best interests. Mr W was told his pension would perform better in the receiving scheme, but his pension was exposed to market conditions and risks not associated with remaining in the OPS. Mr W was an inexperienced investor who had very little financial knowledge and a cautious attitude to risk meaning he had no appetite to risk his pension income.

At the point of advice, the evidence suggests Mr W:

- Was 52 years old.
- Had no life shortening health conditions.
- Was married.
- Had no dependents.
- Was unemployed having recently been made redundant from his job.
- Had no income.
- Intended to not return to work.
- Had a joint mortgage on his primary residence with £82,000 outstanding.
- Had an annual household expenditure of £46,704.
- Had another final salary pension scheme offering an anticipated pension of £16,957 per annum at age 65.
- Had a cautious attitude to risk.
- Had no previous experience with investments.
- Had around £20,000 of debt.

The details of the OPS were as follows:

- Had a normal retirement date in July 2024 at age 60.
- Offered a cash equivalent transfer value (CETV) of £431,424.00.
- Provided a projected guaranteed income at age 60 of £20,182 per annum.
- Offered early retirement age 50 which could be protected if buddy transferred but subject to reduction by an early retirement factor.
- Offered immediate benefits at age 53 of £9,606 per annum.
- Excess over GMP increased each April in line with RPI up to a maximum of 5% per annum.
- Included a 5-year guarantee period.
- Would pay 50% as a spouse's income on death in retirement.

The proposed receiving scheme recommendation and details were as follows:

- Transfer the OPS to a flexi-access drawdown plan with Royal London.
- Withdraw £107,856.00 as a tax-free payment commencement lump sum.
- Invest 100% of the remaining funds in the Royal London Governed Portfolio 3 which carried a cautious risk rating.
- Pay 0.4% per annum as an annual management charge.

The charges associated with the advice were:

- *1.9% of the fund value initial advice fee amounting to £7,765.63.*
- *0.9% of the fund value annual fee for ongoing advice and servicing.*

Our investigator looked into matters but didn't recommend the complaint be upheld. He said that transferring was the only option that met Mr W's objectives of allowing him not to go back to work and meet his debt. At the time Mr W had the security of another final salary pension scheme and he had not disclosed to HFP about his gambling addiction and he didn't think further questioning would have uncovered it.

Mr W's representatives disagreed and said in summary:

- *The transfer wasn't viable with such a large critical yield*
- *Regulatory framework requires advisers to consider a customer's long-term interests. Alternatives for achieving Mr W's means weren't adequately considered, such as borrowing money from family, debt restructuring, remortgaging short-term borrowing or re-employment. These could have helped meet his short term needs without sacrificing valuable guaranteed benefits.*
- *The transfer value was less than the value of taking benefits immediately from the scheme.*
- *Mr W says he did disclose his gambling addiction to HFP.*
- *The recommendation did not take account of his vulnerability, the disclosure of his gambling addiction or long term implications of giving up guaranteed benefits.*

The investigator responded to say his view hadn't changed and that whilst there may have been some shortcomings in the advice process, he didn't believe there was any other way to meet his objectives. It wasn't disputed that the transfer wasn't viable but Mr W had a compelling and immediate need for funds that couldn't be achieved any other way. The investigator said there is no evidence Mr W mentioned his gambling addiction to HFP at the point of advice and there isn't anything within the file which ought to have alerted HFP to a potential vulnerability.

What I've provisionally 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.

And having done so I have reached the same outcome as the investigator and broadly for the same reasons. I'll explain why.

Mr W's representatives have made a number of points, I've briefly summarised the key points in response to the investigators view above. Whilst I've considered all the points raised, I don't intend to comment on every point in depth. I mean this as no dis-service to Mr W but my role is to get to the heart of the matter.

Mr W's predicament and objectives (at least as it was recorded at the time) was fairly straightforward. He didn't have the funds to meet his objectives as it stood. He didn't want to go back to work and he had debts that were unmanageable and didn't want to lose his house or have to sell it. Mr W had an immediate need for funds and he needed to find a

source fairly quickly. Even if he was to return to work, his debts would still have been an issue for him as these debts had been accumulated at a time when he did have an income.

Mr W's representatives have suggested HFP ought to have considered alternatives to releasing funds from this OPS. But the alternatives it has put forward I don't think were realistic or suitable. It's easy to say he could have borrowed from family but no specific details have been provided. I'm sure they would have liked to help but it's one thing to want to help and another to find and handover the sort of money Mr W required here. And I don't think adding more debt was a suitable way to solve Mr W's issue. I note it appears Mr W already had a debt management plan in place and I don't think it was for HFP to tell Mr W he had to go back to work, when there was the option available to him through his pension to meet his objectives.

The representative's point that the transfer wasn't financially viable and was very likely to mean Mr W was going to be worse off in the long run in terms of income received from the pension, is only significant in the context that this transfer was recommended on the basis that he wouldn't be worse off. And where there wasn't a need for the funds to be used in an alternative way. But here the adviser's recommendation was on the basis that Mr W required funds to pay off his debts and didn't wish to return to work. The recommendation did say the critical yield was too high and if Mr W's objective was maximum income it wouldn't recommend a transfer. I do think the suitability letter could have been more direct about the reasons why this course of action was required, weaker additional reasoning was included that diluted the key issues Mr W faced, i.e his debt and lack of funds and income to meet this. But ultimately, I cannot see how else Mr W was going to meet his debt and stabilise his finances without releasing money from one of his pensions. It was recorded that Mr W was fearful about losing his home or having to sell it, and he was in debt of £20,000. So he needed funds from somewhere.

Taking the tax-free cash allowed Mr W to clear his debts and mortgage, and therefore reducing his monthly outgoings. He could then draw income at the level the scheme would've provided (£16,000 per year) had it been left until age 60 (it looks like this was calculated based on the income available with tax-free cash being taken) for a number of years. Depending on investment performance and Mr W living to life expectancy there was a good chance the funds would be exhausted within his lifetime, so there is of course some risk here but Mr W also had his state pension and another OPS scheme that provided security if that scenario played out. And of course, Mr W would have flexibility with the withdrawal of his funds and when the state pension and other OPS came into payment, he could reduce his withdrawal amounts if required. And taking his benefits early from the scheme wasn't a viable option as it wouldn't be close to meeting his outgoings.

Ultimately Mr W came to HFP asking for advice as to whether his pension provision would allow him to pay off his debts, have enough to live on in retirement and not to return to work. I think the evidence points to the fact that he did. So I cannot say the advice to do so was unsuitable even if the advice process and recommendation weren't as rigorous as it should have been. I do think a more detailed fact-find should have been carried out and I think the recommendation could have been clearer and more specific about why this course of action was Mr W's only realistic option to achieve his objectives but I don't think this made a difference to Mr W. The key points were set out amongst admittedly a lot of other rather unnecessary generic reasoning, but I think Mr W would've understood why this course of action was his best route to paying off his debts and not returning to work – whilst still having a good income in retirement. The risks of transferring were set out as well, so I don't think it can be said he wasn't aware of these. I think the advice met Mr W's objectives, so regardless of how it got to this point, I don't think I can conclude the advice was unsuitable.

I am sorry to hear of Mr W's struggles with his gambling addiction. The key point here is

whether Mr W did disclose this to HFP, and the evidence suggests he did not. I can see no supporting evidence anywhere that it was disclosed, had it been disclosed I would have expected it to be recorded somewhere. And I note when the complaint was first made to HFP it was not alleged it was disclosed. And the complaint when it reached us was framed in such a way that suggested HFP ought to have done more to question Mr W and discover his addiction, rather than Mr W had told them about it.

In response to the investigator's recommendation it has been said Mr W did disclose it, this is not consistent with the previous testimony supplied by Mr W's representatives or the evidence from the time. This is despite HFP in their final response saying Mr W had hidden his gambling from them. If Mr W hadn't, I would have expected the complaint submitted to us to refute that but it did not. Furthermore, as I've said on the linked complaint, after the transfers, Mr W withdrew HFP's permissions from his SIPP without notifying it and just prior to the onset of withdrawals that eventually exhausted his entire fund. This meant HFP wouldn't be notified of those withdrawals. It also looks like Mr W didn't engage with HFP much after the advice, income withdrawals from the first plan were made direct with the SIPP provider and an annual review invite was declined. I think as a whole whilst not concrete evidence, it fits with the sort of behaviour you'd expect of someone wishing to hide what they were doing – especially the removal of HFP as his adviser without notifying HFP of this. I think it's likely Mr W did not disclose his gambling to HFP and that it was unaware of this issue.

I've looked at the information available to HFP to see whether it ought to have known or been concerned something was going on with Mr W's expenditure and debt. But having done so I don't think I can reasonably say it could have uncovered Mr W's gambling if Mr W didn't want to disclose it. Mr W was already servicing debt at the time of advice, I can see from his bank statements that I don't think HFP saw, he was already making payments to Stepchange – a debt management charity. Perhaps HFP should have questioned Mr W about his debt (if it didn't) but it was reliant on Mr W to disclose information. And had it asked him and Mr W didn't want to disclose his gambling, the fact the debt wasn't astronomical or particularly unusual (average UK household debt is thought to be around £17,000-£18,000) and the fact he was partaking in a debt management plan suggests it could have been explained away without suspicion forming. I therefore don't agree HFP did anything wrong in the advice it gave Mr W, the evidence suggests it wasn't aware of his addiction and Mr W didn't want to disclose it. I think the advice it gave met his objectives and was suitable for his circumstances.'

In response to this decision, Mr W's representatives said:

- The provisional decision places too much weight on Mr W's short-term wishes and not enough on the long-term financial harm that the transfer exposed him to.
- The financial evidence strongly indicates that the transfer was unsuitable. That is a significant factor and should not be treated as secondary.
- The advice appears to have proceeded on the basis that transferring was the only realistic solution, but there is limited evidence that other options were meaningfully considered or ruled out. These could have included debt restructuring, short-term borrowing, temporary employment, or the use of housing equity. Mr W owned a property valued at approximately £190,000 with a mortgage of around £82,000, and he later did return to work for a period. This suggests that alternatives may have been available and should have been explored before recommending the surrender of safeguarded benefits.
- Mr W's had recently been made redundant after many years of employment, had no income, had spent most of his redundancy payment within a short period, and was

experiencing difficulty managing his debts. These were clear indicators of financial stress and potential vulnerability. FCA guidance expects advisers to take additional care in such circumstances, particularly when consumers are making significant and irreversible financial decisions.

- Mr W has confirmed that he disclosed his gambling addiction during the advice process. Even if that is disputed, the adviser was aware of enough information to indicate that he was under financial pressure and making decisions at a difficult time. We note that call recordings have been requested from Hills Financial Planning on several occasions to clarify what was discussed during the advice process, including whether vulnerability and gambling were raised. To date, those recordings have not been provided. In the absence of this contemporaneous evidence, it is difficult to place weight on the firm's position that these matters were not disclosed or discussed, and any remaining uncertainty should reasonably be considered in light of the firm's record-keeping obligations. Ultimately, this comes down to Mr W's word against the firms. He has always been transparent with Spencer Churchill on this matter and, from the outset, has been open with us about his addiction and that he made Hills aware of it. It appears the FOS are placing greater trust in the firm's version of events, despite the inconsistencies in their statements and the contemporaneous evidence, rather than giving proper weight to Mr W's consistent transparency.
- We would also raise a further concern about how the advice was characterised. The firm has accepted that the transfer was not financially viable and that Mr W was likely to be worse off in retirement income terms. The appropriate course would have been either to refuse to advise on the transfer or to treat Mr W as an insistent client. Instead, the transfer was positively recommended and implemented.
- We also ask that the advice be considered in the wider context of Mr W being advised to transfer a second final salary pension within a short period of time, under a separate complaint reference. When viewed together, the two transfers raise concerns about whether sufficient care was taken to assess the cumulative impact of giving up multiple sources of guaranteed income, and whether appropriate processes and safeguards were followed in each case. This broader context is relevant when assessing the robustness of the advice provided in this complaint.

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.

And having done so I see no reason to depart from the findings in my provisional decision. Much of the response to my provisional decision, is largely the same points raised previously and which I have already given my answer on.

Mr W's objectives were not maximizing his retirement provision but allowing him not to return to work and to have income to meet his needs. If maximum provision for his retirement was his goal, the transfer analysis in terms of yields etc would be of primary importance but it was not. The advice allowed Mr W to meet his objectives and I don't think there were other solutions that could meet his needs.

As I've said in the situation Mr W was in, needing to clear his debts, I don't think further borrowing was an appropriate solution. And it wasn't for HFP to tell Mr W to go back to work when the analysis showed Mr W could use this pension to take tax-free cash and income and latterly then make use of other pensions to maintain the income he required in retirement.

With regards to Mr W's vulnerability in terms of his finances at the time, HFP relied on the information given to it by Mr W. He did disclose some debt but as I explained in the provisional decision this wasn't an unusually high amount. Mr W's representatives have said the spending of his redundancy money in such a short period ought to have alerted HFP to his vulnerability. But Mr W provided HFP with a spreadsheet he created of his income and expenditure plans and within this he had allocated £50,000 of his redundancy to clearing debt and to help with living expenses for a year. I think HFP were entitled to rely on what he was telling them but even if they had gone further to look into his finances, he already had a plan in place with Stepchange. So HFP would've thought Mr W had already taken the appropriate steps to manage his issues with debt. It seems Mr W had already spent this money (despite what he presented to HFP) and it is inferred that he spent some of this on gambling. This is also further evidence that Mr W may not have provided a true picture to HFP.

I've already discussed in some detail across the two complaints whether Mr W likely did disclose his gambling to HFP, I entirely disagree it is simply taking one sides' word over the other. I don't agree either that there has been consistency in Mr W's testimony provided to us through Spencer Churchill – as I have already set out. Further to this, when the complaint was raised, the information given was that Mr W's remaining funds were approximately £400,000. But in fact, after the investigator made further enquiries, it was found the funds had already been entirely withdrawn at the time the complaint was made and before the business made an offer to assist with an annuity purchase based on this figure. The fact that Mr W had withdrawn all his funds was never disclosed. This suggests Mr W did not tell his representatives about this fact.

I remain of the view that the evidence as set out in my provisional decision and above, suggests on the balance of probabilities that Mr W did not disclose his gambling addiction to HFP.

HFP made a positive recommendation to transfer as it met Mr W's objectives and not because it was financially viable. I disagree in this instance that the correct way forward was to categorise Mr W as an insistent client. Financial viability isn't the only thing that needs to be considered as part of suitable advice.

That a secondary bit of transfer advice was unsuitable, does not change what happened before. And in any event, even if I was to follow this line of thinking as Mr W's representatives will be aware, I concluded that Mr W would have spent the money anyway but for the unsuitable advice regarding that transfer. This broader context (without the need for hindsight) was considered as part of the case decided under a separate reference which Mr W's representatives accepted.

In conclusion, I am sorry to hear of Mr W's struggles with addiction but I have to remain impartial and be evidence led in my conclusions. And for all the reasons explained above, I will not be upholding this complaint.

My final decision

For the reasons explained above, I do not uphold this complaint and make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 13 March 2026.

Simon Hollingshead

Ombudsman