

## The complaint

Mr R complains that abrdrn Financial Planning And Advice (abrdrn) provided him with poor advice over whether he should transfer an existing pension plan, financially disadvantaging him. He wants compensation for his losses.

## What happened

Mr R was an existing customer of abrdrn with a Self-Invested Personal Pension Plan (SIPP) on which he received ongoing advice. He also had a s32 plan with Aviva which had arisen from a transfer from an occupational pension scheme. The s32 provided certain guarantees, referred to as “safeguarded rights.” He says he was in the process of retiring and the abrdrn adviser encouraged him to review transferring the Aviva plan *“as returns would be better.”* But, once the review was completed, abrdrn said the transfer shouldn’t be made. Broadly because the Aviva plan offered more income security in retirement.

Mr R questioned some of the assumptions used. abrdrn issued a revised cashflow model but still said the transfer shouldn’t proceed. It then issued an invoice for its advice fee of around £2,700. Mr R asked if this could be paid from his existing SIPP with abrdrn or by credit card and was advised neither was an option. He then said he wasn’t *“prepared to pay the invoice because he wasn’t happy the way the exercise was carried out.”*

He said the review was rushed. And contained various errors in the assumptions used but *“out of embarrassment”* abrdrn wouldn’t change its advice. He says as a result he had become *“stuck in annuity”* producing only £226.51 income a month, with only a small proportion increasing by inflation despite the Aviva plan being worth around £140,000. He said abrdrn hadn’t factored high inflation in its assumptions and cash flow forecasts. He said if the transfer to his existing abrdrn SIPP had been recommended, he would have benefited from growth on the investment. And lower charges overall as these reduced once the total investment value was over a certain threshold. He said he was *“materially worse off as a result”*.

abrdrn didn’t uphold his complaint. It said its fees had been explained to Mr R and confirmed by email on 17 December 2021. Which stated they would be payable *“regardless of whether the advice is to retain or transfer your Aviva pension”*. The email also confirmed what its ongoing advice fees would be and that Mr R had agreed to both. It had also confirmed, in line with Financial Conduct Authority (FCA) regulations, that if following the review, its advice was not to transfer then it would not facilitate any transfer. It said the suitability report had also confirmed what its charges were. It said Mr R’s prime objective recorded on the fact find was to:

***“Maintain standard of living: this is essential and cannot be compromised”***

It said not transferring the Aviva plan best achieved this objective for several reasons as had been set out in the suitability report. It said once Mr R queried some of the assumptions used, it had adjusted part of its analysis. But this was only one of the factors considered in giving its advice. And it still felt not transferring was the correct advice. And it wasn’t involved in his decision to take the benefits in the form of tax-free cash and an annuity with Aviva.

Mr R referred his complaint to our service and our investigator looked into it, but he didn't uphold it.

Our investigator said that abrdn confirmed the basis of its charges and that a transfer would only be facilitated if the advice provided was to transfer before it gave the advice. So, Mr R was aware of these details and that he'd had chance to challenge the basis of this if he wished. Our investigator said the cash flow modelling undertaken was only part of the analysis abrdn used in giving its advice. And he said the FCA conduct of business rules (COBS) said that *"keeping safeguarded rights will be in the best interests of most customers"* and the starting point was that a transfer would be unsuitable advice. Unless the adviser *"can clearly demonstrate, on contemporary evidence, that it is in the client's best interests"*.

He said Mr R's key objective was to maintain his standard of living and abrdn had set out several reasons why not transferring the Aviva plan would better meet this objective. So, without conclusive reasons in support of transferring it couldn't make a recommendation to transfer under the FCA's guidelines. And he said it hadn't been involved in Mr R's subsequent decision to take his benefits under the Aviva plan.

Mr R didn't agree. He said the abrdn adviser had encouraged him to transfer and had said there would be no problems in transferring. He disputed he was happy to pay ongoing fees for advice on his SIPP, as he was no longer contributing to it. He said he didn't think it was normal to receive ongoing advice once in drawdown. He said Standard Life didn't discuss the assumptions it used and hadn't allowed him the opportunity to rework those assumptions. He also disputed he'd made plans to pay the fees from his SIPP or by credit card. Instead he said he'd felt trapped before realising he could refer his complaint to our service.

Our investigator said his view hadn't changed. He said it was clear from the email sent by abrdn on 17 December 2021 that fees were payable whether the advice was to transfer or not and Mr R still had the option not to proceed with the advice. He said that there was no record that Mr R intended to cancel ongoing services with abrdn, and that receiving advice during pension drawdown was just as important as taking advice before retirement. But as he could cancel the service at any time there was no evidence Mr R had been treated unfairly. He said the errors Mr R had pointed out in the assumptions initially used for the cash flow report had been updated. But it wasn't appropriate to otherwise adjust input figures or objectives to attempt to justify a transfer.

Mr R said abrdn's *"risk averse"* advice had *"left him trapped in a useless annuity with next to no inflation increase."*

As Mr R doesn't agree it has come to me to decide.

### **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 am not upholding the complaint.

### **The advice**

I understand Mr R's frustration, but I don't think he has been treated unfairly. abrdn certainly isn't responsible for him purchasing the annuity he did, it didn't arrange this for him. Safeguarded rights broadly offer some form of guarantee meaning the benefits available weren't solely linked to the notional fund value. I don't have information on what benefits the Aviva plan guaranteed, or full details of the annuity Mr R did purchase. But because of the guarantee offered, the regulations require there to be clearly demonstrable advantages in transferring for the advice to do so to be regarded as suitable by the FCA.

This sets a high bar and might well result in some caution being adopted by advisory firms. That, I think is the intention of the FCA's guidance. Mr R says he wasn't happy with the assumptions used in the cashflow modelling software. These were set out in the appendix of the report. As were caveats that actual future investment returns, inflation rates and so on *"could be different and therefore each outcome shown in your Plan is only one of many potential outcomes."*

The assumptions used appear quite typical for the time and some were required under FCA rules. Inflation in particular has been much higher than assumed since late 2020, when it rose sharply. A trend presumably evident when Mr R went ahead and secured his annuity during 2021.

But Mr R doesn't appear to have challenged these core assumptions when he queried matters in January 2021. Instead, his concerns related to a change in the value of his investments, likely future mortgage costs and levels of future discretionary spending. Changing inputs like this if incorrect is reasonable, but making broader changes to underlying assumptions is less so, or indeed impossible if mandated by regulations. And having made the adjustments raised by Mr R, abrdn still concluded it wasn't in his best interests to transfer.

Mr R's key financial objective was to maintain his standard of living. And abrdn's conclusions included that Mr R's *"expenditure needs"* weren't currently met by *"secure income sources"*, and that additional income might be needed. Advising that these requirements might be better met by retaining the Aviva plan with the guarantees it offered, doesn't seem unreasonable. As the alternative of leaving pension funds invested and withdrawing an income is an inherently riskier approach. Inflation being higher than many commentators expected may have challenged this conclusion over the shorter term. But this was long term pension planning and the assumptions used needed to factor that in.

Another advisory firm might have come to a different conclusion. It isn't clear whether Mr R sought advice elsewhere, and I appreciate the likelihood of further non-contingent fees being charged may have dissuaded him from seeking this. But without taking advice, it's likely that his only option was to secure benefits through purchasing an annuity. But that arose from a combination of the rules relating to the pension benefits in question and the regulators requirements over advice standards. These may have restricted Mr R's options, but abrdn wasn't responsible for that and it isn't reasonable to say it forced him into buying a *"useless annuity"*.

## **The advice fees**

Before abrdn provided its report on 22 December 2021 it emailed Mr R on 17 December 2021. It said.

*"Thanks for your time earlier today and as promised I have summarised the main points in relation to our discussion below:*

*The provision of providing advice around the suitability your Aviva pension, will incur a fee which requires to be paid regardless of whether the advice is to retain or transfer your Aviva pension. The initial charge is 2% of the transfer value, based on a figure of £138,105.32 as at the 1 July this would be £2,762.11.*

*The current ongoing advice charge that you are paying within your standard SIPP is 0.79%, based on the current transfer value the ongoing advice charge would be £1,091.03. If the combined value of your SIPP after the payment of tax- free cash exceeds £500,000 then the ongoing adviser charge would reduce to 0.69%pa.*

*You confirmed that you are happy to pay both the initial and ongoing advice fee in relation to the advice provided by abrdn Financial Planning.*

*In line with FCA regulations if the advice is not to transfer then we will not allow a 'facilitation of transfer.'*

I think it was clear that Mr R was fully aware of the level of abrdn's fee and that this wasn't contingent on the advice being to proceed with a transfer. And that it wouldn't facilitate any transfer against its advice. If he didn't agree with this or had changed his mind, he did have time to contact abrdn and discuss this before the report was generated. If Mr R isn't happy with any ongoing advice fees, he can discuss these with abrdn, there is certainly no indication he was misled about these.

So, Mr R wasn't misled about the fees and did have the opportunity to challenge these or seek alternative costs from other advisers. And I think it gave advice that was suitable for him as it was required to do. So, I don't think abrdn has treated him unfairly or unreasonably and I do not uphold this complaint.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 17 January 2024.

Nigel Bracken  
**Ombudsman**