

## **The complaint**

Mr P complains that he was given unsuitable advice by AJH Financial Services Limited ('AJH') to transfer the benefits from his defined benefit (DB) scheme with British Steel (BSPS) to a personal pension. He says the advice was unsuitable for him and believes this has caused a financial loss.

## **What happened**

In March 2016, Mr P's employer announced that it would be examining options to restructure its business, including decoupling the BSPS (the employers' DB scheme) from the company. The consultation with members referred to possible outcomes regarding their preserved benefits, which included transferring the scheme to the Pension Protection Fund ('PPF'), or a new defined-benefit scheme ('BSPS2'). Alternatively, members were informed they could transfer their benefits to a private pension arrangement.

In May 2017, the PPF made the announcement that the terms of a Regulated Apportionment Arrangement ('RAA') had been agreed. That announcement said that if risk-related qualifying conditions relating to funding and size could be satisfied, a new pension scheme sponsored by Mr P's employer would be set up – the BSPS2.

In October 2017, the DB scheme administrators sent Mr P information about his entitlement under his current DB scheme including a cash equivalent transfer value ('CETV') illustration. The CETV stated that Mr P had 27 years and 5 months of pensionable service in the DB scheme and that the total transfer value of his benefits was £421,768.76.

Also in October 2017, members of the BSPS were sent a "Time to Choose" letter which gave them three options; to either stay in BSPS and move with it to the PPF, move to the BSPS2 or transfer their BSPS benefits elsewhere. The deadline to make their choice was 11 December 2017 (and was later extended to 22 December 2017).

Mr P wasn't sure what to do about his pension so he contacted AJH having been referred by a work colleague. An initial meeting was arranged between AJH and Mr P and his wife Mrs P for 8 November 2017. A fact-find was completed to gather information about Mr P's circumstances and objectives. It noted Mr P was aged 45, his wife was aged 40 and they had two dependent children aged 13 and 15. It also noted that Mr P earned £45,000 per year and his wife earned £36,000. Their home was documented as being valued at £145,000 with a repayment mortgage of £72,000 with an outstanding term of 11 years. In addition Mr P had two personal loans, one for £13,000 which was due to be repaid by May 2020 and one for £16,500 which was due to be repaid by November 2022. Mr and Mrs P had joint savings of £1,000 and Mrs P had a cash ISA worth £300 and a Sharesave account containing £11,000. It was further noted Mr P and his employer were contributing 16% of his salary per month to his employer's new defined-contribution ('DC') pension scheme and that Mrs P had a DC scheme with her current employer with a £40,000 fund value and one with her former employer worth £30,000.

AJH also documented that Mr P was hoping to retire at age 60 but thought he would probably have to work until he was aged 65. AJH noted that Mr P's attitude to risk ('ATR')

was 'lowest medium' or 4 on a scale of 1 to 10. Mr P's objectives for wanting to transfer his DB benefits were documented on the fact-find and the other documents completed at the initial meeting. These were that he had lost faith and trust in his employer and its pension schemes, that he had concerns about joining the PPF and that he wanted control and flexibility over his pension, its death benefits and his pension commencement lump sum.

On 16 November 2017, AJH sent Mr P a transfer value analysis report ('TVAS'). Mr P signed the transfer and application forms on 5 December 2017. On 11 January 2018, AJH sent Mr P its suitability report in which it recommended he transfer his BPS DB pension benefits to a personal pension plan with a provider I shall call 'R'. AJH said Mr P would benefit from being able to access his benefits early without having to worry about early penalty factors, would be able to access up to 25% of his fund as tax-free cash ('TFC'), would be able to withdraw an unrestricted amount of money at any one time and his beneficiaries could enjoy tax-free death benefits should he pass away before the age of 75.

In March 2018, £421,768.76 was transferred from Mr P's BPS DB scheme to his new pension.

In May 2022, Mr P, through his representative, complained to AJH about the advice he received, believing it may have been unsuitable for him and that he had suffered a financial loss as a result. Mr P said he should have been advised to join the BPS2. AJH looked into Mr P's complaint but said it had acted in his best interests and provided him with suitable advice.

Unhappy with the outcome of his complaint to AJH, Mr P complained to the Financial Ombudsman Service. Our Investigator looked into Mr P's complaint for him and recommended that it was upheld as he didn't think it was in Mr P's best interests to transfer his guaranteed benefits to a personal pension plan.

Our Investigator said he didn't think there was any reasonable prospect of Mr P improving on his guaranteed scheme benefits based on investing in line with his ATR. So he didn't think that the transfer was a financially viable one. Nor did he think the alternative death benefits available through the personal pension were worth Mr P giving up the guarantees associated with his DB scheme for. And our Investigator thought that Mr P's other objectives of early retirement and flexibility could have been met through utilising the benefits available through either the BPS2 or the PPF together with his new DC scheme.

Our Investigator thought that AJH should have advised Mr P to opt into the BPS2 so he recommended that AJH should calculate whether Mr P had suffered a loss as a result of its advice to transfer. The Investigator also recommended that AJH should pay Mr P £300 to address the distress and inconvenience caused by the receipt of its unsuitable advice.

In June 2023, AJH contacted our Investigator to advise that it had undertaken a redress calculation using the regulator's BPS-specific redress calculator to establish if Mr P had suffered a financial loss as a result of its advice. AJH said it had completed the calculation and this showed Mr P hadn't suffered a loss.

Mr P advised our Investigator that he still wanted his complaint referred for an Ombudsman's decision.

In August 2023, AJH informed our Investigator that, in the interests of bringing the matter to a close, it accepted his findings.

In October 2023, our Investigator asked AJH, as it had previously carried out a loss assessment using the BSPS-specific calculator, whether it would carry out the calculation again as the previous one had now expired. AJH said that it would do so.

Mr P told our Investigator that he felt the £300 he had recommended AJH should pay him for the distress and inconvenience he'd been caused was inadequate given the amount of trouble and upset he had suffered. He explained that he'd been diagnosed with high blood pressure during the course of his complaint which required medication and regular checks which he attributed to being triggered by the unsuitable advice AJH had given him.

AJH ran the BPS-specific redress calculator again which again showed that Mr P had suffered no loss. Our Investigator told Mr P that he had checked the calculation and that it had, in his view, been carried out correctly. He said that there was no shortfall in his pension and that he was on track to be able to replicate his DB benefits in retirement. Our Investigator said that AJH had agreed to pay Mr P £300 for any distress and inconvenience he'd been caused.

Mr P replied to say he would provide medical evidence by 6 December 2023 to show he was suffering with high blood pressure.

As no evidence has been received and as it has not been possible to resolve this complaint informally it has been passed to me to make a final decision.

### **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.

As I have set out above, AJH informed us in August 2023 that it was willing to accept our Investigator's findings in an attempt to bring the matter to a close. As the suitability of the advice is no longer in dispute, I'll focus my decision on the redress methodology.

In accepting our Investigator's findings, AJH has acknowledged that it must compensate Mr P for any distress and inconvenience its unsuitable advice caused him by paying him £300. I've noted the comments made by Mr P's representative that Mr P has recently been diagnosed with high blood pressure and that he attributes this to the stress caused to him by AJH's unsuitable advice. Mr P has asked that the amount of compensation he is awarded is increased.

Whilst I'm sorry to hear about Mr P's recent diagnosis, I've seen no evidence that it is directly attributable to any stress associated with the advice he received from AJH. I would need to see some evidence that specifically linked his medical diagnosis to any stress AJH caused him if I were to consider increasing the amount of compensation he should be awarded for the trouble and upset he's caused. Without having sight of such evidence however, it would not be reasonable of me to do that. I've thought carefully about the amount of compensation I am awarding Mr P here and I'm satisfied that it is in line both with the Financial Ombudsman Service's approach to such awards in general and with awards we have made in similar complaints. So I'm not awarding any more than the £300 recommended by the Investigator.

### **Putting things right**

I'll focus in this decision on how to put things right for Mr P as no agreement could be reached.

The aim is to put Mr P back in the financial position he would have been in at retirement had he remained in the DB scheme. AJH carried out a calculation using a specific BSPS calculator provided by the FCA which is what I would expect them to do in the circumstances.

The calculator uses economic and demographic assumptions to calculate how much a consumer needs in their pension arrangement to secure equivalent BSPS retirement benefits that they would have been entitled to under either BSPS2 or the PPF (as uplifted to reflect the subsequent buy-out), had they not transferred out.

If the calculation shows there is not enough money in the consumer's pension arrangement to match the BSPS benefits they would have received, the shortfall is the amount owed to the consumer. If the calculation shows there is enough money in the consumer's pension arrangement, then no redress is due.

The BSPS calculator has been developed by actuaries and is programmed by the FCA with benefit structures of the BSPS, BSPS2 and PPF (including the impact of the subsequent buy-out) and relevant economic and demographic assumptions which are updated regularly. This information can't be changed by firms.

The calculator also makes automatic allowances for ongoing advice fees of 0.5% per year and product charges of 0.75% per year which are set percentages by the FCA.

I have checked the inputs that were entered by AJH which are personal to Mr P. These include Mr P's personal details, his individual benefits from the BSPS at the date he left the scheme and the value of his personal pension. The calculation also assumes that if he had not been advised to transfer his benefits from the BSPS, he would have moved to the BSPS2 and that he would have taken his DB benefits at age 65.

Overall, based on what I've seen, the calculation has been carried out appropriately and in line with the rules for calculating redress for non-compliant pension transfer advice, as detailed in the FCA's policy statement PS22/13 and set out in their handbook in DISP App 4: <https://www.handbook.fca.org.uk/handbook/DISP/App/4/?view=chapter>.

The calculation in Mr P's case shows that there is no shortfall to his pension and that he has sufficient funds to be able to replicate his DB benefits in retirement. So, I'm satisfied that Mr P has not suffered a financial loss by transferring his pension.

AJH has still offered to pay £300 as recommended by our Investigator for the distress and inconvenience this matter has caused him.

Overall, I think the calculation carried out by AJH is appropriate in the circumstances and no redress for financial losses is due to Mr P. I think AJH's offer to pay Mr P £300 for the distress and worry he experienced as a result of realising he was unsuitably advised to move his DB scheme and that he could have suffered a financial loss as a consequence, is fair and reasonable in the circumstances. I've also thought about compensation awards that I've made in complaints with similar circumstances and I'm satisfied that this award is in line with those and with the Financial Ombudsman Service's approach to compensation in general.

### **My final decision**

My final decision is that I uphold this complaint and require AJH Financial Services Ltd to pay Mr P compensation of £300 for the worry he says this matter has caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 11 January 2024.

Claire Woollerson

**Ombudsman**