DRN-4256196

The complaint

Mr H complains about the advice he received from Baker Financial Planning LTD ('BFP') to transfer the benefits from his defined benefits ('DB') occupational pension scheme to a self-invested personal pension ('SIPP'). Mr H says that BFP told him that the regulator doesn't like advice to transfer out of DB schemes, so they would have to advise him not to but would still be happy to facilitate the transfer.

What happened

While I have considered all of the evidence submitted by both parties to this dispute, I have not set out everything here. The following is what I consider to be the key fact and events leading up to this complaint.

Mr H approached BFP in January 2017 to discuss his pension and retirement needs. Mr H was an active member of his employer's DB scheme and he told us that his employer had offered a 25% uplift to his salary if he transferred out of the scheme. He said that opting out was a topic of conversation amongst colleagues, so he sought advice to explore his options.

BFP completed a fact-find to gather information about Mr H's circumstances and objectives. Amongst other things this recorded that Mr H was 44, he was employed full-time but also had his own business, part of which he had sold. Following the end of the earn out period in 2018, he intended to sell the remaining shares in his business, which he expected to receive a significant sum of money for. Mr H didn't see himself in his current job long-term and after the sale of his business he wanted to try something new. He'd contacted his employer about opting out and wanted to transfer his pension to a personal arrangement because he believed the transfer value was high. His objectives for transferring were to leave money to his family, have control over the money, to be able to access the money as he saw fit and because he had concerns about the viability of the scheme.

On 22 January 2017, BFP set out its advice in relation to Mr H opting out of his DB scheme. The letter set out Mr H's circumstances as recorded in the fact-find as well as his goals and objectives. It said that Mr H would've opted out already, but his employer's offer to increase his salary was contingent on him taking financial advice. It said the reason Mr H wanted to opt out was to secure what he believed was the best transfer value he would achieve and transfer to a personal pension arrangement.

The letter said that Mr H's rationale for transferring was based on what he thought was going to happen in the future – for example falling transfer values, his expectation that he would leave his employment in 2018 and that he would realise a sizeable seven figure sum from the sale of the remaining shares in his business.
So BFP said that it thought the sensible approach would be not to transfer to a personal pension arrangement. And so that being the case, it said its advice to Mr H was not to opt out of the scheme but wait until he'd left his employment and re-assess things then.

On the same day, BFP sent Mr H an email with a report containing ideas for an investment strategy it felt he was looking for his pension monies *"if the advice were to transfer your pension monies to a personal pension arrangement."* The report showed examples of investment returns over the past five years as well as typical fund charges. It also said that it would be prepared to discount its usual adviser charges.

At the end of January 2017 Mr H chose to opt-out of his DB scheme and after he received a guaranteed transfer value from his scheme trustees – a value of around £1,057,000 - he asked BFP to advise him on transferring his DB scheme benefits.

In a typed file note dated 20 March 2017, the adviser recorded that he spoke to Mr H who wanted to know where his report was at. It said they'd spoken to Mr H on 3 March 2017 and told him that because of the critical yields and the percentage of his guaranteed income, he thought he should keep his pension where it was, although it would not be formal advice until written up. The note says that Mr H told the adviser at the time he would insist against it because he'd thought long and hard about things. The note says that the adviser agreed to write up the report that day and that Mr H would have to follow the insistent client process if he really wanted to go ahead, but that he'd have to read the report first.

On 20 March 2017 BFP advised Mr H not to transfer the benefits from his DB scheme to a personal pension arrangement. The suitability report was a 52-page document, so I haven't set out everything here. But, in summary it reminded Mr H that its advice was not to opt out of his DB scheme. And it said that its reasons for recommending that Mr H should not transfer out were that it didn't think there were compelling reasons to transfer given the high critical yield and in light of Mr H's DB scheme making up a major part of his retirement provision. It said despite Mr H's desire for control, flexibility and to provide lump sum death benefits to his family, it felt the loss of pension income he would incur by transferring was too great to justify, particularly as Mr H didn't have other assets or sources of income he could live off if his pension investments performed poorly. It said that, while it understood Mr H had already opted out, its advice was not to transfer and instead he should leave his benefits and take them at the scheme's normal retirement age of 60, if possible.

On 21 March 2017, a handwritten file note by the BFP adviser (provided by Mr H's representative) indicates that a phone conversation took place in which Mr H indicated that he wanted to go ahead with the transfer despite the advice not to. In summary the file note records that Mr H said the following: he was confident about his assumptions – selling his shares and leaving his employment – and so was comfortable giving up the guarantees of the DB scheme; he believed the pot of money would allow him the retirement he and his wife wanted; and he'd thought hard about things before he met with BFP and the decision was made when he opted himself out of the scheme. The note goes on to record that Mr H asked the adviser to waive the cooling-off period so things could be done in time for him to receive his salary uplift in his April pay. The note records that the adviser asked Mr H for a handwritten letter putting his ideas to them and that it was important he did so. The note says that Mr H agreed to do this, but asked if the transfer could proceed in the meantime. The adviser said they would, but that Mr H must provide his letter as soon as possible.

The typed file note, as I referred to above, appears to summarise the handwritten note – in an entry marked *'Update 21 March 2017'* it records that Mr H had read the report and still wanted to insist; he asked to waive the cooling off period; and had plenty of time to consider the matter and wouldn't have opted out if he wasn't sure he was going to transfer.

In a letter dated 23 March 2017, BFP confirmed that Mr H had decided to proceed against advice and that he'd asked it to advise him on a suitable personal pension plan to transfer to. It said that Mr H had read the suitability report but had decided a transfer was still the right thing for him. The letter said Mr H had given his reasons for wanting to transfer in his letter of 22 March 2017, which broadly reflected his objectives the advice paperwork had previously recorded. The letter repeated the risks of transferring and repeated its advice that Mr H would be better off by not transferring. The letter then set out a recommendation for a suitable personal pension and investment strategy.

Despite referring to Mr H's insistent client letter of 22 March 2017, Mr H didn't provide it. So on 20 April 2017, BFP emailed Mr H to chase up his handwritten letter explaining why he wanted to go against the advice. It said it had attached *'something to help'* – a typed letter with reasons why Mr H wanted to proceed against advice. The reasons given in the letter were: being confident that the assumptions about leaving his employment and selling his shares in his company would happen, so he was comfortable giving up the guarantees of his DB scheme; the pot of money and other assets would allow him to have the retirement he wanted; and that he was conscious of his obligation to leave his children what was left of his pension. The letter also said he'd thought hard about the implications of transferring and he wanted to transfer his benefits to a pension with an investment strategy in line with his risk profile.

Mr H duly returned his handwritten letter, which was almost identical to the example letter BFP had sent him - but Mr H omitted the reference to wanting to leave his children what remained of his pension.

Mr H complained in 2022 to BFP about the suitability of the transfer advice. In summary Mr H said he would've been better off staying in his DB scheme.

BFP didn't uphold Mr H's complaint. In summary it said Mr H was not given unsuitable advice. It said Mr H was first advised not to opt out of the DB scheme and then advised not to transfer. It said this was set out in its recommendation letter of 20 March 2017, which Mr H signed. It said despite this advice, Mr H insisted on the transfer contrary to its advice. It said Mr H would've decided to go ahead in any event – he'd already opted out contrary to its advice and had made up his mind to transfer regardless of the advice he received.

Mr H then referred his complaint to us using the services of a representative. An investigator looked at things and they didn't uphold the complaint. They said, in relation to the advice and discussions BFP had with Mr H in January 2017, while they accepted that the email the adviser sent Mr H on 22 January 2017 talked about the growth potential of transferring and so this supports that they did likely talk about the positives of transferring, they said BFP's written advice letter the same day clearly detailed the risks. And this included the risks of Mr H opting out. They said this letter was also clear that the advice was not to transfer. They said if they accept the adviser did only speak about the benefits, they couldn't understand why upon receipt of the written advice it didn't prompt Mr H to question what he was told verbally. They said they thought Mr H would've continued to transfer regardless of the advice he received.

Turning to the formal transfer advice in March 2017 – they said the recommendation letter went through Mr H's goals and other areas, all of which showed that a transfer wasn't in Mr H's best interests. They said the report was very detailed and it was made clear the advice was to remain and draw benefits from the scheme. They said they'd considered whether the insistent client process was correctly followed.

And while they were concerned that the adviser had provided Mr H with a template to use to go against the advice, it was clear from the call notes and the clarity of the advice letters that the risks associated with transferring were made clear and transferring was not suitable for Mr H. So, they concluded that Mr H did want to go ahead with the transfer in any event.

Mr H disagreed. In summary he said he felt the investigator's findings were biased in favour of BFP. He said the investigator referred to not being able to use verbal conversations as evidence – but he said these are crucial to the case but only BFP's verbal input was considered. He said in relation to the reference to BFP's final response letter where the investigator said he decided to proceed anyway, this was incorrect – it was the adviser's advice and not his decision. He said the adviser told him he would write this in the report yet still advised to push forward with the transfer. He said no reference was made to the occasion when BFP asked for a signature on the paperwork that would be filled out later at the office, something he says would surely be frowned upon. He said many of the comments apparently contained within BFP's notes, and referred to in the report were news to him – he doesn't recall these and completely refutes that some of the conversations took place.

Mr H added that the investigator referred to BFP providing him with a template for him to copy, but he said this is wrong – BFP wrote it and he was asked to sign it. He asks why this wasn't considered as being odd or unprofessional. Mr H also challenged the reference to the massive uplift in salary as being crucial. He said the uplift was in fact around £1,000 and given he had significant savings at the time, the urgency to get the uplift is nonsense.
He says BFP used this as a means to show the transfer appeared rushed and desperate on his part.

BFP maintained its position that when Mr H met with the adviser he'd already made up his mind to opt out and to transfer and it broadly repeated the sequence of events and the advice it gave to Mr H not to transfer.

The investigator wasn't persuaded to change their opinion, so the complaint was referred 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.

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. This includes the Principles for Businesses ('PRIN') and the Conduct of Business Sourcebook ('COBS'). And where the evidence is incomplete, inconclusive or contradictory, I reach my conclusions on the balance of probabilities – that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances.

The applicable rules, regulations and requirements

The below is not a comprehensive list of the rules and regulations which applied at the time of the advice, but provides useful context for my assessment of BFP's actions here.

PRIN 6: *A firm must pay due regard to the interests of its customers and treat them fairly.*

PRIN 7: *A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.*
COBS 2.1.1R: *A firm must act honestly, fairly and professionally in accordance with the best interests of its client (the client's best interests rule).*

The provisions in COBS 9 which deal with the obligations when giving a personal recommendation and assessing suitability. And the provisions in COBS 19 which specifically relate to a DB pension transfer.

Having considered all of this and the evidence in this case, I've decided to not uphold the complaint for largely the same reasons given by the investigator. My reasons are set out below.

The regulator, the Financial Conduct Authority ('FCA'), states in COBS 19.1.6G that the starting assumption for a transfer from a DB scheme is that it is unsuitable. So, BFP should have only considered a transfer if it could clearly demonstrate that the transfer was in Mr H's best interests.

Insistent client

A key aspect in this case is BFP's categorisation of Mr H as an insistent client - this is a client that wishes to take a different course of action from the one recommended and wants the business to facilitate the transaction against its advice.

At the time of the advice there were no regulatory rules in place in respect of insistent clients. But in February 2016 the regulator provided guidance on its website about what steps it expected businesses to take when advising an insistent client. There are 3 key steps, which it set out on its website as follows.

1. *You must provide advice that is suitable for the individual client, and this advice must be clear to the client. This is the normal advice process.*
2. *You should be clear with the client about the risks of their chosen course of action. If the advice includes a pension transfer, conversion or opt-out, there may be additional requirements. These may include ensuring the advice is provided by or checked by a pension transfer specialist, comparing the defined benefit (DB) scheme with the defined contribution (DC) scheme and starting by assuming the transfer is not suitable (see COBS 19.1).*
3. *It should be clear to the client that their actions are against your advice.*

The regulator said the advice should be set out clearly in the suitability report, and that it needed to be clear with its client about the risks of their chosen course of action and that he/she is acting against it advice. It also added that if the client used their own words to indicate that they want to act against its advice, this would normally be clear.

The regulator also published additional guidance on its website giving examples of good and poor practice. It gave the following example of good practice relating to suitability reports:

"The adviser gave a personal recommendation in clear and unambiguous terms regarding both the advice on whether or not to transfer and, if the client chose to transfer, the receiving product and the funds into which the client was advised to invest.

The adviser discussed the client's reasons and the risks of not accepting the personal recommendation. The adviser documented the reasons, the discussion and its outcome in a separate document to the original personal recommendation.

Robust warnings were given and documented."

Whilst this was guidance, and not rules, I would've expected BFP to have been aware of this and ensured that the advice and process it followed was consistent with the regulator's expectations.

Suitability of advice

For the sake of completeness, I think it is clear from the information and evidence available about Mr H's circumstances and objectives at the time of the advice that a transfer out of Mr H's DB pension scheme wasn't suitable or in his best interests – I think this was a fair and reasonable conclusion for BFP to make. And because this was the conclusion reached by BFP, I don't think it is necessary for me to explain in detail why I think it wasn't in Mr H's best interests to transfer.

Focusing on BFP's formal advice not to transfer in its March 2017 suitability letter, BFP broadly gave two main reasons why Mr H shouldn't transfer. Firstly it said Mr H shouldn't transfer because the critical yield or investment return required to replicate Mr H's DB benefits at his desired retirement age of 57 were too high. BFP calculated that Mr H's pension fund would need to grow by over 7.5% a year if he took a full pension and just over 6.5% a year if he took a cash lump sum and a reduced pension. BFP said that it didn't believe these investment returns were achievable given the returns Mr H could reasonably expect from investing with a medium attitude to risk. So it didn't think Mr H could secure a better annuity at age 57 than the scheme pension income at this age. I think it was clear from this that transferring to a personal pension arrangement would lead to Mr H receiving significantly lower retirement benefits at his preferred retirement age.

The second reason BFP gave for recommending Mr H not transfer was because, despite what was recorded about Mr H believing that he would have significant monies in the future through the sale of the remaining shares in his business, as it stood at the moment, Mr H's DB scheme represented the main source of funding for his retirement. So, BFP concluded that Mr H's pension represented too high a percentage of his retirement assets to justify putting them at risk. And I think this was suitable advice - Mr H did not have the capacity for loss to take on the investment risk associated with transferring to a personal pension arrangement.

BFP's overall conclusion was that, while it recognised Mr H wanted to take control of his pension, take his benefits flexibility and provide lump sum death benefits for his family, it believed the loss of pension income Mr H would face by transferring did not justify a transfer to a personal pension particularly as he didn't have other assets or sources of income to rely on if investment returns were poor. BFP also advised that Mr H shouldn't take benefits until the scheme's normal retirement age, if possible.

Having considered all of this, I agree with BFP that it wasn't in Mr H's best interests to transfer his DB scheme benefits to a personal pension at this time. I think it was right for BFP to recommend Mr H leave his benefits where they were. While this meant Mr H might not have been able to meet his stated objectives for flexibility, control and better death benefits, I don't think these things outweighed the risk of Mr H suffering a reduction in pension income as a result of transferring.

Was Mr H an insistent client – was it fair for BFP to treat him as such?

BFP says that Mr H was an insistent client and that he intended to carry out the transfer of his pension regardless of the advice it provided him with – he'd already made up his mind to opt out of his pension scheme and to transfer by the time he met with the adviser.

Mr H says that he was told by the adviser that the regulator didn't like advice to transfer out of a DB pension, so they'd have to suggest not to first, but would be happy to facilitate the transfer anyway.

As I said above, at the time of the advice, there were no regulatory rules in place in respect of insistent clients. But the regulator's guidance covered three key steps it expected businesses to take when advising an insistent client.

Having carefully considered all of the evidence presented, while I accept there were some shortcomings in the process BFP employed and how it treated Mr H as an insistent client, which I will highlight below, even if BFP had done everything it should fairly and reasonably have done, I still think Mr H would've gone ahead with the transfer of his pension. I'll explain why.

It was Mr H who initiated contact with BFP in January 2017 because he wanted to discuss the options for his pension including whether he should opt out as an active member of his DB scheme. The primary focus of BFP's advice at this time was that Mr H should not opt out of his DB scheme but wait until he left his current employment. And I think this was clear. But, because it was documented that Mr H's desire to opt out was ultimately driven by him wanting to also transfer to a personal pension arrangement, BFP indicated at this stage that, based on the information available, it believed it was unlikely to be suitable to transfer out. I think the reason BFP expressed an opinion that it was unlikely to be suitable to transfer rather than give a formal recommendation at this stage, was because I don't think it was in a position to formalise its advice on the transfer. This is because Mr H didn't yet have a guaranteed transfer value from his scheme trustees to allow BFP to produce the transfer value analysis which the regulator required it to do in giving DB pension transfer advice. Nevertheless, I think it would've been clear to Mr H from what was written here that BFP would be unlikely to recommend a transfer.

I can see Mr H's representative has referred to the email BFP sent Mr H on 22 January 2017 in which it put together a report about possible investment ideas for a pension transfer of Mr H's size, which was the same day Mr H's representative says BFP advised Mr H not to transfer. It says this suggests BFP intended to facilitate the transfer regardless of the written advice. BFP says this was sent to Mr H to prompt a general discussion about possible investment strategies for a transfer of Mr H's size.

I've thought about this. On the one hand, I accept the timing of the two pieces of communication appears odd and that as the Investigator said, the separate communications could be seen as contradictory. But on the other hand, it seems from the language used in the email containing the investment ideas, that this was based on earlier discussions and the adviser sent it later than he intended. The adviser wrote: *"Sorry it took a little longer than planned."* The information contained here was not in my view an encouragement to transfer or an indication that it intended to facilitate the transfer at this stage regardless of the advice it gave. The report contained information about example investment strategies, it explained what a SIPP was and it covered charges / fees. It also said the investment information was being provided *"(if the advice were to transfer your pension monies to a personal pension arrangement)."* In the circumstances I don't think it was wrong or unreasonable for BFP to have sent Mr H this kind of information or in the format in which it was presented.

Given the investment information was emailed to Mr H, I think it's likely he received this before he received BFP's letter of 22 January 2017 formally writing up their discussions. I think the timing of the two pieces of communication was perhaps clumsy – but I don't think BFP's email undermined what was contained in its letter of the same day. I think this was clear that its advice was that Mr H should not opt out of his DB scheme and that it was unlikely a transfer to a personal pension arrangement was suitable.

BFP's formal advice and recommendation to Mr H not to transfer out was set out in its suitability letter of 20 March 2017 after Mr H opted himself out of the scheme and obtained a guaranteed transfer value. It appears Mr H went on to opt-out of his DB scheme against the advice he was given.

While at over 50 pages this letter was lengthy, overall I think it provided a clear recommendation and explanation of why Mr H should not transfer his DB pension and the risks and implications of doing so. It set out the benefits Mr H would receive from his DB scheme at his desired retirement age and it explained that Mr H's desire for an income of £40,000 was far greater than this. It said that unless Mr H had significant other funds, by taking an inflation-protected income of this amount from age 57 utilising drawdown he was likely to run out of money during his lifetime.

I'm mindful that the section in the suitability letter where the adviser said they had carried out additional work in the form of extra questions to determine Mr H's thoughts on specific matters relating to DB pension arrangements, could be seen to be contradictory or misleading. I say this because it said here that, specifically in relation to death benefits and cash sums at retirement, its recommendation was to transfer. But this section wasn't intended to be read in isolation. The previous conclusions reached in the sections above said a transfer wasn't suitable and in any event this section concluded by saying that after BFP had considered things in the round, it didn't recommend a transfer. So I don't think this undermined things or misled Mr H into thinking the advice was to transfer.

Overall, I think the advice and explanation BFP provided was reasonable and that Mr H ought reasonably to have understood that BFP did not recommend he transfer his DB pension to a personal pension arrangement and the reasons and risks why it reached this conclusion.

BFP's next written communication was its letter of 23 March 2017. This said that Mr H had chosen to proceed against its advice not to transfer and that he'd asked BFP to provide him with a suitable personal pension to transfer to. BFP repeated its advice here not to transfer and it also reminded Mr H of the risks of transferring, including the impact on his standard of living given certain assumed investment growth rates and that, because his pension made up such a large part of his overall retirement provision, he was creating a disproportionate level of risk to his retirement objectives. I think setting this out in a separate letter to Mr H was the right thing to do.

However, I think there were some shortcomings in the insistent client process BFP employed here. I say this because BFP's letter of 23 March 2017 referred to Mr H's letter of 22 March 2017 in which he'd given his reasons for still wanting to transfer his benefits and it listed them out. But at this stage Mr H had not provided such a letter to BFP. BFP's agreement to proceed with the transfer on an insistent client basis was based on a phone call with Mr H of 21 March 2017 and his agreement to provide a handwritten letter as soon as he could giving his reasons for wanting to go ahead anyway. And as I set out earlier on, there is a file note of this telephone conversation.

So, reference to Mr H's letter was made in anticipation that he'd provide one dated 22 March 2017 giving his reasons for wanting to go ahead. But at the time of BFP's letter of 23 March 2017, Mr H had not yet provided it. So I don't think BFP should've said here that he had done so. I think BFP should've been clearer about things and the basis upon which it was willing to facilitate things and proceed with the transfer.

I also think it would've been good practice for BFP to have waited for Mr H to provide his written letter to indicate that he wanted to act against its advice and the reasons why before carrying out things.

It appears the reason BFP agreed to progress things without this and to waive the cooling off period was because Mr H was keen to progress things quickly. It's recorded that he wanted to take advantage of the salary uplift his employer was offering for transferring away in time for the next payroll.

Mr H has disputed this – he says he had plenty of money in the bank and it wasn't as important as BFP made out. But it was clearly documented in BFP's file note of their phone conversation of 21 March 2017 and in BFP's letter of 23 March 2017. Mr H also referred to this when he did provide his insistent client letter, which I will discuss more about below.
I find it unlikely BFP would've documented this if it wasn't a true reflection of what was discussed at the time – I would have expected Mr H to query this at the time otherwise.

I can see that Mr H didn't provide his handwritten insistent client letter until April 2017 when BFP followed things up with him. I think BFP should've followed this up sooner with Mr H. When it did, while it asked Mr H for a handwritten letter, the adviser attached *"something to help"* – a typed letter, template or example of what Mr H should write. BFP says that, given it was several weeks later the adviser did this to act as a reminder to Mr H. Mr H says it wasn't a template for him to copy – he says BFP wrote it and he was asked to sign it. He asks why this wasn't considered as being odd or unprofessional.

The regulatory guidance I referred to above said that, when a client wants to act against advice, to show that they understand the risks involved with their chosen course of action, using their own words to explain why would normally make this clear. In this case, the adviser wrote something out for Mr H – essentially allowing him to copy it. So, on the one hand it could be seen as putting words in Mr H's mouth, rather than allowing him to express the reasons he wanted to go against the advice using his own words.

But, on the other hand, what the adviser wrote was not a generic template with general reasons for wanting to act against advice, which they simply asked Mr H to sign and return. What was contained in the example letter, in my view reflected what had been documented about Mr H's views on things and what its recorded he'd said were the reasons he wanted to transfer going back to the original advice paperwork of January 2017. Nothing written here appears contrary to what BFP had documented over the course of the advice process about Mr H's views, objectives or reasons for wanting to transfer. And Mr H didn't just sign and return the typed letter BFP provided – Mr H did handwrite a letter and he made some alterations to what was provided.

So, while I accept there were some shortcomings in the process BFP employed in this case, I don't think this means Mr H didn't understand what he was doing or the risks involved with transferring. On balance, I think if things had happened as they should have, Mr H would've still gone ahead with the transfer of his DB scheme into a personal pension arrangement.
I think Mr H appears to have had a plan and he was set on this course of action. From what I've seen of the evidence presented, including the advice paperwork, the adviser's file notes and Mr H's decision to opt out of his DB scheme against advice, this all suggests to me that he'd thought carefully about things and the benefits of transferring. I think BFP's advice not to transfer and the risks involved in doing so were clear and that Mr H reasonably understood them – I think he was able to make an informed decision.

I understand Mr H thinks differently. He says that many of the comments apparently contained within BFP's notes and referred to in the report were news to him – he doesn't recall these and completely refutes that some of the conversations ever took place. But I find it unlikely given the level and amount of detail recorded by the adviser about Mr H's circumstances and what was discussed, both in the advice paperwork and in the handwritten file note, that this didn't reflect the conversations had at the time.
Mr H also says he was told by the adviser that they'd have to suggest not to transfer given the regulator's view of things, but would be happy to facilitate the transfer anyway. I accept this is possible. But I've not seen enough to support what Mr H says happened. I accept it was BFP who likely introduced the insistent client process to Mr H. BFP says that it did this, but only with clients it genuinely believed were insistent, who understood the risks and only after they'd been through the advice process and considered the appropriate advice given to

them. I’ve not seen anything to suggest this was a normal part of its advice process or that from the outset and before it had begun its advice process, it set out how Mr H could put aside its advice and go ahead anyway.

For the reasons above, while I accept there were shortcomings in BFP’s process, I still think Mr H was an insistent client and that it wasn’t unfair for BFP to have treated him as such.

So I don’t uphold this complaint.

My final decision

For the reasons above, I’ve decided to not uphold this complaint, so there is nothing Baker Financial Planning LTD needs to do to put things right.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr H to accept or reject my decision before 23 November 2023.
Paul Featherstone
Ombudsman