

The complaint

Mr L has complained that TenetConnect Limited (TenetConnect) has completed a calculation as part of the Financial Conduct Authority's (FCA) British Steel Pensions Scheme (BSPS) consumer redress scheme and reached the conclusion he isn't owed any compensation, despite TenetConnect having previously found that the advice provided to Mr L regarding his BSPS pensions transfer was unsuitable.

What happened

Mr L met with TenetConnect in 2017 and was advised to transfer his defined benefit (DB) pension with British Steel into a personal pension.

In February 2023, following concerns that a significant number of former members of the BSPS may have been wrongly advised, the FCA launched a consumer redress scheme. This required firms to review the advice they had given to consumers to transfer out of the BSPS and, if the advice was found to be unsuitable, to undertake a calculation to determine whether this had resulted in any financial loss. And, if a financial loss was identified, to make a redress payment to consumers to compensate them.

On 19 May 2023 TenetConnect contacted Mr L to inform him that the advice he had been given in 2017 had been found to be unsuitable as part of their review under the BSPS consumer redress scheme. On 20 October 2023 TenetConnect wrote again to Mr L to explain that a calculation had been completed using the FCA BSPS Calculator, and that these calculations indicated that Mr L hadn't suffered any financial loss as a result of the unsuitable advice. As such, TenetConnect informed Mr L that no compensation was payable to him under the scheme.

Mr L was disappointed with this outcome and sought assurance from this Service that TenetConnect had correctly applied the redress scheme rules relating to the loss calculations.

Our investigator confirmed TCC, on behalf of TenetConnect, had used the FCA BSPS Calculator to undertake the calculations, as directed under the scheme rules. Our investigator also concluded TenetConnect had correctly completed the calculator with various inputs, including Mr L's personal details, his individual benefits from the BSPS at the date he left the scheme, and the correct value of his personal pension. As such, our investigator was satisfied the calculations had been completed in line with the relevant scheme rules and guidance.

Mr L didn't agree with our investigator's findings and raised specific concerns about his wife's income in retirement. Having reviewed the calculation report, Mr L noted the reference to a five year guarantee, and interpreted this to mean that the calculations were based on his wife only receiving a spousal pension for five years in the event of his death, instead of for the remainder of her life. In addition, Mr L expressed concern as to how future annuity rates - which could well fluctuate - could be relied upon as a basis for calculations, given his expected retirement age of 65 was still some years away. Mr L also expressed the view that

TenetConnect should not be allowed to keep the initial £12,000 fees he had paid for the incorrect advice he had been given.

Furthermore, he said he had experienced stress, distress and inconvenience in relation to this matter, to the extent that it had adversely affected his health. In relation to this last point, Mr L said that neither TenetConnect, the FCA, or the Financial Ombudsman Service had made any provision for this in terms of compensation, despite his having been assured at an FCA seminar about BSPS transfer advice that compensation for distress and inconvenience would form part of the redress scheme.

Our investigator responded to Mr L's points. It was explained that the initial fee of £12,000 had been taken into account when the value of Mr L's Aviva personal pension had been entered as the £12,000 had already been deducted – the value was net of this initial charge. The investigator confirmed an amount of £3,000 for any future advice costs Mr L may incur had also been correctly factored into the calculation.

Our investigator explained that Mr L's interpretation of the calculations regarding a spousal pension was incorrect, and that the five-year guarantee he had referred to was in fact a lump sum value, which was protected for the first five years after Mr L retired. This lump sum – the value of which would depend on various factors - would be paid to a member's spouse in the event a member died within the first five years of taking their pension income. However, our investigator was able to confirm Mrs L would have also qualified to receive a 50% spousal pension for life had Mr L not transferred, and that this lifetime spousal pension was taken into consideration when the calculations were completed.

Our investigator also provided Mr L with a link to the FCA calculator technical report to explain how the annuity rates used in the calculator have been formulated.

In relation to any award for distress and inconvenience, our investigator sympathised with Mr L regarding the difficult circumstances he had been through, but explained that the scheme rules did not make any provision for such compensation payments. Mr L said he understood Service's role was limited to ensuring that TenetConnect had correctly applied the scheme rules. However, he still wanted an ombudsman to consider his complaint.

As our investigator was unable to resolve things, this complaint has been passed to me for a 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.

The rules that TenetConnect had to follow when calculating and paying redress are set out in the FCA Consumer Redress (CONRED) handbook under CONRED 4.4 "*Consumer redress scheme: calculating and paying redress*". The particular rule that's applicable here is CONRED 4.4.2R, the relevant section of which reads as follows:

"The first step is for a firm to calculate the amount of redress owed to a consumer:

- (1) in accordance with the relevant rules and guidance set out in DISP App 4 and DISP App 4 Annex 1, as modified by CONRED 4;*
- (2) by completing the BSPS calculator in accordance with the instructions set out in CONRED 4 Annex 21R;*
- (3) where requested by a consumer, by calculating the redress sum that would be payable by full or partial augmentation outside of the BSPS calculator in*

accordance with (1);

and send the consumer a redress determination in the form of the letter set out in CONRED 4 Annex 13R.”

I need to decide whether TenetConnect have applied these rules correctly, as directed by the FCA.

The aim of the calculation is to determine what – if any – compensation is required to put Mr L as much as possible back into the financial position he would have been in at retirement, *but for* the unsuitable advice from TenetConnect. To do this it is necessary to make some assumptions, using the best information available, about what would've most likely happened if Mr L had not been advised by TenetConnect to transfer his BSPS benefits.

In Mr L's case, one assumption is that he would've ended up in the replacement scheme, BSPS2. Another assumption is that Mr L would have taken his pension benefits at age 65. These are the assumptions that are most favourable to Mr L and would've provided the highest benefits. Given what I know of Mr L's circumstances and intentions, I agree these are fair assumptions in this case.

The FCA BSPS Calculator uses these assumptions, in combination with personal data about Mr L's circumstances and wider economic and demographic information, to generate the total sum Mr L would currently need in his personal pension arrangement to secure equivalent retirement benefits to those he would've been entitled to under BSPS2. The generated outcome also includes an automatic allowance for ongoing advice fees of 0.5% per year and product charges of 0.75% per year (these percentages are set by the FCA and cannot be amended).

The calculation in Mr L's case shows that there is no shortfall to his pension and that he has sufficient funds to be able to replicate or exceed the benefits he would have received at age 65 had he remained in the scheme. This is because Mr L's current personal pension value, on current assumptions, will be sufficient to buy an annuity at 65, including a spouse's pension which provides the same benefits as the BSPS2. The redress calculator outcome showed Mr L had a personal pension value of £1,006,897.43. This value is in excess of the £797,923.46 needed to be able to replicate the benefits Mr L would have received at age 65 had he remained in the scheme. So, at the time of the calculation, Mr L's fund exceeded what was needed, meaning there was no shortfall.

As the calculation shows there is no shortfall, this means no redress payment is due to Mr L. Put in simple terms, even though the advice was unsuitable at the time, the transfer has actually not led to any losses for Mr L based on current calculations. So, there's nothing to compensate him for.

I have checked the inputs TenetConnect entered into the FCA Calculator. These include Mr L's personal details, such as length of service and marital status, as well as his individual benefits from the BSPS at the date he left the scheme, and the current value of his personal pension. As I've said above, I also think the assumptions with regards to him ending up in the BSPS2 and retiring at 65 are fair. So overall, I find that the calculation has been carried out appropriately and in line with the rules.

Mr L may be aware of other former BSPS members who have received financial compensation as a result of unsuitable advice to transfer out of the scheme, and so this outcome may be disappointing to him. However, as I've explained, each calculation is based on individual details and circumstances.

Mr L has argued that TenetConnect shouldn't be allowed to retain the £12,000 initial advice fee he paid. However, the fee has already been factored into the calculation, and – as explained above - there is no a shortfall. For clarity, the cost of a 50% spousal pension in the event of Mr L's death, guaranteed for the life of his wife, has also already been factored into this calculation.

To provide Mr L with further assurance, I note that the FCA BSPS calculator has been developed by qualified actuaries and is programmed with the relevant scheme information and benefit structures. The relevant economic and demographic data is updated on a quarterly basis. None of this information can be amended by the firms using the calculator.

In response to our investigator's view, Mr L also explained how this situation has affected him. I understand the significant affect Mr L has told us this has had on his health, and I am sorry to hear he has experienced stress and worry in relation to this matter. However, my role is limited to determining whether or not the consumer redress scheme rules have been correctly applied in this case.

My final decision

In summary, I am satisfied TenetConnect Limited have correctly followed the redress methodology set out in the FCA's BSPS consumer redress scheme and that Mr L hasn't suffered a financial loss as a result of the unsuitable advice to transfer.

If Mr L accepts my decision, TenetConnect will be required to follow the steps set out in CONRED 4.4.11 R (2). These steps require TenetConnect to bring the calculations up-to-date by undertaking recalculations within two weeks of Mr L's acceptance (please see the below extract for full details).

“CONRED 4.4.11 R

(1) A firm must complete the steps at (2) where a consumer makes a complaint to the Financial Ombudsman Service in respect of a redress determination made under CONRED 4.4.2R and either of the following apply:

(a) the firm and the consumer agree pursuant to DISP 3.5.1R that the redress determination was correct; or

(b) the firm receives notification from the Financial Ombudsman Service in accordance with DISP 3.6.6R(5) upholding the redress determination.

(2) Within 2 weeks of the date where either the firm and the consumer reach agreement under (1)(a) or the firm receives notification under (1)(b), the firm must:

(a) recalculate the amount of redress owed to the consumer pursuant to CONRED 4.2.2R in accordance with CONRED 4 Annex 21 13.15R(2); and

(b) make a further redress determination pursuant to CONRED 4.2.2R in the form of the letter set out in CONRED 4 Annex 13R with an adaptation to the letter to explain the circumstances in which the further redress determination is being made.”

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 12 June 2024.

A handwritten signature in blue ink, appearing to read 'E. Clare', with a small blue dot to the left of the first letter.

Ellie Clare
Ombudsman