

The complaint

Mr J complains that following the advice that R&Quiem Financial Services Limited (trading as Oval Financial Services Ltd) gave him regarding his defined benefit ('DB') pension scheme he transferred his deferred benefits into a personal pension scheme. He says that he now thinks he'd have been better off in retirement had he kept the benefits in his DB scheme.

What happened

Mr J was a deferred member of an occupational pension scheme with defined benefits. And in late 2011/early 2012 the employer was offering the DB scheme members enhanced transfer values to transfer from its scheme.

The employer was also offering members the opportunity if free independent financial advice on the suitability of the transfer for them. And R&Quiem was the firm contracted to provide this advice.

In early 2012 R&Quiem carried out transfer analysis of a pension transfer for Mr J. It established that Mr J's DB scheme offered a cash equivalent transfer value (CETV) around £339,000. Plus an additional enhancement around £39,000 that could either be added to the CETV or taken as a taxable lump sum. The analysis established that the DB scheme offered benefits that were estimated to be an income around £23,900 a year at age 60 (plus tax free cash ('TFC') of £2,194) or at age 55 of £15,334 a year (plus tax free cash of £1,512).

The transfer analysis indicated that the critical yield (CY) – the annual investment return needed for the transferred funds to be able to provide equivalent benefits – for the transfer value including the enhancement as:

- 6.5% for benefits taken at age 60 (or 5.9% assuming maximum TFC taken)
- 4% for benefits taken at age 55 (or 2% assuming maximum TFC taken)

Analysis was also carried out for the transfer value without transferring the enhancement for both, age 55 and 60.

R&Quiem undertook a written fact-find with Mr J. Amongst the background information was the following circumstances and objectives:

- Mr J was aged 50.
- He said he had 3 financial dependants aged 19;18;16.
- He was employed with an income of £26,000.
- He declared savings around £300.
- He was a homeowner with an outstanding mortgage around £114,000
- He had debts on credit cards around £4,900 and an overdraft around £1,600
- His DB scheme pension was the cornerstone of his retirement planning

- Mr J wrote that he wanted to pay off debts and find better accommodation if drawdown was possible. And that it depended on what he could access from his pension at age 50 and the impact on his later retirement.
- Spouse benefit wasn't important to him as he was separated so he preferred to nominate his children as beneficiaries.
- He wanted maximum TFC from his pension.
- He thought he had a realistic retirement age of 60 but wanted to keep his options open.

R&Quiem provided Mr J with a recommendation in March 2012 not to transfer from his DB scheme. It provided Mr J with a covering letter summarising that it wasn't recommending that he transfer. And also provided a more detailed report and transfer analysis ('TVAS').

I summarise R&Quiem's reasons for recommending that Mr J didn't transfer as:

- He was uncomfortable giving up the known income in the DB scheme.
- The DB scheme was a significant part of his overall retirement benefits. And it wouldn't be appropriate to give up his guaranteed benefits as there would be a potential to receive a lower level of income.
- He wanted to protect his pension income from the effects of inflation.
- He had little knowledge or experience of investing.
- He wasn't comfortable with the idea of fluctuations in his fund over time.

Mr J referred a complaint to our service as he was unhappy about the process around transferring his DB scheme benefits. He was of the mind that transferring his scheme had been a bad idea, but was unsure about the complaint process, thinking that the DB scheme administrator was responsible for his transferring. He explained that he became concerned at the drop in fund values, and that his concern was that he would have been better off with the original benefits that his scheme offered. Mr J provided evidence from the time of the transfer and it was evident that the advice regarding his pension transfer was provided by R&Quiem. So we referred his complaint to R&Quiem for it to investigate Mr J's issues.

R&Quiem looked into Mr J's complaint and didn't uphold it. R&Quiem explained that its advice in 2012 had been for Mr J not to transfer from his DB scheme. It said it had considered his circumstances and explained at the time why the transfer wasn't suitable. It explained that he then chose to transfer his pension against its advice and the transfer was subsequently made with Mr J as an 'insistent client'. And that Mr J signed a further declaration that he understood that he was acting against R&Quiem's personal recommendation.

Mr J was unhappy with R&Quiem's response and referred his complaint back to us.

Our investigator was unable to resolve this complaint and R&Quiem asked for an ombudsman's decision on whether Mr J's complaint was in our jurisdiction as well as on the merits of Mr J's complaint. I issued a provisional decision to allow both parties the opportunity to consider the finding I was inclined to reach on both these issues and to respond with any additional evidence or arguments that they considered relevant.

What I said in my provisional decision

I considered whether Mr J had made his complaint in time for us to consider it under the rules governing our service. Specifically with reference to DISP 2.8.2R that is set out in the Dispute Resolution (DISP) part of the Financial Conduct Authority's handbook. I explained that this rule means that consumers have an absolute right to complain about an event within six years (the 'six-year rule'). Or, if complaining later than that, we can still consider a complaint that is made within three years of the point that the consumer was aware, or had reasonable cause to become aware, that he had a cause for complaint (the 'three-year rule').

I determined that this case was in jurisdiction for broadly the same reasons as our investigator had explained. I summarise my reasons as follows:

- Mr J's complaint, made in November 2022 about advice given in 2012, was made too late under the six-year rule.
- I then considered whether there was a point when Mr J ought reasonably to have been aware of a cause to complain about the advice he'd been given.
- I considered when it ought to have become apparent to Mr J that he may be worse off in retirement by having transferred. I concluded that Mr J ended up taking benefits from his pension in a completely different way than had been available from his DB scheme. Which made a like for like comparison of relative benefits impossible.
- Mr J explained that he became aware of a cause to complain when his pension fund dropped in 2020.
- As I could not identify any earlier point than that where I thought Mr J ought reasonably to have considered he had cause to complain, I decided that his complaint in 2022 was within three years and was in our jurisdiction.

I then went on to consider the merits of Mr J's complaint. I explained that I wasn't minded to uphold Mr J's complaint and gave the following reasons:

- R&Quiem's recommendation to Mr J was that he shouldn't transfer his DB scheme benefits.
- There were no specific rules within the regulator's Conduct of Business Sourcebook (COBS) about how R&Quiem should treat 'insistent clients' when the advice was given. But the way in which R&Quiem documented Mr J's decision to proceed with the transfer against the recommendation complied with what I understand to be good industry practice for the time.
- I didn't think that R&Quiem complied with the requirements that were set out in COBS 19 at the time the advice was provided. Its suitability letter didn't provide a comprehensive reason that it wasn't in Mr J's best interests to transfer. I thought that it failed to fully consider Mr J's specific circumstances. And it failed to provide any specific commentary on the likely comparison of retirement benefits if taking them in a different way than allowed in his DB scheme.
- I considered whether R&Quiem's failure, to provide the comprehensive advice that COBS 19 required, would, on a balance of probabilities, have made a difference. To do that I considered what additional context or information R&Quiem ought really to have provided as part of its recommendation.
- I looked at the critical yields that R&Quiem obtained for Mr J's DB scheme. I thought that Mr J ought to have been told that the chances of being able to match the benefits of his DB scheme at age 60 was highly unlikely.
- But I thought, based on the correspondence of the time, that Mr J most likely wanted to take benefits before age 60. And, had R&Quiem offered commentary on the likelihood of being able to achieve the CY of 4% (or only 2% if opting to take maximum TFC) to age 55, then that may have been considered achievable.

- I also thought that R&Quiem could have considered Mr J's objective of leaving any pension death benefits to his children. An indication of the investment returns needed to match the income from his DB scheme without providing a spouse benefit would have been lower than the quoted critical yield.
- I was minded to decide that, even if R&Quiem provided Mr J with a more comprehensive explanation about the consequences of transferring, it was unlikely to persuade him not to transfer. I considered that his motivation to transfer was due to the fact he wanted to take immediate advantage of pension benefits, and the downsides to that were unlikely to seem so great that it would have made a difference given that R&Quiem's overall recommendation was already not to transfer.

Responses to my provisional decision

Mr J responded to explain how disappointed he was that I had reached a different outcome to our investigator. He wanted me to reconsider the conclusion that the investigator had reached which he believed was very well founded and suggested an outcome that he wanted.

Mr J offered the following additional explanation:

- That he didn't know he could access his pension at 50 when he transferred
- He only realised he could access his pension at 50 when he later bumped into an ex-colleague
- Accessing his pension wasn't a factor in his decision to transfer.

R&Quiem used its submission to re-assert its belief that I should determine that this case fell outside of our services jurisdiction based on DISP 2.8.2R for the following reasons:

- Mr J was made aware that transferring exposed him to investment risk when he was advised in 2012. Which it suggests is the risk that was relied on in my view that the complaint was made in time.
- Mr J's complaint is about the transfer and he knew he was transferring against advice in 2012 so ought to have considered it wasn't suitable for him.
- Mr J was warned of the risk that the value of his pension could fall in 2012. And he signed a declaration to confirm he understood the risks associated with transferring.

R&Quiem agreed with the outcome that I'd reached on merits and presented no new evidence or arguments regarding that.

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.

My decision on whether this complaint is in our jurisdiction

I've considered this matter fully again in light of R&Quiem's submissions. Ultimately I have based my decision on the evidence available. And for much the same reasons I gave in my provisional decision, I am still satisfied that this case is not time-barred by DISP 2.8.2R. I'll explain my reasons and address R&Quiem's issues below.

As I explained in my provisional decision and summarised above of specific relevance here, is whether a complaint was made in time for us to be able to help. The relevant rule for this is DISP 2.8.2R as referred to earlier in this decision.

R&Quiem agree that the event complained about is the advice that Mr J was given by R&Quiem in March 2012. So Mr J only had until March 2018 for us to be able to investigate his complaint under the 'six-year rule'. He referred his complaint to us in November 2022. So his complaint was made too late under this part of DISP 2.8.2R.

I have to also consider here whether the 'three-year rule' allows us to help with this complaint. And R&Quiem disagree that this part of the rule gave Mr J any longer to make his complaint.

Mr J explained that he doesn't think he should have transferred his DB benefits. So I think that the crux of his complaint is about the transfer from his DB scheme. Or, to be clearer, about the advice R&Quiem provided him after which he went ahead with the transfer against its overall recommendation. So, even though R&Quiem explain that it advised Mr J against the transfer, Mr J now considers that he wasn't aware that he would be better off in leaving his benefits where they were. It is this idea that he has suffered a loss from the transfer that is also relevant to the complaint.

R&Quiem have provided no evidence of what happened subsequently as it provided no further advisory service for Mr J. But Mr J has provided a reasonable history of the values of his pension fund which has also shown the income that he has been taking from his pension since 2013.

I don't think that Mr J ought reasonably to have considered that the advice R&Quiem gave him in 2012 was in any way unsuitable. It provided an overall recommendation. And I think it's unlikely that he'd have considered whether the advice process was compliant with COBS. I think, on a balance of probabilities, he was most likely happy to accept the advice as being suitable when he received it. So, whilst that meant he knew that R&Quiem wasn't recommending the transfer, I think he would have thought that was for the reasons that it set out in its suitability report. I summarised those in the above section entitled '*what happened*'.

So I think, based on what R&Quiem told Mr J, he ought to have been aware he was giving up guaranteed benefits and that there was a potential he might receive a lower level of income. But, for the reasons that I gave when considering the merits of this case in my provisional decision, I don't think R&Quiem gave Mr J any detail or reason to expect that was likely. Or the extent to which he could expect to be worse off by transferring. Making someone aware that a risk of being worse off is not the same as giving a recommendation explaining the likelihood of that happening.

Given that I don't think Mr J ought to have considered he should complain in 2012 I've looked at what happened since to see if there was a point that he ought reasonably to have known he would be worse off in retirement by transferring.

The starting point for this is to consider what he ought to have known about the benefits that he was giving up. And I can see from the documentation that R&Quiem gave him in 2012 that he was made aware of the likely pension that the DB scheme would provide him at ages 55 and 60. But it didn't provide him with any likely income projections for taking his benefits at age 51. Nor did it provide him with any form of modelling or advice regarding taking his benefits via drawdown. Which is what he ended up doing. He has been taking his benefits from his personal pension in so different a way to those he could have expected from his DB scheme that I don't think he could reasonably have compared the benefits he's had, and may still get, with what he could have had.

Mr J transferred around £380,000 to a personal pension in 2012. By March 2013 Mr J took tax free cash from his pension which left a residual fund around £340,000. And his statement showed projections for an annuity at age 60 based on low, medium, high investment returns around £19,000, £32,000, £49,000 respectively. In August 2013 Mr J set up an income drawdown from his pension fund paying £1,000 a month. And after a year was informed that his capped drawdown limit was increasing to £17,807 a year. So he was taking income at below his drawdown cap and it would, most likely, have appeared to Mr J as sustainable.

By March 2016 Mr J's capped drawdown limit had increased to over £21,000. His pension fund in December 2016 had increased to £371,145. The drawdown income he'd taken varied over time but he'd taken a total of £26,875 in drawdown since 2013.

Mr J continued to take drawdown income from his pension and his fund value still continued to grow each year. By October 2019 Mr J had taken around £51,000 in drawdown income from his pension and the fund was valued around £390,000. So, up until this point I haven't seen any evidence that Mr J ought to have considered he would be worse off than he'd have been with his DB benefits. As I said in my provisional decision, Mr J was taking benefits from his personal pension in a very different way than had been offered in his DB scheme. And he'd been provided no context by R&Quiem on what it was reasonable for him to expect.

He explains he wasn't unhappy with the performance of his pension until a drop in value in 2020 caused him alarm. And his pension valuations show that in April 2020 his pension had dropped to around £329,000. I think this corroborates his account regarding when he became aware that the transfer may leave him worse off. And I've seen no evidence in what happened before that which meant Mr J could make a like for like comparison of his relative benefits. So I've found no point in time, prior to the point Mr J says that he became concerned, where I think he ought reasonably to have had cause to complain.

For these reasons I am satisfied that Mr J's complaint was made in time and is in our jurisdiction.

My decision on the merits of this case

I've considered the evidence again as well as the additional comments Mr J has provided. I appreciate that he will be disappointed but my final decision is that I am not upholding his complaint, for the same reasons that I gave in my provisional decision and expand upon in what follows.

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.

I summarise some of the rules and regulations which applied at the time of the advice:

- PRIN 2.1 - Principle 6: A firm must pay due regard to the interests of its customers and treat them fairly.
- PRIN 2.1 - Principle 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 interest's 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 scheme transfer.

The regulator, the Financial Conduct Authority ('FCA'), states in COBS 19.1.6 that the starting assumption for a transfer from a defined benefit pension should be that it is unsuitable. So, R&Quiem should have only recommended a transfer if it could clearly demonstrate that the transfer was in Mr J's best interests.

R&Quiem provided evidence that it didn't recommend that Mr J transfer his pension. It demonstrated an understanding of COBS 19.1.6 that I've referred to above. And it was clear in its recommendation letter of 15 March 2012 that its recommendation was that Mr J didn't transfer his DB scheme. Which means that Mr J decided to transfer in spite of this recommendation. R&Quiem still facilitated the transfer, treating Mr J as an insistent client.

There had previously been rules in place relating to insistent clients when the Personal Investment Authority ('PIA') was the regulator and the PIA Adopted Rules applied. And the Conduct of Business rules had also contained rules about how firms should treat insistent clients. These requirements were not replicated in the Conduct of Business Sourcebook ('COBS') rules which came into force in 2007. But at the time the advice was given, I think it was good industry practice for firms to ensure that customers who wanted to go ahead with a transaction against an adviser's recommendation should have it clearly documented that the consumer was acting against the recommendation, and that they wanted to proceed in any event. And I think that R&Quiem did this.

I need to also consider that Mr J's ability to make a properly informed decision to go against the overall recommendation was still dependant on the quality of the advice that R&Quiem provided. So I will now go on to consider whether R&Quiem did enough in explaining its recommendation to Mr J. And here, as in my provisional decision, I think that some of what R&Quiem did fell short of some of the guidance within COBS 19 at the time.

At the time that R&Quiem gave its recommendation COBS 19 guidance said that when preparing its 'suitability report', R&Quiem should include a summary of the advantages and disadvantages of its recommendation. And an analysis of the financial implications (if the recommendation was to opt out). So I would also expect R&Quiem to provide personal analysis of the financial implications so that Mr J could make an informed decision.

Particularly in a case where a consumer most likely already wanted to transfer. Which I think was the case here. I say this because R&Quiem have shared email evidence that indicated Mr J wanted to access TFC from his pension straight away. And it acknowledged this fact in its suitability letter explaining that the scope of its advice did not consider the option of drawdown. And recommended that Mr J seek alternative advice if he wished to pursue that option.

I've looked at the quality of the explanation that R&Quiem provided in its suitability letter. It summarised the reasons that it wasn't recommending transferring (which I summarised earlier). These weren't particularly personalised to Mr J's circumstances. And whilst it was right to start from the assumption that the transfer wasn't suitable it needed to comment on the financial analysis and also Mr J's circumstances to be able to determine if the evidence indicated the transfer was in his best interests.

I don't think that R&Quiem's suitability letter did this. For instance, Mr J had made it known in the fact-find document that he was considering taking benefits from his pension at age 50. Which his scheme and the personal pension proposed would allow. But no comment or analysis of this was given to Mr J. It was an objective that was ignored by R&Quiem. Mr J had also pointed out in the fact-find that he was separated and that his preference was for any death benefits from his pension to go to his children. This may have had a bearing on whether transferring may have been in his best interests as the spouse benefit available in his DB scheme may not have been as important to him. And the treatment of death benefits in a personal pension would be different than in his DB scheme. But this objective was also ignored in the suitability letter. And R&Quiem gave no consideration to the level of income that Mr J would need in retirement or from what age. Or how best to achieve that.

The suitability letter told Mr J that by transferring there would be potential for him to receive a lower level of income. But didn't say whether or not that was likely. Even though it had carried out the analysis needed to be able to indicate to Mr J how likely that was. And as I referred to above, this was part of the financial analysis that COBS 19 required. But I can see that the opening paragraph of the suitability letter made it clear to Mr J that there was other important information in the supporting reports. And the letter encouraged Mr J to read all the material carefully. Which I think was reasonable. Especially if he was thinking of taking a different course of action from the overall recommendation. So I've considered the additional reports sent to Mr J to see if they provided enough information for Mr J to understand the financial impact of transferring his pension against the recommendation.

R&Quiem provided Mr J with a copy of the TVAS that it obtained to compare the benefits of Mr J's DB scheme with those he may get following a transfer. That provided Mr J with clear information about the level of pension that his scheme was likely to provide him at ages 55 and 60. And it provided him with the CY figures for the transferred fund with or without the enhancement, at ages 55 and 60. But this report didn't provide Mr J with any comment on the likelihood of his being able to achieve any of those CY figures given his attitude for investment risk with his pension. In the absence of a clear indication anywhere from R&Quiem of what level of investment return might be achievable, the TVAS didn't make it clear to Mr J whether he was likely to be better or worse off in retirement.

I can see that R&Quiem also provided Mr J with illustrations from the provider of the group pension scheme that Mr J's employer proposed. That provided illustrations for potential outcomes for a transfer. It provided illustrations based on a low return rate of 4%, a medium rate of return of 6%, and a high rate of return of 8%. And provided an indication of what Mr J could expect to get back from a personal pension, at age 60, based on these three rates of return. The low rate of return projected a fund of £512,000 and potential annual income of £13,300. The medium rate of return projected a fund of £624,000 and a potential annual income of £19,400. The high rate of return projected a fund of £756,000 and a potential annual income of £27,600. These figures were clear and weren't adjusted for inflation. So provided Mr J with a direct comparison with his likely scheme benefits at 60.

The TVAS had illustrated that Mr J could expect to receive around £23,869 a year from his DB scheme if he took his benefits with it at age 60. So, overall, I think the information that Mr J was given could have shown him that his transferred fund would have to exceed the medium illustrated investment performance every year until age 60 to match the benefits that he already had. But he could also see that high investment returns would give him a more valuable pension at age 60 than his DB scheme. In its fact-find R&Quiem identified that Mr J had no investment experience. And R&Quiem chose to offer no commentary on investments in the personal pension. So I'm not sure that Mr J would have been in a position to understand that investing in line with his attitude to risk made it very unlikely that he could expect to be able to enjoy the illustrated high level of returns.

Furthermore, COBS 19 meant that R&Quiem didn't just need to compare the likely benefits of the DB scheme with a personal pension scheme, but had to ensure that the comparison included enough information for Mr J to be able to make an informed decision. For the reasons I've given above, I don't think that R&Quiem did this. There was insufficient information in the suitability letter or any of the supporting documents to have enabled Mr J to understand the likely investment returns of a personal pension and how his indicated preferred option would compare with his existing benefits.

For the above reasons I don't think that R&Quiem's recommendation provided Mr J with all of the information that COBS 19 required it to. This was important because R&Quiem understood that Mr J wanted to transfer his enhanced CETV. And that he most likely wanted to take benefits from age 50. Its advice wasn't entirely suitable because it didn't provide him with enough information to enable him to make a fully informed decision about whether to proceed against R&Quiem's overall recommendation not to transfer.

I have already explained that the COBS rules required R&Quiem to 'act honestly, fairly and professionally in accordance with the best interests of its client'. In addition, COBS required R&Quiem to provide information that was clear, fair, and not misleading. So, R&Quiem's recommendation had to be clear and Mr J had to have understood the consequences of going against the recommendation. And I've explained that I don't think it was clear.

But I also need to consider whether the areas where I think the recommendation fell short, caused Mr J to transfer, against the overall recommendation not to. Or, put another way, if R&Quiem had provided the clearer information on the transfer and Mr J's specific circumstances and objectives that I think it should have, would that additional information have been likely to have convinced Mr J not to transfer. I'll now consider what that additional context might have shown Mr J, and why I don't think it would have discouraged him from transferring.

Firstly, I think that the CETV that was on offer for Mr J was high. It would have seemed like a lot of money and Mr J's testimony makes it clear that the enhancement made it a very attractive option for him.

I also think that Mr J was very interested in accessing funds from his pension almost immediately. I appreciate that he says that I'm wrong on this point and explained in his response to my provisional decision that he didn't know he could access his benefits at 50. I've considered this additional testimony, but it doesn't outweigh the contemporary documented evidence that I also have. The fact-find that was completed showed that Mr J expressed an interest in taking benefits from 50 depending on the impact it had on his later pension. And I've seen an email that Mr J sent to R&Quiem on 18 March 2012 that said, *"I have the paperwork now in my possession so will need to go through the forms with u as u suggested either Monday or Tuesday evening to proceed with deal so that I may take the max drawdown"*. Weighing all of the evidence I think that transferring in order to access benefits soon after was a motivator for Mr J. And was subsequently what he ended up doing. I think he would therefore have needed persuasive arguments not to do so in order to have changed his mind.

As I've already explained R&Quiem didn't give Mr J any information about his likely objective of taking a drawdown income rather than the DB scheme benefits. But if it had I think it would most likely have indicated to Mr J what his drawdown option might look like. Which, at that time, ought to have included a comparison of what a safe drawdown level could have been using the government actuary department (GAD) tables for capped drawdown. Which, for the full enhanced transfer would have been around £16,000 a year for ages 50/51. R&Quiem only provided the likely DB benefit at age 55, which was £15,334. But at 50 or 51 it would face a further actuarial reduction to even further below £16,000. So, even if

R&Quiem provided the comparative figures for the DB scheme at age 50, I don't think that this comparison would've served to have persuaded Mr J that it wasn't in his interests to transfer. It would likely have reassured him that equivalent or superior drawdown income could be sustainable.

The advice was given after the regulator gave instructions in Final Guidance FG17/9 as to how businesses could calculate future 'discount rates' in loss assessments where a complaint about a past pension transfer was being upheld. Prior to October 2017 similar rates were published by the Financial Ombudsman Service on our website. Whilst businesses weren't required to refer to these rates when giving advice on pension transfers, they provide a useful indication of what growth rates would have been considered reasonably achievable for a typical investor.

The relevant discount rate closest to when the advice was given which I can refer to was published by the Financial Ombudsman Service for the period before 1 October 2017, and was 5.5% per year to retirement at age 60 and 5% for retirement at age 55. For further comparison, the regulator's upper projection rate at the time was 9%, the middle projection rate 7%, and the lower projection rate 5% per year.

Had R&Quiem used the discount rate, or any other realistic figure for achievable investment growth, then I think that it would have been able to make Mr J understand that the CY of 6.5% at age 60 was likely unachievable. But its fact-find indicated that Mr J intended to take his maximum TFC from his pension. So the CY of 5.9% may have been of more relevance in Mr J's case. And this figure may well have seemed close to being achievable. And for the earlier retirement option of 55 where the CY was 4% (2% taking maximum TFC) this transfer might have seemed financially viable. Meaning Mr J might have considered that his preference for taking benefits early may not leave him worse off in comparison.

These comparisons of benefits included a spouse's pension. Which was appropriate for a direct comparison with the scheme benefits. But Mr J had indicated that element of his benefit was no longer important to him. Had a CY figure been provided for the same level of income on a single life basis that would have been lower and would, more likely than not, also have looked achievable to Mr J.

I would again explain that, by highlighting the above, I am not suggesting that this transfer should have been recommended. But I am using this information, that I think Mr J should have been given, to determine whether or not it would have persuaded him from a course of action that I think he was, more likely than not, set on. And I think that the above context, if provided, may simply have served to reassure Mr J that, in certain circumstances, he may not have been disadvantaged by transferring.

In summary

I think it was reasonable for R&Quiem not to recommend Mr J's pension transfer for the reasons it did. It was correct to determine that Mr J didn't need to take on investment risk that he may not have been comfortable with. He'd told R&Quiem that he was uncomfortable giving up the guaranteed benefits in his scheme and wanted inflation proofed income in retirement. And his DB scheme provided the best ways to secure these.

But I've also explained why I don't think that R&Quiem's advice provided Mr J with the explanation he deserved regarding the extent to which he may end up with benefits that were more or less valuable. It left it to him to interpret the TVAS without any consideration of whether he had the knowledge to do so.

Ultimately though, Mr J decided to transfer without that being recommended. And, for the reasons that I've given above, I'm of the opinion that Mr J would still have transferred, even if R&Quiem had provided the clearer rationale for its recommendation, that I think it should have.

My final decision

For the reasons given, I am not upholding Mr J's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 8 February 2024.

Gary Lane
Ombudsman