

The complaint

Mr W's representative has complained, on his behalf, about what it considers to be the unsuitable advice given to him by WPS Financial Group Limited to switch two existing personal pension plans (PPPs) to his self invested personal pension (SIPP).

What happened

In December 2017, Mr W transferred defined benefits from his membership of the British Steel Pension Scheme (BSPS) to a SIPP. This transfer has been the subject of a separate complaint against WPS.

In March 2018, Mr W contacted WPS to enquire about switching the value of two PPPs, held with Phoenix, into the SIPP as well. Mr W met with a representative of WPS in May 2018, following which a suitability report was issued - on 21 May 2018. WPS advised Mr W to switch one of the plans, but to retain the other as it was on the basis that it had a Guaranteed Annuity Rate (GAR) attached to it.

Mr W accepted the advice and switched the pension plan without the GAR into the SIPP. Mr W then switched the plan with the GAR attached to it to the SIPP as well, but did so without further involvement from WPS.

Mr W's representative complained to WPS on his behalf in September 2021, saying that the switch of one of the pension plans held with Phoenix had been unsuitable and that transferring away from a guaranteed income would only be suitable in exceptional circumstances.

WPS declined to uphold the complaint, saying in summary that, although the Phoenix plan had a guaranteed sum assured, this would only apply if the policy was held until 2036, and it was therefore not considered to be a valuable benefit. It said that there were small additional costs involved in the switch from the PPP, but that the growth potential in the new plan would more than outweigh this.

The complaint was referred to this service and it was assessed by one of our investigators. He didn't think that the complaint should be upheld, saying the following in summary:

- He noted that the recipient SIPP had been established to receive the proceeds of the BSPS transfer.
- Although Mr W's representative had alluded to Mr W having relinquished a guaranteed income from his existing policy, WPS had advised against switching the plan with the GAR attached to it.
- The plan which WPS advised Mr W to switch didn't have either a GAR or a guaranteed minimum pension. It had also been subject to minimal annual bonuses of 0.05% since December 2013. There was also no penalty for transferring the plan out of Phoenix.

- As the SIPP already existed as a result of the BSPS transfer which had been considered separately, it had a flat annual fee and the fund charge was 0.51% pa. It had also been invested in an environment which was subject to financial market fluctuations, and would continue to be so.
- He also noted that Mr W had later switched the policy containing the GAR against the advice of WPS.

Mr W's representative disagreed, however, saying the following:

- The regulator had for a long time been setting out its position that, unless there were compelling reasons to do so, such plan switches shouldn't be effected if there was likely to be a higher resulting charging structure.
- Mr W's exiting plan had an annual charge of just £20. But upon transferring, there would be a £684 entry charge, ongoing adviser charges of 0.5% pa and fund charges of 0.51% pa. Mr W was already incurring the fixed platform fee as a result of the BSPS transfer.
- Mr W considered that he would have been better off retaining his Phoenix PPP once the charges had been factored in.
- Mr W would have had an element of flexibility with his existing pension in terms of deciding how much tax free cash to take and when.
- Mr W didn't need ongoing financial advice regarding his pension and he only considered that it would be wise to consolidate his pensions as this is what the WPS adviser had told him to do.
- Although his Phoenix pension plan wasn't exhibiting spectacular growth, it offered an element of stability and certainty, as regardless of the volatility of his main pension, the more stable with profits policy could be used to draw income in the event that the larger pot experienced a steep drop.
- Mr W's Phoenix plan was relatively modest in value and the initial and ongoing charges involved with the transfer would have had an impact on Mr W's retirement plans.
- Mr W was now potentially in a worse position than he would have been if he'd not been advised to transfer and there was no compelling reason for him to do so.

Mr W's representative confirmed that Mr W didn't wish to pursue the matter of the pension with the GAR attached with this service.

Our investigator considered these points, but wasn't persuaded to change his mind, saying the following in summary:

- It was difficult to compare the charges between the two plans, as those within a with profits plan were "implicit". But he agreed that Mr W's transferred pension funds would have been subject to the initial and ongoing charges cited by the representative – although he also noted that the ongoing adviser charge was reduced to 0.35% in 2019.
- It didn't seem unreasonable for Mr W to transfer from a policy which had no likelihood of future growth into one which he had already established.

- Whilst charges were an important consideration in any transfer or switch, they weren't necessarily an overriding reason not to switch, especially when a consumer was in a demonstrably poor performing investment with no realistic likelihood of that changing.

Mr W's representative responded to say that Mr W would like the matter reviewed by an ombudsman. It said that the investigator had ignored a table in the suitability report which showed growth in the policy in excess of the rates quoted by him. It considered that the 0.05% pa annual bonuses were in addition to growth rates of 1.5% between January 2017 and June 2017, 4.3% between July 2017 and December 2017, and 0.6% pa between January 2018 and June 2018.

The representative further said that the investigator hadn't taken into account the terminal bonus which would apply when Mr W reached his selected retirement age.

As requested by Mr W's representative, the matter has been referred to me.

I noted what Mr W's representative has said about the annual bonus being in addition to the growth rate for the ceding with profits policy, and so I've asked the investigator to enquire further of WPS as to whether this was the case, and also whether a terminal bonus applied.

In response, WPS has submitted information directly from Phoenix Life, which confirms that the "growth" cited by Mr W's representative is in fact an "uplift" amount which is included in the policy fund value projections. It's used for calculating final bonus rates for retirement and transfer values, and isn't therefore an annual reversionary bonus which, once added, can't be removed. It's more akin to a terminal bonus, and reflects the indicative amounts of "excess" assets within the with profits fund. And as is the case with excess assets and terminal bonuses, these can change – sometimes quite radically - over time.

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.

And having done so, I'm broadly in agreement with the investigator's view, and for the same reasons.

There's little in fact which I think I can meaningfully add to what's already been said. Suffice to say that I agree with the point of Mr W's representative that there needs to be a compelling reason to transfer a policy when the charging structure is likely to be higher.

But the annual bonuses attaching to the Phoenix policy have been low, and on the basis of the regulator's growth assumptions as to what might be achieved in an average performing pension invested in a "medium", or even "low" risk manner, I think there's a reasonable prospect that the transferred policy would perform better, even taking into account the increased charges, such that I don't think it would be a fair or reasonable to conclude that the recommendation to transfer was unsuitable.

It's fair to say that the Phoenix policy would be subject to a terminal bonus, to which the uplifts alluded to above would contribute, but it was unknown as to how much this might be at Mr W's normal retirement age and this was many years hence. And in accepting WPS's advice, Mr W was able to capitalise on a penalty free transfer value with an enhancement above the guaranteed basic sum of just over £2,000.

And so, overall, I think there was reasonable justification in transferring Mr W's policy, and so

I don't think the advice to transfer into the existing SIPP was unsuitable.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 16 August 2023.

Philip Miller
Ombudsman