

The complaint

Mr A complained that he was given unsuitable advice to transfer his deferred defined benefit (DB) British Steel Pension Scheme (BSPS), to a type of personal pension plan, in 2017. He says the advice was unsuitable for him and believes this has caused a financial loss.

David Stock & Co Limited is responsible for answering this complaint and so to keep things consistent, I'll refer mainly to "David Stock".

What happened

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

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

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

Mr A was concerned about what the announcement by his employer meant for the security of his preserved benefits in the BSPS. He was unsure what to do and was referred to David Stock which is responsible for providing the pension advice. Information gathered about his circumstances and objectives at the time of the recommendation were broadly as follows:

- Mr A was 42 years old and married. He had accrued several years' worth of service with BSPS and was a deferred member.
- The cash equivalent transfer value (CETV) of Mr A's BSPS was approximately £310,107. The normal retirement age (NRA) was 65.
- Mr A was contributing to a new defined contribution (DC) pension scheme. This pension isn't the subject of any complaint.

David Stock set out its advice in a suitability report. In this it advised Mr A to transfer out of the BSPS and invest the funds in a type of personal pension plan. David Stock said this would allow Mr A to achieve his objectives. Mr A accepted this advice and so transferred out in 2018. In 2022 Mr A complained to David Stock about its advice, saying he shouldn't have been advised to transfer out to a personal pension but the business didn't uphold his complaint.

Mr A then referred his complaint to the Financial Ombudsman Service. One of our investigators looked into the complaint and said it should be upheld. In response, David Stock still said it hadn't done anything wrong and was acting on the financial objectives Mr A had at the time.

As the complaint couldn't be informally resolved, it came to me for a final decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

As I've said above, David Stock didn't originally agree it had done anything wrong. However, in the interest of bringing complaints like this to a close, David Stock has recently said it would be willing to run a calculation to see if the pension transfer had incurred any loss for Mr A.

David Stock has used a BSPS-specific calculator established by the regulator for this purpose. I've noted it took Mr A's transferred pension's current value and inputted this into the calculator together with all his personal details. And as Mr A's original transferred pension balance has grown, the calculation shows there has been no financial loss incurred as a result of Mr A transferring away, back in 2018.

For the avoidance of any doubt here, I've still looked at Mr A's case and his points of complaint in great detail. Having done this, I agree with the points made by our investigator who comprehensively set out why they thought the complaint ought to be upheld. I'm also sorry that it's taken so long for Mr A's complaint to reach this stage – I understand the distress and inconvenience caused by him having to bring the complaint at all.

However, because David Stock has recently informed us that it is willing to accept the investigator's view that the advice wasn't right for Mr A, and that a calculation has been carried out as required by the regulator, I'm not going to go into the level of detail I normally would about why the complaint should be upheld.

I can understand that consumers like Mr A might have an expectation that, because they received unsuitable advice, they must have suffered a financial loss as a result. But that's not always the case. And the purpose of the redress calculation, as set out by the FCA, is not to put consumers like Mr A into a better position than they would have been had they not transferred. Instead, the aim is to put them back in the financial position they would have been in at retirement had they remained in the DB scheme.

In Mr A's case David Stock carried out its recent calculations using the specific BSPS calculator provided by the FCA, which is what I would expect it to do in the circumstances.

The calculations themselves are fairly complex. They include assumptions about future market conditions, interest rates and investment returns. And as those assumptions are susceptible to market forces, the FCA updates them on a regular basis. I understand that the aim of the FCA's redress methodology is to produce results comparable to how a court would award damages in similar circumstances.

So, in summary, I don't think the advice given to Mr A was suitable. He was giving up a guaranteed, risk-free and increasing income within the BSPS2. I don't think there were any other particular reasons which would justify the transfer and outweigh this. So I think David Stock ought to have advised him against transferring away from the BSPS.

As I don't think I need to consider this in any further detail, I'll focus in this decision on the redress methodology.

Putting things right

The aim is to put Mr A back in the financial position he would have been in at retirement had he remained in the DB scheme. I am satisfied that David Stock has carried out a calculation using a BSPS-specific calculator provided by the FCA.

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

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

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

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

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

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

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

Our investigator recommended that David Stock should pay Mr A for the distress and inconvenience caused by the unsuitable advice. David Stock has already agreed to pay Mr A this.

I think the calculation carried out by David Stock is appropriate in the circumstances and no redress for financial losses is due to Mr A.

My final decision

I uphold this complaint and require David Stock & Co Limited to pay Mr A a sum of £300 for the distress and inconvenience he says this matter has caused him if it hasn't already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 20 February 2024.

Michael Campbell
Ombudsman