

The complaint

Mr B is unhappy with Vitality Corporate Services Limited's decision to exit the retail investment market. As a result, he's now having to move his pension and investments elsewhere.

Mr B would like Vitality to cover the original cost of the financial advice he incurred when setting the products up and in addition, the new advice costs he says he'll now face in moving his monies to a new provider.

What happened

Mr B holds a number of investments and a pension with Vitality. In April 2023, Vitality wrote to Mr B explaining that they would be exiting the UK retail investment market. That meant that their customers would have to move their investments elsewhere as Vitality had decided it was unable to continue offering a service to either existing or new consumers.

Shortly afterwards, Mr B decided to formally complain to Vitality. In summary, he said that he was unhappy about their decision to close their business because of the financial detriment that it would cause him. Mr B also said, in summary:

- Vitality had marketed their investments as being available for the long term and that clearly appeared not to be the case.
- He would lose unique product features such as the 'investment booster' Vitality offered by having to move elsewhere.
- He didn't believe Vitality had adhered to the regulator's 'principles for business' (PRIN) rules.
- Finally, Mr B explained that he objected to having his personal data shared without his consent without some form of recompense.

After reviewing Mr B's complaint, Vitality concluded that they were satisfied that they'd done nothing wrong. They also said, in summary, that given they were applying 'boosters' and 'discounts' to consumers' plans as though they'd been held to the fifth year, Mr B wouldn't be any worse off as a consequence of their decision to close their business. In addition, they went on to say that they wouldn't be able to cover the costs of paying for a financial adviser to find a suitable alternative for him as they were offering an option to switch to a new provider, abrdn, on terms and conditions that were no less favourable than the charges he was currently paying.

Mr B was unhappy with Vitality's response, so he referred his complaint to this service. In summary, he said that Vitality had targeted its products at existing members like him, and having used a financial adviser originally, that now meant that he'd have to seek financial advice again with a total cost of £8,389.

As part of his complaint to this service, Mr B commented that he didn't believe Vitality's resolution letter covered all of his concerns. In response to that concern, Vitality issued another resolution letter providing further commentary about his complaint points. They also went on to offer Mr B £500 in recognition of the inconvenience that the unexpected closure of their business and withdrawal of their product features had caused him.

Mr B was unhappy with Vitality's offer, so the complaint was then considered by one of our Investigators. In summary, she concluded that Vitality had treated Mr B fairly. She went on to say that Vitality had made a commercial decision to close this part of their business and it wasn't within the remit of this service to compel them to continue those operations. She also said that she didn't believe that the closure could have been foreseen. As such, she didn't think that it was reasonable that Vitality should refund Mr B's advice fees.

Mr B, however, disagreed with our Investigator's findings. In summary, he said that it didn't seem fair that he was faced with having to pay for financial advice again so soon after setting the plans up. Whilst he accepted that Vitality's terms and conditions set out that they were able to close their investment offering, Mr B said that didn't necessarily mean that the decision was fair.

Our Investigator was not persuaded to change her view as she didn't believe that Mr B had presented any new arguments that she'd not already considered or responded to. Unhappy with that outcome, Mr B then asked the Investigator to pass the case to an Ombudsman to review that outcome.

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 have summarised this complaint in far less detail than Mr B has done and I've done so using my own words. I'm not going to respond to every single point made by all the parties involved. No discourtesy is intended by this; our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it - I haven't. I'm satisfied that I don't need to comment on every individual argument to be able to reach what I think is the right outcome. Instead, I will focus on what I find to be the key issue here – and that's Mr B's disappointment that Vitality have decided to close their retail investment business, creating an inconvenience and financial impact on him.

Whilst I appreciate that this will likely come as a disappointment to Mr B, I'm in agreement with our Investigator and for largely the same reasons. As such, I'm not upholding Mr B's complaint and whilst I don't think I can add a great deal more beyond what our Investigator has already set out, I'll explain why below.

I can well appreciate the disappointment Mr B must have felt when he received Vitality's letter, explaining that they were withdrawing from the retail investment market. Mr B set up a pension and investments with them on the understanding that these were going to be long term commitments, on both sides. However, after less than five years, Vitality concluded that they were no longer able to continue providing an offering to him or any other consumer. I also sympathise with Mr B and the inconvenience he now faces with having to move his monies elsewhere. He's explained that Vitality's decision to exit the market has resulted in him having to seek new financial advice, having already paid for professional help when he originally set his investments up with them.

But, it's important for me to say, their decision to exit the UK retail investment market is a commercial decision for Vitality alone and one in which they've consulted the regulator, the Financial Conduct Authority (FCA), about. It's therefore not within the remit of this service to interfere with business decisions of this nature. Firms have to make commercial decisions such as these regularly, but the important aspect of any such decision is ensuring that their business is wound down in a well-controlled and orderly manner so as to limit the impact on their consumers. From what I've seen of the correspondence issued to Mr B, it appears that Vitality have taken reasonable steps to try and limit the impact of that decision on their consumers so I'm not persuaded they've failed to follow the regulator's PRIN rules. Vitality have said:

- *We will automatically enhance the transfer value of your Boost benefit to the first five year period after taking future product and fund charges into consideration.*
- *We have extended the Healthy Living Discount benefit to 31 December – meaning there is an enhancement to your transfer value to this effect.*
- *We have built a process whereby your plans can be transferred to abrdn hassle free, and your wrapper products and funds will be charged at an equivalent of our base charge or less.*
- *Our customer service team are here and are ready to help you with any queries you may have should you wish to transfer your plan to another provider.*

It's important to recognise that using financial services won't always be hassle free. But, it seems to me that given Vitality are enhancing Mr B's *boost benefit* to the first five year period, he shouldn't miss out on what he would've likely received had Vitality not decided to discontinue the scheme until the first milestone had been met. Also, from what I've read, he'll receive that benefit regardless of where he eventually ends up transferring his plan to. Vitality are not obligated to provide that benefit, so I think that they're being reasonable in doing so. Mr B, though, has said that benefit won't take account of the advice costs he's already suffered. As such, he wants Vitality to refund the advice fees he paid when he moved to them and the new costs that he says he'll now incur – I don't agree.

I think it's important to recognise that, regardless of which provider Mr B's adviser originally recommended that he switch his pension to, he would've always incurred an advice fee. As our Investigator has already explained, we wouldn't investigate a complaint on the notion that the scheme shouldn't have launched because it would be discontinued several years later. That's because there's no suggestion, or more specifically, evidence, that Vitality intended to wind the scheme down so soon.

In addition, regardless of which provider Mr B's adviser recommended he switch his pension to, there would always be a risk that that firm may shutter its business. It was Mr B's adviser that recommended Vitality and I don't doubt the features that Vitality were offering at the time, particularly for existing members sounded attractive. However, an important consideration in any switch, amongst other things, is the financial strength and longevity of that business. Whilst consumer's monies are always ringfenced, there can be a greater risk of a newly created retail investment business having to cease trading in the early years because of a lack of business growth compared to a longer established firm that's been in the market for some time. That's not to say that longer established firms don't stop trading, but the risks are lower for them compared to start-ups and that's a factor I would've expected Mr B and his adviser to have been aware of.

I also appreciate Mr B's additional concern where he says that he'll now face new advice charges to source a suitable replacement scheme which he estimates to be in the region of

around £5,400. However, it's Mr B's choice to incur those costs and that's because Vitality have offered all plan holders the option of moving their pensions and investments to abrdn on terms that either match or better their existing deal. So, whilst Mr B may not feel confident in selecting the pension that he feels is right for him and may want to use an adviser, he's not being forced to do so and should he wish, there is a no cost option available.

Vitality started informing advisers about their intention to discontinue offering investments and pensions as early as November 2022 and in April 2023, they wrote to consumers. They then gave a period of four months from that point to allow plan-holders time to move their holdings away. Taking account of the timescales that are involved in sourcing a financial adviser who'll then need to undertake the relevant research and paperwork, I think that's a more than sufficient time to arrange a switch to another provider. But, as I've already explained, Vitality's existing consumers didn't necessarily need to engage a financial adviser because they were offered an alternative which would save the cost of having to pay for advice.

When Mr B originally agreed to move his pension and investments to Vitality, he was presented with a set of pre-sale documents that, amongst other things, set out the terms and conditions of the policies that he was entering into. I've looked through those terms and they do include a warning that should it become necessary in the future for Vitality to close their retail investment business, as long as sufficient notice is provided, they're able to do so. In addition, those terms do not require Vitality to keep their investment business open for a minimum duration of time from launch. Whilst Mr B appears to have acknowledged the presence of those terms, he believes they're unfair – I don't agree though. Had Vitality not included such a term, they would be in a forced position of having to continue to run a business that doesn't make commercial sense. Mr B was free to choose another provider from the beginning if he didn't agree with those terms and conditions.

Allied to this, Mr B explained that he objected to having his personal data shared without his consent, without some form of recompense. However, Vitality's terms which Mr B agreed to, do forewarn him that should he fail to move his pension and investments to an alternate provider by the deadline date, they do retain the right to move his monies to an appropriate new business. That will ultimately include passing his details to the new business.

Vitality have offered Mr B £500 for the inconvenience that the closure of their business has caused him. For me to be able to make an award for trouble and upset, I have to be satisfied that a business has done something wrong. I've looked closely at the communications that Vitality have issued to Mr B and their general interactions with him. In addition, I've also looked at the information on their website, along with the steps that they've put in place to aide him and his adviser in transitioning away to an alternative provider. From what I've seen, I'm of the view that that information clearly sets out why Vitality have had to make the difficult decisions they have and they've done so in clear, concise language. Vitality have also put in place measures to limit the impact on consumers by protecting their investment boosts and including their plan discounts on transfer values and offered a suitable alternative product with a new provider. I've not seen anything to persuade me that Mr B has been treated unreasonably and importantly – any differently to any other Vitality consumer by them in this process. So, whilst Vitality may wish to pay Mr B the £500 they've already offered him, I will not be directing them to do so, nor will I be instructing them to take any further action.

My final decision

I do not uphold Mr B's complaint and as such, I am not directing Vitality Corporate Services Limited to take any further action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 23 October 2023.

Simon Fox
Ombudsman