

The complaint

Mrs J complains that True Potential Wealth Management LLP's ('TPWM') poor service led to a delay that caused her distress and a significant financial loss to her available pension benefits.

Mrs J is represented by her husband, but for ease I'll refer only to Mrs J.

What happened

Mrs J wanted to transfer the benefits from her two Defined Benefit (DB) pensions, which I'll call 'D' and 'Q'. She contacted TPWM for advice about this in September 2020, and says she met TPWM on 15 September 2020 and gave it the CETVs she'd already obtained for D and Q. D's CETV expiry date was 12 November 2020, and Q's CETV expiry date was 18 November 2020. Mrs J's contact at TPWM wasn't qualified to advise on DB transfers, so he referred the matter to a specialist adviser at TPWM. But he remained Mrs J's point of contact at TPWM.

TPWM began gathering information from Mrs J and the ceding schemes for pensions D and Q. By 30 October 2020 TPWM had decided not to provide Mrs J with advice about transferring out of D and Q. It emailed 'decline' letters to Mrs J's TPWM point of contact, but it seems this message wasn't passed on to Mrs J.

Instead, Mrs J thought the advice process for D and Q was still continuing, especially since TPWM carried on gathering information from her and the two ceding schemes. This included getting a new CETV for D in December 2020, as the original CETV had expired. D's new CETV had an expiry date of 9 March 2021.

On 16 February 2021, TPWM confirmed to Mrs J that it wouldn't advise her on transferring D. Mrs J says she contacted a new financial adviser the same day for advice about transferring D and Q, and that her new adviser applied to transfer these on about 17 July 2021. The benefits from D and Q were then transferred into Mrs J's personal pension on 2 and 27 August 2021 respectively.

Mrs J complained to TPWM that it should have told her sooner that it wouldn't provide her with advice. If it had done so, she'd have contacted a new financial adviser sooner and would have been able to transfer pensions D and Q using the earlier and higher CETVs.

In response, TPWM said the original CETVs were about a month old when Mrs J provided them. That it took time to gather the information it needed from Mrs J and both ceding schemes. And it considered pensions D and Q together because the income they'd provide were part of Mrs J's full circumstances. But on 30 October 2020, it had declined to provide Mrs J with advice about transferring D and Q, because D's ceding scheme hadn't given it enough information and the CETV for Q showed the ceding scheme had reduced the transfer value due to the scheme's assets being currently insufficient to pay full transfer values. TPWM accepted it had poorly communicated its decision to decline to provide advice. It said it had paid to obtain a new, second CETV for D, but still didn't get all the information it needed from D's ceding scheme until 15 February 2021. And at that point it

made an informed decision not to provide advice regarding transferring D. TPWM confirmed it hadn't charged Mrs J any fee.

Unhappy with this, Mrs J brought her complaint to our Service. She said TPWM's errors had caused her a great deal of worry and distress and had affected her mental health.

Our Investigator upheld Mrs J's complaint. He thought TPWM should have told her sooner that it had declined to provide advice on transferring D and Q. And if it had, Mrs J would have been able to complete her transfer of D and Q through another adviser using earlier, higher transfer values. He thought TPWM should put Mrs J into the position she'd have been in but for its error and carry out a redress calculation on that basis. And that TPWM should pay Mrs J £350 compensation for the unnecessary distress it caused her.

In response, Mrs J said TPWM should reimburse the fee she'd paid her new adviser, as she thought TPWM's delay meant she'd been unnecessarily charged that fee. And that the compensation shouldn't involve any tax element. But our Investigator didn't think Mrs J could have avoided paying a fee for the advice she went on to receive from her new adviser.

In its response to our Investigator, TPWM thought any advice Mrs J had been given to transfer the benefits from D and Q might be unsuitable, so our Service should investigate this because it would affect the compensation TPWM might be asked to pay. But our Investigator confirmed he was only considering TPWM's actions here.

As agreement couldn't be reached, this complaint was referred for an Ombudsman's decision. While that referral was underway, Mrs J passed us her financial adviser's view of this matter – in summary that TPWM could have seen from the start that Q's CETV was reduced, that TPWM continued gathering information after the point at which it now argued it had declined to give advice, and that any compensation should be paid directly to Mrs J.

This complaint came to me to consider. On 17 May 2023, I issued my provisional decision in which I said TPWM should have clearly communicated its decline decisions of 30 October 2020 to Mrs J at that time, and should pay Mrs J £500 compensation for the distress and inconvenience that failure caused her. But I said TPWM wasn't responsible for causing Mrs J a financial loss, because even if she'd started over with a new adviser on 30 October 2020, she wouldn't have been able to complete the transfer process before her earlier and higher CETVs expired.

TPWM accepted my provisional decision and had nothing further to add.

Mrs J provided further detailed comments in response to my provisional decision. To summarise, she said:

- Her point of contact at TPWM was still gathering information from her as late as January 2021, despite it deciding to decline offering her advice on 30 October 2020. TPWM's specialist adviser should have contacted her directly, given that TPWM had said her point of contact with it didn't have access to TPWM's specialist adviser and didn't hold sufficient qualifications. TPWM should be reported to the regulator for letting an unqualified person deal with her transfer.
- The original CETV given to TPWM in September 2020 for Q clearly showed it had a reduced value, and TPWM won't accept CETVs with reduced transfer values. So it didn't matter what else TPWM might have needed to consider during the advice process, as it should have seen this was a reduced CETV from the start and gone no further.
- Mrs J wasn't sure why I'd suggested she might be unhappy with her new financial adviser, because she was happy with them.

- Whilst a CETV was initially guaranteed for three months, the guarantee was frozen indefinitely if the financial adviser completed their fact find and due diligence work and sent their letter of authority to the pension provider within those three months.
- TPWM didn't inform Mrs J about its decision to decline to advise her, so I was wrong to imply it hadn't caused significant delays as this was a five-month delay for Mrs J which she considered breached the regulator's rules and guidance. And the regulator required TPWM to put Mrs J back into the position she should have been in, if not for its error.
- The 22 weeks taken by Mrs J's new financial adviser was irrelevant. The second CETV was guaranteed from 9 December 2020 to 9 March 2021. If TPWM had informed Mrs J of its decline decision on 30 October 2020 as it should have, then she would have engaged a new financial adviser who would have completed their advice process and letter of authority by 9 December 2020, which would have frozen the CETV guaranteed as of December 2020 with the pension provider. So Mrs J had lost the difference in CETVs from then, and this financial loss should be calculated by an independent expert.
- I hadn't asked TPWM to officially apologise to Mrs J or addressed how its poor communication would be rectified to ensure other customers didn't have the same experience in future.
- TPWM's delay in telling Mrs J it declined to provide advice meant Mrs J was treated by a doctor for the impact of this on her mental health and was off work for six weeks. So, £500 wasn't enough compensation for her distress and inconvenience.

I'm now in a position to make my 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.

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 Business ('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.

TPWM has suggested that any advice Mrs J was given to transfer the benefits from D and Q might be unsuitable, and our Service should investigate this. But in this decision, I've only considered Mrs J's complaint against TPWM. I've not investigated or made any findings about the actions of Mrs J's new financial adviser, and I note Mrs J says she is happy with them. But if Mrs J was unhappy with her new financial adviser, in keeping with TPWM's suggestion, then she'd need to firstly raise a complaint with her new adviser.

I'd like to reassure both parties that I've considered all of the comments and evidence they've provided to our Service regarding Mrs J's complaint against TPWM. But my decision won't address all the evidence and points raised. I mean no discourtesy by this, it's simply that I'll only address what I see to be relevant in reaching what I consider a fair and reasonable outcome to Mrs J's complaint against TPWM.

I'm upholding this complaint, as I think TPWM didn't communicate with Mrs J in a timely way as it ought to have done. But I don't think TPWM needs to compensate Mrs J for the financial loss she says this caused her. I realise this will be very disappointing to Mrs J, but I'll explain my reasons.

When Mrs J approached TPWM for advice in September 2020 and gave it the original CETVs for pensions D and Q, those CETVs only had about two of the three-month guaranteed period remaining before expiration. D's CETV expiry date was 12 November 2020, and Q's was 18 November 2020.

Ultimately, TPWM can choose not to provide advice. But it still needed to tell Mrs J it had declined to provide advice clearly and without unnecessary delay. Mrs J thinks TPWM should have seen when she first met its adviser that Q's CETV was reduced, and ought to have told her immediately that it wouldn't provide her with advice about transferring Q. She says that if it had, she'd have found a new financial adviser as she wanted to transfer both D and Q. So I've thought about whether TPWM could reasonably have decided not to advise Mrs J any sooner than it did on 30 October 2020. But I don't think this is the case.

Mrs J met TPWM on about 15 September 2020. This was an initial meeting and Mrs J wasn't speaking to a TPWM adviser that was qualified to provide the service she wanted. So I don't think it's reasonable to think Mrs J ought to have been told at first meeting that TPWM wouldn't advise her on the transfers.

Mrs J thinks TPWM's specialist adviser should have communicated with her directly, and that TPWM should be reported to the regulator for letting an unqualified (and thus unauthorised) person deal with her transfer. But I don't think TPWM made an error here. TPWM is entitled to make its own decisions about which of its employees are in direct contact with its customers. And while Mrs J's TPWM point of contact dealt with some of the administrative work and communicated with Mrs J, it's clear that it was one of TPWM's suitably qualified and authorised specialist advisers that was ultimately assessing the information gathered and deciding about the advice. I haven't seen anything that makes me think someone was acting in excess of how they were authorised to act by the regulator. But it's a matter for Mrs J if she wants to contact the regulator.

After meeting with Mrs J in September 2020, TPWM started to gather information from her and the ceding schemes, and this would necessarily take time. It's reasonable for TPWM to do this and to then properly review the information. I know Mrs J feels very strongly that TPWM should have told her right at the start that it wouldn't advise her, as it should have seen that Q's CETV had a reduced value and TPWM won't accept such CETVs, so nothing else mattered. But it is still the case that the value of one CETV (and whether this was reduced) is only one of many points TPWM would have to take into account for the two DB pensions Mrs J wanted to transfer, and I think it's reasonable for TPWM to have followed its usual preliminary information gathering process. It needed to do all this for two DB pensions, and I've not seen anything to make me think TPWM caused any significant unnecessary delays during this time.

TPWM then needed to make its decision. It's clear that by 30 October 2020, TPWM had decided not to provide Mrs J with advice about transferring either of her two DB pensions. I say that because I've seen that it wrote 'decline' letters regarding D and Q on this date and emailed them to Mrs J's TPWM point of contact. Given all this, and bearing in mind that Mrs J wouldn't have been TPWM's only customer at that time, I think the six weeks TPWM took between first meeting her on 15 September 2020 and then deciding not to provide her with advice on pensions D and Q on 30 October 2020 wasn't an unreasonably long time.

I've gone on to consider whether TPWM should have told Mrs J sooner and more clearly that it wasn't going to provide her with advice about transferring pensions D and Q. And I think it should have.

As I say, it's clear that by 30 October 2020 TPWM had decided not to provide Mrs J with advice about transferring D and Q and had communicated this to Mrs J's TPWM point of

contact. But TPWM seems to accept this wasn't passed on to Mrs J. And as Mrs J has reiterated, the evidence shows that over the following weeks and months, TPWM continued to gather information from Mrs J as well as D and Q's ceding schemes. So I'm satisfied TPWM didn't clearly and unambiguously communicate its 'decline' decisions of 30 October 2020 to Mrs J as it could and should have.

So TPWM should have told Mrs J that it wasn't going to go any further with her soon after it had made that decision on 30 October 2020. If her point of contact had told her this, I think Mrs J would've quickly gone elsewhere for advice, as she's shown that's what she eventually did. So I agree TPWM caused unnecessary delays here.

But I don't think TPWM needs to compensate Mrs J for the financial loss she says this communication failure caused her. As Mrs J points out, she should be put back into the position she would have been in if not for TPWM's error. And having taken everything provided into account, I don't think it can reasonably be concluded that even if Mrs J had been told shortly after 30 October 2020 that TPWM wouldn't provide advice, that this means she would have found a new adviser who it can be said would have acted in such a way that she would have been able to benefit from earlier, higher CETVs.

Mrs J suggests that if she had been told around 30 October 2020, this would not only have allowed her to identify and appoint a new adviser at an earlier time (which I accept) but also enabled her to fix the CETVs before they expired.

It's important to note there is always some necessary uncertainty when looking at transferring DB pension scheme benefits and how long the process will take. It's a time-consuming process in which a lot of information has to be gathered and considered, for good reason. And there's no guarantee that the final recommendation will be what the consumer hopes for.

I accept Mrs J was committed to progressing things as quickly as she could, because I can see that when TPWM eventually confirmed to her on 16 February 2021 that it wouldn't provide her with advice about transferring pension D, she contacted another financial adviser the same day. Mrs J has provided me with some correspondence and documents from her new adviser. She says that by about 17 July 2021, her new adviser had advised her and applied to transfer the benefits from D and Q to a personal pension. The benefits from D and Q were transferred on 2 and 27 August 2021 respectively.

This means it took almost 22 weeks following Mrs J first contacting her new adviser on 16 February 2021 for that new adviser to submit the application to transfer both DB pensions on about 17 July 2021. It then took a further six weeks for both of Mrs J's DB scheme benefits to have been transferred to her personal pension. I don't agree with Mrs J that I ought to discount this information or that it isn't relevant.

Ultimately, a new adviser would have started the process afresh. This would involve obtaining information from Mrs J and the ceding schemes before it could be in a position to advise, as is required by the regulator. I see no reason to think it can be reasonably be said Mrs J's new adviser would've progressed things any faster overall just because Mrs J had contacted it earlier. So if Mrs J had contacted a new adviser on 30 October 2020, I think her new adviser would still have taken the almost 22 weeks it did in fact later take to get things to the point where it had advised Mrs J and applied to transfer both her DB benefits. So that would take us to around 30 March 2021.

The original CETVs for D and Q had expired months before this in November 2020. I accept there was a new CETV for D, which TPWM had paid to obtain. But if TPWM had done what it ought to have done and communicated to Mrs J its decision to decline to provide advice on

around 30 October 2020, this particular CETV would not have been obtained. In any event it expired in early March 2021. I note Mrs J was rightly not charged for this further CETV TPWM paid to obtain. I also note it's not disputed that TPWM hasn't charged Mrs J any fee.

So I'm satisfied Mrs J would still have needed to get new CETVs, and these new CETVs were unfortunately lower than the originals.

But TPWM should have clearly communicated its 30 October 2020 decline decisions to Mrs J at around that time. So it must pay Mrs J £500 compensation for the distress and inconvenience this failure caused her. In reaching this amount, I've taken into account the significant impact Mrs J has told us she personally experienced. I understand Mrs J thinks £500 isn't enough and I've thought carefully about everything our Service has been told. Weighing everything up, I'm satisfied TPWM's failure to tell Mrs J about its 30 October 2020 decline decisions caused Mrs J unnecessary distress and inconvenience, as it left her thinking matters were progressing for about three and a half months longer than was necessary, which will have increased her frustration and worry at the wait, as well as the impact of her disappointment in February 2021.

Mrs J says I've not asked TPWM to officially apologise to her or addressed how its poor communication would be put right so that other customers didn't have the same experience in future. I've seen that TPWM apologised to Mrs J in its final response to her complaint, and I think that was fair. And while I can understand Mrs J's concern about what went wrong here, my role isn't to tell TPWM how it should communicate in future with all its customers. Instead, my role is to consider Mrs J's individual complaint against TPWM.

Putting things right

TPWM should pay Mrs J £500 compensation for the distress and inconvenience it caused her.

My final decision

For the reasons set out above, True Potential Wealth Management LLP should pay Mrs J £500 compensation for the distress and inconvenience it caused her.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 28 July 2023.

Ailsa Wiltshire
Ombudsman