

The complaint

Mr H complained because he felt one of Pensionhelp Limited's advisors gave him insufficient advice and information in respect of transferring his defined benefit ("DB") pension.

What happened

Mr H had a DB pension with a previous employer. His retirement plan, based on the cash equivalent transfer value ("CETV") of the DB pension, in summary was to:

- retire at 55
- transfer his DB pension to a drawdown arrangement and combine that with other defined contribution ("DC") pensions so that everything was in place when he turned 55
- live off his self-employed income and savings until he turned 55
- take income from his pension from age 55 in the form of drawdown, which would be supplemented by the state pension from age 67.

Mr H contacted Pensionhelp in September 2021 to facilitate the transfer of his DB pension. He gave the advisor some basic information about his financial position and said the CETV of the DB pension was £540,000 and the DC pensions were worth £120,000. The advisor said:

- the starting position from a regulatory perspective was that Mr H should remain in the DB pension unless it could be shown that transferring was in his best interests
- he could look into giving Mr H advice now or leave it until Mr H was closer to 55
- it might be challenging to recommend transferring the DB pension at the moment as he would need Mr H to have sufficient secure income elsewhere, particularly as he couldn't access the pension at that time
- Mr H's circumstances and objectives might change between now and when Mr H turned 55.

Ultimately, the advisor said it would be easier for him to justify a recommendation to transfer if Mr H was closer to retirement because he could do direct comparisons with exactly what he would get from the DB pension. In respect of the CETV, the advisor made the general point that transfer values aren't guaranteed to go up and they could go down – although he said that was the same if Mr H transferred the DB pension to a private pension and invested it ie the pension might grow or might decrease.

Various other potential options were discussed, but it was left that Mr H would contact the advisor again around six months before he turned 55.

Mr H received an updated CETV in July 2022 and he spoke to the advisor again. The CETV had dropped by 30% and as his preferred option was to take drawdown Mr H said he'd lost 10 years of pension income as his money would now run out when he's 79 instead of 89. He said if he'd known of this volatility and that CETVs could drop by this much he would have taken his money when they last spoke.

The advisor said Mr H hadn't lost anything in respect of his DB pension as it was guaranteed. He also said the change in CETV wasn't something that could be controlled as it was just a snapshot of an offer at a particular time to give up the guaranteed pension. The advisor again suggested it was probably better to wait until Mr H was closer to 55 and see what the numbers looked like at that point because an annuity wasn't an option as Mr H wasn't 55 and it was a very short period to be invested in the markets given the present volatility. Mr H said the problem with that option was the CETV will be lower and he couldn't then afford to retire and he wouldn't have any savings left.

Mr H complained to Pensionhelp in August 2022. He said it was never explained in the original conversation that CETVs could vary significantly, and no analysis was done to show whether the original CETV represented a good offer compared to the benefits provided by the DB pension. He also felt the original conversation should have included a discussion about the mechanics of CETVs increasing and decreasing. Ultimately, during the first call Mr H felt he should have been:

- told about the risks to transfer values so that the risk could be evaluated against the backdrop of the financial climate
- given an explanation as to what his choices were rather than leaving him to believe that he had no option other than to wait until he was 55, and
- offered an initial review.

Pensionhelp didn't think it had done anything wrong. It said it never advised Mr H in respect of his DB pension – the initial call was a discussion about Mr H's circumstances and Pensionhelp's service, and it was agreed that Mr H wouldn't take it further at that point. It also said the advisor told Mr H in the original call that transfer values go up and down. Pensionhelp added that if Mr H had requested a review it would have been likely that a transfer was unsuitable so it felt he would have been in the same position regardless (and would have had to pay for its advice).

What I provisionally decided – and why

I issued a provisional decision which explained why I didn't think the complaint should be upheld. The relevant parts of my provisional decision are outlined below and form part of this final decision.

- Mr H was introduced to Pensionhelp by another financial advisor. He then made an enquiry to Pensionhelp via its website and the advisor emailed him to arrange a time to speak to see if Pensionhelp could be of assistance. I concluded from this that the call was set up to be introductory in nature to see if Pensionhelp could help Mr H. I was also satisfied that the conversation proceeded along those lines.
- The advisor never gave Mr H any formal advice during the call in respect of whether transferring his DB pension was in his best interest – things never got that far, and wouldn't have during an introductory call. That meant the advisor wasn't required to carry out an in-depth investigation into things like:
 - Mr H's objectives and/or needs
 - the pros/cons/risks of the DB pension versus a DC pension or drawdown
 - other options that were available
 - whether the CETV represented good value.
- That sort of investigation/consideration/analysis would only have been required if Mr H chose to get full advice.

- The only 'advice' the advisor gave was the suggestion that Mr H wait until he was closer to 55 to get formal advice as it would be easier to justify a recommendation to transfer. While the drop in CETV was the catalyst for Mr H's complaint, I thought this 'advice' was the nub of it. Accordingly, I thought the central issues were whether the advisor treated Mr H fairly:
 - in respect of the information he provided during the initial conversation and
 - in suggesting that he wait a couple of years before getting formal advice.
- I didn't think any of the information the advisor gave Mr H was untrue or unreasonable. Given the regulatory position – and having dealt with numerous complaints where consumers were advised to transfer their DB pensions – I confirmed that it was difficult for advisors to justify a recommendation to transfer. I didn't therefore think the advisor treated Mr H unfairly by putting him on notice that any advice would probably be to not transfer, and that that would make it difficult for Mr H to transfer if he chose to proceed against the advice given. Given that likely outcome, and the fact the cost of the advice would have been around £13,000, I didn't think the advisor treated Mr H unfairly by suggesting that he contact him closer to age 55. The alternative would have been to lead Mr H into receiving full advice – which would have resulted in him paying £13,000 to potentially be in the same position.
- Mr H's main point in respect of the information he was given related to him not being told about the volatility of CETVs or the amount of risk he would be taking with the CETV if he didn't transfer there and then. The advisor said transfer values could go up or down – although he didn't go into any detail as to by how much this could be. But as the call was introductory I wasn't persuaded that the advisor needed to go into such finer details or that he treated Mr H unfairly by not doing so.
- Mr H's argument also supposed that he would have been able to transfer the DB pension if he'd been told that the CETV could drop significantly. He had since transferred the pension, but that was at a different point in time with a different set of circumstances eg he was closer to 55, the different CETV. The overall gist of what the advisor said during the initial call was that he probably wouldn't recommend a transfer and that Mr H might find it hard to find a provider who would be willing to accept the transfer when he was acting contrary to the advice he'd received. So while it would never be known, it wasn't entirely clear that Mr H would have been able to transfer in any event.
- Mr H said that an initial (free) review, via what Pensionhelp described as a triage process, that he was offered in the second call should have been offered in the first call. I didn't think that helped his case. Pensionhelp wasn't under any obligation to offer Mr H a review ie it didn't have to accept him as a client for purposes of reviewing and/or advising on his pension. But even if Mr H was offered an initial review I wasn't persuaded it would have led to him being in a different position. That was because he would only have been able to transfer his pension if he received full advice. One outcome of the triage process was that Mr H would have received full advice from Pensionhelp. But he would have faced the same situation and hurdle outlined above about getting full advice (which might have been to not transfer) and then potentially not being able to find a provider who would accept the transfer. The other outcome was that Mr H would have received abridged (or short-form) advice. Abridged advice could only have resulted in two outcomes – a recommendation to not transfer the pension or telling Mr H it was unclear whether or not he would benefit from a transfer based on the information collected during the abridged advice process. So Mr H would still either have received advice to not transfer or faced the same situation as above regarding full advice.

In summary, I accepted what Mr H had said about the information and advice given to him leaving him with the impression that it was too early and too difficult to transfer and that there was no big risk by leaving it until later – which led to him delaying any decision on transferring the DB pension, which in turn meant the CETV had dropped when he later transferred his DB pension. However, for the reasons outlined above, I concluded that Pensionhelp didn't treat him unfairly by giving him the information and advice it did.

Responses to my provisional decision

Pensionhelp said it had nothing further to add.

Mr H said Pensionhelp's advice – in respect of contacting it again when he was closer to 55 and that transferring out of a DB scheme prior to then was difficult – wasn't clear. He also said the extent of any risk in waiting to transfer wasn't explained and left him exposed to that risk, which he could have avoided.

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.

In my view, Mr H's comments in response to my provisional decision are essentially the same as the ones he made in his original complaint to Pensionhelp ie the lack of a clear explanation in respect of the risk in waiting to transfer and of the choices he had. As I addressed these in my provisional decision I don't have anything further to add. I nevertheless summarise for completeness:

- the advisor didn't have to investigate or consider Mr H's objectives and/or needs, the comparison between the DB pension and a DC pension/drawdown, other options or whether the CETV represented good value
- the information the advisor gave Mr H was correct and reasonable and the advisor didn't treat Mr H unfairly by suggesting that he wait until he was nearer 55
- the advisor didn't need to go into the finer details in respect of the volatility of CETVs or the amount of risk Mr H would be taking with the CETV if he didn't transfer there and then
- Pensionhelp wasn't under any obligation to offer Mr H a review (such as the one it offered following the second call), but even if it had offered one I don't think it would have led to him being in a different position.

Accordingly, it remains my conclusion that Pensionhelp didn't treat Mr H unfairly by giving him the information and advice it did.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 29 November 2023.

Paul Daniel
Ombudsman