DRN-4350378

The complaint

Mr H is unhappy that Profile Financial Solutions Limited trading as Profile Pensions (Profile Pensions) switched his two existing personal pensions to a new arrangement with a new provider without his consent. Mr H is also concerned about the data security measures followed during a telephone call he had with Profile Pensions.

What happened

In 2017 Profile Pensions advised Mr H to transfer (switch) two personal pensions he held with Phoenix and Standard Life into a new pension arrangement with Scottish Widows. Profile Pensions arranged the transfers, which completed in March 2017.

In 2023 Mr H realised what had happened and complained. Profile Pensions listened to the recordings of Mr H's telephone calls and identified that he hadn't agreed to his pensions being transferred as he wanted to check the documentation first. Profile Pensions put the transfers down to human error. It upheld the complaint and made an offer to put things right.

Profile Pensions had considered how Mr H's existing pension had performed against his previous pensions and found he was better off because of the transfers. Profile Pensions offered to refund the initial adviser fee Mr H had paid plus 8% compounded interest (this would be put back into Mr H's pension) and pay him £200 for the trouble and upset the mistake had caused.

Mr H wasn't happy with that and referred his complaint to us. When the investigator looked into what had happened he asked Profile Pensions to also refund all ongoing adviser fees together with 8% compounded interest (which would also be put back into Mr H's pension). Profile Pensions agreed to do so.

The investigator didn't think Profile Pensions needed to do anymore. He said the value of Mr H's pension fund had increased by more than if the funds had remained with the existing providers so Mr H hadn't suffered any financial loss. Profile Pensions had also agreed to refund the fees paid with interest, so paying back money which would otherwise have remained in Mr H's pension fund. Although finding out that Profile Pensions had transferred his pensions without his consent would've been a worrying time, it had since been shown that the new pension had performed better. The investigator thought £200 was fair compensation for the distress and inconvenience caused to Mr H.

Profile Pensions had acknowledged the mistake about the security questions Mr H had been asked over the telephone. The investigator understood Mr H would've been concerned that someone could've been given his details by mistake. But it had been Mr H who was calling and so that hadn't happened. Profile Pensions had agreed to feedback about the call for ongoing security purposes. The investigator said he wouldn't be asking Profile Pensions to do any more in respect of this aspect of the matter.

Overall the investigator thought what Profile Pensions had offered to do was fair. It ensured Mr H wasn't financially disadvantaged because of the transfers and that he was compensated for the worry caused.

Mr H didn't accept what the investigator had said. Mr H raised some further points to which the investigator responded.

As agreement couldn't be reached the complaint has been referred to me to decide.

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 know Mr H may disagree but I haven't seen anything to suggest what happened was other than a mistake on Profile Pensions' part. I note that Profile Pensions contacted Mr H in 2023 offering him a review of his pension with Scottish Widows. I can't see that would've happened if Profile Pensions didn't want Mr H to know that his pensions had been switched. From what I've seen, in 2017 Profile Pensions proceeded on the basis Mr H had agreed to the switches when he actually wanted more time to consider if he should go ahead. So Profile Pensions acted prematurely in actioning the switches.

Where, as here, a business accepts that it's made a mistake and has offered to put things right, we'll look at if the offer that's been made is fair and reasonable. As the investigator has explained, it isn't for us to punish or fine the business concerned. Our aim in awarding redress is to try to put the consumer, as far as possible, back in the position they'd be in if things had gone as they should've done.

Mr H says he's stuck in a pension that he didn't ask for or want and he's suggested his previous pensions should be reinstated. He also doesn't think, given the circumstances, that Scottish Widows should benefit from his business. While I can understand Mr H's stance, unfortunately it isn't practical or possible to try to reverse the switches. They were undertaken in 2017 and involved other businesses (the two existing providers and the new provider) who aren't a party to this complaint. We can't compel them to take any action. And, in any event, where we think something has gone wrong, we generally wouldn't look to 'unwind' what's happened. Instead we'll look to see whether the consumer has been left worse off financially.

I know Mr H is concerned about how come Standard Life and Phoenix released his pension funds when he says he didn't sign anything. I also note what he says about not getting any information about his (new) pension with Scottish Widows for some six years. I'm not sure why that would've been and if all information was sent to Profile Pensions as Mr H's adviser. But I don't agree with what he's said about someone '*helping themselves*' to his money. His accumulated pension fund has remained throughout in a regulated pension arrangement in his name with a reputable and authorised business. I don't think it's been at risk as such. It's up to Mr H if he wants to raise complaints against Standard Life and Phoenix and/or Scottish Widows.

All I'm considering here is Mr H's complaint about Profile Pensions. And, as I've said, I'm going to focus on whether he's lost out financially because of the switches made without his consent and which, for whatever reason, he only found out about some six years later. So I've looked at what his financial position would've been if the switches hadn't taken place. From what I've seen, Mr H is better off as a result of the switches in that the value of his pension fund is higher than the combined value of his two previous pensions would've been if he'd stayed with those providers.

Mr H may not have been convinced by the methodology adopted by Profile Pensions. But I think it was fair and reasonable. As the investigator noted, there are sometimes different approaches that can be taken as to how redress in a particular case should be calculated. If we consider an offer that's been made is broadly fair and reasonable then we probably wouldn't interfere even if we thought redress could've been calculated differently.

Profile Pensions estimated that Mr H's pensions with Standard Life and Phoenix would've been worth, as at 5 April 2023, £11,482.59 and £19,244.73 respectively, so, in total, £30,727.32. The fund value of the pension with Scottish Widows was, at the same date, £36,652.03. On that basis Mr H hadn't suffered any financial loss as a result of his pensions being switched.

We've checked that by asking Mr H's previous providers – Standard Life and Phoenix – to let us know what they thought Mr H's pension funds would've been worth if they'd remained with them. Standard Life gave us an estimated fund value (as at 17 October 2023) of £11,160.37. Phoenix gave us a figure of £21,321.69 (as at 16 October 2023). So a combined fund value of £32,482.06. Scottish Widows told us that Mr H's fund value as at 29 November 2023 was £33,959.71. Although the dates aren't exactly the same (it took Scottish Widows a little time to provide a fund value) I think they're close enough to confirm Mr H's fund value with Scottish Widows (although it seems to have dipped slightly since Profile Pensions' calculations were carried out) is higher than it would've been if he'd remained with his existing providers. All in all I'm satisfied Mr H hasn't suffered any financial loss in consequence of the switches.

Going forwards it's a matter for Mr H, if he's unhappy about his pension remaining with Scottish Widows, to look into possibly switching again. Mr H may say he'll have to pay for further advice. But the advice fee he paid to Profile Pensions has been refunded (with interest). Mr H was thinking about switching his pensions in 2017 (even if that was only because he'd been cold called). He did engage with Profile Pensions, even if he stopped short of making a firm decision to switch and instructing Profile Pensions accordingly. He'd have had to pay for Profile Pensions' advice anyway, even if he'd decided against switching. As that's been refunded he's no worse off if he now has to pay for further advice.

As the investigator said, Mr H can check with Scottish Widows that Profile Pensions is no longer being paid any ongoing adviser fees. And ensure that Scottish Widows has his correct details and that any information pertaining to his pension, including annual statements, are sent direct to Mr H. He may also be able to arrange to get online access to monitor his pension, if that's a facility that Scottish Widows offers for this type of pension.

I'm not sure if Mr H is querying how some of the amounts Profile Pensions has offered have been calculated – such as how interest has been worked out on the fee refunds. I'd assume, if details haven't already been provided, that Profile Pensions can give Mr H a breakdown, in a clear and simple format, for any figures he's unsure about.

As well as financial loss, we'll also look at if any material distress and inconvenience has been suffered. I know Mr H considers £200 isn't adequate but I think it's in line with what we'd award in a case such as this. Mr H may say things have been ongoing for some six years but I don't think there was any impact on Mr H until he became aware that his pensions had been switched without his consent.

We give some examples on our website of the levels of compensation that we might award. We say an award of up to £300 might be fair when there's been a large single mistake which I think is the situation here. In deciding what amount of compensation would be fair in a particular case we take into account the impact of the mistake including the time taken to sort it out. Here I think Profile Pensions did try to lessen the impact of what had happened by admitting that something had gone wrong and offering to try to put things right for Mr H.

As to the data breaches, I don’t seek to underplay the importance of caller verification to ensure that whoever is calling is indeed the person they claim to be. But as I’ve said we don’t fine businesses and here any breach was confined and fortunately didn’t result in any adverse consequences for Mr H.

All in all I maintain that what Profile Pensions has offered (refunds of initial adviser fee and ongoing advice fees plus interest and £200 for distress and inconvenience) is fair and reasonable.

My final decision

Profile Financial Solutions Limited trading as Profile Pensions has offered to take the steps set out above to settle Mr H’s complaint and I think that’s fair in all the circumstances.

So my decision is that Profile Financial Solutions Limited trading as Profile Pensions takes those steps.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr H to accept or reject my decision before 1 January 2024.

Lesley Stead
Ombudsman