

The complaint

Mr B complains that Pensionhelp Limited acted unprofessionally when it withdrew from giving him advice about a pension transfer.

What happened

Mr B was a member of his former employer's defined benefit (DB) occupational pension scheme.

Around 12 February 2020, an introducer firm, D, got in touch with Pensionhelp to ask it to advise on a potential transfer out of Mr B's DB scheme. His pension had a transfer value of £305,158.31. Although that value was guaranteed until April 2020, Mr B needed an indication towards the end of February 2020 whether transferring was in his best interests. Or, alternatively, his former employer had offered a larger tax-free cash option, with reduced income, (due to the terms of an ill health agreement the previous year) if Mr B took his benefits from the DB scheme.

Pensionhelp carried out a fact-find with Mr B on 17 February 2020, noting various things about his financial circumstances and objectives. Those included that, following some health issues, and him having taken early retirement, he wanted to make sure his wife and family were provided for in the event that he died before his state pension age. He also indicated that he was looking for a flexible income in retirement, so one of the things he wanted to do was to review his pension arrangements to see how they met his needs at that point and in later retirement. Pensionhelp had completed its initial financial review by about 18 February 2020.

Later in February 2020, there were various exchanges between Mr B and Pensionhelp. Those exchanges led to amendments to the cashflow models Pensionhelp had generated to allow for things like different rates of inflation and higher and lower investment risk ratings. Mr B also asked for further amendments to allow for his income not reducing at age 70 as he'd initially suggested.

Mr B and Pensionhelp had telephone conversations and email exchanges on 24 February 2020, largely about amendments to the cashflow models. In one, Mr B indicated he was "*completely torn*" about the decision he'd likely make and said Pensionhelp had been unable to answer what he thought were simple questions about the cashflow models. He also indicated he didn't understand the logic behind the cashflow models and asked Pensionhelp to ensure that (given some earlier errors) there were "*no compliance issues going forward*".

The following day, Mr B sent a further email to Pensionhelp. He said he'd spoken to his adviser at D, who'd said that Pensionhelp felt positive in making a recommendation now. He also apologised for sounding "*wound up*" the previous day. He said he'd felt up against a deadline of lunchtime to send documents off if a transfer was not advisable. He added that his concern was "*merely that together we could reach the right decision for my future... at the end of the day I have to rely on professionals to protect me from myself making a wrong decision through a lack of knowledge in financial matters. This is why I wanted to ensure the information was correct, for both of us... But I'd go with your advice on how best to plan financially and maximise the benefit of the transfer*".

Other amendments were made to the cashflow models around 3 March 2020 to allow for further changes that Mr B asked for.

Exchanges between Mr B and Pensionhelp continued on 9 March 2020. They also discussed things over the phone. Mr B asked for (and Pensionhelp agreed) to make further amendments to the figures used in its analysis. Pensionhelp's note of the call suggests it told Mr B that its analysis used assumptions so nothing was "*cast in stone*". The adviser added that they'd "*done the analysis to death*", but what he was trying to do was get the cashflow right.

Pensionhelp then telephoned Mr B on or around 12 March 2020. According to what's been noted, it said "*no matter how we try, we can never meet in the middle*". So, it told Mr B that it had decided not to take things further. In another part of the note, apparently following a call with the introducer firm, Pensionhelp indicated that Mr B didn't understand its processes and "*challenges every action we take*".

It then wrote to Mr B on 18 March 2020 (at Mr B's request) to confirm its decision to walk away. However, in that letter it said it wouldn't be proceeding with its analysis as the transfer of Mr B's existing benefits "*is not the type of case that Pensionhelp will consider*".

Mr B later complained to Pensionhelp. In its response it said it was satisfied it acted in a "*reasonably professional*" manner throughout the process and had followed standard processes. However, it accepted that it hadn't always properly managed Mr B's expectations and that there had been a lack of updates. It offered £250 compensation for any distress or inconvenience that caused. It also said that its withdrawal related to the advice process and not just the transfer itself. And, contrary to Mr B's suggestion, it didn't agree that it was annoyed by errors being questioned. It again said Mr B's case wasn't one it could consider and that no mention was made in its withdrawal letter to Mr B of any alleged behaviour on his part nor in any correspondence it had reviewed. It said the only comment it could find was that Mr B and Pensionhelp hadn't been able to "*meet in the middle*". Other remarks it made included:

- It agreed there were some "*erroneous*" issues in its cashflow modelling. And whilst it accepted there was no excuse for not checking the figures properly, it pointed out that they were corrected quickly and re-issued for Mr B's consideration.
- It felt it had been accommodating when compiling and forwarding various cashflow models given the pressing deadline it was given.
- It was satisfied the fact-finding exercises were "*robust enough*" in accordance with internal and regulatory requirements.
- It can typically take between 4-12 weeks to conclude pension review/advice (and sometimes longer) but it was asked to complete the process within a much shorter timescale. It felt it unfair to lay any blame at its door and said it had tried to be as accommodating as possible.
- It didn't agree it had made any personal insults towards Mr B.
- It didn't think Mr B had been financially disadvantaged by not transferring and the benefits within his existing scheme hadn't been lost. The status quo had been maintained and that might not have been the case (given the volatility in the markets) had he gone ahead with a transfer.
- It didn't feel it could give a written personal recommendation due to the "*fluid set of requirements*".

Mr B wasn't happy with Pensionhelp's response, so he complained to our service. One of our investigators looked into the complaint, but didn't think Pensionhelp

needed to do anything more. Amongst other things he said that:

- Pensionhelp's client agreement with Mr B allowed either party to walk away without prejudicing the transactions already initiated.
- Whilst noting Mr B's concerns about the lack of reasons for its decision, he didn't necessarily think Pensionhelp was required to give specific reasons.

Overall, whilst the investigator didn't feel that Pensionhelp was responsible for any loss Mr B said he'd suffered, he appreciated that Mr B's expectations may not have been met in full – because he'd expected to receive transfer advice, but Pensionhelp ended up not giving that. However, the investigator felt that Pensionhelp's compensation payment acknowledged the stress that Mr B had suffered in being told that Pensionhelp wouldn't proceed with its pensions advice.

Mr B didn't agree with our investigator and made a number of detailed points in response. Whilst our investigator considered those points, they didn't change his opinion overall. Mr B asked an Ombudsman to consider the matter afresh.

My provisional decision

I sent Mr B and Pensionhelp my provisional decision on 10 August 2022. I've included the relevant extracts below:

"I'm intending to reach a slightly different outcome to our investigator. I'll explain why.

This matter has clearly been a source of great concern to Mr B. He approached Pensionhelp having had some serious health issues the previous year. And his correspondence showed that, this to some extent, caused him to think about his pension provision. He was particularly concerned about whether his wife and family would be adequately provided for in the event of his untimely death. So, I can appreciate why, having asked Pensionhelp for advice about whether a DB transfer was in his best interests, he was concerned that it stopped short of giving that advice. He thinks it was unprofessional of Pensionhelp to have acted in the way it did.

Pensionhelp accepts that it didn't always get things right when it came to the various calculations it produced. And it also agrees that it could have done more to manage Mr B's expectations. So, it offered him £250 compensation in recognition of the impact that had. But it doesn't seem to agree that its decision to walk away was triggered by Mr B's actions.

Where there's a conflict, as there is here, I need to decide what's most likely to have happened based on the evidence I've seen.

I'll say at the outset that Pensionhelp is entitled to decide who it does business with. And I agree with our investigator that its terms of business allow either party to disengage in appropriate circumstances. But even if it decides that it can't advise a particular consumer, I'd still expect Pensionhelp to treat them fairly and reasonably. For the reasons I'll go on to explain, I'm not satisfied that Pensionhelp always did so in Mr B's particular case.

Whilst the information gathering process initially got underway quite smoothly, I can see that Mr B pointed out errors in Pensionhelp's calculations (which it accepted and corrected). He also asked for various amendments to cashflow models, including up to, and after, the original deadline Pensionhelp had to give its recommendation. This clearly caused Pensionhelp further work. And from other evidence and comments I've seen, it seemed to cause other concerns.

Mr B's since explained that he saw it as his responsibility to point out any errors and make sure the assumptions were right, so that Pensionhelp could produce the best possible report for him. I can appreciate that. And whilst I agree that Pensionhelp was accommodating to the extent that it made the changes, I think there were other things it could have done at an earlier stage to support Mr B through the process. I say that in particular because there's no evidence Mr B was an expert in pensions or pension transfers. And I think some of his correspondence indicated that. And, clearly, deciding whether to transfer his DB pension was a big decision for Mr B to make.

But, bearing in mind the deadline that Pensionhelp was already up against and the fact that Mr B didn't have a fixed idea of how much income he'd need to take (hence modelling various different scenarios to allow greater flexibility), I think Pensionhelp could have explained that the advice process wasn't necessarily intended to cover every eventuality. So, unless Mr B was particularly worried about running out of pension in his retirement (I'm not persuaded that was his overarching concern, not least because he had another DB pension and an income protection policy, which paid a guaranteed income until age 65) it could have told him that it may not be practical or necessary for it to continually revise the cashflow models if the ones it had produced were already a good estimate - especially given the hard deadline it was working to and that potentially being in jeopardy.

Pensionhelp seems to have given an explanation of that kind later on - when providing a timeline of events alongside its response to Mr B's complaint. It said (in relation to further changes having been requested) "This is not how an advice process should work, regardless of who you engage to provide professional services. Seemingly regular fluidity of objectives, serves no useful purpose whatsoever". It's a pity Pensionhelp appears not to have given a similar explanation sooner.

I think it could also have explained that circumstances can and do change between taking advice and reaching retirement age. For instance, the amount of income a consumer might think they need in retirement may well change due to sudden and unforeseen circumstances. And that may well impact how long the pension needs to last. Again, whilst I can see that Pensionhelp did give this kind of explanation when responding to Mr B's complaint, had it done so earlier, Mr B might have been better informed. And he could then have made a decision about whether making these changes was more important to him, even if it meant jeopardising the fairly tight deadline he'd given Pensionhelp to complete the advice process.

I also don't think Pensionhelp was clear about the reasons for its decision to walk away. Having carried out its information gathering and completed multiple calculations, including cashflow models, it wrote to Mr B saying his wasn't the type of pension it could advise on. I'm not persuaded by that position.

I say that because if Mr B's pension was truly something it couldn't advise on, it's reasonable to assume that would have come to light at the outset when the introducer firm got in touch. And it seems unlikely it would have gone to the trouble of doing a 'fact find' and all of the other work if it didn't think it could advise Mr B.

And Mr B has understandably questioned, given that Pensionhelp's core business seems to be advising on DB transfers, why his was one that Pensionhelp didn't feel able to assist with. He's explained its letter didn't make any sense to him. I think he has a point here.

In any event, I'm not persuaded by the reasons that Pensionhelp has cited for walking away. And, on balance, I think its decision was linked to Mr B's actions and communication. I can see that its decision closely followed a further request from Mr B to

make amendments to forecasts – even though the original deadline for advice had passed. And, during a telephone call with him around that time Pensionhelp apparently referred to “having done the analysis to death”. Contrary to what it’s said since, I think this does tend to suggest that Pensionhelp was concerned, and possibly frustrated, by Mr B’s repeated requests.

I’ve also seen a note, which seems to have been made following conversations with Mr B and the introducer firm. And whilst I don’t know exactly what was relayed to each party, the note suggests Pensionhelp told the introducer firm it was disengaging with Mr B, indicating he didn’t understand the process and “challenges every action we take”. I think this adds further weight to what I said earlier - Pensionhelp’s decision does appear to be linked to Mr B’s actions and communication. And, as I’ve already suggested, had it done more to address this earlier, it may have avoided the toing and froing that then happened. Pensionhelp may even have felt able to give Mr B a personal recommendation at the end of the advice process. As it was though, it said it couldn’t do that largely due to Mr B’s ‘fluid’ objectives.

For completeness, I’ll say here that Mr B initially indicated he’d suffered a financial loss as a result of Pensionhelp’s decision. That’s because he wasn’t able to confirm his intentions to his former employer by the deadline given. And whilst I understand that Mr B didn’t ultimately transfer his pension, I believe his employer honoured the enhancements it had previously mentioned. So, I don’t think there’s been a loss to Mr B in that sense.

However, Mr B’s indicated that he suffered a loss of expectation. I’d be inclined to agree with that. I say that because when he approached Pensionhelp, Mr B expected to be given a recommendation to help him make an informed decision. But that’s not what happened. So (notwithstanding that Pensionhelp has since told him that an initial assumption is a DB transfer isn’t suitable) I can appreciate why Mr B might still wonder what would have happened if he’d been given a recommendation about transferring. I’ve taken this into account when deciding how Pensionhelp should put things right now.

In summary, whilst I’m satisfied that Pensionhelp was entitled to make the decision it did, I don’t think it went about things in a fair and reasonable way. Neither did it communicate with Mr B in clear terms. And I think the impact on Mr B has been greater than Pensionhelp has, so far, recognised.

Putting things right

I entirely accept that Pensionhelp did a fair amount of work on Mr B’s behalf before it walked away. But for the reasons I’ve outlined, I think that could probably have been reduced had it properly supported Mr B early on in the process. And I’m mindful that Mr B ultimately had to walk away without the thing he wanted – a recommendation from an expert about whether transferring his DB pension was in his best interests.

As I’ve indicated above, I think Pensionhelp’s handling of things added to the worry that Mr B was clearly already experiencing. And he’s described the shock he felt when Pensionhelp told him it was disengaging. I think it also caused confusion because it wasn’t clear about its reasons for doing so. So, I’m intending to say that Pensionhelp should pay Mr B another £200 compensation (on top of the £250 already offered) in recognition of the impact its actions and communications had on Mr B.

My provisional decision

I partially uphold this complaint. And I’m intending to say that Pensionhelp should put things right as I’ve set out above”.

Responses to my provisional decision

Pensionhelp said it had no further information to provide and would await my final decision.

Mr B has provided detailed comments although he's also indicated he's grateful "*for the considered report balance and the initial likely outcome*".

I don't propose to refer to all of the comments Mr B's made. But they can broadly be summarised as follows:

- Mr B has described the concerted efforts he went to in order to ask Pensionhelp to correct fundamental errors in its forecasts. And the other ways he tried to engage with Pensionhelp.
- He accepts he did ask for a range of forecasts, but says they were only similar to those that the introducer firm (which apparently pulled out of the business of DB transfers) had given him previously. So, Mr B doesn't think he was asking too much of Pensionhelp. And it apparently responded along the lines that Mr B wasn't over expecting.
- Yet, shortly after, Pensionhelp made the decision to withdraw from its dealings with Mr B. And, as there isn't a full call recording available, Mr B says that "*there is no record of the very short attitude way*" it spoke to him.
- Mr B doesn't agree that there's been no actual financial loss. His basis for saying so is that most forecasts demonstrated he'd be able to withdraw an income from an investment equivalent to the pension he's now in receipt of – if not better. So, whilst Mr B accepts that's difficult to account for, he maintains there's still been a loss. And he says that would also have to be combined with an immediate larger cash lump sum, which represents a clear short-term financial loss. Mr B also says that doesn't account for the fact that if he were to die early, his family would still have been better off with greater financial security if the transfer had been completed and available to them. As things stand, Mr B says his wife will benefit from a reduced pension that would never equate to the value of the fund.
- Whilst Mr B says that the outcome of my decision in principle is more important to him, since Pensionhelp thought for some reason that he was unreasonable, he'd like that record put right. Mr B feels he acted as a "*proactive*" customer but was treated as a "*nuisance*" for being interested in his own financial decision.
- Whilst Mr B respected my suggested award, he said it would be appreciated if an award commensurate with financial loss could be made.

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'm grateful to Mr B for taking the time and trouble to give me his detailed comments, which I've considered very carefully. But, for reasons that I'll go on to explain, I'm not going to change what I said in my provisional decision.

I've already said why I think Pensionhelp's decision was linked to Mr B's actions and behaviours. So, whilst helpful to see the additional context from Mr B about why he felt the need to get in touch with Pensionhelp in the way he did – including to correct its fundamental errors – none of the comments cause me to change my opinion on that front. In fact, they only help to reinforce the view I'd already reached. So, I don't think it's necessary for me to go into further detail about that.

Whilst I can appreciate why Mr B might feel he (in the shorter term) and his family (in the event of his untimely death) might have suffered a financial loss by him staying in his DB scheme, I'm not going to make an award in respect of a potential financial loss. I say that for a few different reasons.

Firstly, whilst noting Mr B's comments that Pensionhelp indicated it probably would support a pension transfer, (and he's indicated he was minded to go ahead with that) I've seen no evidence of a formal recommendation in a suitability report. Pensionhelp walked away before it got to that point. The amounts that Mr B says he and his family could have expected to receive from an alternative plan were based on a range of situations, some of which were hypothetical. Those include how the investment performed and the amount left in Mr B's fund (and available to his wife and family) in the event of his untimely death. But given these particular circumstances, it wouldn't be appropriate for me to recommend compensation based on things that might not happen or couldn't reasonably be determined. In any event, this complaint isn't about the *suitability* of Pensionhelp's advice. It's about its decision to walk away without giving a formal recommendation one way or the other. So, I haven't considered whether it would or wouldn't have been in Mr B's best interests to transfer out of his DB scheme. And on that basis, I can't fairly and reasonably say that Pensionhelp's actions directly caused Mr B a financial loss.

According to Mr B's own evidence, there was a deadline within which he had to confirm to his former employer if he wasn't going to transfer (apparently due to the "*max*" cash lump sum that was on offer). But Mr B says there was "*no rush at all*" if he was going to transfer. Given the deadline set by the employer, I can certainly see why Mr B would have been concerned to find out, in March 2020, after the deadline had passed, that Pensionhelp wasn't making a recommendation at all, let alone one to transfer. And Mr B has suggested that had Pensionhelp not "*withdrawn*" from the transfer (I've already said that there's no evidence of a formal recommendation being made) he could have gone to another financial adviser which had already given some advice and which was happy to undertake the work.

As far as I can tell that option remained open to Mr B. And in the absence of a "*rush*" to conclude the matter (although it's possible the transfer value might have been revalued as it was only guaranteed until April 2020) I don't think Mr B needed to make a decision on whether to access his DB pension when he did. I appreciate though that he ran the risk of losing out on the "*max*" cash option that his former employer offered if he wasn't able to confirm his intentions by a specific deadline. Instead, whilst not ideal given the work that Pensionhelp had already done, I think he could have taken further advice from another pension advising firm that was prepared to engage with him and give advice. I don't think that Pensionhelp's decision to withdraw from the process prevented that. So, as Mr B could have sought advice elsewhere and still gone ahead with the transfer if he wanted to, I don't find that Pensionhelp is responsible for any perceived financial loss (if indeed such a loss has actually occurred) because Mr B chose to take the benefits from his DB scheme when he did. I say that in particular because, having decided to stay in the scheme, even though

Mr B couldn't confirm his decision by the deadline previously set, the employer still honoured the enhancements previously offered.

For all of these reasons, I remain of the view that the impact on Mr B was largely about the disappointment and loss of expectation when he learned that Pensionhelp was walking away. That being the case, it now needs to make an additional compensation payment to recognise the impact of that as I've set out below.

Putting things right

Pensionhelp Limited now needs to pay Mr B another £200 compensation (on top of the £250 already offered) in recognition of the impact its actions and communications had on Mr B.

My final decision

I partially uphold this complaint. I require Pensionhelp Limited to put things right as I've set out above. Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision by 10 October 2022.

Amanda Scott
Ombudsman