

The complaint

Mr H complains about delays caused by Wealth At Work Limited (WAW) during the transfer of his pension. Mr H says that due to the delays he received a significantly lower Cash Equivalent Transfer Value (CETV) and wants WAW to pay him the difference.

What happened

Mr H met with WAW in October 2020 to discuss the possibility of transferring his defined benefit pension scheme (DBS) to a self-invested personal pension (SIPP). Mr H paid a fee to WAW on 30 December 2020.

WAW requested a CETV from the pension provider on 14 December 2020 which was valid for three months until 13 March 2021. The fee WAW charged Mr H for its advice was calculated as a percentage of the CETV, and Mr H paid this fee on 30 December 2020.

WAW commenced its research in January 2021. On 8 March 2021 WAW advised Mr H to proceed with the pension transfer and sent the paperwork to him the following day. Mr H returned the paperwork on 13 March. WAW said it hadn't received the paperwork in time to complete it before the CETV expired. So it had to request a new CETV. This was requested but was significantly lower than the previous CETV. WAW reviewed this and thought its advice to transfer was still suitable.

Mr H proceeded with the transfer of his pension, but also complained to WAW about the delays he said it had caused. He said that WAW's delays had caused him a significant loss by receiving a much lower CETV. WAW said it had needed to complete enhanced research before it could be certain that recommending a transfer was the right thing to do. It didn't accept it was responsible for the delays.

Unhappy with this, Mr H referred his complaint to us where one of our Investigators looked into it. Our Investigator thought WAW had caused delays and should increase the SIPP value as if the original CETV had applied.

WAW didn't accept our Investigator's opinion. It said it had advised that a pension transfer could take up to 12 weeks. And it felt Mr H had caused delays in providing information WAW had requested. WAW asked for the complaint to be reviewed by an Ombudsman. So, it was passed to me to consider.

I issued a provisional decision on 3 October 2022 explaining why I thought the complaint should be upheld and how I thought things should be put right. I invited both parties to provide any further responses by 17 October 2022.

Mr H provided further information which he felt reinforced his opinion that WAW had caused delays. But he accepted my decision.

WAW didn't respond. So the complaint has been passed to me to make a 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.

Mr H agreed with my provisional decision and WAW didn't provide any further response. Based on this, I see no reason to depart from my initial findings. I'll repeat them now.

I've looked at the documents provided by WAW and Mr H. And produced the following timeline based on this.

- Mr H had initial discussions with WAW in October 2020.
- On 19 November 2020 a transfer out illustration was produced.
- WAW completed a fact find with Mr H on 27 November 2020.
- On 7 December 2020 Mr H signed a letter of authority allowing WAW to act on his behalf.
- WAW requested the CETV on 10 December 2020.
- The CETV was issued on 14 December 2020 with an expiry of 13 March 2021. WAW then was able to calculate the fee it was going to charge Mr H.
- The fee was received by WAW on 30 December 2020.
- On 4 January 2021, information to begin the transfer analysis was received by WAW.
- WAW says the transfer analysis wasn't completed until 28 January 2021 but it is in fact dated 8 January 2021.
- WAW emailed Mr H on 5 February 2021 saying it needed to obtain further information from Mr H, but its advisor wasn't able to speak to Mr H until the week commencing 15 February 2021 due to lack of availability on the advisor's part. Information was also requested in this email from Mr H about another pension he held.
- WAW then called Mr H on 15 February 2021 to confirm his reasons for the transfer.
- Mr H provided the information about his other pension, which was requested in the email of 5 February, on 24 February 2021.
- The transfer analysis was then passed to WAW's compliance team on 4 March 2021 at which point it was signed off and the report was produced.
- On 8 March 2021, Mr H met with a WAW advisor to be provided with advice, and the relevant paperwork was issued to Mr H on 9 March 2021.
- Mr H returned the signed paperwork at around 3pm on 13 March 2021, by which point WAW said it was too late to complete before the CETV expired.

WAW told us the transfer analysis was completed on 28 January 2021. However, the transfer analysis document it sent us suggests that it was in fact completed on 8 January 2021. We've asked WAW if this was correct, but it hasn't responded.

Based on this, it seems to have taken from 8 January 2021 to 15 February 2021 for WAW to request further information from Mr H. Even if the transfer analysis wasn't completed until 28 January as WAW says, this would still mean it took it a further 18 days to call to confirm the reasons for the transfer. I think this is too long given that WAW knew there was a deadline for the CETV expiring and it had based the fee it asked Mr H to pay based on that CETV.

WAW has said it was waiting for further information from the ceding scheme before it could complete the analysis. We asked for evidence of this, but from what WAW has provided, it seems the last piece of information was received from the ceding scheme on 8 January 2021.

WAW has said that Mr H caused some delays in providing information it requested from him. I accept that it did take Mr H some time to provide the further details about his other pension – this was requested on 5 February 2021 and not provided until 24 February 2021. But I also think WAW should've requested this information sooner. This is because WAW would've known it needed this information in order to determine whether it was in Mr H's best interest to transfer his DBS. And in my view, this information should've been requested when WAW carried out the fact-find in November 2020, which was before the CETV was requested. It took Mr H around three weeks to give this information to WAW, so I think WAW would've had this information by the end of December 2020 had it requested it when it should have during the fact-find meeting. So, realistically, I think WAW should've been in a position to provide Mr H with the advice several weeks before the CETV expired.

Furthermore, once the transfer paperwork was issued on 9 March 2021, there seems to have been no mention or reminder from WAW to Mr H that time was of the essence and that his CETV would expire on 13 March 2021. I would've expected this to have been pointed out to Mr H at this time, particularly as the advice was predicated on the CETV and would need to be revisited had he not met the deadline for the CETV expiry. I think that was a significant failing on WAW's part.

I've noted that Mr H did return the paperwork on the day the CETV expired, presumably assuming that as the paperwork had been returned before expiry, the CETV would be valid. WAW says it wasn't returned early enough in the day to process the transfer. But I've not seen that WAW told Mr H he would need to return it before this day, or by a certain time on the day for it to be actioned. WAW had simply told Mr H that the CETV expired on 13 March 2021. And he returned it on this day. I think it more likely than not that had WAW told Mr H of the importance of returning the paperwork before 13 March then he would have done so, and the transfer would've been completed with the higher CETV.

In summary, I think there were avoidable delays caused by WAW as explained above. I think WAW should've been able to provide its advice sooner had it asked for all of the relevant information at the appropriate time. But even if I were to ignore the delays, I think the transfer still could've gone ahead in time. Whilst I accept WAW did tell Mr H that the CETV may fall if the deadline expired, I think it should've explained the urgency of returning the paperwork by a specific time to secure the existing CETV. Because of this, I think Mr H ended up with a lower CETV due to WAW's actions and so I require it to put things right using the method set out below. It's difficult to say when the transfer might have gone ahead had it not been for the delays by WAW. But I think it's fair and reasonable to assume it could've occurred, at the latest, on the final day of the CETV expiry. So, I'm going to use this date when putting things right.

Putting things right

Fair compensation

My aim is that Mr H should be put as closely as possible into the position he would probably now be in if WAW had acted in the timely manner which I think it should've.

I'm satisfied that what I've set out below is fair and reasonable given Mr H's objectives when he invested.

What must WAW do?

To compensate Mr H fairly, WAW must:

- Compare the performance of Mr H's SIPP with that of what the investment would now be worth had the original higher CETV been received and invested in the same

manner as the amount actually received along the same proportional investment split.

- WAW should pay into Mr H's pension plan, in line with the original investment choices, to increase its value to what it would've been had the original CETV been received. The amount paid should allow for the effect of charges and any available tax relief. Compensation should not be paid into the pension plan if it would conflict with any existing protection or allowance.
- If WAW is unable to pay the compensation into Mr H's pension plan, it should pay that amount direct to him. But had it been possible to pay into the plan, it would have eventually provided a taxable income. Therefore, the compensation should be reduced to notionally allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount – it isn't a payment of tax to HMRC, so Mr H won't be able to reclaim any of the reduction after compensation is paid.
- The notional allowance should be calculated using Mr H's actual or expected marginal rate of tax at his selected retirement age.
- It's reasonable to assume that Mr H is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Mr H would have been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.
- In the event of having to make payment to Mr H, WAW should add interest as set out below.

Income tax may be payable on any interest paid. If WAW deducts income tax from the interest, it should tell Mr H how much has been taken off. WAW should give Mr H a tax deduction certificate in respect of interest if Mr H asks for one, so he can reclaim the tax on interest from HM Revenue & Customs if appropriate.

Portfolio name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
CETV of £637,759.13	Still exists and liquid	Funds in which Mr H invested in his SIPP	13 March 2021	Date of my final decision	8% simple per year from final decision to settlement (if not settled within 28 days of the business receiving the complainant's acceptance)

Why is this remedy suitable?

I've chosen this method of compensation because had Mr H received the higher CETV, I think he likely would've invested in the same manner as WAW had originally recommended. And I think this puts him in the position he would've been had the higher CETV been received.

My final decision

I uphold this complaint and direct Wealth At Work Limited to pay the amount calculated as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 15 November 2022.

Rob Deadman
Ombudsman