DRN-3970900

The complaint

Mr B complains Hub Financial Solutions Limited's (Hub) poor service delayed its advice process regarding Mr B's defined benefit (DB) pension scheme benefits. Mr B says this caused him a financial loss because it meant his transfer value expired, so this had to be recalculated and decreased by £28,737.48.

What happened

Mr B was interested in transferring his DB pension, so in October 2020 he contacted his DB pension provider and adviser, Hub. In the following months, Hub began gathering information about Mr B's circumstances. Mr B told Hub he wasn't in the UK for the time being. Given this, on 8 December 2020 Hub told Mr B it wasn't sure it had the regulator's relevant permissions to advise him while he was out of the UK, and needed to check this. The same day, Mr B emailed Hub further information about his residency situation. And on 9 December 2020, Hub emailed Mr B to thank him for confirming he was a UK resident.

Over the next few months, there was communication between Mr B, Hub and Mr B's DB scheme provider. The original transfer value of Mr B's DB pension was initially valid until 24 February 2021, but Mr B's DB pension provider extended this by three weeks, so it was valid until 17 March 2021.

Mr B says that by April 2021, Hub had given him contradictory information about whether he needed to return to the UK before it could advise him – and he did briefly return to the UK but Hub didn't respond. And his original transfer value had expired so he had to get a new transfer value, which was £28,737.48 less than the original value.

Mr B thought Hub had given him poor service and not progressed its advice process as it should have. So, Mr B consulted another financial adviser about transferring his DB scheme benefits. And he complained to Hub about its delays.

Hub said it didn't hold regulatory permissions to advise members who weren't UK residents, and it had explained this to Mr B in February 2021. And when Mr B said he was returning to the UK, it had obtained a new transfer value, and hadn't caused any unnecessary delays.

Unhappy with this, Mr B came to our Service. He said he'd told Hub he and his wife were resident in the UK. And Hub had bullied him, by wrongly insisting they return to the UK during the covid pandemic and wrongly telling Mr B he wouldn't be able to get another financial adviser to deal with the DB transfer. Mr B said his new adviser had been able to progress his DB transfer in about six weeks. And Mr B thought Hub and his DB scheme provider hadn't worked together as they should have.

One of our Investigators upheld Mr B's complaint. She didn't think Hub had bullied Mr B, but thought Hub could have told Mr B sooner that it couldn't advise him due its concerns about his UK residency status. If Hub had done so, she thought Mr B would've been able to complete his transfer through another adviser using the original, higher, transfer value. To put things right, she said Hub should put Mr B into the position he'd have been in but for its error and carry out a redress calculation on that basis. And that Hub should also pay Mr B £300 compensation for the unnecessary inconvenience it caused him.

Mr B accepted our Investigator's view. But Hub disagreed with our Investigator. It said the regulator's guidance and permissions meant it couldn't advise people outside the UK, and it told Mr B this on 8 December 2020. So Mr B could then have sought advice elsewhere if he'd wanted. But a transfer wouldn't have been completed before the original transfer value expired anyway, because Mr B took several weeks to return the initial paperwork. And Mr B's circumstances - including not having clear or fixed retirement plans - meant it needed to ask him for more information, since the regulator's starting point was that DB transfers weren't suitable unless the adviser could clearly demonstrate a transfer was in the consumer's best interest.

Our Investigator shared Hub's comments with Mr B. Mr B said he'd told Hub in December 2020 that he was a UK resident, and was told face to face meetings weren't necessary, so he saw no need to travel back to the UK just for this matter. Mr B said he planned to travel during his retirement but wasn't sure where to or when. And he'd been unable to return the initial paperwork sooner because Hub hadn't properly responded to his queries. Mr B said he'd already given Hub all the additional information it later asked for. And that Hub didn't say it couldn't advise him. But it did say he couldn't move to another adviser, which amounted to bullying because he felt intimidated and powerless. Mr B thought a high workload and lack of training meant Hub's adviser couldn't deal with their clients effectively.

Our Investigator didn't change their view. As agreement couldn't be reached, this complaint came to me to consider. I asked Mr B for some further information and evidence about what happened after he went to another financial adviser, and Mr B provided this.

On 2 February 2023, I issued my provisional decision. In summary, I thought Hub should have clearly told Mr B by 22 December 2020 that it wasn't going to take him any further through the advice process due to its residency concerns, and that £300 was fair compensation for the distress and inconvenience that caused Mr B. But that even if Mr B had started over with a new adviser at the very start of January 2021, I wasn't persuaded he would have been able to complete the transfer process before his original transfer value expired. So, I didn't think Hub needed to compensate Mr B for the financial loss he experienced due to the change in the transfer value of his DB scheme.

Hub said it had nothing further to add. However, Mr B provided further comments. In summary, he said:

- His residency is a diversion here, he still pays UK tax on his pension income anyway.
- Hub caused delays. Mr B first approached Hub in October 2020, but it then took two months to appoint an advisor and agree an initial meeting. And by March 2021, Hub was still trying to understand his financial situation and asking him for information he'd already provided.
- Hub didn't need two weeks in December 2020 to confirm its position on his residency, a day or two would've been more reasonable. If Hub had confirmed its position on his residency within two days of 8 December 2020, Mr B could have met a different adviser the following week and transferred before the original CETV expired.
- Hub was the professional here and knew the timescales involved. Hub was directly responsible for Mr B's financial loss by means of its continued delays. And I wasn't holding Hub accountable.

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.

Having reconsidered all the evidence and comments provided to me regarding Mr B's complaint against Hub, I'm still upholding it. But I still think Hub doesn't need to compensate Mr B for his loss in transfer value. I realise this will be very disappointing to Mr B, but I'll explain my reasons.

Mr B says he first approached Hub in October 2020, but Hub then took two months to appoint an advisor and agree an initial meeting. The timeline Mr B provided to Hub as part of his complaint says Mr B called his DB pension provider on 1 October 2020 and was directed to call Hub. He contacted Hub that same day, and Hub sent him an information pack. Mr B's timeline says Mr B thought that pack was asking for too much information about his wife. And that the next thing to happen was that Mr B contacted his DB pension provider on 11 November 2020 to deal with it directly, and it told him it would send him illustrations. Mr B then chased his DB pension provider for these on 27 November 2020 and received them on 7 December 2020. And Mr B then contacted Hub on 8 December 2020. So based on Mr B's own timeline of events, I'm not persuaded that Hub is responsible for any unnecessary delays Mr B thinks happened prior to 8 December 2020.

At the time Mr B was in contact with Hub, it seems his living situation was somewhat fluid, given he was currently out of the UK and mindful of travel and health restrictions. Hub raised the issue of residency with Mr B on 8 December 2020 – it told him it was sometimes unable to give advice if people were abroad and it would need to check what this meant for Mr B. In the email Mr B sent Hub the same day, Mr B provided more information about where and when he'd been living. The next day, Hub thanked Mr B for confirming he was a UK resident.

I understand Mr B thinks the question of his residency is a diversion. I should be clear that I'm not making any findings about his residency. But it's still the case that Mr B's residency status is relevant context here, because Hub has explained it didn't have the permissions from the regulator to advise people outside the UK. Ultimately, Hub can choose not to provide advice if it thinks the circumstances mean it doesn't have the permissions to do so. But it still needed to treat Mr B fairly and reasonably by explaining to this him clearly and without unnecessary delay. So the key issue for me to decide is whether Hub should have told Mr B sooner and more clearly that it was not going to go any further through the advice process with him because of its ongoing concerns about his residency status. And I think Hub should have. I'll explain why.

As Mr B says, Hub was the professional here. It's clear Hub was aware on 8 December 2020 that there was a potential issue with Mr B's residency status. But despite Hub thanking Mr B the next day for confirming he was a UK resident, this matter resurfaced over the next few months – Hub later told Mr B it could only advise him if he was in the UK, and there were discussions about if and when Mr B might come back to the UK. So it seems to me that Hub never really satisfied itself that Mr B was a UK resident. And while it did tell Mr B it couldn't give him advice if he wasn't in the UK, Mr B was left with the impression he just needed to visit the UK. Hub didn't clearly and unambiguously explain to Mr B that it would go no further with this advice process because it wasn't satisfied about his UK residency.

As I say, Hub knew about this potential residency problem on 8 December 2020. Mr B argues that a day or two was a fair and reasonable length of time for Hub to then have properly looked into this matter and resolved it with him. But I don't agree. On 8 December

2020, Mr B was speaking to Hub but this was at a very early stage in its advice process and Mr B was not yet speaking to one of its qualified advisers. So it reasonable to think Hub needed to properly review the information it had and consider it, likely by referring the matter to other parts of its business that had the relevant expertise. And Hub then needed to communicate its response to Mr B. Given all this, and bearing in mind that Mr B wouldn't have been Hub's only customer at that time, I remain of the opinion that two weeks is a fair and reasonable length of time to expect Hub to have taken to properly consider its position on Mr B's residency and clearly and unambiguously resolve this with Mr B.

So Hub should have told Mr B by 22 December 2020 that it wasn't going to go any further with him due to its residency concerns. If it had done so, I think Mr B would have gone elsewhere for advice sooner, as he's shown that's what he eventually did anyway – I'll return to this. Mr B says that Hub caused further delays here, because by March 2021, it was still trying to understand his financial situation and asking him for information he'd already provided. I agree Hub caused delays here. I'm satisfied Hub's failure to tell Mr B by 22 December 2020 that it wasn't going to go any further with him due to its residency concerns caused Mr B some distress and inconvenience. Because it left Mr B worried about whether and when it was going to give him advice, and caused him to have unnecessary ongoing contact with Hub for about two and a half months longer than was needed. I think compensation of £300 is fair and reasonable for that distress and inconvenience.

Mr B says Hub essentially bullied him by telling him to return to the UK during a pandemic and saying he wouldn't be able to get another adviser to carry out his DB transfer. But I don't agree. Based on the evidence I've been provided with, including recordings of the calls and online meetings Mr B had with Hub, I'm satisfied that Hub instead explained to Mr B that it could only give him DB transfer advice if he returned to the UK, and the relative difficulty in transferring DB scheme benefits, given the regulator's starting point that DB transfers aren't suitable unless an adviser can clearly demonstrate a transfer is in the consumer's best interest. I think Hub explained these things politely and professionally to Mr B.

As I say, Hub should have told Mr B by 22 December 2020 that it wasn't going to take the advice process any further with him due to its residency concerns. That would only have been a few days before the Christmas and New Year break. So while I accept Mr B was committed to progressing things as quickly as he could, it's reasonable to think that even if Mr B had tried to start the advice process with another adviser at that point, it's more likely than not that he wouldn't have been able to make any meaningful progress until about 4 January 2021.

Mr B has provided me with correspondence and documents in relation to his new adviser and new SIPP. Mr B says he first contacted his new adviser on 9 March 2021, and I can see he met with them on 15 March 2021. By early June 2021, his new adviser had provided him with advice and on 2 June 2021 Mr B applied to transfer his DB scheme benefits to a new SIPP. On 15 June 2021, Mr B's new SIPP provider confirmed it had received his signed transfer request and would proceed to liaise with his DB scheme provider to process the DB transfer. The DB scheme benefits were then transferred to Mr B's new SIPP on 8 September 2021.

This means it took around 12 weeks between Mr B first contacting his new adviser on 9 March 2021 and him applying to transfer his DB benefits on 2 June 2021. And it then took a further 14 weeks for Mr B's DB scheme benefits to be transferred to his new SIPP.

So even if Hub had clearly explained to Mr B on 22 December 2020 that it wasn't going to go any further with this advice process, and Mr B had started the process with a new adviser as early as possible in January 2021, I think it's still the case that Mr B wouldn't have been able to benefit from the original and higher transfer value.

I see no reason to think Mr B's new adviser would've progressed things any faster overall just because Mr B had contacted them a couple of months earlier. So if Mr B contacted a new adviser as soon as he could in early January 2021, I think his new adviser would still have taken the 12 weeks it did in fact later take to get things to the point where Mr B received advice and applied to transfer his DB benefits. And that takes us to about 2 April 2021. Mr B's original transfer valuation had already expired around two weeks earlier than this point, even with the three-week extension. So even if Hub had told Mr B on 22 December 2020 that it couldn't advise him further, I'm satisfied that Mr B would still have needed to get a new transfer value, and this new value was unfortunately significantly lower than the original.

Putting things right

In summary then, I still think that by 22 December 2020 Hub should have clearly told Mr B that it wasn't going to take him any further through the advice process due to its residency concerns. And I think £300 is fair compensation for the distress and inconvenience that caused Mr B. This is what Hub is responsible for.

But I don't think Hub is responsible for Mr B's financial loss. Because as I've explained, even if Mr B had started over with a new adviser at the very start of January 2021, I'm not persuaded he would have been able to complete the transfer process before his original transfer value expired. So while I understand Mr B feels very strongly that Hub is directly responsible for his financial loss, I'm not asking Hub to compensate Mr B for the financial loss he experienced due to the change in the transfer value of his DB scheme.

My final decision

For the reasons set out above, Hub Financial Solutions Limited should pay Mr B £300 compensation for the distress and inconvenience its poor service caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 16 March 2023.

Ailsa Wiltshire
Ombudsman