

The complaint

Mrs L complains that Origen Financial Services Limited failed to provide her with advice, in a timely manner, about a proposed pension transfer.

What happened

Mrs L has been assisted in making her complaint, and in her dealings with Origen, by her husband. And Mrs L's financial advisor has provided a response on her behalf to my provisional decision. But in this decision, for ease, I will simply refer to all communication as if it has been with, and from, Mrs L herself.

I issued a provisional decision on this complaint in June 2023. In that decision I explained why I thought the complaint should be upheld and what Origen needed to do in order to put things right. Both parties have received a copy of the provisional decision but, for completeness, I include some extracts from it below. In my decision I said;

Mrs L was reminded in 2021 that she held deferred pension benefits in an occupational pension scheme ("OPS") that she left in 1986. Mrs L says that she had entirely forgotten about those benefits and so they formed no part of the plans that she had made for retirement. She therefore saw the benefits as something of a windfall and decided she wanted to use their capital value to reduce her outstanding mortgage.

Mrs L's pension benefits would provide her with a guaranteed income at retirement. And their equivalent cash value was in excess of £30,000. So Mrs L was required to take regulated advice before accessing those benefits in the way she intended. It seems that Mrs L's normal financial advisor was unable to provide that advice so he referred her to Origen in March 2022.

Origen first discussed the transfer with Mrs L in a phone call in early March 2022. Origen explained its processes to Mrs L, and in particular that formulating its advice might take some time, and so it could not guarantee to meet any deadlines for the acceptance of a guaranteed transfer quotation. It told her that it would first complete an abridged advice process that would take approximately six weeks. And following that, if a full advice report was required, Mrs L should allow a further three to four months for the completion of the process.

Mrs L had a further telephone meeting on 21 March. In that meeting she told Origen that the cash equivalent transfer value ("CETV") of her pension benefits was approximately £44,000. But the following day she sent the firm a copy of a CETV she had requested previously that showed the transfer value as £41,624. However the guarantee on that CETV had expired the previous month.

Origen issued its abridged advice report to Mrs L on 5 May. But since that report indicated a transfer might be suitable for Mrs L, a further full advice report was required. So, on 30 May, Mrs L gave her agreement for a full advice process to be started.

Origen accepts that it didn't complete that advice report as quickly as it should have. It seems that there was a delay in the paraplanning team starting the work. Origen asked Mrs L and the OPS for some further information in early August. And as a result of that information the firm realised that since Mrs L held defined benefits an updated CETV needed to be requested. That was received on 26 August, and the full advice report was issued to Mrs L on 8 September.

Mrs L complained to Origen about the time it had taken to complete its advice. And in particular she complained that her CETV had fallen by approximately £9,000. Origen didn't accept that it was responsible for the fall in the value of the CETV. But it offered, as a gesture of goodwill, to refund half the charge it had made for its advice, and to pay some additional compensation for the inconvenience Mrs L had been caused. In total it offered to pay Mrs L £1,500.

The pension benefits that Mrs L held with her former OPS provided her with a guaranteed income when she reached the scheme retirement age. So, since the equivalent cash value of those benefits exceeded £30,000, the OPS trustees were required to ensure that Mrs L had taken regulated financial advice before allowing the transfer of her pension savings.

In 2021 the regulator updated its guidance to firms providing advice on pension transfers. That guidance supported some new rules that had been added to the regulator's Conduct of Business sourcebook the previous year. In particular, those changes introduced the concept of what has been termed "abridged advice". That is a shortened advice process primarily designed to identify those transfers that are obviously unlikely to be in the best interests of a consumer, and so reduce the fees that a consumer will need to pay for the advice.

I have listened carefully to two calls that took place between Mrs L (and her husband) and an advisor from Origen. Those calls were at the very start of the advice process – introducing the services that Origen provided, and explaining some of the regulatory landscape around pension transfers. But having done so, I am concerned that Mrs L wasn't made as aware as she should have been of how the process would work, and the choices she could make regarding the advice she was seeking.

I think it is clear from the initial call that Mrs L wasn't aware that she was seeking advice from Origen about the transfer. Instead I think she thought that Origen was providing its support so that she could seek, and hopefully receive, permission from the regulator for a transfer to take place. That was most clearly indicated when she asked Origen if there was guidance about what might be seen by the regulator as an appropriate use for the pension savings, if she were to withdraw them as a lump sum immediately following any transfer. I don't think it would be fair to conclude that Origen led Mrs L to those beliefs, but I don't think it did enough to correct her misunderstanding and make her aware of how the advice process actually worked.

The situation behind Mrs L's proposed transfer was relatively unusual. These were pension benefits that she had forgotten about until relatively recently. And so they had formed no part of her retirement planning. The amount of the pension benefits, and the income they would provide at retirement, was relatively low when compared with the provision Mrs L and her husband had made for their retirement. And Mrs L would be unlikely to face any significant investment risk following the transfer given her intention to take the whole of the benefits as a lump sum shortly afterwards.

But, as Origen correctly explained to Mrs L, she was required to receive full, and compliant, advice before any transfer could take place. But, importantly, should that advice have concluded that it wasn't in Mrs L's best interests to transfer, that wouldn't have prevented her from requesting the necessary confirmation of advice (in accordance with section 48 of the Pension Schemes Act 2015) from Origen and proceeding regardless. And she would not have been seeking any support from Origen after that transfer – the transfer and encashment of the transferred monies would have been handled by her existing financial advisor.

I'm not persuaded that, had Mrs L been given better information about her choices in the advice process, she would have decided to take abridged advice at the outset. Doing so cost her slightly more – since she needed to pay the VAT on the abridged advice fee, even though the fee itself went on to be absorbed into the full advice charge. And I think that Mrs L's mind was already made up that she wanted to encash the "windfall" pension benefits that formed no part of her retirement planning. For her, I'm persuaded that the advice process was simply a necessary step along the way to achieving her objectives.

Mrs L's complaint is not that she paid for a service that she didn't need. As I've said above, since Mrs L moved from the abridged advice onto a full advice process, she only paid the agreed fee for the full advice. Her complaint is around the time that was taken to provide the compliant advice. So I will now consider whether that time, as an end-to-end process, was reasonable.

I don't think it was appropriate, nor would it have been agreed by Mrs L if she'd known she had a choice, for her to start with abridged advice. I think the time that part of the process took ran from the second fact finding meeting – where Mrs L gave detailed information about her finances – to the point at which she agreed to move to the full advice process. I think the relevant dates are between 21 March 2022 and 30 May 2022 – a period of 70 days. I accept that there was a short delay – at Mrs L's request whilst she made time to read and understand the abridged advice report that Origen had sent her – before she gave her agreement to proceed to full advice. But I don't think that delay, or her decision, would have been necessary had full advice commenced at the outset. So I think that period should remain as part of the overall delay timeline.

Origen agrees that the time it took to provide Mrs L with the full advice report was too long. And I would agree. There are a number of concerning parts of that process that I think led to delays. Overall, the process started on 30 May 2022, and the advice report wasn't provided to Mrs L until 8 September – a total period of around 3.5 months. Although Origen told Mrs L that she might expect this part of the process to take between 3 and 4 months, I don't think that Origen's actions, and the time taken, are reflective of what I would consider to be good industry practice, or that Origen treated Mrs L fairly by taking that long.

Generally a CETV is only guaranteed for a period of three months. That is generally accepted as being sufficient time for the research needed before advice can be given, the presentation of that advice to the consumer, their consideration of the advice, and the notification of the acceptance of the CETV to the OPS trustees. So I wouldn't expect Origen's part of the full advice process, even allowing for the initial information gathering that formed part of the abridged process, to take more than 10 weeks. That would then allow the remainder of the guarantee period to be used for the administrative actions needed to notify the OPS trustees of the acceptance of the CETV and to request for the transfer to proceed.

Origen says that it failed to pass the advice request onto its paraplanning team for around one month. And I have noted that the initial analysis that Origen requested was on the basis of an expired CETV. Origen says it wasn't until August 2022 that its advice process highlighted that Mrs L would be transferring guaranteed benefits and so a current CETV was required. I find that very surprising and disappointing – particularly since that was the fundamental reason that Mrs L had engaged Origen's services.

In its final response letter to Mrs L, Origen pointed out that providing advice of this nature can at times be very protracted with numerous internal procedures and third-party information requirements that are necessary before advice can be provided. But I'm not persuaded that any third-party involvement was the cause of the delays. It seems that Mrs L responded promptly when asked for any additional information. And when Origen realised that an updated CETV was required, this was provided by the OPS within a matter of days.

Ultimately, the transfer value analysis that Origen required, to inform its advice, couldn't have been accurately completed until the revised CETV was received. So that would suggest that the transfer value analysis, and Origen then formulating its advice, took less than two weeks. I am not suggesting that I should use that expedited timeframe as an indication of what would have been reasonable here. But I think it does underline that a timeframe of around ten weeks as I suggested earlier would have undoubtedly been reasonably achievable.

So given that I am not persuaded that the use of the abridged advice process was in Mrs L's best interests, and that a full advice report could reasonably have been completed within 10 weeks, I think the advice report could have been provided to Mrs L by the end of May 2022 – meaning she experienced a total delay of just over three months. So I think Origen needs to establish whether the delays it caused have led to Mrs L receiving a lower transfer value than she would have if nothing had gone wrong.

When Mrs L first approached Origen the guarantee on the CETV she described had expired. So I agree with Origen that she had no entitlement to receive that CETV even if nothing had gone wrong. As I've explained earlier, I think Origen should reasonably have started the full advice process shortly after its meeting with Mrs L on 21 March. So I would expect, as part of that process, a new CETV to have been requested around two weeks later. So I think the CETV that Mrs L might reasonably have expected to form the basis of her transferred pension funds would have been requested from, and issued by, the OPS around 4 April 2022.

Origen offered some compensation to Mrs L when she first made her complaint. It offered to refund half the fee it charged her for its advice – a refund amounting to around £1,200. And it said it would pay her a further £300 for the inconvenience she'd been caused. With the compensation I am directing below, Mrs L should be placed back into the position she would have been, had the full advice been provided in a more timely manner. So I think it right that she should pay the agreed fee for that advice. But there is no doubt that Origen's actions will have caused her some inconvenience. So I think it is fair for me, subject to any responses to this provisional decision, to direct Origen to pay the compensation of £300 it offered to Mrs L for her inconvenience.

I invited both parties to provide us with any further comments or evidence in response to my provisional decision. Both Mrs L and Origen have provided some further comments on my

findings. Although I am only summarising here what each party has said, I want to reassure both parties that I have read, and carefully considered, their entire responses.

Mrs L thinks it astonishing that Origen failed to realise that it was providing advice on defined benefits before August 2022. She says that was the only reason her financial advisor introduced her to the firm. She says that Origen generally lacked any urgency in its dealings with her until August 2022 when it produced its transfer advice report within a period of two weeks.

Mrs L says that the Annuity Interest Rate will be the key factor underpinning her compensation from Origen. She says that it rose from 0.9% in April 2022 to 1.9% when the CETV was finally requested by Origen in August 2022. Mrs L says that she believes her pension plan has now been closed following her withdrawal of the transferred funds. But she asks that she be allowed to open a new plan to receive any compensation from Origen.

Mrs L says the matter has been extremely stressful for her and that she thinks that compensation of £3,000 would fairly reflect the distress and inconvenience she's been caused rather than the £300 I recommended. She also says that the delay to the transfer meant that she needed to pay an additional three months' interest on part of her mortgage.

Origen doesn't agree with my provisional findings. It says it cannot agree that an abridged advice report was unnecessary. It says it is required by its regulator to start from a hypothesis that a transfer of this nature is likely to be unsuitable. So it says the abridged process is intended to save clients money. It says that using the process actually comes at a cost to Origen.

Origen says that, if I conclude that Mrs L had already determined she wanted to transfer, I shouldn't consider the three weeks she took to agree to move to the full advice process as part of the delay. And it says that its terms and conditions clearly warned Mrs L that it didn't guarantee to meet any CETV expiry dates. It says that it told Mrs L that the full advice process might take between 3 and 4 months – a timeframe that it met when it provided the advice report to Mrs L in early September.

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.

As I explained in my provisional decision, in deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mrs L and by Origen. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

And I repeat my reflections on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

I've thought carefully about the responses that have been provided by both parties. Having done so I'm not persuaded that I should alter the conclusions that I set out in my provisional

decision. But I do think it would be appropriate for me to provide some additional thoughts on the matters that Mrs L and Origen have raised in their responses.

I accept that, in many cases, the use of an abridged advice process might be in a consumer's best interests. And Origen is entirely right to point out that its regulator expects it to start the advice process from a basis that a transfer of this nature would be unsuitable for a consumer. But I still think that, in the specific circumstances of this complaint, the use of the abridged advice process was unnecessary, and not appropriate for Mrs L.

As I explained in my provisional decision, Mrs L's circumstances were unusual. These pension benefits had been long forgotten and formed no part of Mrs L's retirement planning. And I think that Origen failed to ensure that Mrs L had a clear understanding of the purpose and content of the advice process. For Mrs L, the most important factor in the process was the time it would take to complete the transfer. There was little investment risk for her to be concerned about given her intention to use the transferred monies immediately. And as I've explained, the pension savings were not an important part of her future provisions. I think that, had Origen given Mrs L more information about the advice process, she wouldn't have agreed to start with an abridged report.

I have thought again about the three-week delay before Mrs L gave Origen her agreement to move to the full advice process. I think a part of that delay was again due to Mrs L's fundamental misunderstanding of how the advice process was structured. And I also think part of the delay was simply due to the time it took for her and Origen to find a mutually convenient date for the abridged report to be formally discussed and agreed. But ultimately the conclusion must remain that, if the abridged process hadn't taken place, Mrs L wouldn't have needed to make any decision to proceed. So I still think it fair that this period remains as part of the calculated delay.

I share Mrs L's surprise that Origen appears to have done work on its advice process before it identified that the transferring benefits were defined in nature. That should have been a fundamental part of the information Origen gathered at the outset. I actually think it likely that the advisor was aware of the nature of the benefits, and so this simply demonstrates the failure of Origen's internal processes in this case. And might go some way to explaining the delays that Mrs L experienced.

I accept that Origen met what might be considered to be the relatively generous period of time it set out for its advice process. But in terms of treating Mrs L fairly I don't think that length of time was reasonable. Origen didn't face any external delays in the provision of information from Mrs L, or other third parties such as the OPS. So I can see no reason why its advice process should have taken as long as it did. Instead, as I've set out above, it was delayed by failures in the internal processes of the firm.

It seems clear to me that Origen's offer to Mrs L of £1,500 wasn't solely to reflect the inconvenience that she'd been caused. It was a goodwill gesture, refunding part of the advice fee she'd been charged. Given that I am now placing Mrs L back into the position she would have been had no delays occurred I don't think it appropriate for that part of the compensation offered by Origen to be paid. I remain of the opinion that a payment of £300 reasonably reflects the inconvenience that Mrs L has been caused.

I have thought about the additional interest that Mrs L says she needed to pay on her mortgage as a result of the delay. But I cannot be sure when Mrs L would have made any repayment had the transfer completed sooner. I think my original compensation, instead looking at any investment returns Mrs L might have received, remains a fair method of resolving this complaint.

So my conclusions remain unchanged. I think that that a full advice report could reasonably have been completed within 10 weeks, and so I think the advice report could have been provided to Mrs L by the end of May 2022 – meaning she experienced a total delay of just over three months. So I think Origen needs to establish whether the delays it caused have led to Mrs L receiving a lower transfer value than she would have if nothing had gone wrong.

Putting things right

Origen should request, from the OPS administrator, details of what the CETV for Mrs L's pension savings would have been had it been requested on 4 April 2022. It should ensure that it provides Mrs L with copies of that correspondence when it has been received. Origen should then undertake the following:

It should determine the date at which the transfer amount would have been paid to Mrs L's recipient pension plan on the basis that the application to transfer was submitted to the trustees by 14 June 2022 (the end of the three-month period in which I think the full advice process could, and should, have been finalised). It may use the actual amount of time it took the OPS administrator to pay the transfer amount after the application to transfer had been submitted.

Origen should then determine the notional value of Mrs L's recipient pension plan, as at the date of this final decision, had that higher sum been invested at that earlier date. This should take into account the withdrawals Mrs L has actually made.

If the notional value of Mrs L's pension plan is higher, Mrs L has lost out, and Origen should pay her compensation. The compensation should be paid into Mrs L's pension plan (or an alternative plan nominated by Mrs L if the original plan has been closed). The amount paid should allow for the effect of charges and any available tax relief. Compensation should not be paid into a pension plan if it would conflict with any existing protection or allowance.

If Origen is unable to pay the total amount into Mrs L's pension plan, it should pay that amount direct to her. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore the total amount should be reduced to notionally allow for any income tax that would otherwise have been paid.

The notional allowance should be calculated using Mrs L's actual or expected marginal rate of tax at her selected retirement age. I think that it's reasonable to assume that Mrs L is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, as Mrs L would have been able to take an additional tax-free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.

Origen should additionally pay Mrs L the sum of £300 in respect of the inconvenience these delays have caused to her.

My final decision

My final decision is that I uphold Mrs L's complaint and direct Origen Financial Services Limited to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 28 August 2023.

Paul Reilly
Ombudsman