

## The complaint

Mr W complains Pensionhelp Limited gave him poor service in relation to the transfer of the benefits from his defined contribution with defined benefit ('DB') underpin pension scheme into a self-invested personal pension ('SIPP').

## What happened

Here, I'll set out the broad background to Mr W's complaint against Pensionhelp.

A firm I'll call 'C' had been Mr W's financial adviser since 2010. Mr W had various defined contribution ('DC') pensions, including one with a DB underpin – I'll call this Mr W's 'DB' pension.

In 2020, Mr W was interested in consolidating his pensions, and C didn't have the authorisation required by the regulator to advise Mr W about transferring his DB pension. So on 18 December 2020, C introduced Mr W to Pensionhelp for that advice. The cash equivalent transfer value ('CETV') Mr W had received for his DB pension was £196,291.56, guaranteed until 10 February 2021.

C advised Mr W about his DC pensions, valued at about £1,007,847 in total. C's suitability report dated 6 January 2021 advised Mr W to consolidate them into a SIPP plan with a provider I'll call 'A', and invest in RSM model portfolio 6. The reference for this SIPP plan ended 193, and C provided details of SIPP plan 193 to Pensionhelp on 15 January 2021.

Meanwhile, Pensionhelp took Mr W through its advice process. The 'fact find' recorded that *"It was also explained that we may as a practical note, need to establish a new policy with [A], [Mr W] wanted to clarify this with [C] but I mentioned as I saw it, it was going to be difficult for us to work this any other way."*

On 3 February 2021, Pensionhelp provided Mr W with its full advice about his DB pension. Its suitability report advised him to transfer it to a SIPP with provider A and invest in RSM model portfolio 6, saying this was the *"ultimate destination"* for this transfer. It also said *"Please be aware that you do have pensions which are overall above the Lifetime Allowance. The maximum permissible tax free cash is 25% of the current Lifetime Allowance in force or remaining for you personally. It is my understanding you are going to manage the vesting of your other [A] policy with [C] going forward so please continue to seek advice in this area."* And the suitability report said Pensionhelp's advice fee was £5,888.75 and Mr W could choose to pay this himself or pay it from the fund value.

Mr W accepted Pensionhelp's advice to transfer his DB pension. Pensionhelp tried to set up a new SIPP with A into which to pay the transferred DB funds, but A's system wouldn't allow this because Mr W already had SIPP plan 193 with A. On 8 February 2021 Pensionhelp asked A what the best course of action was, and Pensionhelp and A agreed a way for Pensionhelp to set up a new SIPP for Mr W with A that day – the reference for this new SIPP plan ended 568.

Mr W says that following C's advice to consolidate his DC pensions, he took his initial TFC on 18 February 2021.

On 11 March 2021, the funds from Mr W's DB transfer were paid into SIPP plan 193. It seems Pensionhelp thought this was wrong as they should have been paid into SIPP plan 568. So on 30 March 2021, A arranged for the funds to be moved to SIPP plan 568. However, the statements for SIPP plans 568 and 193 provided to our Service by A shows that Mr W's DB transfer funds never moved to SIPP plan 568. Mr W says that he eventually took an income payment to help mitigate his LTA charge on 28 June 2021.

In the meantime, Pensionhelp's adviser fee was incorrectly paid to C from SIPP plan 193. It seems C offered to pass this on to Pensionhelp but was told to return it to Mr W's SIPP plan.

Through C, Mr W complained to Pensionhelp that it had 'interfered' with the SIPP arrangement simply to facilitate getting its advice fee, and this unnecessarily delayed Mr W accessing his transferred DB funds – he planned to use TFC to buy an investment property and reinvest what was left. And he said Pensionhelp left his LTA charge ambiguous and unaddressed. He thought Pensionhelp should reimburse the advice fee he'd paid it.

In response, Pensionhelp said it had to advise Mr W on the overall suitability of a DB transfer and this was a time-consuming process. That what Mr W saw as interference was done on A's guidance, and Pensionhelp had acted in Mr W's best interest, for example by saving him fund placement fees by arranging for C to do this work given it could access RSM model portfolio 6. Regarding Mr W's LTA, Pensionhelp said Mr W hadn't accessed his pension benefits when it advised him, so it hadn't triggered an LTA charge and C was responsible for advising Mr W on his LTA in any case. Pensionhelp also thought C was responsible for any investment loss Mr W thought he'd suffered.

Mr W came to our Service. He said Pensionhelp's rushed advice process had caused confusion. It had caused his transferred DB funds to be unnecessarily moved between two SIPPs with A simply so it could charge its fee, and this delayed him being able to access and invest those funds. He thought Pensionhelp had wasted two months altogether and was wrong to blame C and A. Later, Mr W also told us the transfer completed before the end of March 2021 so as to enable him to use his personal tax allowances for the 2020/21 tax year, but Pensionhelp's errors took him into the 2021/22 tax year. When we asked Mr W in what way he thought Pensionhelp's LTA advice was ambiguous and unaddressed, he said this was because its advice was generic and didn't advise him of his position. Mr W confirmed C had provided him with tax advice.

Ultimately, our Investigator's view was that Pensionhelp hadn't unnecessarily delayed its advice process, but could have asked Mr W to simply pay its advice fee separately, or accepted C's offer to pass on the advice fee it was wrongly paid. And Pensionhelp should pay Mr W £300 compensation for the unnecessary frustration and inconvenience this caused him. But our Investigator thought Pensionhelp wasn't responsible for a financial loss here, because the property purchase Mr W wanted TFC for was at an early stage with nothing arranged and Mr W had alternative funding that could be explored. She thought Pensionhelp's role here was solely to advise on the DB transfer, and it made sufficiently clear Mr W would exceed his LTA. She said Mr W could have gone back to Pensionhelp for further advice about his LTA, but C was on hand and providing Mr W with ongoing advice.

Mr W told us he'd been forced to take unnecessary advice to access his own money. That Pensionhelp was incompetent and slow, and delayed him investing his transferred DB funds. That it had cost him considerable time, and his own professional rate was £250 an hour. And its advice had cost him almost £6,000 without delivering any benefits. Mr W thought £300 compensation was derisory and Pensionhelp hadn't suffered any consequences.

As agreement couldn't be reached, this complaint was referred for an Ombudsman's decision. Whilst that referral was underway, Mr W provided further emails between C and Pensionhelp which he thought showed C had introduced him to Pensionhelp sooner than previously acknowledged. Our Investigator shared these with Pensionhelp. It said they were only about C's application to be a 'trusted introducer' with Pensionhelp and didn't refer to Mr W. And while Mr W thought Pensionhelp arranged the transfer in such a way as to receive its fee, it would've received its fee regardless and was just following A's instructions.

Our Investigator didn't change their position. So this complaint came to me for a decision. On 14 July 2023 I issued my provisional decision in which I explained why I intended to say that Pensionhelp's recommendation for Mr W to transfer his DB funds to a new SIPP with A, instead of his existing SIPP, wasn't necessary and had caused Mr W some distress and inconvenience for which I thought £300 was fair and reasonable compensation. My provisional decision also explained why I intended to say I wasn't persuaded it caused Mr W any financial loss.

Mr W responded to my provisional decision. In summary, he was unhappy but didn't provide any new comments or evidence regarding the merits of his complaint against Pensionhelp for me to consider.

Pensionhelp also responded to my provisional decision. It agreed to pay £300 compensation to Mr W. But said it had needed to set up new SIPP 568 because on 2 February 2021 C had told it SIPP 193 was the preferred destination for Mr W's transferred DB pension funds. And to arrange that, Pensionhelp would have needed to be the adviser recorded against SIPP 193 but there wasn't time to put this in place before the CETV expiry date – because Mr W would have needed to provide a letter of authority and A's processing time was between two and five days. So Pensionhelp asked C whether to use existing SIPP 193 and risk missing the CETV deadline or set up a new SIPP and meet the CETV deadline. And C chose to prioritise meeting the CETV deadline and merge the SIPPs later. Pensionhelp also said any subsequent confusion regarding payment of its fee was caused by A, who didn't follow its own process.

Both parties have responded to my provisional decision, and 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.

I've taken into account relevant law and regulations, regulator's rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time. This includes the Principles for Business ('PRIN') and the Conduct of Business Sourcebook ('COBS'). And where the evidence is incomplete, inconclusive or contradictory, I reach my conclusions on the balance of probabilities – that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances.

In this decision, I won't consider whether Pensionhelp's advice to transfer was suitable, because that's not a complaint point Mr W has raised. So I make no findings about the suitability of that advice. However, I will need to refer to the advice within this decision.

I acknowledge Mr W feels strongly that he was unnecessarily compelled to get advice from Pensionhelp, as he's able to make his own decisions about his money. But I don't think

Pensionhelp did anything wrong on this point. It's a regulatory requirement for a consumer transferring benefits worth more than £30,000 from a DB scheme to take independent advice. And because C wasn't authorised by the regulator to advise on DB transfers, C introduced Mr W to Pensionhelp for this advice instead.

I accept that the evidence I've been provided with shows C was in touch with Pensionhelp in November and early December 2020. But was C applying to be one of Pensionhelp's 'trusted introducers' – it seems Pensionhelp wouldn't accept any introductions unless and until it had accepted a firm's application to be a trusted introducer, and I think it's entitled to make this commercial decision. On 7 December 2020, Pensionhelp emailed C to say it had accepted C as a trusted introducer and C must submit any new cases through Pensionhelp's website. Based on the evidence I've been provided with, I'm satisfied this submission about Mr W and his need for advice was made to Pensionhelp on 18 December 2020.

It's important to note that there's always some necessary uncertainty and inconvenience when looking at transferring DB pension scheme benefits. It's a time-consuming process in which a lot of information has to be gathered and considered, for good reason. And there's no guarantee that the final recommendation will be what the consumer hopes for.

In this case, by the time Mr W was introduced to Pensionhelp on 18 December 2020, his CETV had less than two months of the three-month guaranteed period remaining before expiration. And Pensionhelp needed to gather information, including from Mr W, and this would necessarily take time. It was reasonable for Pensionhelp to do this and to then properly review the information. I can see that at the end of its advice process, Pensionhelp needed to ask Mr W for copies of discharge forms. Based on what I've seen, these hadn't previously been provided to Pensionhelp, but this matter was resolved within a few days, by Mr W providing Pensionhelp with copies of the forms. And I note Pensionhelp completed its advice process in time to secure Mr W's CETV, due to expire on 10 February 2021. Taking everything into account, I've not seen that Pensionhelp caused any significant unnecessary delays during its advice process.

I understand Mr W thinks Pensionhelp should refund the advice fee he paid it, and that he didn't get any benefit from paying this fee. But the Pensionhelp 'client agreement' Mr W signed made clear Pensionhelp was charging this fee for providing advice on his DB scheme transfer. And Pensionhelp did provide Mr W with advice, following which he transferred his DB scheme benefits. It's not the case that Mr W could have got advice about transferring his DB pension without paying an adviser fee. So I don't think Pensionhelp needs to reimburse Mr W for its advice fee, as that's something he would always have paid.

That said, I think Pensionhelp could and should have given Mr W better customer service when it was arranging for the funds from his DB pension to be transferred to a SIPP. I note Pensionhelp argued it was simply following A's instructions. But it seems Pensionhelp intended to set up a new SIPP from an early stage. Its fact find recorded that it had explained to Mr W that it might need to set up a new SIPP with A for practicality, and that Mr W was unsure about that. But neither Pensionhelp's fact find nor its suitability report explained what this practicality was. And given Mr W's overarching objective was to consolidate his pensions, setting up another SIPP, even if it was with the same provider, didn't help him achieve that.

On 15 January 2021 C emailed Pensionhelp details of existing SIPP plan 193 that Mr W's DC pensions were being consolidated into. I can't see that there was any benefit to Mr W in Pensionhelp setting up new, second SIPP plan 568 when it knew Mr W already had SIPP plan 193 with the same provider. I say that because Pensionhelp's suitability report recorded that Mr W's funds would ultimately move into the same SIPP and investment portfolio his DC pensions has been switched to – which was SIPP plan 193. This further demonstrates that

there was no barrier to Pensionhelp transferring the DB scheme funds into SIPP plan 193 from the outset. However, based on the statements provided to me by A, I'm satisfied Mr W didn't pay any SIPP charges or fees for SIPP plan 568. And A has confirmed that the adviser recorded on SIPP plan 568 was changed from Pensionhelp to C on 14 October 2021 after this SIPP became inactive - although it's not been closed.

Also, it's clear Pensionhelp didn't have access to the RSM model portfolio 6 it had recommended Mr W invest his transferred DB funds into within his SIPP. So, it couldn't make this investment without charging Mr W additional fees per fund in the portfolio. C agreed to place these investments instead, as it had access to the RSM model portfolio 6 model within SIPP plan 193 and could do so without charging Mr W for this. So, I think Pensionhelp setting up new, second SIPP plan 568 introduced the opportunity for confusion and delay about where the transferred DB funds should be, which is what then happened.

Instead, I think Pensionhelp could and should have arranged for the transferred DB funds to be paid into Mr W's existing SIPP plan 193. If it had done this, then the DB funds would have reached the SIPP on 11 March 2021, as this is what happened anyway before the confusion about where these funds should be occurred. And Pensionhelp could simply have invoiced Mr W for its advice fee directly instead of having this paid from the funds in his SIPP, since its suitability report says Mr W could choose to pay Pensionhelp's adviser charge himself.

Pensionhelp now says it needed to set up new SIPP 568 because it couldn't transfer Mr W's DB pension funds directly to SIPP 193 without being the adviser recorded against that SIPP and there wasn't time to arrange this. But Mr W's DB pension funds were in fact transferred to SIPP 193 without Pensionhelp being the recorded adviser. And if the recorded adviser did need to change, then I think it's likely that, given the circumstances, Pensionhelp would have been able to expedite this with Mr W and A before the CETV expired, as it was able to do with other issues that arose.

I know Mr W suggests Pensionhelp should compensate him for his time in line with his professional hourly rate. But I don't think this is a fair approach for compensating Mr W for the impact of Pensionhelp's mistake, as I will go on to address below. And in any event, Mr W is bringing this complaint in his personal capacity and not his professional capacity. Mr W also thinks Pensionhelp should face consequences. But I must be clear that it's not the role of our Service to punish businesses when they make errors. Instead, our Service's approach is to consider whether those errors caused the consumer any unnecessary distress, inconvenience and financial loss. So I've considered this for Mr W's complaint against Pensionhelp.

I'm satisfied Pensionhelp caused Mr W some unnecessary frustration and uncertainty about which SIPP the funds transferred from his DB pension should be in. However, I'm mindful this was over a relatively short period of time, given that the uncertainty about this seems to have been resolved between Pensionhelp and C by early May 2021. I say that because on 6 May 2021 Pensionhelp emailed C to ask it for a *"screenshot showing the amount and date the transfer funds were applied to [Mr W's] policy (Transaction Summary)"* and a *"screenshot showing the transfer funds invested as per our advice into the RSM Model Portfolio 6"*. C's reply provided evidence of the transfer in and said that once TFC was paid and the LTA charge calculated, it would send Pensionhelp further details. C's email also said Pensionhelp had *"mistakenly ticked that there was sufficient LTA which wasn't the case and I have been asked to correct the [TFC] documentation. I have written to [Mr W] to explain and sent him my provisional calculations. When [A] complete their work I will copy you in."*

I'm also mindful that adviser C likely shielded Mr W from at least some of the unnecessary inconvenience Pensionhelp caused. Taking all this into account, I'm satisfied £300 is fair and

reasonable compensation for the unnecessary distress and inconvenience Pensionhelp caused Mr W.

Mr W says Pensionhelp's errors unnecessarily delayed him being able to access TFC from the DB funds that were transferred, and so he lost the opportunity to purchase an investment property he'd planned to use the TFC for. But from what Mr W has told us about this, it seems that while he'd agreed a price for the property, there wasn't yet any formal agreement in place. So it seems this purchase was at an early stage. And I think Mr W had other ways of funding this purchase that could have been explored if he'd wanted, albeit he might have found these less attractive than using his TFC. Given all this, I'm not persuaded any error by Pensionhelp was the cause of this particular property purchase not going ahead.

Mr W also suggests Pensionhelp's errors caused him loss of investment growth by unnecessarily delaying the remainder of his DB funds from being reinvested in his SIPP plan's RSM model portfolio 6.

But as I say, the funds from Mr W's DB transfer were paid into SIPP plan 193 on 11 March 2021 and stayed there. And the uncertainty about where the DB funds would end up was resolved between Pensionhelp and C by early May 2021. Pensionhelp emailed C on 6 May 2021, 20 May 2021, 7 June 2021, and 24 June 2021 to ask for screenshots to show C had invested Mr W's transferred DB funds into the RSM model portfolio 6. On 24 June 2021, C replied to essentially raise a complaint on Mr W's behalf. C's email said that Pensionhelp's interference in the SIPP meant things had taken longer than they should and weren't yet concluded – C was working to resolve what it said was the unaddressed LTA charge left ambiguous in Pensionhelp's advice, and Mr W hadn't been able to take benefits or reinvest the residual funds. And that when this was resolved C would update Pensionhelp as appropriate.

I've been provided with statements for SIPP plan 193. From these, I can see that after Mr W's DC pensions were transferred in across January and February 2021, fund investments totalling a very significant amount were purchased in February 2021. Mr W's DB funds were then transferred into SIPP plan 193 on 11 March 2021 and, apart from fees and charges, nothing was paid out of SIPP plan 193 until 28 June 2021 when a number of lump sums totalling about £87,000 were paid – these were for tax payments as well as what appears to be cash of £10,057.01 to Mr W. And no significant fund investments were purchased until 9 December 2021. Taking all this into account, I think Mr W's DB funds could have been reinvested sooner if that was something Mr W had wanted to do at that particular time. And I'm not persuaded that any investment loss Mr W thinks he's suffered was caused by Pensionhelp. Ultimately the funds were in his SIPP plan 193 from 11 March 2021 and only C was permitted to make the investments as it was the servicing agent, not Pensionhelp.

Mr W agrees with C's view that Pensionhelp's advice left his LTA charge ambiguous and unaddressed. When we asked Mr W in what way, Mr W said Pensionhelp's advice was generic and didn't advise him or his position.

But I think Pensionhelp made it reasonably clear to Mr W that it would only be advising him about transferring his DB scheme, and that Pensionhelp's understanding was that Mr W was being advised by C for all other financial matters, but could return to Pensionhelp if that wasn't the case. I say that because Pensionhelp's fact find recorded that *"Client confirmed all his other schemes will be combined in the future and [C] to deal with that. [DB scheme] is the only one we're reviewing."*, and *"The tax free cash position will be taken with [C's] help on the DCs that he is managing (factoring in LTA limits). We will however take max tax free cash on the pension under review."*

Further, Pensionhelp's suitability report said *"You have been introduced to us by [C]. We are a provider of specialist pension advice, we will review your circumstances and objectives and provide you with limited advice. Please refer all other financial planning queries to [C]."* And the suitability report said *"Please be aware that you do have pensions which are overall above the Lifetime Allowance. The maximum permissible tax free cash is 25% of the current Lifetime Allowance in force or remaining for you personally. It is my understanding you are going to manage the vesting of your other [A] policy with [C] going forward so please continue to seek advice in this area."*

The suitability report also included a section titled 'Lifetime Allowance' which said *"You do not have any protection, and would not be eligible to claim such protections, and so you will be subject to the standard LTA of £1,073,100. Whether you stay with the current scheme or transfer as your current pension benefits are now around £1m you will likely incur a Lifetime Allowance even if you remained in scheme as the reality is you would not vest the scheme directly if you did. It is my understanding from our conversation this has been part of a detailed discussion with [C] and you understand there will be charges incurred, if this is not the case please contact me."*

Despite making reasonably clear that it was only advising him on his DB transfer and it understood C would advise Mr W on his other financial matters, I think Pensionhelp nonetheless gave Mr W some reasonably clear information about his LTA position. In addition to what I've set out above, Pensionhelp's advice documents included a section titled 'Lifetime Allowance' which provided general information about any potential tax liability created by the size of his fund either now or in the future, and actions that would trigger it.

Pensionhelp's fact find said *"[Mr W] has contributed to a pension since 5th April 2016 so factoring in growth he will not be eligible for LTA [lifetime allowance] protection."* And Pensionhelp's advice documents said *"I have included an estimation of the LTA charge you could face if you 'crystallised' the entirety of your pensions immediately following transfer. This is to be considered an estimation only. The actual charge you incur is likely to vary considerably and will depend on the prevailing LTA limit, growth rates in your pension and charges."*

Mr W has confirmed C had provided him with tax advice. And from what Mr W says, he first began accessing his pension benefits after Pensionhelp provided its advice on 3 February 2021 - he says that following C's advice to consolidate his DC pensions, he took his initial TFC on 18 February 2021. And that from the subsequent transfer in, he eventually took an income payment to help mitigate the tax liability of the LTA charge on 28 June 2021.

I acknowledge C thought that while completing the DB transfer paperwork, Pensionhelp had incorrectly stated Mr W had sufficient LTA and this wasn't the case. C's email to Pensionhelp on 5 May 2021 went on to say C had therefore been asked to correct the TFC documents and had updated Mr W about this and given him provisional calculations. But taking everything into account, I've not seen enough evidence to fairly conclude that Pensionhelp caused Mr W any detriment in respect of his LTA charge.

I also acknowledge Mr W says the transfer completed before the end of March 2021 so he could use his personal tax allowances for the 2020/21 tax year, but Pensionhelp's errors took him into the 2021/22 tax year. However, as I've set out above, the transfer of Mr W's DB funds completed on 11 March 2021, before the end of the financial year. So, I'm not persuaded that this ultimately caused him any detriment, and Mr W also hasn't said in what way he was disadvantaged by this.

Overall, I think Pensionhelp's recommendation that Mr W transfer his DB funds to a new SIPP with A, instead of his existing SIPP, wasn't necessary and as such, this has caused

him some distress and inconvenience. But based on what I've seen, I'm not persuaded this caused him any other financial loss.

### **Putting things right**

For the reasons set out above, I don't think Pensionhelp has caused Mr W a financial loss. However, I'm satisfied Pensionhelp caused him unnecessary distress and inconvenience, and that £300 is fair and reasonable compensation for that.

### **My final decision**

For the reasons set out above, I uphold Mr W's complaint. Pensionhelp Limited should pay Mr W £300 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 24 August 2023.

Ailsa Wiltshire  
**Ombudsman**