

The complaint

Mrs L complains about the advice given to her by Grove Pension Solutions Limited ("Grove") in April 2022 to not transfer her safeguarded benefits in a defined benefits ("DB") pension scheme to a private pension arrangement.

What happened

The sequence of events isn't in dispute, so I've only set out a brief summary of what happened.

Mrs L had built up safeguarded benefits in a DB pension scheme. In early 2022, when she was aged 55, Mrs L obtained a cash equivalent transfer value of £532,249 for her safeguarded benefits. She was interested in transferring to a private pension arrangement so that she could convert the cash equivalent value of her safeguarded benefits into flexible benefits to achieve several financial planning objectives. This included gifting her two children about £50,000 each to help them buy a property. She was introduced to Grove by another firm.

Grove's advice process

Grove offered a two-stage advice process: abridged advice and, if Mrs L chose it, full advice.

On 7 March 2022, Grove issued its abridged advice report to Mrs L. This stated that there was insufficient information available to determine if a pension transfer would be suitable. In the report Grove suggested that Mrs L should consider alternative, lower risk options to achieve her objectives before deciding whether to proceed to full advice at a cost of £10,016.

Mrs L confirmed that she still wished to proceed to full advice. It was noted she was prepared to transfer to a private pension arrangement, irrespective of the costs and risks involved, to secure the transfer value of £532,249.

On 19 April 2022, Grove issued its full advice report to Mrs L. It advised her not to transfer the value of her safeguarded benefits in the DB pension scheme to a private pension arrangement. Overall, Grove didn't think transferring at that time was in Mrs L's best interests. She accepted the recommendation and so her safeguarded benefits remained preserved in the DB pension scheme. She paid a fee to Grove for its full advice report.

This complaint

After being advised by Grove in April 2022 not to transfer, Mrs L said that she received updated transfer values from the DB pension scheme, as follows:

- in October 2022 for about £275,000; and
- in April 2023 for about £345,000.

Receipt of those transfer values upset Mrs L because they were substantially less than the transfer value of £532,249 previously offered by the DB pension scheme when Grove

advised her. She complained to Grove. Specifically, she was concerned that it had misled her about future transfer values if she delayed the decision to transfer – she expected the transfer value to increase as she approached retirement. To put things right, she requested that Grove pay compensation to place her into the position she would've been in had she accepted and invested a transfer value of £532,249 into a private pension arrangement in 2022.

Grove didn't uphold Mrs L's complaint. It was satisfied its advice not to transfer was in her best interests and that it hadn't misled her about future transfer values. Since Mrs L didn't accept Grove's final response, she referred the matter to this service. Our investigator didn't recommend upholding this complaint because she was satisfied Grove hadn't made an error or treated Mrs L unfairly. Mrs L didn't agree with our investigator's opinion. She provided substantial additional comments setting out her reasons why and requested that this complaint be referred to an ombudsman for review.

This complaint has now been allocated to me to review and decide. This is the last stage of our process.

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 the law, any relevant regulatory rules, guidance and good industry practice at the time. Where the evidence is unclear, or there are conflicts, I've made my decision based on the balance of probabilities. In other words I've 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.

I'd also like to clarify that the purpose of this final decision isn't to repeat or address every single point raised by Mrs L and Grove. So if I haven't commented on any specific point, it's because I don't believe it's affected what I think is the right outcome. I've considered all the evidence afresh including Mrs L's comments in response to our investigator's assessment.

General points

Before addressing the specifics of Mrs L's complaint, I want to outline some general points.

Firstly, I want to comment on Grove's two-stage advice process: abridged advice and, if Mrs L chose it, full advice. Abridged advice is short form advice on a proposed DB pension transfer. It consists of the initial stages of a full advice process including a fact find, an attitude to risk assessment and confirmation of the benefits provided by the DB pension scheme. But advisory firms, like Grove, are prohibited from considering a proposed receiving pension scheme and/or possible underlying investments. In addition, they're unable to carry out appropriate pension transfer analysis (for example getting projections and cashflow modelling, getting annuity illustrations and conducting comparisons). They also can't assess how well an alternative private pension arrangement would meet the consumer's objectives if a transfer went ahead. One significant difference between abridged advice and full advice is that abridged advice can only result in two outcomes – either a recommendation to not transfer out of a DB pension scheme or telling the consumer it's unclear whether or not they would benefit from a transfer based on the information collected. In other words, there's no option under the abridged advice process for a firm to recommend that a consumer transfer. If it's unclear whether a transfer will be beneficial, the firm will ask the consumer if they want full advice and will get confirmation from them that they understand the costs of doing so.

Secondly, Section 48 of the Pension Schemes Act 2015 requires an existing pension scheme to check that a consumer has received full advice before transferring or converting safeguarded benefits into flexible benefits (unless the value is less than £30,000 – which wasn't applicable in Mrs L's case). So it wasn't possible for Mrs L to have transferred her safeguarded benefits unless she received full advice – either from Grove or elsewhere.

Thirdly, the regulator, the FCA, has determined that when advising a consumer whether they should transfer safeguarded benefits, the firm should start by assuming that the transfer won't be suitable, and to consider a transfer suitable only if it can clearly demonstrate that it's in the consumer's best interests. This is referred to as the 'presumption of unsuitability'. It applies to both abridged advice and full advice.

Finally, a firm's role isn't simply to facilitate whatever course of action a consumer wants to meet their objectives. The firm has a regulatory responsibility to look at things objectively and to provide suitable advice based on what it considers to be in the consumer's best interests. It's therefore important to note that what a consumer might want to do or what they think is best for them might not align with what a firm considers to be suitable or in their best interests. This is because the consumer's objectives or wishes might be unrealistic and/or impossible to achieve in the circumstances. Or there might be alternative, lower risk options available to meet the consumer's objectives such that it would be unsuitable to relinquish valuable benefit guarantees.

Grove's advice to Mrs L

Mrs L was clear in how she wanted to use her safeguarded benefits to achieve her financial planning objectives including gifting money to her children. She felt that her financial plan was sound based on her own cashflow modelling which took into account access to other assets and sources of retirement income.

But Grove had a different view. Its analysis based on the transfer value of £532,249 showed that the critical yield or annual investment return required by a private pension arrangement to match the benefits payable by the DB pension scheme at age 60 was 12.70%. In addition, the transfer value comparator ("TVC") showed that it would then cost £836,000 to purchase an annuity on the open market to secure the same level of guaranteed income offered by the DB pension scheme. This led to Grove describing the transfer value of £532,249 as representing poor value for money.

Grove advised Mrs L not to transfer. This was mainly because: (1) its transfer analysis showed that it was very likely she would be financially worse off if she transferred; and (2) her recorded objectives could be met by alternative, lower risk options rather than relinquishing valuable benefit guarantees.

Based on the critical yield and TVC, I agree that it was very likely Mrs L would be financially worse off in retirement if she transferred. And so I don't think it was misleading for Grove to describe the transfer value offered at the time as representing poor value for money. Furthermore, based on the available evidence, I don't think it was unreasonable for Grove to conclude that a pension transfer wasn't suitable for Mrs L at that time, particularly in view of the alternative, lower risk options that were available to meet her objectives.

Did Grove mislead Mrs L?

In its full advice report dated 19 April 2022, Grove stated:

“By delaying this for the time being, you would still have the option to transfer in the future at a time when the transfer value may have increased and is comparatively more generous”

and

“This transfer value is poor and if you combine this with taking on the investment risk especially if investment returns are poor, then you are very likely to be significantly worse off over your lifetime. I said that you should defer this irreversible decision as transfer values have a tendency to become more generous as you get closer to your scheme’s normal retirement age, albeit this is not guaranteed with every valuation due to the underlying assumptions always changing”.

Mrs L said that these statements fed into her decision not to transfer at that time because Grove led her to believe that the transfer value of £532,249 was poor value for money and would increase as she approached retirement. She also said that Grove failed to explain to her the range – in monetary terms – within which future transfer values could change if she deferred the decision to transfer. She said that this failing prevented her from making an informed decision in April 2022 about whether she should transfer at that time against its advice or at a later date. She said that this misled her to believe that future transfer values offered by the DB pension scheme would be greater than £532,249.

Mrs L is understandably looking at this from the perspective of the transfer value of her safeguarded benefits in the DB pensions scheme – particularly as it reduced from £532,249 to about £275,000 in October 2022 and then to about £345,000 in April 2023. So she thinks she’s suffered a significant financial loss. But I don’t agree and for a number of reasons, as I will explain.

It’s the case that with hindsight it’s easy to say things should’ve been done differently. Mrs L accepted Grove’s advice in April 2022 not to transfer despite previously stating she was prepared to transfer irrespective of the costs and risks involved. So she was content with the outcome at that time. The fact that transfer values subsequently offered by the DB pension scheme were significantly less than £532,249 doesn’t mean Grove made an error or treated Mrs L unfairly, as she believes to be the case.

It’s important to note that the primary purpose of a pension is to meet the income needs of an individual during retirement. The safeguarded benefits in question represented Mrs L’s main retirement provision. Grove’s primary responsibility here was to consider and recommend what it thought was in Mrs L’s best interests having weighed up the pros and cons of staying in the DB pension scheme compared to transferring it.

I don’t think a potential change in future transfer value comes into that consideration. This is because Grove was considering the situation based on a certain transfer value (£532,249) at a specific point in time. There’s no FCA rule that requires firms to predict future transfer values and to take this into account when formulating a recommendation. It’s important to note that any changes to the transfer value will not have any effect on Mrs L’s safeguarded benefits – these remain preserved in the DB pension scheme and will continue to be revalued over the term to retirement.

As for Grove’s statements in its full advice report, I don’t think they were misleading or that Mrs L was provided incomplete information. As I’ve explained above, I don’t think it was misleading to describe the transfer value of £532,249 as representing poor value for money based on the critical yield and TVC. And Grove didn’t state future transfer values would definitely increase, only that they “*may*” increase. Grove’s statement that transfer values tend to increase the closer an individual gets to retirement was a general statement and not

specific to Mrs L's situation. It caveated this by stating an increase in value wasn't guaranteed due to the underlying assumptions always changing.

On 26 January 2022, Mrs L signed Grove's indemnity letter confirming her understanding that the transfer value offered by the DB pension scheme wasn't guaranteed and could go up or down in value by the time any pension transfer was completed. And in her response to our investigator, Mrs L stated that, at all times, she was fully aware the guarantees attached to her safeguarded benefits would be lost by transferring and that transfer values weren't guaranteed and could go up or down in value. So she was fully aware that if she transferred at a later date she would receive more or less than the figure of £532,249 that was offered by the DB pension scheme in early 2022.

Mrs L's main concern is that Grove failed to explain to her the range – in monetary terms – within which future transfer values offered by the DB pension scheme could change. So she feels that Grove gave her incomplete information which prevented her from making an informed decision. She's commented that had Grove made her aware future transfer values could reduce by more than 10%, she would've decided to act against its advice and transferred away to secure the transfer value of £532,249.

I think Mrs L's expectations here are unrealistic and go beyond what could be reasonably expected of Grove in the circumstances. The transfer value offered by any DB pension scheme represents – at that point in time – the expected cost of providing the member's benefits from the scheme normal retirement age based on actuarial principles. This requires the actuary for the DB pension scheme to make various assumptions about the future course of events affecting the scheme and the member's benefits. The assumptions used vary from scheme to scheme. This means that it's not possible, or indeed appropriate, for advisory firms to attempt to predict – in monetary terms – the possible range within which future transfer values might fall. So I don't think Grove made an error on this point, as Mrs L believes to be the case.

Conclusion

This service's aim in resolving a complaint is to place the consumer, as close as possible, into the correct financial position had the error or unfair treatment not happened. In this case, while I understand why Mrs L was frustrated and upset by the reduction in the transfer values subsequently offered by the DB pension scheme, I don't think that Grove made an error or treated her unfairly for the reasons explained.

Therefore, I don't consider it would be fair or reasonable in these circumstances for me to direct Grove to pay compensation to Mrs L – or to take any further action in response to this complaint.

My final decision

For the reasons given above, I don't uphold this complaint or make any award against Grove Pension Solutions Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 3 April 2024.

Clint Penfold
Ombudsman