

complaint

Mr M complains that Hargreaves Lansdown Advisory Services Limited (T/A Hargreaves Lansdown) carried out a pension transfer analysis that wasn't of any use to him. He says he already knew he shouldn't transfer his pension and Hargreaves Lansdown just confirmed that and charged him £1,250 plus VAT. He wants the charge refunded.

background

Mr M held deferred benefits in an occupational pension scheme (OPS). He contacted Hargreaves Lansdown to discuss transferring the pension so that he could access it as a lump sum. Hargreaves Lansdown explained that it could look at transferring his pension but that it would need to conduct a pension transfer analysis report – at a cost of £1,250 plus VAT, to see if the transfer was viable. It said that if it deemed the transfer to be in his interests Mr M could then take further advice from it to transfer. But if it didn't believe the transfer was suitable it would still advise the scheme administrator that advice had been taken and Mr M could go elsewhere to effect the transfer if he so wished. The cash equivalent transfer of the pension benefits was around £61,000.

Subsequently Hargreaves Lansdown confirmed to Mr M that it didn't think the transfer was in his best interests as he had no need for the money at that point, and would lose the guaranteed benefits from the scheme pension. It confirmed it wouldn't continue with the process and would send an invoice for the analysis report. But Mr M later complained about the matter. He said he was dissatisfied with the outcome of the report and didn't believe the fee was justified as he hadn't been given any advice.

Hargreaves Lansdown didn't uphold the complaint. It said it made Mr M aware that it would charge £1,250 plus VAT to complete an initial pension transfer analysis – which Mr M signed to accept. It said it discussed the findings of the report on the telephone with Mr M but didn't offer any further advice as the report wasn't in favour of transferring. Unhappy with this response Mr M brought his complaint to us.

One of our investigators looked into the complaint and said it shouldn't be upheld. He said it was a regulatory requirement for Hargreaves Lansdown to have carried out an analysis before giving advice – and it had a right to charge for the report.

Mr M didn't agree. So, as no resolution has been found the complaint's been passed to me for a final decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I've listened to the telephone conversations Mr M had with Hargreaves Lansdown as their interactions were conducted by telephone. And I've considered these calls very carefully.

Having done so I find I'm in agreement with the adjudicator and for largely the same reasons. I know Mr M feels strongly that he didn't need to be told – and charged through a report – that he shouldn't transfer his pension. And I've some sympathy for his position because he evidently knew the transfer wasn't in his interests but it was something he

wanted to do. But I don't think Hargreaves Lansdown has acted unfairly here – and I'll explain why.

When Mr M made his first telephone call to Hargreaves Lansdown he explained he wanted to *"Transfer a pension into a vantage SIPP. I've got to take advice first and you can give that advice"*. And Mr M gave a further indication that he knew he shouldn't transfer because he said *"in theory you shouldn't transfer but it only provides about £2,000 per annum"*. So I think Mr M did have an understanding of what he needed to do to be able to transfer his pension – even if it wasn't in his best interests.

But changes to pension legislation from 2015 has meant that – when transferring defined benefit scheme pensions with a transfer value of over £30,000, it is mandatory to get financial advice. And I think Hargreaves Lansdown explained this clearly to Mr M when it set out what it could do. It explained that it had a three stage process which could involve:

- An initial discussion (free of charge).
- An transfer analysis report.
- A full advisory process if Mr M wanted to transfer after the analysis was completed.

The adviser on the telephone explained that process stating *"it's an advisory process to determine whether it's in your best interest to transfer. We can certainly provide advice on this pension. We would usually have the stance that you should retain it....but we will go through the process"*. He then set out two alternatives explaining that *"if we say yes we will accept but if we say no we wouldn't be able to accept.....but it doesn't stop you using another provider"*.

So' I'm satisfied the adviser clearly set out Hargreaves Lansdown's position, in so much as the process it had in place and that it would be making a recommendation to Mr M about what it considered to be the best course of action. The adviser also explained *"The second stage...an analysis of the pension benefits and what you'd be losing...this in depth analysis would cost £1,250 plus VAT. After that we either say transfer or retain. There's no obligation but the next stage would be advisory and that would be 2% of transfer value"*.

I think Hargreaves Lansdown again made its position clear. It confirmed an analysis would need to be carried out before it could consider a transfer and it set out the fee for the analysis. It also confirmed if Mr M then wanted to transfer afterwards – if Hargreaves Lansdown recommended it – further advice and charges would be incurred.

I know Mr M says he didn't need the analysis and just wanted to transfer the pension so he could access it. He said its value of around £2,000 per annum was of little benefit to his financial position so he wanted to access the whole pension as a lump sum – which involved transferring to an appropriate drawdown product first. And I can understand Mr M's position here.

But I'm satisfied that Hargreaves Lansdown made him aware that it was required – under legislation – to perform due diligence as to whether the transfer was in his interests. And importantly I think it gave Mr M the option to accept its process, and confirmed that he could still transfer elsewhere if it didn't recommend the transfer – as he would have fulfilled his regulatory requirement to take advice. So I can't say Hargreaves Lansdown – on the evidence of what I've heard has done anything wrong here.

I note Mr M said “*he’d like the minimum advice possible*” and he accepted within the call that the £1,250 represented “*minimum advice*”. I’ve heard how Mr M accepted the cost as something that he’d have to pay in order to be able to move forward, so I don’t think Hargreaves has misled Mr M about its costs. And I’ve heard Mr M make a number of references to the fee including in the last call when Hargreaves Lansdown said it would send him the invoice and he said he would pay it. So I think Mr M was aware of the cost and what information he would get that would incur the fee. I think Hargreaves Lansdown did what it said it would when it discussed the outcome of the report with Mr M.

I can see Mr M is disappointed that the advice was not to transfer as that’s what he wanted to do – and I know he’d like me to conclude that the report wasn’t required and therefore he shouldn’t be required to pay for it. But Hargreaves Lansdown had a duty of care to at least confirm whether the transfer was in Mr M’s best financial interest.

Ultimately here Mr M contacted Hargreaves Lansdown in order to look at accessing his pension. I think Hargreaves Lansdown has explained very clearly its full process and made Mr M aware that it had a legal requirement to analyse his pension and tell him whether it was in his best interest to transfer. The transfer amount of above £30,000 meant Hargreaves Lansdown had little alternative if Mr M agreed to engage its services.

And I think Hargreaves Lansdown set out its costs clearly and – having completed the report it said it would, was entitled to charge the fee for the report.

my final decision

For the reasons I’ve given I don’t uphold Mr M’s complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr M to accept or reject my decision before 13 July 2019.

Keith Lawrence
ombudsman