

## **The complaint**

Mr N has complained about the actions of Harbour Rock Capital Limited (trading as Portafina). He says, in brief, that Portafina failed to provide a professional advice service in relation to the potential transfer of his defined benefit (DB) occupational pension.

## **What happened**

In 2020, Mr N requested a transfer value for his occupational pension scheme benefits. No further action was taken at that point. The following year, Mr N engaged the services of Portafina. Another transfer value was requested. The scheme responded with details of Mr N's transfer value in a letter addressed to Portafina dated 5 January 2022. Included in its response (amongst other things) was the quotation date for the transfer value (23 December 2021) and the date the transfer value expired (22 March 2022).

On 17 January 2022 Portafina wrote to Mr N with details of his transfer value along with information on how he could book a telephone appointment to discuss his options. A fact-find was subsequently completed on 3 February. A follow-up conversation took place on 24 February. Portafina's advice report, dated 25 February but sent on 28 February, recommended Mr N transfer to an income drawdown arrangement with a personal pension provider (which I will refer to as "Firm B"). Included in its advice report was the paperwork that Mr N needed to complete if he wanted to transfer along with instructions on completing that paperwork.

Mr N signed the paperwork on 12 March. A date-stamp shows Portafina only received it on 22 March, which was the date Mr N's transfer value expired. Portafina spoke to Mr N the following day to clarify some of the answers he gave on his "application to proceed" form. The paperwork was then sent the same day to Firm B to fill in various details about the receiving scheme (bank account details, pension scheme tax reference number and the like). The intention was for Firm B to then forward the paperwork to the occupational scheme. Firm B tried to email the paperwork to the occupational scheme on 24 March but used an incorrect email address. Portafina (which had been copied into the email) spotted this, and that Firm B hadn't attached all the necessary forms in its email. Portafina emailed Firm B about all this on 29 March. It looks like Firm B also sent the paperwork by post because the occupational scheme said it received the appropriate independent advice ("AIA") statement from Firm B on 25 March. But the application to proceed form wasn't sent and this was needed by the occupational scheme before 22 March in order for Mr N's transfer value to be secured. The transfer didn't, therefore, go through.

Another transfer value has since been requested but is considerably lower than it was previously. Mr N didn't transfer and hasn't yet done so.

Mr N complained about the actions of Portafina. In his view, Portafina is responsible for him not transferring in March 2022 and for him failing to secure a higher transfer value than is now being offered. Portafina didn't think it did anything wrong. It said, in brief, that it was not possible to have secured the transfer value in question because it only received Mr N's completed paperwork on 22 March which was the day the transfer value expired.

Mr N referred his complaint to us. Our investigator didn't think Portafina was responsible for the transfer value being missed for broadly the same reasons as given by Portafina. He didn't uphold the complaint. Mr N disagreed and asked for an ombudsman to review his complaint.

I should note here that Mr N also has concerns about other parties involved in his attempted transfer but we can only look at the actions of Portafina here. Also, Mr N hasn't complained about the suitability of the advice so that hasn't formed part of our investigation and isn't something I address in my 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 done so, I've reached the same conclusion as our investigator. I'll explain why.

Mr N's transfer value details were sent to Portafina in a letter dated 5 January 2022. On 17 January, Portafina wrote to Mr N with details on his transfer value and what he needed to do if he wanted to book a telephone appointment with Portafina to discuss his pension further. By 3 February, an appointment had been arranged and a fact-find completed. An additional call took place on 24 February. The advice report and paperwork to complete the transfer were sent to Mr N on 28 February.

Advising on DB pensions is a complex matter. Gathering the necessary information is often an iterative process and will, realistically, take time and involve periods of inactivity whilst waiting for other parties to progress things. Establishing how long all this should take isn't an exact science. But looking at Portafina's actions in the run-up to sending its advice report, I haven't seen anything that makes me think it caused delays of the type that can significantly impede a transfer process.

Furthermore, I'm mindful that a small delay at the beginning of the process is recoverable and unlikely to derail things in the way it would when deadlines are fast-approaching. I think that's an important consideration here. The advice report and paperwork to complete the transfer were sent to Mr N on 28 February, which left around three weeks before the transfer value expired. This was time enough, in my view, to complete the transfer – especially when one considers the remaining steps involved little more than the completion and posting of documents. However, Portafina's date stamp shows it received the paperwork back from Mr N on 22 March, which was the day the transfer value expired. I haven't seen any persuasive evidence to suggest Portafina delayed time-stamping its post. So the time it took Mr N to return his transfer documents caused a significant delay here and did so at a critical juncture. It means Portafina was left with less than one working day to rectify the situation and secure Mr N's transfer value. I don't think it fair and reasonable to expect it to have done so.

I recognise it's possible postal problems delayed Mr N receiving his advice report and paperwork. And Mr N says he returned his completed paperwork shortly after he signed it – he says around 14 March. So postal problems may also have contributed to the forms not arriving at Portafina until 22 March. I appreciate, therefore, that there is a scenario in which Mr N acted promptly but was let down by events outside of his control. But even if I accept that scenario, this doesn't mean Portafina did anything wrong. Postal problems wouldn't be something I could, reasonably, hold it accountable for.

In its response to Mr N's complaint, Portafina said Mr N should have considered sending his transfer paperwork by guaranteed delivery. Mr N says Portafina should, in that case, have

done the same. I don't think it's an especially helpful debate. It wasn't unreasonable for Portafina to have sent its advice report and transfer paperwork using the normal postal service. For the reasons given above, it left plenty of time for the transfer to go through. And it was Mr N's choice as to how to respond.

It's also worth noting that Portafina had to speak to Mr N to clarify some of the answers he gave on his application to proceed form. The questions related to whether he was told he could access his pension before the age of 55 and whether he had been told about using his pension to invest in high risk, unusual, investments. He answered "yes" to both questions. Answering "yes" would be a potential warning sign of scam activity as telling someone that they can access their pension before the age of 55 isn't, usually, correct and encouraging someone to invest their pension in unusual schemes would, likewise, be concerning.

After speaking to Mr N, Portafina established that his two answers were mistakes. It corrected them accordingly. The key point is that Mr N's occupational scheme required the application to proceed form before it could allow the transfer. And it would likely have had concerns about the transfer if Portafina hadn't spotted the problem. So I don't think Portafina did anything wrong in checking, and correcting, Mr N's answers. It did so in good time – on 23 March, which was the day after it received Mr N's paperwork. And its actions may well have prevented problems further down the line. It does, however, mean another step in the process was needed. As such, it's an additional reason why Portafina couldn't reasonably have taken the necessary steps to ensure Mr N secured his transfer value in time.

I recognise Mr N has questioned the sequencing of events which involved his paperwork being sent to his occupational scheme via Firm B. Mr N also has concerns about the actions of Firm B whose mistakes in forwarding on the paperwork caused further delays in the process. However, the chain of events after Mr N returned his paperwork are immaterial here. For the reasons given above, the fate of the transfer had already been sealed by that point.

In coming to this conclusion, I have considered Mr N's comments about the occupational scheme telling him it would have honoured the transfer value even if the paperwork had been received on 23 March, or even slightly later. Our investigator checked this with the occupational scheme and it was unequivocal in its response: it wouldn't have honoured the transfer value unless it had received the application to proceed form by 22 March 2022. As such, I'm satisfied there wasn't the leeway Mr N suggests. I'm left to conclude that Portafina was left with too little time to, realistically, have been able to secure Mr N's transfer value.

### **My final decision**

For the reasons given above, I don't uphold Mr N's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr N to accept or reject my decision before 11 March 2024.

Christian Wood  
**Ombudsman**