

The complaint

Mr H says Hargreaves Lansdown Asset Management Limited ('Hargreaves') caused a delay to the transfer of his Defined Benefits Pension ('DBP') to a Hargreaves Self-Invested Personal Pension ('SIPP'). Hargreaves disputes the complaint, but it has offered/paid him £300 compensation for its delay in communicating that it could not advise on the transfer.

Mr H transferred another pension at the same time. Information about that transfer is reflected in his complaint submissions and evidence, but the focus of the complaint is the DBP to SIPP transfer, which is the matter addressed in this decision.

What happened

Chronology

2023

- Mr H's application form for the DBP to SIPP transfer was signed and dated 14 September, it was received on 20 September (the receipt date stamped on the form) and on 29 September Hargreaves forwarded authority for the transfer to the ceding scheme;
- on 20 October it received the Discharge Forms ('DFs') for the transfer, they were rejected and this (along with a request to resubmit them with a completed adviser form) was communicated to Mr H;
- on 8 and 13 November he confirmed that he had returned the DFs and adviser form, but Hargreaves said they had not been received, so he suggested that another set should be sent to him, for recompletion, if by 17 November Hargreaves had not received the set he had sent;
- on 20 November Hargreaves, as requested, re-sent the documents to him (by email) and it repeated that (by post) on 22 November;
- on 30 November Hargreaves received the documents back from Mr H, but found that the adviser form had no adviser information, so on 1 December it asked him for that information and for an Adviser Certificate, and it invited him to contact its advisory helpdesk if he did not have an adviser;
- Mr H replied on the same day to query the request, he said relevant information was already in the documents he returned, that an adviser's signature was not required because he did not select the associated option, and that if Hargreaves required an adviser's name it should arrange for one of its advisers to contact him;
- on 6 December he wrote to Hargreaves and referred to a complaint he had made on 4 December, he asked for a response to that and a response to his request (for contact from an adviser) of 1 December;
- on 7 December Hargreaves emailed him an explanation of the requirement for the adviser information and the Adviser Certificate (referring to the regulatory requirement that he receive advice on the transfer of a DBP that is valued above £30,000);
- Mr H replied on the same date and said he had still heard nothing in response to his request for an adviser to contact him, he repeated the request and expressed his

dissatisfaction about what he considered to be delays caused by Hargreaves, and on 8 December he emailed Hargreaves again to repeat that he still had not received its response to his request for adviser contact;

- on 12 December he wrote to Hargreaves in response to learning that it could not advise him on the transfer, due to his residence abroad, he complained about the delay in that being communicated to him, about ongoing delays, about the likelihood that he would have to pay for a recalculation of the Cash Equivalent Transfer Value ('CETV') of the transfer (because the existing CETV was soon to expire), about the absence of any meaningful guidance from Hargreaves on where he could obtain advice and about what he considered to be Hargreaves' negligence in the matter;
- also in his 12 December email, Mr H confirmed that despite the circumstances he had found potential advisers for the transfer;
- the ceding scheme wrote to Mr H on 28 December, with a guaranteed CETV dated 29 December (expiring on 29 March 2024), with the same notice about the regulatory requirement to obtain advice on the transfer (and to have an adviser declaration completed) and with notice that missing the CETV expiration date would lead to calculation of a new guaranteed CETV quote.

2024

- On 25 January and 7 February Hargreaves issued its responses to Mr H's complaint and to comments made by him about the complaint (including his assertions about the financial loss caused by the delays);
- it noted that it had promptly issued the DFs and advice related documents after processing his transfer application;
- it denied causing delays to the transfer process and highlighted notices given to him at the outset of the process (on its website, in the transfer application form and in the 'Transfer Checklist' within its SIPP's Key Features document) that attention had to be given to the potential loss of benefits in the DBP upon transfer and to the requirement to take advice for that reason;
- it referred to the regulatory basis for the requirement and said Mr H had been in a position to obtain advice from an external adviser at any time in the process;
- it affirmed that it could not advise him due to his residence abroad, but welcomed the news that he was in the process of appointing an adviser;
- it said the documents received on 30 November did not meet the above requirement, hence the events that followed;
- it accepted and apologised for its failure in handling his request (on 1 December 2023) for contact from one of its advisers and the delay in confirming that it could not advise him, hence its compensation payment (to him) of £300;
- on 7 February Mr H replied further and accepted that the early notices referred to by Hargreaves had been given, but he considered that they were in the 'fine detail' lost in the 'plethora of information' he faced at the time (as he sought to transfer three different pension plans), he considered that Hargreaves should have drawn his attention to the requirement by conducting a telephone conversation for that purpose;
- Hargreaves replied on 15 February and maintained its position on the complaint;
- on 11 March Mr H completed and signed the parts of the transfer agreement related to him, the adviser declaration and certification he procured share the same date, on 19 March Hargreaves completed its parts of the transfer agreement, the completed documentation was sent by Hargreaves to the ceding scheme on the same date, the ceding scheme confirmed receipt the following day (20 March) and confirmed the process had met the CETV deadline;
- Hargreaves says on 21 March Mr H declared that he had requested a revised guaranteed CETV from the ceding scheme;
- on 4 April it received and processed the paperwork based on the new guaranteed

CETV [which was around £8,000 higher and which had the expiration date of 30 June];

- and Hargreaves says on 18 April it received confirmation from the ceding scheme that the documents had been received and that it was processing payment of funds.

Our Investigation

One of our investigators looked into the complaint. She concluded that it should not be upheld.

She explained to Mr H the regulatory and legal requirement – for advice on the DBP to SIPP transfer – that Hargreaves had referred to. She noted that even though the requirement was primarily for the ceding scheme to fulfil, it is understandable and reasonable that Hargreaves (the receiving scheme) included it within its transfer process, given the importance of ensuring that Mr H had been advised on the transfer.

The investigator highlighted that Mr H confirmed, on 14 September 2023, he had read and understood the key features document, and that document included notices about the risk of losing valuable benefits in his existing pension, that DBP transfers to money purchase pensions were generally prevented unless advice had been received, and that Hargreaves would normally insist that such advice, recommending the transfer, is confirmed. She found that prior notice had therefore been given to him, that Hargreaves had reasonably asked for the complete advice related documentation from 30 November 2023 onwards and that the transfer process could not continue without that documentation.

She also acknowledged that Hargreaves caused an avoidable delay of five days with regards to its delayed response to Mr H's request for an adviser. However, she found that the £300 payment was fair compensation for this and that the delay had no bearing on the transfer process or on Mr H's need to pay for external advice, because the transfer process was awaiting the required adviser information that he had prior notice about, Hargreaves could not advise him due to his residence abroad, and he would have needed to pay fees for advice in any event.

Mr H disagreed with this outcome and asked for an Ombudsman's review.

He quoted some of his earlier submissions, then mainly asserted that he had raised specific aspects of Hargreaves' failures in those submissions – to Hargreaves and to our service – but neither had addressed those aspects; that, instead, our service had focused on the delays; but the delays were the consequences of Hargreaves' failure, "*Not the cause of the complaint*"; and that we have overlooked evidence relevant to the complaint.

The matter was referred to an Ombudsman.

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.

Mr H's complaint to Hargreaves and the complaint he referred to us share the same core allegation – that Hargreaves committed failures which delayed the transfer process.

He has referred to an initial complaint on 4 December 2023. However, the contents of his emails to Hargreaves on 7, 8 and 12 December 2023 have formed the grounds for the complaint that Hargreaves address and for the complaint he referred to us.

With regards to the DBP to SIPP transfer, these three emails (together) mainly present – the incomplete advice documentation issue, the issue about Mr H's request for contact from a Hargreaves adviser (including its delayed response (declining the request), his claim that he was left without guidance on how to find advice elsewhere and his concerns about the difficulty in doing so in time for the process), his view that avoidable delays happened because Hargreaves was negligent (and had failed to proactively engage with and support the relevant aspects of the transfer process), and his reference to the consequence of having to obtain a recalculated CETV at additional cost (caused, he alleged, by Hargreaves' failures leading to delays).

In addition, there is an email from Mr H to Hargreaves sent on 29 December 2023, in which he referred to the guaranteed CETV of the same date as a "*revised transfer valuation*" and in which he said the figure in the CETV amounted to a reduction of around £3,000 (which he held Hargreaves responsible for).

Overall, all the above issues can reasonably be considered as sub-issues of Mr H's primary allegation that Hargreaves' actions and/or inactions delayed the transfer process.

In other words, his complaint is mainly about the delay(s) he alleges and his claim that specific failings by Hargreaves caused them. In this context, the alleged delays are inevitably the frontline matter to consider. Where delays are found, the consideration that follows would be who caused them, and if/where Hargreaves is found to have caused a delay the considerations following that will be whether (or not) any of Mr H's alleged failings explain why it caused the delay and whether (or not) the delay affected the transfer process.

Mr H completed the transfer application form on 14 September 2023, and around a fortnight later Hargreaves sent off authority for the transfer to the ceding scheme. On balance, I do not consider that an undue avoidable delay affected the process at this point, especially as it took almost half of this period for the application to reach Hargreaves.

It did not receive the DFs until 20 October 2023. It is quite clear that from this point onwards the transfer process faced a significant problem. That problem was the missing, but required, advice related information and documentation, without which the process could not continue. That was the reason the DFs were rejected on 20 October, it was the reason Mr H, in November, had to complete and return another set of the documentation, it was the reason Hargreaves still had to revert to him in December for the information/documentation (because neither had been completely provided in what he returned in November), and it was the reason the process still could not progress in early December, whilst the required information/documentation remained outstanding.

The above appears to have been the first of three phases in the complaint's background, the second being the period in which Mr H's complaint was being addressed and the third being the period in which the transfer was resumed and progressed.

As I understand it, the argument Mr H has made about the guaranteed CETV relates to the value reduction he complained about in December 2023. Before returning to address the problem in the transfer process between October and December that year, I will briefly treat this issue. Available evidence is that, at the point of transfer (around April 2024) the 29 December 2023 CETV was not used, instead a revised CETV (around £8,000 higher) was used. This means the reduction he complained about was eclipsed and exceeded (by a net gain of around £5,000) by the revised CETV at the point of transfer, so there appears to have been no loss in this respect. I make this finding with no statement or suggestion that Hargreaves would otherwise have been responsible for the reduction he complained about. For the reasons given below, I would probably not have made such a finding, but I do not need to do so because there appears to be no loss in terms of CETV.

Returning to the problem in late 2023, I do not find that Hargreaves can reasonably be held responsible for it. The reasons behind the requirement to establish the receipt of regulated advice for the DBP to SIPP transfer have been given and repeated to Mr H in the explanations from Hargreaves, from the ceding scheme and from our investigator. Therefore, I do not find cause to repeat it again. Neither the ceding scheme nor Hargreaves committed a wrongdoing in insisting that he establish, with information and documentation, that he had received such regulated advice. They both sought after his best interest in doing so. It also does not appear that this is his argument. Instead, his argument is that better engagement from Hargreaves at the outset would have brought the requirement to his attention earlier. On balance, I disagree.

The requirement was brought to Mr H's attention at the outset. The application form he signed confirmed that he had read and understood the Key Features document. The 'transfer checklist' section of that document can reasonably be considered as a section that would draw an applicant's attention and that an applicant would reasonably be expected to pay attention to, in order to ensure the contents of the checklist have been considered and/or executed before submitting the application. Indeed, the section leads with this statement (in bold) – "**Read before transferring pensions**". Its contents include the following –

"You could enjoy many benefits when you transfer to the HL SIPP, but could also lose valuable features of your old pension(s). Give extra consideration to these factors if approaching retirement as you will have less time to make up for any losses."

and

"Defined Benefit, e.g. final salary, pension schemes generally prevent transfers to money purchase pensions, unless you have received personal advice from a financial adviser who holds the appropriate pension transfer qualifications. This can include money purchase pension schemes with guarantees, such as on annuity rates. Some government pension schemes may not permit any such transfers. It is rarely a good idea to transfer 'Deferred Annuities' as they promise to pay a hard-to-beat retirement income. An Additional Voluntary Contribution (AVC) linked to a defined benefit scheme could give a higher pension and/or tax-free cash entitlement if not transferred. We normally insist you take advice to confirm it is in your interests to transfer such pensions." [my emphasis]

Mr H ought reasonably to have taken notice of the above information at the time he completed and submitted his application form. It was provided to him and sufficiently accessible in a checklist section that expressly invited his consideration before the application was submitted.

In the above context, I do not find that there was a deficiency in informing him about the requirement that warranted correction by Hargreaves, or that called for the telephone conversation he says he would have expected. In terms of support in understanding and addressing the requirement, it would have been in its interest to give him that support because the transfer was new business for Hargreaves. If support for Mr H in understanding the requirement was needed at the outset it is more likely (than not) that it would have given him that support. It did something similar between November and December 2023 when it explained the reasons and purpose of the requirement to him.

This finding extends to addressing his residence abroad and to Hargreaves' inability to advise him for that reason. I acknowledge it was late to do this in December – which I consider separately below – but it appears more likely (than not) that it would have addressed these aspects as part of any overall support it gave Mr H at the outset to help him understand the requirement for advice.

None of the above happened at the outset because Mr H did not address the notice he was given about the requirement for advice. That led directly to the incomplete documentation submitted in October and in November, and to the correspondence between the parties in December on how to resolve the matter – all at the expense of the delayed transfer process. That would probably have been avoided if he had addressed the notice (including any enquiries he needed to put to Hargreaves) before his application was submitted (as the checklist invited him to do), and this precedes all the individual allegations he has made about Hargreaves' failures *after* the transfer process was underway.

Therefore, Hargreaves bears no responsibility for the root cause of the delays up to December 2023. Furthermore, by then the requirement for advice was clear to Mr H, responsibility to fulfil it remained with him and that too was clear to him, so I do not find scope to consider liability on Hargreaves' part, in the requirement for advice matter, after December 2023.

The period featuring correspondence about his complaint followed, from December onwards. Then the transfer appears to have been resumed. Documentation was submitted on 19 March 2024 to meet the 29 December 2023 guaranteed CETV's deadline (which was 29 March 2024), and then documentation based on the revised CETV that Mr H asked for was used to progress and conclude the process.

Overall, on balance and for the reasons addressed above, it is true the transfer process was delayed, but I do not find that Hargreaves was responsible for that. In addition to my findings above on the delay's root cause, I have not seen evidence that Hargreaves misguided Mr H on the requirement for advice when it became a live issue in the transfer process. I have also considered whether (or not) its delay in informing him that it could not advise him impacted on the process. On balance, I do not consider that it did.

Hargreaves was wrong to have given him a late response and it accepts this. He asked for contact from an adviser on 1 December and it appears that Hargreaves did not address that until the Friday before his email of 12 December 2023, which would be 8 December 2023. For the delay itself, which was around three days longer than it should have taken it to respond, I consider that fairly resolved by the £300 compensation payment. I cannot be persuaded to make an additional award because it is a relatively short delay in the circumstances of the case, and £300 sufficiently caters for it.

With regards to impact on the transfer process, by 1 December Mr H knew, at the very least, that he needed an adviser for the transfer, even if he was not clear or convinced about the reasons. Hence his request on that date for contact from an adviser from Hargreaves. The duty to mitigate the situation remained with him, because the requirement was upon him to obtain advice and to ensure the advice related documentation was completed.

He was not told that the adviser had to be from Hargreaves, and evidence in the correspondence shows he was expected to have obtained advice independently, so he ought reasonably to have searched elsewhere when a reply from Hargreaves was not forthcoming. He should not have waited until after 8 and 12 December to do so. In this respect, and to his credit, his email of 12 December suggests he did not wait until thereafter. He refers, in the email, to having "... *identified several pension advisers ...*" who could advise him on the transfer. His issue was the late timing in appointing one of those advisers. However, for the reasons given above, I do not find Hargreaves responsible for that.

Primarily, he should have secured an adviser before making the application. In the circumstances as they were in December 2023, even if Hargreaves had responded earlier, it would still have lacked the regulatory permissions to advise him (due to his residence

abroad), he would still have needed to obtain advice elsewhere (which, it appears, he was already searching for) and, as the investigator noted, he would have needed to pay for regulated advice in any case.

Overall, on balance and for the above reasons, Hargreaves' delayed response made no difference to the transfer process.

My final decision

For the reasons given above, I do not uphold Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 12 August 2024.

Roy Kuku
Ombudsman