

7 May 2020

Final report by the Complaints Commissioner**Complaint number FCA00708***The complaint*

1. You have asked me to look into the FCA's decision to reject your complaint about problems with your pensions transfer.

What the complaint is about

2. The FCA summarised your complaint as follows:

You told the Financial Conduct Authority ('FCA') that you worked for British Steel and you've been asked to opt in to new pension arrangements.

[Firm X] has tried to obtain a report from an appropriately trained and authorised Pension Advisor. You claim, [firm X] has not been able to find an advisor willing to write a report because of the FCA's decision in 2018 about authorised Pension Advisors.

You allege, your pension was valued at £281,637.20 and because of the changes to a new pension scheme, your pension would be valued at £194,620.47. You think as the value of your pension has fallen by £87,016.73 the FCA should compensate you.

You'd like the FCA to source and recommend a Pension Advisor to write a report, so this can enable a pension transfer.

Therefore, you allege that the FCA has failed to supervise regulated Pension Advisors and you're at a financial detriment.

What the regulator decided

3. The FCA did not uphold your complaint. It said

The FCA has undertaken a substantial programme of work in the defined benefit (DB) pension market since the Government introduced its pension reforms in April 2015. This work has included supervision of the firms active in providing DB advice, communications to firms and consumers and policy interventions. It is focused on improving the standards of advice in what is one of the most complex areas of financial advice.

In addition to the continuing programme of DB work, in November 2017, the FCA began a visit programme to firms materially active in providing advice to members of the British Steel Pension Scheme. This was in response to concerns about the quality of some of the advice that scheme members were receiving, and the risk that they might suffer financial harm if they transferred into unsuitable pension products.

There is evidence that, despite this regulatory activity, there are still substantial numbers of firms that can provide advice on pension transfers. In December 2018, around 2,500 firms reported to the FCA that they were active in the DB advice market. This does not support your suggestion that qualified financial advisers are not available to assist those wishing to transfer out of a DB scheme.

Why you are unhappy with the regulator's decision

4. You say that firm X 'had previously used a number of firms to write reports on their behalf. It wasn't that they couldn't find anyone, it was that the ones they used previously and others they contacted were now unwilling to touch something that [the FCA] had specifically targeted as a result of the British Steel transfer to a new scheme. I'm pretty sure had I been in a different DB scheme any one of these firms and advisors would have taken on the task of writing the report.'

My analysis

5. I am sorry about the difficulties you are having finding an adviser. You have used firm X to find authorised firms to provide you with advice so you can transfer your

pension out of the British Steel Pension Scheme, and it has not been able to do so. You then complained to the FCA and to me.

6. The FCA gave you a full explanation of the actions it has taken to deal with the problem of poor advice given to people seeking to transfer out of defined benefit pension schemes (and in particular the British Steel Scheme), and of the new legislative requirements which Parliament has introduced. The arguments for tightening up this area of pensions advice are clearly very strong ones. While it is very unfortunate that you have encountered difficulties in obtaining advice, the FCA cannot be held liable for this, since the requirement to obtain advice was imposed by Parliament and, in any event, the FCA has immunity from being sued for damages, with very few exceptions.
7. The FCA has said that there are over 2500 firms active in the DB advice market. The fact that firm X has not been able to find an adviser does not necessarily mean that none of the firms active in the DB advice market will advise you. I would suggest you continue to look for advisers.
8. You have said that, even if there are plenty of advisers active in the DB market, they may not be willing to give advice on British Steel pensions. The FCA did not address this point. I am not in a position to say whether or not this is true or, if so, how widespread the problem is. However, for the reasons which I have given I do not think that the FCA can be held liable for this; and there was a clear need for it to take regulatory action in this area.
9. It is not the role of the FCA to recommend an adviser. However, the Complaints Team has provided you with information about how to find an authorised adviser.
10. You can find advisers qualified to provide advice on the Money Advice Service directory which involves options to filter for firms offering advice for expatriates and/or pension transfer advice. You can also check if a firm has permissions to offer pension transfer advice on the FCA website.

My decision

11. I sympathise with your situation, but I do not believe that the FCA can be held responsible for the fact that you have not been able to find an authorised firm to provide you with advice.

Antony Townsend
Complaints Commissioner
7 May 2020