complaint

Mr L has said that he received unsuitable advice from True Potential Wealth Management LLP (True Potential). He was advised to transfer his pensions to the True Potential Wealth platform.

Mr L is represented by his financial adviser.

background

Mr L met with a representative of True Potential in April 2015. He was advised to transfer his stakeholder pension (with provider A) and his personal pension (with provider B) to a True Potential pension. A total of around £134,000 was transferred to True Potential.

The adjudicator who considered this complaint thought that it should be upheld. She said the following:

- She found nothing to justify transferring two pensions. One of these was a stakeholder pension. Both offered low charges. She thought both existing plans were suitable for Mr L's attitude to risk. The pensions were transferred to a plan with True Potential which had higher charges and commission.
- She suggested that True Potential should put things right by establishing what the notional value of the two plans would've been as at the date of settlement. This was to be done by assuming Mr L remained with the previous providers before the transfer. And the pensions invested in the same funds until the date of settlement.
- True Potential should then compare this with the actual fund value of the True Potential plan at the date of settlement. And if there was a loss then it should be added to the True Potential plan. She also suggested at Mr L should be paid £250 for the trouble and upset caused.

True Potential agreed with the method of redress and it carried out a loss calculation.

Mr L's representative said that Mr L would now have to pay for further advice. So True Potential should pay towards the cost of this. He suggested that it would take approximately nine hours to provide Mr L with suitable advice. He said the advice would cost £195 per hour.

The adjudicator agreed that Mr L would need to take further advice. She didn't think £195 an hour was an unreasonable amount. She wrote to True Potential and suggested it should compensate Mr L for the cost of getting financial advice. She assumed that it would take approximately three hours to provide the necessary advice. So she said True Potential should pay him an additional £585 to cover the cost of advice (3 x £195).

True Potential didn't agree to pay the additional cost towards the advice.
Mr L's representative didn't agree with the number of hours it would take to conduct a suitability assessment. It felt that it would take much longer - closer to nine hours.

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 decided to uphold this complaint and I'll explain why.

Both parties have accepted the adjudicator's view that the advice to transfer was unsuitable. The steps she proposed to put things right haven't been challenged except for one issue. That is whether True Potential should also pay towards the cost of Mr L getting further financial advice. That's the issue I need to decide.

I wrote to both parties saying that I broadly agreed with the adjudicator. I said that my view was that it would be fair if True Potential paid an additional amount of £585 to Mr L as a contribution towards the costs of getting further advice. My reasons were;

- It's reasonable for Mr L to take advice to review his pension given the current investment is unsuitable for him.
- He's likely to have to pay for this advice but I don't think I can say exactly what advice is necessary or what that the reasonable cost is likely to be.
- He did pay for the advice True Potential gave him (by way of commission). But this has been taken into account in the redress calculation and, in effect, refunded.
- He wanted to review his pension position when he instructed True Potential and any review was likely to be at some cost to him. So the cost of a further review now isn't wholly down to any mistake True Potential may have made.
- I think he would probably have paid for some advice anyway but he's now in a worse position as his current pension arrangement is unsuitable.

So I said that I felt it would be would be fair if True Potential paid Mr L £585.00 as a contribution towards the costs of further advice. This was in addition to the compensation payment it had already calculated although this will need to be updated.

Mr L's representative didn't agree. It said in summary;

- It agreed that there was a need to take advice but Mr L was contacted by a call centre and offered a free review
- True Potential made a charge of over £3700. This represents 19 hours work at £195 per hour and this is excessive. It thinks 9 hours would be enough.

True Potential didn't agree. It said it had returned Mr L to the position he would've been in by paying the compensation it had agreed to.

I've reconsidered the case after receiving these responses but I've not changed my mind. It's true that the charges True Potential did make will, in effect, be refunded to Mr L by the redress that it has agreed to calculate and pay. But I still think it's reasonable for Mr L to take further advice as the advice to transfer was not necessary or suitable. I think it's fair that True Potential contribute towards the cost of that advice.

I don't think True Potential should pay as much as Mr L's representative says. That's because I think Mr L probably would have looked to get some advice about his pension at some point. And any advice would have come at some cost to him and so isn't wholly down to any poor advice True Potential may have given him. I can't say what that advice may cost but I think he is in a worse position now and that True Potential should make some contribution. I think a contribution of £585 is fair in these particular circumstances.

putting things right

I’ve concluded that Mr L should’ve been advised to stay with provider A and provider B.

In assessing what would be fair compensation, my aim is to put Mr L as close to the position he would probably now be in if he hadn’t been given unsuitable advice.

True Potential should therefore establish what the notional value of the plans with provider A and provider B would’ve been at the date of this decision. This should assume that Mr L remained with both provider A and provider B, in the same funds that his pensions were invested in.

It should then compare these values with the actual fund value of the True Potential plan at the same date.

If there is a loss, True Potential should pay such amount as may be required into Mr L’s pension plan, allowing for any available tax relief and/or costs, to increase the pension plan value by the total amount of the compensation and any interest.

Interest should be added to any loss at 8% simple per year from the date of this decision to the date of payment.

If True Potential is unable to pay the total amount into Mr L’s pension plan, it should pay that amount direct to him. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore the total amount should be reduced to *notionally* allow for any income tax that would otherwise have been paid.

The *notional* allowance should be calculated using Mr L’s marginal rate of tax at retirement.

For example, if Mr L is likely to be a basic rate taxpayer in retirement, the *notional* allowance would equate to a reduction in the total amount equivalent to the current basic rate of tax. However, if Mr L would have been able to take a tax free lump sum, the *notional* allowance should be applied to 75% of the total amount.

True Potential Wealth Management LLP should provide details of its calculation to Mr L in a clear, simple format.

As the advice provided was unsuitable and it caused Mr L trouble, upset and inconvenience I think True Potential should pay him £250 in recognition of this. It should also pay Mr L £585 as a contribution towards the costs he may incur in seeking further advice.

my final decision

I uphold the complaint. My decision is that True Potential Wealth Management LLP must pay the amounts set out above.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr L either to accept or reject my decision before 18 July 2016.

Keith Taylor
ombudsman