Financial Ombudsman Service

## summary of complaint

Mrs C complains she didn't receive documentation from Intrinsic Financial Planning Ltd regarding the recommendation to transfer her pension plans to a new scheme. This has led to her to question the overall suitability of the advice.

## background to complaint

Mrs C had two existing personal pensions valued at around £80,000. In 2015 she received advice to transfer these to a new scheme with another provider and to adopt a dynamic attitude to risk (ATR).

Mrs C subsequently said that she received little in the way of documentation regarding the recommendation, including the charges that would apply, and was concerned with the advice she had been given. She complained to Intrinsic which didn't uphold the complaint following which it was brought to this service.

One of our adjudicators investigated the complaint and recommended it be upheld. He noted a suitability letter had been issued with the correct address and could see no reason why Mrs C should not have received this.

The adjudicator then looked into the overall suitability of the recommendation. He concluded that the combined balance transferred was relatively modest and was receiving no ongoing contributions.

He also felt that the change to a dynamic ATR approach (previous funds had been 'balanced') should have been questioned in more detail, particularly as the responses to various questions to ascertain the ATR were not consistent from Mrs C.

The adjudicator also noted that the suitability letter had made reference to providing a further letter detailing costs and a charges comparison. Mrs C had not received this and nothing had been received following requests to the business to supply this document. The adjudicator felt that this would have been an important document and would have enabled Mrs C to make an informed decision on whether to transfer or not. This was relevant given the additional costs associated to the new self-invested personal pension (SIPP).

Overall the adjudicator felt the advice to transfer was unsuitable and put forward a redress for Intrinsic to consider. Intrinsic responded disagreeing with the findings and in particular the benchmark proposed which they felt was inappropriate. As agreement could not be reached, the complaint has now been passed on to me.

## my findings

I've considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I've come to the same conclusion as the adjudicator and broadly for the same reasons.

When a transfer is recommended it is imperative that the consumer understands the advice. This includes any advantages and disadvantages the transfer may entail. There has to be a justifiable reason for the consumer to want to move from an existing arrangement, and the costs involved would form a key part in the decision process.

Whilst reference has been made to the fact that the new scheme would incur higher costs, it is only by comparing the old and new schemes and the charges involved that Mrs C could have made an informed decision.

No evidence has been provided to show that Mrs C would have been able to make cost comparisons between her existing arrangements and the transfer to the new provider. I agree with the adjudicator that this information would have been vital, and does not appear to have been provided.

Projections for the existing and proposed scheme would have enabled Mrs C to see the impact that the higher charges would have on her fund, particularly the projected fund value available to her at her intended retirement age.

Mrs C's existing pensions were using a balanced approach to investment, and there does not appear to have been any enquiry as to why she would want to increase her risk, especially when she had no apparent intention to make further contributions to her modest pension pot.

Her risk questionnaire responses are somewhat erratic and I consider it would have been appropriate for the adviser to have queried these and to have recorded he had done so. I suspect she was a little more risk averse than was concluded. In respect of the charges I also agree with the adjudicator that Mrs C has not received any follow up review service for which she had been paying.

In terms of the method of redress it is difficult to say what exactly Mrs C would have done, but I think the method recommended by the adjudicator is not unreasonable. Other methods could be used, but in the broader circumstances of this complaint I believe the chosen method produces a fair result.

**fair compensation**

In assessing what would be fair compensation, I consider that my aim should be to put Mrs C as close to the position she would probably now be in if she had not been given unsuitable advice.

I take the view that Mrs C may have invested differently. It is not possible to say *precisely* what she would have done differently. But I am satisfied that what I have set out below is fair and reasonable given Mrs C's circumstances and objectives when she invested.

I also agree with the adjudicator that using the benchmark below is appropriate for a consumer who had been comfortable adopting a balanced attitude to risk.

**what should Intrinsic do?**

To compensate Mrs C fairly, Intrinsic must:

- Compare the performance of Mrs C's investment with that of the benchmark shown below and pay the difference between the *fair value* and the *actual value* of the investment. If the *actual value* is greater than the *fair value*, no compensation is payable.
- Intrinsic should also pay interest as set out below.

If there is a loss, Intrinsic should pay such amount as may be required into Mrs C'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.

If Intrinsic is unable to pay the total amount into Mrs C's pension plan, it should pay that amount direct to her. 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 Mrs C's marginal rate of tax at retirement.

For example, if Mrs C 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 Mrs C would have been able to take a tax free lump sum, the *notional* allowance should be applied to 75% of the total amount.

- Pay to Mrs C £250 for the trouble and upset caused in realising that the advice to transfer may have been unsuitable.

Income tax may be payable on any interest awarded.

| investment name | status | benchmark | from ("start date") | to ("end date") | additional interest |
|---|---|---|---|---|---|
| AEGON ARC SIPP | still exists | FTSE WMA Stock Market Income Total Return Index | date of investment | date of my decision | 8% simple per year from date of decision to date of settlement (if compensation is not paid within 28 days of the business being notified of acceptance) |

***actual value***

This means the actual amount payable from the investment at the end date.

***fair value***

This is what the investment would have been worth at the end date had it produced a return using the benchmark.

Any additional sum paid into the investment should be added to the *fair value* calculation from the point in time when it was actually paid in.

Any withdrawal, income or other payment out of the investment should be deducted from the *fair value* at the point it was actually paid so it ceases to accrue any return in the calculation from that point on. If there are a large number of regular payments, to keep calculations simpler, I will accept if Intrinsic totals all those payments and deducts that figure at the end instead of deducting periodically.

**why is this remedy suitable?**

I have decided on this method of compensation because:

- Mrs C wanted capital growth and was willing to accept some investment risk.
- The WMA index is made up of diversified indices representing different asset classes, mainly UK equities and government bonds. It would be a fair measure for someone who was prepared to take some risk to get a higher return.
- Although it is called income index, the mix and diversification provided within the index is close enough to allow me to use it as a reasonable measure of comparison given Mrs C's circumstances and risk attitude.
- Mrs C has not yet used her pension plan to purchase an annuity.

**my final decision**

I uphold the complaint. My decision is that Intrinsic Financial Planning Ltd should pay the amount calculated as set out above. Should this show no loss then Mrs C should be reimbursed the charges taken for the review service that she has not received.

Intrinsic Financial Planning Ltd should provide details of its calculation to Mrs C in a clear, simple format. Under the rules of the Financial Ombudsman Service, I am required to ask Mrs C either to accept or reject my decision before 9 April 2018.

Ivor Graham
**ombudsman**