

## **complaint**

Mrs P has complained that she was mis-sold her personal pension by Sesame Limited and that this has caused her a financial loss.

## **background**

In 2002, Mrs P met with an adviser of a business (that was at the time an appointed representative of Sesame Limited). Following this meeting Mrs P agreed to transfer her company money purchase pension benefits to a personal pension plan.

In June 2007 the business ceased to be connected with Sesame Limited.

In July 2016, the business wrote to Mrs P to inform her that her former adviser had been arrested in relation to possible fraudulent activity in respect of financial advice. The business said it didn't think Mrs P had been affected.

On 1 December 2016 Mrs P complained to Sesame Limited that:

- The adviser did not properly establish her attitude to risk.
- The adviser did not discuss where the pension funds were to be invested
- The adviser did not fully explain the fees and charges and how these would impact on the returns on her investment.
- She had found out that the adviser involved with the sale had been arrested for undertaking fraudulent activity in respect of financial advice.

On 25 May 2017 after investigating the complaint Sesame wrote to Mrs P upholding her complaint. It agreed that Mrs P hadn't been suitably advised when she transferred her work pension to a personal pension plan. It offered redress of over £4,500. However as Mrs P wasn't confident with what had been suggested she brought her complaint to this service.

An adjudicator investigated the case and concluded it should be upheld because:

- Sesame had used an unspecified index to calculate the redress due to Mrs P. But it should have done a loss assessment comparing the actual transfer value of her personal pension plan with the notional transfer value of the benefits if they had remained in her work scheme.
- Mrs P had raised a complaint about the sale of her pension in part because she'd been told her adviser had been arrested by the police for fraud some 14 years after the advice that she had received. This would have been an upsetting situation. Mrs P had clearly been worried she couldn't rely on being told that she was unaffected – and it then transpired she had been mis-sold her pension. As a result Mrs P had suffered distress and inconvenience because of the situation and the business should pay her £150 compensation.

Sesame disagreed. It said:

- Mrs P's previous employer's occupational money purchase scheme had been wound up in 2011. Sesame had written to the scheme administrator and had been informed that no information about the scheme was available prior to 2006. This meant Sesame couldn't ascertain the notional value. So an index had to be used instead to determine a notional value in the redress calculation.

- Sesame had dealt fairly with Mrs P's complaint. Sesame had been in touch with Mrs P whilst it carried out its investigation. As a result no award for distress and inconvenience was appropriate.

In response, the adjudicator agreed that using an index to determine the redress was suitable under the circumstances. The business then confirmed the index used in the redress calculation was the Private Investors Income Total Return Fund. This is appropriate for a balanced investor and is in line with the index that this service might use in similar circumstances.

But the adjudicator said that whilst Sesame had proposed fair redress for Mrs P in terms of the financial loss, it hadn't taken into account the impact on her beyond this. In his view Mrs P should receive £150 for the trouble and upset that the situation had caused to her.

As agreement couldn't be reached, the matter was brought to me for a final decision.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I note that the parties have agreed that the original advice given by the business whilst a member of Sesame was inappropriate and that redress is due. The business ceased to be connected with Sesame on 1 June 2007.

I agree that in normal circumstances where an unnecessary transfer has been arranged the actual transfer value of the new arrangement should be compared with the notional transfer value of the old arrangement on the basis that the transfer had not gone ahead. In the event that there is a shortfall then redress should be payable.

In this case as the old scheme had closed down there was no ability to determine accurately the notional value. In these circumstances I agree that the notional transfer value would need to be determined by using an index.

In my opinion the use of the Private Investors Income Total Return Fund is appropriate for an individual like Mrs P.

I have then considered whether Mrs P has suffered distress and inconvenience having been told by the business that her adviser had been arrested for having client monies paid into his personal bank account.

In my opinion the knowledge that her adviser had been arrested (even if this was some time after the initial transfer had taken place) would indeed have caused Mrs P distress and inconvenience and would have led her to question the advice that she received from the adviser whilst working for Sesame. It is apparent that Mrs P did then contact the business querying the advice that she had been given. She would have been told that she would need to complain to Sesame as it was responsible for the sale.

Mrs P then had to complain to Sesame and explain that she was unsure that the advice that she had received was appropriate. It is important to note that Mrs P had to contact Sesame to complain about the advice that she had received in the past and she was not proactively approached by Sesame. In the circumstances this would have caused some inconvenience

to Mrs P. The fact that the calculation showed that there was a significant loss would have, in my opinion, caused Mrs P further distress even if Sesame had agreed to make good any shortfall that had arisen as a result.

I therefore agree with the adjudicator that the modest award of £150 proposed is appropriate for the distress and inconvenience that Mrs P has suffered as a result of the advice to transfer that she received from Sesame Limited.

**my final decision**

I uphold this complaint against Sesame Limited and I direct it pay Mrs P £150 for the distress and inconvenience she has suffered.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 30 April 2018.

Adrian Hudson  
**Ombudsman**