Financial Ombudsman Service

complaint

Mr C complains that True Potential Wealth Management LLP did not provide the level of service it had promised after he was advised to transfer several pension pots he held into a Self Invested Personal Pension (SIPP).

background

I issued my provisional decision on this complaint on 11 May 2018, a copy of which is attached to this final decision. In my provisional decision I set out why I considered the complaint should be upheld in part, and how I considered the matter should be fairly settled.

I invited the parties to let me have any further evidence or information, if they wished, before I finally determined the complaint.

Both Mr C and True Potential accepted my provisional decision. True Potential said it had reviewed Mr C's ongoing service agreement. It said it noted it had *'…deducted a further £450.65, which will form part of the redress to the client'.* I understand that this covers the period between March 2017 and August 2017, when Mr C's SIPP was transferred to another provider.

my findings

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

Having done so, in the absence of any further comments from either Mr C or True Potential, I see no reason to depart from my provisional decision.

As this is the case my decision is that I uphold this complaint in part.

my final decision

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 7 July 2018.

Having carefully considered this matter my decision is that I uphold this complaint in part. In order to resolve this matter I order True Potential Wealth Management LLP to pay Mr C a total of £2105.56.

This is made up of:

- the £1,354.91 True Potential has already offered. (I understand that £854.91 of this amount is a refund of the fee True Potential had deducted from Mr C's SIPP to cover the cost of on-going advice between February 2014 and February 2016);

- the £450.65 in fees that were deducted to cover ongoing advice between March 2016 and August 2017 (when Mr C's SIPP was transferred); and,

- a further £300 to compensate Mr C for the trouble and upset caused by True Potential for its part in delaying the transfer of Mr C's SIPP to his new provider.

Suzannah Stuart
ombudsman

Copy of provisional decision

I've considered the relevant information about Mr C's complaint. Based on what I've seen so far I think this complaint should be upheld in part.

I'll look at any more comments and evidence that I get by 11 June 2018. But unless the information changes my mind, my final decision is likely to be along the following lines. Final decisions will be published on our website. So that Mr C can't be identified, I'll call him "Mr C".

complaint

Mr C complains that True Potential Wealth Management LLP did not provide the level of service it had promised after he was advised to transfer several pension pots he held into a Self Invested Personal Pension (SIPP).

background

In late 2013 Mr C discussed his pension arrangements with True Potential.

It appears Mr C had pension pots with three different providers. True Potential advised Mr C to transfer these pots to a SIPP it offered. The total value of the three pension pots was over £51,600. The information available shows that a key factor in Mr C's decision to move his pension pots to the True Potential SIPP was to benefit from regular contact with his adviser and on-going advice.

Unfortunately the service Mr C received fell short of the level of service he had been promised.

In early 2016 Mr C instructed True Potential to move his SIPP to cash. Then, in May 2016 Mr C complained to True Potential. His initial complaint covered other investments True Potential managed for him, as well as his pension. I understand that Mr C's complaint about his non-pension related investments has now been resolved.

Only the issues Mr C has raised in relation to his True Potential SIPP are covered in this provisional decision.

True Potential accepted that the level of service Mr C has received had not met his expectations. It offered to refund £854.91 Mr C had paid in fees. This had been deducted from Mr C's pension pot to cover the cost of on-going advice between February 2014 and February 2016.

It said it had also reviewed the advice Mr C had been given to transfer his pension pots into the SIPP. It said it felt this advice was suitable given Mr C personal and financial situation.

It explained that it had reviewed Mr C's financial position and looked to see what the value of his pension pots would have been, if the transfers not taken place. As Mr C had a 'balanced' attitude to investment risk it said it had compared the performance of Mr C's SIPP against the FTSE WMA Stock Market Income Index TR. It said its calculations showed Mr C was around £3,700 better off than he would have been if his SIPP investments had achieved growth in-line with the WMA income benchmark.

True Potential subsequently increased its offer by £500. It said this was because it had come to light that Mr C's adviser hadn't agreed objectives with Mr C at the outset. So there was nothing against which to review Mr C's pension.

Mr C wasn't satisfied with True Potential's response and brought his complaint to this service. He also said he wanted to transfer his SIPP from True Potential and it had delayed the transfer.

Our adjudicator said he felt Mr C's complaint should be upheld. He said Mr C had transferred his pension pots to True Potential in order to benefit form 'ongoing face to face advice'. But this hadn't been provided.

He noted True Potential had offered to pay Mr C a total of £1,354.91 to compensate him for the poor service he had received.

But he said he didn't think Mr C would have agreed to move his pension pots to True Potential if it hadn't offered to provide a high level of service. As it hadn't provided the level of service promised he said he felt Mr C's SIPP had been mis-sold.

In order to assess whether Mr C was worse off financially as a result the advice to transfer his pension pots to the True Potential SIPP he said it should compare the performance of

Mr C's SIPP against the performance of the funds he had held in the pension pots he transferred. He said this should be this done for the entire period that Mr C's pension had been with True Potential. If this calculation showed Mr C was worse off, he said True Potential should pay the difference into Mr C's pension.

He noted that True Potential had already calculated whether Mr C would have been better off by not transferring his pension pots. But it had done so by comparing the performance of Mr C's SIPP to that of the FTSE WMA Stock Market Income Index. Having done so, True Potential had said Mr C was better off as a result of transferring his pension pots to the True Potential SIPP.

Our adjudicator noted True Potential's findings, but said it should carry out a calculation to work out whether Mr C would have been better off if he had remained with his previous pension providers. And this calculation should cover the entire time Mr C held a SIPP with True Potential. He said it should also pay Mr C the £1,354.91 it had already offered to pay him.

True Potential did not accept our adjudicator's view. It reiterated that Mr C had instructed it to move his SIPP to cash in March 2016. It said it didn't think it was fair for it to be ordered to calculate whether any redress was due based on the performance of stock market related funds to the date Mr C moved his pension pot to a new provider (August 2017), when Mr C had chosen to move into cash in early 2016.

It also said it didn't think it was fair to hold it responsible for Mr C's pension fund remaining in cash until he transferred his pension to another provider in August 2017.

It did, however, carry out a review of the performance of Mr C's SIPP against that of the funds he had been invested in with his previous providers up to March 2016, when Mr C instructed True Potential to move his SIPP to cash. It said that having carried out this calculation Mr C was around £540 better off than he would have been if he had remained with his previous pension providers.

In relation to the delay in transferring Mr C's pension to his new provider, True Potential said it received a transfer request for Mr C's SIPP on 10 August 2017 (via origo) and the money was transferred on 23 August 2017. In view of this it said it didn't accept that it had delayed the transfer of Mr C's SIPP.

Our adjudicator didn't agree with True Potential's position. He said he felt it had not fully addressed the issue of the poor service Mr C received. He explained that this was the '*primary reason'* he had upheld Mr C's complaint.

Mr C also responded to our adjudicator's view. He said he had moved his pension pots to True Potential *'…on the basis of receiving a service on my plans that I was not and could not get from my current providers*.' Mr C said he now understood he could have received advice on his pension pots from his existing providers. He also reiterated that he had been promised a higher level of service by True Potential, but it had failed to provide this.

my provisional findings

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

Having carefully considered this matter, I have reached a different view to that reached by our adjudicator.

My provisional decision is that True Potential should pay Mr C the £1,354.91 it has already offered. I think it should also pay Mr C a further £300 for its part in the delay in transferring Mr C's SIPP to his new provider. And, if Mr C was charged any fees for ongoing advice between March 2016 and the date his SIPP was transferred, I think these should also be refunded.

But I don't agree that it should carry out a redress calculation that covers the period after Mr C had chosen to move his SIPP to a cash fund, to the date he moved his pension pot to a new provider. I'll explain why.

SIPP moved to cash in March 2016

When I reviewed the information that had been provided to this service it wasn't clear to me why Mr C chose to move his SIPP to a cash fund in March 2016. I appreciate that Mr C was disappointed with the level of service he had received from True Potential. But I didn't understand why Mr C felt it was in his best interests to instruct True Potential to move the funds in his SIPP to cash.

Mr C's new financial adviser responded on Mr C's behalf on this point. He said:

'As stated, Mr C advised that he was very disappointed with the service with TP and just wanted to get his funds away from them, he was told if he moved the funds out he would pay tax and from memory states that he was advised to move to cash purely to avoid the tax position.'

I have considered these comments, but it's not clear to me why Mr C needed to move his funds to cash in order to move his SIPP to another provider. Mr C could have remained invested and transferred his funds in-specie to his new provider. Or he could have moved his funds to cash once a transfer had been arranged, in order to avoid being out of the market for any length of time. I don't see why Mr C would have incurred a tax charge on a transfer to a new SIPP provider.

I haven't seen anything to show that True Potential advised Mr C that he would need to move his SIPP to cash before he could arrange a transfer it to a new provider. As this is the case, I can't reasonably find that it advised Mr C he needed to move to cash.

I will, of course, re-consider this aspect of Mr C's complaint if he is able to provide anything that shows True Potential advised him that he needed to transfer his SIPP to cash before he could arrange a transfer to another provider.

moving SIPP to a new provider

It was also unclear to me why if Mr C '*just wanted to get his funds away'* from True Potential he didn't take any steps to transfer his SIPP until March 2017.

Mr C's new financial adviser also responded on this point. He said:
'I met with the clients towards the end of 2016 but at that time both Mr and Mrs C were very reluctant to take advice and felt somewhat disillusioned by the industry. We spoke about the pension and I advised that if we were to offer advice it would be based on the suitability of moving the funds back to [name of provider] (which was where some of the funds were prior to TP contact) and were understandably reluctant to pay a further advice fee to move back to 'square one' in their opinion.

It was therefore agreed that before they committed any of their own funds to the cost of moving the pension that they would await the outcome of their complaint with TP to see if they would be awarded compensation and they would decide based on if or how much they would receive to take additional advice, this was agreed and the money paid to the clients and then they agreed to start the pension transfer process. The delay was down to the complaint process being seen through to completion.

I appreciate that Mr C's new adviser feels that the delay in transferring Mr C's SIPP from True Potential was because Mr C wanted to see what the outcome of his complaint was. But I must take into account that it appears that Mr C didn't take action to move his SIPP until March 2017 – a year after he had moved his funds to cash.

Although I am sympathetic to Mr C's position I think he should have taken steps to mitigate any loss of fund growth he might be incurring as a result of being out of the market. Based on what I have seen so far, I don't think it is reasonable for this service to expect True Potential to compensate Mr C for any loss he incurred as a result of being out of the market between March 2016 and March 2017. I have reached this provisional decision as I haven't seen anything that shows Mr C took steps to move his SIPP from True Potential before March 2017.

delays caused by True Potential when Mr C instructed it to move his SIPP

Mr C says he tried to move his SIPP from True Potential in March 2017, but the transfer did not take place until August 2017. Mr C says True Potential is responsible for the delays he experienced.
Mr C's new adviser provided the following timeline for the transfer of the SIPP.
10/03/17: LOA (letter of authority) sent to scheme
15/03/17: LOA received back from scheme as paperless office so require LOA/Request via email
20/03/17: We emailed scheme with our request & LOA
11/04/17: Chaser email sent to scheme as no response received from them
21/04/17 Chaser call made to scheme - advised by True Potential that info would be emailed in 5 working days
08/05/17- Chaser call made to scheme - True Potential requested a copy of our email request again and advised they would respond asap
09/05/17: True Pot requested a copy of the LOA be emailed again to them
24/05/17:True Pot requested a copy of our LOA is emailed again. There were issues with our mailbox so unable to email them at this point.
01/06/17: True Pot advised they now require the original LOA to be sent to them
08/06/17. Chaser call made to scheme - awaiting call back for an update
08/06/17: Scheme called and advised they were emailing us the information today
09/06/17: Policy information received via email
20/06/17: Called scheme for some additional information - left voicemail as no answer on the phone
23/06/17: No call-back received so left voicemail again
26/06/17: Additional information confirmed via call

From the timeline Mr C's new adviser has provided it appears that delays were caused by both True Potential and the new provider. It appears that True Potential was slow to respond to Mr C's new provider and there was some confusion about whether it needed the original letter of authority. But it also appears that Mr C's new provider could have been more proactive and chased True Potential when it didn't respond promptly.

I am also mindful that True Potential said it received a transfer request for Mr C's SIPP on 10 August 2017 (via origo) and the money was transferred on 23 August 2017. Mr C's new adviser has not explained why if it had all the information it needed by 26 June 2017 it did not make a transfer request until 10 August 2017.

Having carefully considered this aspect of Mr C's complaint, based on the information available, it appears that True Potential could have done more to ensure Mr C's SIPP was transferred promptly. But I don't think it was solely responsible for the delays Mr C experienced. In order to resolve this aspect of Mr C's complaint I think True Potential should pay Mr C £300 to compensate him for the delays he experienced due to its poor service.

advice from existing pension providers

In his recent response to this service Mr C said he had recently become aware he could have received advice on his pension pots from his existing pension providers. I accept this may well have been possible. But I must take into account that the calculation True Potential carried out showed that Mr C was around £540 better off than he would have been if he had remained with his previous pension providers (up to March 2016). As this is the case I can't reasonably say that Mr C lost out financially as a result of moving his pension pots to the True Potential SIPP.

I appreciate Mr C incurred advice fees when he moved his SIPP to his current provider. But I don't think True Potential needs to cover the cost of this advice. It was Mr C's choice to move his SIPP, rather than remain with True Potential and give it the opportunity to address the service issues raised in his complaint.

Having carefully considered Mr C's complaint my provision view is that I think it should pay Mr C the £1,354.91 it has already offered.

I understand that £854.91 of this amount is a refund of the fee True Potential had deducted from Mr C's SIPP to cover the cost of on-going advice between February 2014 and February 2016. If any further fees were deducted to cover ongoing advice between March 2016 and August 2017 (when Mr C's SIPP was transferred) I think these should also be refunded.

I think True Potential should also pay Mr C a further £300 for its part in the delay in transferring Mr C's SIPP to his new provider. But I don't think it should compensate Mr C for any loss of investment growth he has suffered as a result of being out of the market between March 2016 and August 2017, when his SIPP was transferred.

Based on the information I have seen I think it was Mr C's decision to move his SIPP funds to cash in March 2016. And it was his choice not to take any action to move his SIPP to a new provider (or re-invest his funds) until March 2017.

I think True Potential should have done more to help Mr C move his SIPP to a new provider between March 2017 and August 2017 when his SIPP was transferred. But I don't agree True Potential was solely responsible for the delays Mr C experienced.

my provisional decision

Having carefully considered this matter my provisional decision is that I uphold this complaint in part.

My provisional decision is that True Potential should pay Mr C the £1,354.91 it has already offered. I understand that £854.91 of this amount is a refund of the fee True Potential had deducted from Mr C's SIPP to cover the cost of on-going advice between February 2014 and February 2016. If any further fees were deducted to cover ongoing advice between March 2016 and August 2017 (when Mr C's SIPP was transferred) I think these should also be refunded.

I think it should also pay Mr C a further £300 for its part in the delay in transferring Mr C's SIPP to his new provider.

Suzannah Stuart
ombudsman