

complaint

Mr and Mrs D complain about the advice given by Succession Wealth Management Ltd (Succession Wealth).

Background

In August 2012, Mellors Associates was purchased by Succession Group Limited (SGL). Its clients were then novated to a SGL subsidiary firm, in this case Succession Wealth.

Succession Wealth says that Mr and Mrs D were allocated to a new adviser – but they didn't re-engage Succession Wealth's services, after it took over Mellors Associates. Succession Wealth says it's therefore not liable for the advice given to Mr and Mrs D.

The sale and purchase agreement from August 2012 doesn't state that Succession Wealth would take responsibility for advice given by, or complaints against, Mellors Associates.

However Mr and Mrs D have provided numerous pieces of evidence (emails, reviews and correspondence) that shows that they had (or reasonably believed they had) re-engaged Succession Wealth and have been getting ongoing advice from it. It's also not in dispute that the person who was their adviser in 2010, continues to work for Succession Wealth.

I concluded this was a complaint our service could consider.

One of our investigators considered the complaint and thought it should be upheld. In summary she said:

- The business should have advised Mr and Mrs D to use their yearly ISA allowance in order to avoid a potential Capital Gains Tax (CGT) liability for when they eventually need to sell their shares. She's not satisfied that Mr and Mrs D were encouraged/advised to do so, in order to mitigate their tax liability. And the adviser should have at least made them aware of the possibility of using their ISA allowance.
- Because Mr and Mrs D haven't sold their shares they haven't had to pay the CGT, so haven't suffered a financial loss. She can't award compensation for a financial loss that's not occurred.
- It's also likely that any CGT liability can be mitigated by moving their shares into ISA's using their yearly allowance going forward.
- Mr and Mrs D may wish to seek independent financial advice. If they do, Succession Management should cover the cost of this up to £1,000, subject to Mr and Mrs D supplying a valid invoice.
- Now that Mr and Mrs D are aware of the potential CGT liability they may have to wait to sell their shares on a yearly basis so as to avoid unnecessary CGT. She recommended £500 compensation for the trouble and upset caused.

Succession Wealth disagreed with the investigator's view and said:

- It's confused about the jurisdiction issue as the event referred to pre dates Succession Wealth's regulatory permissions and trading date – February 2014.
- It would like to know how she arrived at £1,000 figure for the adviser's fee and £500 compensation.

Whilst Mr and Mrs D welcomed the uphold view, they disagreed with the investigator's findings on redress. They feel they should be awarded greater compensation of around £2,000.

The investigator explained that the decision was made that this was a complaint we could consider and therefore she considered the merits of the complaint. The adviser's fee was an estimate and £500 compensation was what she felt appropriate for the trouble and upset caused.

As no agreement has been reached the matter has been passed to me for review.

my findings

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

Having done so, I agree with the investigator's conclusions for much the same reasons. I'm going to uphold this complaint. On the face of the evidence, and on balance, I'm not satisfied the business has acted reasonably.

But before I do that, I can confirm that for the reasons set out in my jurisdiction decision I'm satisfied that Succession Wealth's services were engaged from at least June 2013, and it is the correct business against whom the complaint is made.

Like the investigator I think Succession Wealth should have advised Mr and Mrs D to use their yearly ISA allowance in order to avoid a potential CGT liability, when they eventually need to sell their shares. I've also not seen any evidence that persuades me that Succession Wealth has tried to do this.

But as Mr and Mrs D haven't suffered a financial loss as result of Succession Wealth's actions, I can't offer them any redress on the basis of what they might lose in the future.

I'm mindful that Mr and Mrs D may be able to mitigate any potential loss. In the process of doing so, they may wish to obtain independent financial advice. If they do, Succession Wealth should cover up to £1,000 for this advice, relating to CGT mitigation, subject to the production of a valid invoice. It's possible they might find advice that costs them far less than this estimated amount. If not, Mr and Mrs D will be responsible for paying anything over and above £1,000. The logistics of this should be arranged between Mr and Mrs D and Succession Wealth.

I also think that £500 compensation for trouble and upset is broadly fair and reasonable in the circumstances, given that it may take several years for them to sell their shares without being subject to unnecessary CGT.

my final decision

For the reasons set out above, I uphold this complaint.

Succession Wealth Management Ltd should:

1. Pay Mr and Mrs D £500 compensation for trouble and upset.
2. Pay up to £1,000 for financial advice subject to the production of a valid invoice.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs D to accept or reject my decision before 9 August 2018.

Dara Islam
ombudsman