

The complaint

Mrs E's complaint is about advice given by InterestMe Financial Planning Limited (then Wise Pension Group Limited) to transfer her personal pension plan to a self invested personal pension (SIPP) and to invest via a discretionary fund manager (DFM).

For ease, I've just referred below to InterestMe Financial Planning Limited (InterestMe). References to InterestMe include Wise Pension Group Limited where appropriate.

What happened

Mrs E was contacted in 2016 by InterestMe about investing her personal pension via Strand Capital Ltd, a DFM. She subsequently accepted InterestMe's recommendation to transfer her personal pension with Phoenix Life to a SIPP and invest in the Strand Growth Portfolio. In July 2016 £23,427.69 was transferred from Phoenix Life to the new SIPP. Subsequently £23,313.69 was invested via Strand Capital Ltd. In May 2017 Strand Capital Ltd went into administration. I understand that Mrs E's Strand Growth Portfolio was sold in June 2018 for £95.60.

Mrs E, via her representative, complained to InterestMe in June 2020. InterestMe didn't respond and the complaint was referred to this service. It was considered by one of our investigators who upheld it. I've summarised his findings:

- He highlighted the checklist published by the regulator in 2009 for pension switching and the four key issues to consider: charges; existing benefits; risk; ongoing fund management.
- The new SIPP was more expensive than Mrs E's existing personal pension and there were also adviser charges and a penalty for transferring. The justification for the switch appeared to be based on the lack of funds within the existing personal pension, which made diversification difficult. Plus only one free fund switch per year was permitted. Whereas the SIPP allowed an investment manager to be appointed to manage Mrs E's pension fund. The portfolio chosen invested in a mix of equities, bonds and property and was automatically rebalanced each month to ensure the allocation remained consistent with Mrs E's attitude to risk.
- The investigator noted that Mrs E's existing personal pension was already invested in funds with a mix of equities, fixed interest/cash, property and hedge funds (albeit mostly fixed interest and cash). He thought the proportions more accurately reflected Mrs E's recollection of her attitude to risk at the time – low to cautious. He questioned the need for a portfolio balancing service given the modest size of Mrs E's fund and when there was nothing to suggest she was a sophisticated investor or that she wanted that type of service. The investigator thought there was no compelling argument for transferring and incurring additional costs and charges for those perceived advantages.
- He also said that the assessment of Mrs E's attitude to risk as medium to higher was questionable and based on limited evidence. Mrs E had said she had a low to cautious attitude to risk. No consideration was given to her (lack of) previous investment experience. The transfer and subsequent investment with Strand Capital Ltd didn't match Mrs E's attitude to risk and was unsuitable.

- The suitability report said Mrs E could expect an income shortfall in retirement but she was a member of an occupational pension scheme and it was hoped that entitlement would address that. There was no evidence that sufficient information about what benefits Mrs E's occupational pension scheme might provide was obtained.
- The investigator had looked into that. He set out the benefits Mrs E had accrued in the occupational scheme as at March 2021. Although that was some time after the advice had been given, it was clear that a significant proportion of Mrs E's needs in retirement would be met, particularly if she remained in service until the occupational pension scheme's normal pension age of 67. That meant she had no need to take the risks associated with the recommendation to transfer and invest with Strand Capital Ltd. Had she left her personal pension where it was, it would've provided a top up as and when needed to the benefits provided by her occupational pension scheme.
- The returns it was suggested the transfer and investment with Strand Capital Ltd would provide were highly persuasive but unachievable. And the higher costs would erode Mrs E's pension fund. Given her small pension fund, she shouldn't have been advised to transfer.
- The investigator set out how InterestMe should compensate Mrs E.

InterestMe didn't have any further comments and said it accepted the position. Mrs E was also in agreement with the investigator's findings.

InterestMe undertook some calculations and made an offer of £5,001.08 in settlement (payment of which would be made net of an allowance for tax) of Mrs E's complaint. It provided a copy of its calculations. Mrs E's representative said the offer hadn't been calculated in accordance with the redress methodology the investigator had set out.

As the complaint wasn't settled, it's been referred to me to decide. InterestMe said it may want to comment further. We allowed further time but we haven't received anything more.

What I've decided – and why

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 findings and his reasons for upholding the complaint.

I share his views which I've summarised above as to why the advice to transfer and invest via a DFM wasn't suitable for Mrs E. In brief, I don't think she had any need for a SIPP or a DFM. Her pension fund was modest which meant the higher costs of the new SIPP and the DFM were disproportionately high. The assessment of her attitude to risk as medium to higher wasn't credible. The illustrated returns for the new arrangement weren't likely to be achieved. There was no proper assessment of her other pension provision and switching exposed her to a degree of risk she didn't need to take. Mrs E's existing pension, which had lower charges, was suitable for her.

I also agree with what the investigator said about how InterestMe should redress Mrs E and put her back in the position she'd have been in but for the unsuitable advice. I've borne in mind that Strand Capital Ltd was also regulated and it might have some liability for Mrs E's losses. But Mrs E's complaint is about InterestMe and I'm only considering what liability InterestMe has for any losses Mrs E has suffered. The arrangement with Strand Capital Ltd as a DFM responsible for investing Mrs E's pension fund only came about because of InterestMe's recommendation that Mrs E switch her pension fund to a SIPP and invest using

a DFM. That advice was unsuitable. I think it's fair and reasonable that InterestMe should be responsible for any losses Mrs E has suffered as a result of acting on InterestMe's unsuitable advice.

I've looked at the calculations InterestMe undertook and I agree with Mrs E's representative that they aren't in line with the methodology the investigator suggested and which I've adopted below. I'd make the following (non exhaustive) points.

Essentially InterestMe should ascertain what Mrs E's pension fund would be worth now had it remained with Phoenix Life and compare that with the actual value of her SIPP. As I've said above, my understanding is that the bulk of the transfer value (£23,313.69) was invested with Strand Capital Limited and Mrs E's Strand Growth Portfolio only realised £95.60. Against that background I'm not sure where the current actual pension value of £20,662.47 used by InterestMe comes from. Or why a date of 5 May 2021 has been used – the calculation requires the value as at the date of the calculation (so an up to date, current value) to be used.

InterestMe has also used a benchmark – the FTSE Private Investors Total Return Index. We often use that sort of benchmark where it isn't possible to say precisely what the consumer would otherwise have done. But here the investigator said that Mrs E should've been advised to retain her existing personal pension plan with and which was suitably invested. He specified that the actual value of Mrs E's SIPP should be compared to what her pension fund would be worth now if it had remained with Phoenix Life. So InterestMe will need to ask Phoenix Life to carry out some calculations and provide a notional up to date value. Mrs E may need provide information and/or authority to InterestMe to contact Phoenix Life to enable InterestMe to carry out the correct calculations.

And, although not directly relevant in view of the benchmark not being as required anyway, InterestMe seems to have made an adjustment for costs. But, where we specify a benchmark, our usual approach is that the benchmark return net of charges should be used.. That's because the benchmark doesn't represent the actual return that would've been received, just a broad measure of potential loss. And adjusting the benchmark return for charges would complicate the calculation. We consider it fair that the return shouldn't be adjusted for charges.

The offer doesn't mention the costs of any advice Mrs E has to take so that she can transfer her pension fund to a more suitable pension arrangement. We wouldn't always make that sort of award. Compensation for financial loss puts the consumer in the financial position they'd be in if the advice had been suitable. But Mrs E, an inexperienced investor, remains in an unsuitable pension vehicle and I don't think it's unreasonable that she should be able to recover the costs of taking advice as to whether she should switch into a different type of pension arrangement and, if so, what would be suitable for her. I'd add however that such costs should be reasonable and restricted to what she should do about her SIPP which, as far as I'm aware, remains open.

Putting things right

In assessing what would be fair compensation, my aim is to put Mrs E as close as possible to the position she'd probably now be in if she'd been given suitable advice. I don't think she'd have switched to a SIPP with a DFM. I think she'd have retained her Phoenix Life personal pension and it would've remained invested in the same investment funds as immediately before the switch. I'm satisfied that what I've set out below is fair and reasonable given Mrs E's circumstances and objectives.

To compensate Mrs E fairly InterestMe Financial Planning Limited should:

- Compare the performance of Mrs E's investment with that of the benchmark shown below. If the *fair value* is greater than the *actual value*, there is a loss and compensation is payable. If the *actual value* is greater than the *fair value*, no compensation is payable.

If there's a loss, it should be paid into Mrs E's pension plan, to increase its value by the amount of the compensation and any interest. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension plan if it would conflict with any existing protection or allowance. If the compensation can't be paid into Mrs E's pension plan, it should be paid direct to her. But had it been possible to pay into the plan, it would've provided a taxable income. Therefore, the compensation should be reduced to *notionally* allow for any income tax that would otherwise have been paid.

The *notional* allowance should be calculated using Mrs E's actual or expected marginal rate of tax at her selected retirement age. For example, if Mrs E is likely to be a basic rate taxpayer at the selected retirement age, the reduction would equal the current basic rate of tax. However, if Mrs E would've been able to take a tax free lump sum, the reduction should be applied to 75% of the compensation.

In addition, Mrs E should be paid £250 for the trouble and upset caused by the unsuitable advice. InterestMe Financial Planning Limited should also cover the reasonable cost of any financial advice Mrs E requires in order to transfer her pension away from Wise SIPP to a more suitable arrangement.

Details of the calculation should be provided to Mrs E in a clear, simple format.

Income tax may be payable on any interest paid. If InterestMe Financial Planning Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs E how much it's taken off. And give Mrs E a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

investment name	status	Benchmark	from ("start date")	to ("end date")	additional interest
Wise SIPP	still exists	Phoenix Life plan	date of transfer	date of settlement	not applicable

Actual value

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

Fair value

This is what Mrs E's Phoenix Life plan would have been worth at the end date had it not been transferred to the Wise SIPP.

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

Any withdrawal, income or other distribution out of the SIPP 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 is a large number of regular payments, to keep calculations simpler, all those payments can be totalled and that figure deducted at the end instead of deducting periodically.

My final decision

I uphold Mrs E's complaint. InterestMe Financial Planning Limited must redress Mrs E as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E to accept or reject my decision before 27 September 2022.

Lesley Stead
Ombudsman