DRN-3650259

The complaint

Mr C says Ethos Financial Solutions (EFS) was responsible for poor advice about taking money from his personal pension. He says he's incurred incorrect tax, received mistaken payments and that EFS failed to properly weigh his available options for accessing funds to meet his objectives. He says it's caused him financial detriment.

What happened

Mr C joined a new employer in 2015. He met with an adviser from EFS (previously registered as ProAktive Financial Services Limited). It had been retained since 2013 to provide employees at the business with pensions advice.

Mr C joined his new employer's group personal pension with Standard Life. And he received advice in relation to his circumstances and objectives at the time. He'd recently re-mortgaged to fund a house extension to better the lives of his growing family. The ongoing project required further funds to complete and he already had significant credit card debts.

EFS recommended that he should access 25% tax-free cash (TFC) from an existing personal pension he had with Royal London. The transfer value achieved was around £77,000. It advised him to move the funds to a Nucleus Pension Account, which provided a draw-down facility. Mr C accepted EFS's recommendations.

Mr C met with EFS again in 2016. He asked for advice about raising money for further home improvements. It explained he could take further cash from his drawdown pot with Nucleus, but that it would be taxed. He said it explained the sum would be taxed at source through the pay as you earn (PAYE) system, with the remainder being paid into his bank account. Mr C accepted EFS's recommendation.

Unfortunately matters didn't proceed smoothly. In 2017 Mr C received an unexpected pension payment into his account. When he asked EFS about what had happened, an error was identified in the original paperwork it had sent his pension provider meaning it thought he required regular annual lump sum payments, rather than just the drawdown sum in 2016.

EFS says Mr C was told he could either keep the lump sum, setting out the tax implications of him doing so. Or he could return the funds and subject to verification by HM Revenue and Customs (HMRC), these would be placed back in his pension. Mr C says he opted to retain the money.

Further, the Government introduced changes to the Money Purchase Annual Allowance (MPAA) regime in 2017, which meant that anyone who had drawn benefits (not including TFC) from such a pension would be subject to a cap on tax relief on contributions to their pensions at £4,000. When EFS had advised Mr C about taking lump sum income from his draw-down plan in 2016, the MPAA had been £10,000.

In 2018 HMRC contacted Mr C about unpaid tax of around £8,000 on the pension payment he'd received in 2016. He says EFS told him HMRC had provided the wrong tax code, but that HMRC has confirmed it made no error. Mr C says at this point he took the benefits from his Standard Life pension following advice from EFS. This was to meet his unpaid tax demands. He says he was told he should do this without its involvement.

Mr C has several concerns about what happened to him from 2016 onwards. For example, he says that in 2016 EFS failed to provide any benefit and cost comparison for accessing capital, between his pension benefits and other options such as re-mortgaging. He says EFS had information about his employer and remuneration. It arranged the drawdown, paid the tax, and placed the remainder in his bank account. He'd assumed this had been done correctly. But this wasn't the case, as he found out in 2018 when he received a large tax demand from HMRC.

Mr C says that EFS's advice in 2017 was again lacking when he received a lump sum pension payment in error. He said the first he knew about it was when a large sum appeared in his bank account. He had no paperwork relating to it and so didn't know what the gross payment had been. And he says the advice it gave him about limits on his pension contributions had been incorrect.

Mr C says the advice EFS gave him in 2018 to access his Standard Life benefits in order to meet his tax liabilities, was also flawed. He says it simply continued the domino effect of poor advice leading to consequences which it hadn't identified for him.

EFS rejected Mr C's complaint. In its final response of 10 July 2020 it said its advice in 2016 had been against a backdrop of his difficulty in servicing his debts, including those related to the extension of his home. It said he was made aware of the tax implications of making further withdrawals from his Nucleus pension pot.

EFS noted the retrospective nature of certain pension tax regulations introduced by the Government in 2017, which it acknowledged had a detrimental effect on Mr C's position. It says these couldn't have been foreseen. The consultation to reduce the MPAA from £10,000 per year to £4,000 was only initiated in November 2016, subsequent to its advice in March 2016.

EFS noted that the issues experienced by Mr C in relation to the tax he paid on the 2016 withdrawal were outside its control. It was HMRC that would've informed his pension provider what tax code to use. And it was Nucleus which was responsible for ensuring it adhered to HMRC requirements.

EFS acknowledged the error in making a pension income payment in 2017. But it says that it advised Mr C of his options, which included paying the money back into his pension plan. After enquiring about the effect of Government proposals to reduce the MPAA, he decided to retain the funds.

Finally, EFS has said that it didn't provide Mr C with any advice in relation to his Standard Life pension. It simply outlined some options for him in respect of meeting the demands he'd received from HMRC for unpaid tax.

The Investigator didn't uphold Mr C's case. He thought that on balance EFS hadn't treated him unfairly. Mr C disagreed. In his last submission he told the Investigator:

"The point at which Ethos should have demonstrated the cost of taxable cash against remortgaging was [in 2016], when I had 2 years fixed rate remaining, and was considering whether to access taxable cash. They did not do this at this point."

"…Ethos state…HMRC gave them the incorrect tax code. When I asked HMRC…about the tax code…and whether my employer might have made an error that contributed…the HMRC response stated the tax code supplied was correct, and that there was no employer error."

"The key point here is that Ethos state that HMRC gave them the incorrect information, and HMRC state that they did not…You also state that Ethos should have noticed and raised the discrepancy between the payments in 2015/16 and 2016/17 payments. I agree with you they made an error here."

"…You said Ethos explained there would be restrictions on payments into pensions caused by this mistake [the lump sum pension income payment in 2017]. You will see from the emails that I specifically asked about this point when making this decision, and their advisor stated that there would not be…It did later turn out that they were wrong…as the Chancellor changed the rules retrospectively…I based my decision upon their advice."

"You now understand that I took the benefits of my Standard Life pension following advice from Ethos, which you will have seen as one of the options they suggested in an email. I chose this option in a face to face meeting with their advisor, who said I should then do this personally...I was surprised by this. I have also told you that I found it quite straightforward to achieve, so I was therefore grateful for this advice, as it (presumably) saved me their fee…"

As both parties couldn't agree with the Investigator's findings and conclusions, Mr C's complaint was passed to me to review afresh and to provide a decision. I issued my provisional decision earlier this month. Both parties have provided additional submissions which I've considered carefully in arriving at this final decision.

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.

Where there's conflicting information about the events complained about and gaps in what we know, my role is to weigh the evidence we do have and to decide, on the balance of probabilities, what's most likely to have happened.

I've not provided a detailed response to all the points raised in this case. That's deliberate; ours is an informal service for resolving disputes between financial businesses and their customers. While I've taken into account all submissions, I've concentrated my findings on what I think is relevant and at the heart of this complaint.

I'm partially upholding Mr C's complaint – but not to the extent he'd like. I'll explain why.

The first thing I've considered is the extensive regulation around transactions like those performed by EFS for Mr C. The FCA Handbook contains eleven Principles for businesses, which it says are fundamental obligations firms must adhere to (PRIN 1.1.2 G in the FCA Handbook). These include:

- Principle 2, which requires a firm to conduct its business with due skill, care and diligence.
- Principle 3, which requires a firm to take reasonable care to organise and control its affairs responsibly and effectively, with adequate risk management systems.
- Principle 6, which requires a firm to pay due regard to the interests of its customers.
- Principle 7, which requires a firm to pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.

So, the Principles are relevant and form part of the regulatory framework that existed at the relevant time. They must always be complied with by regulated firms like EFS. As such, I need to have regard to them in deciding Mr C's complaint.

When EFS met with Mr C in 2015 it sought to understand his circumstances, objectives and attitude to risk. The fact-find from August 2015 confirms that Mr C was married with two children. Both he and his wife worked. Their joint net income was around £2,700 a month and they were said to have household running costs of around £1,700. This suggests some headroom in the budget which hasn't been adequately explored.

Mr and Mrs C's home was said to be worth around £180,000. They had an outstanding mortgage of around £100,000 which they had extended in the previous year and had put in place a four-year fixed arrangement. Although they had savings of about £3,000, they also had credit card and car finance debt of around £25,000.

EFS recorded that Mr C wanted to take TFC from his pension in order to reduce his debts and to continue with his home improvements.

There's no dispute between the parties that EFS recommended that Mr C should take TFC from his Royal London personal pension and establish a draw-down pension with Nucleus as the provider. I would've expected to have seen some analysis of what other options were considered, together with the costs and benefits of each. Similarly in respect of the investment options, pension providers and pension vehicles considered.

However, EFS has been unable to supply a copy of the suitability report I would've expected to accompany its recommendations to Mr C from 2015. It says it hasn't been able to retrieve it due to system issues. This is a failing on its part and complicates consideration of this case.

EFS says conversations with employees of the firm it was providing services for are always client driven. It would've considered Mr C's options but taking on a larger mortgage would've been rejected because of the penalties and costs associated with moving away from his fixed deal and because he'd wanted to reduce his debts.

EFS said an annuity was considered but discounted because it didn't offer him the flexibility required. And moving his Royal London funds into his new Standard Life pension to reduce cost was a possibility, but this didn't fit with his objectives.

Mr C accepted EFS's advice and he took TFC of around £19,000 from his pension. When responding to the Investigator about the events in 2015, Mr C said:

"As I have previously stated, I had no issue with accessing the tax-free cash. Ethos suggested I transfer my previous pension into a drawdown so I could access tax-free cash, and I chose to do this. They did this and transferred the money with no issue. You are correct that I had three years left on a fixed rate mortgage at the time, and didn't want to service more debt at this time."

As Mr C appears content with what happened in 2015, I see no reason to explore this particular matter further.

Turning to Mr C's pension income withdrawal in 2016. Mr C confirmed he discussed his finances with EFS in March that year. He says they discussed re-mortgaging but as he'd changed mortgage in 2014 he didn't know if that would've been advisable. So the conversation focussed on his draw-down pension pot.

EFS said it conducted regular pension surgeries at the offices of Mr C's employer. It said Mr C sometimes didn't book a time slot to see its adviser, often popping his head around the door for a 'have you got a minute' type chat. It said a discussion about his re-mortgaging always happened but it really wasn't an option until the fixed rate had finished because of the penalties that would be incurred, and due to the additional monthly cost of borrowing. It said Mr C wanted to generate unencumbered capital without repayment.

One of Mr C's arguments about the transaction in March 2016 was that in securing more capital funds, EFS failed to provide him with any analysis about the costs and benefits of taking more funds from his pension pot as opposed to re-mortgaging.

In responding to my provisional decision Mr C said:

"This is at the heart of the matter. At this point I did not know if remortgaging would be advisable. That is where I needed the right advice. If EFS had demonstrated this in 2016, then I believe I would have been shown that the penalties for remortgaging would have been much less than the tax that I would pay on the pension withdrawal."

"I also believe that if EFS had demonstrated the principle that I could borrow against a pension instead of simply withdrawing it, I would also have been better advised."

There's some merit in Mr C's arguments. EFS can't produce paperwork which shows the substance of its interaction with him in 2016. For example, there's no summary of his then objectives or circumstances. There's no document capturing any information or recommendations it gave him, or the rationale for such. There's nothing to understand the status of the transaction. This is a real weakness in its approach in this case.

There's no way of knowing with certainty today what would've happened in 2016 had EFS provided him with the information I'd have expected to see about the benefits and costs of his options when it advised him about the first pension income drawdown that he took from his Nucleus pension in March 2016.

Mr C says had EFS demonstrated re-mortgaging or taking a loan against his pension was a better option he'd have gone that route. But it's not clear to me that such options would've delivered a clear case for what he now believes in hindsight. The different options had different repayment, interest, fees and tax implications. It's also the case that to extricate himself from his fixed term mortgage he'd have incurred penalties.

I have to decide on balance in light of the evidence available to me. I think it's more likely than not that had there been no failings in EFS's approach Mr C wouldn't have changed his mind about accessing his pension. I say this because from what I've seen he needed to access capital. He wanted to pay for home improvements to support his family. And he wanted to pay down credit cards and finance arrangements, not take on more debt.

Mr C says EFS told him that any pension benefits taken from his Nucleus pot would be taxable. But he says it told him it would handle the taxation at source like PAYE with the balance placed into his bank account. Mr C says he was pleased EFS had dealt with the taxation and he hadn't questioned whether this had been done correctly.

EFS said Mr C continued to have problems covering his debts, for example in relation to his property extension and credit cards. The only monies left in his Nucleus pension were taxable income withdrawals which it informed him should he access would incur a higher rate income tax due to his employment earnings.

Another argument Mr C makes is in relation to the tax liability he incurred in 2016. Following discussions with EFS, he decided to take £27,000 from his draw-down facility. He thought EFS had arranged the payment, for any tax to be paid at source and for the balance to be paid into his bank account. He'd assumed everything had worked correctly. But in 2018 he received a demand from HMRC for around £8,000 in under-paid tax. He considered EFS had been responsible for what had happened.

There's a difference between the parties about what was said in 2016. And EFS's poor approach to recording the advice it was giving Mr C hinders matters. There is a note on file dated 14 March which records a meeting held between the parties a few days earlier. It records:

"Met with [Mr C] at [his employers office]. At the meeting [Mr C] highlighted the problem he currently has with covering debts involving extension of his property and various other credit card debts valued at circa £15,000 and was asking for my guidance with regard to drawing more money from his pension however the only monies left in the pension scheme is income which is liable to tax charge and as [Mr C] is a higher rate tax payer he will need to withdraw circa…£27,000 in order to net £15,000 into his bank account."

"He was made aware of the tax charge however after weighing up the downsides to withdrawing the monies from his pension and taking into account he already has a final salary scheme in situ which he will be able to draw at retirement at circa £11,000 per year, [Mr C] was more comfortable in withdrawing the monies from his pension, suffering the tax charge and potentially using the monthly cash release to top up his pension…"

"Therefore from March 2016 Mr C wishes to draw out £27,000 gross from his draw-down plan set up in 2015."

I tend to give more weight to evidence which is contemporaneous with events, over testimony which is provided by parties some years later. Inevitably memories can and do fade. I think it's more likely than not EFS's note is a reasonable summary of the discussions which took place at the time.

I think Mr C would've been aware that in order to generate £15,000 capital – perhaps to pay down his credit card debts – he would need to access £27,000 from his Nucleus pension. I also think it's more likely than not he received a letter from Nucleus dated 6 April 2016 sent to his home address which informed him about his withdrawal. It showed only around £3,300 had been deducted (a marginal rate of tax of 12%), somewhat less than he should've been expecting at the time.

There's been some debate in this case about who was responsible for Mr C under-paying tax in 2015-16 as a result of this transaction. It's clear that HMRC informed Nucleus about the tax code it should use in making the payment. It was required to follow that instruction.

The tax code notified by HMRC to Nucleus was 1060L. This meant Mr C could earn £10,600 before incurring tax on his pension income payment. But this appears to have stood in isolation from consideration of his employment earnings. In broad terms, he was benefitting from double the normal tax allowance. A more wholistic approach by the tax office to his situation would've resulted in a more appropriate tax code being issued to Nucleus.

As the Investigator noted, in responding to an enquiry from Mr C about what had happened with his tax, EFS told him:

"We have had a few of these recently causing problems. It's a fairly new system and so there have been a few miscalculated tax bills, I appreciate it doesn't help you."

The Investigator asked EFS to explain what it had meant. It told him:

"…when [it had] referred to a new system, [it was] talking about pensions freedoms, and that HMRC and the industry were getting to grips with the tax charges being made for any lump sum withdrawals rather than a new software being used."

I accept Mr C isn't a tax expert, but I think it's reasonable to expect that having received around £8,000 more than had been discussed with EFS, he'd have been given cause to seek assurance that the transaction was correct. Everyone is ultimately responsible for their own tax affairs. I don't find EFS responsible for this matter.

The next problem to arise with Mr C's pension occurred in March 2017. Nucleus made another gross payment of £27,000 into his account. The fault here was with EFS, which had failed to complete the paperwork properly in 2016 to show that the payment then was a one-off. Instead its instruction had the effect of setting up an annual payment.

Mr C took the matter up with EFS as soon as he became aware of what had happened. It told him he had two options: (i) keep the money. But being aware it would be subject to 40% tax. And that he'd only be able to receive tax relief on pension contributions up to £4,000 from the tax year 2017/18; or (ii) return the payment to Nucleus and, subject to HMRC authority, pay this back into his pension.

In responding to the Investigator's findings Mr C said:

"You have told me that Ethos explained that there would be restrictions on payments into pensions caused by this mistake. You will see from the emails that I specifically asked about this point when making this decision, and their advisor stated that there would not be. I then replied that I would therefore keep it."

"It did later turn out that they were wrong about this advice, as the Chancellor changed the rules retrospectively. Nonetheless, I based my decision upon their advice."

In responding to my provisional decision Mr C explained the impact on his tax liability of making further pension contributions:

"On my current workplace pension the contributions are above £4000 annually. I therefore now have a 40% tax liability to pay on the contributions above £4000. My employer will not allow a reduction in pension contributions, only a complete stopping of all contributions. Typically this tax bill is around £500 annually."

"My employer offers a salary sacrifice scheme, which enables my annual bonus (nearly £6000 in 2022) to be paid as a pension contribution. This means that the bonus is not taxed and the employer NI that would be paid is added to the bonus. I had always historically elected to use this option to boost my pension. I now cannot do this as it means a large tax bill as a result. I therefore can only take the bonus as cash and pay 40% tax and NI on it. I am therefore in 2022 alone over £3000 worse off because of this."

Firstly, I thought it might be helpful to set out a few facts about the MPAA regime. This was introduced by the Taxation of Pensions Act 2014, on 6 April 2015. It was designed to discourage individuals who sought to benefit from the flexible pension rules to avoid tax and potentially National Insurance Contributions by introducing a lower annual allowance for defined contribution/ money purchase contributions where flexibility has been accessed.

As Mr C exercised his right to take benefits from his pension in March 2016 that triggered the MPAA regulations for him. The annual allowance was £10,000 for tax years 2015/16 and 2016/17. EFS says that the limit on pension contributions didn't have any effect on him when it gave advice about the first pension income payment because his combined employer and employee contributions were well within it.

In November 2016 the Government consulted on changing the limit to £4,000. Although legislation was delayed until November 2017, the measure was given retrospective effect from April 2017 – so for the tax year from 2017/18 onwards. Those who had triggered the MPAA couldn't use carry forward to increase the MPAA limit in any tax year.

So, I'd observe payments made from Mr C's pension in March 2017 would've had no bearing on what contributions he could've made into his pension in future. This was determined by MPAA regulations. And given he'd already triggered the application of these in 2016 when he took his first pension income payment – that ship had sailed.

While, like many others, Mr C's ability to make contributions to his pension were curtailed by changes to the MPAA from 2017/18, this wasn't something I can reasonably say EFS should've been aware of prior to Government consulting on the change in November 2016.

Considering the exchanges between the parties in April 2017 about the mistaken pension income payment, I think these can be read in different ways. After being told about his options, Mr C asks EFS at what point the new MPAA limit of £4,000 per annum kicks in. He asks, that as the incorrect payment had been made in March 2017, was that before the new rules applied? EFS responded that the new MPAA would be effective from 2017/18.

Mr C then probed further, asking that as the payment was made in March 2017, and if he didn't make further withdrawals, would he still be at the £10,000 limit (for the year 2016/17). EFS simply responded that this was correct. Mr C then said he would therefore keep the payment.

There's a problem with these exchanges. I can't see a connection between the MPAA questions Mr C was posing and the decision he had to take about whether or not to retain the pension income payment. That's because his opportunity to contribute any payments into his pension in 2016/17 (when the limit was £10,000) had already passed at this point. And any 'unused' allowance couldn't be rolled forward into the next financial year.

I think the way EFS had initially set out the options available to Mr C in relation to the 2017 pension payment was clear. But the questions he subsequently posed seem to indicate some confusion on his part. The onus here was on EFS to have got to the bottom of Mr C's enquiries more effectively. And to have provided clear answers. I'm not satisfied it did so.

Trying to unpick the potential impact of EFS's failings here is difficult. It had initially provided clear advice about what Mr C's options were and the effect of these. Had it made clearer to him what was possible in terms of making future pension contributions, would he have changed his decision to take the payment?

On balance, I've not seen sufficient evidence he would've. That's because by April 2017, the taking of benefits from his pension for the 2016/17 tax-year, was somewhat unconnected with his MPAA considerations for that period and beyond.

In February 2018 Mr C approached EFS about the situation he found himself in. As well as asking about what had happened in relation to the pension contributions he could make which would benefit from tax relief, he touched on the tax liability that had materialised from the payment made to him in 2016.

Mr C told this Service EFS said he should access funds from his Standard Life personal pension to cover the costs he faced. He says it told him to make the arrangements himself. He did this and says it continued the domino effect of poor advice leading to consequences he wasn't told about, including an impact on his tax and benefit position.

EFS has said it explained a range of options to Mr C. It says it told him he could take the benefits from his Standard Life pension himself or it could handle it for him. It said this was a discussion in an ad-hoc meeting. Unfortunately, the pattern from EFS of poorly documented interactions with Mr C was repeated and no file notes were made.

At least there are some brief emails between the parties about this matter. On 16 February 2018 Mr C contacted EFS and said:

"You have advised that there is not enough left in the draw-down pension to cover this [the HMRC tax demand related to his 2016 drawdown payment], and advised that I should shut down and draw my Standard Life pension in order to gain access to funds to pay this bill. This should cover it but my ability to replace pension funds is now compromised."

EFS responded in the following terms:

"As stated you have a number of options:

1. Pay the tax bill from any savings

2. Come to an agreement with HMRC to pay it back monthly

3. Take a withdrawal from your other funds Nucleus or Standard Life"

What I've seen doesn't constitute a recommendation from EFS. It was providing options about what he could do and it seems he selected a particular course of action. Mr C has told us he was grateful for the input from EFS. And it might be reasonable to assume that by this time he'd have been much more alert to the potential tax consequences of what he decided to do.

There are various tax consequences of the actions Mr C decided to take with his Nucleus pension. I think it's more likely than not EFS tried to make him aware of these, for example in relation to the tax that he should expect to be applied to his 2016 pension income payment. I think it also tried to help him understand the position with the MPAA regime, but I've found weaknesses in its approach in 2017 to following up with him to make sure he understood the position properly.

While EFS accepts responsibility for Mr C receiving a mistaken pension income payment in March 2017, it did set out his options about what he could do, this included returning the payment to his pension. He chose not to go that route.

And while Mr C says EFS gave him advice to take his Standard Life pension benefits in 2018, there's no evidence it gave him such a recommendation. Instead it set out some options he had for meeting a tax demand from HMRC, one of which was accessing pension benefits.

It's not clear to me that Mr C has or is facing a higher tax liability than he should be, given the decisions he's taken about his pensions. If he thinks otherwise then he needs to ask his accountant to investigate or contact HMRC with his concerns.

Overall, it's not clear whether Mr C has lost or gained financially as a result of how he accessed his pension benefits. It's clear that by drawing on his pension savings he may've lost out on some investment returns. His ability to benefit from tax relief on any pension contributions he made after 2015/16 has been limited. He has less provision for his retirement. And there's been an impact on his tax and benefit position.

On the other hand, he's had the benefit of capital earlier than he might've – and the value of those funds when he took them would've been worth more than the same value at a future date. He's used the money to invest in his home, which presumably is worth more now than before the works were carried out. And although he might not access the equity in the sortrun, that wealth will be available to him or his family in the future. He's saved money on the interest payments he was making on any debt he paid down. He also had the option of investing any available funds in an Individual Savings Account (ISA), which is tax efficient when withdrawing funds.

I'm also mindful the decisions Mr C was taking weren't purely financial. For example, it's difficult to put a value on providing a better home for his family and the use they've had from that.

I'm not satisfied that there's sufficient evidence or persuasive argument that had EFS got everything right in its service to Mr C that he'd have taken a different course of action. Or that if he had, he'd have been better off financially. For all these reasons I'm not upholding Mr C's main complaint.

But I've some concerns about how EFS conducted its business with Mr C. I've highlighted significant gaps in the documentation I'd have expected it to have been able to produce. In particular in relation to the 2015 and 2016 transactions, and more generally. I wanted to see the research and rationale for the advice and recommendations it provided him, but this was lacking. I'm unclear about the status of the interactions EFS had with Mr C. And I think he was as well.

I note EFS wasn't as fulsome as it could've been in its final response letter to Mr C in 2020 to acknowledge its mistake in completing the paperwork it sent to his pension provider in 2016 to access his pension income. It had accepted internally it had been responsible for the consequential error in 2017 when he received a further income payment from Nucleus.

I'm also not persuaded that in some of its interactions with Mr C that it was listening properly to him. Had it done so I think it would've provided him with clearer explanations when it seems from the audit trail he was confused about certain aspects of what was going on. In particular around the MPAA regime in 2017.

Putting things right

When I'm considering a complaint like Mr C's I think about whether it's fair to award compensation for distress and inconvenience. This isn't intended to fine or punish a business – which is the job of the regulator. But when something's gone wrong, recognition of the emotional and practical impact can make a real difference.

We're all inconvenienced at times in our day-to-day lives – and in our dealings with other people, businesses and organisations. When thinking about compensation, I need to decide that the impact of EFS's actions was greater than just a minor inconvenience or upset. It's clear to me that this was the case here.

Given the range of failings I've identified, I think it's understandable that Mr C's confidence in the service EFS provided was undermined. I recognise he will be asking himself about whether he has taken the right decisions, led by his engagement with EFS. And whether he could've been better off had he taken a different route.

As I've set out, some of these matters are necessarily uncertain and difficult to quantify. But it's clear they've given rise to concerns Mr C has spent some time trying to get to the bottom of. In the circumstances I've set out, it's appropriate for Ethos Financial Solutions to pay Mr C an award for distress and inconvenience of £500.

My final decision

For the reasons I've set out, I'm partially upholding Mr C's complaint. I require Ethos Financial Solutions to put matters right in the way I've outlined.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 16 September 2022.
Kevin Williamson
Ombudsman