

The complaint

Mr A complains that the advice he received from INTERESTME FINANCIAL PLANNING LIMITED trading as Wise Pension Group (Wise) to transfer his three existing personal pensions with other providers into the Wise Self-Invested Personal Pension (SIPP) was negligent. He also feels that the investment advice he received was inappropriate. And that he had to pay unnecessary fees throughout the switching and investment process.

Mr A wants to be put back to the financial position he should've been had he not followed the advice from Wise.

Mr A is represented in his complaint by a Claims Management Company (CMC). But I'll only refer to him in my decision.

What happened

Wise haven't provided this service with their business file on this complaint.

Mr A said Wise approached him in 2016 and offered to review his pensions.

After Mr A discussed his pensions with Wise, they produced a suitability report dated 26 October 2016. This recorded the following:

- At the time of the advice, Mr A was 48. He was married with two dependent children.
- He was employed and had earnings of around £2,000 each month.
- He had three separate personal pensions with three different providers.
- Mr A wanted to retire by age 65. He wanted to be mortgage-free. He felt he would need £1,000 each month to live comfortably in retirement.
- The report said Mr A had other sources of income in retirement. But said that he would need to have a regular pension in retirement.
- Mr A felt that he would need to have a pension income guaranteed for life.
- Mr A's attitude to risk was recorded as relatively cautious. He said his risk profile was lower to medium.

The adviser recommended that Mr A transferred his three existing personal pensions to the Wise SIPP. He recommended he invested in the Defensive Portfolio managed by another provider.

In the suitability report, the adviser acknowledged that Mr A's existing pension plans had produced positive returns, but said that he would benefit from an investment manager who would manage his pension fund daily. And who had the ability to react to market events and de-risk his pension when appropriate. He also said that the recommended investment

manager would be able to provide Mr A with additional growth by potentially outperforming the market when it underperformed. The adviser also recommended that Mr A should make monthly contributions of £77.57 each month.

The suitability report gave the following reasons that the adviser had recommended that Mr A switched his three pension plans to the Wise SIPP, and follow a new investment strategy:

- Mr A would have greater investment flexibility and greater flexibility when he eventually took his retirement benefits.
- He would have a wider fund choice.
- The recommended investment strategy offered greater potential returns which justified the penalty on transfer of the one existing plan which had a transfer penalty.
- Mr A wouldn't lose any guarantees within his existing pension plans.

The suitability report listed the charges for the adviser's recommendation as follows:

- £114 each year pension wrapper charge,
- 0.84% Investment management charge
- 0.42% dealing charge

And stated that the annual charges Mr A was currently paying for his existing plans were 2.3%, 1.0% and 1.9% respectively.

The suitability report also said that the adviser would charge a 3% initial fee for the advice and implementation of the recommendation. This was estimated as £1,874. There was also an ongoing advisory service charge of 0.75% each year. This was estimated as £454 in the first year.

Mr A completed an application form to open the recommended Wise SIPP on 8 November 2016. The SIPP was set up shortly afterwards.

I understand that the SIPP was transferred to another provider in early 2020.

Mr A complained to Wise through a CMC in late 2020. From what I've seen, Wise didn't engage with the complaint, so no final response letter was issued. Mr A brought his complaint to this service in January 2021.

Our investigator felt that the complaint should be upheld. She felt that the advice Wise gave to Mr A to transfer his three existing personal pensions wasn't in his best interests. She considered that Wise should put Mr A back as close as possible to the position he would be in now if he'd been given suitable advice in 2016. And that they should pay him £300 for the distress the unsuitable advice had caused.

I understand that Wise didn't respond to our investigator. So the complaint was passed to me for a review.

I issued my provisional decision on 18 August 2022. It said:

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 intend to uphold it. I agree with our investigator that the 2016 advice Wise gave to Mr A was unsuitable. But I've made a slightly different recommendation about how to put things right. This is because I consider that Mr A should also be compensated for the investment return he would've got on any additional pension funds he would've transferred to his current provider in 2020. I'll explain the reasons for my decision.

As Wise haven't provided their business file, or responded to our investigator's view, my decision is based on the available evidence.

In 2009 the Financial Services Authority (now the FCA) published a report and checklist for pension switching that is still applicable. That checklist identified four main areas where consumers had lost out:

- They had been switched to a pension that is more expensive than their existing one(s) or a stakeholder pension (because of exit penalties and/or initial costs and ongoing costs) without good reason*
- They had lost benefits in the pension switch without good reason. This could include the loss of ongoing contributions from an employer, a guaranteed annuity rate or the right to take benefits at an earlier than normal retirement age*
- They had switched into a pension that does not match their recorded attitude to risk and personal circumstances*
- They had switched into a pension where there is a need for ongoing investment reviews but this was not explained, offered or put in place.*

I've considered these areas, where relevant, in my decision below.

I considered Mr A's circumstances at the time of the advice. He didn't actively seek out advice on moving his pensions. Instead, he was approached by Wise. So, until that approach, I consider that Mr A was satisfied with his three existing pension plans and wasn't actively seeking advice for them.

I went on to consider whether the adviser should have put Mr A at ease about his existing pension arrangements instead of recommending the switch. I would expect to see reasonable potential for Mr A to be better off to make the advice suitable.

Wise compared the existing pensions with their recommended SIPP. In like-for-like projections, the suitability report said that the total expected projected values at age 65 of Mr A's existing pensions was £97,021. And the total projected value at age 65 of the recommended SIPP was £96,500. So the like-for-like projections indicated that the recommendation would lead to a lower total projected value.

The report also gave much higher projected values at age 65 for the recommended SIPP based on "its 5 year annualised performance less all the charges taken, including my advice fees". The report also stated that the recommended investment provider had: "reported returns over the past 5 years of over 9% (as at September 2016)". And elsewhere in the report, it said that the recommended investment portfolio had a five-year annualised performance of 9.49%. But then stated that as the investment provider had only been running the portfolio for one year, the five-year performance had been based produced by being: "back-tested on a simulated basis". The total projected value on this basis was £206,400. The report stated that this projection had been based on an annualised

performance figure of 10.18%.

The report also noted that the recommended SIPP wasn't cheaper than Mr A's existing providers.

Based on the limited information available to me, I'm not persuaded that the adviser demonstrated that there was reasonable potential for Mr A to be better off. I say this because the like-for-like projections showed that it was likely that Mr A would be slightly worse off at age 65. And the report also indicated that the recommended option wasn't cheaper than his existing arrangements.

I acknowledge that the report gave much higher projected values based on the annualised performance of the recommended portfolio. But I don't think the report was completely clear that there was only one year of actual performance history to base the projections on. And I don't consider that it was fair or reasonable to base a long-term projection on a single year of actual fund performance.

Overall, I don't consider that the projections fairly demonstrated that Mr A would be better off. Therefore, in this regard, I don't consider that the advice was suitable.

As noted above, the regulator outlined what should be considered when advising on a pension switch. They said that if additional costs were involved with the advice to switch, or if the client ended up paying for services they were unlikely to use, this is likely to indicate that the advice was unsuitable.

I've not seen any evidence that Mr A was in need of regular ongoing advice. Therefore I'm not persuaded that the additional ongoing charges would've provided him with a better outcome.

Wise gave reasons for making the recommendation in the suitability report. These are listed in the "Background" section above. Although these reasons might all be correct, it was the adviser's responsibility to give Mr A suitable advice. And even though the recommended SIPP would provide him with the opportunity to drawdown his retirement benefits, which his existing options didn't, Mr A was around 17 years away from his retirement age, and around seven years away from being allowed to withdraw money from his pension. I'm not persuaded that there was any need to make the switch at the time of the advice in order to have a drawdown option so many years later. Mr A could've waited until he was approaching retirement age. He could've still switched at that point, when he would've known exactly what he wanted.

The regulator also said that if a consumer had switched into a pension that didn't match their recorded attitude to risk and personal circumstances, this would likely indicate that the advice was unsuitable.

Mr A said that his adviser recommended that he invest in wholly inappropriate assets, which were unsuitable for a person of his circumstances. He said that Wise had failed in their duty of care to protect his best interests. He said that he'd lost capital and the benefit of growth that his original pension plans would've provided him with.

I considered whether the recommended investment was suitable for Mr A at the time it was recommended. Mr A's attitude to risk was recorded as relatively cautious. He said his risk profile was lower to medium.

I've seen the 2016 factsheet about the recommended investment. It states that the risk level associated with the investment was 3 out of 7, so just at the lower end of the risk scale. I've

not seen any detail on how the adviser assessed Mr A's attitude to risk, so can't comment on this. On the face of it, the recommended investment appears to meet Mr A's recorded attitude to risk.

But, from what I've seen, I'm not persuaded that Mr A needed access to the additional funds the recommended investment gave him. I'm also not persuaded that Mr A needed access to a Discretionary Fund Manager (DFM). His existing schemes offered access to a wide range of funds already. And Mr A wasn't an experienced or knowledgeable investor, so he had no reason to look for specialist or sophisticated investments. I'm also not persuaded that the existing fund selection was fully explored before the adviser recommended the transfer. Mr A was also described in the suitability report as a cautious investor. So I don't consider that the added costs he would incur to access more specialist and sophisticated investment services would be worthwhile.

I also note that although the suitability report stated that Mr A had other sources of income in retirement, there's no evidence that the adviser fully explored what these sources were and whether they would provide Mr A enough income in retirement to meet his needs and objectives. From what I've seen, Mr A's three existing pensions were his only pension provision, so he had little to no capacity for loss with his retirement savings. I've also seen no evidence that Mr A had any significant savings that could form part of his retirement provision. So Mr A would have nothing to fall back on if the recommended SIPP failed to perform well.

Overall, I'm satisfied that the advice to transfer Mr A's existing pensions to the Wise SIPP was unsuitable. I also consider that the investment advice Mr A received was inappropriate. And that the advice required him to pay unnecessary fees throughout the switching and investment process. Therefore I intend to uphold the complaint. I also consider that the unsuitable advice, and the impact it has had on Mr A's retirement planning, has caused him distress. Therefore I consider that Wise should also pay Mr A £300 compensation for the distress the unsuitable advice caused.

Response to my provisional decision

Mr A didn't reply to my provisional decision.

Wise said they weren't aware of the original decision. And that they hadn't received it. Our investigator told Wise that her original assessment had been sent to them along with a chaser email. She said she was satisfied they had been sent to the correct email address. And that as we'd never received a response, the complaint had been referred to me for a final decision. She told Wise that as I'd issued my provisional decision, they needed to let us know by 15 September 2022 if there were any final points they'd like to make.

Wise didn't respond to my provisional 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.

No new information has come to light to change my opinion. So I remain of the view I set out in my provisional decision.

Putting things right

Fair compensation

My aim is that Mr A should be put as closely as possible into the position he would probably now be in if he had been given suitable advice.

I take the view that Mr A would've remained with his previous providers, however I cannot be certain that values will be obtainable for what the previous policies would've been worth. Or what his current I also cannot be certain that it will be possible to obtain the investment performance from Mr A's current provider. This is needed so that any loss assessed up to the date most of the SIPP funds were transferred to Mr A's current provider can be rolled forward to the date of any final decision. I am satisfied what I have set out below is fair and reasonable, taking this into account and given Mr A's circumstances and objectives when he invested.

What must Wise do?

To compensate Mr A fairly, Wise must:

- Compare the performance of Mr A's investment with the notional value if it had remained with the previous providers. If the actual value is greater than the notional value, no compensation is payable. If the notional value is greater than the actual value, there is a loss and compensation is payable.
- I understand that Mr A transferred most of his investment out of the Wise SIPP to another provider in 2020. If there is a loss, the compensation calculated above should adjusted to allow for the investment performance Mr A actually achieved with his current provider between the date most of the Wise SIPP funds were transferred to Mr A's current provider and the date of any final decision.
- Wise should add interest as set out below.
- Wise should pay into Mr A's pension plan to increase its value by the total amount of the compensation and any interest. The amount paid should allow for the effect of charges and any available tax relief. Compensation should not be paid into the pension plan if it would conflict with any existing protection or allowance.
- I understand that an illiquid asset remains invested in Mr A's Wise SIPP. Unless the above comparison shows no compensation is payable, the current value of this remaining investment should be offset against the compensation to be paid, and, with Mr A's permission, the SIPP can then be fully closed.
- If Wise is unable to pay the total amount into Mr A's pension plan, it should pay that amount direct to him. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore the total amount should be reduced to notionally allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount – it isn't a payment of tax to HMRC, so Mr A won't be able to reclaim any of the reduction after compensation is paid.
- The notional allowance should be calculated using Mr A's actual or expected marginal rate of tax at his selected retirement age.
- For example, as Mr A 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 Mr A would have been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation.

- If the adviser's fees were paid independently of the pension transfers, and not taken from the transferred funds, Wise must also repay those fees, together with simple interest at 8% a year, from the date the fees were paid to the date of settlement. If the above comparison shows that no compensation is payable, the difference between the actual value and the notional value can be offset against the fees with interest.
- In addition, Wise must pay Mr A £300 for the distress caused by the negligent advice and the impact on his retirement planning.
- Provide the details of the calculation to Mr A in a clear, simple format.

Income tax may be payable on any interest paid. If Wise deducts income tax from the interest it should tell Mr A how much has been taken off. Wise should give Mr A a tax deduction certificate in respect of interest if Mr A asks for one, so he can reclaim the tax on interest from HM Revenue & Customs if appropriate.

Portfolio name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
SIPP	No longer in force*	Notional value from previous providers	Date of investment	Date most of SIPP funds were transferred to current provider	8% simple per year from my final decision to settlement (if not settled within 28 days of the business receiving the complainant's acceptance)

*Although I understand the SIPP still is in force due to a small amount of illiquid assets remaining, I've considered it to be no longer in force for the purposes of this assessment.

Actual value

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

Notional Value

This is the value of Mr A's investment had it remained with the previous provider until the end date. Wise should request that the previous providers calculate this value.

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

Any withdrawal from the SIPP should be deducted from the *notional value* calculation at the point it was actually paid so it ceases to accrue any return in the calculation from that point on. If there are a large number of regular payments, to keep calculations simpler, I'll accept the total of those payments being deducted at the end to determine the *notional value* instead of deducting periodically.

If the previous providers are unable to calculate a notional value, Wise will need to determine a fair value for Mr A's investment instead, using this benchmark: FTSE UK Private Investors Income Total Return Index. The adjustments above also apply to the calculation of a fair value using the benchmark, which is then used instead of the notional value in the calculation of compensation.

Why is this remedy suitable?

I've decided on this method of compensation because:

- Mr A wanted Capital growth and was willing to accept some investment risk.
- If the previous providers, or the current provider, are unable to calculate a notional value, then I consider the measure below is appropriate.
- The FTSE UK Private Investors Income total return index (prior to 1 March 2017, the FTSE WMA Stock Market Income total return index) is made up of a range of indices with different asset classes, mainly UK equities and government bonds. It's a fair measure for someone who was prepared to take some risk to get a higher return.

Although it is called income index, the mix and diversification provided within the index is close enough to allow me to use it as a reasonable measure of comparison given Mr A's circumstances and risk attitude.

My final decision

For the reasons given above, I uphold this complaint. I require INTERESTME FINANCIAL PLANNING LIMITED trading as Wise Pension Group to pay the amount calculated as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 13 October 2022.

Jo Occleshaw
Ombudsman