

The complaint

Mr and Mrs S have complained about the suitability of the advice they were given in December 2021, to switch their portfolio over to Sense Network Limited's management and the investment switches they were recommended. They have also complained that the advisor fees were not made clear to them.

Mr and Mrs S were advised by Tim Gilbert Wealth Management Ltd. TGWML is an appointed representative of Sense Network Limited which is responsible for answering the complaint, so, for simplicity I'll just refer to 'Sense' in the decision.

What happened

Mr and Mrs S say that in September 2021, they agreed to move their existing portfolios over to the management of their previous adviser's new firm. This was within the Sense Network.

In December 2021, they were advised based on information that was collated during the previous couple of months. The recommendation was that they maintain their SIPP wrapper and the platform they held it on, but that they switch the underlying investments. The portfolio was to be held on a discretionary fund management basis (DFM).

In September 2022, Mr and Mrs S complained to Sense. They weren't happy with the suitability of the advice they were given. They also said that fees hadn't been made clear to them and they weren't told that if they ever dispensed of the services of their adviser, they would have to again switch investments.

Sense responded to Mr and Mrs S. They maintained that the advice given was suitable and that the terms and fees for the arrangement had been made clear. Mr and Mrs S remained unhappy and brought their complaint to our service for an independent review.

Our investigator looked into it. He said the advice given in December 2021 matched Mr and Mrs S' objectives and circumstances at the time and that the DFM service meant it could be rebalanced whenever necessary. He also felt the fees were made clear and that it was fair and reasonable that they were charged from the outset of the agreement and not just from the December advice. He also clarified why a switch might be necessary following dispensing of DFM service and why he doesn't think this needed to be made clearer.

Mr and Mrs S didn't accept this. As no agreement was reached, the case has been passed to me for a 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.

Many points have been made in relation to this complaint – I've tried to set out the key issues I think are important here. And I've answered them below in turn.

Suitability of December 2021 advice

At the time of the advice, Mr and Mrs S were both married, retired and in their sixties with no financial dependents. They owned their own home with a remaining mortgage. The notes state that their money invested in ISAs and premium bonds was to pay their mortgage off in the future by November 2022.

Their joint monthly income from state pension and SIPP withdrawals was approximately £2,300 a month. They had monthly expenditure of approximately £2,100 a month, which would reduce once the mortgage was paid off. This left them with a net monthly disposable income of approximately £250 and they had cash savings of £70,000.

Mr and Mrs S' portfolios totalled just under £275,000 and were held within a SIPP wrapper. Following their completion of the risk questionnaire, they were classified as having a risk level 4, which was "*cautious to moderate*". This described them as "*prepared to take a limited investment risk in order to increase the chances of achieving a positive return but you only want to risk a small part of your capital to achieve this*".

The recommendation is that Mr and Mrs S would remain invested within their SIPPs and on the same platform. However, rather than being invested directly in a range of different funds, they would be invested into a portfolio of funds through a DFM service. This was recommended as it gave automatic rebalancing. Reviews with the advisor would therefore focus on the platform suitability, tax wrapper and income arrangement. Costs were said to be reduced as the underlying funds were passively managed funds.

The portfolio invested approximately 54% into bonds, 33% into foreign equities, 4% specialist equities, 2% UK equities and the rest into cash. This was a significant change from the asset breakdown prior to the advice, which was 70% in cash. However, I think it matched Mr and Mrs S' level 4 risk rating and their objective of providing retirement income.

Overall, I am satisfied with the suitability of the advice given. I think the portfolio matched their objectives, needs and attitudes to risk. I can see why the portfolio was recommended as it gave an automatic DFM service and the adviser believed this would come at less cost to Mr and Mrs S.

Fees

Mr and Mrs S say that the fees they had to pay for the service, were not made sufficiently clear to them. They say that they were told there would just be an initial fee for the first twelve months of £500.

Sense have disputed this. The advisor says they told Mr and Mrs S they would charge a £500 initial charge and not the 2% set out in the initial disclosure. However, they have denied that they ever said this would be the only fee during the first twelve months and that no ongoing fee would be charged. Sense have said that in the end, no initial fee was charged.

I haven't any further evidence from the initial meetings and have to reach my decision on the fees based on a balance of probabilities. The fee agreement (which was signed) explains the ongoing 1% fee. There is nothing to support that Sense agreed to reduce this to £500 for the first year and I think the fee has been charged fairly and in line with what was agreed. I am more persuaded that Sense agreed to discount the initial fee, but in the end that was charged at all. So, I won't be asking Sense to do anything further here.

Mr and Mrs S have also argued that the ongoing fee should only be payable from when the advice was given in the December 2021. However, I don't agree, and I think Sense have acted fairly here. Mr and Mrs S had signed the service document and fee agreement in July 2021 and agreed to the switch in September 2021. The fee agreement states they would be taken in arrears from then. Whilst the advice in question wasn't given until the December, Sense have explained that information was being reviewed and collated from the September. So, I think Sense have charged the ongoing fee from then fairly.

Fund restrictions

Mr and Mrs S are unhappy that they weren't explicitly told, when they made the DFM investment through Sense, that they wouldn't be able to hold it directly. Essentially, if they dispensed of the service of the adviser, they would have to switch out of the investment.

However, I don't think Sense needed to make this any clearer and Mr and Mrs S should have been aware that this was likely the case. Certain share classes and assets are not available to direct customers.

Mr and Mrs S have been invested through an adviser for some time. There was nothing to suggest they would suddenly look to invest directly. They can of course make that decision, but they wouldn't be able to hold this portfolio directly. I don't think Sense has done anything wrong here. Further, Mr and Mrs S were aware they were receiving a discount on portfolio fees through the adviser, I don't think it was reasonable to think they could carry this on directly.

In summary, I am satisfied that the advice given in December 2021 was suitable for Mr and Mrs S' circumstances and needs at the time. I also think the fee arrangement was made sufficiently clear to Mr and Mrs S and I don't think Sense needed to do anything more to let them know they would need to switch investments if they decided to act as direct clients.

My final decision

My final decision, for the reasons stated above, is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S and Mr S to accept or reject my decision before 12 April 2024.

Yoni Smith
Ombudsman