DRN-4140908

The complaint

Ms M complains that the advice given to her by Future Wealth Management Ltd (FWM), an appointed representative (AR) of Pi Financial Ltd (Pi), to transfer two personal pension plans (PPP) into a Self-Invested Personal Pension (SIPP), and the associated investment advice, was unsuitable.

In this complaint Ms M is represented by a third party, but for clarity I'll refer to all activity as being carried out by Ms M herself.

What happened

On 30 August 2017 Ms M had a meeting at her home with someone that I'll refer to as DG. She knew DG through a third party. Ms M wanted to receive retirement planning advice and the meeting was set up to facilitate this.

DG was an Authorised Introducer for FWM and Pi. The Director of FWM was someone I'll refer to as HY.

During the meeting on 30 August 2017 DG took details of Ms M's personal and financial circumstances. Completed by hand at this meeting were a FWM Client Fact Find form and a Dynamic Risk Planner. Both these documents were signed and dated by Ms M. Also at this meeting Ms M signed a Client Agreement with FWM which showed it was an AR of Pi. This client agreement showed that FWM would take an initial fee of 3.25% of the initial transfers (£2,590) and a 1% ongoing service fee, payable monthly (£796).

On 18 September 2017 a Risk Profile Report was produced, headed that it was prepared by HY, which showed that he considered her risk profile to be 5 – Low/Medium.

On 19 September 2017 a Research Report was produced, which showed it was completed by HY. This shortlisted three proposed SIPP providers for Ms M.

On 26 September 2017 Ms M signed and dated the Risk Profile Report.

On 18 October 2017 a suitability letter was produced recommending Ms M transfer her two PPPs into a SIPP and to then invest the consolidated funds with a Discretionary Fund Manager (DFM) with SVS Securities, in its Mixed Model fund. This suitability letter was from FWM, with HY's name at the end (unsigned) and HY's FWM email address.

As a result of this recommendation Ms M applied to open a SIPP, with the intention to invest her funds with SVS Securities. The transfer of her two PPP was arranged by FWM, the first completing on 15 January 2018 and the second on 2 February 2018.

On 21 February 2018 75% of her funds were invested with SVS Securities, with the remaining 25% being withdrawn by Ms M as tax-free cash (TFC).

In May 2020 SVS Securities went into liquidation.

On 9 March 2022, through her representative, Ms M complained to Pi. She said that HY of

FWM, an appointed representative of Pi, had given her negligent advice. She said SVS Securities were high risk and unsuitable for her as she only wanted low to medium risk investments. Had she been properly advised she would never have moved her pensions.

In its final response letter Pi didn't uphold Ms M's complaint. It said, in summary:

- Ms M was put into a portfolio in line with her risk level, however any loss incurred was as a result of mismanagement of the funds by SVS Securities. In any event the investment advice was given by DG and not HY.
- No advice was given to Ms M by HY.
- SVS Securities were responsible for the construction, monitoring and adjustment of the portfolios – not HY, FWM or Pi.
- The author of the suitability report was DG and not HY.
- DG was an introducer to FWM and as such was able to provide instructions but not provide advice. DG was unregulated at the time of the advice. DG acted beyond his remit of an introducer and as such Pi cannot be held responsible for his actions.

Ms M didn't agree so referred her complaint to our Service.

But Pi raised an objection to our Service considering the merits of the complaint. It thought that it wasn't responsible for the advice, and that it had been given by DG, who was an introducer acting outside of the agreement between them. Pi also said that its AR, FWM (HY) was not involved in the transaction and did not give the advice about which the complaint is made.

So our Investigator thought about whether the complaint was one that our Service was able to consider. And he thought it was. In summary, he thought:

- Ms M had complained about the advice to switch her PPP into a SIPP and invest in SVS Securities
- FWM had carried out a regulated activity when it made arrangements for Ms M to invest
- FWM was authorised by Pi to make those arrangements, so Pi were responsible for the act complained about.

So our Investigator went on to consider the merits of Ms M's complaint against Pi. And having done so, he thought the complaint should be upheld. He could see no justification for switching Ms M's PPPs into a SIPP, so FWM ought to have advised her to leave her PPPs as they were, or perhaps consolidating them into one similar plan.

So because he felt the initial transfer advice was unsuitable, he thought Pi should be responsible, as the principle business, for the losses incurred by Ms M. And he set out how he thought Ms M's loss should be redressed. He also thought that Pi should pay Ms M an additional £300 compensation for the distress she'd suffered.

But Pi did not agree. I've read and considered its response in full. It said, in summary:

- DG had misrepresented his position as an introducer
- It was clear that Ms M had never met HY and had never heard of FWM
- The suitability letter was issued on what was purported to be a FWM letterhead and sent by HY, but this was not signed. Any person could have created this form of letter

and pass it off as being from FWM

- The suitability letter purports to have been written by HY and starts "*it was good to meet you on 30th August 2017…"* but Ms M has confirmed she never met HY. DG was the only person Ms M met so it was an irrefutable presumption that the letter was drafted by DG, without the knowledge or approval of HY or FWM.
- The copies of Ms M's passport and bank statement, issued as proof of identity, were purportedly certified and signed by HY of FWM. The signature was not similar to HY's and as he'd never met Ms M he couldn't have confirmed the passport photograph was a true likeness. As DG was the only person to have met Ms M, DG must have forged HY's signatures.
- As Ms M only ever dealt with DG, there was no evidence that any advice was given to Ms M by FWM. And as there never was any advice or services provided by FWM, nor was there any intention to provide these, there can be no client-firm relationship and therefor Ms M was not an eligible complainant under DISP 2.7.6R of the Regulator's rules.
- Any fees paid to FWM by Pi were in the normal course of business and were not indicative of any prior knowledge or acceptance of what had happened.

In conclusion, Pi said that it was not responsible for the advice to switch and invest because the circumstances in which they were brought about clearly involved forgery and fraudulent misrepresentation by either or both DG and FWM. These actions were in breach of both of their contractual obligations with Pi and which did not form part of business of a prescribed description.

Having considered everything submitted, our Investigator did not change his view. He believed that there was evidence to show FWM was involved in advising Ms M, and therefore Pi has responsibility for the advice that was given.

Pi responded to say it was its understanding that HY was out of the country when the advice was given to Ms M, so maintained he could not have been involved.

As no agreement could be reached the matter has come to me for a final decision.

What I've decided – jurisdiction

To carry out regulated activities a business needs to be authorised (Section 19 of the Financial Services and Markets Act 2000 (FSMA)). FWM (and therefore HY) wasn't directly authorised. Instead, it was an appointed representative of Pi. Pi is an authorised firm. It's authorised by the regulator, the Financial Conduct Authority (FCA) to carry out a range of regulated activities including advising on investments and arranging deals in investments. We can therefore consider complaints about Pi. And this includes some complaints about its appointed representatives.

But this service can't look at all complaints. Before we can consider a complaint, we need to check, by reference to the DISP rules, as set out in the Regulator's handbook, and the legislation from which those rules are derived, whether it's one we have the power to look at.

DISP 2.3.1R says we can:

> *consider a complaint under the Compulsory Jurisdiction if it relates to an act or omission by a firm in carrying on…regulated activities…or any ancillary activities, including advice, carried on by the firm in connection with them*.

Guidance for this rule at DISP 2.3.3G says that:

> *complaints about acts or omissions include those in respect of activities for which the firm…is responsible, to the same extent as if he had expressly permitted it, for anything done or omitted by the representative in carrying on the business for which he has accepted responsibility*.

And Section 39(3) FSMA says:

> *The principal of an appointed representative is responsible, to the same extent as if he had expressly permitted it, for anything done or omitted by the representative in carrying on the business for which he has accepted responsibility*.

The responsibility of a principal was considered by the judge in the case of *Anderson v Sense Network* [2018] EWHC 2834 (this case was the subject of an appeal, but the Court of Appeal issued a decision agreeing with the earlier decision). In the High Court, Mr Justice Jacobs said, at paragraph 33:

> *There is no indication in the wording of section 39, or in the case-law, that indicates that the business for which responsibility is accepted is to be determined not by reference to the contract, but by reference to the authorisations granted to the principal which are to be found in the Financial Services register*.

So, a principal isn't automatically responsible for the actions of its appointed representatives and it's necessary to go beyond looking at the activities Pi was authorised to do.

To decide whether Pi is responsible here, there are three issues I need to consider:

- What are the specific acts Ms M has complained about?
- Are those acts regulated activities or ancillary to regulated activities?
- Did Pi accept responsibility for those acts?

What are the specific acts Ms M has complained about?

Ms M complains that FWM gave her unsuitable advice to switch her pensions to a SIPP in order to invest through SVS Securities.

Are those acts regulated activities or ancillary to regulated activities?

Section 22 FSMA defines "*regulated activities*" as follows:

(1) An activity is a regulated activity for the purpose of this Act if it is an activity of a specified kind which is carried on by way of a business and –

  (a) relates to an investment of a specified kind; …

(4) "*Investment" includes any asset, right or interest.*

(5) *"Specified" means specified in an order made by the Treasury.*

The relevant Order is the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (RAO). The rights under a personal pension scheme (which includes Ms M's previous pensions and the SIPP she moved to) are specified as investments by a provision in Article 82 RAO. Advising on investments is a specified activity under Article 53 RAO. And making arrangements in relation to them is a specified activity under Article 25 RAO.

Ms M says although she was initially advised by DG, she was given the paperwork by DG but the advice letter she received had HY's name on it. Pi says HY didn't give advice and it was only DG that did.

I've thought carefully about all of the evidence. Taking everything into account, I'm satisfied it's most likely HY advised Ms M to switch her pensions and invest through SVS Securities. In the circumstances here, there are several things that satisfy me it's most likely HY advised Ms M:

The suitability letter dated 18 October 2017 clearly gave advice and I'm satisfied it's most likely HY was aware of the content of this letter and allowed it to be sent in his name, even if he didn't draft it himself. I note Pi has questioned the validity of the letter and the fact it wasn't signed by HY. But from the emails I've detailed below, it's clear he, in his role as FWM, was involved in what was happening. Taking everything into account, I don't think there's enough to reasonably conclude the recommendation letter was created and sent without HY's knowledge.

- The SIPP application form, in the section titled *2.1 Financial Adviser Details* named HY as Ms M's adviser, gave HY's FWM email address and that he was working for Pi. It also said "*Yes"* next to the statement:

  > "*Advice given which takes into account the suitability of both Simple Investment SIPP and the underlying investment strategy. My/our client is following the advice given:"*

- The advice and annual fee structure was set out in the SIPP application under the heading *3. Financial Adviser Remuneration.* This stated that 3.25% of the value of any transfer into the SIPP and a 1% annual fee would be paid to Ms M's adviser. And I can see from the SIPP statement that these fees were paid by deduction from the fund.
- The SIPP application also showed under the heading *4.1 Initial Investments* that 100% of her funds were to be allocated to the Investment Manager SVS Securities.
- A letter dated 11 December 2017 was sent from one of Ms M's PPP providers to FWM setting out the value of her PPP and her options. As this was sent direct to FWM it is a reasonable assumption to make that FWM asked the PPP provider for these details in its role as her advisers.

So although I haven't seen a copy of FWM submitting the application, I'm satisfied that on the balance of probabilities it did, and that FWM were involved in the process of making arrangements.

Ms M's passport and bank statement also seem to have been certified as true copies of the originals on 1 November 2017. They are both stamped with HY's name, business address and phone number, with a signature. I note that Pi disputes this and says that the signature does not resemble the one it has on record from HY, however, on balance I think it is more likely than not that these were certified by HY. I say this as I've concluded above that FWM were named as Ms M's advisers in the application process.

My conclusion is therefore, on the balance of probabilities, that HY, in his role as FWM, did give advice to Ms M about the transfer to the SIPP and the associated investments with SVS Securities, and made arrangements in relation to these. So regulated activities took place.

Did Pi accept responsibility for those acts?

Which business was HY acting for?

Taking everything into account, I'm satisfied HY was acting as FWM when he advised Ms M and made arrangements. The only mention of any other business is in the Risk Profile Report dated 18 September 2017. This states it was completed by HY but in his role as a Director of a different business, and not FWM. But the fact the research report and the suitability letter were sent in his capacity as FWM, the application documentation all referred to FWM, the SIPP operator referred to him as representing Pi, and fees were paid to Pi satisfy me that he was acting as FWM when he carried out the acts complained about here. I've therefore gone on to consider whether Pi accepted responsibility under the agreement it had with FWM.

The agreement with FWM.

There is an Appointed Representative Agreement between Pi and FWM and HY (in his capacity as the Director of FWM) dated 15 January 2015.

Under Section 1, the term "*Services"* is defined as:

> *any Regulated Activity which the Company is authorised to undertake from time to time notified by it to the Appointed Representative and also giving advice, making arrangements (or offering or agreeing to do either) in relation to term assurance, mortgages, tax planning, long term care products and any other product offered in the giving of financial advice pursuant to this Agreement.*

And "*Regulated Activity"* as:

> *Any activity requiring authorisation under The Act or by the FCA and "Regulated Activities" means more than one of them.*

The agreement therefore is broad and envisages advice being given on, and arrangements made in relation to, investments. And Pi hasn't disputed that.

Instead, Pi said the underlying principles are that whatever an appointed representative does must be lawful otherwise it's automatically excluded from the principal's responsibility. In particular, it said it can't be held liable for fraudulent acts of its appointed representative where they are deliberately concealed from it. But I'm not persuaded HY acted unlawfully or fraudulently in carrying out the regulated activities of advising Ms M, and making arrangements in relation to her specified investments.

So, I'm satisfied that Pi did accept responsibility for HY advising Ms M to switch her pensions and invest through SVS Securities.

Is Ms M an eligible complainant?

The rules which set out who can make a complaint to our Service are also set out in the FCA handbook under DISP 2.7.6R. It states, as is relevant here:

> *To be an eligible complainant a person must also have a complaint which arises from matters relevant to one or more of the following relationships with the respondent:*
>
> *(1) the complainant is (or was) a customer, payment service user or electronic money holder of the respondent; …*

As I've said above, it is accepted that there was an Appointed Representative Agreement in place between Pi, FWM and HY. And there is a client agreement between FWM and Ms M, signed by Ms M and dated 30 August 2017. This sets out that FWM was an AR of Pi. So as there was a client agreement between Ms M and FWM, it follows that Ms M was a client of Pi, the principle firm. Pi is named as the firm HY worked for in the SIPP application, and the transfer fees were paid from the SIPP to Pi.

So I'm satisfied that there was a valid customer/business relationship, and Ms M had a complaint which arose from matters relevant to that relationship. As such I'm satisfied that Ms M is an eligible complainant.

My decision – jurisdiction.

Ms M was a customer of Pi and is an eligible complainant in this case. For the reasons set out above, I'm also satisfied Pi is responsible under Section 39 FSMA for the acts being complained about and this is a complaint that we can look at.

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.

Pi has told our Investigator that HY was not in the country when the advice was given, so he couldn't have given it. But Pi also told our Investigator on 26 April 2023, in response to his initial uphold of the complaint, that HY left the country in February 2018. As the advice and arrangement that is the subject of this complaint occurred between August 2017 and February 2018 (by which time both PPPs had been transferred), by Pi's own submission, HY was in the country, and therefore not abroad at the relevant time. As such I do not find this element of Pi's argument persuasive.

In deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time, and carefully considered the additional submissions made by Pi.

Within the FCA handbook, COBS 2.1.1R required a regulated business to "act honestly, fairly and professionally in accordance with the best interests of its client".

The FCA's suitability rules and guidance that applied at the time FWM advised Ms M were set out in COBS 9. The purpose of the rules and guidance is to ensure that regulated businesses, like Pi (and as a result of its AR agreement – FWM) take reasonable steps to provide advice that is suitable for their clients' needs and to ensure they're not inappropriately exposed to a level of risk beyond their investment objective and risk profile.

In order to ensure this was the case, and in line with the requirements in COBS 9.2.2R, FWM needed to gather the necessary information for it to be confident that its advice met Ms M's objectives and that it was suitable. Broadly speaking, this section sets out the requirement for a regulated advisory business to undertake a "fact find" process.

It is unclear what spurred Ms M to seek advice from FWM, but it is apparent that she knew of DG as a friend of a friend. But Ms M sought retirement planning advice, and as I've concluded above, although the discussions were between Ms M and DG, the advice was most likely provided by FWM. In accordance with COBS 9.2.2R a '*fact find'* was completed during the meeting between DG and Ms M at her home on 30 August 2017, and this set out her circumstances and objectives under the heading "*Clients main financial goals, needs & priorities:"*

- *[Ms M] has no plans to retire.*
- *She wants to access 25% TFC at age 55 [her date of birth].*
- *She doesn't want an income from her funds*
- *She would rather have access to lump sums over the years*
- *She appreciates that these plans will not give her a decent income*
- *The [PPP1] plan does not give her access to the new pension freedoms and they recommend transfer*
- *She wants to put both plans together*
- *She wants a plan that will give her new pension freedoms and control over her funds to a certain extent.*

But I don't think the recorded objectives contain enough detail, and they are what is considered 'stock motives'. They didn't contain details specific to Ms M and explain why she had those particular objectives, especially her apparent wish to take the available TFC at age 55. And just because a client may wish to take a particular course of action doesn't mean the adviser has to facilitate this. As set out in COBS 2.1.1R the advice has to be "*in accordance with the best interests of its client".* So any objective expressed by Ms M should have been properly explored to establish the reasons behind it, and whether the course of action was actually suitable in all the circumstances. And there needed to be compelling reasons why it was in Ms M's best interests to transfer her PPPs into a SIPP at the point she did.

I cannot see that Ms M's objectives were properly explored nor that the switch was in her best interests. I don't think FWM's suitability letter gave any meaningful comparison between the growth, or potential growth that she could expect upon transfer, with what she could achieve with her PPPs if they remained as they were, or if they were consolidated into another low-cost arrangement. Because the cost of the proposed plan is a significant factor here - any fees taken from the fund directly reduce its value. In Ms M's PPP arrangement she was paying a 1% annual management charge. In transferring to the recommended SIPP she had to pay 3.5% initial adviser's fee, a 1% ongoing advice fee, a 0.75% + VAT platform fee, a set-up fee of £100 and annual fee of £199.

So as the recommended SIPP was more expensive than her current arrangement, I cannot see the transfer was suitable on the grounds of cost.

In order for FWM to treat Ms M fairly, and allow her to make an informed choice, it was necessary for FWM to clearly set out the pros and cons of the transfer in terms of the cost, the risks involved and the alternatives solutions, including not doing anything. But I cannot see the suitability letter did this. Although it spelled out the SIPP and the investment would be more expensive, it didn't show a clear comparison between her current charges and what she would have to pay. It also did not explore a comparison between the potential growth of either the SIPP (and SVS Securities) and her current arrangement, and this was especially important given the reduction in value caused by the fees and charges with the SIPP. It also did not explore her options of consolidating her PPPs into one alternative lower cost option, but simply discounted this with a generic statement:

> "*I am recommending a SIPP instead of a Stakeholder/personal pension because this is more suitable in your circumstances because it offers you a lost (sic) cost way of*

managing your pension monies, within funds that meet your objectives and are in line with your risk profile."

It is also important to note that the pensions that were switched (approximately £80,000) were Ms M's only pensions, and she was in her 50s at the time of the events complained about so approaching retirement age with a low capacity for loss. Other than the state pension which she was some way off being able to claim, her existing PPPs would be her only source of income in retirement.

I also cannot see why a SIPP was the best platform for Ms M's pension plans. By her own admission she was inexperienced in investments. Whilst a SIPP may have had some advantages, I haven't seen anything that persuades me these benefits were needed by Ms M in her circumstances. There's no evidence that Ms M – with her modest pension funds – needed access to a wider range of investments or that such funds would not have been available with her previous pensions. She had never invested in any products other than within her two existing pensions, and there was no evidence that she had made any changes to the funds within these. If there was a genuine desire by Ms M to consolidate her pensions into one fund, it seems likely there would have been cheaper options that would have met her needs. And other than the generic objectives recorded in the fact find, there was little to suggest she was particularly unhappy with the performance of her existing arrangements. Had she wished to have an annual review of her plans, she could have arranged that without the need to transfer.

Taking everything into account, I'm satisfied it ought to have been clear to FWM that there was no obvious justification for Ms M to move from her existing schemes and enter the arrangement she did. And this assessment is based on knowledge FWM ought to have had at the time – not what we now know about the failure of SVS Securities.

In these circumstances I'm satisfied advice to switch Ms M's pensions to a SIPP to invest through SVS Securities was unsuitable. I'm satisfied that if FWM hadn't given unsuitable advice, Ms M would have left her pensions as they were.

Pi has asserted that DG gave the advice. But this decision is about Pi's responsibility. And because I'm satisfied Ms M wouldn't have moved her pensions to a SIPP to make the investments she did if HY hadn't given the unsuitable advice or made the arrangements he did, I think it's fair to ask Pi to compensate Ms M for the full measure of the loss she suffered from moving her pensions and making the investments she did. DG was clearly involved in the advice process, and probably gave Ms M HY's suitability letter. But I think it likely that had FWM (and by reason of the AR agreement Pi, as the principal business here) advised Ms M that the switch was not in her best interests, I think it likely that Ms M would have listened to that advice. So if suitable advice had been given to Ms M by FWM, it is likely she would have retained her PPPs and not switched.

The DISP rules set out that when an ombudsman's determination includes a money award, then that money award may be such amount as the ombudsman considers to be fair compensation for financial loss, whether or not a court would award compensation (DISP 3.7.2R). Someone else may also have given Ms M advice, but Pi had its own distinct regulatory obligations which, if met, and suitable advice had been given, I'm satisfied would have resulted in the pension moves to the SIPP not taking place.

In making these findings, I take account of the potential contribution made by other parties to the losses suffered by Ms M, in particular Pi's argument that SVS Securities' maladministration caused Ms M's loss. But in my view, in considering what fair compensation looks like in this case, it's reasonable to make an award against Pi that

requires it to compensate Ms M for the full measure of her loss. But for Pi's failings, Ms M's pension moves would not have occurred.

I'm not asking Pi to account for loss that goes beyond the consequences of its failings. I'm satisfied those failings have caused the full extent of the loss in question. That another party might also have contributed to that loss is a distinct matter and that fact should not impact on Ms C's right to compensation from Pi for the full amount of her loss.

If Pi still believes that other parties actions contributed to the losses, it can take these concerns up directly with them.

Putting things right

My aim is that Ms M should be put as closely as possible into the position she would probably now be in if she hadn't been given unsuitable advice.

I take the view that Ms M would not have moved her pensions if everything had happened as it should have. I'm satisfied that what I've set out below is fair and reasonable.

In summary, Pi should:

1. Calculate the loss Ms M has suffered because of making the switch and investment with SVS Securities.

2. Pay compensation for the loss into Ms M's pension in respect of her pension loss. If that isn't possible, pay compensation for the loss to Ms M direct. In either case, the payment should take into account the necessary adjustments set out below.

3. Pay compensation of £300 for the distress and inconvenience caused to Ms M.

4. Pay interest on the above if fair compensation isn't paid within 28 days of notification of acceptance by Ms M.

I'll explain how Pi should carry out the calculation set out above in further detail below:

1. Calculate the loss Ms M has suffered as a result of making the switch and investment

To do this, Pi should work out the likely value of Ms M's pensions as at the date of this decision, had she left them where they were instead of switching to the SIPP.

Pi should ask Ms M's former pension providers to calculate the current notional transfer value had she not switched her pensions. If there are any difficulties in obtaining a notional valuation, then a benchmark of the FTSE UK Private Investors Income Total Return Index should be used to calculate the value. That is likely to be a reasonable proxy for the type of return that could have been achieved if the pensions hadn't been switched. I say this because the funds her PPPs were invested in were broadly balanced - so Ms M wanted some capital growth and was willing to accept some investment risk.

The notional transfer (or benchmark) value should be compared to the transfer value of the SIPP at the date of this decision, and this will show the loss Ms M has suffered.

Any additional sum that Ms M paid into the SIPP should be added to the notional transfer value calculation at the point it was actually paid in.

Any withdrawal, income or other distributions paid out of the SIPP should be deducted from the fair 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 many regular payments, to keep calculations simpler, I'll accept if Pi totals all those payments and deducts that figure at the end.

2. Pay compensation to Ms M for the loss she has suffered in (1)

Since the loss Ms M has suffered is within her pensions, it's right that I try to restore the value of her pension provision if that's possible. So, if possible, the compensation for the loss should be paid into Ms M's pension plan. The compensation shouldn't be paid into the pension if it would conflict with any existing protection or allowance. Payment into the pension should allow for the effect of charges and any available tax relief.

If it's not possible to pay the compensation into Ms M's pension, the compensation should be paid to Ms M direct. But had it been possible to pay the compensation into the pension, it would have provided a taxable income. Therefore, the compensation for the loss paid to Ms M should be reduced to notionally allow for any income tax that would otherwise have been paid. The notional allowance should be calculated using Ms M's marginal rate of tax in retirement, assumed to be 20%. So the notional allowance would equate to a reduction in the total amount equivalent to 20%. As Ms M has already withdrawn her 25% TFC entitlement the notional allowance should be applied to 100% of the amount.

3. Compensation for distress and inconvenience

Pay Ms M £300 for the distress and inconvenience caused. I'm satisfied Ms M has been caused significant upset by the events this complaint relates to, and the loss of, in effect, a large portion of her pension fund. I think that a payment of £300 is fair to compensate for that upset.

4. Pay interest

Pi should pay fair compensation as set out above within 28 days of being notified that Ms M has accepted this decision. If it doesn't, interest on the compensation due is to be paid from the date of this decision to the date of payment at the rate of 8% simple interest per year.

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

My final decision

My final decision is that I uphold Ms M's complaint and require Pi Financial Ltd to pay Ms M compensation as set out above.

Pi Financial Ltd should provide details of its calculation to Ms M in a clear, simple format.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 20 July 2023.

Chris Riggs
Ombudsman