

The complaint

Ms B complains that Close Asset Management Limited (CAML) provided poor service and didn't provide the pension advice she requested.

What happened

The background to this complaint is well known to both parties and so I don't think it is necessary to set it out in detail.

CAML had agreed that the service it had provided hadn't always been sufficient and it made an offer to put things right. Ms B's complaint was made jointly with a Mr M with whom much of the correspondence was directed to. However, his complaint has been considered separately and this decision focuses on the issues that affected Ms B.

CAML didn't agree that it was responsible for Ms B not receiving the advice she requested across all the years in question. It said on all years but one it made reasonable efforts to arrange a meeting to discuss Mr M's and Ms B's financial matters. However, it agreed in 2019 it failed to offer a meeting and this potentially could've meant that Mr M and Ms B lost out on tax planning efficiencies. So it offered to conduct a retrospective review but would need Mr M and Ms B's involvement.

It also offered to suspend all fees from the start of their investigation in 2021 until it had been completed. The fees for Ms B's ISA plans were stopped, saving around £730, and this doesn't account for additional growth. CAML also offered to refund the fees from that time for Ms B's SIPP which came to approximately £330, which it will repay to the SIPP. It also recognised that it was slow to cancel life policy premiums which meant extra contributions were paid and so it has offered to refund these plus 8% simple.

Our investigator looked into Ms B's complaint but he felt the compensation already offered by CAML was sufficient. He agreed that CAML hadn't always provided a good service but that the main barrier to Ms B receiving the advice she wanted was a breakdown in communication on both sides. Whilst CAML on occasions didn't respond promptly or without being chased, the same could be said for its efforts to arrange meetings to discuss Mr M's and Ms B's financial matters. And to give advice on Ms B's it required information that it had requested that Ms B didn't provide. He concluded that the breakdown in communication was due to actions on both sides but CAML being the professional party needed to put things right. However, he felt the fact that it had offered to refund fees in excess of £1,000 was sufficient in the circumstances.

Ms B didn't agree. She felt CAML's professionalism in dealing with her requests for pension advice was well below expected standards and had likely led to a shortfall in her investment returns. She noted that during the complaints process its records were shown to be out of date and that it mainly corresponded with Mr M and not her even when discussing her pension. Ms B felt that her and Mr M's requests for advice far outweighed CAML's attempts to solve matters. Ms B provided examples of instances where she or Mr M had requested information/advice in 2018/2019 about Ms B's pension where it either didn't respond or didn't respond in detail.

Our investigator responded to say that he'd already taken into account the evidence that Ms B had provided. He explained that he agreed CAML hadn't provided a good service around this period but it had made an offer that fairly compensated Ms B in his view. And CAML had requested information on more than one occasion about Ms B's pensions arrangements and documentation that it required before it could give advice - which Ms B hadn't provided. He maintained that a breakdown in communication on both sides was the reason Ms B didn't receive substantive pension advice.

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.

And having done so I agree with the outcome reached by our investigator and for broadly the same reasons.

Ms B argues that CAML are responsible for her not receiving the advice she requested. I agree that CAML particularly around the period of 2018, 2019 were not particularly helpful or proactive when it came to Ms B's pension arrangements. But Mr M, who most of the correspondence was with, appeared to require a service where he emailed in questions and advice would be provided on that basis with an email in return. But CAML couldn't give substantive advice without sufficient information (it requested documentation that wasn't received) and I think it was reasonable of their advisers to try to set up meetings before attempting to provide substantive advice.

Across the years that formed part of Mr M and Ms B's complaint, CAML requested meetings on a number of occasions and commonly Mr M either wanted to defer them or didn't respond. If CAML failed to carry out a meeting and a suitably detailed conversation prior to giving advice, that advice would be non-compliant and quite possibly unsuitable. The email back and forth and then requests for a meeting that go nowhere was a pattern of the relationship between Mr M/Ms B and CAML. As the investigator concluded, and I agree, a breakdown in communication between both parties meant that Ms B didn't receive the pension advice she requested. Whilst, CAML did make reasonable attempts to arrange meetings every year, bar 2019, (its agreement with Mr M and Ms B was that it would provide annual reviews), its customer service on occasions was poor. And it wasn't proactive in helping to get Ms B's documentation into a place where it could provide her with pension's advice – which she clearly wished to have. I've set out the events that led me to this conclusion below.

The crux of Ms B's complaint regarding her pension is the events from 2018 onwards. Mainly through correspondence from Mr M, Ms B requested advice with regard to her pension as she had a new employer. Initially the request in March 2018 from Mr M, said '*have to rethink pensions advice for [Ms B] next year*'. CAML asked Ms B to send them copies of her last four P60s, the evidence shows Ms B did send one of her P60's in and made reference to sending the others to CAML later. But it doesn't seem this occurred.

Further, when Mr M contacted CAML about moving forward with Ms B's pension planning, CAML said it would require all the documentation about her new scheme before being able to give advice. It attached a letter of authority that needed to be signed before it could request this information. Again, it doesn't appear Ms B or Mr M ever replied to this. Ms B's said she didn't get this email, it was addressed to Mr M as he had initially emailed CAML about Ms B's pension. I don't think it was unreasonable of CAML to expect him to pass this onto Ms B, given he had emailed it about her pension. Although I do think it would've been helpful to cc in Ms B or forward her a copy. In the meantime, CAML had provided information about how Ms B could make per pension contribution for this year and how much she could

pay.

It was then in March 2019 that Ms B's pension was brought up again. Mr M contacted CAML asking whether it had all the necessary information to advise on Ms B's pension, but it did not respond. And then Ms B emailed CAML on 5 April 2019 given its lack of reply. Following this CAML told Mr M and Ms B that its adviser wasn't around and instead its telephone advice service would call to arrange a meeting – its notes showed it called three times but received no response.

Then in 2020, CAML tried to arrange a meeting but Mr M didn't respond and then when chased (with Ms B in the email chain) he responded but was non-committal. There was other correspondence between Mr M and CAML and between Ms B and CAML in relation to separate matters. Then in 2021 Mr M emailed CAML about Ms B's pension contribution and the adviser gave some general directions, which Mr M said was of no use. And Mr M asked for the bank account to make a pension contribution without advice. And then the complaint was made.

So as I've said, I think CAML should've been proactive in this period, it could've chased Ms B for the information that was outstanding. It should've been clear that it couldn't give advice to Ms B until all this information had been received. And Mr M and Ms B shouldn't have had to chase it for a response. The service it provided was substandard, but I have to take into account it couldn't have given advice without the information it requested. And between Mr M and Ms B they failed to provide this information – and didn't respond positively for its requests for meetings to discuss matters. So, there was fault on both sides – and a breakdown in communication. I've thought about what CAML could do to put things right and whether the offer it has already made is fair in the circumstances.

Had CAML not already made an offer, I would be considering an award for the trouble and upset its poor service has caused Ms B. This would be for the lack of response to certain emails and for the lack of clarity in regard to what was required for it to give advice to Ms B. It's fair to say its communication fell well short of what is expected of a professional advisory service. However, I also have to take into account the fact that Ms B and Mr M didn't provide the required information and their collaboration which was required for advice to take place wasn't forthcoming. In total CAML has offered to refund fees Ms B otherwise would've paid in excess of £1,000 – this is some way above what I would've recommended in terms of a payment for the trouble and upset its failures have caused Ms B. Had no offer being made prior to my decision, I wouldn't have required it to refund the fees that it did. So, I don't think any further compensation is required with regards to the poor service provided here.

With regards to whether Ms B has lost out financially due to CAML's failure to provide advice in this time, it's not possible to say based on the information received and Ms B hasn't made any specific point about how she may have lost out. However, as CAML didn't have the required information to give advice, I don't think I can fairly consider it responsible for any loss in any event. That said, CAML has also offered to give a retrospective review with regards to the lack an annual review in 2019 (where it didn't respond to Mr M's email). I think this is a fair offer in the circumstances, it's not possible to say whether or not or to what extent Ms B lost out due to this meeting not taking place – without conducting this exercise. And further, given the history and what happened after, I am not convinced Mr M and Ms B would've taken up this offer of a meeting in 2019 in any event. So, I don't think CAML needs to do anymore here.

A side issue was that CAML was also slow to cancel payments towards Ms B's policies after Mr M's instruction which caused extra contributions to be paid, and so it will reimburse these plus 8%. I think this offer is fair and reasonable and puts matters right here. Ms B was also unhappy that CAML referred to her as Mrs, whilst I can understand this must have been

frustrating, I don't think any further compensation on top of what has already been offered is required.

In conclusion, CAML has already offered fair compensation for the poor service it gave Ms B regarding her pension arrangements. It appears that some of this compensation offered has already been received (through the cessation of fees) but some is still outstanding.

My final decision

Close Asset Management Limited has already made a fair and reasonable offer. If Ms B chooses to accept this offer, Close Asset Management Limited needs to carry out the required steps to make the payments it offered as part of its settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 28 September 2023.

Simon Hollingshead
Ombudsman