

The complaint

Mr H complains that Quilter Financial Services Ltd failed to provide him with appropriate advice about making contributions to his pension savings.

What happened

I issued a provisional decision on this complaint in August 2023. In that decision I explained why I thought the complaint should be upheld and what Quilter needed to do in order to put things right. Both parties have received a copy of the provisional decision but, for completeness, I include some extracts from it below. In my decision I said;

Mr H had a long-standing relationship with a financial advisor. The firm of that advisor was acquired by Quilter in 2019. And following the retirement of his previous advisor, Mr H started a relationship with a new advisor in late 2020. Mr H received advice from Quilter regarding investments that he held in an ISA, a general investment account, and a personal pension.

It seems that Mr H considers the service he has received from the new advisor to be poor in a number of areas. And he has made other complaints to Quilter about the services he has received. I am not dealing with those complaints here. In this decision I am only dealing with Mr H's complaint about Quilter failing to recommend that he make contributions to his personal pension.

Mr H received advice from Quilter in a number of written reports that followed review meetings he held with his advisor. Those meetings took place either face to face, by telephone, or by videocall. Quilter doesn't hold recordings or transcripts of the meetings, but has provided us with copies of the advice reports that were sent to Mr H.

The reports generally say that Mr H's pension savings were in scope for the advice he was receiving. And they note that Quilter has considered Mr H's income tax position and how to make best use of any allowances that are available to him. But there is no specific advice in any of the reports regarding making pension contributions.

Given the lack of evidence in the suitability reports about Mr H making further pension contributions, Quilter asked its advisor to provide additional information about whether that issue had been discussed with Mr H. The advisor says that the issue was discussed with Mr H each year, but Mr H declined to make any additional pension contributions. Mr H says that no discussions of that nature took place and that he was unaware, following his retirement, that he could continue to contribute to his pension savings.

Mr H's relationship with the advisor from Quilter, that forms the basis of this complaint, commenced when he signed the Client Service Agreement in November 2020. I therefore think that any findings I make below should only apply from that date. That means that the initial tax year affected by Mr H's complaint is 2020-2021.

As I've said in my introduction, the advice was discussed with Mr H in face to face, telephone, and video meetings. There aren't any recordings, or transcripts, of those meetings so I can never know for certain what was discussed. And there is a marked difference between the recollections of Mr H and those of Quilter, about the content of the discussions. But I do have copies of the reports that were produced for Mr H as a formal summary of the advice he received. I think it would be reasonable to expect, certainly in terms of good industry practice, for those reports to fairly reflect all the discussions that took place, not just those that resulted in Mr H accepting the advice being provided.

Those reports clearly indicate that a discussion of Mr H's pension arrangements should be considered to be in-scope. And I think the additional references to reviews of Mr H's personal tax position, and in some reports specifically mentioning pension contributions in that regard, further indicate that Mr H could reasonably expect advice from Quilter about any potential future pension contributions in addition to a review of the performance of his existing pension investments.

I have carefully considered the limited testimony that has been provided by Quilter's advisor about any discussions of this nature. I am not persuaded that it would be reasonable to rely on that testimony, in the absence of any other documentary evidence to indicate future pension contributions were discussed. I am however persuaded by Mr H's testimony that these matters weren't discussed. He has explained why he thought he would be unable to continue making pension contributions after his retirement. I think it was for Quilter to correct that misunderstanding and advise Mr H appropriately.

Since making his complaint Mr H has made the maximum pension contributions he is permitted each year. I think that further underlines that it was the missing or incorrect advice from Quilter that dissuaded Mr H from making contributions in the earlier years. I have seen nothing to suggest that any change in Mr H's financial circumstances made funds available recently to make these pension contributions that would not have been available in 2021 or 2022.

In response to our investigator's assessment, Quilter has said that Mr H might have found making pension contributions unattractive since he could only receive 25% of those contributions as tax free income. I accept that to be the case, but even the most rudimentary calculations would have told Mr H that, assuming his pension income was taxed at the basic rate, the net amount he would receive would be greater than the net contribution he had paid. And of course there are other advantages to pension savings. They do not generally form part of a consumer's estate for inheritance tax purposes – inheritance tax was an issue that Quilter had noted was something for Mr H to address. And any growth of pensions savings would not attract any liability for capital gains tax.

It seems clear that Mr H is keen to manage his savings in the most tax efficient manner. He has sought and received advice from Quilter about making use of his annual ISA allowances, and in mitigating some of his capital gains tax liabilities. So it seems to me that it would be unlikely that Mr H would dismiss any advice about making further pension contributions if the benefits of those had been sufficiently explained.

So on balance I think it reasonable to conclude that Quilter failed to provide Mr H with any advice about making further pension contributions. Or, even if I accept the advisor's recollections that they were discussed (which for clarity I do not), I think that

any discussion would have been insufficient for Mr H to understand the benefits of making those pension contributions. So I think that Quilter has made an error here and needs to take steps to put things right.

I invited both parties to provide us with any further comments or evidence in response to my provisional decision. Both Mr H and Quilter have provided me with their responses. Although I am only summarising here what each party has said, I want to reassure them that I have read, and carefully considered, their entire responses.

Quilter has said that it doesn't agree with my provisional decision, but that it has no other comments or evidence to provide. So, in order to draw a line under the matter, Quilter says it is willing to pay Mr H the £1,440 in tax relief that he has missed out on, plus an additional £300 for his inconvenience. But it says that it is now disengaging with Mr H as its client, and isn't willing to provide him with any further assistance or advice.

Mr H accepted my provisional findings, but had some reservations about how I had proposed things should be put right. He said that previously he had been told by his financial advisor that he couldn't make any pension contributions in excess of his annual earnings (or the £3,600 limit if he had no relevant income). So he wondered whether the previous advice he had received had been correct given my directions for the redress Quilter should pay. And Mr H was concerned about whether my decision would be binding on Quilter or whether the firm would be able to make payment of the compensation contingent on its provision of other services to Mr H.

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.

As I set out in my provisional decision, in deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mr H and by Quilter. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

And I repeat my reflections on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

I think that Quilter's response to my provisional findings allay many of the concerns that Mr H expressed in his response. Whilst he might be disappointed that Quilter has decided to terminate its relationship with him, it means that the compensation he receives will not be affected by any future investment decisions he takes. I would assume that Quilter will follow a reasonable process when ending its relationship with Mr H, and in line with the terms and conditions he agreed when he engaged the firm. But should Mr H be unhappy with that process I am sure he will make those concerns known to Quilter, and if necessary refer them to us.

Ultimately it is for Mr H to be satisfied that he can make the pension contributions I have suggested. That would be something he might need to discuss further, either with a new

advisor or with HMRC. Should those discussions conclude that he cannot make the pension contributions then there is little I can do in order to provide him with the IHT protection that he lost by not making the pension contributions earlier. But Quilter's offer does mean that he will receive a cash payment equal to the tax relief he has lost by not making those pension contributions in earlier years. I think that this leads to a fair outcome for this complaint, so I have modified my redress accordingly to ensure the payment is made to Mr H irrespective of whether he makes the additional pension contributions.

Putting things right

I have concluded that Quilter failed to provide Mr H with sufficient advice about his ability to make pension contributions in tax years 2020-2021 and 2021-2022.

Quilter has agreed to make a payment to Mr H of £1,440 to reflect the tax relief he has lost through not making those contributions. That amount should be paid to Mr H promptly following his acceptance of this final decision.

Quilter should also pay an additional sum of £300 to Mr H for the inconvenience he has been caused.

My final decision

My final decision is that I uphold Mr H's complaint and direct Quilter Financial Services Ltd to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 6 October 2023.

Paul Reilly
Ombudsman