DRN-4418475

The complaint

Mrs L has complained that Tier One Capital Wealth Management Limited (TOCWM) (formerly Carrick Financial Management Limited but referred to as TOCWM throughout) failed to provide her with suitable advice and/or sufficient information to enable her to make a fully informed decision to switch her pension fund to cash.

What happened

Very briefly, Mrs L had a pension fund with Prudential invested in the PruFund Growth portfolio. She met with TOCWM's adviser on 2 March 2020 for her annual review. It was agreed to switch her pension fund into the PruFund Cautious portfolio which offered a lower level of risk. Mrs L sent an email on 2 March 2020 confirming her instruction to switch.

That fund switch was later cancelled. Mrs L says TOCWM's adviser telephoned on 13 March 2020 advising Mrs L to switch into cash. TOCWM says Mrs L emailed the adviser on that date requesting advice and the adviser's telephone call was in response to that.

The onset of the pandemic impacted on investment values. Prudential imposed emergency downward price unit adjustments – an 11.99% reduction to Mrs L's fund which went down from £254,000 to £227,000. TOCWM's adviser informed Mrs L about the negative price adjustments on 1 April 2020. And that the reduction would've been imposed if the transfer to the PruFund Cautious portfolio had gone ahead.

Mrs L expressed concerns about the reduction and that she hadn't been made aware of it at the meeting on 2 March 2020. She also became aware that the level of financial protection offered by the Financial Services Compensation Scheme (FSCS) was limited to £85,000 for cash and therefore wouldn't cover the full value of her pension fund. Mrs L no longer wanted to switch into cash. She discussed options with TOCWM's adviser on 8 April 2020, including that the transfer to cash couldn't be cancelled and she'd be unable to transfer from cash to the PruFund Cautious portfolio for three months. There were also discussions with other TOCWM personnel and further exchanges. In the end Mrs L took her 25% tax free lump sum and transferred her residual fund into an InvestAcc SIPP which gave access to a National Savings and Investment product.

Mrs L says she wasn't made fully aware of the pros and cons of switching to cash. She says if she'd been properly informed she wouldn't have switched to cash. If she'd retained her fund in the PruFund it would've increased by 14% (£31,800) in the period March 2020 to January 2021. Instead her funds were in cash and didn't increase and she was unable to reinvest in the PruFund for some ten months.

TOCWM didn't uphold Mrs L's complaint and it was referred to us.

Our investigator didn't uphold the complaint for the reasons she explained. Mrs L didn't agree with the investigator's findings. In summary she said there hadn't been extensive discussions – in her email of 13 March 2020 she'd asked three questions and there'd been a ten minute phone call in which she'd been offered the option of transferring her pension to cash with no discussions around the pros and cons. And TOCWM didn't have a recording of the call or a transcript.

Central to her complaint was the fact that she'd only become aware of the difficulties – that she couldn't easily switch back into PruFunds and the limited protection – until after the switch to cash was underway. The decision to move to cash was made on 13 March 2020. But it only came to light on 6 April 2020 that there was only financial protection up to £85,000. And on 8 April 2020 that the transfer to cash couldn't be stopped and she'd be unable to reinvest for three months. She expected an experienced financial adviser to have set out the full picture before advising her to proceed. She said, if she'd been aware of all the issues, she wouldn't have agreed to switch her pension fund into cash.

Mrs L also said there'd been further difficulties in late 2020/early 2021 in getting her pension funds reinvested in the PruFund and which meant she'd missed out on an increase of 3% her pension fund would've achieved during that two month period.

The investigator shared Mrs L's comments with TOCWM and asked for comments. In doing so the investigator explained to TOCWM that she'd concluded Mrs L's wish for a lower risk option had been met by the switch to cash. But the fund would've been at risk if it had simply been held in cash. Although the subsequent recommendation removed that risk, the investigator said she needed to consider, if Mrs L had been told, during the call on 13 March 2020, about the £85,000 protection limit, whether she'd even have considered switching to cash.

TOCWM commented further but maintained that the complaint shouldn't be upheld.

As agreement couldn't be reached the complaint was referred to me to consider.

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.

Having done so I agree, in the main, with the views expressed by the investigator and the reasons she gave for not upholding Mrs L's complaint. Although I've read and considered everything, I trust Mrs L will not take it as any discourtesy when I say I'm just going to focus on what I see as the central issues.

I'd mention first the timing. The onset of the pandemic had an adverse impact on financial markets and investment values. The situation was unprecedented, there were very high levels of uncertainty and it was very difficult for investors and advisers to decide how to react. I'm not deciding Mrs L's complaint with the benefit of hindsight. I have to decide what she'd have done at the time, based on what she knew. I reach my conclusions about that on the balance of probabilities, that is what I consider is likely to have happened, based on all the available evidence and taking into account the wider circumstances.

It may now be apparent that, had Mrs L not taken the steps she did, her pension fund, although it would've suffered a fall in value, would've made that back up and so she'd be better off now. But what I'm considering is whether TOCWM's advice was suitable given the circumstances, including Mrs L's objectives, at the time and if TOCWM gave Mrs L sufficient information to make fully informed decisions. If I take the view that there were shortcomings on TOCWM's part that won't automatically mean that TOCWM is responsible for any losses Mrs L has sustained and if in my view Mrs L wouldn't have acted differently in any event.

Mrs L was invested in the PruFund Growth portfolio. Based on what I've seen, I think Mrs L, in common with many other investors, was very worried about the possible effect of the pandemic on the value of her pension fund. Various exchanges and discussions took place between Mrs L and TOCWM against a very uncertain and unusual landscape. My overall impression is that TOCWM engaged with Mrs L and responded to and sought to deal with her concerns promptly and fully and provide solutions which met her requirements.

I think it's clear that Mrs L wanted to reduce her exposure to risk. She's said that her risk rating was 4 to 5 whereas a switch to cash would be 1 – that is someone who didn't want to take any risk at all. But from what I've seen, and although Mrs L was initially happy to reduce her exposure to risk by switching to PruFund's Cautious portfolio, as the situation with the pandemic developed, she became anxious to preserve the value of her pension fund. She didn't want to remain invested and so I don't think, on the face of it, and however it came about, that a switch to cash was unsuitable for her in March/April 2020.

As I see it, the central issue is whether the advantages or, more importantly, the disadvantages, of doing that were made clear to her. Mrs L has pointed to two main drawbacks. First, that protection from FSCS would be limited to £85,000 and, secondly, that if she later wanted to switch back into PruFunds, she wouldn't be able to do that immediately. Mrs L says those matters should've been drawn to her attention when the possibility of switching to cash was discussed – on 13 March 2020. From what I've seen those issues weren't raised until 6 and 8 April 2020.

On the one hand, the investigator's view, about any switch back into PruFunds, was that TOCWM couldn't have anticipated any change to Prudential's terms and given the highly unusual circumstances which prevailed at the time. I note what TOCWM has said about only becoming aware, on actioning Mrs L's request to switch to cash, of Prudential's terms as to reinvestment. That said, and on the other hand, there may be an argument that TOCWM should've double checked with Prudential the terms on which reinvestment was possible, before instructing the switch.

But, even so, I don't think it would've made any difference to Mrs L's decision if she'd have known, if she wanted to reinvest, that she wouldn't be able to switch back into PruFunds immediately. I say that because, from what I've seen, Mrs L was very concerned about the prevailing economic situation and the possible long term effect of the pandemic on her pension fund. Her priority was to protect her pension fund. She didn't indicate she was withdrawing from the markets for a temporary period only. I'm not persuaded, had she been told there'd be a waiting period if she wanted to reinvest in PruFunds, that would've made her decide against switching to cash.

But I'm not sure the position about the limit for FSCS protection is the same. As I've said, Mrs L's priority was to protect her capital. I think finding out that only limited protection might be available if she switched to cash would've been of concern to her.

But, in deciding what likely would've happened if Mrs L had been told earlier about that and had expressed concerns, I bear in mind what did happen when the situation came to light. And that TOCWM was able to come up with a solution which got over that. That's consistent with the view the investigator took. She said although the limited FSCS protection should've been discussed beforehand, Mrs L hadn't suffered any financial loss because it wasn't as the route she ultimately took – to take her tax free cash with the remainder invested into a National Savings and Investment product – eliminated the limited protection offered by FSCS. I think Mrs L would've accepted that as a solution and proceeded as she actually did.

So I can't say, had TOCWM told Mrs L earlier that the balance of her pension fund over £85,000 (some £170,000) wouldn't be protected by FSCS, she'd have instead continued as originally discussed and switched her pension fund from the PruFund Growth to the PruFund Cautious portfolio. So I don't think TOCWM is responsible for any financial loss Mrs L has suffered in consequence of the switch to cash and her fund not being invested.

I note what Mrs L has said about the instruction to switch out of cash towards the end of 2020 taking too long. If she considers she's lost out because of anything TOCWM did (or didn't do) specifically in relation to that switch, then she'll need to raise that as a separate issue with TOCWM.

My final decision

I don't uphold the complaint and I'm not making any award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs L to accept or reject my decision before 11 June 2024.

Lesley Stead
Ombudsman