DRN-4546600

The complaint

Mr C complains that Lighthouse Advisory Services Limited gave him unsuitable advice to transfer two of his personal pensions. He also says he wasn't provided with the ongoing service he was advised he would receive.

What happened

Mr C's complaint was considered by one of our investigators. She sent her assessment of it to Mr C and Lighthouse on 29 December 2023. The background and circumstances to the complaint were set out in her assessment. But in summary, Mr C had been advised to transfer two personal pensions to another pension provider in 2017. One pension had a transfer value of just under £54,000. And the other £980. Both were invested in with-profits funds with their original providers.

The adviser recommended that Mr C transfer the pensions to a personal pension and invest in its Governed Investment Strategy Cautious targeting flexible access fund. At the time the advice was given the documentation recorded that Mr C had a low/medium attitude to risk. And that he would prefer not to choose his own funds/investments and was happy to leave this to professionals on a day-to-day basis. The fund had a lifestyling option, which meant that as Mr C approached his retirement date he would be switched to lower risk investments.

Mr C subsequently complained about the advice that he'd been given. Lighthouse responded to say that it accepted Mr C hadn't received annual reviews, and it offered to refund the adviser charges Mr C had paid. However Lighthouse thought the advice to transfer itself was appropriate.

Mr C referred his complaint to us. Our investigator thought that Mr C's complaint should be upheld. She said, in summary, that in 2009 the Financial Services Authority (now known as the Financial Conduct Authority) published a report and checklist for pension switching that she thought was relevant. She said the report/checklist identified some areas where consumers had lost out, including:

- They had been switched to a pension that was more expensive than their existing one(s) (because of exit penalties and/or initial costs and ongoing costs) without good reason

- They had switched into a pension where there was a need for ongoing investment reviews, but this wasn't explained, offered or put in place.

The investigator didn't think there had been a good reason for Mr C to transfer. She said the new pension plan was more expensive than Mr C's existing pensions. This had been explained in the suitability report. The adviser had then said that although there would be slightly higher overall plan charges, a transfer meant Mr C would gain access to more suitable investment solution going forwards, and an ongoing review service when compared to his current plans. However the investigator said Mr C had a low to medium attitude to risk, and she didn't think the existing with-profits funds Mr C's pensions were invested in were unsuitable for his attitude to risk. She said Mr C also had the option to switch his funds in his existing plans.

The investigator accepted that Mr C had said he wanted to be able to access his benefits flexibly in the future. But she said that he wasn't intending on taking his benefits for some time, and he could have transferred to a flexible arrangement when he was looking to do so.

The investigator noted that the adviser had said that Mr C's existing pensions didn't allow for ongoing reviews with the adviser. And as Mr C didn't want to be involved in making his own investment decisions, transferring would allow ongoing regular reviews by Lighthouse. However the investigator said Mr C was transferring to a managed fund with a lifestyling option. So Mr C would be moved into less risk as he approached retirement. The investigator thought there would be less need for regular reviews than if Mr C had been invested in a more sophisticated portfolio with set percentages invested into specific types of assets. This might become unbalanced and so might have greater need for review. However she said Mr C had never received an annual review in any event, and she didn't think having the ability to have ongoing reviews was a good reason to transfer.

Overall, the investigator didn't think the advice to transfer was suitable. She said the new plan was more expensive; Mr C had to pay an initial charge and his new plan had to perform better than his original plans to make up the charges he was paying. The investigator said she didn't think there was a good reason to transfer.

Lighthouse didn't agree with the investigator's findings. In particular, it didn't agree that there would be less need for regular reviews due to the lifestyling option applied to the new plan. It said Mr C was a number of years away from his retirement date. And lifestyle switching usually started five years before the chosen date. It said even if it agreed there was less need for a review within five years of retirement date, there was plenty of scope to provide reviews in the lead up to that five-year period. It therefore thought it provided an important benefit to Mr C, and was one of several reasons why the transfer was suitable and appropriate.

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've come to the same conclusions as the investigator, and largely for the same reasons.

As the investigator said, the industry regulator identified areas for potential consumer detriment in its pension switching advice in its 2009 report. I think what's relevant here is its concerns about switching (transferring) advice where there appeared to be no good reason to switch to a pension that was more expensive.

I've considered the reasons given for the switch here. However I'm not persuaded the 'benefits' to Mr C in particular from switching outweighed the additional costs.

Like the investigator, I think Mr C's existing with profits funds were suitable for his circumstances. In particular his low to medium attitude to risk. And that he would prefer not to choose his own funds/investments and was happy to leave this to professionals on a day-to-day basis. The illustrations showed both of the existing pensions were projected to provide higher values at age 65. So Mr C appears to have been in a suitable position, and there would need to be good reason to change that position particularly when higher costs are involved.

The pension making up the main bulk of the values transferred needed to grow at an additional 0.56% per year to match the existing pension. I accept that charges are not the only factor to consider. But there appears to have been little benefit to Mr C in particular to transfer. Mr C wasn't a particularly sophisticated investor, and as I've said I think his existing funds were suitable. Other funds were also available through his existing provider, so I don't think there was a material advantage in transferring in terms of fund choice or suitability of fund.

I accept that having an annual review would have provided *some* benefit to Mr C. But as Lighthouse has said, Mr C was still some way from his intended retirement date. He was in a fairly stable and suitable position and his pension already managed by professionals. I don't think the benefits of an annual review for Mr C, in particular, given his circumstances, outweighed the increase in costs. Mr C could have arranged a review if he required one rather than incur yearly costs for something that he didn't necessarily require so regularly given his particular circumstances.

So taking all the above into account, I'm not persuaded that there was any real need to transfer and like the investigator, I don't think the advice to transfer was suitable in the particular circumstances.

Putting things right

My aim in awarding fair compensation is to put Mr C back into the position he would likely have been in had it not been for Lighthouse Advisory Service's error. I think Mr C would likely have remained in his previous schemes but for the unsuitable advice. So Lighthouse Advisory Services Limited should calculate loss and pay any compensation due to Mr C by:

- Obtaining the notional value of Mr C's pensions at calculation date assuming he had remained in his two original pension plans and in the with-profits funds.
- Compare the value obtained above with the value of the personal pension at the same date.

If the notional value is higher than the actual value, Mr C has suffered a financial loss and compensation is due.

The compensation amount should if possible be paid into Mr C's pension plan. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension plan if it would conflict with any existing protection or allowance.

If a payment into the pension isn't possible or has protection or allowance implications, it should be paid directly to Mr C as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid.

If Mr C has remaining tax-free cash entitlement, 25% of the loss would be tax-free and 75% would have been taxed according to his likely income tax rate in retirement – which should be assumed to be 20% here. So making a notional reduction of 15% overall from the loss adequately reflects this.

My final decision

My final decision is that I uphold Mr C's complaint.

Lighthouse Advisory Services Limited should calculate loss and pay any compensation due as set out under Putting things right above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 4 March 2024.

David Ashley
Ombudsman