

The complaint

Mr W says that advice given by Bede Wealth Management Limited (Bede Wealth) to transfer his pensions to a SIPP (self invested personal pension) was unsuitable.

What happened

Mr W had several existing pension arrangements with various providers (Aviva, The People's Pension, Legal & General and Rowanmoor). In 2020 he gave authority for Bede Wealth to obtain information about his existing plans. On 13 January 2021 he signed Bede Wealth's client agreement, service proposition and a completed risk questionnaire.

Bede Wealth generated a research report. It said Mr W's current arrangements represented risk level five (out of ten) but Mr W's risk rating was four (out of ten). On 29 March 2023, after discussions with Mr W, Bede Wealth issued a suitability report. It said Bede Wealth was going to recommend a Royal London portfolio. But, at Mr W's request, Bede Wealth had reviewed the Eire ICAV Athena Global Growth Fund (the Fund) offered through Churchill Discretionary Management (the DFM).

Mr W signed the suitability report and an application form to open a SIPP with AJ Bell on 27 April 2021. He signed forms to transfer his existing pensions to AJ Bell on 25 May 2021 and the transfers took place in May and June 2021. Other than cash, 26 Life UK unquoted shares were also transferred in-specie from Rowanmoor. As part of that transfer, Mr W had to pay Rowanmoor £1,549.35 in fees.

Based on the SIPP transaction history, a total of £47,704.39 was invested in the Fund between May and June 2021. On 13 August 2021, following a meeting a few days before, Bede Wealth wrote to Mr W advising that, as part of its due diligence, it thought the Fund may no longer be suitable for him. Bede Wealth recommended that Mr W transfer his available funds to a portfolio with Legal & General. Mr W returned the recommendation letter, signed 9 September 2021. He also signed a new client agreement and service proposition on 16 September 2021.

Life UK wrote to Rowanmoor on 26 September 2021, to advise the company had ceased trading. The shares, originally valued at £500 each, were devalued to £0.

On January 2023 Mr W's portfolio with Legal & General was valued at £43,486.28.

Through his representative, Mr W complained to Bede Wealth on 21 March 2023. The basis of the complaint was that the advice to switch to the SIPP away from Mr W's '*entirely vanilla/mainstream position*' was inappropriate and had resulted in significant losses to the value of Mr W's pension fund. The advice to switch was unsuitable for someone in Mr W's circumstances who was a low risk investor. The transactions benefited the adviser and incurred unnecessary costs for Mr W.

On 18 April 2023, Bede Wealth issued its response. It rejected the complaint on the basis that the pension transfers actually reduced Mr W's risk and it was him and his introducer

who'd chosen the Fund and Bede Wealth had highlighted to Mr W that the Fund was too risky for him before it stopped trading.

This complaint was referred to our service on 3 July 2023. Mr W was adamant he knew nothing about the Fund. He also maintained that Bede Wealth was dealing with the Life UK shares which were transferred in-specie from Rowanmoor.

Our investigator didn't uphold the complaint. About the Life UK shares he said no liability for any loss rested with Bede Wealth. Mr W had purchased them in April 2010. They were a long term investment made without Bede Wealth's influence. They were illiquid and they'd been devalued to £0 within a matter of months after the transfer to the SIPP. Bede Wealth had said they'd been unable to research the shares but, in any event, there was nothing Bede Wealth could've done to prevent the loss.

Mr W had been introduced to the idea of investing in the Fund by an introducer for the DFM. Bede Wealth construed that Mr W was an insistent client but didn't follow that process. Bede Wealth did conduct due diligence on the DFM who was registered by the FCA (Financial Conduct Authority) at the time. Bede Wealth also researched the Fund which was authorised by the Central Bank of Ireland. It had a low to medium risk profile (four out of ten) which was consistent with Mr W's attitude to risk. At the time many of his existing pension arrangements were rated as higher risk. The Fund was suitable – it matched Mr W's attitude to risk and reduced the overall risk rating.

The recommendation to switch out of the Fund was suitable. A notice was issued to shareholders on 20 August 2021 saying the Fund would be liquidated. Bede Wealth was able to advise Mr W prior to this event. The investigator said he could only surmise that any financial impact on Mr W's investment would've been worse, if that hadn't happened. Bede Wealth's further advice was to transfer the residual funds to a Legal & General portfolio. That met Mr W's risk profile and was suitable for him.

Mr W commented. He said he'd entrusted Bede Wealth with all of his existing pensions as he has zero knowledge of how or where to invest them and so he was '*completely at the mercy of their instructions*'. They were dealing with all of his funds including the investment which was in what Mr W termed '*some strange fund that would not release the funds*'. Mr W indicated it was the subject of a further mis selling claim. And, about the Fund, he'd swear on oath that he knew nothing about it and hadn't suggested it.

Mr W's representative queried what had been said about Mr W being an insistent client and also which of Mr W's existing pension arrangements were considered to be higher risk. He also said insufficient consideration had been given to Mr W being an inexperienced client. He'd signed documents presented to him but that didn't mean he'd known what they were or understood them.

A new investigator took over the complaint and reviewed the case before writing to the parties to say she'd come to the same conclusion as the original investigator – that the complaint shouldn't be upheld.

Amongst other things, she referred to the suitability report, which Mr W had signed. It included a statement about the report being an accurate summary of the discussions and invited Mr W to get in touch if he had concerns or wished to discuss any of the issues raised. Mr W had been given sufficient opportunity to make any objections known but there's no record he did so.

Investments he'd held previously indicated he wasn't an inexperienced and low risk investor. He'd held unquoted equity shares which would be considered very high risk and with the

potential to be illiquid. Those shares had been purchased long before any involvement with Bede Wealth. And the funds he held in the pensions that were switched to the SIPP were higher risk than the Fund. Bede Wealth had carried out an assessment of Mr W's pension plans through an independent external research tool. The overall portfolio was deemed to be risk level five out of ten which was higher than Mr W's four out of ten risk profile.

Mr W's representative forwarded Mr W's comments on what the (new) investigator had said.

Mr W said he'd never known where his funds had been invested and he couldn't recall a conversation where he'd said he wanted to invest in a certain fund and when, as his representative had said, he didn't have a clue. About what had happened in 2010 he believed that related to a scheme he'd been advised to invest in which was also being reviewed by the ombudsman as it wasn't right for his needs and had subsequently failed and he'd lost all his money. He added any decision was made by Bede Wealth not him and he'd only followed instructions by signing forms without knowing what they were for.

Mr W's representative said the point the investigator was making about Mr W having signed the statement was understood but, from speaking to Mr W, the proposed investment was actively promoted to him and he was encouraged to sign quickly. The fact that Mr W had purchased high risk shares long before any involvement with Bede Wealth Limited didn't contradict the fact that Mr W was an inexperienced investor and didn't understand the risks of investing in high risk products.

As agreement wasn't reached the complaint has been referred to me to decide.

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.

To mention first the Life UK shares, Mr W has indicated that he believes that investment is being reviewed by an ombudsman. We asked Mr W's representative to clarify who was looking at that complaint as we weren't considering any other complaint for Mr W at present. But no further information was forthcoming.

To be clear, I'm not considering, as part of Mr W's current complaint, any recommendation to buy the Life UK shares. That's because, from what I've seen, Bede Wealth didn't have anything to do with that investment. The shares were bought in April 2010, many years before Mr W was introduced, by the DFM, to Bede Wealth. Nor could Bede Wealth have done anything about the shares, given that they were already illiquid when Bede Wealth advised Mr W and so he couldn't have sold them even if Bede Wealth had said they were unsuitable for him.

And, although Mr W had to pay Rowanmoor £1,549.35 in fees before the in-specie transfer of the shares to the SIPP could go ahead, I understand that sum represented outstanding fees owed to Rowanmoor and which had accrued before Rowanmoor decided to suspend further fees for that arrangement, which appears to have been a Family Pension Trust. So the fees were incurred before Bede Wealth was instructed. I note that sort of pension arrangement isn't commonplace and might suggest Mr W did have some pensions experience and knowledge. I wouldn't describe his existing pension arrangements as entirely vanilla or mainstream.

I've concentrated on Bede Wealth's recommendation that Mr W switch his existing pensions to a SIPP, so he could invest in the Fund. A central disagreement in this case is how the idea to invest in the Fund came about. Mr W is adamant that Bede Wealth suggested the

Fund. Whereas Bede Wealth says Mr W wanted to consider the Fund, it having been brought to his attention by the DFM (which, at the time, was authorised by the FCA but which has since been dissolved) and who introduced him to Bede Wealth.

Where, as here, what happened or what was said isn't agreed, I reach my conclusions on the balance of probabilities, that is what I consider is likely to have happened, based on all the evidence and the wider circumstances. In this sort of situation I think any contemporaneous written evidence is helpful and likely to carry weight.

Here the suitability report dated 29 March 2023 records how the Fund had come to Mr W's attention – that is through the DFM who managed the Fund. I take into account all Mr W has said about not really understanding what was going on and just having signed documents, including the suitability report, as directed by Bede Wealth. But what's recorded about how the idea to invest in the Fund came about is factual, not technical and so something Mr W would've understood, regardless of any lack of pension or investment experience or expertise.

And the report clearly said, if it didn't coincide with Mr W's view of the situation or if he required further clarification, he should contact Bede Wealth immediately. I don't see why Bede Wealth would've included details as to how the Fund had come to Mr W's attention if that wasn't what Bede Wealth had understood the position to be and so would be open to challenge from Mr W. But he didn't say that what Bede Wealth was recorded was wrong. I mean no discourtesy to Mr W but, on balance, and based on what I've seen, I accept that Bede Wealth didn't promote the Fund to Mr W and the suggestion that he invest came from the DFM.

Although Bede Wealth alluded to the possibility that Mr W could be treated as an insistent client, Bede Wealth didn't treat him as such. And I don't see that Mr W was an insistent client. Broadly speaking, an insistent client is one who wishes to proceed despite advice to the contrary. Bede Wealth didn't advise Mr W against investing in the Fund so I don't see that his decision to invest meant that he was an insistent client.

Sometimes, when a client has already decided they want to make a particular investment and instructs a business accordingly, the transaction will be what's termed execution only. But I don't think that was the case here. From what's recorded in the suitability letter, Mr W didn't give a specific instruction that he wanted to invest in the Fund, just that he wanted Bede Wealth to consider that Fund. And I think Bede Wealth did look into the suitability of the Fund. The suitability report includes the following:

'Following a review of from a comprehensive range of investment funds available and taking account of your attitude to risk and capacity for loss, I have recommended the [Fund] for the following reasons:

It is consistent with the agreed asset allocation model.

The fund meets our selection criteria based on your agreed attitude to risk, after analysing the fund investment fund provider.

This will ensure you have a diversified investment portfolio based on your retirement objectives in isolation as you requested and one which is in line with your stated attitude to investment risk.'

I think that's a clear recommendation that Mr W should invest in the Fund. Further, and in any event, in advising Mr W to switch to a SIPP, Bede Wealth needed to consider the suitability of the overall transaction, that is not just the suitability of the pension vehicle but also that of the proposed underlying investment, as part and parcel of the advice to switch.

I've considered if the Fund was suitable for Mr W. I note that Bede Wealth was only able to access limited information about the Fund. I've seen a February 2021 Fund fact sheet. It doesn't indicate that the Fund was, on the face of it, unsuitable. It was risk rated as category three (on a scale of one to seven where one was lower risk and seven was higher risk). The fact sheet said, about that risk rating, that the share price had a moderate volatility and therefore the risk of loss as well as the expected return is generally small to medium. The Fund was largely made up of fixed interest assets (54.5%) and equities (40%) with some cash (3%) and REIT (Real Estate Investment Trust) (2.5%) which is consistent with a medium or slightly lower risk fund. Mr W had been assessed as having a risk rating of four (out of ten) so the Fund would appear to be match that.

That said, the degree of risk that a particular fund represents will depend on its precise make up. For example, fixed interest assets can include corporate and government bonds. Generally speaking bonds issued by governments represent a lower risk than bonds issued by companies. But the risk will depend on the company itself and the likelihood that it could default on its obligations to pay interest and/or return the capital at maturity. Bonds issued by smaller or newer companies will carry a higher risk than bonds issued by larger, well known, companies with a history of profitability and financial stability. The fact sheet recorded that the Fund could invest a material part of its assets in high yield bonds which pay a higher yield than investment grade bonds but also carry a higher risk of default. The exact degree of risk for the equity element of the Fund will again depend on the underlying portfolio.

I think given what happened to the Fund, the degree of risk was perhaps somewhat higher than may have appeared. But I'm not sure that would've been reasonably apparent to Bede Wealth. So it's difficult to say that Bede Wealth's assessment – that the Fund was suitable for Mr W – was unreasonable.

Bede Wealth also checked out the Fund manager. The DFM was at the time authorised and regulated by the FCA.

I note that some of Mr W's existing pensions were invested in funds that didn't match his attitude to risk. For example, and aside from the unquoted shares, one pension included a fund that held up to 85% in shares and so would be considered to be a medium to high risk fund. Bede Wealth's analysis suggested the overall risk level of Mr W's existing pensions was five whereas he'd been assessed as a risk level four investor. Investing in the Fund would appear to address that and meant the Fund choice was aligned to Mr W's attitude to risk.

Looking at the suitability of the SIPP itself, a SIPP was required if Mr W was going to invest in the Fund and so it was the Fund choice which drove the recommendation to transfer to a SIPP. The SIPP was higher charging than Mr W's existing pensions. But I don't think the higher charges were excessively so. And the suitability report did set out the existing and new charges and pointed out that the latter were higher which, at the time, it seems Mr W was prepared to accept. I don't think the Fund was unsuitable for Mr W. So it's difficult to say, as the driver for the transfer to the SIPP was the Fund, that the SIPP was unsuitable.

I think Bede Wealth acted quickly and appropriately when it found out that the Fund might not in fact be suitable. Further, it's possible, depending on what Mr W had been told by the DFM about the Fund and how keen he was to invest, that Mr W would've still wanted to invest anyway, and even if Bede Wealth's advice had been that he shouldn't. But I mention that largely in passing as, from what I've seen, the recommendation to switch to the SIPP and invest in the Fund wasn't unsuitable.

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 Mr W to accept or reject my decision before 13 May 2024.

Lesley Stead
Ombudsman