DRN-4564743

The complaint

Mr S has complained that Chancellor Financial Management Ltd hasn't managed his pension properly and he's suffered significant losses as a result.

What happened

Mr S' complaint was considered by one of our investigators. He sent his assessment of it to both parties on 14 September 2023. The background and circumstances to the complaint were set out in his assessment. But to recap, the investigator said Chancellor Financial Management Ltd (Chancellor Financial) acted as financial adviser to Mr S' employer. He said Chancellor Financial offered advice in a number of areas to the employer including about its Workplace Pension Scheme. Mr S was enrolled in the scheme, a Group Personal Pension (GPP) in June 2011. The investigator said Chancellor Financial provided an annual pension surgery for employees for the purpose of providing information, but not advice.

The investigator said when Mr S wanted to take some of his pension he found it had fallen significantly in value. When Mr S complained to Chancellor Financial it replied saying it wasn't responsible for that fall. It said employees were either automatically enrolled or opted into the scheme which didn't represent personal advice to the employee.

Chancellor Financial said Mr S attended a surgery in 2020 to discuss his retirement needs. It said it identified Mr S needed financial advice on his pensions at that meeting, and explained that to receive that advice Mr S needed to become an individual client of Chancellor Financial. He said it subsequently provided Mr S with the relevant paperwork to become its individual client, but he didn't take up its offer. The investigator said Mr S later became a client of another independent financial advisory firm.

The investigator didn't think that Mr S' complaint should be upheld. He said Chancellor Financial neither administered nor managed the GPP. Chancellor Financial had said its advice was provided to the employer in setting up the company's workplace pension with the particular pension provider selected. The investigator said to comply with the legislation in place regarding workplace pensions, it was necessary for a default investment fund option to be available. The default fund was a lifestyle fund that was typically used for this purpose.

The investigator said he reviewed Mr S' GPP application form sent to the pension provider and its acknowledgement letter to Mr S dated 14 June 2011. He said it was clear from the documents that Mr S' application was submitted by the employer. He said there was no evidence of Chancellor Financial having providing Mr S with any personal financial advice or a recommendation to join the GPP or invest in the lifestyle fund. So the investigator didn't think Mr S had received personal advice from Chancellor Financial to join the pension scheme.

The investigator said the Plan Schedule recorded the plan was set up with a pension date in April 2016. When this date approached the pension provider wrote to Mr S with information about his options, which included a recommendation to seek his own independent financial advice.

Mr S deferred his retirement. The investigator said the pension provider sent Mr S a letter which said his plan was invested in a Lifestyle fund and asked him to confirm whether he wanted to have his funds realigned with his new retirement date. Mr S elected for the lifestyle strategy to remain as it was aligned with his previously chosen date. Mr S' fund had been switched into a Retirement Fund. The Retirement Fund factsheet explained that the fund was designed for investors who intended to buy an annuity when they retired. The investigator said he hadn't seen any evidence that Chancellor Financial advised Mr S on this decision or was party to the switch.

The investigator said he'd seen notes of Chancellor Financial's meeting with Mr S following the annual pension surgery in 2020. And this was before the pension fund's value fell significantly. He said it was clear that Mr S provided details of his various pension savings and was seeking financial advice. He said Chancellor Financial provided Mr S with a valuation for his GPP which confirmed he was invested in the Retirement Fund. And it provided a copy of the Retirement Fund factsheet. He said Chancellor Financial invited Mr S to become its personal client in order for it to provide Mr S with bespoke financial advice.

The investigator said Chancellor Financial asked Mr S to complete a fact find questionnaire and a client agreement in preparation. However, he said Mr S didn't follow up on the matter. He said Chancellor Financial contacted Mr S in November 2020 and February 2021 to enquire if he still needed advice. And he noted from a conversation Mr S had with Chancellor Financial on 19 February 2021 that he discussed the fact that the value of his pension had dropped significantly over the past 12 months. However the investigator said Mr S didn't engage Chancellor Financial's service's following this conversation.

The investigator said that having considered all the evidence, he hadn't found that Chancellor Financial had done anything wrong at the outset or on an ongoing basis. He said Chancellor Financial was under no duty to provide Mr S with any personal financial advice until he agreed to the terms of the client agreement it provided. He said Mr S had the opportunity to become a client of Chancellor Financial before the losses were suffered. But he didn't do so. The investigator said he didn't think it would be fair and reasonable to hold Chancellor Financial responsible for Mr S' investment losses.

Mr S didn't agree with the investigator's findings. He said, in summary, that his money was put into the fund by default and he had no involvement in it. He said Chancellor Financial had always maintained he was in a low-risk fund to avoid any surprises at retirement. It had 'advised' him not to be concerned. He said he'd made it clear to Chancellor Financial that he did (I think he meant didn't) want to take an annuity, which he understood the fund was set up for.

Mr S said Chancellor Financial had suggested he get in touch with it and complete its forms when he wanted to retire. He said Chancellor Financial hadn't 'reached out' to him to give him financial advice 'per se', but had asked if he had decided to retire and required its services to facilitate his pension.

Mr S said it appeared the 'Lifestyle' pension was not as low risk as everybody had made out. He said he, as well as many others who weren't experts in pensions, saved money into schemes expecting those managing them to do so in their best interests, He said it appeared that they hadn't done so, and were either disinterested, inept or incompetent.

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.

Like the investigator, I've seen no persuasive evidence that Chancellor Financial originally advised Mr S to go into the default lifestyle fund[s]. The pension provider sent Mr S a copy of his application to join the scheme which the letter said had been sent to it by his employer. The letter said he should pay particular attention to the following, which included Section 3 'Investment details'. It said "We have highlighted the most important details for you in bold." And this included the fund choice. I accept that Mr S may have had little input into the fund choice – unless a member is specifically advised about it or expresses a preference it's not unusual to be invested into the default fund. I think Mr S was alerted to the fund he was in and had the opportunity to change it. But as I say, I've seen no evidence to suggest that Chancellor Financial was responsible for the suitability of the initial choice of fund.

It was then the pension provider's responsibility to manage the fund[s) in accordance with the investment mandate for each particular fund. Ultimately, in this case, Mr S eventually was switched, in accordance with the lifestyle strategy, to the Retirement Fund. This is the fund that is relevant here, and it dropped significantly in value just as Mr S was considering taking his pension.

It wasn't Chancellor Financial's responsibility to manage that fund and it wasn't responsible for its performance. As I've said, that was the responsibility of the pension provider. Chancellor Financial's responsibilities and obligations have to be considered in the context of its relationship with Mr S.

It doesn't appear that Mr S ever became a 'formal' client of Chancellor Financial, in that he signed an agreement with it. And it didn't provide formal advice and make a personal recommendation to Mr S; if it had done so, it would have been responsible for ensuring that Mr S was invested in a fund that was suited to his circumstances.

However, Chancellor Financial did have a relationship with Mr S – it had meetings and telephone conversations with him where it discussed his pension and what his plans were. And it's clear that Chancellor Financial was aware what fund Mr S was in - its notes of a meeting held in February 2020 say that it provided Mr S with a valuation for his pension which said he was in the Retirement Fund and at the same time provided him with a factsheet for that fund. It recorded that Mr S told the adviser he didn't want to buy an annuity. And that Mr S would probably go down the flexi access drawdown route.

However notes from that meeting said Mr S wanted advice. And that the adviser had explained the costs of advice and had left the relevant paperwork for Mr S to become its client. It also said Mr S would make a final decision about his retirement options 'around June of this year.' As I've said above, Chancellor Financial wasn't ever specifically engaged by Mr S and didn't provide a personal recommendation where it would be required to ensure its advice was suitable for Mr S' particular circumstances. But the documentation records that the adviser alerted Mr S that the fund was invested in gilts, bonds and cash with a view to buying an annuity. And that if he didn't want to buy an annuity he would need to move his pension if he wanted to access his pension in a flexible manner.

Mr S said Chancellor Financial had suggested he get in touch with it and complete its forms at the time he wanted to retire. On the one hand, the contemporaneous records suggest the adviser understood Mr S planned to retire/do something with his pension sooner rather than later given in the note of the 28 February 2020 meeting said Mr S intended on making a decision 'around June of this year." And his selected retirement date was in April 2021. And the records show that the adviser contacted Mr S a few months after the February 2020 meeting to see if he had made his mind up about his retirement and wanted advice.

However on the other, the conversations appear to have been about Mr S potentially accessing his pension flexibly rather than buying an annuity, which could be done when he wanted to take his pension. So I understand that if that was Mr S' main goal, he'd have understood he only needed advice at retirement.

But ultimately, Mr S was already in the Retirement Fund. Chancellor Financial wasn't responsible for that. It alerted Mr S that his fund was tailored towards buying an annuity. But I'm not persuaded it was obliged to consider its overall suitability for Mr S' particular circumstances. As I've said, irrespective of the reason, Mr S didn't engage its services, and Chancellor Financial never formally reviewed Mr S' circumstances and provided regulated advice.

Mr S has said Chancellor Financial told him he was in a lower risk fund. So in view of the above, I can again understand why he didn't think there was any urgency to obtaining advice. And given his experience, and the significant fall in the value of his pension, that he considers the firm misled him.

I've seen no documentary evidence showing the firm said the fund was low risk. However the pension provider rated the fund as below average risk in its factsheet. The factsheet said it could *"…hold a broad range of investment types, including equities (shares), but a significant proportion may also be invested in investments that aim to provide a reliable income source (like government and corporate bonds) and, with that, greater stability than would typically be available from equities."* In fact it had no exposure to shares, and was invested in gilts and cash like instruments. These asset types are traditionally considered to be towards the lower end of the risk scale.

I realise this isn't consistent with Mr S' experience of the fund. Funds invested in gilts and bonds have been impacted by the significant rise in interest rates from 0.1 to 5.25%. Whilst there was always the possibility of an increase in interest rates from historic lows, I think the extent of the increase and in such a relatively short space of time wasn't generally expected. This has been due to a number of economic factors - both national and international. Although gilts have traditionally not been regarded as presenting significant risks, those funds invested in gilts generally experienced significant falls in value across the board. Mr S is correct in saying this has affected a number of investors.

I accept that the explanation for the fall in the value of the Retirement Fund provides little comfort to Mr S, and he has lost a significant portion of his pension. However ultimately, in my opinion Chancellor Financial wasn't responsible for the management of that fund. And for the reasons outlined above, I'm not persuaded it was responsible for ensuring that fund was suitable for Mr S, or that it provided him with misleading information.

I realise that Mr S will be very disappointed with my findings. However taking all the above into account, I'm not persuaded his complaint against Chancellor Financial should succeed.

My final decision

Accordingly, my final decision is that I don't uphold Mr S' complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 27 June 2024.

David Ashley
Ombudsman