DRN-4573613

The complaint

Mrs S complained that she has suffered a financial loss as Live Smart Financial Planning Limited (Live Smart) gave her unsuitable advice about switching SIPP providers and the subsequent investments she made.

She would like to be compensated for any losses she has suffered as a result.

Mrs S is being assisted by a complaint management company (CMC) in bringing her complaint. For the sake of simplicity, I will refer to all communication as though it has come from Mrs S.

What happened

Mrs S began an ongoing relationship with an Independent Financial Adviser (IFA) in 2012. In 2014, Mrs S moved her existing pension benefits to a SIPP based on advice she received from the IFA. The IFA subsequently moved to Live Smart, and Mrs S moved her business to it to continue to work with the IFA.

Around November 2021 the IFA contacted Mrs S to review her existing investments. The IFA prepared a ssuitability report for Mrs S dated 15 December 2021 recommending that she switch her SIPP provider and make changes to the investments that her SIPP held. The report identified her as having a relatively low attitude to risk, and recommended she held between 17% and 36% of her benefits in equity based investments.

It also identified that she already had a secure income based upon pension income and rental income from properties she owned with her husband. It also concluded

Based on current plans, you are expected to be dependent on invested assets achieving growth to achieve your desired lifestyle and goals. You therefore have a need to take some investment risk

In summary, the report concluded that 60% of her funds be invested in cash and bonds, with 40% in equities.

Mrs S completed and returned the application form 10 March 2022, and the transfer of benefits to the new SIPP was subsequently completed, with the investments being made as recommended in the suitability report.

Mrs S subsequently became concerned as her husband had cause to question some advice he had received from Live Smart and she withdrew her funds on 29 November 2022.

Mrs S complained to Live Smart on 25 April 2023. The basis of her complaint was:

- She had not received the suitability report
- She had never completed a fact find

- The advice to transfer the SIPP was unsuitable and she should be compensated for any financial loss she had suffered.

- Mrs S should have been recommended to invest in an annuity rather than equity investments, owing to her age (over 75) at the time.

Live Smart responded to her complaint on 23 May 2023, rejecting all the grounds for her complaint. In its final response Live Smart explained that the suitability report had been provided in the same email as the application form for the new SIPP, and so must have been received by Mrs S. It also explained that the new SIPP provided online access and lower charges than her previous SIPP, the investment provided was appropriate for her attitude to risk and that whilst age is an important factor in determining product recommendations, it is not only reason and it considered the investment recommendations to be suitable.

Unhappy with this response, Mrs S brought her complaint to this service. Our investigator reviewed the evidence and formed the opinion that the complaint should not be upheld.

Mrs S disagreed, and so the complaint has been passed to me to make a final decision.

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 reviewed all the evidence in this case, I agree with our investigator and do not uphold this complaint.

I can appreciate that this will be disappointing to Mrs S, so I will explain how I have reached my decision.

Firstly, I think it's important to reflect upon the role of this service. Our role is to impartially review the circumstances of a complaint and make a decision on whether a business has made errors or treated a customer unfairly.

To do this, I have considered not just the evidence provided, but also the applicable rules outlined in the Financial Conduct Authority's (FCA) conduct of business sourcebook (COBS) which sets out the standards to which all regulated financial services companies must abide.

I will now consider Mrs S's complaint points in turn.

The first of these was that she had not received a copy of the suitability report. I agree with Live Smart in this regard as a copy of the report was sent to Mrs S on 9 March 2022 along with the SIPP application form that she completed and returned. Given this, I find it reasonable to conclude that she was indeed provided with a copy of the report.

She also complained that she had not completed or signed a fact find. Live Smart has said that it considered the fact find for its clients to be a 'living' document, updated

when client arrangements change or clients communicate changes to us

Furthermore, although Mrs S had only been a client of Live Smart for a short period of time, she had been working with the IFA in question for a period of around ten years at another firm. I would conclude from this that they were more familiar with Mrs S's financial position than would otherwise be the case. The FCA guidance for small IFA firms also makes clear that there is no requirement for a fact find to be signed by a client. Consequently, I can't see that Live Smart has done anything wrong in this regard either.

Turning now to the issue of whether the advice to change SIPP provider was appropriate for Mrs S. I can see that she had been invested in her original SIPP for a number of years, and the comparison of the two providers clearly shows that costs and charges of the new SIPP were substantially lower than the original SIPP while providing identical features and benefits. Once more, I can't see that Live Smart has done anything wrong here.

In terms of the investments recommended to Mrs S, I can see that her original SIPP had contained an element of equity investment before the transfer to the new SIPP. Obviously however, her IFA may have decided that this was no longer suitable for her, given her age. The relatively low attitude to risk score that was determined for her also leads toward a conclusion that a high proportion of equity investments may have been unsuitable for her.

Against this, I can see that the suitability report made reference to the need to have some element of equity exposure in order to meet Mrs S's financial objectives. I must also consider that Mrs S was also not relying on this pension for income but had used it to fund ad hoc capital withdrawals to pay for holidays and other large 'one off' expenditure.

Given that the equity investment that was recommended was offset by bonds and cash based investments and that the risk rating of this fund was assessed as low risk, in line with Mrs S's attitude to risk, I find it reasonable to conclude that the recommendation was appropriate for her.

In terms of the final point, whether Mrs S should have been recommended to invest in an annuity, I cannot see that Live Smart have done anything wrong here either. An annuity is designed to provide a source of income but is inflexible in this respect. Investing in an annuity would have produced more income for Mrs S, but with a consequent loss of opportunity for growth and losing her the ability to make lump sum withdrawals when she wished to. I therefore can't see that an annuity would have been more suitable to her circumstances.

In summary, I cannot see that Live Smart has done anything wrong in the advice and recommendations it made to Mrs S.

My final decision

For the reasons explained above, I do not uphold Mrs S's complaint.

My final decision is that Live Smart Financial Planning Limited need take no further action to resolve this complaint.
Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 27 May 2024.

Bill Catchpole
Ombudsman