DRN-4678003

The complaint

Miss P complains that Evelyn Partners Investment Services Limited (EPISL) failed to provide her with timely advice about her pension fund, and that this led to a financial loss.

What happened

In October 2019, Miss P decided to start using EPISL's Product Investment Review Service (PIRS). EPISL conducted a risk profiling for pension investment which indicated that she could take a relatively high level of investment risk. It said she'd agreed with it that she could be classified as a "Risk Profile E".

Amongst other things, EPISL advised Miss P in its 15 October 2019 financial plan to switch her current holdings in her pension with a provider I'll refer to as provider A into the Baillie Gifford Managed Fund. And to invest her future pension contributions into the same fund. I understand that this fund had a risk rating of 5 out of 7, with 7 being the highest risk. EPISL said that its initial fund recommendation was based on Miss P's pension risk profile which allowed for exposure to equity holdings of 50% to 80%.

EPISL carried out annual reviews as part of the PIRS in September 2020 and September 2021. Both reviews recorded that Miss P's objectives hadn't changed in respect of what she was aiming to achieve with her pension. And that after reviewing her risk profile, she and EPISL had agreed there were no changes to her attitude to risk, need to take risk, tolerance to loss or resilience to catastrophe. So Miss P's current risk profile remained at Risk Profile E for her pension.

On 19 January 2022, Miss P e-mailed EPISL. She said: "*My pension fund has been tanking since reaching a high in September - particularly over the past month. What is [EPISL] recommending; what are expectations for a turnaround?*".

EPISL replied the same day with in-house information about financial markets in general.

Miss P emailed EPISL on 20 April 2022 about a number of things, including her concerns about her pension's performance. She said she'd expected to get a similar response from EPISL to the one it'd provided on 19 January 2022, that is, to stay the course in a turbulent market. She chased for a response on 29 April 2022. EPISL replied that day to tell her that it would carry out a detailed review of the "*performance/volatility etc*" of her existing investments with provider A, after which it would provide appropriate advice.

Miss P chased EPISL for a response. EPISL replied on 10 May 2022 to say that it would carry out the initial fund analysis over the next couple of days. And that the outcome of that analysis would then determine the remaining timescale, depending on whether fund switches would be recommended.

EPISL then wrote to Miss P on 12 May 2022. The documentation shows that it carried out a fact find the same day, and that Miss P had confirmed that there'd been no major changes to her current personal and financial circumstances, or her pension objectives, since her last review in September 2021. Her risk profile remained at Risk Profile E.

EPISL said that the Baillie Gifford Managed Fund had last been reviewed at the September 2021 annual review when it was top quartile over both 1 and 3 years for performance and held an appropriate equity weighting for Miss P's risk profile. So on that basis it hadn't recommended a change to the fund at that time. It said that the fund wouldn't normally be reviewed again under the terms of the PIRS agreement until September 2022. But it noted that there did seem to be "*valid concerns regarding this fund's recent performance*" so it had agreed to carry out an interim review.

EPISL said that the fund had fallen significantly in value since the last review, and that the fall had been out of line with the market. It said that after the investigation it'd carried out for the interim review, it appeared that the Baillie Gifford Managed Pension fund managers had made significant changes to the asset allocation of the fund. It said that where the equity content had been over 75% at the time of the September 2021 review, it was now at around 35%.

EPISL said that this made the fund clearly unsuitable for Miss P's risk profile. It also said that the ongoing fund charge had increased from 0.32% in 2021 to 0.70%, which it felt represented poor value for money.

EPISL recommended that Miss P switched from the Baillie Gifford Managed Pension fund to a Multi Asset Plus Fund. It said the asset allocation of the recommended fund was more in line with what it felt was suitable for Miss P's risk profile. It also said that the recommended fund met its core criteria in terms of fund size, age, liquidity, currency, and past performance. And that the ongoing charges for the new fund were lower.

EPISL also confirmed to Miss P that the cost of its interim review was included in the PIRS service charge.

Miss P agreed to the switch when she signed the switch form on 16 May 2022. And the switch was executed on 17 May 2022.

Miss P complained to EPISL on 5 September 2022 about the advice and the service she'd received. She said her pension investment had lost a quarter of its value between January and May 2022. She made the following complaint points:

- Between her 19 January 2022 email and the time she was able to exit the fund, her pension had lost around £60k. In the month between her 20 April 2022 query until exit the loss was around £22k.

- While Miss P acknowledged that her funds weren't monitored all the time, she felt she was entitled to timely and accurate advice. She felt there'd been several failings in this regard.

    - She said that EPISL had later advised that the problematic fund strategy change occurred in February 2022. She felt this should've been flagged. She said she'd asked whether other clients were advised to exit but had received no response.

    - She said that the advice she'd sought and that EPISL had provided to her in January 2022 had failed to consider warnings and concerns regarding this fund and investors exiting. She didn't think the advice given had been based on a consideration of her actual investment fund. Instead, the advice provided was a generic response as to the state of the markets at that date.

    - Miss P felt that it'd taken EPISL too long to advise her and to make the switch between April and May 2022.

- She also felt that the fund didn't represent true diversification as it was a single fund directed by one fund manager.

EPISL issued its final response on the complaint on 26 October 2022. It didn't think it had done anything wrong. It said that the PIRS didn't include ongoing monitoring of Miss P's funds. And that it would only assess whether the funds it'd recommended remained suitable and whether its PIRS remained suitable for her in annual reviews. It felt that it had provided the service it'd agreed. It also said that if Miss P asked it for advice about a potential change based on current market conditions, it would only be able to make a recommendation after following its advice process. as its relationship with her was an advisory one, rather than discretionary.

In response to Miss P's point about whether other clients had been advised to exit the fund, EPISL said it couldn't agree there were concerns regarding that fund in particular.

EPISL said that it only made the recommendation to change funds because the fund manager had made changes which reduced the proportion of equities in the fund to a point where it was no longer suitable for Miss P's risk profile, not because of its recent performance.

In respect of the time EPISL had taken to provide advice to switch funds, it said that although there had been an initial delay in responding to Miss P's 20 April 2022 request, it had then only taken 17 working days to the production of the advice report. It acknowledged that Miss P's fund had continued to fall in value during this period, but said that the time taken was well within its service standards.

Regarding Miss P's point about diversification, it said that it had reviewed the 2019 advice and felt that the fund recommended was suitable for Miss P. It said this was because the fund matched Miss P's risk profile. And it had been reviewed by EPISL's in-house investment team who had approved it for recommendation for clients not investing in its in-house funds. EPISL didn't agree that its recommendation of one fund represented a failure to diversify the risk. It said many managed funds invested in similar assets.

In November 2022, Miss P asked EPISL some questions about what it had known about the fund changes and when it had found out about them. She also asked it about its service standards. And about why it hadn't offered her an annual review. Miss P also told EPISL that she had asked another adviser to look after her investments with provider A.

EPISL replied in December 2022. It confirmed that it didn't have specific service standards for issuing advice reports as the time taken could vary greatly from client to client. It said it'd taken 14 working days from Miss P's 20 April 2022 query until 12 May 2022 when the report was produced. It felt this was reasonable.

EPISL told Miss P that the review hadn't taken place due to her ongoing complaint. It offered to refund 50% of the financial planning fees charged from June 2022 to the termination of her agreement with it as a gesture of goodwill.

Miss P replied to EPISL in March 2023. She still felt that it had knowledge about the state of her pension fund when she raised her query in January 2022. She acknowledged that EPISL had said that her fund began to fall in value in November 2021. She felt this meant that the fund was therefore already an inappropriate investment by the time she raised her January 2022 query. She also said that EPISL still hadn't responded to her repeated questions about when other customers were advised to switch out of the fund.

Miss P felt that the offer of a partial fee refund was derisory and wrong by an order of magnitude. She said she'd received no services at all over the period the refund was supposed to cover.

EPISL replied to Miss P in April 2023. It said it didn't have an investment management agreement with her, and it hadn't undertaken to monitor the fund between annual reviews. It suggested she referred her complaint to this service.

Miss P brought her complaint to this service on 25 April 2023.

Our investigator didn't think that the complaint should be upheld. She felt that EPISL's generic response to Miss P's January 2022 email was reasonable. And that had Miss P wanted further information, she could've asked for it. She also felt that after Miss P's 20 April 2022 email, EPISL had provided the required advice in a reasonable timescale. And she was satisfied that the advice it'd provided was reasonable.

Miss P didn't agree with our investigator. She made a number of detailed points. In essence, these were:

- She didn't agree with our investigator that EPISL's response to her January 2022 email was reasonable. She felt it had failed to consider her specific investment and properly advise her. She said she'd asked it for advice about her pension fund. And that EPISL had replied with the aim of reassuring her that the issue was the market, not her specific investment. She said she had been reassured by EPISL's response. She felt she'd been entitled to rely on what she felt was advice given in January 2022. She said it hadn't occurred to her to challenge this advice in January 2022.

- She wanted to know what information EPISL had held about her specific fund at the time of her January 2022 email. And whether it had advised other customers to exit the fund at that time.

- She acknowledged that EPISL didn't have a duty to monitor her pension fund. But felt that she had access to her financial planner if she had any queries or questions. She said she did have a query in January 2022. And that it was for advice as to whether her investment was tanking. She said that once she'd raised the issue, EPISL was under a duty to respond with due care and skill. She felt that EPISL's response was: "*it's the market, I hope that gives you some comfort"*. And that this answer was insufficient.

- Miss P felt that if our investigator's understanding of the PIRS was correct, EPISL would never have an obligation, except at an annual review, to check on a client's investment; to advise; or to change strategy - no matter how poorly the investment was performing. She didn't think this could be right.

- Miss P also felt that EPISL had acted too slowly both generally, and in circumstances where her pension fund was dropping at a rate of around £1,000 each day around the time of her 20 April 2022 email. She wanted the time EPISL had taken to advise her to switch out of the fund to be considered as a whole, as she felt it had caused a delay to this advice.

- Miss P felt that there were systemic failures that led to her loss. She said she'd been invested in a product that was susceptible to the sort of risk that she actually suffered, as she felt the fund was overexposed to particular investments and the whims of a particular fund manager. She also felt that the PIRS process meant that EPISL had no obligation to conduct a review or give advice; and no applicable service standards or right of review except annually, so therefore it was possible there'd be a dramatic fall in investment value even if a client raised the alarm. Miss P also felt that a significant portion of the loss she'd suffered had been caused by the time EPISL had taken to provide the May 2022 advice. She felt that it could and ought to have acted faster.

As agreement couldn't be reached, the complaint has come to me for a review.

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'm not going to uphold it. I know this will be disappointing for Miss P. I'll explain the reasons for my decision.

I've not provided a detailed response to all the points raised in this case. That's deliberate; ours is an informal service for resolving disputes between financial businesses and their customers. While I've taken into account all submissions, I've concentrated my findings on what I think is relevant and at the heart of this complaint.

I consider that the crux of this complaint is whether EPISL met its responsibilities under the PIRS agreement it had with Miss P.

Details of this agreement were sent to Miss P on 19 October 2019. This described the service she would receive as follows:

- "*Access to your Financial Planner throughout the year to answer any queries or questions you have about your investment plans and keep your account up to date.*
- *An annual review to understand any changes in your personal and financial circumstances, which may affect your goals and objectives and the ongoing suitability of your investment strategy taking into account your risk profile and update this if required.*
- *We will provide you with access to our interactive online portal - My Tilney.*
- *You will receive valuations directly from each of your investment providers.*
- *We will conduct this review with you either in person or via telephone depending upon your wishes.*
- *For third party products within the service, we will review your asset allocation and make recommendations for changes if required*."

It also noted that any further identified advice needs might be subject to a further advice fee.

As our investigator noted, the PIRS doesn't include monitoring or managing clients investments throughout the year. Advice is given annually but clients have access to their financial planner if they have any queries or questions. EPISL has also confirmed that while it does offer a discretionary investment service which included ongoing monitoring of funds, this wasn't available to Miss P within the framework of her employer's group pension scheme.

EPISL told this service that fund reviews aren't available as standalone events, but that they are included in the annual review. It also said that Miss P's annual reviews had been carried out in September each year. It said this was in line with the service agreement to provide an annual review. And as the initial engagement had been in September 2019, this had been the month for the subsequent reviews.

I first considered whether EPISL's response to Miss P's 19 January 2019 email fulfilled its responsibilities under the PIRS.

19 January 2022 email response

Under the terms of her PIRS, Miss P had access to her Financial Planner to answer any questions she had about her investment plans. So when she sent EPISL an email on 19 January 2019, she had the right to expect a response.

EPISL said that it provided commentary on the current overall financial situation in its response. Alongside an update on the current market conditions, it's email said:

"*I have been in discussions with our Chief Investment Officer and the wider Central Investment Team at [EPISL] over the past few days discussing the turbulent couple of weeks that have kicked off 2022, stemming from the Federal Reserve's comments around interest rate expectations. I share our house view following an in-depth look at the recent moves below, which I hope will provide some comfort:* …"

Miss P acknowledged that EPISL's position is that clients aren't in fact entitled to advice outside of annual reviews. But said this wasn't what she'd been told, nor was it what she'd understood from her service agreement or communications with EPISL.

Miss P felt that EPISL's response to her 19 January 2022 email had failed to consider her specific investment and properly advise her. She said its reply had reassured her at the time. Miss P felt that she should be entitled to rely on the advice she felt EPISL had given her in January 2022. And that it hadn't occurred to her to challenge this advice, or ask further questions, at the time.

Miss P said she'd asked for advice as to whether her investment was tanking. She felt that EPISL's response that the fall was market-related was insufficient.

EPISL told this service that it felt its response fulfilled its responsibilities under the PIRS. It acknowledged that its response was generic. And that it had detailed its general approach to not make ongoing changes based on short-term market movements. It's response also said that it wasn't certain whether the falls in the market would be sustained or whether there would be a recovery.

After Miss P had disagreed with our investigator's view, I asked her the following question about EPISL's response to her 19 January 2022 email:

"*I consider that both the content of the email, and the fact that it was issued on the same day that you sent your email, shows that it was a generic response to your question about market expectations, rather than a specific response to the investments you held in your pension fund.*

You've told this service that Evelyn Partner's response to your 19 January 2022 email reassured you, but that it's answer wasn't sufficient.

Could you let me know why you didn't ask follow-up questions at the time? I ask this in particular because I consider it was reasonable for Evelyn Partners to take your email as a *request for its current market expectations, which it provided, rather than a specific query about the investments in your pension fund. Therefore, I'd like to know why you didn't send a follow-up email to request the specific information about your pension fund investments that it's now clear you wanted*."

Miss P made the following points in her response:

- She didn't agree that EPISL had taken her email as a request for current market expectations. She felt that her request clearly was about her pension fund, which was invested in a single fund, not to the market generally. She felt that EPISL understood what she was asking. But had provided something else.

- Miss P felt that as professional advisers, EPISL had access to financial information that she didn't have. She felt that its response had been to advise her that the specific losses she'd queried were related to the wider market, not to her fund specifically. She said that EPISL's response had comforted her on this basis.

- She said that it therefore hadn't occurred to her that she should challenge EPISL's advice in its January 2022 email, as she was entitled to rely on the advice. She felt she was also entitled to believe that EPISL had checked on her specific pension fund.

I also asked EPISL some further questions, as follows:

"*Please could you let me know what you knew about the Baillie Gifford fund in question in January 2022? Did you have specific information about changes to that fund that led you to advise other customers to exit it in January 2022, or shortly thereafter?"*

EPISL said it hadn't been informed of any specific issues about the Baillie Gifford fund in January 2022. It said that it had first become aware of the issues with the fund when it carried out a formal interim review for Miss P in May 2022. It said: "*To the best of our knowledge we had no other PIRS clients in the Baillie Gifford fund at that time, and can confirm that we did not advise any other client to exit the fund in January 2022, or at any other time prior to May 2022*."

I know that Miss P doesn't agree with me, but I agree with our investigator that the information EPISL provided in response to her 19 January 2022 email wasn't advice. Instead, it was generic information on the current market conditions. I also consider that the PIRS clearly states that: "*any further identified advice needs might be subject to a further advice fee*.", and no further fees were charged. I think this confirms that the 19 January 2022 email didn't constitute advice.

I also agree with our investigator that if Miss P didn't think EPISL's 19 January 2022 response was sufficient, she could've asked further questions. I say this whilst acknowledging that Miss P was reassured by EPISL's response, taking it as "advice" to ride out the storm, rather than change her investments. But as I've noted earlier, I don't consider that Miss P's email was clearly asking EPISL about her specific fund, so I think it acted reasonably when it provided a generic response.

I'm also satisfied that it was clear that EPISL's response was a generic response. I say this because it only referenced the market overall, not Miss P's specific fund. Therefore, while I agree with Miss P that she was only invested in one fund in her pension, and her email referenced that pension, neither her email nor EPISL's response ever mentioned the Baillie Gifford Managed Fund.

I acknowledge that Miss P feels that EPISL knew exactly what she was asking for in her January 2022, but decided not to provide it, but I have no evidence of that. And I've not found any evidence that it did anything wrong here.

I know that Miss P doesn't agree that it can be right that under the PIRS, EPISL only has an obligation to check an investment at an annual review, no matter how poorly the investment was performing. But I don't think this means that the PIRS is fundamentally flawed.

I say this because under the PIRS, a client who needs further advice can request it from EPISL, subject to a further advice fee. As I've noted earlier, I'm not persuaded that Miss P made it clear in her 19 January 2022 email that she wanted advice about the Baillie Gifford Managed Fund. I think if she had made this clear, EPISL could've provided the additional help she needed at an earlier time, although it may have charged an additional fee for it.

I also acknowledge that Miss P feels that EPISL had access to financial information that she didn't have. I'll cover this point next.

Did EPISL have access to significant information about the fund in January 2022?

Miss P has repeatedly asked EPISL what information it held about her specific fund at the time of her January 2022 email. And whether it had advised other customers to exit the fund at that time.

I asked EPISL the following questions:

"*If a fund manager alerts you to a change in remit, what actions do you take to alert your clients?"*

"*I understand that the fund in question had a 40-85% equity remit, but that it had fallen outside of this range by the time you recommended Miss P move out of it. Did Baillie Gifford alert you that it was no longer managing the fund within its remit at any time? If so, when?"*

EPISL said it wasn't notified when fund managers made significant changes to funds. It said it doesn't have a panel of funds that it recommends for PIRS clients. And that fund choices are made on an individual client basis depending on the funds available within their specific investment wrapper in line with the PIRS process guidance.

EPISL also confirmed that it doesn't receive any form of alert or notification of a change to a remit. It also said that the PIRS stated in its terms that it doesn't continually monitor funds, and that the service is to review the fund(s) once a year based on the status of the fund(s) at that time.

However, EPISL noted that investment management teams within the wider business group may have been informed and/or picked up as part of ongoing equity fund research that the specific fund in question had undergone a dramatic change in remit and was underperforming, but those teams didn't contribute to the PIRS service.

EPISL said for Miss P at the time of her January 2022 email, it had last undertaken a review in September 2021 at which point it had deemed the fund suitable and performing in line with expectations. And that it had agreed to carry out an interim review of the fund in May 2022 due to the concerns Miss P had raised at the end of April 2022. And that it had recommended an alternative fund following this interim review.

Based on the answer's above, I'm satisfied that EPISL didn't have any specific new information about Miss P's fund at the time of her January 2022 email.

I also asked EPISL the following questions about its May 2022 advice.

"On 12 May 2022, you told Miss P:

"Following the investigation that we have carried out in this interim review, it appears that the fund managers of the Baillie Gifford Managed Pension fund have made significant changes to the asset allocation of the fund."

When do you first find out about these "significant changes"?"

EPISL said that it only found out about these significant changes on 10 May 2022, when it was carrying out the interim review.

From what I've seen, although Miss P expected her adviser to know much more about what was happening to her fund than she did when she sent her 19 January 2022, I'm not persuaded it had any additional information. And it wasn't required to investigate the fund outside of an annual review.

As I've noted earlier, I don't agree with Miss P that her email was clear that she was asking about this fund. But if that email had clearly asked for information about the Baillie Gifford Managed Fund, the most current information at that time would've been as at 31 December 2021.

I've gone on to consider what I think could've happened if Miss P's 19 January 2022 email had more specifically asked EPISL about her investment in the Baillie Gifford Managed Fund.

What might've happened if Miss P's 19 January 2022 email had asked about the Baillie Gifford Managed Fund?

My research shows that the fund returned 4.34% in 2021, after returning 33.87% in 2020. The three-year annualised return at the of 2021 was 15.29%. My research also indicates that the Baillie Gifford Managed Fund underperformed against most of its peers in 2021. But that it still had a similar weighting of fixed income and equity as its peers.

EPISL told this service that PIRS doesn't monitor client funds in between annual reviews. It initially explained in its complaint response that its recommendation to exit the fund in question at the brought-forward review in May 2022 was based on the change in the fund's asset allocation. But it went on to correct this. It said the advice to switch funds had been based on the fund's sector ranking from February 2022.

EPISL said that the guidance given to its advisers was that it should only use funds that meet the following criteria:

- Minimum track record of 3 years
- Minimum fund size of £50m
- 1st or 2nd quartile over either 1 year or 3 years

From what I've seen, the Baillie Gifford Managed Fund would have met all three of these criteria in January 2022. Therefore, even if EPISL had reviewed Miss P's investment in the Baillie Gifford Managed Fund when it received her January 2022 email – which it wasn't required to do under the terms of its agreement with her, and which I don't consider Miss P had clearly asked it to do – the fund would still have met all of its criteria. So I'm not persuaded that if EPISL had carried out a review of her fund in January 2022, it would've advised her to exit the fund in question.

I next considered if EPISL acted in a timely fashion after receiving Miss P's 20 April 2022 email.

Did EPISL act in a timely fashion after receiving Miss P's 20 April 2022 email?

Miss P felt that EPISL acted too slowly after she wrote to it on 20 April 2022. She said that her pension fund was dropping at a rate of around £1,000 each day at this time. Therefore she felt that a significant portion of the loss she'd suffered had been caused by the time EPISL had taken to provide the May 2022 advice.

EPISL felt that it had provided the advice Miss P needed in a reasonable timescale. It said it had brought forward the annual review from September 2022 to May 2022. And that it had only taken it 17 working days from receipt of Miss P's request to actioning the switch, with the interim review being carried out in between.

The evidence shows that EPISL didn't respond to Miss P's 20 April 2022 email until she'd chased it on 29 April 2022. EPISL then offered to bring forward the annual review so that it could advise Miss P on her pension fund.

So, while I can see that it took seven working days to respond to Miss P's initial email, I don't think the time EPISL took to respond overall was unreasonable. I say this because under the terms of the PIRS, it couldn't provide any advice without first scheduling and carrying out an annual review. There were no specific service standards that had to be met.

Miss P has asked this service to consider the overall time that the process took. Having done so, I'm satisfied that EPISL completed the required process in reasonable time.

I do understand how worrying it must've been for Miss P while she was waiting for the review to be completed. But EPISL was under no obligation to bring forward the review under the terms of its arrangement with Miss P. And I can't reasonably say that EPISL should have completed the process in less than the 17 working days it actually took.

I next considered Miss P's points about what she felt were the systemic failures which had led to her loss.

Is the PIRS model fundamentally flawed?

Miss P said the fund she'd been invested in was overexposed to particular investments and the whims of a particular fund manager, and that this had led to her loss.

From what I've seen, the 15 October 2019 advice to switch the current holdings in Miss P's pension with provider A into the Baillie Gifford Managed Fund, and then to invest her future pension contributions into the same fund, matched Miss P's agreed risk profile and objectives at the time.

EPISL's 2019 advice to Miss P stated the following about Miss P:

"*When balancing risk and reward you are comfortable taking a significant degree of risk, thus foregoing the certainty of capital preservation, in the expectation of achieving higher returns. Although a significant loss of capital, say up to 20% in any given year, would be undesirable it would not be unacceptable. Even a slightly greater loss, provided this occurred only very rarely, would be painful but not intolerably so. In such circumstances your natural inclination* *would be to "ride out the storm" rather than sell*."

Therefore, while I acknowledge that Miss P now feels that it wasn't good advice to invest in the way that she did, I've seen no evidence that EPISL's advice in 2019 was flawed.

Miss P also felt that the PIRS process meant that EPISL only had to provide advice at the annual review. And that it had no applicable service standards. She felt this meant that it was possible there'd be a dramatic fall in investment value even if a client raised the alarm, as she had done.

I am very sorry for Miss P that her fund fell in value so significantly in 2022. But I'm not persuaded that EPISL is responsible for that loss. Nor am I persuaded that PIRS is flawed and the cause of the loss. I say this because such a service is often an appropriate and cost-effective way for an investor to have access to financial advice.

I consider that it was clear from the outset that the PIRS didn't include investment monitoring. Nor did it include investment management. I think it was also clear that advice would be given at the annual review, but that clients could always ask questions. And that any additional advice needed could be provided at an additional cost. I do agree with Miss P that when clients use such a service, it is possible for their funds to be left unmonitored for a long period of time when there may be problems with those funds. But I think that was obvious from the start.

It's unfortunate that the discretionary investment service Miss P now feels she would've benefited from wasn't available to her within the framework of her employer's group pension scheme. But I can't fairly hold EPISL responsible for that.

Miss P was only paying EPISL for a service which annually reviewed her investments. I think she knew that to be the case when she agreed to the PIRS. And I don't think that the PIRS model is fundamentally flawed.

I finally considered EPISL's offer of a 50% refund of the fees.

Fee refund offered

Miss P said she'd received no services at all over the period the refund was supposed to cover. She felt the offer was derisory.

The fee refund was based on 50% of the fees charged from June 2022 to the termination of Miss P's agreement with EPISL. I understand that EPISL hadn't yet carried out the review of Miss P's non-pension investments whilst her complaint was ongoing.

EPISL told this service that it had offered Miss P the refund in full and final settlement of her complaint. And that if she accepted it, she wouldn't be able to pursue her complaint with this service.

In my view, Miss P had already received the September 2022 annual review for her pension in May 2022. Therefore, although she may reasonably feel that she'd received no services between June 2022 and November 2022, she'd already had the 2022 pension review for the PIRS period from September 2021 to September 2022 in May 2022.

I acknowledge that Miss P felt the offer was derisory, but it was simply an offer to reflect the lack of provision of the non-pension investment review. It wasn't intended to cover any other aspect of Miss P's complaint. Therefore I consider that EPISL's offer to refund 50% of the fee was reasonable.

I’m sorry that Miss P has suffered a significant loss in her pension fund. But I can’t fairly hold EPISL responsible for that loss. So I can’t uphold the complaint.

My final decision

For the reasons explained above, I don’t uphold Miss P’s complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Miss P to accept or reject my decision before 15 May 2024.

Jo Occleshaw
Ombudsman