

The complaint

Mr C complains that Argentis Wealth Management Ltd (Argentis Wealth) didn't provide him with information about the available options to try to mitigate the lifetime allowance (LTA) charge that he incurred. He says that, in advance of his 75th birthday, Argentis Wealth could have recommended drawing a "token sum" from his self-invested personal pension (SIPP) thus creating a benefit crystallisation event (BCE) so that his pensions could have been tested against the LTA. Mr C would like Argentis Wealth to refund the charge he incurred.

What happened

Mr C retired in 1999 and the following year he began receiving pension payments from his defined benefit (DB) pension scheme. In 2002 he started a new job and took out a personal pension into which both he and his employer paid.

In 2015 Mr C met with Castleton Financial Planning - now part of Argentis Wealth, which is how I will refer to the business throughout the rest of this decision - and agreed to transfer his employer funded stakeholder pension plan into a SIPP. The following year Mr C's employer made a lump sum contribution to the SIPP and thereafter Mr C stopped his personal contributions and applied for fixed protection 2016 (FP16) – which protected him against any tax charge up to a £1,250,000 LTA.

In 2023, in anticipation of his 75th birthday - which was a BCE - Mr C's SIPP provider tested his pension benefits against the LTA. As a result it reported a charge of £13,042 which was payable from Mr C's plan.

So in February 2023 Mr C complained that Argentis Wealth failed to inform him of the possibility of an LTA charge at age 75 and didn't provide him with any options to mitigate the loss. In particular he felt that taking his tax free cash (TFC) lump sum and gifting it to his grandchildren *could have* had a mitigating effect.

Argentis Wealth didn't uphold the complaint making the following points in response:

- It's suitability report from 2015 covered the matter of the LTA. It did confirm that the LTA was unlikely to be exceeded based on the information Mr C had provided about his other plans – but this indicated Mr C was fully aware of the LTA process and consequences of exceeding the allowance.
- It later received an FP16 notice which had (presumably) been arranged by Mr C – which also supported the idea that he understood matters around the LTA. It suggested that this issue should be regularly reviewed.
- It communicated with Mr C in 2016, generically referencing the LTA. It also wrote to Mr C in the ensuing years to confirm ongoing suitability and the potential tax charges he could face at age 75. In 2020 it provided some options for mitigating tax on Mr C's pension, but he chose not to take up those options.
- Mr C's complaint referenced an option of withdrawing his TFC, but it had discussed that option in 2020 when he chose not to take any action.
- The LTA charge had been caused by the increase in the value of both his DB and stakeholder pension plans. These increases couldn't have been foreseen.

- But it did accept that it didn't specifically address the matter of the LTA charge in its formalised annual reviews after 2015.
- As a result it was prepared to equally share the cost of the LTA charge as a gesture of goodwill.

Mr C said:

- He followed the advice he received in 2016 and stopped making pension contributions and applied for FP16.
- But in recent years it wasn't brought to his attention that an LTA review would automatically take place when he was 75. If this had happened, he could have taken pre-emptive action.
- His adviser had even spoken about further contributions to the SIPP in 2022 – supporting the idea that he was unaware of the impending LTA review.
- He didn't think the letter from 3 August 2020 made any reference to the LTA or any possible mitigating actions.
- He thought Argentis Wealth had failed in its duty to provide ongoing advice around the LTA issue even though he paid for that ongoing advice.
- He wanted Argentis Wealth to reconsider the level of its goodwill gesture payment.

Argentis Wealth then said additionally:

- When Mr C subsequently took out FP16 following its earlier suggestion, he would have been fully aware of the implication of the LTA – especially at age 75.
- It didn't know the detail of what was discussed in 2020, but the subsequent follow up from August 2020 did refer to the tax implications on death - after reaching age 75. Mr C didn't take any subsequent action.
- Much of the increase in the value of Mr C's pensions had come from the incremental income rises of his DB pension.
- It might have been possible to reduce/avoid the LTA charge if the TFC had been taken earlier, but it was also possible the charge may still have applied for the other reasons it had set out.
- Advice to increase contributions would only have been given because of the possible tax benefits available. It accepted this would have increased the SIPP value and subsequent LTA charge.

Mr C remained unhappy with that outcome, so he brought his complaint to us where one of investigators looked into the matter. He thought Argentis Wealth's offer to resolve the matter was fair and reasonable. He said he was satisfied that Mr C and Argentis Wealth had conversations about the LTA leading up to his 75th birthday and that Mr C had acted upon these discussions when he applied for FP16. He did accept that Argentis Wealth could have been clearer in explaining what might happen as Mr C approached his 75th birthday – but he didn't think Mr C would have taken a different course of action anyway.

He said that, while the LTA charge might have been a shock to Mr C, he thought that holding his pension benefits in a tax efficient wrapper outside of his estate - for his grandchildren to enjoy after his death, would have been a bigger driver for Mr C than to avoid the LTA charge.

Mr C didn't agree. He made the following points in response:

- He had limited knowledge of how the LTA worked and expected that, as he paid it an ongoing advice fee, Argentis Wealth ought to have advised him of his options to

mitigate a tax charge. In particular he said he wasn't told about the disadvantages of not drawing some of his SIPP benefits – the growth of which had principally led to the LTA charge.

- He said he'd now been made aware of an option to crystallise a small portion of his SIPP which would have brought about a test against his DB pension when it was at a lower level. He thought this would have resulted in a lesser (if any) tax charge.
- He suggested that he would be prepared to accept an alternative solution where Argentis Wealth was culpable for 75% of the tax charge.

The investigator put this to Argentis Wealth, but it wasn't prepared to revise its offer. The investigator said he was still satisfied that the original offer was fair and reasonable, so Mr C asked for his complaint to be referred to an ombudsman – and it was passed to me to review.

My provisional decision

I issued a provisional decision on this case on 22 February 2024, here's what I said.

"Did Argentis Wealth do enough to make Mr C aware of his position regarding the LTA?"

In August 2015, when it advised Mr C to transfer his stakeholder pension to a SIPP, Argentis Wealth's suitability report set out the reasons for the recommendation. It said, "you are already in receipt of a private pension, state pension and continuing to work. You would not look to retire fully until age 75 at the earliest and would now like to review your pension provision. You would like to ensure your pension has functionality to allow options such as flexi access drawdown".

Argentis Wealth noted the value of Mr C's plan as £94,695.70 which was projected to be "£117,000 at age 75".

As Mr C had told Argentis Wealth that his 'in payment' DB pension used 77.84% of the LTA, it said that based on a £1 million LTA this meant there was £221,600 of his LTA remaining. It said he was unlikely to exceed the allowance but there was a need to "review it regularly." Although I note no mention was made of the fact that the DB pension income would most likely be indexed and use up more of the LTA over the years.

But I think this report set out the situation Mr C was in at the time and highlighted that his pension provision – including the position with regards to the LTA - would require ongoing reviews. I haven't been presented with any evidence to demonstrate the level of any ongoing service that was agreed but Argentis Wealth hasn't refuted Mr C's assertion that he paid for an ongoing service. And I note that the 2020 suitability report said that "you have selected the Choice service, which includes an annual financial planning review. I will contact you again in 12 months' time to arrange this." I've taken this to be confirmation of a continuation of a previously agreed level of service.

The following year Mr C met with Argentis Wealth so that it could invest a lump sum payment into the SIPP from Mr C's employer. I've looked carefully at the report that followed the recommendation but there's nothing to support the claim that specific advice was given around the LTA. I don't know what was discussed at that meeting which might have been omitted from the report, but it would seem that following the report Mr C made an application for FP16 – so I think it's reasonable to conclude that the subject of protection and/or mitigation against an LTA charge was discussed because of Mr C's actions, which I don't think he would have done otherwise. I note that in his complaint to Argentis Wealth Mr C said that he, "dutifully followed his wise counsel & sought LTA protection and stopped further pension

investments”, which would further support that a discussion of sorts was conducted.

I haven't been provided with any written evidence to support reviews that might have been undertaken from 2017 but I have seen a report that followed advice in May 2020. However, I haven't seen any reference to any mitigation options specifically for the LTA. The adviser did state that “you both confirmed that you do not wish to withdraw any capital or income from your investments at present or make any additional contributions.”, but I'm not persuaded that constituted a recommendation or even a suggestion to withdraw TFC to reduce the uncrystallised pension fund. In my view the 2020 report was focused purely on the investment strategy of the SIPP and what changes ought to be made. At that time the SIPP's value was £150,384.83 – a rise of 59% in 5 years (but including the contributions that were made up to 2016).

The appendix section of the report carried a generic warning and information on a number of pension planning areas and did touch on the LTA. It said, “if the total value of your pension benefits exceeds the 'Lifetime Allowance' the excess benefits will be subject to a tax charge of up to 55%. For the 2020/21 tax year the Lifetime Allowance is £1,073,100 but it may be possible to keep a higher lifetime allowance if one of the forms of protection is applied for:

The only death benefits that are tested against the lifetime allowance are those payable from uncrystallised funds (i.e. funds you haven't yet drawn on at all) either as lump sums or into flexi-access drawdown on death before age 75. If those benefits exceed your remaining lifetime allowance there will be a 55% tax charge on the excess if taken as a lump sum or 25% if used to provide income (includes placing the funds in drawdown”).

But I think these were generic in content and didn't provide any link to Mr C's own personal situation, nor did it provide any basis on which either party might want to consider whether an LTA charge could occur at age 75, and therefore if any preventive measures might be incorporated.

I've also looked at the report from 2021 which again was focused on the suitability of the SIPP investments. The value of Mr C's SIPP was noted as being £162,894.30 – a rise of around £12,500 from the year before. But as there was no reference to Mr C's DB pension value it wasn't possible to evaluate Mr C's entire pension wealth to assess its relationship to the LTA.

The same could be said of the June 2022 report which noted the value of the SIPP had fallen slightly to £159,188.19. This report did make a reference to the TFC within the plan but simply said “you may take this before you're 75 and gift some to your family to ensure the tax free status is not lost on death after 75 and you still have a few months to consider this.” But I think this statement is more about not losing the opportunity to access the TFC before Mr C's 75th birthday, and the suggestion of gifting to his family which had been a constant strand of Mr C's strategy with his pensions and other investments. But, even if it didn't refer to the effect such an action would have on the LTA, it did still represent a recommendation to withdraw the TFC – which Mr C didn't take up.

While I understand the LTA charge is essentially a tax, albeit on a pension fund, and I wouldn't expect Argentis Wealth to provide specialist tax advice, I would expect it to provide a broad review of his pension situation – especially as the matter of the LTA was highlighted in 2015 and it was intended to keep this under regular review.

I would have expected Argentis Wealth, as a minimum, to set out the value of Mr C's pension plans each year – which it did with the SIPP - but I think it also needed to set out the fund equivalent value of his DB pension. This could easily have been achieved by asking Mr C the current yearly income payment he was receiving and multiplying by the relevant

“factor”. Argentis Wealth should have been aware that the DB pension would most likely increase in value each year in line with indexation. This information would have made both parties aware of whether any mitigation needed to take place. In addition, Argentis Wealth should then have set out what options it thought were available to Mr C to mitigate if it believed it was necessary.

So, I think that as Mr C had elected – and paid for – an ongoing review service, in my view this ought to at least have reflected the up to date values of his pensions. As I said previously Argentis Wealth said in 2015 that, having established his position with regards to the LTA, it recommended a regular review of this matter. There’s nothing in the evidence that I’ve been provided with to support the idea that Argentis Wealth fulfilled this requirement. But I also need to consider what mitigation factors or options Argentis Wealth could have recommended and also whether I believe Mr C would have acted upon any such recommendation.

The mitigating factors

Argentis Wealth says that as result of its 2016 advice Mr C went on to take out FP16, which meant he had fixed protection at the highest available level at that time – namely £1,250,000. So there was nothing further Mr C could have done to protect his LTA at that time. I’ve thought carefully about the other mitigating factors that could have been proposed and I think the only other recommendation that could have been made would have been to reduce the size of the uncrystallised funds held within the SIPP. This would have necessitated capital withdrawals from the fund either from the TFC available or the residual taxable fund.

In its reports Argentis Wealth reiterated that Mr C had no need for income or capital from the funds and was intent on preserving it as an inheritance for his grandchildren – outside of inheritance tax. So there would have been no need to withdraw any cash unless Mr C wanted to invest it or gift it to his family.

But by doing this he would have most likely exposed such funds, which would have been taxed at his marginal rate anyway, to IHT. In the event of gifting this risk would have lasted for seven years on a tapered basis. I don’t think this course of action would have appealed to Mr C as part of his overall strategy and I don’t think, after consideration of the taxes he would and could have paid that it would have been in his best financial interest.

But Mr C has primarily suggested that the mitigation he would have considered was to have withdrawn his TFC. He says this course of action wasn’t put to him. But I think it could be argued that it was put to him in 2022, although not as clearly as I would have liked to have seen. This was previously set out in an additional letter from Argentis Wealth dated 3 August 2020 which said, “re minimising tax on your pension...my thoughts are you could-

A: Die before age 75 so that there is no income or Inheritance Tax to pay. Hopefully, this is not an option!

B: Leave the pension untouched and then if you die after 75 your grandchildren could each draw £12,500 each year as their Personal Allowance to avoid tax. Of course, if by the time you pass away they are tax payers they will face tax on the pension.

C: Draw 25% tax free cash now and gift it to your grandchildren or a trust with them as beneficiaries.

This would mean you would have to live 7 years for the gift to be free from Inheritance Tax (only an issue if the rest of your combined non pension assets top £1m) but it would then give them access to £40,000 in one go hopefully with no tax even if they had become tax

payers.

If you are very optimistic of living 7 years (which sounds reasonable) and keen to give them access to some tax-free money then drawing your 25% tax free lump sum is probably sensible.”

This letter didn't specifically use the term LTA, but I think it did refer to tax Mr C might be liable for at age 75 – which I think could be assumed to include any LTA charge. But Mr C didn't take up that recommendation which would suggest that he saw greater value in keeping it as taxable income within his pension but outside of IHT rules. Mr C has suggested that he didn't receive a review letter about his pension in 2020 but it's unclear whether it was this letter or the earlier report. But the letter was correctly addressed to Mr C and I'm satisfied it was sent to him.

Of course, at that time Mr C didn't know that by sacrificing crystallisation of the TFC this would be a factor in him incurring the LTA charge. And it could also be argued that had Argentis Wealth carried out the kind of review I said it should with values of both his pensions set out, then it would have been clearer to Mr C that taking his TFC might have another benefit.

But to conclude that Mr C would have taken that course of action is now with the benefit of hindsight. In my view, based on the evidence of what happened when the question of withdrawing TFC was put to Mr C, I'm not persuaded that he would have viewed the benefits of doing so as being greater to him than leaving the funds uncrystallised for the benefit of his grandchildren on his death.

During his complaint Mr C said he became aware that if Argentis Wealth had suggested that he crystallised just a small amount of his SIPP funds this would have caused a BCE and led to a review of his LTA position and calculated the value of his DB pension at that point. He says this would have prevented the increase in the value being assessed and meant he wouldn't have incurred the charge. I've thought very carefully about this idea and whether Argentis Wealth ought to have considered recommending it.

But I think the important point here is that Mr C had no requirement for income or capital from his pension so I don't think it would have been right for Argentis Wealth to have recommended it – even if it were for possible mitigation reasons. Had it done so and there hadn't subsequently been an LTA charge, Argentis Wealth could have been responsible for a loss of investment growth on Mr C's funds and for additional tax he would have to pay on the withdrawal as well as providing him with unwanted funds. So I'm not persuaded this was a mitigating alternative Argentis Wealth ought to have recommended.

But even if I'm wrong in my assumption of what Mr C may have done, I'm not persuaded that the mitigation factors would have been in his best interest anyway. I say that because the cause of the LTA charge was growth on Mr C's pensions, it wasn't as a result of any later contributions he made. So even allowing for the 55% LTA charge he incurred, he would still have retained 45% of the value of this growth over the LTA.

So I think Mr C did derive some benefit from the growth which he wouldn't have enjoyed if he'd withdrawn any of the funds including the TFC. Of course, any withdrawal from the TFC would have been free of tax but Mr C would then have exposed that money to the possibility of inheritance tax – which from what I've seen Mr C was keen to avoid - especially as he would most likely not have invested the cash but gifted it to his family.

It would of course have required a complex calculation to establish exactly whether Mr C might have benefitted more from either course of action, but I don't think Argentis Wealth would have provided such a calculation when simply setting out the values of Mr C's plans

and the mitigating options he had. So he would have had to make his mind up on that basis and I'm persuaded that, on balance, he would have continued with his strategy of leaving funds within his SIPP for IHT purposes.

Summary

Overall, I'm not persuaded that Argentis Wealth did all that it said it would regarding Mr C's overall LTA position in its regular reviews. I think the reviews ought to have built on what he was promised in 2015 and set out the total value of his pension plans in its annual review reports. I think this would have led to it being clearer in setting out the mitigating options available for his personal circumstances (not generic factors) around the LTA and any potential charge.

But when considering the causation argument, I'm also not persuaded that there were many options for Mr C to use to either reduce or eradicate any LTA charge. And I'm also not persuaded that Mr C would have taken the one course of action – namely withdrawing TFC – that might have applied to his situation. I think a bigger driver here for Mr C was preserving his pension funds as an inheritance – outside of IHT – for his family. I think he saw this as a greater overall use of his pension funds.

But even if I am wrong in my conclusions I still have to consider that Argentis Wealth accepted it should have done more and has offered to pay half of the LTA charge as a gesture of goodwill. Bearing in mind that Mr C himself could also have done more – for example by taking up Argentis Wealth's recommendation to draw his TFC in 2020, I think that's a fair and reasonable offer to resolve the matter in all the circumstances.

Responses to the provisional decision

Argentis Wealth said it had nothing further to add to my provisional decision. But Mr C wanted to confirm that after a new adviser took over the servicing of his plans in 2020 he was issued with separate pension and investment reports some months later – but he hadn't received or couldn't locate the pension report. He said Argentis Wealth hadn't been able to provide a copy of the report when he requested it even though it was suggested he had signed a confirmation of understanding in both cases.

He wanted me to confirm that I was aware of this information and had taken that into account when making my 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.

And having done so, following the additional submission provided by Mr C, I see no reason to depart from my provisional findings. As I said in my provisional decision there are two main issues to consider here, whether Argentis Wealth did enough to make Mr C aware of a potential LTA charge and also what Mr C would have done if he was made aware of how he might have been able to mitigate any LTA charge.

What Argentis Wealth did to make Mr C aware of the LTA charge

The earliest reference to the LTA was set out in Argentis Wealth's suitability report of 2015 when Mr C transferred his pension to a SIPP. It established that Mr C's existing DB pension used 77.84% of his LTA – which left around £221,600. Argentis Wealth said it was unlikely Mr C would exceed his allowance as it projected the value of his SIPP to be £117,000 at age

75 but noted it would need to “*review it regularly*”. And although I haven’t seen details of the ongoing advice service that Argentis Wealth had agreed to offer, I have seen evidence to support the claim that an annual planning review service would be provided, and I haven’t seen anything from either party which disputes this.

So I’ve looked at the ongoing service that Argentis Wealth did provide and what reference it made to the LTA.

In 2016 Argentis Wealth helped to invest a further lump sum into Mr C’s SIPP, but its suitability report made no specific reference to the LTA. However, following that meeting it would seem that Mr C applied for FP16 which would support the idea that the LTA was discussed to some extent as Mr C also stopped further pension contributions following the meeting.

The next report I’ve been provided with followed advice in May 2020 about the investment strategy of the SIPP and the changes Mr C should make. The value of the SIPP was also noted in this report – it had increased to £150,384 – but no reference was made to the effect this might have on the LTA at age 75 or to any mitigation that Mr C might want to consider. The appendix of the report contained generic warnings about the LTA and also referred to a test for death benefits at age 75 with a note of the tax charge that could apply.

The suitability reports that followed meetings in 2021 and 2022 set out the value of Mr C’s SIPP but didn’t update the value of his DB pension in payment and how that would have increased over the years. However, I note that the 2022 report made reference to the TFC available from Mr C’s SIPP explaining that, “*you may take this before you’re 75 and gift some to your family to ensure the tax free status is not lost on death after 75 and you still have a few months to consider this.*” Whilst this wasn’t set out as a preventive measure to reduce the value of Mr C’s uncrystallised SIPP benefits and therefore lower the fund that would be tested at age 75, it did nonetheless represent a recommendation to withdraw the TFC.

So, looking at the suitability reports to June 2022, I’ve concluded that while Argentis Wealth did satisfy its requirement to provide ongoing annual reviews, I’m not persuaded that it provided all the information required – according to its intention to “*review the LTA situation regularly*”. I say that because although Argentis Wealth did provide up to date valuations of Mr C’s SIPP I would have expected it to provide the fund equivalent value of his DB pension – especially as payments were index linked – so that both parties were aware of the overall value of Mr C’s pensions and how close they were to the LTA allowance. And with Mr C’s 75th birthday forthcoming this would have alerted them to any mitigation that was required and encouraged discussions about which alternatives or options were available.

I’m not satisfied that Argentis Wealth did as much as it could have done to keep Mr C aware of his pension fund equivalent values.

So I’ve gone on to look at the options that might have been available to him and what actions he might have taken to reduce or negate the LTA charge.

The options available to mitigate the LTA charge at age 75

I’ve considered which options Argentis Wealth could have put to Mr C in order to mitigate his LTA charge had it made him aware of the overall value of his pension funds prior to his 75th birthday.

Individual and fixed protection

In 2016 Mr C applied for FP16 which came about following his meeting with Argentis Wealth. It was also at that time that he stopped making further pension contributions. Although Argentis Wealth's suitability report from that time doesn't reference such a recommendation I think it would have been as a result of a discussion around protection and the LTA that Mr C made his application. But in any case having put that protection in place there was no further action Mr C could have taken afterwards so that wasn't an option for him going forward even if Argentis Wealth had discussed it further.

Reduce the SIPP fund value (not the TFC)

Of course, Mr C could have reduced the size of the uncrystallised fund that remained in the SIPP to ensure any benefits that were tested at age 75 were below the LTA. But the only way to do that would have been to make capital and income withdrawals. I don't think that would have been a suitable recommendation for Mr C for two reasons. Firstly, it had been established that Mr C had no need for any income or capital from his fund and he wanted to preserve it as it was free from inheritance tax for his estate – principally his grandchildren. And any withdrawals, excluding the TFC, would have attracted income tax at Mr C's marginal rate as well as exposing the capital to IHT on a tapered rate. So I don't think Mr C would have considered this as a viable option for him.

Withdrawing the TFC

Mr C says this was one mitigation alternative that he would have considered if Argentis Wealth had put it to him as a way of reducing his fund and liability to an LTA charge. But I think Argentis Wealth did put it forward to him within an addendum letter and email from August 2020. The letter headed "*minimising tax on your pension*" set out the adviser's thoughts on what Mr C could do around taxation on his pension benefits. One of the options was to "*draw 25% tax free cash now and gift it to your grandchildren or a trust with them as beneficiaries. This would mean you would have to live 7 years for the gift to be free from Inheritance Tax (only an issue if the rest of your combined non pension assets top £1m) but it would then give them access to £40,000 in one go hopefully with no tax even if they had become tax payers.... if you are very optimistic of living 7 years (which sounds reasonable) and keen to give them access to some tax-free money then drawing your 25% tax free lump sum is probably sensible.*"

So, although the letter didn't refer to drawing TFC as a way of mitigating the LTA charge, it was nonetheless a recommendation to draw the TFC and would have led to the same outcome regarding the charge if Mr C had acted upon the recommendation – which he chose not to do. It could be argued that Mr C may have acted differently if he'd been made aware that drawing the TFC might have helped in reducing any LTA charge, but I think his decision not to withdraw his TFC supports the idea that his preference was to leave the funds uncrystallised for the benefit of his grandchildren free of IHT.

But in any case I think this shows that the option of withdrawing TFC was put to Mr C even if the purpose wasn't clear in the effect it might have on an LTA charge.

Mr C has questioned whether I took the information he provided about not receiving the pension report from May 2020 into consideration when making my decision and I can reassure him that I did. However, the report didn't provide any evidence that Argentis Wealth had discussed the matter of the LTA test at age 75 with him, so it doesn't add any support to Argentis Wealth's position here. But the letter that followed in August 2020 – which I understand was received - does support its claim of reference to withdrawing TFC.

The crystallising of a notional amount from the SIPP to test benefits at age 75

Mr C says that he's now aware that Argentis Wealth could have created a BCE before he reached age 75 by crystallising a nominal amount of his SIPP fund. He said this would have prevented the increase in his DB pension payments being assessed and would have negated the LTA charge. But I don't think this was something Argentis Wealth ought to have recommended. As I said previously there was no reason to recommend anything that provided Mr C with further income or capital – however small an amount - because he didn't require any. Any withdrawal meant Mr C would have incurred additional income tax charges and a loss of investment growth on the withdrawn funds.

And the bigger picture with regards to income tax and investment growth was that – even if Mr C was subject to a 55% LTA tax charge this still meant he maintained 45% of the value of funds that wouldn't have been available if he'd mitigated his position to the point where he didn't exceed the LTA. It's arguable therefore whether Mr C actually derived a greater benefit from the investment growth of his SIPP and increase in DB pension – although it would have required a quite complex calculation to determine this during the advice process – which I don't think Argentis Wealth was obliged to carry out. But it supports the idea that, in my view, Mr C's desire to preserve his pension funds as an inheritance – free of IHT – was of more importance to him and a greater use of those funds than withdrawing income or capital.

Summary

Based on its 2015 pledge to regularly review Mr C's LTA position I think Argentis Wealth could have done more over the years leading up to his 75th birthday. In particular I think it ought to have provided updated values of his DB pension each year at the reviews so that his overall position was more clearly understood and robust discussions around mitigation could have taken place.

But equally when looking at the mitigation options available, I'm not persuaded that any of them were either suitable for Mr C's situation, or outweighed the benefit he saw from preserving his pension funds for inheritance purposes. The exception was mitigation by withdrawing TFC, but I'm satisfied that Argentis Wealth, although not as clearly as it could have done, did discuss and recommend taking the TFC for *tax advantage* purposes in a letter in 2020.

So my conclusion is that, as Argentis Wealth accepted it could have done more to make Mr C more aware of the LTA allowance test at age 75, and offered to meet half the cost of the LTA charge, that's a fair and reasonable offer in these circumstances.

My final decision

Argentis Wealth Management Ltd has offered to pay half of Mr C's LTA charge, which I think is a fair and reasonable offer in the circumstances. So I think that what Argentis Wealth Management Ltd should do.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 13 May 2024.

Keith Lawrence
Ombudsman