DRN-4707685

The complaint

Miss S complains about the quality of the advice she received from WPS Advisory Limited concerning her pension arrangements.

What happened

Miss S contacted WPS in April 2021 to seek advice about her pension arrangements. She held several pension policies with various providers and she says she understood the benefits of consolidation of these pensions. In light of that she says she specifically asked WPS to provide advice about:

- The Lifetime Allowance (LTA) which she was concerned she may have exceeded;
- Reducing inheritance tax (IHT); and
- Reviewing the performance of her pensions and the fees she was paying compared to a managed pension arrangement.

Miss S says it took WPS over a year to provide her with its written advice. On reviewing this advice she says she was shocked to find errors in some of the information recorded in the report – including errors about her age, the names of her current pension providers, her financial experience and whether she held a will or power of attorney.

Miss S also complained about the quality of the advice. By way of summary she said:

- WPS had provided a very brief standard form fact sheet about the LTA. It had not provided her with any further explanations;
- She was concerned about the IHT advice she'd been given. WPS had advised her to make further contributions into her pension even though this meant she'd further exceed the LTA. No other options had been discussed with her and she'd had to seek advice from her accountant.
- WPS told her it couldn't carry out an analysis to compare her pensions and the associated fees against a managed pension arrangement.
- WPS had not informed her it only considered a panel of five brokers. It also hadn't advised her that to take up its recommendations she would have to agree to pay ongoing advice fees.

Miss S complained to WPS. She said she shouldn't have to pay the initial advice fee of around £4,000 because the advice she'd received wasn't transparent, independent or fully considered and it had not met the scope of the work she'd agreed at the outset. She complained to WPS.

WPS investigated her complaint. It said:

- In addition to the standard form fact sheet about the LTA, it had sent her a detailed email on 13 January 2023 and had long conversations with her to discuss this complex and difficult matter;

- It had not carried out a full IHT review since that was not within the scope of the client agreement. In this context, WPS had proposed that Miss S make a further contribution to her pension. This was not a formal recommendation.
- There was a balance to be struck between income tax, corporation tax, the LTA and IHT. She needed to discuss this matter with her accountant.
- It had fully explored the cost and nature of her existing pensions. This was detailed in the suitability report it had sent to her. It had reviewed the whole of the market before recommending a fund manager. The need for ongoing advice was linked to this investment recommendation and WPS had agreed a fee reduction with the fund manager for this service.

WPS said it had acted fairly and in line with the scope of the engagement. It had carried out a significant amount of work including lengthy calls and the detailed advice report. It said Miss S should be required to pay its initial advice fee.

Miss S did not agree. She referred her complaint to our service. Our investigator looked into her complaint. She thought Miss S had agreed to pay a fixed fee for the initial advice. WPS had also told her that she may be required to pay an ongoing fee of up to £2,500 per annum.

Our investigator didn't think the advice Miss S had been given was unsuitable. WPS had taken account of Miss S's key aims, specific circumstances and its recommendations were in line with her attitude to risk and her capacity for loss. WPS had talked about LTA and IHT. It had spoken to Miss S about its recommendations and carried out research. So, our investigator thought it had provided the service which required the initial advice fee to be paid.

Our investigator noted there'd been some delays collecting all of the information and there'd been some errors, in terms of the personal information in the report. She didn't think these had been core issues. Our investigator had discussed this with WPS and it had now offered a £300 reduction in its fee. Our investigator thought this was fair in all the circumstances.

Miss S didn't agree. She didn't accept that a £300 fee reduction was satisfactory. She also provided further detailed submissions which by way of summary were:

- At the outset, she'd provided WPS with a schedule setting out a full review of the terms of each pension – so a substantial part of the work had already been done;
- Miss S was not a sophisticated investor. She'd made this clear to WPS;
- Only five brokers had been considered. This was not in line with the client agreement and was not disclosed to Miss S. WPS failed to disclose an additional fee for ongoing advice would be payable if she followed the recommendation;
- The LTA advice was not fully considered;
- The IHT advice was not fully considered;
- WPS had not provided an historical comparison of the performance of her pensions and the fees compared to managed pensions or investment generally. It failed to tell her at the outset it wouldn't be able to do this;
- It took over a year to get the written advice and it contained basic errors.

Our investigator considered what Miss S had said but she didn't change her view. So, the complaint has been passed to me to decide.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

The agreed service
Miss S first approached WPS in the early part of 2021. The service that was to be provided is set out in the Estimate of Fees which Miss S signed on 6 June 2021. This stated that WPS would charge a fixed fee for the initial services detailed:

- Initial meeting(s) to establish your current situation, needs, wants and objectives
- Review of your DC arrangements including undertaking full pension and transfer analysis with a view to consolidation
- Agreement of planning assumptions and timeframes
- Risk profiling which will include understanding your ability to manage investment and other risks, capacity to accept loss
- Designing an investment strategy in line with the above, provide our recommendation report detailing our advice
- Arranging and implementing our recommendations and investment portfolio if you decide to accept our recommendations.

There is no specific mention in the estimate of fees of advice about the LTA or IHT. However, during the introductory call between Miss S and WPS which took place on 14 April 2021, Miss S set out the advice she was seeking:

- She wanted advice about consolidating her pensions;
- She was worried about the LTA and wanted advice about this;
- Her pensions were quite old and she wanted advice about the type of wrapper that would make them transferable in a tax efficient way as part of her inheritance tax planning; and
- She wanted the funds to be invested well.

Miss S explained she wasn't reliant on the pensions for her own income. Her focus was about being able to pass the pensions on to her family in a tax efficient way. She said she was thinking about setting up a family trust and WPS told her she'd need to speak to a lawyer about that.

Having listened to the call and reviewed the other material that was completed at the time (including the Risk Questionnaire and the information gathering form), it is the case that WPS explained its priority would be to carry out a review of Miss S's pensions and prepare a transfer analysis. If her pensions were consolidated into a Self-Invested Personal Pension product (SIPP) WPS explained that would give her greater flexibility to do some of the things she wanted to do - since under the current legislation her pension would not form part of her estate and would not be subject to IHT.

So, having considered everything here, I think the services Miss S might reasonably have expected WPS to provide were as set out on the estimate of fees - albeit I think she reasonably expected that advice to include further detail about the LTA. WPS would carry out a review of her pensions and a transfer analysis before making its recommendation.

Was the advice suitable?
The Financial Conduct Authority Handbook (FCA Handbook) in its Conduct of Business Sourcebook (COBS) sets out the rules that apply to firms when providing advice.

Firms are required to take reasonable steps to ensure that any personal recommendation provided to a consumer is suitable for that consumer. In order to do that the rules require firms to obtain the necessary information about the consumer's knowledge and experience (including attitude to risk), financial situation and investment objectives. Firms are then required to consider the information and provide a written recommendation. The written recommendation should aim to meet the consumer's investment objectives, be such that the consumer is able financially to bear any related investment risks consistent with his or her investment objectives and be such that the consumer has the necessary experience and/or knowledge to understand the risks involved in the transaction.

I've considered the written recommendation Miss S was given. This was set out in the initial report Miss S was sent dated 28 June 2022 and then, following a detailed telephone conversation with Miss S, in an amended report dated 21 September 2022. I'll comment further below about the time taken to produce these reports – over a year after Miss S first approached WPS.

As mentioned above I'm satisfied on balance WPS took reasonable steps to obtain information from Miss S. I've read through the information gathering notes including the risk profiling document Miss S completed. I've also listened to the introductory call and to subsequent calls on 10 June 2022, 25 July 2022 and 9 August 2022. The calls involved detailed conversations. Following the call on 9 August 2022 WPS amended the report and recommendation it sent to Miss S.

By way of summary WPS recommended:

- Miss S should transfer most of her current pension arrangements to a SIPP;
- The funds should be invested with a discretionary manager (who I'll refer to as B) in line with a Moderate attitude to risk;
- WPS should provide ongoing advisory services.

WPS said its recommendation was right for Miss S. By consolidating the pensions she would avoid duplication of cost and overlap of investments; her investments would be well diversified with an active level of management and the arrangement would allow her to save as much as possible in her pension and thus reduce IHT liability.

Having read the report and advice, I'm satisfied that WPS did take reasonable steps to ensure it understood Miss S's personal and financial situation, her attitude to risk and her objectives. It set out Miss S's objectives, its recommendations and the reasons for its recommendations.

I've also noted that there were two conversations with Miss S following receipt of the initial report and recommendation. During those calls WPS went through its report in detail and responded to various comments and queries she raised. It also amended the report and advice following those calls in response to comments Miss S made.

Having considered everything, I'm satisfied, on balance, the advice WPS provided was suitable.

Miss S's complaint relates to the quality of the advice. She's raised several objections. I've considered further the main points she's raised.

The issues Miss S has raised about the quality of the advice she received

- *At the outset, she'd provided WPS with a schedule setting out a full review of the terms of each pension – so a substantial part of the work had already been done*

During the introductory call Miss S referred to the schedule she'd provided to WPS setting out details of her pensions. However, she accepted this was "a few years old" and the amounts would have changed.

So, although Miss S had provided details of her pensions, I think WPS needed to contact each of the pension providers to get up to date information and also to make further enquiries about the terms of each of the pensions. I think that was fair and reasonable. WPS then needed to analyse that information before issuing its recommendations. Its analysis was set out in its report and recommendations.

So, having considered everything here, I'm not persuaded, on balance, that a substantial part of the work had already been done before WPS commenced its work.

- *Miss S was not a sophisticated investor. She'd made this clear to WPS*

WPS asked Miss S to complete an attitude to risk questionnaire. In its report and recommendations WPS said this showed that she'd been assessed as a moderate investor. The report also stated that Miss S had good experience of managing money and investments. I think this accurately reflected WPS's understanding, based on the information it had gathered from Miss S, of her knowledge and understanding of investments and finances generally.

I've also noted that in its recommendation, WPS had recommended that a discretionary manager should be appointed to manage her investment. It explained that the discretionary service was suited to clients who required bespoke investment management "but prefer not to be involved in the day-today management of their investments. Discrete portfolios are established for each client with investment decisions made on their behalf, taking into account the stated objectives and attitude to risk."

Having considered the report and recommendation, I'm satisfied the advice was suitable, taking into account what WPS had learned about Miss S's knowledge and experience.

- *Only five brokers had been considered. This was not in line with the client agreement and was not disclosed to Miss S. WPS failed to disclose an additional fee for ongoing advice would be payable if she followed the recommendation.*

WPS explained to Miss S during the call on 10 June 2022 it had selected B as the preferred discretionary manager. It said that although it, WPS, was independent, its Product and Investment Committee had selected five investment houses which it was able to recommend to its clients. These selections had been made after reviewing the whole market and carrying out due diligence. There was also ongoing quarterly reviews and negotiation with these investment houses to make sure WPS's clients were getting discounted fees and value for money.

Miss S expressed concern about this. She felt it was limiting where her funds would be invested and she was concerned that WPS may have had some kind of financial relationship with these investment houses which might not be in her interests.

I've considered what both parties have said here. Whilst I can understand why Miss S expressed concerns, I'm satisfied based on the information that's been provided, WPS's Product and Investment Committee selected a panel of investment houses having considered the whole of market. It also says it carried out a full due diligence of these firms and continues to carry out quarterly reviews. It is also independent of the firms on its panel and it says it's been able to negotiate discounts for its clients as a result of its ongoing relationships. So, I'm not persuaded, on balance, WPS did anything wrong here when it recommended that B should be appointed as the discretionary manager. In terms of the discounts, any financial relationship it had with B seems to, in any case, have worked in Miss S's favour, albeit with the below caveat.

I've also considered what Miss S said about the fee arrangement. WPS said it had negotiated discounts with B but Miss S could only avail of that discount if she agreed to pay WPS for its ongoing service. Miss S didn't think she should have to do that.

In its general client agreement WPS stated:

> "We offer both initial and ongoing services. Any products we have arranged for you will only be kept under review as part of an agreed ongoing service for which you agree to pay. Our ongoing services are optional…"

WPS recommended that Miss S should avail of its ongoing advice service. It set out its reasons for that recommendation. It explained that if she agreed to an ongoing service arrangement with it she'd also get the discounted fee with B. However, as set out in the client agreement, it wasn't a requirement that she agreed to accept ongoing advice. She could have accepted the (higher) standard fees which B charged if she wanted to deal with it directly. WPS explained why it didn't recommend she should do that.

- *The LTA advice was not fully considered*

Miss S says the LTA advice she received was not fully considered. She points to the fact that a standard information sheet about LTA and benefit crystallisation events was attached to the report and recommendations. She says she would've expected much more personalised advice. She also says WPS recommended she should add additional funds to her pension even though she was already in excess of the LTA threshold.

Having read through the report and listened to the telephone calls between Miss S and WPS I'm satisfied WPS did take time to explain the LTA in more detail to Miss S. It did that during the calls on 14 April 2021, 10 June 2022, and again on 25 July 2022. So, I'm persuaded, on balance, WPS did do enough to provide Miss S with the information she needed to understand the LTA and how it affected her pension.

It is the case that Miss S mentioned to WPS that her accountant had been suggesting her employer (a limited company of which she was the shareholder) should make further contributions to her pension. WPS said that Miss S could do this. It would mean the additional funds she added to her pension would not form part of her estate when she died - but she'd still need to plan for the LTA. During the call on 25 July 2022 Miss S acknowledged that whilst she could defer triggering the LTA test, it would still have to be dealt with at some stage.

Having considered everything here, including the written advice and the information provided during the telephone conversations, I'm satisfied WPS took reasonable steps to explain the LTA to Miss S and how it would impact on what she wanted to do.

- *The IHT advice was not fully considered*

WPS explained to Miss S that any funds in her pension would fall outside of her estate and would not be subject to IHT. I don't think it agreed to provide her with any further advice about IHT – other than as part of the advice it would give about consolidating her pensions. That wasn't included in its Estimate of Fees and the report and recommendation further explained that the scope of the work was around the pension consolidation exercise.

WPS had explained to Miss S, during the initial call, that it would provide advice about her pensions and whilst it could pick up on other things after that it would require separate consideration. So, I don't think it agreed to provide detailed or general IHT advice, outside of the advice it was giving about her pensions, as part of the terms of its engagement with her. And, as set out above, it told Miss S any funds in her pension would not be subject to IHT.

Having considered the report and advice provided I can see that WPS did provide advice about how IHT would impact Miss S's pension arrangements. It also provided some general information about IHT. I don't think it's fair or reasonable to have expected it to do anything further.

- *WPS had not provided a comparison of the performance of her pensions and the fees compared to managed pensions or investment generally. It failed to tell her at the outset it wouldn't be able to do this.*

I can understand why Miss S thought it would be useful for her to be able to compare how her pensions had performed historically against how B had performed over the same period. WPS said it couldn't provide that comparison. And having considered everything here, I'm not persuaded it's fair or reasonable to say it should have been able to do that or that it hadn't made clear to Miss S, at the outset, it wouldn't be doing that.

During the initial call, when the matter of comparison of performance of her pensions was discussed, WPS told Miss S it was more concerned about comparing charges than comparing performance. It said this was because a discretionary managed arrangement was quite different to the arrangements she currently had with her individual pension providers.

WPS provided Miss S with a copy of B's proposal. This illustrated how a fund, invested in line with Miss S's attitude to risk, had performed over the past 15 years, 10 years and 5 years. It also compared B's performance over this period against a benchmark. So, Miss S was provided with historical information about how B had performed. WPS discussed this with her during the call on 9 August 2022.

It is also the case that a discretionary managed fund is managed differently and is subject to the individual mandate that the consumer provides. It wouldn't have been possible to make an accurate historical comparison. WPS explained this during the call on 25 July 2022.

Having considered everything, I'm not persuaded WPS acted unfairly or unreasonably when it didn't provide the historical comparison Miss S asked for. I think it took reasonable steps to enable Miss S to make an informed decision about appointing B as the discretionary fund manager.

- *It took over a year to get the written advice and it contained basic errors.*

WPS accepted there were errors in its initial report. However, as mentioned above it discussed the report in detail during two telephone conversations (on 25 July 2022 and 9 August 2022). It also agreed to amend its report. I've noted that the amendments did not change the substance of the advice WPS provided to Miss S or what it recommended she should do.

It did take over a year to provide the written advice report. There were some reasons for that including difficulties WPS experienced when it tried to get information from the existing providers. Part of the reason for that was because of an inconsistency with the information recorded about Miss S's date of birth. I can see WPS was following up with the providers during this time and did try to keep Miss S informed about what was happening.

After the complaint was referred to our service WPS accepted it had taken longer than it should have taken to provide its report. It offered to reduce its initial advice fee by £300. In all the circumstances that applied here, I think that's fair and reasonable.

Having considered everything, I'm satisfied the advice WPS provided was suitable and in line with the estimate of fees which had been provided at the outset. In these circumstances I think WPS acted fairly and reasonably when it sent Miss S its invoice seeking payment of the agreed fee. Miss S was required to pay this even though she decided not to follow the advice.

I agree that the advice took longer than might reasonably have been expected. And, for that reason, I've decided it's fair and reasonable to require WPS to reduce its fee by £300.

My final decision

For the reasons given above I uphold this complaint, in part, about WPS Advisory Limited.

I now require it to reduce the amount of the invoice it issued to Miss S from £4,000 plus VAT to £3,700 plus VAT.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss S to accept or reject my decision before 25 July 2024.

Irene Martin
Ombudsman