DRN-4707779

The complaint

Mx C complains that their financial adviser, County Financial Limited – who now trade as Beyond Finance Limited (BF), didn't have an adequate understanding of their financial position. And that this led to it mismanaging their Self-Invested Personal Pension (SIPP) and failing to provide them with appropriate investment advice. They said that this led to their decision to move their business away from BF.

I understand that Mx C has also complained to BF about the amount of time taken to move their business away from it. That complaint won't be considered in my decision here.

What happened

The background to this complaint is both lengthy and well known to both parties. So I've only provided a summary of significant events in this section.

I understand that Mx C has been a client of BF since 2008.

Documentation from July 2010 shows that their risk profile was identified as Moderate – or level 3 out of a range from 1, lowest risk, to 4, highest risk.

I also understand that Mx C has been a client of their discretionary fund manager since September 2010. And that their SIPP is managed within a medium risk profile and an income and growth investment objective.

BF told this service that its annual fees were 0.35%, plus VAT where applicable, for its discretionary investment service. It said it also charges £400 plus VAT for an annual full financial planning review. It said this hadn't changed since 2010. And that it had always been clear to Mx C that there would be an additional charge for this service.

Mx C said they took £30K from their pension in March 2021. And that they'd intended to be in a position to take a similar amount annually after that, in line with BF's advice. But that because their SIPP fell significantly in value, they didn't feel comfortable withdrawing funds in March 2022 and March 2023.

On 1 March 2023, BF wrote to Mx C to provide a fee comparison for the fund manager. The letter said that if they were to remain with BF, the adviser would provide an annual planning review within its increased ongoing fee. The annual fee would be increased from 0.35% to 0.5%. The letter also stated that Mx C already had a financial model built and that it could be updated at no additional cost.

BF told this service that Mx C never accepted the fee increase.

On 7 March 2023, the fund manager provided Mx C with a performance chart of their portfolio since inception and a schedule that showed cash and stock withdrawals. It also told them that there would be no termination fees if they wanted to move their investments to another provider.

On 8 March 2023, Mx C wanted clarification about the 7 March 2023 information. They also expressed their dissatisfaction about the performance of their portfolio, particularly over the past two years. And on 9 March 2023, BF provided Mx C with a performance chart and a list of withdrawals over the past two years. The portfolio performance during the year of 2021 was up 10.86%. However, portfolio performance was down -11.88% for the year of 2022.

Mx C complained to BF on 10 March 2023. They made three complaint points:

- Investment performance had been disappointing over the past two years.

- They didn't think they should've been invested in such high-risk investments given their retirement age of 68 had been planned for the last 14 years.

- They felt that BF hadn't offered a cashflow model review. And that this had impacted their other two complaint points.

BF held a meeting with Mx C on 20 March 2023. The file note for that meeting recorded that they felt that within their medium risk portfolio, some investments carried too much risk. BF said it told Mx C that the planning reviews currently cost £400 plus VAT each year, and weren't currently included as part of its ongoing adviser fees. But that they would be included in the future for those clients who accepted the new fee structure. BF offered Mx C a return of one quarter's worth of fees to resolve their complaint. But they wanted more compensation than this.

BF issued its final response to the complaint on 3 May 2023. It didn't think it'd done anything wrong. It acknowledged that Mx C was disappointed with performance over the last 2 years. But said they'd been able to take their first income withdrawal in 2020. And while they'd then delayed taking income in 2022 and 2023 due to the market turbulence, it said it'd agreed a strategy where a fund manager had been appointed to manage their funds on a discretionary basis. It said it would refer this complaint point onto those fund managers.

BF acknowledged that Mx C felt they shouldn't have invested in such high-risk investments, given their planned retirement age of 68 had been known for 14 years. It said that it was responsible for assessing and agreeing with Mx C the level of investment risk of their portfolio, which the fund manager was then responsible for managing to that risk limit. It also acknowledged that it had been agreed that the funds would be managed in such a way that withdrawals could be made from the portfolio regardless of investment performance. But it said that the level of investment risk being taken was appropriate and had been agreed clearly with Mx C.

BF said that it had offered Mx C cashflow forecasting at additional cost. But that they'd always declined it.

Mx C's fund manager issued its own final response to their complaint about investment performance on 4 May 2023. It felt that their portfolio had been managed appropriately and in accordance with the mandate.

I understand that Mx C made a separate complaint about the delay to their transfer in August and September 2023. In its complaint response, BF said it would arrange for a refund of the fees it had received from Mx C since March 2023. It said this was £1,110.58.

Mx C was unhappy with BF's response, so they brought their complaint to this service. They said that although BF had been advising them since 2008, they were now in a financial situation which was causing them worry and stress, and possibly impacting their health. They wanted financial compensation from BF for the mismanagement of their pension and the lack of advice they felt it had provided.

Our investigator didn't think that BF had done anything wrong. He acknowledged that it would've been disappointing for Mx C to see the value of their pension fall. But he didn't think that BF was responsible for this. He felt BF had held regular meetings with Mx C during which it had discussed risk profiling.

Mx C didn't agree with our investigator. They made the following points:

- They said that the fact that their adviser was unaware of the 2010 financial model had crystallised their concerns about BF. They said this financial model was meant to be the bedrock of their investment strategy. And therefore questioned what their adviser had based his assessments for their income in retirement needs on.

Mx C felt that our investigator hadn't considered this specific point. They felt he'd assumed that they were complaining about not being invited to review the financial model, which wasn't correct. They felt it was the adviser's duty to be aware of the 2010 financial model.

- Mx C didn't believe they'd received adequate guidance on risk. They also felt that the meeting note from 21 September 2022 incorrectly recorded that a discussion on risk profiling had taken place. They felt BF hadn't given them adequate guidance on the importance of reducing risk before their retirement. They also felt that the statement our investigator had highlighted from that note: "*Todd carried out a risk profile review, but there were no changes and the clients were happy remaining with the Medium Risk portfolio*", was inaccurate.

- They didn't feel that their adviser had adequately considered the fact that their capacity for risk with their pension was low.

- Mx C felt that the SIPP product chosen by their adviser for their pension investment was much more complex and expensive than their situation warranted.

- Mx C said it wasn't correct to assess their complaint as being due to poor investment performance.

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 Mx C. I'll explain the reasons for my decision.

I first considered whether the adviser should've been aware of the 2010 financial model. And whether or not any lack of awareness caused Mx C any financial impact.

The 2010 financial model

Mx C said that a financial model had been set up in 2010 by their then adviser. And that this model was to form the bedrock of their investment plan. They said the main focus of the plan was their pension and their plan to retire at 68.

Mx C said they were aware that they could update the model. And had been offered the opportunity to do so on a few occasions. But they felt that such updates would require a large additional fee, which had risen over time. Mx C said they considered any updates to be an unnecessary expense because the long-term plan they'd initially set up was still valid. They also said that nothing had changed in their financial circumstances and their retirement age was still planned to be 68.

BF said that the intention was to review the financial model on a regular basis, ideally annually. But that this would involve an additional charge. It said that while Mx C hadn't accepted its invitations to update the model, they did accept invitations to review their investment and pensions. And that these meetings were included within the ongoing advice charge.

I've reviewed the report that was produced for the 2010 financial model. It stated in the introduction:

- "*You will know where you are at this moment in time in relation to your financial objectives.*

- *We will have agreed realistic financial aspirations for both the short, medium and long term.*

- *You will have a strategy by which you will be able to move realistically towards your goals and aspirations*."

The report went on to state:

"*In summary, comprehensive financial planning is a continuous, progressive journey in the achievement of your financial aspirations. In the process, the financial plan will aim to deliver what is important to you in relation to your finances*."

It also listed the assumptions that had been used for the model. These included future inflation, for which the following was stated:

"*As agreed with you, it has been assumed that the Index of Retail Prices will rise in future by an average of 4.00% pa compound. Nobody knows what inflation will really average and it is important that this planning assumption is reviewed from time to time and that it is amended if it becomes sensible so to do*."

The report also covered the objectives for the ongoing financial plan. It summarised these objectives as:

- *"you never run out of money*

- *you are financially well organised*

- *you manage risk*

- *you achieve and maintain your desired lifestyle."*

And stated:

"*Financial planning and achieving your objectives will involve a number of elements, including cash flow planning, investment planning and tax planning. It will also involve reviewing your Financial Plan on a regular basis and updating it to take account of changed circumstances*."

I think that the report is clear that the financial planning exercise that had just been undertaken wasn't intended to be a one-off. And that financial planning was in fact, "*a continuous, progressive journey*". I also consider that the report stated clearly that it was important to review the assumptions within the model from time to time.

Therefore, although I understand why Mx C felt that their circumstances hadn't changed, because they still wanted to retire at 68, I can't fairly agree. I say this because the underlying assumptions for the 2010 financial plan would've changed considerably between 2010 and 2023.

I'm satisfied that BF offered Mx C the opportunity to update their financial model on more than one occasion. I therefore think that BF acted reasonably here.

Mx C said that their adviser wasn't aware of their 2010 financial model. And provided evidence of this from the notes from the March 2023 meeting, in which the adviser stated:

"*What I didn't realise was that [Mx C is an] historical planning client and [they do] have a financial model on Truth which [previous adviser name] put in place with [them], but have not reviewed since*."

Mx C said that during the March 2023 meeting, the adviser offered to build a computer model for a reduced fee. But that when they'd mentioned the existence of the 2010 model to him, he said that could be updated for no fee. So I've gone on to consider if the adviser's lack of knowledge about the 2010 financial model led to any financial consequences for Mx C.

As I noted earlier, the 2010 financial model listed Mx C's objectives. From what I've seen from the documentary evidence provided, BF has continued to base its advice on Mx C's objectives. It's held regular meetings with Mx C. And I've not been provided with any evidence that the adviser's lack of awareness of the existence of the 2010 financial model has led to any financial loss for Mx C. Therefore I can't reasonably uphold this part of the complaint.

I next considered whether BF provided Mx C with appropriate guidance on risk. And what was discussed during the meeting held in September 2022.

Risk guidance

Mx C said that they'd not been given any specific advice in any meetings to reduce risk near to retirement. They felt this showed that the advice they'd been given was inadequate given their age and proximity to retirement. They said they did have annual meetings with BF. And that they sometimes completed a risk assessment questionnaire. But that didn't happen every year.

Mx C said that during the September 2020 meeting, they had discussed their risk profile with their adviser. And that they'd proactively mentioned that they were interested in dropping down a risk level. But they didn't think that had been the focus of the meeting. They felt BF had focused on ethical investments. And that this had detracted the focus of the meeting from their risk profile.

I've been provided with file notes and emails for meetings on the following dates in September 2020:

- A review meeting held on 1 September 2020: This included a detailed performance review. It also said that the Responsible Investing Service – the ethical investments Mx C referred to, was briefly mentioned, but that they didn't want to take this further at this time.

- The annual fund manager review held on 3 September 2020: This stated that Mx C's risk had been reviewed. And that they were potentially interested in dropping down a risk level to Low to Medium Risk. The notes recorded that the adviser explained the differences between the two mandates. And that the adviser felt that on balance, Mx C: "*would feel happier with Low to Medium, especially with the objective of the portfolio switching to more of an income focus.*"

- BH then sent Mx C an email on 4 September 2020 to ask them if they wanted to change their risk rating.

- Mx C replied on 7 September 2020 to tell BF that they'd decided not to change anything. They said: "*We have thought about both the RIS and changes to our risk profile but have decided to keep things as they are at the moment*".

In its final response letter, BF said that it had held annual reviews with Mx C. And that they'd always agreed the level of investment risk to be taken. It said that Mx C's decision, in their 7 September 2020 email, not to change their risk profile, took place only six months before their retirement and their first pension withdrawal. It felt that their attitude to investment risk was appropriate. And that it had put in place a suitable solution with Mx C's fund manager so that they could invest in a way aligned with their objectives.

Mx C said that they'd felt under pressure to agree to BF's ethical strategy during the meeting. But that upon reflection, they were extremely concerned about the costs involved. They said they'd decided to send the email they sent on 7 September 2020 to put a stop to any changes before they'd incurred any costs. Mx C said this was why they didn't think the focus of the September 2020 meeting was on their risk profile. And why they felt that the risk guidance they'd been given was inadequate. Mx C said that BF didn't discuss with them that their current investment strategy might be a threat to their retirement income. But they were aware that their investments might go down as well as up.

I've carefully considered Mx C's testimony and the documentary evidence from the time of the meetings.

The file note from the 3 September 2020 meeting records the following:

"I think on balance [Mx C and their [redacted]] would feel happier with Low to Medium especially with the objective of the portfolio switching to more of an income focus as from next year they will be taking about £45.000 a year from the portfolio which includes the ISA and the PCLS withdrawals."

The note also records an action for the adviser to follow up to ask Mx C is they would like to reduce their risk. The evidence shows that BF took this action on 4 September 2020. But that Mx C told it that they didn't want to change their risk profile at that time. Therefore I can't reasonably conclude that Mx C did want to change their risk profile in September 2020. I am sorry if they felt that the main focus of the meeting on 3 September 2020 wasn't their risk profile. But I can't fairly conclude that they didn't have the time and space to consider their options before they sent their email on 7 September 2020.

I next considered the meeting note from 21 September 2022.

Our investigator said that the fund manager's file note from the annual review held on 21 September 2022 stated:

“[Name] *carried out a risk profile review, but there were no changes and the clients were happy remaining with the Medium Risk portfolio*”.

Mx C felt that this statement wasn’t accurate. They also felt that BF hadn’t given them adequate guidance on the importance of reducing risk before their retirement.

Mx C said that the 21 September 2022 meeting had been of very poor quality and that it didn’t cover the review of their holdings in the way it had in previous years. They said they certainly hadn’t been a happy client. And that no risk profile review on their financial situation had been carried out at this time.

I’ve carefully reviewed the file note for the 21 September 2022 meeting. I can see that there was a detailed performance discussion. But I have no way of knowing if this was more or less detailed than previous discussions. However, I consider that the content of the note shows that the performance review was fit for purpose.

I also can’t know for certain whether Mx C left the 21 September 2022 meeting happy with what had been discussed. Nor can I know for sure whether or not a risk profile review was actually carried out. But I note that the file note recorded that Mx C's objectives for the meeting included:

“…*now that* [redacted] *has retired,* [redacted] *concerned that that the funds are declining and so* [redacted] *has postponed taking funds from the pension pot*.”

The file note also recorded that the portfolio had delivered as expected over the longer term, despite having had a fall in value recently. And that the fund manager felt that longer-term opportunities were still attractive and that: “*longer term investors will benefit from eventual rebounds*”.

Mx C's adviser also said that he’d had regular review meetings with Mx C. And that he’d always been available on the phone. Therefore if Mx C had any concerns after the 21 September 2022 meeting, they could’ve called their adviser to discuss them.

BF said that Mx C's portfolio was personally managed under a bespoke mandate, so it felt their fund manager could ensure their income was available whilst also managing any potential losses that may be crystallised. BF therefore felt that it didn’t need to provide any specific advice to reduce risk near to their retirement.

From what I’ve seen, I agree with BF here. I’m satisfied that the evidence shows that BF did provide Mx C with adequate advice ahead of their retirement. And I don’t uphold this part of the complaint.

I next considered Mx C's point that their adviser had failed to adequately consider that their capacity for risk with their pension was low.

Capacity for risk

Mx C said that their adviser was aware that they'd used the majority of their savings on a house move and renovation. And that he was also aware that if their [redacted] were to die before them, they would only receive 50% of their final salary pension, and would’ve therefore needed to draw their own pension to live on in their retirement. They felt this meant that their capacity for risk with their pension was low.

The evidence shows that Mx C completed a capacity for loss questionnaire alongside a risk profile questionnaire in October 2019. This was around 18 months before they took their first withdrawal from their pension.

Mx C answered eight “*Investor Experience*” questions, then 15 questions about their attitude to risk. This led to a risk profile of 6 out of 10, or “High medium”.

Mx C then answered five questions about their capacity for risk. After reviewing the answers to the attitude to risk and capacity for risk, BF assessed that their risk profile was 5 out of 10, or “Low medium”.

The report BF produced about this risk assessment explained what risk profile 5 meant. Under the section headed: “*How comfortable you are with the possibility of losing money on your investments*”, it stated:

“*You are likely to be more comfortable and better able to adapt to losing money on your investments than someone whose attitude to accepting risk is lower, for example, someone in profiles 1 to 4. However, you are probably not as comfortable as someone in profiles 7 to 10*.”

From what I’ve seen, relatively near to them first accessing their pension, BF assessed Mx C's capacity for loss. This assessment reduced what it would otherwise have assumed was Mx C's attitude to risk from a “High medium” to a “Low medium”.

I’m satisfied that this shows that BF did adequately consider Mx C's capacity for loss.

I next considered whether Mx C's SIPP was appropriate for them.

Was Mx C's SIPP arrangement unreasonably complicated?

Mx C said their SIPP with BF had five levels of management. But that they'd now changed the management of it so it only had three layers. They said this was a much cheaper option.

Mx C said they weren't sure why such a complex product had been chosen for them. And felt that it hadn’t been in their best interests. They felt that their SIPP had investment features that they didn’t need.

I’ve carefully considered Mx C's points here. But I’m not going to uphold this part of the complaint. I say this because I’ve seen no evidence that BF coerced Mx C into making this arrangement. The evidence shows that it provided charging information, so I’m satisfied that Mx C knew what the cost of this arrangement was.

Overall, I’ve not found any evidence that BF did anything wrong here. I appreciate that Mx C is unhappy that their complaint has been assessed as one about poor investment performance. I can see that their complaint isn’t about that. I’m sorry that this situation has caused Mx C worry and stress. But I can’t fairly hold BF responsible for that. And I can’t uphold the complaint.

My final decision

For the reasons explained above, I don’t uphold Mx C's complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mx C to accept or reject my decision before 23 April 2024.

Jo Occleshaw

Ombudsman