DRN-4912822

The complaint

Mrs C has complained that she has been unfairly charged by Shailesh Poptani ('SP') in the management of her investments and for services she didn't receive. She would like the fees charged since 2014 returned to her and an apology.

Mrs C is represented in bringing her complaint by her son who I shall refer to as 'Mr C2' throughout my decision.

What happened

The late Mr C and Mrs C had been clients of their adviser for many years. After the death of Mr C in 2023 SP charged Mrs C undisclosed fees of £325 for work carried out but not requested. The charge was later cancelled but this caused Mr C2 to look at the charges his parents had incurred in more detail.

SP was unable to show that Mr and Mrs C were sent an annual statement of charges. Those charges were around £1,000 per year for 'passive investments' – three investment bonds – and two stocks and shares ISAs. Mr C2 raised his concerns with SP who responded on 27 June 2023;

- It had only arranged the ISA investments. Mr and Mrs C already held existing investments where fee facilitation wasn't possible as this had ceased in 2013. So, it was agreed that SP would take fees in two ways – 0.5% of the fund values of the ISAs and via direct payment from Mr and Mrs C of a retainer fee of £32.50 per month/£390 per year. A total of around £724 each year. This was because the total was less than SP's minimum of £1,000.

  SP's fees increased in 2014 to 0.75% for the ISAs and a new agreement was signed. The resulting annual charge was around £961 per year. The annual disclosure of fees had been introduced in 2019 although annual statements were issued prior to that. The ISA platform provider who I shall refer to as 'A' in my decision had sent out a breakdown of all its charges each year. SP said it hadn't disclosed its fees each year as they hadn't changed and were paid directly from Mr and Mrs C's bank.
- It said a full annual review wasn't always necessary, and changes made to Mr and Mrs C's investments were supported by a suitability letter. No additional charges were made for those suitability reports. Other services such as administration etc could be provided without the need for a suitability report. Mr and Mrs C's investment objectives and circumstances were known, and it was reasonable for SP to have relied on Mr and Mrs C to make contact if they needed further guidance, which they had done. It detailed the support and guidance that had been given since 2014.
- It didn't uphold the complaint about non-delivery of services paid via the ongoing fees. It said it had delivered on its objectives of ensuring Mr and Mrs C weren't 'victims of scams or irrational behaviour' and they had achieved their investment objectives without taking more risk than they were comfortable with.
- It had already waived the fee of £325 for the work carried out after the death of Mr C.

Unhappy with the outcome, Mr C2 brought the complaint to the Financial Ombudsman Service. Our investigator who considered the complaint said the following;

- He was comfortable that Mr and Mrs C would have been aware of the charging structure they agreed to and the existence of an ad hoc fee.
- He wasn't satisfied that SP provided an annual statement of ongoing adviser charges ('OAC') through the annual review or through platform reports, so he upheld this element of the complaint.
- He didn't agree that reviews were carried out each year or that the terms of the Annual Review Fee agreement were met. There was only evidence of annual reviews in 2014 and 2020 so he upheld this part of the complaint.
- He concluded by saying the annual OAC should be repaid except for 2014 and 2020. Interest at a rate of 8% simple should be added from the date the fees were paid to the date of payment.
- SP should also pay Mrs C £100 for the distress and inconvenience she was caused when she was initially charged for work without an official agreement after Mr C's death. This was at a vulnerable time for Mrs C, and she had to negotiate the fee down to zero.

SP didn't agree with outcome. It said advice fees were generally consistent across many years, but some years required more work than others which was normal. Not all of Mr and Mrs C's products were held under agency of the firm that had fees facilitated. Only the ISAs had fees deducted to provide remuneration and it couldn't see how the other fees which were directly paid to the business by standing order could be considered as undisclosed. Before the event, or ex-ante fees disclosure, was only mandated where there was a suitability review and only from 2019 so to apply this from 2014 was unfair.

Our investigator maintained that there was no evidence of the charges being clearly disclosed and there wasn't sufficient evidence to support the delivery of services agreed. And regardless of disclosure of the ex-ante fees, the service paid for wasn't delivered on all occasions.

As the complaint remains unresolved, it has been passed to me to decide in my role as ombudsman.

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.

After doing so I've reached the same conclusions as the investigator and broadly for the same reasons. I'll explain why.

In my consideration of this complaint, I have looked to see what Mr and Mrs C agreed to, whether they made aware of the annual fees charged and also whether the service they paid for was provided.

Before I address the complaint points, I'll provide some background into how charging structures have changed since Mr and Mrs C moved their investments to SP.

Prior to 31 December 2012 – when charging structures changed – commission used to be paid by the product provider to the adviser as a set percentage of the amount invested. This was known as initial commission. And advisers could also receive a regular annual

commission known as trail commission (generally around 0.5%). Businesses did not have to provide an ongoing service in order to earn this commission, but sometimes agreed or offered to provide some ongoing servicing.

But from 31 December 2012 the Retail Distribution Review ('RDR') meant that commission payments to advisers were prohibited in all new retail investment. So, from the start of 2013 payments for investment advice would be arranged and paid separately as a fee between the financial adviser and the consumer. However, advisers could continue to receive trail commission for products sold prior to that date.

This is what happened in the case of Mr and Mrs C. SP only received payments from product provider 'A' for the earlier investments – the ISAs – but Mr and Mrs C paid an annual 'retainer fee' for the post RDR investments made – the investment bonds.

I understand Mrs C's main concern to be that she didn't receive the service paid for. In considering this, I think the starting point is to determine what was disclosed to Mr and Mrs C and whether this was sufficient.

The requirements under RDR apply to all advisers such as SP and specifically, RDR's aim was to ensure that each client of a financial adviser was offered a transparent fee structure. In relation to ongoing adviser charges, the COBS rules that applied from 31 December 2012, specifically COBS 6.1A.22, said:

> 'Ongoing payment of adviser charges
>
> A firm must not use an adviser charge which is structured to be payable by the retail client over a period of time unless (1) or (2) applies:
>
> (1) the adviser charge is in respect of an ongoing service for the provision of personal recommendations or related services and:
>
> (a) the firm has disclosed that service along with the adviser charge; and
> (b) the retail client is provided with a right to cancel the ongoing service, which must be reasonable in all the circumstances, without penalty and without requiring the retail client to give any reason; or
>
> (2) the adviser charge relates to a retail investment product for which an instruction from the retail client for regular payments is in place and the firm has disclosed that no ongoing personal recommendations or service will be provided.'

The regulator, the Financial Conduct Authority ('FCA') also provided guidance at the time setting out what it required from advisers in charging their clients which said;

> 'Ongoing adviser charges
>
> Ongoing charges should only be levied where a consumer is paying for ongoing service, such as a performance review of their investments, or where the product is a regular payment one. If you are providing an ongoing service, you should clearly confirm the details of the ongoing service, any associated charges and how the client can cancel it. This can be written or orally disclosed. You must ensure you have robust systems and controls in place to make sure your clients receive the ongoing service you have committed to.'

While the factsheet wasn't published until late 2014, it didn't mark a change to the rules SP were already expected to follow. The essence of the factsheet, in my view, was to remind

SP of the standards that should already have been relevant when inviting Mr and Mrs C to agree to an on-going service.

In my opinion an ongoing advice service could not reasonably involve suitability reviews which take place less than once a year. I think this is a reasonable interpretation that a 'regular' or 'ongoing' advice service should involve reviews taking place at least once a year. I don't think it would be fair and reasonable to say a 'regular' or 'ongoing' service could involve reviews taking place less than once a year or on an infrequent, ad-hoc, basis. So, I've borne this in mind when looking at what Mr and Mrs C agreed to and what was reasonable in the circumstances.

I have also taken into account that in 2019, the regulator, the FCA, carried out a review into firms' compliance with the cost disclosure rules. The FCA noted that businesses were interpreting and applying the rules in different ways in practice. It reminded firms that all communications to customers must be 'fair, clear and not misleading.'

What Mr and Mrs C agreed to

Mr and Mrs C signed SP's Client Fee Agreement on 8 August 2013. The applicable box was ticked for the 'Annual Review Fee: 0.5% per annum of the value of funds minimum £1000 per annum' and it also included a different fee arrangement than the usual for SP's clients. That document said;

> 'Whilst minimum annual fee applicable is £1000 …. To cover ongoing regular advice/guidance/investment reports using [third party] operating system/regular newsletters and one face to face meeting per year, we have agreed to maintain support advice etc on an annual retainer at slightly increased rate of £390 (payable monthly) + 0.5% fund based income from investments with [product provider] investments. Funds under management with [product provider] come to approx. £66832 (can vary daily) which at 0.5% per annum equates to approx. £334. Although therefore the overall income received is below the minimum £1000 per annum, this is acceptable and is subject to review in future.
>
> If additional work is required this will be discussed in advance and agreed upon.'

A similar agreement was signed in December 2014 albeit with an increase in the fund-based fees from 0.5% to 0.75%. The 'retainer fee' remained the same at £390 per year and paid monthly.

SP has also provided a copy of its May 2020 'Key facts about our Services' document which details the 'On-going Review and top up investment fee' including an Annual Review Fee of 0.75% of the value of the underlying investment plus an hourly work rate fee of £145 per hour.

Overall, I'm satisfied SP made its annual costs clear to Mr and Mrs C, both in percentage and monetary terms. I am also satisfied the format in which the information was presented met the regulator's expectations, which leads me to conclude SP acted appropriately in its dealings with Mrs C around her concerns linked to disclosure of costs. So, I'm satisfied that Mr and Mrs C were aware of the charges they agreed to in 2013 and 2014.

Did SP make Mr and Mrs C aware of the annual fees charged and did they receive the service they paid for

Mr C2 has complained that Mr and Mrs C weren't provided with information that set out the annual fees each year.

SP told us that while the issuance of annual statements showing charges was introduced in 2019 the product providers – A and business P – where Mr and Mrs C's investments were held did provide annual statements prior to that date. However, SP itself didn't provide an annual statement showing its direct charges as it said these had never changed and the funds were taken monthly from Mr and Mrs C's bank accounts in any event.

SP provided a copy of the 2023 statements from A and P where Mr and Mrs C's investments were held. And provider 'A' had confirmed in correspondence with SP that annual costs and charges would display for each account held. SP provided a sample copy statement provided which does show monthly ongoing adviser fees, but it doesn't relate to Mr or Mrs C's account. The other statements provided from A and P – for Mrs C – doesn't show any costs. So, from the evidence I've seen, it's difficult to see how Mr and Mrs C would have known how much they were being charged on an ongoing basis, whether at the time of an annual review via a suitability letter or otherwise.

And SP has told us that it didn't provide annual statements for its own 'retainer' fee as these were taken directly from Mr and Mrs C's bank account. But I'm of the opinion the retainer fee was an annual fee paid alongside the Annual Review Fee arrangements and relates to the provision of advice for the investment bonds. I'm satisfied it's an ongoing advice charges and I think it's irrelevant it comes from more than one source and there's no evidence Mr and Mrs C were provided with an annual statement disclosing the ongoing advice charge.

The rules – COBS 6.1A.24 – provides details of the disclosure of adviser charges payable by a customer:

> '…
> (d) if there are payments over a period of time, include the amount and frequency of each payment due, the period over which the adviser charge is payable and the implications for the retail client if the retail investment product or arrangement with the operator of an electronic system in relation to lending is cancelled before the adviser charge is paid and, if there is no ongoing service, the sum total of all payments.'

Overall, I haven't seen sufficient evidence to persuade me that Mr and Mrs C were informed of the fees they were charged on an ongoing basis, either by the product providers or by SP – whether that be during an annual review or otherwise. And I think it would have been fair and reasonable for them to have been provided with this information.

But even if I am wrong on that point, I think the crux of this complaint is whether Mr and Mrs C received the service they paid for.

The 2013/2014 Client Fee Agreement referred to the fees as being;

> 'to cover ongoing regular advice/guidance/investment reports…/regular newsletters and one face to face meeting per year…'

The May 2020 'Key facts about our Services' also referred to a separate annual review and a change in its charging structure;

> 'On-going Review and top up investment fee:
>
> Normally we will undertake to review your investment and other financial planning arrangement already made on an annual basis. We recommend this is done face to face so that there is maximum interaction.

> Our fees for this service are;
>
> Per review – 0.75% of the value of the funds reviewed subject to a minimum £175
> Per top up – 0.75% of the value of additional investments made, minimum £175
>
> These charges can be taken directly from your investment and paid to us by the provider unless you request otherwise, or we may agree a fixed period retainer with you. Where we consider that additional reviews are required, we will discuss an arrange this with you accordingly.

So, from the documents that SP has provided I can see that in 2013/2014 it was clarified an annual face to face meeting would take place in order to provide ongoing regular advice – what I consider to be 'an ongoing service for the provision of personal recommendations or related services' – and this was further confirmed in May 2020. So, I think this is the service Mr and Mrs C should have expected during their time with SP acting as their adviser.
Also, in SP's response of 20 March 2023 to Mr C2's queries about the charges it said that the £32.50 per month fee;

> 'goes towards covering my firms minimum annual fee of £1000 which I charge to clients to look after investments and provide an ongoing regular service. This also includes all telephone and email communications on any financial issues/maintaining accurate records on file on investments/provision of compliance issues including professional indemnity insurance and all associated routine administration work involved. My firm receives from the two [product provider] ISA remuneration that averages approximately £590 per year…'

In further correspondence with Mr C2 SP said;

> '…I review investments (at least twice a year) as part of my work but not every review requires communications if things are working well.'

SP had provided a spreadsheet with a timeline of events of the services provided to Mr and Mrs C. But I couldn't tally the information given with the documentary evidence we had on file, so I asked SP for further details about the service Mr and Mrs C received and evidence of the provision of those services.

In its response SP provided copies of correspondence with Mr and Mrs C over the years. I list below what has been provided and what I consider to be relevant to the provision of an on-going service. SP has referred to other work it carried out for Mr and Mrs C – such as assistance with their wills and lasting powers of attorney etc, but as that is not relevant to investment advice, I haven't included it. And I also haven't included detail about what I consider to be general updates about the stock market. To provide an on-going service the information or advice given should be specific to the customer ie personal recommendations;

<u>2013</u>

- 02.07.13 – SP messaged to say it had posted updated valuations. And that the recommendation for the investment of £10,000 had been held back as the market was too high so Premium Savings Bonds were suggested. Information was given about the fee arrangement and its increase to £32.50 per month.

  Mr and Mrs C signed their agreement to SP's Client Fee Agreement on 8 August 2013.

2014

- 14.03.14 – SP emailed Mr and Mrs C and confirmed it had carried out a 'full review' of their investments and a schedule of the investments held were attached. Comment was made about the values of the investments, the risk exposed to as well as remuneration.
- 31.07.14 – SP emailed Mr and Mrs C again with a further review of the investments. The content is similar to the earlier review but with an update on the values. It was also suggested that a meeting take place as the adviser wanted to discuss a potential change to one of the investments – the ISAs – which he thought would be better discussed rather than via email.
- 08.10.14 – The suggested meeting had taken place on 6 October and the issues that had been discussed were laid out in the email. It was recommended that the ISA funds held be transferred to A and a third-party discretionary fund management service. Or they could be transferred to A outright. Risk of the investments were also discussed.
- 13.11.14 – Updated valuations were provided, and reference made to the transfer to the discretionary fund manager and the increase in fees to 0.75%. Mr and Mrs C confirmed their acceptance of the advice to transfer to the discretionary fund management.
- 03.12.14 – SP sent a letter further to meeting held in October with a full suitability letter and assessment of Mr and Mrs C's circumstances, attitude to risk and recommendation for a third-party discretionary fund manager. This reflected the annual review had appropriately taken place.
- 10.12.14 – SP provided updated and corrected values further to its previous email.

I am satisfied that in 2014 there is sufficient evidence that SP carried out the relevant ongoing services for which it was paid.

2015

- 24.08.15 – An update to Mr and Mrs C on the value of the ISA investments since the transfer over to A and managed by the discretionary fund management service. There is general comment about the markets but no mention of a review or an assessment of Mr and Mrs C's circumstances or risk etc.
- 25.08.15 – Mr and Mrs C thanked SP for the valuations and reports.

I am not satisfied there is sufficient evidence that in 2015 SP provided the service it agreed to under the Client Fee Agreement.

2016

- 18.01.16 – SP provided Mr and Mrs C with an updated valuation of the transferred ISAs and expressed its confidence in the discretionary fund manager.
- 22.01.16 – Mr and Mrs C thanked SP for the update.
- 27.03.16 – SP contacted Mr and Mrs C as two of their investments were maturing and the adviser would arrange to speak with them about what to do.
- 02.05.16 – For the investments which would raise just over £4,000 for both Mr and Mrs C, SP recommended the funds be invested into Premium Savings Bonds.

While it's clear that SP took action on the maturing investments held by Mr and Mrs C but there's no evidence that an ongoing service for their portfolio had been carried out – annual review etc in 2016. And the maturing investment isn't evidence of SP being proactive in its management or that it was reviewing the portfolios overall. When it contacted Mr and Mrs C it was reacting to that pending maturity only.

2017

- 17.01.17 – SP provided updated valuations of the investments transferred to the discretionary fund management service and some market commentary.

There's no evidence of any other contact with Mr and Mrs C during 2017 so it follows I'm not satisfied SP provided an ongoing service or met it obligations under the Client Fee Agreement.

2018

- 06.02.18 – SP reported that the discretionary fund manager was going to sell five of its underlying funds with the view to buy back at a later date.
- 08.08.18 – SP provided the latest market commentary from the discretionary fund manager.
- 30.11.18 – Mr and Mrs C responded with an update on Mr C's health as he hadn't been well lately and wasn't able to drive. SP replied to say there was no immediate need to meet.

Despite the updates given to Mr and Mrs C, there's no evidence of a face-to-face meeting or an annual review of their investments in 2018 as per the agreement.

2019

- 14.01.19 – Further to a call with Mr C, SP provided updated valuations. There was no evidence that a review had taken place, but SP said it would call if Mr and Mrs C wanted any elaboration on the valuations.
- 12.06.19 – SP provided Mr and Mrs C with a general market commentary but no reference of anything specific to their investments. Mr and Mrs C thanked SP for the email.
- 17.08.19 – Mr and Mrs C contacted SP as because of unfortunate circumstances they had to move out of their home pending it being rebuilt. As a result, SP spoke to Mrs C and sent an email to her solicitor about Mr and Mrs C's lasting power of attorney.
- 14.10.19 – SP wrote to Mr and Mrs C about the existing Lasting Power of Attorney but there's no reference to a review of investments.

While I can see that SP provided valuations, general market commentary and assistance with matters other than their investments, there is no record of an annual review or assessment of Mr and Mrs C's investment objectives and circumstances etc. So, I don't think SP did enough in this period to provide Mr and Mrs C with the service it agreed to.

2020

- 09.01.20 – A phone call had taken place with Mr and Mrs C and SP emailed to advise on the raising of £20,000 for one of their children. The shortfall of £10,000 was to be taken from Mr and Mrs C's Premium Bonds.

- 11.01.20 – Mr and Mrs C confirmed they would take that action.
- 12.03.20 – SP wrote to Mr and Mrs C to let them know the discretionary fund manager had moved to holding 60%/70% cash pending developments
- 29.09.20 – SP confirmed it had arranged a Zoom meeting with Mr and Mrs C on 13 October.
- 17.10.20 – Further to the meeting, SP sent a questionnaire for Mr and Mrs C to complete about 'how you both view things on investments' which would allow SP to undertake a review and suggest changes if necessary, including the possibility of changing discretionary manager. An update on the SP's remuneration was given and a copy of SP's terms of business provided.
- 12.12.20 – SP wrote to Mr and Mrs C as the questionnaire concluded that Mr and Mrs C were now cautious investors, and the ISA investments were out of line with the overall risk tolerance. A change in discretionary fund managers was advised as well as the type of portfolio used to reflect Mr and Mrs C's cautious attitude to risk. A cost comparison between the two discretionary fund managers was provided. SP would charge £300 for this service as it wanted to reinvest the encashed funds over nine months which would have to be done manually.
- 23.12.20 – Mr and Mrs C agreed, and SP confirmed it instructed the encashment of the investments.

I'm satisfied there's sufficient evidence that SP carried out a review of Mr and Mrs C's investments after reassessing their circumstances and attitude to risk.

2021

- 04.01.21 – SP provided an update on the encashment and the first of the nine months' worth of reinvestment.

There's no evidence of any other interaction with Mr and Mrs C in 2021 so I can't see that SP met its obligations.

2022

- 14.04.22 – SP provided updated valuations and asked for information about shareholdings that Mr and Mrs C held.
- 08.07.22 – SP provided a short market update and concluded by saying that if Mr and Mrs C wanted to talk things through he would arrange a call. Mr and Mrs C confirmed receipt.
- 24.11.22 – Valuations were sent to Mr and Mrs C and a further request about details of the shares they held with a short market update.

I can't agree that Mr and Mrs C received an annual review or personalised advice during 2022 so SP didn't provide the service it had agreed to.

For all of the years, with the exception of March/November 2014 and December 2020, I am not persuaded that SP provided the service as outlined in the Client Fee Agreement such as a face-to-face meeting or an annual review. SP told us that it aimed to review investments twice a year but that if it didn't prove necessary then it wouldn't provide a suitability review which was expensive and other more useful services could be provided – administration, guidance etc.

But I think if it was the case the SP wasn't going to provide an annual meeting and review of investments, suitability, objectives etc, and only provide a suitability review if it was essential, then it should have explained that in its agreement. And the regulations don't allow for an ongoing advice charge unless the agreed service has been provided.

The documents SP has provided show that SP did act for Mr and Mrs C with the provision of information about maturing investments, their wills and lasting powers of attorney, remuneration and advice etc. But the evidence also shows that the annual reviews as outlined in the Client Fee Agreements only took place in March/November 2014 and December 2020 where suitability reports have been provided and which include reference to fact finds, Mr and Mrs C's cautious attitude to risk, investment objectives and suitability of the investments etc. This is the type of service I would expect to see for an annual review where an ongoing service is provided, and I'm not satisfied that with the exception of 2014 and 2020 Mr and Mrs C received the service they agreed to and paid for.

In SP's response to the complaint, it said it didn't uphold it because;

> '… we have delivered on our objectives of ensuring that [Mr and Mrs C], our clients, have not been victims of scams or irrational behaviour; they have achieved their investment objectives without taking more risk than they are comfortable with. They have sought and received guidance with decisions as well as support when they needed it for financial matters.'

But I don't agree that just because Mr and Mrs C hadn't been victims of scams and achieved their investment objectives without taking unnecessary risk, this is evidence they received the service they were paying for. The 'retainer fee' Mr and Mrs C were paying was to provide a service as per the Client Fee Agreement and the Annual Fee Review.

SP has said it's not fair to apply the new disclosure rules of 2019 back to 2014 in that ongoing advice charges should be repaid. But I think – quite simply – there's insufficient evidence to show Mr and Mrs C received the service as agreed in the Annual Review Fee was provided. I've seen no evidence in other than 2014 and 2020 their investments were reviewed or that the results of that review were shared with Mr and Mrs C.

I've considered the specific rules and guidance from the time. Which means SP was required to clearly set out the services it would provide Mr and Mrs C for the ongoing fee it was receiving.

I've considered the agreement SP had with Mr and Mrs C for the services it ought to have provided. And for the reasons I've explained above, I don't think SP provided Mr and Mrs C with the service they paid for. Mr and Mrs C didn't receive annual reviews, assessments of their attitude to risk, investment objectives or circumstances, or yearly updates on their holdings from SP other than in 2014 and 2020. I've reached that conclusion based on the specific circumstances of this case and the evidence that's been presented.

It follows I don't think it's fair or reasonable for SP to have received its ongoing adviser charge without delivering the service it had promised Mr and Mrs C. This was an agreement between SP and Mr and Mrs C. Put simply, it would be reasonable for SP to be paid the agreed amount for providing a service that had been agreed. But not where that service hasn't.

So, it follows I uphold this complaint point and Mrs C should have those OAC repaid to her with the exception of the two periods where there is sufficient evidence to show the service – the annual reviews in 2014 and 2020 – was provided.

Putting things right

Our investigator recommended Mrs C be paid £100 for the distress and inconvenience she suffered because of her being charged £325 for work she hadn't requested be done. This fee was challenged and later removed. But this was at a difficult time for Mrs C after the death of her husband and I understand she wasn't well. So, I agree this payment is warranted as no doubt Mrs C was distressed at the time by SP's actions.

With regard to ongoing advice charges that have been taken but no service received, I think these should be refunded to Mrs C. But with the exception of years 2014 and 2020 where SP has been able to evidence an annual review took place. I'm satisfied the monthly ongoing advice charge payments were paid for in advance of when the annual review should have taken place.

So, when calculating the redress, the ongoing advice charge to be refunded should include all the fees charged in the preceding months with the exception of the 20 months preceding November 2014 as it looks likely a review took place in March 2014 as well as the November. And also, the 12 months preceding the December 2020 review. In this case, as the ongoing advice charge has been paid by two sources, I think it would be more pragmatic to add interest on the sums payable at a rate of 8% simple from the date of each payment to the date of payment, rather than a comparison to the investment performance.

My final decision

For the reasons given I'm satisfied that the late Mr C and Mrs C were aware of the charging structure at the outset, but I don't agree Shailesh Poptani provided the service they paid for, and the matter should be put right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 6 December 2024.

Catherine Langley
Ombudsman