

The complaint

Mr H complains that an appointed representative (AR) of Openwork Limited provided an unsuitable adviser to manage his affairs. He went on to say that because he didn't believe the adviser was suitably experienced enough, he had to move his pension to a new firm incurring costs in the process.

Mr H would now like Openwork to refund the £2,100 advice fee that he says he's had to pay to move his pension to another provider.

What happened

In 2015, Mr H paid the AR around £7,000 to consolidate his pensions. In the years that followed, Mr H also paid the AR an ongoing fee to manage his pension and provide an annual review service.

Mr H states that from around 2022, the service that he received from a specific adviser at the AR started to slip and then in 2023, he complained to Openwork following a piece of advice that he received which resulted in an unexpected tax bill. That complaint was upheld and following subsequent issues that arose about the deterioration in the service that Mr H was receiving at the time, he requested a replacement adviser from the AR in December 2023.

In January 2024, Mr H was informed who his new adviser would be and then on 11 April 2024, he met with that individual to discuss his finances. During that discussion, it became apparent to Mr H that his new adviser hadn't completed all of their examinations and any questions that Mr H had would need to be funnelled through him into Openwork. Mr H was advised that arrangement would need to continue until the adviser had passed his examinations which he anticipated would be the following week.

The next day, Mr H decided to formally complain to Openwork. In summary, he said that having learned that his normal adviser had left the business in December 2023, he had effectively been left an 'orphan' as no qualified adviser had been in place since then and he'd been paying an ongoing advice fee for a service that he'd not received.

After reviewing Mr H's complaint, Openwork concluded that they didn't believe it was appropriate that they retained the ongoing advice fees that had been levied since December 2023, so they agreed to refund those to him. Openwork explained that they were also adding an additional £120 to the £780 fee refund to say sorry for the inconvenience caused and to cover any lost investment growth that those fees may have earned between December 2023 and their resolution letter (May 2024). In addition, Openwork said that they would switch off the ongoing fee moving forward until Mr H had discussed the service that he wanted with his replacement adviser.

Mr H subsequently decided that his replacement adviser at the AR couldn't provide the level of advice and service that he wanted so he sought financial advice elsewhere. The new advice firm that Mr H engaged with, recommended he switch his pension away; to provide

that advice the new adviser charged Mr H a fee of £2,100. When Mr H approached Openwork to ask them to refund that fee, they declined so Mr H referred his complaint to this service. In summary, he said that he didn't think it was fair that he should have to incur the cost of the £2,100 advice fee because it was the AR's inability to provide a suitably experienced adviser to look after him that resulted in the need to seek advice elsewhere.

The complaint was then considered by one of our Investigators. He concluded that Openwork didn't need to refund the new advice fee that Mr H had incurred. That's because, he said, it was Mr H's decision, rather than Openwork's, that forced him to move his pension away.

Mr H, however, disagreed with our Investigator's findings and asked for the case to be passed to an Ombudsman. The case now comes to me for a 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.

I have summarised this complaint in less detail than Mr H has done and I've done so using my own words. The purpose of my decision isn't to address every single point raised by all of the parties involved. If there's something I've not mentioned, it isn't because I've ignored it - I haven't. I'm satisfied that I don't need to comment on every individual argument to be able to reach what I think is the right outcome. No discourtesy is intended by this; our rules allow me to do this and it simply reflects the informal nature of our service as a free alternative to the courts.

To be clear, my decision is very much anchored around one specific complaint point – whether it's fair and reasonable for Openwork to reimburse Mr H the £2,100 advice fee that he paid to switch his pension elsewhere. Whilst I've looked at the wider background of Mr H's other complaint points linked to the same AR firm, given he's conceded in his call to our Investigator (and noted in his complaint form) that those elements have been resolved to his satisfaction, I shall only focus on this one issue and not comment on those other elements further.

My role is to consider the evidence presented by Mr H and Openwork in order to reach what I think is an independent, fair and reasonable decision based on the facts of the case. In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice. Where there's conflicting information about what happened and gaps in what we know, my role is to weigh up the evidence we do have, but it is for me to decide, based on the available information that I've been given, what's more likely than not to have happened. And, having done so, I'm not upholding Mr H's complaint – I'll explain why below.

I've listened very carefully to the telephone discussion that Mr H had with our Investigator on 6 August 2024 where he set out his circumstances in detail. I want to acknowledge that I very much gained a sense of how upset Mr H is with the chain of events that led to him making his complaint and wanting to switch his pension elsewhere.

Mr H says that he wanted to switch his pension to an alternative provider because he didn't have the confidence his replacement adviser at the AR was appropriately qualified to undertake the task of looking after his pension for him. But, from what I've seen, the adviser's work was being fully supervised by other individuals within Openwork who were

appropriately skilled and fully qualified, and in any event, the replacement adviser was only a short distance away from becoming qualified. And, I've not seen any evidence to suggest that Mr H's replacement adviser provided any incorrect advice which would have given him grounds to doubt his ability.

When Openwork removed the ongoing advice fee from Mr H's pension, they explained it would be a good opportunity to sit down with the replacement adviser and agree how the service should look moving forward. But, it seems that Mr H declined that opportunity and had already decided that he wished to move his fund elsewhere.

Whilst I can well appreciate Mr H's prior frustrations with the AR firm, they, nor Openwork forced him to go to another provider and incur the costs of switching. Moving his pension away to a new provider was his decision alone. I don't underestimate the importance of Mr H's pension fund to him but importantly, the AR adviser wasn't the only individual working to secure the success of his plan; the adviser wasn't managing the underlying monies within Mr H's pot, that role sat with the fund manager. It was the adviser's role to ensure that the plan and underlying funds remained suitable for Mr H's evolving circumstances, but he wasn't given the opportunity to do so. And there's no evidence to suggest that he wasn't capable of doing so either (even with the help of others at Openwork).

I appreciate my decision will come as a disappointment to Mr H but I can't conclude that Openwork have treated him unfairly by refusing to refund the switch advice fee because it was his decision alone to move, so I'm not going to be upholding his complaint.

My final decision

I'm not upholding Mr H's complaint and as such, I won't be instructing Openwork Limited to take any further action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 9 January 2025.

Simon Fox
Ombudsman