

The complaint

Mr J has complained, with the help of a professional third party, about the management of his pension by Wallwood Capital Management Limited ('WCML').

What happened

Mr J previously held pension benefits in a defined benefit scheme. In April 2015, he transferred those pension benefits to a Qualifying Recognised Overseas Pension Scheme ("QROPS") – the Equus Retirement Annuity Trust Scheme – based in Gibraltar. His representative has said that this was on the advice of a different business, which appeared on the Financial Conduct Authority ('FCA') register at the time as being authorised, which I'll call Firm B. The amount transferred was just under £70,000.

In June 2015, Mr J took the maximum possible tax-free cash from the pension. And a transaction history for the pension bank account shows that in August 2015, the majority of the remaining funds were invested, although the details of those investments have not been provided.

Certain amounts were disinvested between October 2017 and November 2019, although those amounts appear to have been significantly less than the amount originally invested. The transaction history refers to Firm B in respect of one of the disinvestments. And in respect of three other transactions names a business that I'll call Firm C, which again appears to have been on the FCA register at the time.

On 23 December 2019, Mr J signed several documents for WCML. These included a 'know your client' fact-find, an investment management agreement, an indemnity declaration and application and transfer forms.

The application forms refer to being for a WCML dealing account and being in respect of the QROPS. It named the trustee of the QROPS as Castle Trust & Management Services Ltd – a business based in Gibraltar. And it included a declaration authorising the existing account manager, which was said to be Firm C, to transfer the account to WCML whose custodian was Jarvis Investment Management Ltd ('Jarvis'). In addition to being signed by Mr J they were also signed on behalf of the QROPS trustees and explained that any transactions undertaken would be in the name of the pension scheme.

The indemnity Mr J signed agreed WCML was not liable for loss, damage or expense due to legacy investments managed, advised or arranged by third parties. It wasn't liable for investment decisions taken by Mr J or on his behalf before the indemnity and agreements had been signed. And it said WCML would not provide investment advice relating to legacy or future investment decisions.

I can see that WCML wrote to Castle Trust & Management Services Ltd on 27 December 2019. Its letter noted that it did so in its capacity as discretionary investment manager for Mr J. The letter explained WCML understood that the investment mandate was limited to permitted investments classified as retail investments and what was classified as a retail investment. And it said it would immediately contact the trustee if it was in doubt about

whether an intended investment would be deemed retail or if it wished to cease acting in a discretionary capacity.

WCML has said that this was an in-specie transfer of pension assets and the amount transferred to its custodian, Jarvis, was £8,003.78, of which £242.10 was held in cash.

I understand Mr J made a successful claim to the Financial Services Compensation Scheme ('FSCS') against Firm B. And it paid him compensation which was credited to the pension bank account in February 2020. But there is nothing to indicate WCML was asked to manage this amount. And there were no further investments from the pension bank account until July 2022.

In the meantime, WCML entered voluntary liquidation on 1 March 2021 and says all customers were offboarded prior to this. It says the last recorded valuation, of the investments and benefits it was managing on behalf of Mr J, before it ceased acting for him, was £7,391.50.

Mr J complained to WCML in March 2024 via his representative. The representative said the complaint related to negligent advice in respect of the QROPS. They said Firm B had gone into administration in March 2018 and Mr J's pension had not been managed from that point. They said WCML had approached Mr J via email advert and said it could help with the management of his pension. Mr J did not recall completing a fact find or information about his attitude to risk, meaning WCML had not gathered sufficient information about him. WCML had been appointed to act as his fund manager but hadn't provided him with formal advice document, had failed to manage his funds properly, including those paid into the pension by the FSCS and hadn't provided appropriate recommendations.

WCML did not uphold the complaint. It said it had not approached Mr J and didn't send email adverts. Rather WCML had been approached by Firm C and asked if it would provide servicing to clients that would be left without a service provider as Firm C was about to enter administration. WCML was approached because of its existing relationship with Jarvis, with which Firm C had also previously collaborated. WCML said it had agreed to take over the management of investments for a number of clients, including Mr J. WCML said this however was limited to the funds held by Mr J in the Jarvis investment management account, that was previously operated by Firm C, as part of his QROPS holdings. And it did not extend to the management of the pension as a whole – particularly the funds in the QROPS bank account, including those later received from the FSCS.

WCML said it had completed a risk profile and fact find with Mr J and recorded that he had a 'low risk – cautious' attitude to risk. The investments it was responsible for were managed with this in mind. And, while the value of those investments had fallen between WCML becoming involved and subsequently ceasing to act for Mr J, the depreciation was acceptable for a cautious attitude to risk and was at least partly attributable to the pandemic occurring during that period. So, WCML disputed that it had done anything wrong.

One of our Investigator's considered the complaint but didn't think WCML had done anything wrong. They were satisfied that WCML's explanation of how it was appointed to act in relation to the pension appeared correct. The Investigator found that WCML held no responsibility for the advice to transfer to the QROPS in the first place, the investment decisions made prior to its involvement or what had happened since it ceased acting for Mr J when entering liquidation, including how the redress from the FSCS had been subsequently invested in 2022. And they didn't think there was anything to support that WCML had done anything wrong in terms of managing the investments it was responsible for and the depreciation in value appeared to simply be due to market conditions.

Mr J's representative said that he had nothing further to add and didn't necessarily disagree with the Investigator. But he wanted an Ombudsman to provide an independent review of his complaint. As a result, 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.

Having done so I have reached the same decision as our Investigator, for largely the same reasons.

The parties describe how WCML came to be involved quite differently. And there also seems to be a difference in opinion as to the extent of WCML's involvement and its role. Based on what I've seen though, I think the available evidence supports WCML's explanation of events.

Mr J says his pension was not managed from 2018, when Firm B went out of business, until WCML contacted him unsolicited and became involved. But the account statements indicate that Firm C was involved during that time period – as there were several disinvestments that referred to Firm C.

I note that some of the arguments made in the original complaint by Mr J's representative were that WCML had given negligent advice and not provided appropriate recommendations. As well as referring to advising on the transfer of pension benefits being a regulated activity. There was no explanation of what advice the representative believed WCML had provided or was responsible for or why any such advice was actually unsuitable in Mr J's specific circumstances. But, in any event, none of the information I've seen indicates that WCML was responsible for advising Mr J or that it acted as a pension provider to which it had recommended he transfer funds.

The agreement that Mr J signed in December 2019 is clear that WCML's role was that of investment management. And the documents described the purpose of WCML's services being for customers *"to outsource the management of their investment to a professional"*. The letter that WCML sent to the trustees of the QROPS was also clear that its role was as a discretionary investment manager.

The application forms which were completed at the time also clearly authorised Firm C to transfer the account it was operating to WCML's control. None of the forms indicated a transfer from the QROPS as a whole to a different pension arrangement. And the forms were signed, not only by Mr J, but by the trustees of the QROPS as well. I think this supports that the pension assets as a whole were remaining part of the QROPS, with trustee involvement, and that it was simply the management function for certain investments being transferred. And I think the direction to Firm C also means that it was only assets previously under its control that were being transferred.

The application also referred to transferring both cash and shares, which supports that it was an in-specie transfer, as WCML described. I've seen no evidence of any requests to WCML to manage any other assets at any stage. So, I don't think WCML is responsible for any investment decisions regarding other funds held in the pension account more widely. This included the redress later received from the FSCS – not least because this doesn't appear to have been invested until over a year after WCML entered liquidation and had ceased acting as discretionary manager.

The indemnity Mr J signed as part of the application process was clear that WCML had no

responsibility for the investment decisions or actions of the parties that had acted previously for Mr J. But also explained that it would not be providing advice in relation to past investments or future investment decisions. And the agreement also explained that WCML would have complete discretion over the managed account without reference to Mr J – so didn't have to refer decisions to him. Which supports that it wasn't expected to advise Mr J.

I can't see that WCML provided Mr J with advice, or that it was required to. WCML's relationship with Mr J commenced several years after he transferred benefits to the QROPS. And there is nothing that suggests WCML is responsible for Firm B's advice to transfer in the first place. So, I don't think there is any evidence to support the representative's argument that WCML provided or is responsible for unsuitable advice.

I've also seen no evidence of the marketing communication that Mr J's representative has referred to. And as I've said, contrary to what the representative has stated, Firm C seems to have been involved in the management of the pension after Firm B, indicating it wasn't left unmanaged. Given the documentary evidence supports what WCML has said about the extent of its role I also think, on balance of probabilities, it is likely WCML was approached by Firm C, as it has said, rather than it contacting Mr J unsolicited.

Taking all of this into account, I'm satisfied WCML's role was not that of adviser and was instead as an investment manager in respect of investments that had previously been managed by Firm C and not already disinvested, with discretion to act without reference to Mr J, in line with the investment mandate.

I also haven't seen anything to indicate that WCML has made any errors when fulfilling this role. Mr J said when complaining that WCML didn't gather information about him or his attitude to risk. But I've seen a copy of a questionnaire that set out details of Mr J's circumstances and his attitude to risk, which was signed by Mr J. Given the amount of time that has passed, I wouldn't necessarily have expected Mr J to recall all of the documents he completed at the time. But I think this evidence shows that WCML did gather information about his circumstance and attitude to risk, which it deemed was low and which is in my view supported by the answers he gave, before commencing management of his investments.

The letter that WCML sent to the trustees of the QROPS also indicates it was aware of the investment mandate for the account it had taken over from Firm C, and that it had been agreed that it would only deal in retail investments. And I haven't seen anything that suggests investment decisions made by WCML, as discretionary manager, during the period for which it was involved, were inconsistent with the mandate or Mr J's attitude to risk.

WCML acknowledged that there had been a fall in value of approximately 7.65% in the investments it was managing between it becoming involved and it ceasing to act as discretionary manager. But the value of investments can go down as well as up. I think this level of variation is in line with what may be expected for investments in line with Mr J's recorded attitude to risk. And I don't think this indicates mismanagement by WCML. The period in question was also during the first year of the global pandemic. And the list of investments at last valuation support that those held were in line with the mandate WCML understood of being retail investments. There was one legacy investment, with a nil value, but WCML has explained that this investment was made prior to the in specie transfer taking place.

So, taking all of this into account, I don't think I can reasonably say that WCML has done anything wrong here or that it hasn't acted fairly or reasonably.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 5 May 2025.

Ben Stoker
Ombudsman