

The complaint

Mr P complains that Whitechurch Securities Limited (Whitechurch) have charged him ongoing advice fees for his personal pension, but he hasn't received any advice.

What happened

Mr P and his partner were originally clients of the advisory firm Bowen Coade Busst. In 2021, Whitechurch completed an asset purchase of Bowen Coade Busst. In November 2021, Mr P sent Whitechurch the Services, Costs and Disclosure Document (SCDD) form and a signed Focus Service fee agreement in which he agreed to receive ongoing advice. The terms of the fee agreement noted the ongoing advice charges (OAC's) and how this would be charged.

In June 2023 Mr P complained to Whitechurch that he'd not received any advice, communications, verbal or otherwise but had been paying ongoing fees on his Royal London pension without his knowledge. He paid Whitechurch £1,036.36 for the period April 2021-22 and £1,020.81 for April 2022-23.

In July 2023, Whitechurch issued their final response letter. They accepted Mr P should have been receiving annual reviews and that they'd missed the annual review in 2022 which would have then followed in June every year. They said when Mr P's partner withdrew from the service, they incorrectly assumed the same for Mr P.

Whitechurch offered a final settlement of £1100 which reflected one year's fees for 2021-22, the period they'd missed. The 2023 review was sent to Mr P in July 2023 after the final response letter was sent. They asked Mr P to contact them within 30 days if he wanted to discuss the review, but he didn't contact them. The next review was done in July 2024, where they asked Mr P to contact them within 30 days or they would consider the review complete.

In July 2024, Mr P confirmed he'd received the review document but complained to Whitechurch again that he hadn't received any advice or communications since 2021. He asked for full reimbursement of the OAC's paid on his Royal London pension.

Mr P brought his complaint to our service in August 2024. An investigator here noted that part of the complaint was outside of our jurisdiction based on the six-month rule, but Whitechurch gave their consent for us to consider the complaint.

An investigator here reviewed the merits of the complaint and concluded that Whitechurch hadn't treated Mr P fairly. She said the offer made by Whitechurch in relation to the review in 2022 didn't fairly compensate him as it didn't account for the loss of growth in the pension that would have resulted from the deduction in those fees. She also said the fact find information was more than three years old and hadn't been completed with a Whitechurch adviser and as such they hadn't met their obligations to Mr P.

She reconsidered the complaint in light of the FCA's review in February 2025. She made some amendments but overall, the complaint was still upheld. Mr P terminated the charges in 2024 so to put things right she said Whitechurch should:-

- Refund all OAC charges from inception of the policy in 2021 until the cancellation in 2024.
- Calculate what the growth amount would be as the pension would be worth more if the OAC's hadn't been taken.
- Consider the effect of the charges, withdrawals, contributions made, any available tax relief and allow for future income tax.
- Make a notional reduction of 30% overall from the loss to adequately reflect the above.

Whitechurch didn't agree with the investigator, so this came 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've taken into account relevant law and regulations, regulator's rules and codes of practice and what is considered good industry practice. Having done so, I agree with the investigator's conclusions and for broadly the same reasons. I will explain why.

The Focus Service Fee agreement between Bowen Coade Busst and Mr P confirmed an ongoing advisory service was to be provided. This agreement was later transferred to Whitechurch, so they became responsible for ensuring the ongoing service was provided. The ongoing advice charges for this service were confirmed at 0.75%. What isn't agreed is whether Whitechurch did or didn't provide this service. So, I have started by looking at what the regulator the Financial Conduct Authority (FCA) says Whitechurch is expected to do and whether this was done.

The FCA produced a guidance in the form of a factsheet in 2014, *"For Investment advisers – setting out what we require from advisers on how they charge their clients"*. It said,

"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."

The FCA's Code of Conduct Business Sourcebook (COBS) also added additional conditions in 2018, which required the minimum service of at least annual reviews of suitability in relation to ongoing advice.

I have also considered the FCA's findings on ongoing financial advice services published in February 2025 as part of my review of this complaint.

The review in 2022

Whitechurch accept that the review for the period 2021 - 22 was missed and they have already offered to reimburse Mr P for this. However, like the investigator, I am not satisfied that refunding the fees alone is sufficient to compensate Mr P. I have discussed in more detail below how Whitechurch should put this right.

The 2023 and 2024 reviews

We have seen evidence that both these focus 'Focus Review' reports were sent to Mr P. Although no direct meeting took place between them to discuss any changes, Whitechurch did invite him to discuss the meeting in detail if he wanted to. They asked him to get in touch with them within 30 days to discuss the report otherwise they would deem the review complete, so I can see why Whitechurch feel that they had met their obligations to Mr P. However, I am not satisfied that this is sufficient.

The fee agreement and Focus Review agreed to provide an ongoing service which should have included a review of Mr P's objectives, asset allocation, tax changes and his overall risk profile. While I acknowledge that these points appear to have been included in the Focus Reviews I've seen, what remains unclear is where the information that fed into this review came from. In the absence of any direct communication between Mr P and Whitechurch and given that no previous review was conducted since before Whitechurch completed the asset purchase of Bowen Coade Busst in 2021, it stands to reason that the information Whitechurch held needed revision.

I haven't seen any evidence that Whitechurch made it clear to the customer that they would continue with the review even where specific meetings to update information didn't take place. They hadn't informed Mr P they would rely on information that was already available to them from more than 12 months ago. I would consider it reasonable for Whitechurch to rely on information from the previous meeting where no changes had taken place, but the Fact Find was last completed in June 2021 and no updates have been obtained since then. The requirements for annual reviews where OAC's are being applied ensures the minimum service that Mr P should be receiving would facilitate updated information, but it was more than three years old by the time the 2024 review took place.

Reading the communications sent by Whitechurch, I remain unconvinced that they clearly conveyed to Mr P the type of service he would receive. It didn't specify whether the service would be delivered in person, face-to-face, or over the phone. The communication suggests that no action was required from Mr P, rather than be clear that he must get in touch to discuss this.

Whitechurch themselves place emphasis on keeping up to date with the information they hold, but I don't consider one letter asking Mr P to get in touch with them satisfies the regulatory requirements for completing at minimum an annual suitability review with at least a full discussion with him. The FCA requirements clearly state that Whitechurch must provide a full service in order to justify the associated OAC's. I've seen no evidence of any further efforts to communicate with him or comply with the regulations. It follows that where Whitechurch have not complied with the minimum requirements for annual reviews, they are not entitled to apply the annual OAC's, so I am upholding this element of the complaint.

Putting things right

At this service, our role is not to punish a business where something has gone wrong but to put things right and put the consumer back in the position they would have been in had the business not made an error. Therefore, my consideration extends beyond the OAC's paid to also the loss of funds and the resulting impact on Mr P's pension.

The OAC's were 0.75% of the annual fund value which was split across twelve months in advance. They were deducted directly from the investment monthly from the point of inception in 2021 to pay for the 2022 review in advance. The OAC's continued to be taken monthly until 2024 when Mr P cancelled this, and the pension value would have been higher if the fees hadn't been taken.

Accordingly, Whitechurch should pay Mr P the difference between the current value of the pension and the notional value it would have reached by the date of settlement had the fees not been deducted. This calculation should be performed using the actual pension performance over the same period, with the fees assumed to have remained invested and grown in line with pension. To ensure accuracy, Whitechurch must also factor in any withdrawals and contributions made during this period, adjusting the value based on growth of the fees left in the pension.

Whitechurch would need to consider any tax implications, or other impact on the pension before making the payment to avoid disadvantaging Mr P. If payment into the pension does have a detrimental impact to him, a lump sum ought to be paid directly to Mr P with consideration given to future income tax. It is unclear whether Mr P still any remaining tax-free cash entitlement left, if so, 25% of the loss would be tax-free and 75% would be taxed based on his likely retirement income tax rate at 40%. An estimated 30% reduction from the loss to reflect this tax would be reasonable.

It is essential that Whitechurch provides Mr P with a detailed and clear breakdown of their calculations, presented in a straightforward format.

My final decision

For the reasons given above, I uphold this complaint against Whitechurch Securities Limited. They should pay compensation to Mr P as set out in “Putting things right” above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr P to accept or reject my decision before 25 September 2025.

Naima Abdul-Rasool
Ombudsman