

The complaint

Mrs V complains that Quilter Financial Planning Solutions Limited (“Quilter”) failed to provide her with ongoing reviews and failed to act in her best interest when managing her investments, despite paying Ongoing Advice Charges (“OACs”).

Mrs V is represented by her daughter, but for ease of reference, I shall refer to Mrs V only throughout this decision.

What happened

Mrs V met with Quilter in November and December 2013 to discuss her financial circumstances and investment objectives. Quilter sent Mrs V a suitability report dated December 2013 explaining the recommendations it made. This recorded Mrs V’s circumstances as follows:

- She was aged 70, retired and in good health.
- She had a yearly income of £15,000 from a state pension and investments.
- She was a basic rate taxpayer.
- In addition to property valued at £290,000, she had £12,000 in cash assets and £254,942 in stocks and shares/corporate bond investments.
- Her attitude towards investment risk was cautious.
- She wanted to invest £245,000 from existing investments for five to ten years with the objective of generating income.

Following this, Quilter advised Mrs V to transfer just under £28,000 from an existing ISA to a new ISA and around £212,000 from an existing Investment Account to new Investment Account. Funds would then be moved from the new Investment Account to the new ISA each year to make use of Mrs V’s annual ISA allowance. The suitability report explained that there would be a fee of 1% deducted from the investments for ongoing advisory services.

A further suitability report was issued in April 2016 in which Mrs V was recommended to invest £250,000 arising from her late brother’s estate in an Investment Plan for a term of ten years, which was in an Investment Bond. The investment was set up to provide an income of £800 monthly from the outset. Mrs V’s attitude to risk agreed for this specific investment was “Moderate” (i.e., between “Cautious” and “Balanced”). In relation to ongoing reviews, the suitability report said there would be an annual charge of 0.5%.

Subsequent suitability reports dated 30 March 2017 and 21 March 2018 were sent to cover the ISA switches/rebalancing for her other investments.

Quilter sent a letter to Mrs V dated 1 June 2022 explaining that her adviser was no longer authorised by Quilter. Mrs V then held discussions with a different Quilter adviser, before ultimately deciding she no longer wanted to deal with that adviser. Mrs V then contacted her investment providers directly to stop all future adviser payments to Quilter for its ongoing advisory service.

Letters were sent to Quilter in June 2022 saying Mrs V wanted to make a complaint and making a Data Subject Access Request. A formal complaint was made in July 2022 and Quilter responded in August 2022, setting out details of the OACs paid to it by her investment providers.

Mrs V then raised her complaint which is subject to this decision in May 2024. In summary, she said:

- She didn't receive a proper service at any point during the time her advisor was dealing with her investments.
- Quilter failed to provide her with any reports, notes or minutes of any meetings held with her advisor, despite it charging her fees.
- This has had an overall psychological impact on Mrs V and her family and included various levels of stress and anxiety leading to loss of income and other physical problems.
- She has also had to receive extra support from her daughter in various ways, and this has led to her losing work and the monies that this would generate.
- Quilter failed to make it clear to her that she could have taken out a guarantee policy in respect of her Investment Bond, which would have ensured a full pay out of her initial investment of £250,000 in the event of her death or her moving her investment to a new provider.
- Following her advisor being no longer authorised with Quilter, she was given a new advisor who she feels was colluding with her previous advisor to cover up the mistakes made in managing her portfolio.
- She felt she should receive a full refund of the fees paid to Quilter, along with any interest or dividends it has received.

Quilter issued its final response letter in August 2024. In summary, it said:

- Mrs V had taken out her investments in 2013 and 2016 which is more than six years since she raised her complaint.
- Mrs V received several reviews over the years and said she had ample opportunity to raise her concerns with the advice received.
- Mrs V received reviews in July 2014, April 2015, April 2016, March 2017, March 2018.
- These reviews, which she received more than three years ago, would have confirmed the value and type of funds she was invested in, and therefore alerted her to any concerns she may have had in relation to these investments.
- Therefore, if Mrs V did not appreciate the nature of the original advice in 2013 and 2016, or allege that she did not receive annual reviews, it believes the further advice and reviews she received in 2014, 2015, 2016, 2017 and 2018, meant she ought reasonably be aware that she had cause for complaint more than three years ago.
- So her complaint hadn't been raised in time.
- It acknowledged the health issues Mrs V and her family encountered but said that there is no evidence to suggest that this is as a result of either of her advisors' actions or inactions.
- It was unable to comment on the advice Mrs V received from her new adviser in respect of the guarantee she could have taken out against her Investment Bond and felt the advice provided by Quilter was suitable at the time of advice.
- It found that the service provided was lacking and agreed to uphold this part of Mrs V's complaint.
- It considered the reviews post-2018 and said it had provided an annual review in May 2021 but couldn't see that reviews were provided in 2019, 2020 and 2022.
- It explained that no further fees were taken after the ongoing service agreement ceased in July 2022.
- It calculated the refund of OACs from January 2020 to July 2022 (not including the review in 2021), as well as any notional gain these fees would have made using the FTSE UK Private Investor Income Index (Total Return) benchmark which resulted in an offer of £11,193.41.
- It also offered £250 in recognition of any trouble and upset caused by the lack of reviews.

Mrs V didn't accept Quilter's offer and so she referred her complaint to this service for an independent review.

One of our investigators considered the complaint and upheld it. In summary, they said, firstly that regarding our jurisdiction:

- They felt Mrs V had raised her concerns around the suitability of the advice in time as they didn't think she knew, or ought to have known that she had cause for complaint more than three years before she complained.
- They also felt Mrs V's concerns regarding the ongoing advice was made in time as although reviews did take place, she wasn't aware that the level of service wasn't sufficient.
- Regarding specifically Mrs V's Investment Bond, they hadn't seen any evidence to suggest the discussions included this investment and so they didn't think she would have recognised an issue with this.
- They felt Mrs V's complaint about the guarantee policy was also raised in time as although she was aware of the existence of the policy, as it was mentioned in a suitability report, they didn't think she could have realistically known enough at the time of the advice to question whether the policy was worth paying for.

The investigator then went on to consider the merits of Mrs V's complaint. In summary, they

said:

- The advice given in 2013 was suitable and was in line with her attitude to risk at the time.
- Quilter provided copies of documents for the initial product recommendation and also evidence of discussions and reviews taking place for fund switches every year from the start of investments up to March 2018.
- Correspondence provided by Mrs V also supports that there was regular contact between her and her adviser, including meetings at which both she and her daughter were present.
- The advice given in April 2016 to invest in the Investment Bond was suitable as it allowed Mrs V to access an income and was in line with her attitude to risk agreed specifically for this investment.
- In terms of the guarantee policy Mrs V was not advised to take out, the investigator said that having considered the limited circumstances in which the guarantee would apply, the additional costs of the guarantee, the investment's track record and Mrs V's attitude to risk being "Moderate", they didn't have any concerns in Quilter not including the guarantee option in the recommendation.
- They also pointed out that if they did think it was not suitable, which they didn't, any redress required would be based on any loss that had been incurred. But since 2016 the investments had increased in value by around 62.5%, so there had not been any loss for the guarantee to cover.
- In relation to the ongoing reviews, they didn't think it was fair for Quilter to time bar any reviews missed prior to May 2018.
- Whilst they acknowledged that reviews did take place in March 2017, March 2018 and May 2021, these didn't appear to include discussions around the Investment Bond taken out in 2016.
- They recommended that Quilter refund all OACs deducted from the Investment Bond with an adjustment to reflect the loss of investment growth on those charges.
- They felt the offer for refund of OACS on Mrs V's other investments was fair as although the final response letter referred to a refund of OACs from January 2020, Quilter had advised this was an error and the refund did include the missed review in January 2019 as well.

The investigator also considered Mrs V's concerns regarding her advisors and the alleged corruption and abuse. In summary, they said:

- Whilst they could see that reviews were not provided as they should have been, they had not seen any evidence that led them to consider this as abuse or grooming of an elderly customer, rather than a simple failure to provide a service.
- Therefore, they considered refunding the OACs taken for that service to be reasonable redress.
- Any contact from her previous advisor after they left Quilter is not something over which Quilter had any control and so they couldn't consider this as part of her complaint with Quilter.
- They had no concerns regarding the relationship between her two advisors and how this was explained or presented to Mrs V, and they didn't think it was unusual for a new Quilter adviser to be introduced to an existing Quilter customer when a previous adviser leaves, even if there was a connection between the two advisers.
- They acknowledged that Quilter had made an offer of £250 in recognition of any trouble and upset caused and felt this was fair.

Mrs V accepted the investigator's findings, but Quilter did not. In summary, it said:

- It confirmed that reviews took place up until 2018 and it has no evidence of an annual review taking place in 2019 and it felt that this missed yearly review would have clearly alerted her to an issue of not receiving her ongoing annual review.
- No annual review took place in 2020 also and it said this would be a further indicator that there was an issue and that she was not receiving a proper service.
- Both time frames are more than three years from the complaint being raised in 2024.
- An annual review took place in 2021 and so it felt this should have further alerted her to not having received annual reviews in the previous years.
- A Client Summary it sent Mrs V dated 22 March 2017 explained that:
 - “She holds 2 investments that I have made for her -a [Investment Bond] from nearly 2 years ago which pays an income of £800 a month which she is happy to just keep going.”
- So it felt a review of Mrs V’s Investment Bond did take place in March 2017.
- In terms of the guarantee policy, it said Mrs V cannot be unaware she could have taken out a policy, but also be aware and told that the guarantee policy, she knew nothing about was not value for money.
- It didn’t understand how this could be within the time limits as the complaint point was that it was not made clear that she could have taken out an guarantee policy.
- There is no complaint that it was aware of that Mrs V was told it wasn’t value for money.
- So overall, it didn’t agree that all of Mrs V’s complaint had been raised in time for our service to consider.

As Quilter disagreed with the investigator’s findings, the complaint has been passed to me to first decide whether our service can consider Mrs V’s complaint.

I issued a jurisdiction decision in January 2025 explaining why I felt I could consider some of Mrs V’s complaint but not all of it. In summary I said:

- I couldn’t consider her complaint about the OACs paid between December 2013 and May 2018 for her ISA and Investment Account taken out in December 2013 as she hadn’t raised her complaint within three years of when she ought to have known she had reason to complain.
- I couldn’t consider her complaint about the OACs paid between April 2016 and May 2018 for her Investment Bond taken out in April 2016 as she hadn’t raised her complaint within three years of when she ought to have known she had reason to complain.
- I couldn’t consider her complaint about the guarantee policy as it was about the existence of the policy and not the suitability of the advice not to take it out and so she didn’t as she hadn’t raised her complaint within three years of when she ought to have known she had reason to complain.
- I could consider only consider her complaint about the OACs paid from May 2018 onwards regarding her ISA, Investment Account and Investment Bond as these OACs were taken within six years of her raising her complaint.

Both parties accepted my jurisdiction findings and so the complaint has been passed back to me to consider the merits of Mrs V’s complaint.

I issued a provisional decision on the merits of Mrs V’s complaint in January 2025 and include a copy below:

What I’ve provisionally 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.

From 31 December 2012, the FCA's Conduct of Business Sourcebook (COBS) 6.1A.22R has said:

"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 FCA also produced a factsheet on adviser charging which, amongst other things, 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."

I'm satisfied that COBS and the FCA factsheet are clear that Quilter ought to have been providing a service for Mrs V from May 2018 up until the ongoing service ceased in July 2022, as it's not disputed ongoing advice fees were paid.

Ongoing advice couldn't have just been offered or been available only if needed, an actual service needed to be provided. As the fees were taken as annual percentages, I'd expect to see Quilter had provided personal recommendations or services for that individual client in each year that the fee was taken.

Quilter accepts that it didn't provide Mrs V with an annual review in 2019, 2020 and 2022 and has offered to refund OACs charged from January 2019 to July 2022 (not including those for the review which Quilter says was provided in May 2021), as well as any notional gain these fees would have made using the FTSE UK Private Investor Income Index (Total Return) benchmark which resulted in an offer of £11,193.41.

Quilter has provided the Suitability Report it sent Mrs V in May 2018. Having reviewed this, I'm satisfied that this review only included her ISA and Investment Account. I'm persuaded it doesn't include anything which I'd consider amounts to a review of her Investment Bond. Similarly, Quilter has provided the Suitability Report it sent Mrs V in May 2021. Again, this only mentions her ISA and Investment Account and so I'm not persuaded a review of her Investment Bond was included in this either.

Therefore, I'm currently minded to say Quilter should refund Mrs V for any OACs she has paid from May 2018 to July 2022 in relation to her Investment Bond.

I understand that Quilter has recently agreed to pay Mrs V the offer it made in its final response as she has requested this. However, it's not clear whether the offer to refund OACs from January 2020 to July 2022 (not including the review in 2021), also included the OACs Mrs V paid towards her investment bond, so I will address this uncertainty in the Putting things right section below.

Quilter additionally offered £250 to compensate for any distress or inconvenience that had been caused to Mrs V. I've not been provided with any evidence that shows Mrs V has suffered any distress or inconvenience that would persuade me to make a higher award, so I don't think Quilter needs to award anything further than has already been paid for this.

Responses to my provisional decision

Quilter accepted my provisional findings, but Mrs V felt further compensation for the distress and inconvenience should be awarded. She said she'd looked at our external website and believes she should be compensated up to £5,000 as Quilter's errors caused sustained distress affecting her health. She also provided our service with a video of her breathing to demonstrate this.

As Mrs V didn't accept my provisional findings, the complaint has been passed back 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.

Both parties accept my provisional findings on the missed review aspect of my provisional decision and so I have no reason to depart from those findings. However, it's clear that Mrs V feels strongly that I should make a further award for the distress and inconvenience caused to her. So I will only address this point further in my decision.

I'm sorry to hear about Mrs V's health issues and I understand that Quilter's actions have caused her distress and inconvenience. However, I must stress that I'm only able to consider the distress and inconvenience caused as a result of Quilter failing to provide her with annual reviews from May 2018 onwards, as I've already previously explained that this is the only element of her complaint that our service has jurisdiction to consider.

Having done so, I remain satisfied that the £250 already paid by Quilter is fair and reasonable in all the circumstances. I say this as the impact of paying for annual reviews that were not provided is mainly financial, which my decision will compensate her for in asking Quilter to return the OACs paid plus interest. I accept that finding out that she has paid these charges without receiving the service as expected would have caused Mrs V some distress and inconvenience, but I feel the compensation she is looking for is for the impact caused by her other complaint points which I've explained this service cannot consider.

I understand that having received my provisional findings; Quilter made an offer to Mrs V in line with my findings but it's not clear at this stage whether this has been paid to her. As such, I will address this in the section below.

Putting things right

Quilter should do the following to put things right for Mrs V, if it hasn't already paid this to her:

- Refund Mrs V for any OACs she has paid in regard to her Investment Bond from May 2018 to July 2022, plus 8% simple interest from the date the OACs were charged to the date of settlement.
- It's not clear whether Quilter's offer made in its final response letter (now paid to Mrs V) included a refund of the OACs Mrs V paid towards her Investment Bond, but if it did then Quilter can offset this in its calculation.

My final decision

My final decision is that Quilter Financial Planning Solutions Limited should pay Mrs V compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs V to accept or reject my decision before 11 March 2025.

Ben Waite
Ombudsman