

The complaint

Mr B complains about advice given by Financial Framework Wealth & Estate Planning Limited to switch his self-invested personal pension. He says the new plan is more expensive and he wouldn't have gone ahead if the charges had been explained.

To put things right he wants a refund of the £2,600 advice fee plus £1,000 compensation for the stress he has experienced.

What happened

The background to this complaint is well known to the parties so I'll just include a brief summary here.

Mr B had a Self-Invested Personal Pension ("SIPP") with Hargreaves Lansdown ("HL") managing it himself via a platform, to which he made monthly contributions £1,850. He also had a workplace pension which doesn't form part of this complaint. His SIPP was invested in five UK and global equities funds, with charges totalling 0.81%.

But Mr B felt he was "*gambling*" with his pension, the value of which had fallen significantly due mainly to one investment which had lost around 90% over three years, and had received a recommendation to move to a wealth management firm. In March 2022 unsure what to do he turned to his friend (Mr H), an adviser with Financial Framework Wealth & Estate Planning Limited ("FFWE") for advice. He also wanted to invest a forthcoming bonus payment of around £70,000 into his SIPP rather than his workplace pension, and to maximise his pension contributions to reduce his tax liability.

Mr B's HL SIPP was valued at around £134,790, but could not facilitate discretionary management, or ongoing advice charges. At the initial meeting with FFWE on 10 March 2022 Mr H completed a fact find of Mr B's circumstances, assessed Mr B's attitude to risk as 7/10 (highest medium), and Mr B signed the client agreement.

At a follow up meeting in May 2022 the adviser recommended Mr B switch his SIPP to EBS to be managed by Alpha Portfolio Management, one of their approved discretionary managers, to remove the stress of managing it himself. FFWE's usual initial advice fee is 3%, but as they were friends the adviser offered a discounted fee of 2%, (which he subsequently reduced further to a flat fee of £2,600) and offered to waive the fee for investing Mr B's bonus payment when it arrived. FFWE's ongoing advice charges would be 1%, and as Mr B was used to keeping a close eye on his investments the adviser offered quarterly reviews. Mr B was reminded a pension is a long-term investment, and at 46 he was some way off retirement, so daily monitoring might be counterproductive.

Mr B accepted the advice to switch, signing the confirmation of advice form and Alpha's fee agreement on 13 May 2022. He was left with the Key Features document and other information relating to the EBS SIPP and Alpha's investment proposal for its "*Adventurous*" strategy. The product fees were set out in FFWE's suitability report ("SR") in table format comparing the fees of Mr B's existing SIPP with HL (1.26%) to EBS/Alpha (1.68%), and a couple of pages later set out the initial advice fee of 2% and the ongoing advice fee of 1%.

Alpha's fee agreement set out its annual management charge as 0.75% plus custody fees of 0.25% (total 1%).

The new SIPP was set up on 25 May, and the proceeds of Mr B's HL SIPP (valued at this point at just over £188,765) were transferred from HL to EBS on 6 June 2022. Once the initial adviser fee of £2,600 was deducted and sent to FFWE, the balance was invested with Alpha with the process completed by 9 June 2022. Mr B remained nervous about market volatility and requested online access to view his Alpha portfolio.

Through his workplace Mr B met a financial adviser from a firm I'll refer to as "WA" and asked his opinion on the move to EBS/Alpha. On reviewing the SR once he obtained a copy from FFWE, WA thought charges approaching 4% were high, and much higher than Mr B was expecting.

Throughout there'd been ongoing informal discussions and exchanges, mainly via email and messaging apps between Mr B and Mr H. A call took place on 24 June 2022 in which Mr B expressed his concerns about the charges, and that he should've seen the SR before going ahead. Mr H tried to put the costs in context with the benefits of Alpha managing his pension. But this didn't fully reassure Mr B and on 30 June 2022 he cancelled the arrangement with Alpha within the cooling-off period.

On the advice of WA Mr B transferred his plan then valued at around £181,922 from EBS to Royal London ("RL"). After WA's advice fee of £1,819 was deducted, the balance of £180,102 was invested in RL's "*moderately adventurous*" lifestyle portfolio, (total charges of 1.1%), with the process completed on 9 August 2022.

In July 2022 Mr B complained to FFWE about the advice to switch, particularly that the charges hadn't been properly explained to him, and if they had he wouldn't have gone ahead. So he thought FFWE should refund their advice fee.

FFWE didn't uphold the complaint, being satisfied the advice to transfer to EBS was suitable as the HL SIPP didn't allow discretionary management, and Mr B no longer wished to manage his investments himself. They said Mr H was shocked by the complaint, as his motivation had been to assist a friend. They disputed that the charges (which had been discounted) hadn't been explained, pointing to a form Mr B had signed confirming the advice had been explained to him, and that he understood the charges before proceeding. In any case, they considered Mr B had suffered no loss, as the investments they recommended had performed better than either HL or the other provider Mr B had previously considered.

Mr B disagreed and brought his complaint to this service. The complaint was originally rejected based on the signed paperwork provided by FFWE. But on reviewing the recording of the 24 June 2022 call in which Mr H admitted he should've ensured Mr B fully understood the increased charges of the new arrangement, our investigator upheld the complaint, and proposed redress based on Mr B staying with HL until he followed WA's advice to switch to RL with effect from 9 August 2022.

The original redress calculation allowed for the use of a benchmark, as HL had told FFWE it couldn't provide a notional value of Mr B's plan. We now have the notional value from HL to enable FFWE to carry out a more accurate loss calculation. But FFWE is unhappy at the change of redress, having followed the methodology set out in the investigator's view. The investigator has spent significant time and effort liaising between the parties in relation to the redress methodology and outcome.

Eventually as so much time has elapsed, and because agreement couldn't be reached about the financial loss, FFWE requested an ombudsman review the complaint afresh.

So the complaint has come to me.

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.

It's highly unusual for us to reopen a complaint when the outcome had been accepted by both parties. Once an outcome is accepted, even at investigator view stage, our case is closed, and we expect the parties to liaise between themselves with regard to the redress. We don't generally entertain a complaint being reopened because either party isn't happy with the redress figure, so long as it was calculated in accordance with the directions set out in the view.

But exceptionally in this case FFWE has requested the case be reviewed afresh, so I have considered the information and evidence provided by both parties, including the call recording submitted by Mr B. But I haven't reviewed the post-view discussions around the loss calculation methodology. Having done so I'm going to uphold it, for broadly the same reasons as our investigator. Let me explain.

Mr B had clearly been finding managing the investments in his SIPP and "*backing losers*" increasingly stressful, which is why he was considering other providers and then sought help from Mr H. And HL had confirmed its SIPP did not support discretionary management or ongoing advice, so if Mr B wanted those he'd need to change providers.

Mr H thought Mr B would benefit from moving his SIPP to enable his investments to be professionally managed and offered a reduced initial advice fee of 2%. But he was still charging for his professional services, albeit at a discount. And as such was obliged to follow the regulator's rules and guidance as set out in the Conduct of Business ("COBS") and Principles for Business ("PRIN") sections of the FCA handbook. Particularly the requirement under PRIN 6 to take due account of their customers' needs and treat them fairly. And the "*best interests*" rule in COBS 2.1.1R which requires an adviser to act fairly, honestly and professionally, in the best interests of the client.

Of particular relevance is the guidance and checklist issued by the regulator in 2009 in relation to pension switching. This arose from concerns that consumers were being switched into more expensive plans without good reason, and without the additional charges being properly explained.

So the issue to determine is whether Mr B should've been advised to move to EBS with Alpha as DFM, and also if the additional charges the new arrangement involved were justified and properly explained to him.

FFWE's SR produced in May 2022 set out the reasons for recommending the EBS SIPP, but I think many of the points were quite generic to any provider. Alpha was recommended due to its pedigree and track record, and Mr B was provided with a brochure which set out their investment strategy in more detail. FFWE's recommendations were based on Mr B being an experienced investor, as he'd been managing the investments in his SIPP.

But I consider his main objective was growth to recoup the losses he'd sustained. Regardless of any personal relationship, the adviser was obliged to follow the regulator's checklist, and consider questions such as whether the consumer's objectives could be met

more cost effectively through another product. He'd need to justify a recommendation for a more costly proposition and ensure Mr B fully understood and accepted it.

I can't be sure what was discussed in the meetings, but the SR and informal exchanges contain little commentary on why a DFM was necessary to meet this objective, or what other lower cost options were considered. And I think the additional cost of the new arrangement was an important consideration because of the impact on growth. Mr B's pension is now invested in RL's "*moderately adventurous*" lifestyle strategy portfolio, which automatically moves into lower risk assets over time as he approaches retirement. But I can't see anything like that was considered by FFWE.

In an email to Mr B on 14 March 2022, prior to any advice or recommendation being formally given, Mr H confirmed FFWE's discounted advice fee of 2% and ongoing advice fee will be 1% but doesn't remind Mr B that Alpha's and EBS's fees will be on top. The SR did state the new arrangement would cost more than Mr B managing his SIPP himself. The comparative charges were set out in table form as below:

Comparison of charges	HL	Embark/Alpha
SIPP provider charge	0.45%	0.17% *
DFM charge	-	0.90%
Custody fee	-	0.30%
Underlying fund charge	0.81%	0.31%
Total product charge	1.26%	1.68%

** the annual fee is £190 which equates to 0.17% based on current value. This will gradually reduce due to investment growth and additional contributions.*

And it goes on "As you can see, the transfer to Embark/Alpha will increase your annual charges, however we consider this to be justified due to the active management that will be used within the portfolio".

The figures for the DFM fee of 0.90% and custody fee of 0.30% are not consistent with those in Alpha's fee agreement Mr B signed, which show an annual management fee of 0.75% and a custody fee of 0.25%. But the table isn't the full picture as it doesn't include ongoing adviser charges, which are summarised later in the report. Under "*Cost of Advice*" the ongoing advice charge is given as 1% equating to just under £1,348 based on the current transfer value, and FFWE's initial advice fee of 2% (reduced from 3%) of the transfer value was expressed at just under £2,696, although this was later reduced further to a flat fee of £2,600. To help Mr B understand the impact of charges, the SR does explain that a 3.01% annual Reduction in Yield ("RIY"), means growth of 5% is effectively reduced to 1.99%. EBS's annual SIPP fee (of £195 plus VAT) may have been comparable to HL, but I think it was slightly misleading to suggest it reduces as the investment grows. It's a fixed cost so the percentage of the portfolio value may reduce, rather than the fee itself.

FFWE's records show the meeting to discuss the recommendation took place on 11 May 2022, and Mr B signed the "*Confirmation of Advice*" page of the SR on 13 May 2022, which suggests he had some time to consider it, so I can't say he was given no information about the charges. FFWE has relied on the signed "*confirmation of advice*" page of the SR and Alpha's "*Schedule of Fees*" in May prior to the switch going ahead as evidence Mr B understood the recommendation. Mr B has subsequently admitted to signing several documents without reading them, apparently as Mr H was in a rush. I think Mr B bears some responsibility to ensure he understood what he was agreeing to. But given the adviser's response when Mr B requested a copy of the SR, it's not clear he'd retained his own copy. I think Mr B accepted the charges would increase, but neither the table in the SR or the 14

March email provide a total charges figure, so I'm not satisfied the actual increased cost of the new arrangement was made clear to him, or why it represented good value.

The call Mr B recorded on 24 June 2022 arose following a message exchange (which the investigator set out in his view, so I won't repeat here). But essentially Mr B said the "*insane*" charges of his new plan had made him "*feel sick*". The adviser suggested that rather than focus on the charges he should consider the bigger picture of having something better. And that while Mr B had been managing his SIPP very cheaply by picking his own funds, that way wasn't always best. And that Mr B had already "*saved*" around £7,000 on FFWE's usual advice fee. Mr B said he hadn't understood the full extent of the charges and was shocked to discover FFWE's 1% advice fee was on top of Alpha's fee of 1.68% plus EBS's SIPP charge of £200 which he'd only just found out about, to which. The adviser "*held his hands up*" to that. Despite the risk warning in the SR that "*past performance is no guarantee of future returns*" Mr B was told he was definitely doing the right thing, and Alpha would more than outperform the additional charges. But the adviser's answers to Mr B's specific questions were vague and confusing, as he didn't have the details to hand, so I see why Mr B wasn't reassured.

Other than the SR there's no record of what was actually discussed in the meetings, and it's not possible for me to make a finding on that. But based on the informal tone and content of the message exchanges, and the adviser's acknowledgment in the call that (when discussing the charges) he should've said "*right, I need you to concentrate here [Mr B]*" suggests they weren't totally focussed on the subject matter. I don't doubt Mr H's intention was to address Mr B's concerns about managing his pension and to improve its performance, and Mr B may have found having his pension professionally managed appealing. But there are challenges when "*mixing business with pleasure*" as Mr H described it, and FFWE was still professionally obliged to provide suitable advice having due regard of Mr B's circumstances, which included his concerns about the costs.

I'm not persuaded FFWE did enough to ensure Mr B understood the total charges of the new arrangement. And I don't think FFWE should've proceeded with the switch if there was any doubt regarding his focus on the discussion, nor should they have allowed Mr B to sign documentation he hadn't properly read. Even if Mr B had reviewed the SR before going ahead I don't think he was given clear, transparent information about the total charges of the new arrangement. And if he had been I don't think he would have followed FFWE's recommendation to switch. I say this because once he did realise how expensive the new plan was, he immediately exercised his right to cancel.

Mr B was introduced to WA through his work, so I think that meeting would've happened whether or not Mr B had received advice from FFWE. He'd already approached another provider so clearly intended to leave HL at some point. And as Mr B followed WA's recommendation and moved to RL, I agree with the investigator it's most likely he would've done that, rather than switch to EBS/Alpha. Depending on when Mr B consulted WA it's possible the switch to RL could have happened sooner than it did. But with so many unknown factors I can't say for sure how long things would have taken. So I think it's reasonable to follow the investigator's logic and say that Mr B would've remained with HL, and then switched direct from HL to RL with effect from 9 August 2022.

So I uphold Mr B's complaint that the advice to transfer to EBS/Alpha was unsuitable, due to the increased costs of the new arrangement, which weren't properly explained.

Putting things right

When awarding compensation our aim is to put the consumer as close as possible to the position they'd be in, had the business not made an error. I think it's most likely Mr B would've stayed with HL and then followed WA's recommendation to move to RL.

Compensating Mr B fairly means working out the value of his plan had it remained invested with HL until the switch to RL with an effective date of 9 August 2022. The original loss calculation used a benchmark, which we suggest in circumstances where obtaining a notional value of the consumer's plan had it remained with the original provider is not possible. In this case, FFWE was erroneously told HL could not provide the requested information, so there's no criticism of FFWE for proceeding with the benchmark. But putting things right is best achieved using accurate figures. And HL has now provided a notional value of Mr B's plan which the investigator then used in his revised redress. I will use that figure in the redress set out below.

Mr B has requested a refund of the initial advice fee he paid to FFWE. This is factored into the calculation below, as the notional value is based on the gross figure prior to the advice fee being deducted.

Mr B has also requested additional compensation of £1,000 for the stress the situation has caused. I don't doubt this has been a stressful experience, but I think much of that arose from the losses he had incurred when managing his pension himself. I've said I believe FFWE's intention was to alleviate that stress by arranging for Mr B's funds to be professionally managed, their failing was in the explanation of the rationale for a DFM and ensuring Mr B appreciated the significant additional costs. And Mr B had some responsibility to read and understand the proposal before signing to say he wished to proceed. I've said that had FFWE not got involved Mr B would've followed WA's advice and switched to RL, which still would've involved a degree of inconvenience. So I agree with the investigator that a payment of £250 is appropriate to represent the inconvenience and worry FFWE is responsible for.

So to put things right, Financial Framework Wealth & Estate Planning Limited should do the following:

- The closing value of Mr B's SIPP with EBS at the point it was transferred to RL was £181,721.70 (value A). This is the value prior to WA's advice fee of £1,819.22 being deducted and the balance of £180,102.48 invested with RL.
- Had Mr B's plan remained with HL (and assuming he made no further investment changes) HL has provided a notional value of his plan at 9 August 2022 of £197,154.16 (value B).
- As value A (actual) is lower than value B (notional), then there's been a financial loss of £15,432.46 (value C).
- Establish any investment loss on value C by reference to the actual investments made into Mr B's RL SIPP, thus bringing the loss up to the date of this final decision. (I understand RL carried out such a calculation as at 8 October 2024, but this figure is out of date now).
- FFWE should pay into Mr B's pension plan to increase its value by the total amount of the compensation and any interest. The amount paid should allow for the effect of

charges and any available tax relief. Compensation should not be paid into the pension plan if it would conflict with any existing protection or allowance.

- If FFWE is unable to pay the total amount into Mr B's pension plan, it should pay that amount direct to him. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore the total amount should be reduced to *notionally* allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount – it isn't a payment of tax to HMRC, so Mr B won't be able to reclaim any of the reduction after compensation is paid.
- The *notional* allowance should be calculated using Mr B's actual or expected marginal rate of tax at his selected retirement age. Mr B is currently a higher rate taxpayer, but I consider he's likely to be a basic rate taxpayer in retirement, the reduction would equal the current basic rate of tax. However, as Mr B would have been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation. *This notional deduction should not be made if the compensation is paid into Mr B's pension plan, it only applies to a cash payment.*
- Pay to Mr B £250 for distress and inconvenience arising from the poor advice.
- If payment of compensation is not made within 28 days of FFWE receiving confirmation of Mr B's acceptance, then interest should be added at a rate of 8% per year simple from the date of my final decision to the date of payment.
- Income tax may be payable on any interest paid. If FFWE deducts income tax from the interest it should tell Mr B how much has been taken off. FFWE should give Mr B a tax deduction certificate in respect of interest if he asks for one, so he can reclaim the tax on interest from HM Revenue & Customs if appropriate.
- FFWE should provide details of its calculation to Mr B in a clear, simple format.

My final decision

I uphold this complaint. Financial Framework Wealth & Estate Planning Limited should put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 10 April 2025.

Sarah Milne
Ombudsman