

The complaint

Mrs B, represented by her husband Mr B, complains that Haven IFA Limited failed to provide her with the ongoing investment advice service for which she was charged.

What happened

The background to the complaint will be well known to both parties, so I'll only give some key details here.

Mrs B (alongside her husband who's raised a similar complaint that's been dealt with separately) was initially advised by Haven about pension provision in late 2016. A recommendation was made for her to transfer to a new Self-invested Personal Pension (SIPP), which she accepted. The new product started in January 2017, and it was agreed that Haven would provide an ongoing advice service at a cost of 0.5% of the value of the SIPP, taken monthly.

Reviews of the pension did then take place, first in January 2018, then February 2019 and February 2020. However, there then followed a period during which the annual reviews weren't carried out, which culminated in Mrs B transferring to a new adviser mid-2024 and Mr B raising a complaint on her behalf regarding Haven's failure to provide the ongoing advice service in January 2021 and after.

Haven didn't uphold the complaint. This was primarily because, while it accepted that annual reviews of Mrs B's pension hadn't taken place from January 2021 onwards, it felt it had nevertheless pro-actively sought to provide them. And further, it had continued to engage with Mrs B and provide other support and information over the period in question.

The complaint was referred to this service where an investigator felt it should be upheld. He said, in short, that regardless of the attempts made to contact Mrs B and the other communication that took place, the ongoing advice service, which should've included annual reviews of the pension, hadn't been provided from January 2021 onwards. So, he felt it was therefore fair that a refund of the associated charges be made to Mrs B, by way of repaying them to her pension, from which they'd been deducted, plus any lost investment growth.

Haven didn't accept the investigator's view. While it acknowledged that reviews hadn't taken place from January 2021 it stressed the efforts it had made to carry them out and highlighted that the period in question had encompassed the pandemic and its associated difficulties.

Haven also noted the findings of a Financial Conduct Authority review regarding the delivery of ongoing advice, which had concluded, among other things, that it may be the case that a refund of ongoing advice charges wouldn't necessarily be warranted in circumstances where a business had made reasonable attempts to engage.

The investigator wasn't persuaded to change his opinion in light of Haven's further comments, so the complaint was referred to me to review.

The aforementioned similar complaint made by Mrs B's husband was also referred to me to

review and I issued a provisional decision on that complaint (the circumstances of which mirrored Mrs B's complaint) in which explained why I agreed it should be upheld but that slightly different compensation should be paid – a refund of the charges taken from January 2022 until they ceased, plus an investment return for the period in question. I said, in part (with all references to Mr B applying to equally to Mrs B) -

"It's not disputed that the ongoing advice service agreed at the outset was provided by Haven to Mr B in 2018, 2019 and 2020, with annual reviews taking place at the start of each of those years.

However, in January 2021 when Haven approached Mr B by email to suggest a review meeting, which it explained would need to be held remotely due to Covid restrictions, Mr B responded to ask to see the annual reports before deciding whether to have a review.

He added that he'd prefer a face-to-face meeting, but Haven responded to reiterate that the restrictions prevented that, but that the reports would be provided, and it would be in contact again once the restrictions were lifted. Unfortunately, it seems that it failed to follow through on this, although it appears that the reports were provided to Mr B.

The following year, in January 2022, Haven again contacted Mr B, by phone and email, to try to organise a review. But it received no response.

Then in January 2023, Mr B contacted Haven to say that a review of he and his wife's pensions by a third party had led them to be concerned about a failure by Haven to pass on information regarding higher-rate taxpayer contribution limits. (That matter, which concerned Mrs B specifically, was resolved by way of a payment of compensation at that point). However, despite this engagement between the parties no annual review was carried out.

Then in February 2024 Haven again contacted Mr B to try to organise a review, but by this point he and his wife were in the process of transferring to a new adviser, so again no review took place. As noted, soon after, a complaint was raised by Mr B about the lack of ongoing service from 2021 onwards.

Having looked closely at the chronology of events and the associated evidence, while it's clear Mr B didn't always receive the service he was charged for, I don't think a refund of all the charges relating to the 2021 and subsequent missed reviews represents a fair and reasonable resolution to the complaint.

While it was clearly unfortunate that Haven didn't get back in contact with Mr B later in 2021 when the pandemic restrictions were lifted, as it had indicated it would, I think that if it had done Mr B would likely have declined a review, as was a possibility he'd raised in his initial response to Haven's approach. He was provided with the requested portfolio reports and wasn't prompted by them to approach Haven. And I've no reason to think if he had done so it wouldn't have been more than happy to have carried out a review as in previous years.

In respect of 2022, when Haven received no response from Mr B, I accept this was a point at which it could've taken further steps to ensure that the ongoing advice service was still required and, if not, stop taking payments for it. But of note is the fact that when Mr B then approached Haven at the start of 2023 to raise the separate issue of not being informed about the changes to contribution limits he said, in his email to Haven of 20 January 2023, that "... it has been our choice not to have face to face meetings to review our pension investment...", which I think further supports the likelihood that further steps by Haven to encourage reviews during 2021 and 2022 wouldn't necessarily have led to them taking place.

That said, I think Mr B then saying in January 2023 that he'd had his pension reviewed independently coupled with him raising the contribution limits complaint was a point at which more should've been done by Haven to confirm how he wanted to proceed in respect of the ongoing advice service – whether continuing it was in his best interests. And I think it's likely that if it had done Mr B may well have decided to stop receiving the service. (That said, I note that the resolution of the contributions limit complaint involved payment of amount determined by reference to the ongoing charges. So, Mr B clearly was aware at that point that they were still be deducted and didn't suggest that the service should be stopped).

So, in all the circumstances, and mindful of the regulator's view that the absence of annual reviews wouldn't by default lead to an ongoing service being stopped and/or charges refunded, I currently think a fair resolution of the complaint would be for Haven to refund the charges taken from Mr B that related to the ongoing advice service reviews that should've taken place in January 2023 and 2024 and onwards. As I presume the charges were taken monthly in advance for the twelve months preceding each review, this means all ongoing advice charges deducted from January 2022 onwards until they ceased in or around June 2024.

I think this is a reasonable compromise given that this wasn't a case of Haven simply disengaging from its relationship with Mr B from January 2021 onwards while still deducting charges. I'm satisfied it remained willing and able to provide reviews, certainly in 2021 and 2022, and Mr B was conscious of not receiving them."

Haven accepted my provisional decision on Mr B's complaint. It was explained to Mr B that my thoughts applied equally to Mrs B's complaint, but on her behalf Mr B explained that he didn't agree with my findings, and he made some additional comments. He said, in brief –

- He was grateful that I felt Mrs B's complaint should be upheld but didn't agree it was fair for Haven not to refund fees for years when they didn't provide any advice at all.
- While it may have been willing to provide advice, it didn't from 2022 onwards. It could've provided reports from this point but didn't but instead continued to take the monthly fee irrespective of whether there was a face-to-face meeting.
- Haven provided no evidence that even a draft report was prepared from 2022 onwards.
- I had suggested he and Mrs B were aware of fees continuing to be charged, but it was only when Haven later provided information in respect of a Data Subject Access Request that he became aware from the schedule of charges provided that charges had been applied and continued to be so without Haven preparing or delivering advice or reports from January 2022.
- How can it be fair for Haven to make a charge when its own files showed that it didn't review Mrs B's investments, prepare a draft or final report from 2021 onwards.

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, my view is that Mrs B's complaint should be upheld, for the reasons already explained.

I've considered the additional comments made on Mrs B's behalf, but I still think it was reasonable for Haven to continue applying the charges for the ongoing advice service up until January 2022. While I accept that reviews didn't take place, Haven endeavoured to arrange them and, as I said before, I've no reason to think it wasn't willing and able to do so. And as I noted previously, Mr B said in January 2023 that it had been his and Mrs B's

decision not to have reviews over the previous two years.

But there clearly came a point where more should've been done by Haven to ensure that continuing to charge Mrs B for the ongoing service was in her best interests. Hence why I find that a refund of the charges applied from January 2022 until they ceased is fair in all the circumstances.

Putting things right

My intention is to put Mrs B, as closely as possible, into the position she'd now be in had Haven not deducted the ongoing advice charges from January 2022. So, that means putting Mrs B's pension fund into the position it would be in had the charges not been taken.

The value of the pension would've been higher by the value of the charges and any investment returns that the charges would've earned.

Haven must calculate the loss in value of Mrs B's pension due to the deduction of the ongoing advice charges taken from January 2022 until the last charge was taken. To be clear, this will mean calculating the lost investment returns on each charge, based on the actual investment strategy of Mrs B's pension, from the date the charges were taken to the date of settlement.

If information about Mrs B's investment isn't forthcoming, Haven should use the FTSE UK Private Investors Income Total Return Index as a benchmark by which to calculate the lost investment returns on each charge. I've chosen this method because that Index is made up of a range of indices with different asset classes, mainly UK equities and government bonds. It's therefore a reasonable proxy for the type of return that could've been achieved over the period in question.

When Haven has calculated this total loss to Mrs B's pension it should, if possible, pay that amount into the pension. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension if it would conflict with any existing protection or allowance.

If a payment into the pension isn't possible or has protection or allowance implications, it should instead be paid directly to Mrs B as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid.

If Mrs B has remaining tax-free cash entitlement, 25% of the loss would be tax-free and 75% would have been taxed according to her likely income tax rate in retirement – presumed to be 20%. So, making a notional reduction of 15% overall from the loss adequately reflects this.

My final decision

For the reasons given, my final decision is that I uphold the complaint and direct Haven IFA Limited to compensate Mrs B as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 2 December 2025.

James Harris
Ombudsman