

The complaint

Mr S has complained that Ascot Lloyd Limited hasn't provided him with the ongoing advice service for his self-invested personal pension ('SIPP') which he had paid for.

What happened

Mr S has a SIPP and he had an arrangement with Ascot Lloyd to provide him with an ongoing advice service. A client agreement signed by Mr S on 26 July 2022 shows that he had agreed to take the full wealth management service for an ongoing advice fee ('OAC') of 1% to be paid monthly from his SIPP investments.

In July 2023, Mr S contacted Ascot Lloyd as he wished to make a withdrawal from his SIPP. Mr S eventually received some funds in late August 2023 but this didn't amount to the sum he'd asked for. Mr S was unhappy with this and asked for further funds, but after being told the amount of tax that would be deducted, he told Ascot Lloyd to hold off until he could speak to his accountant.

In June 2024, Mr S requested to end his relationship with Ascot Lloyd. He explained that he was disappointed with the service provided by Ascot Lloyd in July 2023 when he'd requested a withdrawal. He also said a review of his SIPP was promised but did not materialise, meaning he hadn't received a review since July 2022. Mr S requested a refund of OACs paid since then.

In August 2024 Ascot Lloyd provided a final response to the complaint. It said the adviser had delivered the review in July 2023 and Mr S had acknowledged this in August 2023. It added that Mr S had ended his relationship with Ascot Lloyd before the review due in July 2024 could be delivered.

Mr S remained unhappy and referred his complaint to the Financial Ombudsman Service. Mr S said he'd made a withdrawal request in July 2023, which Ascot Lloyd actioned, but no review had taken place, as evidenced by a series of emails he'd provided. Mr S said he hadn't had any telephone discussions with the adviser.

Our Investigator ultimately upheld Mr S's complaint and required Ascot Lloyd to refund the OACs charged since the July 2022 review together with the investment return the fees would have achieved had they not been taken from the investments.

Ascot Lloyd didn't agree. The adviser said a review had been completed in July/August 2023 but Mr S hadn't wanted to discuss anything other than the withdrawal he'd requested. And as he was unhappy with the timescales involved, the adviser didn't hear from him further after September 2023. The adviser said Mr S signed the Annual Review report that had been produced in August 2023 and hadn't raised any concerns so it was assumed Mr S was happy with the contents. The adviser said it wasn't his usual practice to go through the report with the client after it had been issued.

As no agreement could be reached the complaint was referred to me to make 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.

Having done so, I'm upholding it for largely the same reasons as the Investigator.

Ascot Lloyd has provided us with a client agreement signed by Mr S in 2022, but it hasn't sent us the documents that set out the service it would deliver in return for the OAC. However, I don't think I necessarily need to see this document to make my decision. That's because the 'Annual Review' report of 2 August 2023 sets out the basis of the review being performed. This notes that Ascot Lloyd would review the ongoing suitability of Mr S's existing plans, and it would take account of his personal objectives and attitude to investment risk.

Ascot Lloyd says that this report essentially confirms that a review had taken place, and the discussions took place over the phone. But I'm not persuaded by this. Firstly, I note on the first page of the report that it says:

"This report has been prepared following our meeting on the 23rd July 2023 when I spoke with you to provide you with a review of your existing plans with regard to their ongoing suitability."

On page two it goes on to say:

"At our meeting we discussed your needs and objectives."

Your needs – those requirements which you must have, for example a minimum level of income each month with which to pay your bills.

- *You would like to draw £15,000 gross from your pension to pay for your holidays.*

Your objectives – what you would ideally like to have or to achieve for you and your family.

- *To want to achieve growth in your portfolio through the use of an active management strategy.*

Within my recommendations I will look to ensure that whilst we will try to meet your objectives, your needs, particularly in terms of your income, will always take priority. I have summarised these discussions below and this forms the basis for my recommendations.

- *We met to discuss the suitability of your existing plan and investments to see if these are still appropriate for your needs and objectives.*
- *You want to achieve growth within your pension portfolio.*
- *We discussed various investment styles including ethical, active, passive and blended.*
 - *You told me you have been pleased with actively managed portfolios in the past having been invested in a Ring portfolio previously and wanted to continue using an active management strategy.*
 - *You are aware the costs for active management are higher than for passive style investing."*

And on page three it says:

"I have asked you to complete an investment questionnaire which I have used, alongside our discussions, to prepare a risk profile report. Should you wish to receive a copy of this report please let me know."

However, the emails provided by Mr S demonstrate that this couldn't have happened as described.

Mr S emailed the adviser on 22 July 2023 asking if it could arrange a withdrawal from the SIPP for him. The adviser didn't reply until the morning of 25 July 2023 as he had been abroad – he said to leave the withdrawal with him and he'd get it arranged. The adviser followed this email up shortly after, saying:

"I notice that your review is due and I am going to complete that at the same time as this withdrawal. It will be quicker to do it that way."

I am guessing that nothing has really changed with your circumstances?

I will assume no unless you tell me and then arrange to come and see once I have the report to discuss..."

So, it is evident that no meeting took place on 23 July 2023. I think it's likely that the date noted in the review report is a mistake, and the adviser meant 25 July 2023. And I note that the fact-find states that a telephone 'interview' took place on 25 July 2023 and an attitude to risk assessment was completed. However, I haven't seen any evidence to demonstrate that a meeting took place over the phone before the Annual Review report of 2 August 2023 was issued. That's because the next email I've seen was from Mr S on 1 August 2023, asking how the withdrawal was going as things were getting a 'bit tight' for him. The adviser responded on 2 August 2023 saying he was chasing it.

I think if there'd been any kind of discussion or meeting between 25 July 2023 and 2 August 2023 there would've been some reference to this in these emails. Furthermore, the adviser's email of 25 July 2023 stated that he would assume nothing had changed unless told otherwise. If a telephone 'interview' had taken place on 25 July 2023 I would've expected to see some reference to call being arranged in that email, rather than the adviser explaining he would assume Mr S's circumstances hadn't changed.

Mr S was unhappy with the time being taken to process his withdrawal and asked for an explanation. On 4 August 2023 the adviser explained that he needed to send Mr S a form to action the withdrawal and he couldn't get it to Mr S any sooner as 'the report had to be completed first'. I assume this is reference to the Annual Review report dated 2 August 2023.

It is evident that Ascot Lloyd did complete an Annual Review report, but I don't think that this demonstrates the annual review Mr S was entitled to actually took place. The report references events taking place but I've seen no evidence to demonstrate they actually happened. There is no evidence to show that the Ascot Lloyd adviser spoke to Mr S about his objectives, that he asked Mr S to complete a new attitude to risk assessment or that they discussed the performance of his portfolio. I don't think the adviser stating that he would assume nothing had changed is a reasonable substitute for carrying out an actual assessment of Mr S's circumstances, objectives and attitude to risk.

In my view, Ascot Lloyd simply noted Mr S's desire to make a withdrawal – which it would have actioned for him at any time throughout the year – and then built an Annual Review report around this need without actively considering Mr S's objectives, his attitude to risk or whether his investments remained suitable for him. I think this is supported by the fact that

Ascot Lloyd told Mr S on 4 August 2023 that it had to complete the report before it could action the withdrawal.

I appreciate that Mr S signed the Annual Review action plan. Mr S says he did this simply so that the withdrawal could be actioned as he needed the money urgently. He says that this shouldn't have been taken as acceptance of the review having taken place. I've considered this carefully and I think it's fair to say that Mr S most likely signed this document, together with the other forms included to action the withdrawal, so that the withdrawal could proceed. And I don't think that it's reasonable to rely on a form being signed to say something had happened when the evidence suggests the contrary.

In summary, I don't think that Ascot Lloyd carried out the annual review of Mr S's SIPP that he was entitled to in July 2023, rather it was a process carried out by Ascot Lloyd without any input from Mr S at the same time as he requested a withdrawal. I understand that Mr S paid for this review by monthly deductions from his investments in advance. Meaning that the OACs deducted from 1 August 2022 to 31 July 2023 paid for the annual review. As such, Mr S should receive a refund of the OACs charged during this period together with a return in line with the performance of his SIPP, brought up to the date of my final decision.

Mr S ended his relationship with Ascot Lloyd in June 2024, before his next annual review was due to be completed. I think that was understandable given his frustrations. While Ascot Lloyd may say that it would've completed the review due, given that Mr S did not wish for the relationship to continue, I think it's reasonable that the OACs deducted from 1 August 2023 to the date the relationship ended should also be refunded in the same manner, as these would've paid for the review due in July 2024.

Putting things right

My aim is to put Mr S as close as possible to the position he would probably now be in if he hadn't paid OACs from the investments held in his SIPP from 1 August 2022 until his relationship with Ascot Lloyd ended.

Ascot Lloyd should:

- Refund the OACs deducted since 1 August 2022, plus a return on the fee amounts from the date the fees were paid to the date of the transfer.
- The lost return on the fee amounts should be calculated in line with the actual performance of the SIPP investment over this time.
- If Ascot Lloyd is unable to obtain information about how the investment performed from the SIPP provider, Ascot Lloyd should use this benchmark – FTSE UK Private Investors Income Total Return Index.
- I've chosen this method because the FTSE UK Private Investors Income Total Return Index is made up of a range of indices with different asset classes, mainly UK equities and government bonds. It is reasonable proxy for the type of return that could have been achieved over the period in question.
- The refund of the OACs plus the return calculated above represents the difference between the value of the SIPP when the relationship with Ascot Lloyd ended and the value it would have been if the OACs hadn't been charged. In order to compensate Mr S for the additional lost growth on this difference, Ascot Lloyd should add a return

on this compensation sum in line with the benchmark I've set out above from the date the relationship ended to the date of my final decision.

- The compensation amount should be paid into Mr S's pension if possible. 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 be paid directly to Mr S as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid.
- If Mr S has a remaining tax-free cash entitlement, 25% of the loss would be tax-free and 75% would have been taxed according to his likely income tax rate in retirement – presumed to be 20%, which is supported by the income noted in Ascot Lloyds' documents. So, making a notional reduction of 15% overall from the loss adequately reflects this.
- Provide the details of the calculation to Mr S in a clear, simple format.

Interest

The compensation resulting from this loss assessment must be paid to Mr S or into his pension within 28 days of the date Ascot Lloyd receives notification of Mr S's acceptance of my final decision. Interest must be added to the compensation amount at the rate of 8% per year simple from the date of my final decision to the date of settlement if the compensation isn't paid within 28 days of Ascot Lloyd being notified of Mr S's acceptance of my final decision.

My final decision

For the reasons set out above, I'm upholding this complaint and I require Ascot Lloyd Limited to pay Mr S compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 3 October 2025.

Hannah Wise
Ombudsman