

The complaint

Mr H mainly says:

- He has been a client of Leabold Financial Management Ltd ('Leabold') for decades. In 2021 he and his wife sought and obtained its advice on making a financial gift (of £1 million) to their adult children "*in the most tax-free and cost-effective manner, by making the Gift from [their] assets with the fewest associated tax charges or other costs*". This objective also stood in the context of the prospective, and approaching, pension/tax implications arising from him reaching age 75 in 2023.
- Leabold's recommendation of 4 June 2021 led him to use capital from within his estate ('estate capital') towards the gift, as opposed to using capital outside his estate from his Self-Invested Personal Pension ('SIPP capital').
- On his 75th birthday the SIPP was fully crystallized. He had a Lifetime Allowance Fixed Protection ('LAFP') of £1.5 million that Leabold recommended and arranged for him in 2014, and he had received repeated reports and reassurances from Leabold in the years thereafter (and up to 2022) that his pension arrangement was nowhere near exhausting/breaching the LAFP limit. Despite these, upon crystallization the SIPP's value exceeded his Lifetime Allowance by around 16% and he incurred a Lifetime Allowance Tax Charge ('LATC') of £60,377.50.
- Leabold failed to advise him on the true state of capacity within the LAFP, and on the potential risk of its limit being breached and the LATC being incurred. Funding part of the gift from his SIPP would have mitigated this risk, but Leabold wrongly advised him against that. Had he been advised on the true state of capacity within the LAFP and on the risk of the LATC being incurred he could have reconsidered the size of the gift and taken advice on the best option to minimize his overall potential tax liability. Leabold's failures deprived him of the opportunity to do both.
- Leabold also failed to advise him on using his Individual Savings Account ('ISA') allowance.
- He should be compensated for the financial loss he has suffered in paying the LATC. Given its overall failure of service over a number of years leading to the LATC (including its flawed advice in June 2021), Leabold should also pay him a refund of all the ongoing service fees he has paid over said years (in addition to the £500 fee he paid for the June 2021 advice).

Leabold disputes the complaint. It accepts that its June 2021 advice did not address the matter of the LATC risk, and it has offered Mr H an ex-gratia payment of £1,000 alongside an apology for this omission. However, it has also set out grounds on which it says there were no consequences resulting directly from the omission.

What happened

I issued a Provisional Decision ('PD') for the complaint on 23 May 2025, in which I made the following findings –

"Leabold's advice report, to Mr H, is a reasonably detailed document (presented over 14 pages), and it repeatedly invited him to query and/or correct anything within it that he considered to warrant query and/or correction. I am about to refer to some parts of the report. Unless otherwise stated, I have not seen evidence that he queried or corrected them at the time, so I consider them reliable."

The are some notable contents, amongst others, in the report that I have made some preliminary findings on. I begin with them.

Part of Mr H's objective was stated as follows –

"You wish to make the gift as soon as possible. This is because you are aware of the current legislation relating to the gifting of capital from your estate and believe this will considerably reduce the potential inheritance tax bill they may face on your eventual deaths."

I consider this shows that Leabold's prioritization of his estate's IHT liability was not necessarily its initiative, was not a surprise to Mr H and was not done against his desire to make the gift efficiently. Instead, Leabold appears to have taken this approach in direct response to the IHT liability consideration being an express part of Mr H's objective, and it also appears that his reference to making the gift efficiently was more in this context than in any other.

There is wider evidence in support of the above finding. Leabold's file note of a 22 April 2021 telephone conversation with Mr H was attached to the report that was sent to him. Within the note, it is stated he considered "... that leaving an IHT bill for the family to pay would be bad planning!" The [sic] very briefly mentions the SIPP in terms of "before and after 75", but this too is done in the context of IHT planning.

The report also says the SIPP's value at the time was £1,765,000, but there is a handwritten annotation of "1,7793" on the copy shared with us, which suggests its value might have been £1,793,000 instead. In any case, either value exceeded the Lifetime Allowance figure at the time (for the 2021/22 year), which was £1,073,100, and exceeded the £1.5 million LAFP. This lends some support to Leabold's argument that the LATC risk was already real and unavoidable at the point of the 2021 advice.

I acknowledge that, as Leabold concedes, the report did not spell this out. However, the point to note – which relates to awareness of the true state of the SIPP – is that the SIPP's true value at the time of advice appears to have been known to all parties including Mr H, as was the fact that its value (on paper at least) exceeded the £1.5 million LAFP limit. I appreciate that there was/is more to calculating and/or anticipating any future potential LATC than a comparison between the value at the time and the LAFP limit, and I address this later, but from a lay person's viewpoint the fact that the SIPP's value significantly exceeded that limit would have been an indication that the SIPP was seemingly or at least potentially beyond the LAFP's protection.

In terms of Leabold's failure to address the LATC potential in the report, I agree that it could have been part of a more complete and more comprehensive approach to do so. I am, however, persuaded that the reasons this was not done were probably because both it and Mr H were focused on the IHT mitigation aspect of his objective, and his SIPP was not part of his estate for IHT purposes, so perhaps the matter of an already existing LATC liability

attached to the SIPP (and unrelated to the estate) did not feature within that shared focus. In this context, I can understand why that could have been the case, but I am also mindful of Leabold's wider and ongoing service to Mr H, in which the LATC liability matter ought reasonably to have been clearly discussed. I address this further below.

The report (and wider evidence) shows that the matter of Capital Gains Tax was within Leabold's consideration in the June 2021 advice, but that was understandable given that invested assets (with taxable gains within them) were potentially to be liquidated to generate cash for the gift.

There is evidence directly from the SIPP provider about how the LATC came about. This was explained in its 10 February 2023 email response to Leabold's enquiry, which, on 22 March 2023, appears to have been subsequently forward by Leabold to Mr H. It also looks like the SIPP provider later gave broadly the same response to his enquiry (on the same matter) in September 2023. Based on the explanation –

- Mr H had crystallization events in his pension arrangement in September 2007, in the form of conversion to a drawdown arrangement and withdrawal of Tax-Free Cash ('TFC'). A total of just over 4% of his Lifetime Allowance (at its standard level at the time) was used by these events.*
- The same happened in 2009, but this time a total of just over 40% of his Lifetime Allowance (at its standard level at the time) was used in the crystallization events. As such, he had used a combined total of around 44% of his Lifetime Allowance at this point, and this remained the case up to 2022/23. In his complaint submissions he said he received repeated assurances from Leabold and/or the SIPP provider over 2020 and 2021 that he had used only 44.35% of his Lifetime Allowance, so this is consistent with what I have summarized thus far.*
- The 2007 and 2009 events happened before the LAFP of 2014, so only the standard Lifetime Allowance level(s) applied.*
- At age 75, in 2023, the uncrystallized pot of his pension was worth around £740,000 and there had been growth of around £336,000 in the drawn down pot established in 2009. At this point (in 2023) the LAFP was in place and the standard Lifetime Allowance level was lower than it, so the LAFP level of £1.5 million applied. As Mr H confirmed to us, the greater of the LAFP or the standard Lifetime Allowance level applied. In this context, and given that his pension became fully crystallized in 2023 when he turned 75, the combined values of the uncrystallized pot and the growth in the drawn down pot amounted to a total of around 72% of the LAFP. Added to the 44.35% of the Lifetime Allowance that he had already used, the total of 116.35% is what created the 16.35% excess that led to the LATC.*

A further relevant factor is that the SIPP's overall value was roughly around £1.7 million in 2023, which was about £100,000 less than, but still within a region similar to, its 2021 value.

The above lends further support to Leabold's argument about the LATC having already been unavoidable at the point of advice in June 2021. The used 44.35% of Mr H's Lifetime Allowance already existed. In 2021 the total value in the pension that was yet to be crystallized was roughly in the region of what it was in 2023. If the same calculations summarised above were applied at the time, in 2021, there would probably have been a comparable excess that would, in theory, have probably led to an LATC similar to that in 2023. Furthermore, if any available TFC from the SIPP had been used towards the 2021 gift, it looks like that would have made no difference. The TFC withdrawal would have been an

event that used more of the Lifetime Allowance or LAFP, thereby leaving less remainder capacity, and the total value in the pension thereafter that was yet to be crystallised would still have made a similar LATC scenario in 2023 likely.

I have set out the above to show why I am persuaded by Leabold's arguments that the gift related advice was inconsequential to the LATC matter, and that if the potential LATC risk was to be addressed ahead of 2023 it would probably have required action that essentially reduced value in the SIPP, or reduced value in it that could be counted towards Mr H's Lifetime Allowance/LAFP. For this and the above reasons, I do not find that Leabold's June 2021 advice, or any omission from it with regards to the LATC risk, is responsible for the LATC he faced in 2023.

I now consider Leabold's responsibility in the matter in the wider sense, including its responsibility to discuss the subject with Mr H, especially as 2023 approached.

It advised and arranged the LAFP in 2014 in order to help him mitigate against future circumstances (and risk) in which the value of his pension exceeded the standard Lifetime Allowance level at age 75. The LAFP available in 2014 gave protection to the level of £1.5 million, which is what was put in place for Mr H. The next LAFP availability, in 2016, offered a lower level of protection (at £1.25 million). Primarily, advising and arranging the 2014 LAFP was Leabold's professional service to Mr H in aid of helping him mitigate the aforementioned circumstances/risk. On balance, I consider that it did the right thing in this respect. Mr H has argued that mitigation should have been planned from 2013 onwards. The LAFP arrangement shows that a meaningful form of mitigation was put in place in 2014.

Following from the above finding, the next question is whether (or not) Leabold ought reasonably to have done anything more in the matter. This can be split into two aspects – action and discussion.

In terms of action, growth was an inherent objective for Mr H's SIPP, success in that regard meant its value would increase. However, the risk associated with such increased value, especially as he approached his 75th birthday, was that application of the Lifetime Allowance test at that point could result in a taxable excess value. This is what happened. Given that successful growth in value led to this outcome, there is merit in Leabold's argument about the reverse – devaluation – being the main option to consider for the avoidance of the LATC, after putting in place the LAFP. The LAFP covered an increase in value only up to £1.5 million, so if, as was the case, the SIPP's growth success meant its value went beyond this level, and if an LATC was to be avoided, intentional devaluation of the SIPP to a level at or below £1.5 million would have been the main solution to consider. If I am wrong in this respect and if Mr H is aware of another option(s) that neither Leabold nor I have addressed, I invite him to set this out in his response to this PD.

Leabold's submissions have mentioned a further alternative, related to reducing the amount of the SIPP's value to which the LA test, in Mr H's name, would be applied. This concerns a divorce-based pension sharing order, but the circumstances of his case show very clearly that there would have been no relevance in such an option, so I need not address it further.

Returning to the option of intentional devaluation, on balance, I am not satisfied that this would have been a suitable recommendation for Leabold to make to Mr H. All other things being equal, the idea of intentionally devaluing a pension from around £1.7 million to £1.5 million, and losing around £200,000, in order to avoid an LATC of £60,377.50 does not seem sensible. If Mr H believes there is an alternative consideration/calculation that defeats this illustration I extend a similar invitation to him, as above, to set it out in response to this PD.

The above findings also stand in the context of TFC withdrawals from the SIPP counting as crystallization events. If Mr H considers that value could have been taken out of the SIPP in this way, and redirected into his estate, any such withdrawal would still have used part of, and reduced, his Lifetime Allowance, leaving the relevant parts of the SIPP's remaining value (inclusive of the growth within them) to face the Lifetime Allowance test in 2023. A TFC withdrawal would not have been a substitute for devaluation. Furthermore, the idea of reallocating any such withdrawn value from the SIPP into the estate would arguably have been inconsistent with the part of his objective related to mitigating the estate's IHT liability (as I mentioned earlier).

Overall, on balance and for the reasons given above, I am not persuaded that Leabold did anything wrong in terms of action to avoid the LATC.

With regards to discussion, of the LATC, with Mr H I am satisfied that it did something wrong, which it appears to have conceded (alongside its apology to him and its ex-gratia offer of £1,000 to him).

My finding is not based, only, on Leabold's concession. The lead-up to his 75th birthday is a period in which his pension arrangement should have been addressed by Leabold, as part of its ongoing service to him. There is recognition of this, by Leabold, in its file note (dated 8 February 2021) for the telephone-based review meeting it had with Mr H, in which there is reference to him being 73 at the time and to an agreement with him to "... plan in more detail at the next review, in preparation for age 75". It should be noted that this quote comes from a section that addressed pension death benefits, but I consider it indicative of Leabold's overall awareness that a planning discussion with Mr H, about his pension arrangement, was due in preparation for his 75th birthday.

The review report stated the SIPP's value as £1,710,305.70 (as of 22 February 2021), so there was an indication that his Lifetime Allowance/LAFP, both of which were lower, should be considered. Indeed, there is documentary evidence that Leabold had those considerations internally. Copies of some internal emails in April 2021 have been shared with us and they show its internal discussions of Mr H's Lifetime Allowance and LAFP. On this basis, I am persuaded that the discussion should have been extended to involve Mr H himself, and the June 2021 advice, only two months later, was an opportunity to do so.

This is the only basis on which I intend to uphold Mr H's complaint. I have considered the £1,000 offer that Leabold has already made to him for, as I understand it, its failure to discuss the Lifetime Allowance/ LAFP and the LATC potential at the time of the June 2021 advice. I also understand that the exact offer remains available to him. I am not persuaded that he should be awarded an amount higher than the offer. If the offer did not exist and if I considered, afresh, an award for the trouble and inconvenience caused by Leabold's omission, it is unlikely that I would award a higher figure.

Our service's guidance on how we approach awards for trouble, distress and inconvenience can be found on our website, at the following link – <https://www.financial-ombudsman.org.uk/businesses/resolving-complaint/understanding-compensation/compensation-for-distress-or-inconvenience>. Under this guidance, awards between £750 and £1,500 are explained as follows –

"An award of over £750 and up to around £1,500 could be fair where the impact of a business's mistake has caused substantial distress, upset and worry – even potentially a serious offence or humiliation. There may have been serious disruption to daily life over a sustained period, with the impact felt over many months, sometimes over a year. It could also be fair to award in this range if the business's actions resulted in a substantial short-term impact."

Based on this guidance, I do not consider that the impact of Leabold's omission on Mr H was to the extent of a £1,500 award and I am not convinced, on balance, that it was to the extent of an award higher than £1,000. The LAFP mitigated the LATC risk as far as it could. It was implicit from 2014 (when it was arranged) onwards, and it would have been known to all concerned, that a LATC could still apply where the LAFP did not cover. This does not negate or dilute my finding above that Leabold should still have discussed the matter with Mr H in 2021, but it shows that omission of that discussion was not a wrongdoing in the nature described in the quote above.

I am prepared to endorse Leabold's offer and order its payment in my final decision.

It follows from the provisional findings above that I am not persuaded by Mr H's claim for a refund of fees. As explained above, Leabold has offered compensation for the omission in its June 2021 advice and I do not find that it should pay more. Other than that omission, it did nothing wrong in the advice. In terms of its wider service, it suitably advised and arranged the 2014 LAFP for the purpose, and to the effect, addressed above. On balance, I do not find grounds to justify a refund of fees.

We have received some submissions from Mr H related to advice on usage of his ISA allowance. This is the reason I mentioned it in the summary of complaint issues above. However, this matter does not appear to have been presented in his complaint to Leabold. I also note that neither Leabold nor the investigator appear to have addressed it, probably because it is not part of the original complaint. For the same reason, I do not address it. If it is an issue Mr H wishes to pursue, he will need to first present it in a complaint to Leabold in order for it to have the opportunity to respond, before the issue can be referred to our service (if he is dissatisfied with Leabold's response)."

Both parties were invited to comment on the PD.

Leabold accepted it, but queried why the outcome was/is a *part uphold* despite the fact that the PD agrees with the settlement offer it had already made to Mr H. The case investigator assisted in conveying a response to this enquiry, and he did so in the following manner –

"In a case like this, where a settlement payment has been offered, but not accepted or paid to the customer; we have to consider, if we think that settlement offer is fair. If we think it is, we recommend its payment - and simply, an order like this needs an uphold basis in its support.

The ombudsman has said he's happy to cover this in more detail in the final decision ..."

Mr H disagreed with the PD's outcome. He mainly said –

"There are numerous examples easily accessible on the internet of advice from highly reputable investment firms that reducing or eliminating potential LTA Excess Charge was possible, but that it needed careful, skilled analysis over time to optimise any such advice. None of these contemplates intentionally devaluing the SIPP or divorce as a solution."

"I have done my own simple calculations that illustrate that had funds been withdrawn from my SIPP, the total growth would have been reduced and therefore the eventual LATC would have been reduced. My example assumes with just 4 withdrawals in 2011, 2013, 2015 and 2019, overall growth of the funds would have been reduced by approximately £75,000."

"Your argument that the 'LATC risk was already real and unavoidable at the point of the 2021 advice' would only be a defence had Leabold not been my financial advisers for

decades prior to that. If anything, this statement highlights the significant failings of their advice throughout those many years and supports my request for repayment of fees paid."

"Your PD on page 7, paragraphs 3, 4 and 5, finds Leabold deficient in not communicating with me about the LATC. If Leabold was deficient here it surely must have been deficient over the length of our relationship in failing to address this potential charge in any way at an earlier point in time, other than the single act of advising me to take out the Fixed Protection 2014."

"Leabold has also never explained why it failed to apply for protection before 6th April 2012 when it was due to be reduced from £1,800,000. (The reduction from £1,800,000 to £1,500,000 was first announced in October 2010 and would have been a hot topic for all IFAs.)"

"I totally refute the suggestion that the failure by Leabold to mention the LATC was because it was focusing, at my request, on IHT. It is much more likely that they didn't advise me of it because they also were not expecting it ... We did not have a 'shared focus' on IHT. It was just one of several factors (most obviously CGT, Income Tax, ISAs, pension taxes) in our decision as to how much we could afford to give to our children without risking falling into unexpected tax 'traps' that would leave us in a reduced standard of living in our final years."

"My reference to making the gift efficiently was emphatically not in the particular context of IHT, but in the broad context of whatever left us with the least tax to be taken from our total wealth."

"Page 7 of your PD appears to reference internal Leabold discussions relating to my circumstances which have not been disclosed to me. This seems grossly inequitable and to go against the principles of fair disclosure. How can I have a fair chance of arguing my case if your decision in part is based upon documents I have not seen? Please can I see these documents and be granted reasonable time to consider them?"

"I feel you have greatly underestimated the amount of distress and upset this has caused me. In addition to the initial shock of a large, unexpected tax charge, I have spent countless hours reviewing file notes and correspondence over the last two years in an attempt to get to the bottom of this. This has been hindered by a lack of communication from Leabold who have sought only to cover their own position. As a result of this unexpected tax, I have been unable to pay money into my grandchildren's ISAs as I had been doing for several years, which was an embarrassing and humiliating matter to have to tell my children about and has been very upsetting to me, my wife and my family."

"In addition to each of the points set out above, fundamentally, I do not understand why the onus should be on me as a layman, to try to become an amateur tax expert in order to prove Leabold were at fault in terms of the technical detail of their tax advice. Since Leabold have admitted a failing in regard to their advice to me on this issue, the onus should surely be on Leabold to show that they did everything required by them by the applicable regulators and the law in providing a regulated service to me as their client."

"On top of this, the fact that some of the justification for your finding seems to rest on documents which I have not seen also seems patently unfair. I would like to formally request sight of these documents please and extra time to review them and amend my comments to the extent that they contain relevant information."

Around the time of his response, Mr H's case was reassigned to a new investigator. Leading from his comment about documents he had not seen, she assisted me in putting the following to him –

“[The Ombudsman] acknowledges that you've requested sight of documents that he relied on in his decision, which you've said you've not seen.

I can send these to you but would you kindly tell me precisely which documents the provisional decision's findings rest on that you've not seen?”

He responded and set out a range of information and documents he wanted disclosed. I replied directly to him, and what I said included the following –

*“Your reply below leads with confirmation that you 'cannot say with any certainty' which documents the PD's findings rest on that you have not seen. You also appear to have departed from your initial request for sight of such documents, and you have now referred to a range of disclosures you seek, in the main, from Leabold. Other than the following request - **Could I please see the emails they produced of internal discussions of my LTA and LAPF?** - all the other disclosures you have asked for appear to be for Leabold to address. Given that you raised your complaint to Leabold in 2023 and our service's process for your complaint is now close to its conclusion, it is also somewhat unclear why these disclosures have not previously been resolved between the parties.”*

“I will ask [the investigator] to help identify and share with you any documentation in the complaint file about Leabold's internal discussions of your LTA and LAPF. As for your other requests, please consider putting them directly to Leabold. To provide them with context, you may also wish to consider forwarding them this email chain. In the event that any disclosures you receive from Leabold lead to you making further submissions or comments on the PD, I am prepared to allow you time up to 21 July to make any such additional submissions or comments.”

“You might consider that the disclosures you will be seeking from Leabold are just as required for you as they are for the next decision I issue. I have considered the same, based on the requests in your email below, but I have not reached the same conclusion. However, if you can give clear and specific grounds, directly relevant to the matters treated in the PD, on which the documents you will be asking Leabold to disclose are vital for the next decision I issue, I invite you to do so, also by 21 July.”

We thereafter shared our copy of Leabold's case file with Mr H. He then made his final submissions on the PD – consisting of a document in which he set out his comments on the case file we sent him, an appendix document and a document summarising his concluding response to the PD.

Early in his comments on the case file, Mr H said – *“Much is information I already have. Much is unnecessary and need not have been presented to FOS”.*

The remainder of the document mainly asserts that the true scope of his complaint should be the period (of almost 20 years) since the Lifetime Allowance was introduced (in 2006), over which Leabold has been providing its services to him and over which it mismanaged the matter of his Lifetime Allowance/LAFP/LATC; objects to the manner in which the complaint appears to have been limited to the period from the 2021 advice onwards; then the document mainly sets out a list of main submissions, followed by commentary on numerous specific contents of the case file.

Mr H's *main submissions* on the case file were that relevant parts show Leabold was in a state of disarray and disagreement, internally, on the matter of his Lifetime Allowance/LAFP/LATC; and that it was unable to calculate the LATC risk; so overall it was ill

equipped to provide him with any meaningful advice in the matter; and this stands as evidence that he did not receive the advisory service he paid for.

The appendix document reproduced questions about the LATC that Mr H had put to Leabold in February 2023. The questions mainly queried what he perceived as the lack of warning about the LATC, the lack of Leabold's foresight (over a number of years) in the matter, and the lack of information on what could have been done to mitigate it.

The document containing his concluding response to the PD listed the following –

“Conclusion

- 1. The main question is surely whether LFM can establish that they have at all times in their dealings with me maintained a standard of service that any customer can reasonably expect. A good measure of this is whether they have consistently met all the requirements of FCA's 12 Principles in dealing with me. It is certainly not merely whether the special Advice Report ('the Report') was satisfactory.*
- 2. The papers show that LFM failed over a long period to provide an acceptable service – that they were in breach of FCA Principles. I believe the papers show LFM breached FCA Principles 1,2,3,6, 7, 9 and 12. Those breaches were serious, not only for me and my complaint but also, if not corrected, for other clients of LFM.*
- 3. The papers have made me lose confidence in LFM's competence, management and organisation, record keeping, diligence and integrity.*
- 4. Can it be a fair outcome, given the extent and gravity of these failings and their serious financial and personal consequential effects on me and my wife, that they should be allowed to retain the fees they did so little for over so many years and not compensate us for the direct, irrecoverable loss which resulted from their failings?*
- 5. I respectfully request that you reconsider your Provisional Decision in the light of these documented failings in LFM's service over many years.”*

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.

In doing so, I have reviewed the case and the PD. I have also read, and given due consideration to, everything Mr H has submitted to us after the PD.

Overall, I have not been persuaded to depart from the findings and conclusions in the PD. I retain those findings and conclusions, and I incorporate them into this decision.

Mr H's complaint is partly upheld only in relation to the following finding I made in the PD –

“With regards to discussion, of the LATC, with Mr H I am satisfied that [Leabold] did something wrong, which it appears to have conceded (alongside its apology to him and its ex-gratia offer of £1,000 to him).”

As I also said in the PD –

“This is the only basis on which I intend to uphold Mr H's complaint. I have considered the £1,000 offer that Leabold has already made to him for, as I understand it, its failure to discuss the Lifetime Allowance/ LAFP and the LATC potential at the time of the June 2021

advice. I also understand that the exact offer remains available to him. I am not persuaded that he should be awarded an amount higher than the offer. If the offer did not exist and if I considered, afresh, an award for the trouble and inconvenience caused by Leabold's omission, it is unlikely that I would award a higher figure."

I understand Leabold's enquiry about the nature of the outcome in the decision, given that it essentially echoes broadly the same finding, and compensation offer, it made in its complaint response. My input informed the reply to its enquiry given by the first investigator, when the enquiry was shared with me. As quoted above, I stand by that reply.

Mr H's complaint has reached our decision stage in a state of full dispute, with nothing settled. Therefore, I cannot reasonably or fairly take the approach of *concluding a settlement* based on Leabold's offer, because that offer has not been accepted by Mr H. Even though the offer reflects Leabold's upholding of one aspect of his complaint, the other aspect remains in dispute, so settlement of the entire complaint has not been agreed.

In other words, there has been no settlement for me to conclude, the complaint (as a whole) remains in dispute and needs to be determined. In doing so, and in concluding, with reasons, that the specific aspect addressed in the quote above is upheld this means the complaint is partly upheld by our service, irrespective of whether (or not) the outcome resembles what Leabold presented in its complaint response. Accordingly, the decision(s) I have issued have a *part uphold* conclusion.

I now turn to Mr H's comments.

In his initial complaint to Leabold (dated 6 February 2023) his complaint requirements were set out as follows –

"I need to understand how the percentage of my LTA used went from 44.35%, which it had been for at least 4 years, to 116.9% ..."

"I would also like to understand why the valuation of the SIPP funds used ... in calculating is not on my 75th birthday ..."

"Most importantly, I need to understand thoroughly what steps might have been available to me to reduce the liability if I had been aware sufficiently early, of the risk of incurring this liability."

After Leabold's May 2023 complaint response, Mr H followed up with a reply (in October 2023) to that response, which included the following –

"BASIS OF THE COMPLAINT

On my 75th birthday the funds in my SIPP exceeded my Lifetime Allowance by 16% and a tax charge of £60,377.50 ("Tax") was incurred.

Leabold failed to advise us about the Tax and, in fact, repeatedly reassured us that my Lifetime Allowance Fixed Protection meant no tax would be payable. Acting on Leabold's advice, no funds were taken from my pension prior to my 75th birthday and no other action taken which might have allowed us to minimise or eliminate the Tax or to take any unavoidable tax (if any) into account in deciding the amount of the Gift.

Reliance on Leabold's advice directly resulted in the charge to Tax.

Leabold's advice fell short of the standard expected of a reasonably competent financial adviser in that it failed to consider and/or advise us of all of the relevant issues and/or to make us aware of significant charges which would become payable if the advice was followed.

As a result of Leabold's deficient advice, we have incurred a loss."

In his complaint referral to us, he alleged that –

"... Leabold have (i) incorrectly advised me that there would be no tax charge on my SIPP in connection with exceeding my lifetime allowance (LTA) at age 75 ... (ii) failed to provide confirmation of LTA calculation in advance of my 75th birthday ... (iii) failed to advise me of action that I could have taken in advance of my 75th birthday to minimise or eliminate any LTA excess tax charge (iv) failed to advise me accurately on the potential implications of a financial gift to my children ... (v) following the incurring of this tax charge, failed to respond to my requests for information as to why this happened or to explain the calculation of the tax to me."

Overall and on balance, I am satisfied that the PD covered the main issues in the complaint and that my findings addressed the core claims made by Mr H to Leabold and to our service. A comparison between those core claims (in the quotes above) and the findings in the PD illustrates this.

There was and is no cause to extend my considerations to all pension and/or Lifetime Allowance related events between the parties going back to 2006. Besides anything else, the body of evidence that has been made available in the complaint goes nowhere near addressing all those events and engagements between the parties, so findings could not safely be made on them even if they were relevant to the complaint.

On balance, I am not persuaded that *all* such events and engagements since 2006 are relevant to the complaint. In the PD, I went as far back as the LAFP that was advised and arranged in 2014, and I gave reasons why this stood/stands as enough evidence to show that Leabold suitably advised Mr H on foreseeing and mitigating against the LATC risk.

Mr H refers to the LAFP available in 2012. I do not have enough evidence of the circumstances as they were in 2012. In contrast, there is evidence that considerations and advice in 2014 led to the LAFP arranged in that year. I am also not persuaded that the specific and isolated allegation of a failure to advise on a 2012 LAFP was/is part of the complaint. I have quoted above the main issues Mr H raised, and they do not include this.

Nevertheless, he could argue that the point about a 2012 LAFP can be implicitly read into his overall complaint submissions. In this regard, I consider that I addressed a similar point in the PD where I said – *"Mr H has argued that mitigation should have been planned from 2013 onwards. The LAFP arrangement shows that a meaningful form of mitigation was put in place in 2014."* In other words, I am satisfied that Leabold suitably advised the LAFP in 2014, with foresight towards the LATC risk. Whether (or not) such advice could and should have been given two years earlier in 2012 (or 2013), I do not have enough evidence to determine.

Mr H has confirmed that he cannot be certain the PD relied on evidence he had not seen. In any case, he has seen the case file we were given by Leabold, and he has commented on it, so there is no question about the decision being concluded on information he has not seen. Especially as he has also confirmed that he was already familiar with most of the case file we sent him.

I will not engage in the case file analysis that he has conducted. I consider it beyond the call of his complaint to do so. My task is to address the specific core complaint issues he has raised, not to conduct a general appraisal of the quality of Leabold's services to him over the years. It is also not to enter into a debate about how Leabold handled itself internally on the complaint issues. Evidence of different views being expressed internally amongst its office holders does not automatically mean Leabold failed to advise him suitably.

With regards to addressing what the LATC risk and potential amount looked like, I have already found that its advice to Mr H should have included discussion of the Lifetime Allowance and LAFP, but did not. The LATC risk and potential amount would have been associated with such a discussion. Therefore, this point is essentially within the upheld part of the complaint.

In terms of the regulatory breaches alleged by Mr H, that is a matter for him to consider presenting to the regulator if he wishes to. This does not mean that breaches of relevant regulations do not count towards my decision. They do, but only as far as is related to determining the complaint. It is beyond my powers to make findings on alleged regulatory breaches in isolation. On the task of determining the complaint, I am satisfied that the PD sets out the grounds on which, on balance, I have reached my conclusions.

In his initial comments, Mr H said Leabold's failure to discuss the LATC risk with him around 2021 opens the door for me to find that it could have done more, earlier and over the years, to advise him on mitigating the risk; he disagrees with the PD's findings that he shared, with Leabold, a focus on IHT mitigation and that this was the main context for the advice he sought on the gift; SIPP withdrawals from 2011 onwards, for example, would have been better mitigation of the LATC risk, but Leabold wrongly failed to apply that approach, and/or other available approaches it could have applied; but for its failure, the LATC risk would not have been real and unavoidable in 2021, it could have been avoided much earlier; and I have underestimated the trouble and inconvenience the matter has caused him.

I am not persuaded by these arguments.

I quoted evidence in the PD that led to my view(s) about the IHT mitigation objective, and I do not consider that Mr H has said anything that defeats said evidence. It is reasonably clear that Leabold's advice in 2021 is distinct from how it advised the SIPP and associated Lifetime Allowance, LAFP and LATC matters prior to that. For example, in 2014 it already suitably advised on mitigating the LATC risk with the LAFP, that was a long-term solution and that happened seven years before 2021. Therefore, I disagree that finding a specific failure, on its part, to discuss the LATC risk with Mr H around 2021 automatically creates reason to find earlier wrongdoings. The PD already dealt with the idea of making withdrawals from the SIPP, and with the suitability of Leabold's advice in 2014 (with regards to mitigating the LATC risk. The PD also dealt with considerations relevant to addressing the trouble and inconvenience caused to Mr H in the specific matter that I upheld.

Putting things right

Our service's guidance on how we approach awards for trouble, distress and inconvenience can be found on our website, at the following link – <https://www.financial-ombudsman.org.uk/businesses/resolving-complaint/understanding-compensation/compensation-for-distress-or-inconvenience>. Under this guidance, awards between £750 and £1,500 are explained as follows –

“An award of over £750 and up to around £1,500 could be fair where the impact of a

business's mistake has caused substantial distress, upset and worry – even potentially a serious offence or humiliation. There may have been serious disruption to daily life over a sustained period, with the impact felt over many months, sometimes over a year. It could also be fair to award in this range if the business's actions resulted in a substantial short-term impact.”

Based on this guidance, I do not consider that the impact of Leabold’s omission (in its 2021 advice) on Mr H was to the extent of a £1,500 award. I am also not convinced, on balance, that it was to the extent of an award higher than £1,000. The LAFP mitigated the LATC risk as far as it could. It was implicit from 2014 (when it was arranged) onwards, and it would have been known to all concerned, that a LATC could still apply where the LAFP did not cover. This does not negate or dilute my finding that Leabold should still have discussed the matter with Mr H in 2021. However, omission of that discussion was not a wrongdoing that caused an impact, on him, of the nature described in the quote above.

For the above reasons, and as I said in the PD, I endorse Leabold’s £1,000 offer of compensation to Mr H for the impact of the omission in its 2021 advice. I order Leabold to make this compensation payment to him within 28 days of it receiving confirmation that he accepts this decision.

My final decision

My final decision is that Mr H’s complaint is part upheld, on the grounds addressed above and in the PD. I order Leabold Financial Management Ltd to pay him £1,000 compensation within 28 days of it receiving confirmation that he accepts this decision.

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

Roy Kuku
Ombudsman