

The complaint

Mr L complains about the lack of ongoing advice provided by The Acorn Partnership IFA LLP ("Acorn") while managing his pension and investment bond

What happened

Mr L was advised by Acorn to switch his existing pension to a new provider and to start an investment bond. The related paperwork, including a client agreement, was signed by Mr L in December 2014.

That paperwork showed Acorn as the financial adviser, to be paid a 2% initial advice charge and 0.5% ongoing advice charge (OAC). The investment bond commenced in December 2014 and the pension in January 2015.

Sadly, the adviser who arranged the investments passed away a few years later. Another partner took over the servicing for clients. They forwarded Mr L's annual statement in February 2018 and further contact attempts were documented for 2019 and 2020.

In October 2022, Acorn made enquiries to the provider for information on investments held by Mr L. Four policy numbers were quoted, and the provider confirmed the ongoing advice charge as 0.5% for the pension and said information on the other investments would follow. In April 2023, Acorn tried to arrange a solicitor to meet with Mr L.

In July 2024, a complaint was made to Acorn that it had received ongoing advice charges for the pension and investment bond, but no annual reviews had been completed to confirm the investments continued to be suitable for Mr L.

As no response was forthcoming Mr L's representative referred the complaint to our service. They said Mr L had received only 'welfare calls' during the period in question. Acorn responded to this service saying that it had maintained contact with Mr L, provided good service and all charges had been paid to the provider from which it only received commission. Acorn said it hadn't charged Mr L for any interactions with it.

Our investigator looked into the matter but was only able to obtain limited information relating to the sale of the products. He asked Acorn for evidence that annual reviews had been completed for Mr L, but none was forthcoming.

The investigator said that the available evidence indicated that it had been agreed that Acorn would receive a payment of 0.5% per year in respect of the bond and pension. The suitability letter wasn't available, but the investigator noted that the client agreement said:

"We offer an ongoing service to ensure that your personal recommendations are reviewed frequently, and remain relevant to your circumstances, full details of which are available in our Client Service Programme."

So, the investigator was satisfied Acorn had agreed to review Mr L's investments frequently. He said he couldn't be certain regarding the definition of 'frequently', but felt it was

reasonable to expect there to have been at least annual reviews.

The investigator said that when providing a such a review, an adviser would be expected to review the consumer's circumstances to see if anything had significantly changed. And the same applied to their objectives, attitude to risk or capacity for loss. Overall, the adviser would've needed to be satisfied the investments remained suitable and, if not, recommend appropriate changes.

The investigator noted there'd been some meetings and contact with Mr L but was of the view that responsibility fell to the adviser to provide the agreed services that had been paid for. Where it was identified that the consumer wasn't receiving the service, it was reasonable to expect the ongoing advice charge to be switched off.

The investigator said Mr L had been due reviews each year since they became payable. He had reviewed the contact Mr L had with Acorn since the change of adviser in 2018, and no evidence of any reviews taking place had been provided. As such, he felt the complaint should be upheld. He proposed that Acorn recreate the position Mr L would now be in had the OAC not been deducted from the pension and repay the fees deducted from the bond, adjusted for the growth they'd have otherwise achieved.

Mr L accepted the investigator's view and Acorn agreed to make settlement in accordance with his proposed redress. However, it failed to do so, so the matter was referred to me review and decide.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I've come to the same conclusions as the investigator for the same reasons. I find that the complaint should be upheld. As such, I don't feel I need to add anything further in respect of the merits of the complaint.

In respect of putting things right for Mr L, given Acorn's previous agreement to make settlement in the manner proposed by the investigator I would hope that the issuing of this final decision, which once accepted by Mr L becomes legally binding, will prompt a swift settlement to the matter.

Putting things right

Fair compensation

In assessing what would be fair compensation, my aim is to put Mr L as close as possible to the position he would most likely now be in if he hadn't paid the ongoing adviser charges from 2019 to 2024 inclusive.

I direct that Acorn repay the adviser's fees, adjusted for growth had the fees remained in the existing investments, from the date the fees were paid to the date of settlement.

Regarding the pension specifically: -

- Acorn should pay into Mr L's pension plan, to increase its value by the amount of the compensation and any growth. The payment should allow for the effect of charges and any available tax relief. Acorn should not pay the compensation into the pension plan if it would conflict with any existing protection or allowance.

- If Acorn is unable to pay the compensation into Mr L's pension plan, it should pay that amount direct to him. But had it been possible to pay into the plan, it would've provided a taxable income. Therefore, the compensation 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 L won't be able to reclaim any of the reduction after compensation is paid.
- The notional allowance should be calculated using Mr L's actual or expected marginal rate of tax at his selected retirement age.
- It's reasonable to assume that Mr L is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Mr L would've been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.
- Provide the details of the calculation to Mr L in a clear, simple format.

Regarding the investment bond, Acorn should repay the adviser's fees, adjusted for growth had the fees remained in the bond, from the date the fees were paid to the date of settlement.

My final decision

For the reasons given, my final decision is that I uphold the complaint and direct The Acorn Partnership IFA LLP to compensate Mr L as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 24 September 2025.

James Harris
Ombudsman