

The complaint

Ms M has complained about the transfer of her Occupational Pension Plan to a personal pension. The advice was given by Noble Lowndes who then became Sedgewick Noble Lowndes and are now Mercer Limited.

What happened

The background is well known to both parties and was set out in my provisional decision.

My provisional decision explained that I will not be upholding this complaint as Ms M already accepted redress for the advice to transfer her Occupational Pension Plan in 1999. I've included below the merits section from that provisional decision:

Ms M accepted compensation calculated under the pension review in full and final settlement of any claims of unsuitable advice. The aim of the pension review which was designed by the regulator was to put right any losses at that point and draw a line in the sand. Our service won't look at further claims of mis-sale as this has already been dealt with in 1999. We might look into matters if we thought the review had been carried out incorrectly (a problem with the calculations for example) but there is no evidence to say this is the case and this isn't a complaint point that has been raised.

Ms M has said had she been aware of all the compliance failures then she would've complained but again the end result would've been a loss calculation which is what occurred in any event.

Ms M said this in response to the investigator's email to her setting out my thoughts:

'In my opinion the advice was biased, inappropriate and non compliant given my circumstances at the time it was given. I would say that regardless of the 'compensation offer' I feel my complaint is still valid as I really was only aware of how unfairly I was treated by the adviser when I came to look at retirement - not necessarily because of the way things panned out with investments - but on all the points I have made which I do appreciate are only specific to my case.

Basically my contention is that the adviser should have not been advising me in the way he did once he had the information and facts in front of him - yes, time alone proved it was not a good recommendation but regardless of that, the circumstances surrounding the advice process initially was badly flawed. So many factors outlined here of which the adviser was aware should have convinced him that it was bad advice to make any important financial decisions at that point and certainly he should have disclosed his position could create a conflict of interest.'

Again the end result if I was to accept everything Ms M has said as correct would be that a pension review in 1999 put things right – she received compensation because Noble Lowndes accepted the advice wasn't suitable. The reason the pension review was set up (this was across the industry and not just something Noble Lowndes had to do) was because the regulator believed there to be widespread issues with the advice given to people like Ms

M who had left or not joined their OPS pensions. A lot of firms decided to go straight to doing a loss calculation and paying redress rather than attempting to defend their advice. So this may be why Ms M didn't receive any information regarding why the advice was deemed unsuitable at the time. Ultimately it didn't matter why, because the methodology of the calculation was designed to put people back into the position they would've been had they remained within the scheme.

I've looked further into Ms M's response and I think I've understood where Ms M's confusion has come from. It appears she is of the opinion that the review in 1999 concluded that the advice had been suitable. This is not the case, that is why she received compensation because Noble Lowndes had conceded the advice had not been suitable under the pension review and paid redress.

Ms M has said:

'The letter dated 19/1/99 was not signed solely to accept that I was in agreement to their making up the shortfall at that time but that they had undertaken the other checks as they listed in that letter and set out by their regulator and these were:-

1) To assess whether the advice given to you complied with the standards as laid down by the PIA
2) To gather detailed factual information on the circumstances of my case
3) To assess whether you would have acted differently if the advice had been compliant
I am sure the reassurance that they had done all 3 of the above would have made me feel confident that that the right advice had been given appropriate to my circumstances at the point of advice and encouraged me to sign. No mention in that letter of any breaches.

1) In order to confirm the advice was compliant to the standards laid down by the PIA, the file would have had sufficient information both personal and financial to make the decision whether the advice was compatible with our personal situation at that time....
I signed the form in 1999 in the belief my file had been checked thoroughly to the extent stated in their letter and whilst time had an adverse affect on the way investment performance had gone and I had a 'shortfall', nonetheless at the time the advice was given it was the best advice but it never was for all the factors listed above which should have been obvious to a file checker. The adviser should also have been aware that he was breaching conflict of interest and vulnerability rules.'

This appears to be a fundamental mis-understanding of what occurred. Had Noble Lowndes decided that they had given advice that complied with the standards of the time, Ms M wouldn't have received any compensation. The result of the review would've been to say the advice was suitable. Noble Lowndes conceded at the time that the advice likely wasn't suitable and therefore paid Ms M compensation. It didn't list what the breaches were, either because it chose not to do so or it just decided to go straight to doing a loss calculation to work out any shortfall without attempting to contest that the advice was suitable.

The shortfall was paid because Noble Lowndes conceded that it had not given best advice. If it concluded it had given best advice no compensation would've been paid. The pension review paid compensation to draw a line under any mis-selling aspect. And it didn't allow for matters to be considered again at retirement.

I appreciate Ms M has only now understood that the advice in 1991 likely wasn't in her best interests and this will be frustrating and upsetting for her. But this was dealt with in 1999 under the pension review as designed by the regulator. Compensation was paid to meet any shortfall at the time due to the unsuitable advice to transfer. There were no measures put in

place to look at matters again at retirement if compensation was paid. It was hoped the compensation paid would provide investment growth to match any benefits lost from the OPS schemes.

The over-arching answer to Ms M's complaint is that Nobles Lowndes proceeded to review the advice under the pension review on the basis she was given bad advice and paid her compensation for this in 1999. As this compensation was calculated using methodology prescribed by the regulator and this was designed to be a one-off exercise that couldn't be revisited, it wouldn't be fair to look into the mis-sale again as it has already been looked at.

In response to this, Mercer Limited accepted the decision.

Ms M responded in some detail, I've included her concluding paragraph below which I think summarises her position:

'Please do look at this in the mind frames of us - as clients - and our situation when this advice was given.

These were nightmare times for us and I strongly believe the adviser should have allowed the dust to settle rather than giving us more concerns about our ex employer. Bearing in mind he was employed by a company owned by my ex employer, it seems now a very unfair tactic.

I would also stress that none of this would have even occurred to me in 1999 and it was simply a mathematical calculation to put things back on track when I signed the form.

I do feel so very strongly that by accepting the offer made in redress I was not accepting that it was OK to make a sale to us at a time when we were not in any position to even think straight. I would have queried this earlier but I have only been aware of this recently when I started to look at my own retirement and being able to access the original paperwork after my ex husband's death certainly confirmed more about the sale. That compensation payment was not made for the reasons about which I am complaining as at that time I would not have had the paperwork to support my complaint. I feel my situation at point of sale was very different to many who opted to agree to a transfer. There are so many factors as to why this sale should never have proceeded. I feel we were treated unfairly.'

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.

Ms M above is saying she wishes for her mis-sale complaint to be considered but it already has been in 1999 when the advice was considered as part of the pension review. Ms M accepted compensation then in full and final settlement of the advice. And this review was carried out in line with the regulator's guidelines.

As I've explained a number of times to Ms M, it doesn't matter that her reasons for bringing the complaint now are different to what she thought was being considered at the time of the review. The review resulted in a payment being made to put things right at the time – with the idea that this payment would allow her total pot to hopefully grow to match what she gave up from her OPS when she transferred. However, there was no guarantee that this would be the case.

I must pick up on this that Ms M said as well:

' (you say) Noble Lowndes proceeded to review the advice under the pension review the basis she was given 'bad advice' and paid me compensation. I have to dispute this - are you saying that the compensation in 1999 was in respect of the issues about which I now complain? That cannot be so as elsewhere in the report it clearly says the compensation was solely to breach shortfalls in the final pension pot using methodology prescribed by the regulator. The compensation was not for 'bad advice' in general terms but to try and make good the final outcome.'

This is exactly what the compensation was for. As I've explained previously if a firm using the methodology prescribed by the regulator couldn't defend or didn't wish to defend that the advice they gave was suitable. They were required to do a loss calculation and make up any shortfall. Put simply why would a firm make good the final outcome if they felt the advice to transfer was suitable? It wouldn't make sense.

Ms M said she feels in accepting the offer she was not accepting that it was ok to make the sale.

But the letter she signed said:

This acceptance is in full and final settlement of any claim for loss whether consequential or not that I may have (or which arises in respect of me) against Sedgwick Noble Lowndes (UK) Limited ("SNL") or any of its associated companies in respect of advice received by me relative to benefits held on my behalf in and transferred from the TSB Group Pension Scheme and effected in a contract with Standard Life.

I acknowledge that this letter operates as a full discharge to all SNL companies and that such discharge is given by me on my own behalf and so as to bind my assignees, successors in title or those claiming title to sue SNL through me.

And had Ms M not accepted the compensation, she wouldn't be able to complain now having known she was unhappy with the offer at the time. The pension review was designed by the regulator to look at the advice then as a one-off exercise and draw a line under matters for both parties.

Ms M hasn't said what she thinks should be done now to put things right – but I'm assuming she would like a calculation to work out how much worse off she is for transferring. But this was done in 1999, hence why she received a payment into her pension.

It is for this reason the complaint won't be upheld, the advice she received to transfer was dealt with in 1999 and Ms M accepted redress in full and final settlement of this matter.

My final decision

I do not uphold this complaint and make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 12 August 2025.

Simon Hollingshead
Ombudsman