DRN-5737515

The complaint

Mrs G complains that Attivo Financial Services Limited ('Attivo') has provided her an inadequate service when it gave her financial advice about her investments. In particular it was unable to explain information within the advice as Attivo itself did not understand this. In addition, some of the information in the advice was incorrect. So, Mrs G would like Attivo to refund the amounts paid to it for advice.

Mrs G's husband, Mr G, has made a similar complaint to Attivo about the advice given to him (the advice was given to both Mr and Mrs G at the same time but about their individual investments). And he has assisted Mrs G in bringing this complaint. As the investments are held in their individual names, this complaint, and this decision, is looking at Mrs G's concerns, with Mr G's complaint being considered separately. However, as there is some overlap, where necessary I've referred to the relevant circumstances relating to Mr G.

What happened

Mrs G was previously a customer of a different financial adviser and held an investment ISA with a business I'll call 'Firm F'. Attivo acquired Mrs G's former adviser, and Mrs G then became a customer of Attivo. On 5 October 2021, Mrs G, along with Mr G, signed an Attivo client declaration. This confirmed, amongst other things that she'd been given, and had read and understood, Attivo's Private Client Agreement. It also confirmed that Mrs G's attitude to risk had been discussed, and it had been agreed this was 'medium high'.

On 7 December 2022, Mrs G and her husband met with an adviser from Attivo. They also signed a 'Client declaration and signature form for annual reviews'. This confirmed that Mr and Mrs G wished to receive ongoing advice from Attivo and accepted the relevant fees. It set out the fees, stating there was a fee of £1,500 (joint) for researching and recommending a new investment strategy. A further fee of £1,000 (joint) would be paid for implementing the recommendation if accepted. And an ongoing advice fee of 1% annually of the value of their investments would be payable for the ongoing advice service. The form also confirmed Mrs G had been provided an updated copy of Attivo's Private Client Agreement.

On 31 January 2023, Attivo wrote to Mrs G, along with Mr G, providing its recommendation, following their meeting in December 2022. In short, Attivo recommended that Mrs G transfer her ISA from Firm F to *"the new Attivo Investment Proposition"* (an Attivo ISA) and invest in its medium risk model portfolio.

The recommendation included a section about costs and charges which confirmed that the advice fee (totalling £1,500) had already been paid through deductions from Mrs G and her husband's ISA's (Mrs G having paid £750). It noted that there would be a further fee to implement the recommendation (£1,000) and if accepted Mrs G's ongoing advice fees would increase to Attivo's standard rate of 1% per annum (noting she was currently benefiting from a discounted rate of 0.75%)

Mr G wrote to Attivo on 27 February 2023, on behalf of himself and Mrs G, with a series of questions about the advice and illustration they'd been provided. In summary they asked for

clarification of a number of points within the documents including, growth figures used, whether recommending an Attivo product created a conflict of interest, reasons for cash flow and liquid asset figures utilised, the different types of fees involved, their estimated impact and how these compared to industry averages.

Ultimately, Mrs G did not proceed with Attivo's recommendation to transfer her ISA following this advice.

Mr and Mrs G met with Attivo again in February 2024 and on 30 May 2024, Attivo wrote to them summarising its recommendation following those discussions. Attivo again recommended that Mrs G transfer her ISA from Firm F to Attivo. It recommended a different investment strategy than it had previously. The recommendation confirmed that there was no charge for this advice but there would be an implementation fee. And it was again noted the ongoing advice charge would be increasing to Attivo's standard rate of 1% (having previously been at 0.75%).

A further email was sent to Attivo by Mr and Mrs G on 16 June 2024. They said this followed a conversation the previous week and provided their comments on the advice report. Mr and Mrs G gave more detailed information about their income and expenditure and their emergency fund and asked if this ought to be revisited. They also commented on the impact of the different income figure on their capacity for loss. They compared the returns currently available on cash ISA's to what was being recommended and made the point they were willing to put funds into cash for the certainty provided. Mr and Mrs G went on to ask questions about some of the figures in the paperwork, such as the suggestion to leave 3% in 'cash' to cover fees when these were only expected to be 1.33% per annum. And they said they didn't understand the 'impact of charges' section of the illustration. They said they almost felt they needed another party to explain the advice and also asked what they were actually going to be paying Attivo for, saying *"the more detail in the paperwork ,the more questions and suspicions arise."*

Attivo has provided evidence of a telephone call taking place the following week with the discussions ongoing for over an hour.

Mr and Mrs G sent a further email to Attivo on 12 July 2022 noting they understood it was going to respond to their previous questions. In the meantime, they provided additional comments on the 'impact of charges' section within the illustration and the potential for them to have paid more than they actually earned, if growth wasn't strong.

A further phone call took place on 22 July 2024, with the discussion again lasting over an hour. This was followed up with a further email to Attivo on the same day saying Mr and Mrs G had considered what the adviser had said but still didn't understand the impact of charges section of the relevant paperwork as they believed the figures were incorrect.

I can see a chaser email was sent to Attivo on 5 August 2024 asking if the adviser had reviewed the figures further and there was a shorter telephone discussion in early September 2024.

Mr and Mrs G then emailed Attivo again on 1 October 2024 saying they'd spent further time trying to reconcile the figures saying that they understood "and cannot accept" that the fees and charges that Attivo and the investment manager would accrue were potentially greater than the returns they would earn under the recommendation, noting they believed the return on cash ISA's would be better. Mr and Mrs G said it was time for Attivo to help sort the matter out as, having produced the illustration, it needed to explain it.

On 27 November 2024, Mr and Mrs G informed the adviser they were unwilling to accept the

recommendation as Attivo could not explain the contents. So, they were looking elsewhere and requested the advice fee of £1,500 be refunded.

Attivo responded in January 2025, having considered the comments a complaint. It acknowledged that being able to answer the questions posed by Mr and Mrs G had taken several months longer than it would have liked. It also acknowledged that the illustration had included incorrect information and that it hadn't been able to resolve this as promptly as it would have liked. And it offered £200, later increased to £300 (total), for the trouble and upset caused to them both. But it didn't agree to refund the advice fee, charged in respect of the advice provided in 2023, as advice had been provided and the advice fee was waived for the 2024 advice.

Mr and Mrs G replied to Attivo confirming they didn't accept. They said that Attivo had been unable to explain the contents of the proposal and illustration despite asking Mr and Mrs G to agree to it, which they thought was unacceptable. They believed that the documents had not been properly reviewed and understood by the adviser before being issued and questioned whether they contained further errors. And they still believed the advice fee should be refunded in full. Mrs G then asked our service to consider her complaint.

One of our Investigator's considered the complaint but thought the offer made by Attivo was fair.

Mrs G didn't agree. So, as agreement could not be reached, the complaint has been passed to me to 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.

I've been provided a lot of information and detailed opinions on what has happened. And I'm aware I've only summarised the events that have taken place. I'd like to reassure both parties though that I've carefully considered all of the arguments made and the evidence provided. If I don't comment on or refer to everything that has been said this isn't meant as a discourtesy or because I haven't thought about it. Rather it is because my decision addresses what I think are the key points in deciding the complaint, bearing in mind our role as an informal dispute resolution service and my remit of deciding what a fair and reasonable outcome is.

The client declarations Mrs G signed confirmed that she'd read and understood the information in Attivo's Private Client Agreement. This explained Attivo's advice process and the typical fee structure for its services – explaining there was a fee for fact finding and presenting a recommendation, regardless of whether that recommendation was accepted. It also set out that there was a separate fee for implementation and noted that clients of a firm that had subsequently transferred to Attivo would be subject to these fees.

And the agreement Mrs G signed in December 2022 specifically confirmed that the cost of advice for her and Mr G was £1,500 (total). So, I'm satisfied that Mrs G was presented clear information about Attivo's fees for advice.

Attivo charged a fee of £1,500 for the advice provided in January 2023 (£750 deducted from Mrs G's investment and the rest from Mr G's). I also note Attivo didn't charge another initial fee for the advice that followed the subsequent review of Mrs G's circumstances in 2024. So, the charge was in line with the agreement between the parties. And advice was provided, twice in fact.

Mrs G argues the advice fee should be refunded, because of failings in the provision of the advice. In particular, it containing incorrect figures and Attivo not being able to explain elements of the advice and illustration potentially meaning the advice was unsuitable and meaning she, and Mr G, could not reasonably accept it and proceed.

As I've said, I've seen copies of the suitability reports that Attivo issued in January 2023 and May 2024. These both included a summary of objectives, cashflow modelling supporting a review of how those objectives were to be met, a summary of Attivo's assessment of Mrs G's attitude to risk and capacity for loss, details of its recommendation – both for the overall product and the investments, a summary of the costs and charges and a comparison of these to the existing Firm F ISA's and information about the risks and potential disadvantages of accepting the advice. This is information I would usually expect to see where a business provided regulated advice such as this. And so, I think the advice provided by Attivo on both occasions detailed the information I'd expect, to enable Mrs G to make an informed decision. And, based on the information available, the recommendation to transfer on both occasions doesn't appear to have been unsuitable.

It is clear following both instances of advice that Mr and Mrs G were unsure about proceeding and wanted to clarify a number of points. Mrs G has said she and Mr G were told by Attivo that they should do so if anything was unclear and I agree that understanding the advice before proceeding was appropriate. And, as the adviser, Attivo was the party to address these queries. But I'd add that, while I'd expect Attivo to try to answer any reasonable questions Mrs G had, that doesn't mean its explanation not being to her specific satisfaction would mean that the advice was unsuitable or that it had not done what I'd have expected it to.

The information I've been provided indicates there was engagement after queries were raised with the advice, with several further exchanges taking place. And I'm satisfied that Attivo has attempted to address the questions raised. I understand Mrs G wasn't happy with the answers it gave. But ultimately it was Mrs G's decision whether to accept the advice or not following that engagement. On both occasions she chose not to do so – as she was entitled to. But the client agreement was clear that the advice fee was payable, irrespective of the decision she took.

Mrs G has said that she and Mr G couldn't proceed because Attivo had been unable to explain information to them resulting in a loss of faith. And there were issues with clarifying some information following the 2024 advice, which I'll go on to cover. But it is also clear though that one of the areas of concern raised on both occasions was the level of charges and fees that would've been payable following the advice and how these, and the impact of these, compared to the returns that Mr and Mrs G may achieve – essentially the cost / price of the recommended product. So, I don't think I can say that Mrs G would always have proceeded had these queries not been raised, as price appears to have been an issue. But again, this was ultimately Mrs G's decision.

Attivo has confirmed that some of the information in the illustrations produced at the time of the 2024 advice, in relation to the 'impact of charges' was incorrect. It said, when the illustrations were produced – which would've been by a different part of Attivo itself as it was the recommended provider – the charges information was input incorrectly. And this resulted in the 'effect of deductions' figure in the first year, inclusive of adviser charges, showing incorrectly (noting in one of the illustrations the figure was given as £1,970 instead of £1,917.95). I can also see that the adviser was unable to explain this for several months – Mr and Mrs G emailed several times between June and October 2024 about this and I've seen evidence that the adviser sent internal emails over the same period asking for clarification. So, they clearly weren't in a position to explain this mistake without support. But that doesn't mean that the adviser acted incorrectly by providing the advice to Mrs G.

It is unfortunate that the illustration contained incorrect information when this was first produced and that this was not noticed before it was provided to Mrs G. This was an avoidable mistake. And resolving this issue and providing an answer about the mistake took a lot longer than I think it reasonably should have – particularly given a different part of Attivo was the provider. But I don't think this means the 2024 advice itself, which I note didn't repeat the incorrect information, was unsuitable. Nor do I think this means that the 2023 advice was based on incorrect information or was unsuitable.

I can appreciate why Attivo being unable to address this to Mrs G's satisfaction promptly might've played a part in her and Mr G's decision to not accept the advice. But it's clear from the questions raised after both instances of advice, Mrs G had concerns about proceeding, not least because of the effective price of the propositions. And suitably detailed advice was provided by Attivo, twice. So, like our Investigator, I can't fairly say that the fee charged for this advice – which was agreed between the parties in advance, should be refunded.

I also don't think it'd be fair to require Attivo to refund ongoing service fees Mrs G has paid because of this delay as, from the available information, it appears that Attivo engaged regularly with Mrs G, undertook reviews and provided ongoing support.

Attivo did take longer than it should have to identify the incorrectly input information and address this. But I think the offer it has already made to address the upset caused by this (a total payment of £300 to Mr and Mrs G) is fair and reasonable. So, I don't require Attivo to do anything more.

My final decision

For the reasons I've explained I don't uphold Mrs G's complaint as I think Attivo Financial Services Limited has already made a fair offer to address matters. To put matters right I think, if it hasn't already done so, Attivo should pay Mrs G the amount it has already proposed (£150 – her half of the total offered to her and Mr G).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 29 December 2025.

Ben Stoker
Ombudsman