

## **The complaint**

Mrs C complains that AFH Independent Financial Services Limited trading as AFH Wealth Management ('AFH') took ongoing advice charges but did not provide ongoing advice.

## **What happened**

Mrs C was a client of The Independent Financial Consultancy (Services) Limited ('TIFC'). In 2020, AFH acquired TIFC. Mrs C's adviser at TIFC retired and TIFC ceased to trade.

In October 2020, Mrs C was informed of the acquisition by TIFC, and sent a welcome letter from AFH. The welcome letter included the following:

*You are currently on a service proposition provided by The Independent Financial Consultancy (Services) Limited.*

*The first important thing to note is that the fees you currently pay will not change as a result of the acquisition. I have enclosed an AFH Client Agreement Document, which contains some important information for you. You will also find details about the Interim AFH service proposition on which we have placed you...*

*Your next review is now due.*

*One of our Client Engagement Executives will contact you shortly to arrange a convenient time for you to meet your new adviser, who will introduce you to AFH and explain our range of investment management solutions. You can then discuss the most appropriate service to best meet your needs and desires for the future.*

Although there was some contact between AFH and Mrs C, Mrs C did not receive annual reviews between October 2020 and April 2024. In April/May 2024, she raised concerns about this and the ongoing service was cancelled at the end of May. She said she was unhappy she'd been paying for an ongoing advice service she hadn't received, and that her expectation was that it was the firm's responsibility to cease charging for an ongoing service if hadn't been delivered.

AFH issued their final response to Mrs C's complaint in January 2025, but they didn't uphold it, so she referred it to our service. Our investigator considered it and thought it should be upheld and that Mrs C should be compensated. Mrs C accepted the investigator's opinion, but AFH did not respond. As such, the case has been passed to me for a final 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.

### *What was agreed?*

The client agreement Mrs C was sent when she became a client of AFH included the following:

### *On-going Interim Services*

*You are currently allocated to a service which was agreed with The Independent Financial Consultancy (Services) Limited and this qualifies as an Interim Service. Your ongoing service and charge is confirmed in the covering letter accompanying this agreement. Your adviser will provide you with further details of other services that are available with AFH Wealth Management. These will be subject to a new Client Agreement.*

While the service was entitled 'interim', it appears to have continued as it was, until Mrs C asked for it to cease. I've seen no evidence that a new or updated client agreement was ever issued to Mrs C, or that she was presented with details of other services AFH offered.

Taking the client agreement alongside the welcome letter referenced above, I'm satisfied that AFH agreed to provide an ongoing service to Mrs C. Importantly, it's not in dispute that Mrs C was paying for an ongoing advice service. What is in dispute here is that she feels she did not get the service she was paying for.

### *What is expected of AFH?*

COBS 6.1A.22 sets out that an adviser charge can be in relation to the provision of either personal recommendations **or** related services. The Financial Conduct Authority ('FCA') carried out a review of ongoing financial advice services and in February 2025 they published their findings. In this, the FCA outlined that firms can charge for ongoing services that include 'related services' alone, as long as these relate to an earlier personal recommendation. This is reflected in COBS, where the definition of an adviser charge is a charge payable in relation to the provision of a personal recommendation.

Here, AFH have never provided Mrs C with advice. And therefore they should provide her with personal recommendations if they are taking adviser charges. We would generally take the view that an ongoing advice service incurring an annual fee could not reasonably have involved reviews taking place less than once a year.

Importantly, I think the agreement between the parties sets out that AFH was expected to provide an ongoing service to Mrs C. It's not in dispute that Mrs C was paying AFH ongoing advice charges ('OAC's').

Overall, I'm satisfied that AFH were required to provide Mrs C with annual reviews in relation to her portfolio, in return for the OACs she was paying.

Within the FCA's aforementioned review findings, they set out that where a firm was ready, willing and able to provide reviews but a consumer consciously declined these, it was less likely that redress would be due. The FCA also set out that there may be circumstances where a firm has made reasonable and proportionate attempts to engage with a consumer to conduct a review, without success. Again, the FCA felt redress in these situations was less likely to be due.

However the FCA also set out that where a consumer declined a service over a number of years, firms should discuss with them whether continuing with that service was in that consumer's best interests. And additionally, that a firm should consider whether an ongoing service was in a consumer's best interests if they persistently had not engaged with it.

I've considered all of this when looking at the facts of Mrs C's complaint.

### *Did AFH fulfil its obligations in each year?*

As I've established that AFH agreed to provide Mrs C with annual reviews, I'll now consider each year that she was their client.

Mrs C and her husband Mr C both had portfolios with AFH which began at the same time, and they both received individual IAVRs. However as communication involved emailing or calling one of them in order to contact both of them, it has been difficult with the evidence I've been provided to determine who was spoken to, when. On the basis that Mr and Mrs C seem happy to accept this, I have assumed that both Mr and Mrs C were contacted interchangeably when AFH corresponded with them.

As Mrs C's portfolio moved over in October 2020, I'd expect the first annual review to occur during or around October 2021.

#### October 2020 to October 2021

As mentioned above, Mrs C received a welcome letter from AFH in October 2020.

In December 2020, Mrs C received an Interim Advisory Valuation Report ('IAVR'). The cover letter said that the IAVR provided a current calculation and overview of each policy. Having looked at it, I can see it contained details similar to an annual statement, alongside some further, general information about the market. As such, I do not consider this to be part of a personalised advice service provided to Mrs C – either in this year or any of the following years that it was provided.

The IAVR cover letter also explained: *"As you have not currently been allocated an AFH adviser, please contact our client relationship team on ... who will be happy to arrange a complimentary meeting with an adviser. We can offer advice on a range of financial matters including..."*

While the cover letter suggests Mrs C can arrange a complimentary meeting with an adviser, it does not point out that she is entitled to a review meeting as she is paying for this service. Mrs C isn't invited to attend a pre-arranged review, it is simply suggested that she's able to book one in. The language of the letter does not make clear that Mrs C is paying for ongoing advice and that she is owed a review meeting. So I'm not satisfied that Mrs C consciously declined a review here – both because it's not been made clear to her that she is paying for one, and because I've seen no evidence that she replied.

I've seen nothing to suggest that AFH followed up with Mrs C when they didn't hear from her following the IAVR being sent. So I cannot say that they made reasonable or proportionate attempts to contact her. A review did not take place.

Overall, I do not think AFH met their obligations this year.

#### November 2021 to October 2022

In October 2022, an adviser contacted Mrs C to introduce himself as her new adviser. In a follow up email, he invited Mrs C to contact him once she had suitable times for a review meeting.

While AFH did pro-actively email Mrs C and said *"Once you have both worked out some suitable times please just let me know and I will do my best to accommodate"* I don't consider this sufficient as an invitation to a review. And crucially, when no reply was received, there was no follow up. Again, a review did not take place and I haven't seen persuasive evidence to show Mrs C consciously declined one, or that reasonable and proportionate attempts were made to contact her.

As such, I do not think AFH met their obligations this year.

#### November 2022 to October 2023

In July 2023, the adviser called Mrs C to discuss availability for a review. Mrs C asked to delay a review meeting until October due to the fact she was dealing with ill health in the family. The adviser sent an email to Mrs C after this call to confirm his contact details, but I've seen no evidence that any attempt was made to contact her in October 2023 and no review took place.

Again, AFH did not fulfil their obligations this year.

#### November 2023 to May 2024

In April 2024, AFH say the adviser unsuccessfully tried to contact Mrs C by phone and left a voicemail inviting her to return the call. A letter was also sent. It said:

*“Our records show that you may not have received your invitation to complete your annual review in the last 12 months. I am therefore enclosing our Annual Suitability Questionnaire which provides an opportunity to consider any changes to your circumstances or financial objectives.*

*We encourage you to fully complete the questionnaire so that we can record any changes to your personal circumstances or requirements...*

*If the questionnaire is returned with changes indicated, your adviser will contact you in due course to confirm if any follow up action is required.*

*If the questionnaire is returned with no changes indicated, or not returned at all, we assume your current circumstances and financial objectives have not changed, and therefor ethe solutions previously advised are still suitable.”*

Shortly after, in May 2024, Mrs C spoke to the adviser and raised concerns about OACs. The ongoing advice service was 'switched off' on 31<sup>st</sup> May 2024. No review had taken place.

#### Conclusion

I'm not satisfied that Mrs C was provided with an ongoing advice service between October 2020 and May 2024. As she was paying for this service, AFH should compensate her for the missed annual reviews.

#### **Putting things right**

To fairly compensate Mrs C, my intention is to put her back in the position she would have been in, had she not paid OACs.

To do this, AFH should do the following with regards to Mrs C's pension:

- Calculate the loss in value of Mrs C's pension due to the deduction of the fees taken between October 2020 and May 2024. This will mean calculating both the cost of the fees taken as well as the lost investment returns on each fee, based on the actual investment strategy of Mrs C's pension, from the date the fees came out to the date AFH are informed that Mrs C accepts this decision.
- AFH should then, if possible, pay that amount into Mrs C's pension. The payment

should allow for the effect of charges and any available tax relief. The compensation should not be paid into the pension if it would conflict with any existing allowance or protection.

- If a payment into the pension isn't possible or has protection or allowance implications, it should be paid directly to Mrs C as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid.
- If Mrs C has remaining tax-free cash entitlement, 25% of the loss would be tax-free and 75% would have been taxed according to her likely income tax rate in retirement – presumed to be 20%. So, making a notional reduction of 15% overall from the loss adequately reflects this.
- If payment of compensation is not made within 28 days of AFH receiving Mrs C's acceptance of my final decision, interest must be added to the compensation at the rate of 8% per year simple from the date of my final decision to the date of payment.
- Income tax may be payable on any interest paid. If AFH deducts income tax from the interest, it should tell Mrs C how much has been taken off. AFH should give Mrs C a tax deduction certificate in respect of interest if Mrs C asks for one, so she can reclaim the tax on interest from HMRC if appropriate.
- Provide details of the calculations to Mrs C in a clear, simple format.

AFH should do the following with regards to Mrs C's ISA:

- Calculate the loss in value of Mrs C's ISA due to the deduction of the fees taken between October 2020 and May 2024. This will mean calculating both the cost of the fees taken as well as the lost investment returns on each fee, based on the actual investment strategy of Mrs C's ISA, from the date the fees came out to the date AFH are informed that Mrs C accepts this decision.
- AFH should then, if possible, pay that amount into Mrs C's ISA. The payment should allow for the effect of charges and any available tax relief. The compensation should not be paid into the ISA if it would conflict with any existing allowance or protection.
- If a payment into the ISA isn't possible or has protection or allowance implications, it should be paid directly to Mrs C as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid.
- If payment of compensation is not made within 28 days of AFH receiving Mrs C's acceptance of my final decision, interest must be added to the compensation at the rate of 8% per year simple from the date of my final decision to the date of payment.
- Income tax may be payable on any interest paid. If AFH deducts income tax from the interest, it should tell Mrs C how much has been taken off. AFH should give Mrs C a tax deduction certificate in respect of interest if she asks for one so she can reclaim the tax on the interest from HMRC if appropriate.
- Provide the details of the calculations to Mrs C in a clear, simple format.

The investigator recommended that AFH should pay £150 compensation for the distress and inconvenience caused to Mrs C after she discovered she'd been paying for a service for almost four years that she had never received a benefit from. I've not seen anything from

AFH to suggest this is unreasonable, and I think the amount is fair in the circumstances. So AFH should also pay Mrs C £150 in compensation.

**My final decision**

I uphold this complaint. AFH Independent Financial Services Limited trading as AFH Wealth Management should compensate Mrs C as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 10th October 2025.

Artemis Pantelides  
**Ombudsman**