

The complaint

Mr H 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

In October 2018, Mr H was advised by Company A to transfer two existing pensions into a Collective Retirement Account. The transfer was completed in November 2018. AFH acquired Company A in 2023 and have confirmed to us that they also acquired the liability for pre-acquisition advice.

Mr H complained that he hadn't been provided with suitable advice by Company A, highlighting that he felt the investments were too high risk for him and that he was unhappy with their performance. He also complained that he hadn't received financial reviews that he had been paying for.

AFH considered his complaint but did not uphold it, so Mr H referred it to our service in December 2024. Our investigator considered it. They thought that the initial advice Mr H had received from Company A had been suitable for him, so they didn't uphold this part of the complaint. Mr H accepted this outcome. But the investigator did uphold the ongoing advice element of the complaint, as they did not think that Company A or AFH had provided the service that Mr H had been paying for.

As AFH disagreed with this, the case has been passed to me.

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.

Mr H has accepted the investigator's outcome in relation to the suitability of the initial advice received from Company A. As such, I will not be considering this here. Instead, this decision will focus only on the ongoing advice charges ('OACs') part of the complaint, which still remains in dispute.

What was agreed?

The Financial Planning Report prepared for Mr H in October 2018 has a section entitled 'My Recommendations'. Within this, it outlines the key benefits to the quarterly review service, including "*Your ongoing attitude to risk and suitability for the portfolio will be assessed annually.*"

The report also includes a section entitled 'Advice Services and Charges'. Within this, it's confirmed that Mr H has opted for ongoing advice. It goes on to say:

You want to benefit from on-going face to face advice and regular reviews with regards to your pension for the following reasons:

- You want to be able to discuss any changes to your personal circumstances and to regularly re-assess your needs so that your plans can be adapted to any changes.
- You want to be able to discuss changes to legislation and how this might impact on you so you can consider what steps if any may be necessary.
- You want to review the recommended plans in order to ensure they continue to meet your needs and objectives
- You want to be able to review the recommended underlying investments at regular intervals to ensure they are performing as expected and where appropriate to make adjustments.
- You feel this ongoing advice and review process will provide you with peace of mind and clear understanding of your financial position in the future.

It adds that "*there is a charge for the ongoing advice service and these are set out in the fee agreement.*" It also sets out how the fees are charged.

The fee agreement Mr H signed with Company A in 2018 said the following:

1. The Client agrees to engage the Firm on his behalf for the purpose of;
Reviewing the pension holdings with Scottish Widows & L&G - checking fees, charges, and any other costs associated with these plans. "Then advising me on the suitability of transferring these funds to a more flexible environment. Once this has been completed I wish to have constant support for this and other matters."
2. The Client has agreed to pay an initial payment, equivalent to 3% (£2784.00) paid by the Provider upon the transfer of the funds, to the Firm for the work described above. The on-going fees for work carried out throughout the year of 1% (e.g. 1% of £100,000 would equate to £1,000 per year) will be charged in addition for the on-going service levels.

Taking everything into account, I'm satisfied Mr H was being charged a fee for ongoing advice services as a client of Company A.

AFH have provided an example of a 'Welcome to AFH' letter that Mr H would have been sent when they acquired Company A. This letter confirmed that his current annual charge of 1% and 'ongoing service proposition' would continue.

The Appendix of the Client Agreement Mr H was sent in May 2023, after AFH took over, set out the following as the 'standard ongoing services proposition':

Contact	<ul style="list-style-type: none"> • Telephone and email access to Adviser
Ongoing meetings	<ul style="list-style-type: none"> • Annual Review Meeting
Reporting	<ul style="list-style-type: none"> • Annual review of existing recommended investments and / or products with fund changes as required • Annual Suitability review of existing recommended investments, products, or solutions
Planning and service	<ul style="list-style-type: none"> • Annual portfolio summary and valuation • Quarterly Fund review/market updates including recommending changes to portfolio dependent on platform • Review of Objectives • Review of Risk Profile
Administration	<ul style="list-style-type: none"> • Administration Support • Online access to your investment portfolio

Given the above, I'm satisfied that Mr H was being charged a fee for ongoing advice services from 2023 as a client of AFH.

What was expected?

AFH say they believe the agreed service was provided, as quarterly fund review recommendations took place even if annual reviews did not. They've also said that Mr H was invited to contact his adviser if he wanted to arrange a review meeting.

Our general approach is that an ongoing advice service incurring adviser charges could not reasonably have involved reviews taking place less than once per year.

The 'standard ongoing services proposition' set out by AFH in the 2023 Client Agreement includes annual reviews of existing investments, risk profile and objectives. AFH imply that this list of services was the same when Mr H was a client of Company A.

The 2018 recommendations in the financial report state "*your ongoing attitude to risk and suitability for the portfolio will be assessed annually.*" The advice and charges section states "*you want to benefit from ongoing face to face advice and regular reviews...to regularly reassess your needs...to discuss any changes to your personal circumstances...to review the recommended plans to ensure they continue to meet your needs and objectives*".

It's clear to me that the agreement between the parties was that Mr H was paying for an ongoing advice service which included much more than just rebalancing the funds on a quarterly basis. While AFH say that some of the service was provided, it is clear that a lot of the service was not. Mr H did not have a choice to select a lower fee for a lesser service. And I do not consider it fair or reasonable that an annual review, which would be the most expensive part of the service to carry out – and arguably the most beneficial – was excluded from the service he received.

The 2014 FCA factsheet called 'For investment advisers - Setting out what we require from advisers on how they charge their clients' sets out that firms should have "*robust systems and controls in place to make sure your clients receive the ongoing service you have committed to.*" It's not in dispute that Mr H was paying OAC's for regular advice. But without annual reviews, the expectations and objectives agreed to were not met - Mr H's attitude to risk and personal circumstances were not reviewed when fund switches were recommended by the adviser unilaterally.

Overall, I'm satisfied that Company A and AFH were required to provide Mr H with annual reviews, in return for the OACs he was paying.

Within the FCA's 2024 review findings regarding ongoing advice services, 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, simply inviting Mr H to contact the adviser should he want a review meeting is not enough here. This is not the equivalent of an invitation to a review or a conscious decline to one by Mr H. And it is not a reasonable and proportionate attempt to engage with Mr H in order to carry out a review.

I've considered all of this when looking at the facts of Mr H's complaint.

Did Company A / AFH fulfil their obligations in each year?

As I've established that both Company A and AFH agreed to provide Mr H with annual reviews, I'll now consider each year that he was their client.

As Mr H received his initial advice from Company A in late 2018, I'd expect the first annual review to occur around the end of 2019 and then each year following.

I've seen no evidence which suggests Mr H received a review in 2019, 2020, 2021, 2022 or 2024.

I have been provided with documentation to show that a review did take place in 2023, when Mr H first joined AFH.

On this basis, I consider that Mr H should be compensated for the missed annual reviews.

Putting things right

To fairly compensate Mr H, my intention is to put him back in the position he would have been in, had he not paid OACs in relation to the missed reviews that were due in 2019, 2020, 2021, 2022 and 2024.

To do this, AFH should do the following with regards to Mr H's pension if OACs have been charged:

- Calculate the loss in value of Mr H's pension due to the deduction of the fees taken in relation to the reviews due in 2019, 2020, 2021, 2022 and 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 Mr H's pension, from the date the fees came out to the date AFH are informed that Mr H accepts this decision.
- AFH should then, if possible, pay that amount into Mr H'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 Mr H as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid.
- If Mr H has remaining tax-free cash entitlement, 25% of the loss would be tax-free and 75% would have been taxed according to his 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 Mr H'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 Mr H how much has been taken off. AFH should give Mr H a tax deduction certificate in respect of interest if Mr H asks for one, so he can reclaim the tax on interest from HMRC if appropriate.
- Provide details of the calculations to Mr H in a clear, simple format.

The investigator recommended that AFH should pay £150 compensation for the distress and inconvenience caused to Mr H after he discovered he'd been paying for a service he had not 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 Mr H £150 in compensation.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 19 January 2026.

Artemis Pantelides
Ombudsman