

The complaint

Mr W, represented by his daughter Mrs W, complains that Magenta Financial Services Limited, acting as his financial advisers, failed to take account of his estate planning needs and to provide the ongoing advice service for which he was charged.

What happened

The background to the complaint will be well known to both parties but given the nature of the complaint I think it would nevertheless be beneficial to set out a brief chronology of the relationship between Mr W and Magenta.

Magenta has said it was first introduced to Mr W in 2016 at a point when his existing adviser was retiring. Then, in May 2017, at which point he was aged 85, it completed a fact find to record his circumstances and objectives and an initial recommendation was made for him to transfer around £32,000 from a cash ISA into a new investment bond invested across two funds at a low/medium level of risk. The report issued to Mr W documented that this was with an aim of achieving better growth as deposit rates were at a historical low. He was charged an initial fee of 2% for the advice and opted in for Magenta's ongoing advice service, charged at 1% annually.

In 2018 no advice regarding new products was provided.

In 2019 Mr W asked Magenta for help in transferring his significant share portfolio (valued at just over £1million) from the US to the UK. Magenta facilitated this, by way of an in-specie move to a new platform as a discretionary managed General Investment Account and ISA, under the platform's 'cautious with risk' mandate. On this occasion Mr W paid an initial charge of 0.5% with an ongoing charge of 0.5% annually.

In 2020 an older investment bond, originally started in 2002 and valued at around £30,000 (which Mr W hadn't initially disclosed to Magenta) was moved to its servicing without any changes.

In 2021 Magenta advised Mr W to transfer an older stocks and shares ISA he'd started in 2006, valued at around £100,000, to a new provider with an objective of lowering the level of risk to low to medium. Again, he paid an initial charge of 2% for the advice and opted in for the ongoing advice service at 1%.

In 2022 Mr W's wife sadly died and a portfolio (valued at around £180,000) that had belonged to her passed to Mr W and was transferred into the discretionary managed portfolio.

In early 2023 Magenta recommended that the ISA element of Mr W's discretionary portfolio, valued by then at around £74,000, be transferred into the ISA he'd started in 2021, again to lower the level of risk. On this occasion Mr W paid an initial charge of 3% with an ongoing charge of 1%.

Following this, and by now aged 91, Mr W decided to move to a care home and his daughter

Mrs W, acting with power of attorney, took over the administration of his affairs. Having reviewed his dealings with Magenta, she made a complaint on his behalf in October 2023, broadly as set out above.

Magenta didn't uphold the complaint. In brief, it felt it had provided suitable recommendations to Mr W while generally providing him with a satisfactory level of service.

The complaint was referred to this service, and an investigator reached a different conclusion. She felt the complaint should be upheld, in part at least.

On the primary issue of estate planning she didn't think Magenta had done anything wrong. She noted that several factfinds had set out that inheritance tax (IHT) planning hadn't been a high priority for Mr W and was something he would speak to his accountant and/or lawyer about at some point. Even when a potentially significant liability had been brought to his attention, he indicated that it was something he'd look at in the future. The investigator concluded that it was therefore unlikely that even if Magenta had engaged more pro-actively on the issue Mr W would've taken any earlier alternative action.

But regarding the transfer of the share portfolio in 2019 the investigator didn't think the transfer to the 'cautious with risk' discretionary managed account had been suitable for Mr W, as she felt it was over reliant upon equity performance. She recommended Magenta compensate Mr W for this by way of comparing the performance of the portfolio with this service's cautious investment benchmark.

In respect of the ongoing service, the investigator concluded that Magenta had failed to provide Mr W with the annual reviews of his investments that its ongoing service was meant to include, in 2020 and 2022. So, she said Magenta should refund the charges relating to those years, plus interest at 8% simple.

Mrs W, on Mr W's behalf, responded to say that while she agreed with the investigator's findings regarding the risk level of the discretionary managed account, she still maintained that Magenta hadn't done enough to address his potential IHT liability. She also felt that the rebate of the charges for only two of the six years during which Magenta had worked with Mr W didn't reflect the ongoing failures of service he'd experienced over the whole period.

Magenta responded to disagree with the investigator's view. It made some further points, saying, in brief –

- Mr W invested in low-medium risk funds that were within his investment remit.
- He had a documented 20% capacity for loss and was aware that investment performance wasn't guaranteed, and he was happy with his IHT situation.
- Magenta acted as an 'introducer' to the discretionary service. Had it not assisted in the transfer, Mr W would've faced potentially large losses from leaving the portfolio in the US.
- Reviews did take place during 2020 and 2022. Due to the pandemic there'd not been sit-down discussions, but ongoing regular conversations had occurred.

The investigator wasn't persuaded to change her opinion. So, as no agreement could be reached, the matter was referred to me to review.

I issued a provisional decision explaining that I'd come to a different conclusion to that reached by the investigator. I said –

"The purpose of this provisional decision is to set out my findings on what's fair and reasonable, and explain my reasons for reaching those findings, not to offer a point-by-point

response to every submission made by the parties to the complaint. And so, while I've considered all the detailed correspondence between the parties and their respective submissions, I've focussed here on the points I believe to be key to reaching a decision on what's fair and reasonable in the circumstances.

Where matters are unclear or in dispute, I've reached my conclusions on the balance of probabilities – in other words, what I consider more likely than not to have happened based on the evidence available and a consideration of the wider circumstances.

Estate Planning

I'll deal first with what I think it's fair to say is the primary complaint issue, regarding estate planning.

I think it's clear there was no failure by Magenta to act on a specific request from Mr W to advise on his IHT position, nor has it been claimed that it took unsuitable or flawed steps to address the liability that haven't worked or won't work in the future.

Rather, the complaint is that Magenta didn't properly acknowledge the issue and in doing so, failed to pro-actively put in place a suitable mitigation strategy. And it should've stressed to Mr W how important doing so was in light of the size of his estate's potential liability.

I can understand why, given Mr W's circumstances and particularly his age during the time he was involved with Magenta, Mrs W feels more could, or should, have been done in respect of estate planning. But looking at the evidence, it's apparent this was an issue that was raised and discussed with Mr W, but not one that he considered to be a priority. And ultimately it was his decision as to how his finances should be arranged.

It was noted in the fact find completed prior to the 2017 ISA recommendation that Mr W had said in respect of wills and IHT that he dealt with his solicitor and accountant. It went on to note that IHT was discussed, and Mr W understood that his estate would create a potentially large bill, and he might look at it the future. Mitigating his estate's liability to IHT was recorded as below the higher priorities of investment planning, maintaining his standard of living and reducing his tax burden. That he didn't wish to act at that point regarding his IHT position was confirmed in the suitability report issued to him.

IHT planning was also referenced in the documentation relating to the 2019 portfolio transfer but noted as being secondary to the transfer. Again in 2021, it was noted in the fact find completed prior to that year's ISA transfer that it was still 'a problem' but Mr W was aware and 'not overly bothered as not "his" problem'.

In January 2023, when Mr W emailed his adviser to explain that he would be moving to a care home, he noted that he was giving his house 'inter vivos' to his children in the hope that his ongoing survival would lead to no tax to be paid on the gift.

Given what was documented by the adviser, along with Mr W's own comments, I think more likely than not he understood the situation and made an informed choice as to whether or not to seek estate planning advice. While I note Mrs W has raised the issue of vulnerability given Mr W's age, I don't think there's anything to suggest that he lacked capacity to make informed decisions about how he wished to manage his finances. In emails to the adviser sent around this time, Mrs W herself noted that despite the power of attorney having been set up, Mr W was still dealing with his own affairs and that his mind was still very sharp.

I appreciate the evidence also shows that further consideration was beginning to be given to estate planning towards the end of 2022 and what then transpired to be the end of the

relationship between Mr W and Magenta, specifically in respect of putting his two investment bonds into trust. There are also notes to suggest there was some liaising on the issue between the adviser and Mr W's solicitor. But I don't interpret this as an indication of any earlier failing on the part of Magenta. I think it more likely simply reflects an increasing desire on the part of Mr W to look at addressing his IHT liability (albeit I accept, somewhat late on), as reflected by his later decision to gift his house in 2023.

Portfolio Transfer and Ongoing Advice

Turning to the two other complaint issues in respect of which the investigator felt the complaint should be upheld – the suitability of the portfolio transfer and the ongoing advice service – I find I disagree regarding the portfolio but agree regarding the ongoing service.

The portfolio transfer was instigated at Mr W's request when a relation of his, who worked in financial services in the US, alerted him to the requirement to repatriate his holdings to avoid imminent tax issues. Magenta has said that in facilitating this transfer it acted only as an 'introducer' to the new provider of the discretionary managed account. But I can see that at the time it completed at least an assessment of his attitude to risk, which categorised him as 'medium' and as part of which he apparently described himself as 'a middle of the road man when it comes to risk'.

As a matter of fact, I don't think the precise details of Magenta's role in the transfer are particularly relevant as, overall, I'm satisfied that the end result was broadly suitable for Mr W. He'd actively requested the move of an existing share portfolio, which I'm satisfied was necessary in the circumstances and which failure to complete would've led to complicated and potentially heavy tax consequences for him.

The new account was to be managed with a risk mandate that appears to be consistent with his wider circumstances and his attitude to risk. Optically large unrealised capital gains within the portfolio were to be managed utilising Mr W's capital gains allowances and then the portfolio was to be re-balanced in line with the agreed risk mandate to then also provide Mr W with an income. As part of the arrangement, an ISA would be fed from the general investment account for tax efficiency.

Given all of this, I'm satisfied this was all suitable for Mr W and Magenta didn't act unreasonably in respect of the transfer. (As an aside, I think it's also worth bearing in mind that the portfolio has performed reasonably well, such that it's quite possible that the sort of benchmark comparison recommended by the investigator might well in any event show no loss).

In respect of the other issue, the ongoing advice services and the charges made for it, as noted, the investigator recommended that those relating to 2020 and 2022 should be refunded to Mr W as she couldn't see that the service was provided to him during those years.

Mr W was first advised by Magenta in May 2017. At that point he opted for Magenta's ongoing service, which was described in its Client Agreement and Engagement Document. This set out a fairly comprehensive description of what should be expected –

- structured reviews to give you peace of mind
- an assessment of your circumstances and any changes to your plans that are needed
- regular updates and information regarding your holdings
- a choice of differing levels of support depending on your needs
- ongoing support with correspondence and administration issues

There was also a description of what was referred to as the Managed Portfolio Service option, which was what it appears Mr W signed up for, that included an offer of an annual review by telephone, email, post or face to face meeting and an annual reassessment of objectives, risk profile and asset allocation.

Looking at the interaction between Magenta and Mr W during the period in question I've not seen that there were regular reassessments of his investments and circumstances completed as a standalone service, separate and distinct to the provision of new advice and products and general administration.

In 2018, I've seen no evidence that an annual review took place. I note there was a phone call in the November, but that was some 18 months after the initial recommendation and there was nothing more that year other than the provision of some valuations.

In 2019 there was clearly a greater level of interaction between Magenta and Mr W but that related to the portfolio transfer, effectively new business for which it was remunerated separately.

Again in 2020, while there was contact and the transfer of the Mr W's older bond to Magenta's servicing, there's no evidence of a review.

In 2021 there was general administration and the further ISA transfer recommendation. But again, that was remunerated separately.

In 2022 there was various correspondence regarding Mr W's wife's passing and the transfer of her portfolio to Mr W. But there doesn't appear to have been a review of his investments as a whole and their ongoing suitability. That review effectively fell into 2023 in January, but again it formed part of a new recommendation, opposed to forming a standalone piece of work. As noted, the relationship then ended mid-2023.

Looking at the record of interaction between Magenta and Mr W between 2018 and 2023, as I say, I don't think it demonstrates an efficiently managed regular review process taking place, one that sat separately alongside advice and work done on new recommendations. But equally, it's certainly not a case of Mr W being ignored or no service whatsoever being provided. Indeed, I think it's fair to say that Magenta provided a reasonable level of general administrative help and support, in addition to that relating directly to new recommendations. I think it's also worth noting that at the end of the relationship in May 2023 Mr W emailed his adviser at Magenta to express his gratitude for the work that had been done for him, highlighting in particular the portfolio transfer. He said, "I have learnt to regard you not only as my skilled adviser but also as my friend."

Given this background, I'm minded to find that the solution proposed by the investigator to address the OAC issue is broadly fair in all the circumstances.

My provisional findings overall can therefore be summarised as Magenta –

- acted reasonably in respect of Mr W's estate planning.*
- acted reasonably in respect of the transfer of Mr W's US portfolio.*
- failed to provide Mr W with consistently comprehensive ongoing advice service as set out in its agreement with Mr W, particular in 2020 and 2022.*

To put things right, I think it's fair and reasonable that all fees charged and applied to the relevant products in respect of 2020 and 2022 be refunded.

These amounts should be adjusted for growth had the fees remained in the products, from the date the fees were deducted to the date of my final decision.

The compensation amount should be paid into the relevant products where possible. However, if it's not possible to do so – for example if a payment into an ISA would mean Mr W exceeds his annual ISA contribution allowance, the compensation should instead be paid directly to Mr W as a lump sum.”

Mrs W didn't accept my provisional decision. She said, in brief –

- She was fully aware of all compliance legislation and FCA governance and found it very hard to accept that I thought Magenta was compliant when dealing with an 87-year-old man with poor sight and deafness (though his mind was still working well for his age).
- A financial adviser should oversee and manage in a holistic way all aspects of a customer's tax planning, cash flow, financial objectives, IHT and make them aware of this and what they can and can't do moving forwards. They should be made aware of their IHT liability and given choices regarding what they can do. Magenta failed in this in every way.
- Magenta didn't provide annual review reports and what little they did provide wasn't compliant. An adviser shouldn't cherry pick what they decide to advise on and ignore other matters, but the provisional decision hadn't grasped this.
- Mr W said IHT wasn't important as he wasn't aware of what the liability was, and she couldn't understand why I hadn't picked up on this.

Magenta also didn't accept the provisional decision, saying, in brief –

- I'd acknowledged the level of service, administration and new recommendations that Magenta had appropriately offered over the years to Mr W. However, it wanted to reiterate the continuing level of ongoing service, as in other years, provided throughout 2020 and 2022.
- 2020 was an unprecedented year, during which Covid meant operating under new criteria. Mr W and Magenta regularly communicated as I'd acknowledged, by email and telephone, and he was provided with an incredibly supportive and reassuring financial service. It was ensured that postal valuations were sent to Mr W by relevant providers along with Magenta communicating valuations to him in telephone conversation and regularly discussing his affairs. So, Magenta provided the service he required and wished for to meet his objectives in 2020.
- With regards to the 2022 review, as stated before, Mr W didn't want this meeting to take place in late 2022. He was still settling his late wife's affairs and taking onboard information and advice from his solicitor. Hence it was agreed that the review would take place as early as possible in 2023 when all information could be assimilated and decisions affecting his financial affairs would be appropriate. There was a lengthy 'face to face' meeting in January 2023 and it's unclear why a review of Mr W's investments at the beginning of this meeting could not be considered a 'standalone' service prior to taking onboard new information before making an appropriate recommendation.

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, while I recognise it will come as a disappointment to both parties, I've not been persuaded to change my opinion.

I've noted Mrs W's comments but remain of the view that the evidence supports Mr W's IHT liability having been raised and discussed with him. As I said before, as he didn't take any action when informed of this significant potential large bill, I'm not persuaded that had Magenta pushed further on the issue Mr W would've responded or acted differently. Ultimately, it was for him to decide how he wished to manage his finances and I'm satisfied, on balance, that he was confident and able in doing so.

In respect of the ongoing advice situation, I've noted Magenta's further comments. I did stress in my provisional decision that I was satisfied there was continuing communication between Magenta and Mr W, even during the two years in question, 2020 and 2022. Mr W wasn't ignored or no service whatsoever provided to him – there was a reasonable level of general administrative help and support, in addition to that relating directly to new recommendations.

But I also said that looking at the record of interaction between them across the whole period, 2018 and 2023, I nevertheless didn't think it demonstrated a structured, efficiently managed regular review process taking place.

I do appreciate Magenta's points, particularly given the impact of the pandemic right in the middle of the period in question. It is a finely balanced issue. But in all the circumstances I still think the compensation originally proposed by the investigator represents a pragmatic, fair and reasonable way in which to address the concerns raised by Mrs W on Mr W's behalf regarding the ongoing service.

Putting things right

To put things right, I satisfied it's fair and reasonable that all ongoing advice charges applied to the relevant products in respect of 2020 and 2022 be refunded.

These amounts should be adjusted for growth that would've been achieved had the fees remained in the products, from the date the fees were deducted to the date of this final decision.

The compensation amount should be paid into the relevant products where possible. However, if it's not possible to do so – for example, if a payment into an ISA would mean Mr W exceeds his annual ISA contribution allowance – the compensation should instead be paid directly to Mr W as a lump sum.

My final decision

For the reasons given, my final decision is that the complaint should be upheld in part, and I direct Magenta Financial Services Limited to pay redress to Mr W as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 11 February 2026.

James Harris
Ombudsman