

## The complaint

Mrs C complains the advice given by Mercer Limited in relation to her pension was unsuitable, and that the fee she was charged should at least be partly refunded.

## What happened

When Mrs C turned 65 she wanted financial advice about the best way to take benefits from her workplace pension. Through previous contacts she was introduced to Mr L from Mercer Private Wealth (“MPW”), a trading name of Mercer Limited.

In November 2023 the adviser completed a fact find of Mrs C’s financial circumstances and objectives, which recorded that she was divorced with no dependents, and since retiring in 2011 had been living off her savings. She had inherited her late mother’s property, which once renovated would become her main residence, and she’d then sell her own property, generating around £300,000.

Mrs C was a deferred member of her workplace defined contribution group personal pension (“GPP”) from her employment with company “P”, valued at around £459,635, invested in the Zurich Mercer drawdown fund. It had a Guaranteed Minimum Pension (“GMP”), which arose from contracting out of SERPS, and came with an enhanced pension commencement lump sum (“PCLS”) percentage of 28.5%. According to the fact find, Mrs C’s monthly outgoings were £1,100 (£500 for living expenses and £600 to cover running two properties), but this would substantially reduce once the second property was sold, and she’d shortly be eligible to receive the basic state pension. Her risk profile was assessed as 4/10 (cautious to moderate).

The adviser explained MPW’s advice fee was usually 1.95% of the sum to be invested, but he offered Mrs C a discounted fixed fee of £5,000, reduced to £3,750 if she decided not to proceed with the recommendation. Mrs C signed the agreement on 15 November 2023, ticking the box to say she wanted “*Retained*” (ongoing) financial advice, at a cost of 0.75% per year.

The advice process was slightly delayed due to the scheme administrators issuing incorrect illustrations which omitted the GMP. As this is a safeguarded benefit which increases the complexity of the advice, the adviser told Mrs C the fee would need to increase, although it would still be less than MPW’s usual 1.95% charge. Mrs C reluctantly signed a new fee agreement on 30 January 2024 for £7,500 (reduced to £5,625 if she chose not to proceed). On this agreement Mrs C ticked the box to indicate she wanted “*On Demand*” (rather than “*Retained*”) financial advice.

The adviser sent Mrs C a suitability report dated 19 February 2024, which recommended she transfer her GPP to a self-invested personal pension (“SIPP”) on Aegon’s Cofunds platform. Rather than take full benefits he recommended she crystallise roughly a quarter of the plan value, from which she could release 25% tax-free cash to carry out the home improvements she intended, and use the remaining around £119,000 of the crystallised portion to purchase a Mercer annuity. This would provide a secure annual income for life of just over £8,105, which together with her basic state pension entitlement would cover her

current outgoings (which would reduce once the second property was sold). And the uncrystallised balance of around £300,000 would be invested in a flexi-access drawdown plan in Mercer Multi-Asset funds (70% moderate, 30% defensive) in line with her cautious attitude to risk (“ATR”), on Aegon’s platform. This together with the property sale proceeds in due course would be used to meet ad hoc expenses (such as holidays and hobbies). The combination of annuity and drawdown plan reflected Mrs C’s caution about being exposed to investment risk, but the adviser calculated her fund would only need growth of 0.72% to provide the same return as her existing plan which he felt was realistic. Due to the default spouse pension within the GMP, the adviser didn’t recommend Mrs C take benefits from her workplace scheme. But for completeness he did set out the available annuity options, which provided a range of incomes from over £28,000 to under £14,000 depending on lump sum and indexing.

Mrs C didn’t think the annuity income proposed by the adviser was sufficient to live on, she worried about incurring fees for regular withdrawals, and the impact of charges on investment performance. But despite further information and explanations provided by the adviser about the recommendation, Mrs C decided to reject the advice and took annuities direct from her workplace scheme. While this process was ongoing, she received no further contact from Mr L and had to manage everything herself.

In April 2024 MPW sent Mrs C its invoice for £5,625, being the reduced figure for advice being provided but not followed. Mrs C said she didn’t receive this, but she reluctantly paid the chaser received in August. She then complained to MPW about the quality of the advice, the lack of support and the increase in the fee from what she’d originally agreed. She’d been without income during the three months between the advice meeting and the report being available and had been left to drive the process. She felt the report contained errors, and ought to have been peer reviewed, and the assumptions about her objectives were wrong and hadn’t been checked with her. She didn’t understand the fee increase as the adviser had always known about the GMP, and she hadn’t expected to be charged until after her annuity was set up.

MPW responded to the complaint in October 2024 but didn’t uphold it. In summary they maintained the advice had been suitable, and they were entitled to charge the fee which Mrs C had agreed to before receiving the advice.

So in April 2025 Mrs C referred her complaint to this service, but our investigator didn’t uphold it, saying the advice was suitable and the fees were clear. So Mrs C asked for an ombudsman’s decision. She suggested MPW refund £1,875, being the difference between the original agreed fee of £3,750 and £5,625 that she paid.

Mrs C also raised a separate complaint about delays and poor service in relation to setting up her annuity, which is not part of this complaint against MPW.

### *Provisional findings*

I issued a provisional decision in December 2025 setting out why I agreed with the investigator’s conclusions for broadly the same reasons, but I wanted to address some of Mrs C’s additional points.

I explained my role wasn’t to decide what would’ve been the best possible advice for Mrs C, but to say whether the advice provided by MPW was unsuitable, and whether it was fair for Mrs C to pay the increased fee for that advice.

I set out the relevant sections of the regulatory framework an adviser must follow, particularly that they must act in their client’s best interests, communicate in a way

which is clear, fair and not misleading, and that any recommendation must be suitable taking into account the client's circumstances and objectives.

I also referred to the 2009 report issued by the then regulator the Financial Services Authority ("FSA") on the quality of advice in relation to pension switching, which highlighted four areas where consumers had lost out. These included switching to a more expensive plan or the loss of guaranteed benefits (such as a GMP) without good reason, or to a plan which didn't match their attitude to risk or capacity for loss.

I appreciated the significance of the decision Mrs C was making, after years of living quite frugally while looking after her mother. And that she found it difficult to decide between the security and certainty of her workplace scheme and the flexibility but additional complexity and risk of MPW's recommendation.

But I agreed with the investigator that MPW's advice was broadly suitable, as it appeared to meet Mrs C's objectives without exposing her to excessive risk. Crystallising just a quarter of the plan enabled Mrs C to release a tax-free lump sum sufficient to cover the home improvements she intended. Purchasing an annuity with the balance of that portion together with her State Pension entitlement appeared to cover her stated living expenses, which she expected to halve once her property was sold. And investing the remainder of around £300,000 together with a similar amount from the property sale in due course in a drawdown plan, balanced her wish for security with the flexibility to take withdrawals as required to supplement her income to enjoy her retirement.

The adviser had explained the charges for a drawdown plan would be higher, but it offered flexibility not available from her workplace scheme. Also Mrs C had indicated on the replacement fee agreement that she now wanted the "*on demand*" rather than the "*retained*" or on-going advice service, so those charges wouldn't apply. Although the risk rating isn't noted, as her workplace GPP was a defined contribution scheme it would've been subject to some risk. And I'd seen nothing to suggest the recommended investments weren't in line with her cautious 4/10 ATR, and the risk would be mitigated by having an additional £300,000 from the house sale, and her reduced outgoings once she wasn't responsible for two properties.

Mrs C ultimately decided to reject the advice and take annuities direct from the GPP, releasing her full tax-free cash entitlement. This option provided the security and certainty she wanted, but I thought the adviser setting out her options so clearly had helped her reach a decision, even if she didn't follow his recommendation.

In relation to the advice fee, although it was unfortunate the had adviser initially quoted the wrong figure, I was satisfied the revised fixed fee was still significantly below MPW's usual 1.95% charge (of around £8,900) with a further reduction should she decide not to proceed with the recommendation. I thought this was fair, as an advising firm has to carry out significant work, which they are entitled to charge for, whether the client follows the advice or not. Mrs C was notified of the correct charge prior to the advice being given, allowing her the opportunity to say no, and to seek advice elsewhere if she wished. Even if it's true that MPW had been aware since 2019 her plan came with a GMP, that doesn't mean they are obliged to honour the lower fee. Because if things had happened as they should, Mrs C would've been notified of the higher fee (of £7,500 reduced to £5,625) from the outset, and she always knew she'd have to pay for the advice even if she chose not to follow it.

I wasn't persuaded Mrs C was pressurised to sign the new agreement, as she confirmed she dealt with the adviser by phone and email rather than in person. Had

she not signed and returned the revised agreement no advice would've been given, and she'd have owed nothing. But she did sign the agreement in January 2024, and it was only after it had been received by MPW did she receive their advice. It's clear Mrs C wrestled with the decision, was uncomfortable with risk, and changed her mind about wanting ongoing advice. But MPW had fulfilled its agreement and provided a professional service which Mrs C was liable to pay for, whether she followed it or not. So I thought it was fair of MPW to invoice Mrs C for the outstanding balance, and I didn't think they needed to refund the difference between the fee she paid and the original fee she was offered in error.

I also addressed some additional points which weren't covered in the investigator's view. It wasn't clear exactly what Mrs C felt had been misrepresented in the suitability report, which was based on information the adviser had recorded in the fact find during his initial meeting with Mrs C. But I didn't think minor details such as mixing up hers and her mother's property meant the advice was unsuitable. And I said the way Mrs C referred to the two properties herself may have contributed to the confusion.

The adviser hadn't suggested the annuity income alone was sufficient for Mrs C to live on, as the recommendation took into account she'd also have access to a tax-free lump sum of almost £40,000, her State Pension entitlement and a drawdown plan of around £300,000. Plus in due course a similar amount arising from the sale of her property, at which point she expected her outgoings to significantly reduce. I didn't think it was unusual for a suitability report to be somewhat templated, and I didn't think it had omitted the drawdown plan and how it would be invested. And although it wasn't a priority for Mrs C, I didn't think it was wrong for an adviser to explain the inheritance tax implications of taking benefits that weren't needed, including the full tax-free cash entitlement, should a client die early in retirement. Similarly, the adviser ensured she understood the GMP provided for a default spouse pension, which didn't benefit her. I said it was reasonable for an adviser to provide factual information of this nature, to ensure Mrs C was making a fully informed decision.

Like the investigator I didn't feel the time taken to produce the report was excessive, and some of the delay was caused by the scheme administrators, so outside of MPW's control. Mrs C said she'd been without income during this period, but I couldn't see she'd specified any particular timescale or urgency to the adviser, and the fact find noted she still had some savings.

I thought MPW could've managed Mrs C's expectations about the adviser's role better, as she appears to have assumed Mr L would continue to act for her after she had rejected his advice and decided to take benefits direct from her workplace scheme. The fee was for a specific piece of advice which was provided in February 2024, and not for ongoing support. Even if Mrs C had accepted the recommendation, she'd ticked the "*on demand*" rather than "*retained*" box on the fee agreement, so MPW wasn't obliged to assist her further.

So overall while I appreciated Mrs C would be disappointed, I was satisfied the advice she received was suitable, and that MPW was entitled to charge for it.

#### *Responses to the provisional decision*

MPW didn't provide any further comments.

Mrs C made the following points (in summary).

- While she didn't agree with the outcome, she appreciated the consideration of her complaint by the investigator and ombudsman.
- Her mother's house ("B") valued at around £325,000 requires some modernisation. The adviser appears to have understood she also required funds to refurbish her own property ("S") which is incorrect. The sale of S is likely to generate around £650,000 leaving around £625,000 available to invest. Mrs C confirmed she actually lives in her mother's property but considers "S" to be her main residence.
- She reiterated that MPW had always known about the GMP so didn't understand why she was initially charged the wrong fee. She changed to the "*on demand*" service as her trust in the adviser had been eroded.
- Once she expressed doubts she felt the adviser lost interest, and didn't respond to all her concerns. She thought some of his emails had been rushed and unprofessional.
- She confirmed she had no face-to-face contact with the adviser, and had actually declined a meeting in case she was pressurised into something she was unsure of.
- She still felt the report should've been more carefully reviewed before it was sent to her. And she didn't think it had properly reflected the £300,000 drawdown plan, as it wasn't mentioned in the "*Executive Summary*" section.
- She was unhappy with MPW's service as the adviser hadn't taken the time to ensure she was happy, he didn't explain things properly and the report was overly complicated.
- Although she'll have funds to invest from the sale of her property it's unlikely she'll seek financial advice in the future.

So I'm now in a position to issue the 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.

I've read Mrs C's comments carefully, but I'm afraid they haven't changed my mind. It's disappointing she felt unsupported, and that the adviser didn't explain things clearly and she found the report difficult to understand. But I still think the adviser's recommendation was broadly suitable as it aimed to give Mrs C the best of both worlds, providing security of income from an annuity, enabling her to access sufficient funds to enhance her standard of living while allowing the bulk of her pension to remain invested for future growth as she didn't really need to take full benefits immediately.

Mrs C says the adviser misunderstood her situation, and she hadn't planned to spend around £15,000 refurbishing her own property prior to sale. But if that's the case, she had even less need to release the full amount of tax-free cash immediately, and a drawdown plan plus the property sale proceeds would've provided flexibility while leaving her funds invested for the future. Ultimately I think Mrs C's rejection of MPW's recommendation was due to anxiety about her pension being subject to investment risk (even though this had been the case with her workplace plan) plus the impact of higher charges. So she opted for the security and certainty of taking annuities from her workplace plan, which did secure the higher tax-free cash percentage. While I've not seen all the communications between them, I

think the adviser did set out Mrs C's best available options, and that a larger lump sum and higher increments will mean a lower starting income. While she didn't follow his recommendation, I think the advice helped her make a decision, and she was obliged to pay for the advice she received, whether she accepted it or not.

It may be the case that Mr L had always been aware Mrs C's workplace plan included a GMP. But he may not have realised the additional complexity of factoring the GMP into the advice, meant he shouldn't have offered such a low fixed fee. If he had taken that into account from the outset Mrs C would always have been told she'd be charged £7,500, or £5,625 if she didn't proceed with the recommendation. Even if she did so reluctantly, Mrs C did sign to confirm her agreement to the fee before the advice was given. So I don't agree MPW should honour the lower fee or refund the difference. And Mrs C declined the ongoing advice option, so I don't think MPW was obliged to assist her in accessing benefits from her workplace scheme.

If Mrs C does need financial advice in the future, perhaps to invest her property sale proceeds, she could consult [www.Moneyhelper.org](http://www.Moneyhelper.org) and [www.unbiased.co.uk](http://www.unbiased.co.uk)

### **My final decision**

I don't uphold this complaint.

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

Sarah Milne  
**Ombudsman**