

The complaint

Mr C complains that Bruce Bennett, trading as bfm, ('BB') has not provided ongoing advice and regular reviews of his pension despite receiving regular fees to do so.

What happened

Mr C holds a pension with a provider that I'll call 'Firm N'. The pension was opened in 2011. A different regulated business recommended Mr C open the pension and a product illustration from the time shows a financial adviser working for that other business, who I'll call 'Adviser Y', was the one who advised him. The illustration confirmed that ongoing advice fees of 0.75% of the value of the pension fund would be payable each year.

I understand Adviser Y left the regulated business they were previously working for and introduced Mr C to BB in 2016. BB has separately confirmed that it entered into an agreement with Adviser Y, who was by that time unregulated, in 2016 that they would act as an introducer to BB.

On 27 September 2016, Mr C signed a letter of authority addressed to Firm N, asking it to transfer "*full servicing rights together with any ongoing adviser remuneration and adviser charging*" to BB. And Mr C's complaint is that BB has failed to provide the agreed ongoing services since that then, until he moved to a different adviser in early 2025.

BB disputed that we could consider all of Mr C's complaint. And I previously issued a decision in relation to our jurisdiction, finding that we could only consider part of Mr C's complaint – whether the services Mr C paid BB for from 8 January 2019 onwards had been provided or not. With that in mind, I've only summarised below relevant events from 8 January 2019 onwards.

In November 2019, Mr C withdrew £5,000 in tax-free cash ('TFC') from his pension. I can see that he had email correspondence with BB about this, he signed a withdrawal form and BB wrote to him on 19 November 2019, confirming the withdrawal was being processed.

I've seen copies of emails between Mr C and BB in March 2020 (the early stages of the pandemic) in which he explained that he wanted to temporarily reduce the contributions he was making to his pension. Several further changes to contributions were made over the months following this, with Mr C informing BB via email. I can see during the same exchanges BB assisted Mr C in accessing Firm N's online portal and answered some general queries he had, including about what would happen to his pension funds in the event of his death.

In September 2021, BB wrote to Mr C with a quarterly summary of his pension and recommended some changes to his investments. The letter referred to the reasons for the changes being input from a third-party business and events in the global economy.

In February 2023, Mr C asked to withdraw a further £10,000 of TFC. BB sent Mr C the relevant forms to process this which he signed and returned.

I've seen a copy of an email on 16 March 2023 in which BB provided Mr C another quarterly summary of his pension investments. The email said there were adjustments to be made and asked Mr C to confirm if he was happy to go ahead with these. Mr C replied confirming he was. And I can see a similar exchange took place in September 2023.

A further withdrawal of TFC was requested via email in October 2023, with BB again providing Mr C the relevant forms required by Firm N to process this, which he completed and returned. And I understand another partial withdrawal of TFC was completed around April 2024.

In September 2024, Mr C again requested a payment of TFC. BB explained in the following email exchange that the amount he'd requested exceeded his remaining TFC allowance. BB answered follow up questions Mr C had via email. And a withdrawal was subsequently arranged, part of which was taxable income, with BB again sending the relevant forms to Mr C.

On 6 January 2025, Mr C emailed BB to say he was in the process of switching advisers. He said his new adviser had been surprised to learn he hadn't been receiving annual reviews and Mr C asked BB whether he should have been under their agreement. BB replied noting that there had been regular email correspondence and Mr C's pension had performed well. It said there had previously been some dialogue about face-to-face meetings, but it acknowledged these had not happened.

Mr C replied on 8 January 2025 acknowledging there had been email correspondence over the years and stating that he didn't have concerns about the performance of his pension. But he wanted to complain that despite paying regular fees he hadn't received any reviews or advice from BB over the years. He noted that this had, amongst other things, meant he hadn't understood the TFC allowance of his pension.

BB didn't uphold the complaint. It said that Mr C had been receiving its 'bespoke rebalancing service' with quarterly reports and rebalancing suggestions being provided. And there had been regular email contact between the parties. So, it didn't agree that Mr C had not received an ongoing service.

Mr C referred his complaint to our Service. In its response to our service BB provided us with additional information about an ongoing dispute it had with Adviser Y which it said had resulted in it only having access to limited information. It also said that Adviser Y was supposed to have assisted with the provision of ongoing services.

One of our Investigator's looked into the complaint. They thought it should be upheld as they couldn't see that BB had provided Mr C the agreed ongoing advice. So, they thought all fees charged for ongoing advice in respect of services due since 8 January 2019 should be refunded. BB disagreed with our Investigator.

I issued a provisional decision in January 2026 explaining that I thought Mr C's complaint should be upheld but that I thought a fair and reasonable outcome was for 80% of the fees he'd paid to be refunded, as he'd received some support from BB with his pension. Below are extracts from my provisional findings, explaining why, which form part of my final decision.

In 2014, the FCA produced guidance in the form of a factsheet titled "For Investment advisers - Setting out what we require from advisers on how they charge their clients". The factsheet said:

"Ongoing charges should only be levied where a consumer is paying for ongoing service,

such as a performance review of their investments, or where the product is a regular payment one. If you are providing an ongoing service, you should clearly confirm the details of the ongoing service, any associated charges and how the client can cancel it. This can be written or orally disclosed. You must ensure you have robust systems and controls in place to make sure your clients receive the ongoing service you have committed to.”

The factsheet, published in late 2014, didn’t mark a change to the rules firms like BB were already expected to follow. Rather it re-enforced or reminded firms of the standards already in place when providing on-going advice services, which were covered in COBS.

COBS 6.1A.22 says:

“A firm must not use an adviser charge which is structured to be payable by the retail client over a period of time unless (1) or (2) applies:

(1) the adviser charge is in respect of an ongoing service for the provision of personal recommendations or related services and:

(a) the firm has disclosed that service along with the adviser charge; and

(b) the retail client is provided with a right to cancel the ongoing service, which must be reasonable in all the circumstances, without penalty and without requiring the retail client to give any reason; or

(2) the adviser charge relates to a retail investment product or a pension transfer, pension conversion or pension opt-out or arrangement with an operator of an electronic system in relation to lending for which an instruction from the retail client for regular payments is in place and the firm has disclosed that no ongoing personal recommendations or service will be provided.”

I’ve been provided a copy of the agreement between Mr C and BB (the version from January 2018). This was titled “Service and Payment Agreement – Advised Services”. This included a section about the services which BB agreed to provide. It said Mr C had asked it to provide “ongoing services as part of our advised service offering”. And it said Mr C had elected to receive ongoing service which would include BB contacting him “at least every 12 months to offer you a meeting to review your current circumstances, needs and objectives. During this review we will also provide you with a summary (either verbally or in writing) of the performance status of the policies and investments on which we provided you with initial advice. If you specifically ask us to do so, we may review the ongoing suitability of other policies or investments which were not part of our initial advice and an additional payment may be agreed for this. If we recommend any changes we will implement them with your agreement.” The agreement also said that BB would “provide you with telephone and e-mail support if you need it”.

In my view, this set out the service Mr C should expect to receive quite clearly. The service was described several times as being ‘advised’. And the ongoing service, although including the offer of general support, primarily involved BB contacting Mr C to provide a review at least every twelve months – which is consistent with what the relevant rules I’ve referenced required.

Mr C says he didn’t receive any advice or annual reviews from BB. And I haven’t seen or been provided any evidence of annual reviews having been conducted by BB with Mr C. BB hasn’t evidenced – through information such as emails, diary entries or telephone notes – that any of its advisers held meetings (either in person or virtually) with Mr C to carry out annual reviews. And nor have I seen evidence that these were offered but declined. BB

hasn't evidenced any fact-finds being completed with Mr C in order for it to understand his circumstances (and any changes to those) each year, nor any assessment or re-assessment of his attitude to risk. None of the quarterly statements or other correspondence that I've seen demonstrated any analysis of Mr C's pension and whether this remained suitable for him, based on his specific circumstances. And I haven't seen any evidence of the results of a review having been communicated to Mr C. So, it appears BB has not carried out annual reviews with Mr C.

BB has referred to there being evidence of it trying to arrange meetings with Mr C. But I haven't seen evidence of this from 8 January 2019 onwards. I've seen copies of emails prior to the period of time I'm considering – in 2017 and 2018, where the possibility of meeting face to face was mentioned. But even then, there was no proposal of a specific date or time in any of those messages from BB. And this wasn't taken any further. So, I don't agree that Mr C has declined attempts to conduct reviews.

BB has also provided us with information and commentary about its previous relationship, and ongoing dispute, with Adviser Y. It has said that this has affected its ability to provide information to support its position in respect of the complaint – as Adviser Y retained relevant information after their agreement ended. And it has said Adviser Y was involved in the provision of ongoing services.

I've seen template information BB sent to customers which were introduced to it by Adviser Y. This said that Adviser Y would be working with BB to "maintain continuity". But Adviser Y was unregulated. The instruction Mr C gave Firm N in 2016 was to transfer servicing rights to BB alone. And the agreement about ongoing services was between BB and Mr C – Adviser Y was not a party to the contract.

Any commercial decision BB made to engage with or outsource services to an unregulated third party, and any contract it entered into with that third party to that effect, doesn't change the fact that BB, as the regulated entity, was the party which had the contract with Mr C. And BB was responsible for providing the contracted services to Mr C, for which it was being paid. These were described as 'advised services' and primarily involved annual reviews. Advice and those reviews – which were to look at Mr C's "current circumstances, needs and objectives" – required an assessment of the ongoing suitability of the products Mr C held. Any such assessment and personal recommendation (advice) required an adviser to be regulated and hold the relevant FCA permissions. And again, Adviser Y didn't hold these permissions. So, any annual reviews provided under BB's 'advised service' needed to be conducted and carried out by BB.

As the regulated advising business, BB needed to have robust systems in place to ensure reviews happened and were documented – not least because when the subsequent review took place this information would be required for comparison. It isn't clear why records of any reviews, which for the reasons I've explained should have been carried out by BB, the regulated party, were apparently, as BB suggests, held with Adviser Y, the unregulated introducer. But whatever the reason for the decision that was taken about data retention though, we are an evidenced based service. And BB hasn't been able to provide evidence that it carried out annual reviews with Mr C – something it should be able to demonstrate.

Taking all of this into account, based on what I've seen I can't reasonably say that BB has provided Mr C the core element of the ongoing service that the agreement between the parties outlined. And so, a refund of the amounts he paid for this service, would in my view be fair.

Mr C has said that, because he didn't receive advice, he made choices in respect of his pension, such as taking TFC, without fully understanding them. And he might have acted

differently. While I've taken on board Mr C's comments – particularly that he misunderstood his TFC allowance – I don't think it'd be fair, in this case, to say BB is responsible for that. I've seen no evidence that it gave him incorrect information about his TFC allowance. I also can't be certain even with additional information, that Mr C would necessarily have acted differently. And while, as I've said, BB hasn't done what it ought to have in terms of providing regular advice, Mr C did have an ongoing dialogue with BB and had the option of taking the initiative and asking for advice. And so that is why, in the circumstances, I think a refund of fees for the services not received is the most appropriate resolution.

BB said in its response to Mr C's complaint that he'd benefitted from its 'quarterly rebalancing service'. And as I've said I've seen examples of quarterly statements being issued to Mr C, where changes to the way and balance of how his pension was invested being suggested. But the agreement around ongoing services between Mr C and BB didn't refer to these summaries and this 'rebalancing exercise' as forming part of the service to be provided. And I've seen no evidence of the agreement between the parties having been altered to replace the agreed annual reviews with this quarterly exercise.

I also don't think the quarterly rebalancing suggestions can fairly be said to represent advice (ongoing or otherwise) based on Mr C's personal circumstances. I've been provided no evidence of BB undertaking fact-finds or other information gathering to understand Mr C's circumstances before these summaries were issued. I also note that the letter BB sent to Mr C alongside his September 2021 quarterly summary indicated it was a 'highly regarded' third party business that determined whether portfolios should be rebalanced. And even where changes to investments were suggested, these appear to have been stock changes to investments and portfolios for all customers, based on economic conditions and their impact on markets in general rather than being specific to Mr C.

BB has questioned the fairness of a refund of fees as Mr C has received this quarterly rebalancing service. But again, I can't see that this was something that Mr C asked for or agreed to, either alongside or in place of the ongoing annual reviews and advice. So, I don't think it would be fair to retrospectively attempt to apply and attribute a cost, from the fees charged, to this service, as one was not agreed.

It is true though that there has been other correspondence between Mr C and BB over the years. In particular it has provided him with administrative support in respect of changes to the level of contributions he was making when he needed to vary this and arranging the completion of the relevant documents for withdrawals from the pension.

As I mentioned, part of the description of the ongoing advised service was that BB would provide email support where needed. Which it does appear to have done.

I will say that I don't think making email support available, generally, would be enough for a business to say that it has provided the service it had agreed with a customer in respect of ongoing fees. I think it's reasonable to expect all businesses charging ongoing fees to carry on a relationship with a customer, to have a dedicated way for that customer to contact them.

Nevertheless though, in the specific circumstances of Mr C's complaint, I can see that he has made use of that support regularly. None of the support that BB provided Mr C here appears to have involved it providing him with any financial advice. Where withdrawals were requested for instance, there was no advice from BB that I can see about whether withdrawing from his pension was the most suitable option for him. But the support itself, around the administration of his pension, does in my view appear to have been a useful, and utilised, service for him.

I don't think this is enough to say that all of the agreed ongoing service was provided, or that all of the amounts paid should be retained by BB. As I've explained the evidence indicates that BB did not provide Mr C with advice (ongoing or otherwise). And this was, in my view, the core part of the agreed service. But as Mr C has received some support, which in his case I believe was useful, he has received some of the service that was agreed and paid for. So, I think it is fair that some of the fees he has paid be attributed to this. I appreciate this is different to what I said in respect of the quarterly rebalancing service but again that did not form part of the agreed services between the parties and that is the reason for this difference of approach.

The agreement doesn't attribute a value to the different parts of the ongoing service. So, I've thought about what is fair and reasonable. And, in the particular circumstances of Mr C's complaint, I think it'd be fair to attribute 20% of the fees charged to the support services he has received (and not paid for separately). So, I currently think a refund of 80% of all fees charged for services due after 8 January 2019 would be a fair and reasonable way to resolve this complaint.

Responses to my provisional decision

I gave both parties an opportunity to make further comments or send further information before I reached my final decision.

Mr C said he agreed with my provisional findings and felt that an 80% refund was fair.

BB did not respond to my provisional findings, to confirm whether it agreed or not, by the deadline given.

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.

As neither party have indicated they disagree with my provisional findings or provided further evidence for me to consider, I see no reason to depart from those findings. So, for the reasons explained above, while it has provided ongoing support to Mr C, I think BB has failed to provide the core part of the agreed ongoing service – annual reviews and advice - in respect of Mr C's pension. I think it is fair to take into account the administrative services that Mr C did receive. But I think the majority of the fees he has paid should be refunded. And so, as a result, BB should refund 80% of the fees Mr C paid for ongoing services.

Putting things right

BB should refund Mr C 80% of all fees that were charged to his pension in respect of ongoing advice services due from 8 January 2019 onwards.

Had these fees not been deducted, the funds would have benefitted from growth. So, when refunded, these amounts should be adjusted for growth had the fees remained in the pension (invested in the same way to the rest of the balance), from the date the fees were deducted to the date of my final decision.

The compensation amount should be paid into Mr C's pension if possible (Mr C has indicated he can provide BB with the relevant details).

However, if it is not possible to pay the compensation into Mr C's pension, for example if a doing so would conflict with any existing protection or allowance, the compensation should

instead be paid directly to Mr C as a lump sum.

If a lump sum payment is made to Mr C I think it's fair that BB can make a notional reduction to allow for future income tax that would otherwise have been paid when funds were drawn from the pension. Mr C has used his TFC allowance for the pension. So, the loss for which BB is compensating would have been taxed in full according to his likely income tax rate in retirement – presumed to be 20%. So, making a notional reduction of 20% from the loss (80% of the fees charged in the relevant period) adequately reflects this.

BB should provide details of the calculations of the redress to Mr C in a clear, simple format.

My final decision

For the reasons I've explained I uphold this complaint. To put matters right, Bruce Bennett, trading as bfm, should pay compensation as set out in methodology above

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 12 March 2026.

Ben Stoker
Ombudsman