

## **The complaint**

Mrs S has complained about the service provided by Openwork Limited trading as The Openwork Partnership ('Openwork') in respect of her pension and individual savings account ('ISA').

## **What happened**

Mrs S met with a financial adviser, who was a representative of Openwork, in early 2021. This resulted in her opening a Retirement Account – a type of personal pension – through the Advance platform in February 2021 and making a single contribution. Mrs S agreed to take the 'Private Client' service for an ongoing advice charge ('OAC') of 1%.

Mrs S received further advice in June 2021 where she was advised to transfer an existing ISA to an ISA on the Advance platform. She was also advised to transfer a number of existing pensions to the Retirement Account to consolidate her retirement funds. The OAC continued to apply to the Retirement Account and would also apply to her ISA.

Mrs S went on to make further contributions periodically until around January 2024.

In May 2024 Mrs S complained. She said that she was unhappy with the service provided by the adviser including a lack of communication. Mrs S explained she hadn't initially paid any advice fees to open the accounts or make additional contributions, but Openwork had then introduced a new charging structure at the point of her receiving advice in 2022 of 3% for initial advice, which she didn't feel she could turn down. She complained that Openwork then tried to change this again to 5%, when she received advice in late 2023, without any prior notice. But when she questioned this it remained at 3%. Mrs S didn't feel the adviser was being transparent about the fees payable. Also, on reflection, Mrs S didn't consider she'd received the ongoing advice service she was paying for.

Openwork didn't agree that the service had fallen short. It said any changes to the fee structure had been communicated to Mrs S in advance, and in any event, Mrs S had received five pieces of advice between February 2021 and April 2022 without any initial charge. Openwork was satisfied that annual reviews had been provided in April 2022 and May 2023. Mrs S remained unhappy and referred her complaint to the Financial Ombudsman Service.

The Investigator didn't uphold the complaint. He thought that the advice Mrs S had received was suitable and she'd received the ongoing service she'd paid for. The Investigator understood that Openwork had increased the cost of providing advice, but said this was a reasonable business decision and Mrs S had been informed of this.

Mrs S didn't accept the Investigator's view. She said she wasn't complaining about the original advice she'd received; rather she was unhappy with the way fees had been increased and presented to her at the point of the advice being delivered rather than beforehand. Mrs S said she wasn't able to provide informed consent to proceed with the advice. Mrs S also disputed that she received the ongoing service she'd been promised; instead, she received 'stock letters' after she'd asked to make further pension contributions.

Mrs S said no proactive reviews were provided; they were instead only delivered at her request. She also questioned whether the adviser ought to have recommended she make regular contributions to her pension rather than charge her each time for advice.

The Investigator wasn't persuaded to change his opinion so the complaint was passed to me to make a decision.

I issued a provisional decision on 28 January 2026. I explained I was satisfied that Mrs S had received the service she'd paid for in respect of her pension in the first year, but I wasn't satisfied that Openwork had provided the ongoing service, separate to the new advice Mrs S had started to pay for from July 2022. I also wasn't persuaded that Mrs S had received the ongoing service in respect of her ISA at all. I therefore recommended that Mrs S should receive a refund of OACs for these products over the period specified, plus a return on those fees had they remained invested. I also recommended that Openwork should pay Mrs S £100 for the distress and inconvenience caused by the adviser failing to communicate the change in fee structure in a timely manner.

Mrs S made some comments, including that she is a basic rate tax-payer and will continue to be in retirement. But she said she was happy with the decision.

Openwork didn't accept the provisional decision. It maintained that meetings took place and thought that there should be some payment for the service provided. Openwork said a fairer resolution would be to refund the difference between the cost of the report service, which was 0.75% and the private client service, which was 1%.

As both parties have responded I'm now providing my 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 considered the responses to my provisional decision but I'm not persuaded to change it. So, I've largely repeated my findings below, though I have addressed Openwork's comments as appropriate.

#### *Pension reviews*

When Mrs S opened the Advance Retirement Account she signed a fee agreement on 11 February 2021 agreeing to take the Private Client service for an OAC of 1%.

In the recommendation letter dated 4 February 2021 Openwork said:

*"We have agreed to meet twice yearly to review your portfolio and the performance of your assets, ensuring your investments remain suitable and continue to meet your needs. Details of the deductions made for the ongoing service will be shown in the Advance charging summary you receive each year.*

*I explained that a percentage of the total fees will be used to pay for the advice support services Openwork provides. Please refer to the signed Fee Agreement and Client Proposition brochure for full details of what this fee covers and any ongoing servicing commitment to you."*

I'm still satisfied that the service promised was delivered by Openwork in the first year. Mrs S and the adviser met in June 2021, where further advice was given, and in December 2021 and February 2022 when Mrs S wanted to make further contributions. Although it appears the contact between Mrs S and Openwork towards the end of the year was prompted by her desire to make additional contributions, I still think that the requirements of a review due by February 2022 were met. No fee was payable for one-off advice relating to contributions, so it seems to me that discussions about additional contributions formed part of the review service.

For the year between February 2022 and February 2023, Mrs S met the adviser twice. However, when they met in April 2022, the adviser explained they would meet annually (rather than twice yearly) to review the suitability of her investments. On this occasion Mrs S made an additional contribution, and no additional fee was payable. The letter demonstrates that Mrs S's attitude to risk and investment strategy was considered and Openwork confirmed it remained suitable. So, at that point, it seems to me that providing additional advice on top-ups was still part of the ongoing advice service.

In July 2022, Mrs S wanted to make another contribution. At this time however, the recommendation letter explained that new investments would attract a fee of 3% and would also be subject to the OAC of 1%. As such, from this point onwards, Mrs S would pay for new advice on any top-ups and pay an OAC. Based on what I've seen, from July 2022 onwards it seems that when Mrs S asked to make a further contribution to her pension, this was treated as a 'review' and what I would call 'templated' wording was included in the recommendation letters.

In the July 2022 letter, Openwork said:

*"We discussed whether there had been any changes to your personal or financial circumstances and objectives since our last review meeting. You confirmed that there haven't been any changes including any change in objective that has resulted in the recommendation of a new tax wrapper."*

### **Attitude to Risk**

*You agreed that your attitude to risk remains as Balanced, which is an appropriate description, considering the level of risk you are prepared to take with any investment you make..."*

### **...Investment solution**

*As there has been no change in your attitude to risk, we agreed that you would continue to invest in the fund I previously recommended to meet your investment strategy and objectives. This is the Royal London Sustainable World Trust Fund.*

*You should refer to the fund information previously provided for details of the investment objectives and associated risks."*

The May 2023 letter, where another top-up was recommended, was virtually identical and said:

*"We discussed whether there had been any changes to your personal or financial circumstances and objectives since our last review meeting. You confirmed that there haven't been any changes."*

### **Attitude to Risk**

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***“...Investment solution***

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*You should refer to the fund information previously provided for details of the investment objectives and associated risks.”*

The January 2024 letter, where again a top-up was recommended, said:

***“Your aims & objectives***

*We discussed whether there had been any changes to your personal or financial circumstances and objectives.*

*You confirmed there have not been any changes.*

***Attitude to Risk***

*There has been no change in your attitude to risk and the level of risk you are prepared to take.”*

The letter later said that the adviser recommended she should invest the new monies in the fund previously recommended and that she should refer back to the original suitability report for full details of the recommendation.

I recognise the letters referred to above explain that Mrs S's attitude to risk and investment strategy hadn't changed so it was agreed that she would continue to invest in the same funds. However, I don't think that this can reasonably be viewed as Openwork providing the ongoing advice service separately to the new advice being given in respect of the contribution. I say this because no new fact-find was completed and no new attitude to risk assessment was carried out. The adviser may have asked Mrs S if anything had changed but without Mrs S knowing or understanding what might be considered significant enough of a change to mention, I don't think this was reasonable.

Based on what I've seen, I don't think that Openwork provided Mrs S with the ongoing advice service in respect of her pension from July 2022. Instead, Mrs S received advice to make further contributions to her pension in July 2022, December 2022, May 2023 and January 2024, which she paid for separately. I don't think it is fair to say that she received the ongoing advice service here when Openwork didn't engage with Mrs S to understand her current circumstances, carry out a new attitude to risk assessment or carry out a separate review looking back at her pension investments over the previous year.

I note that there is a fact-find from January 2024, however, this contains virtually the same information as the document completed in February 2021, including the same details of Mrs S's income from employment and her pension, outgoings and savings. Mrs S says that this seems to be a print-out of details captured in 2021 and confirmed that no fact-find was carried out in 2024. Given that the details within this document hadn't changed from those

recorded in 2021, I think it's more likely than not that a fact-find wasn't actually completed in 2024.

In light of this, I don't think it is fair for Openwork to retain the OACs Mrs S paid from July 2022 to the date she ended her service agreement with Openwork. I'm therefore requiring Openwork to refund them together with a return in line with a benchmark given that the monies would've remained invested and achieved growth had they not been deducted.

Openwork says that it would be fairer for the difference between the cost of the report service and the private client service to be refunded, given that the adviser did carry out some work and it is fair for it to be remunerated. But as I've explained above, I think the adviser was paid for the service he actually provided at the time, which was for the new advice he gave in respect of the top-ups. So, I still think it is fair to refund the full OACs taken from July 2022.

### *ISA reviews*

Mrs S was advised to transfer an existing ISA to an ISA on the Advance platform in June 2021. Mrs S would also pay an OAC of 1% for this account. The recommendation letter said that they had agreed to meet twice yearly to review her portfolio to ensure the investments remained suitable and continued to meet her needs.

I've considered this carefully but I still haven't seen any evidence to persuade me that Openwork provided the ongoing advice service to Mrs S in respect of her ISA. I appreciate that there were discussions between Mrs S and Openwork in December 2021, February 2022 and April 2022. And these discussions would've taken place during the time where I think top-up recommendations would've formed part of the ongoing advice service. But I've seen no evidence to demonstrate that Mrs S's ISA was considered at all. Each letter contains the following wording:

### ***"Individual Savings Account (ISA) Allowance***

*An Individual Savings Account is one of the most tax efficient investments available for you to invest in. You have not used your full ISA allowance for this year and £20,000 can still be used. Any unused ISA Allowance cannot be carried forward to the next tax year if it's not fully utilised."*

I'm not persuaded that including this templated wording in these letters demonstrates that Mrs S's ISA performance, investment selections or level of contributions was considered.

As I've outlined above, from July 2022 any new advice, including top-ups, would be subject to a charge of 3%. The July 2022 and May 2023 recommendation letters include the exact same ISA wording. The January 2024 recommendation letter doesn't mention the ISA at all. Again, there is no evidence to demonstrate that Mrs S's ISA was considered or reviewed at these times.

I'm aware that Mrs S was advised to make a contribution to her ISA in December 2022, although I haven't been provided with a recommendation letter. But by this time, Mrs S was paying for advice to make further contributions so I don't think that this evidences that the ongoing advice service was separately provided.

I don't think it would be fair for Openwork to retain any of the OACs Mrs S paid from her ISA. Based on the evidence I've seen, I'm still not persuaded that the service was delivered; Openwork didn't gather updated information about Mrs S's circumstances or objectives and no new attitude to risk assessment was carried out. As above, I don't think it is reasonable to

simply ask whether there has been a change; Mrs S was not the expert here and so she could not have been expected to know what change might be significant or understand whether her risk appetite had changed.

I'm therefore requiring Openwork to refund the OACs taken from the ISA since it was established, they should be refunded together with a return in line with a benchmark.

I've thought about what Openwork has said about it being fairer for the difference between the cost of the report service and the private client service being refunded instead, particularly as the adviser did not charge Mrs S a fee to set up the ISA in 2021. But ultimately Mrs S opted for the private client service, and she didn't receive that service for the ISA at all. I'm not persuaded that Mrs S would've been prepared to pay for the report service instead, given she would've been able to receive statements from the provider directly. So, I still think it is fair for Openwork to refund the full OACs.

### *Change of charging structure*

I accept that Mrs S was informed before the advice was actually implemented that she would pay an initial advice charge of 3% - it appears this was first introduced after she received advice in July 2022. However, Mrs S said that she was informed of this at the last possible moment, as part of the paperwork she was required to sign to implement the advice. I find what Mrs S has told us about this to be credible, because this is exactly the way the adviser tried to introduce the 5% advice fee in November 2023, as part of the paperwork Mrs S was required to sign to make the contribution.

I don't think that informing Mrs S of the increased advice fee at the same time that the advice is delivered is fair or reasonable. At this point, the advice has already been delivered, and so it is more difficult to choose not to proceed, particularly as this would require finding and starting afresh with a new adviser. I also think that such a significant change in the charging structure ought to have been communicated to Mrs S in advance. She had been used to receiving advice to make further contributions to her pension without charge for around 18 months by the time the change was implemented. And I think she ought to have been told about this change as soon as it had been introduced. This is so that she could make an informed choice about whether or not to continue as a client, given she would now be paying initial advice fees on further contributions, as well as OACs of 1%.

I think that the communication failings here have caused Mrs S a degree of distress and inconvenience, so I think Openwork should pay her £100 to compensate her for this.

### **Putting things right**

#### *ISA*

My aim is to put Mrs S as close as possible to the position she would probably now be in if she hadn't paid OACs from her ISA since it was established in June 2021 until the date she left Openwork.

Openwork should:

- Refund the OACs Openwork deducted since the ISA was opened, and pay a return on the fee amounts from the date the fees were taken to the date of my final decision.
- The lost return on the fee amounts should be calculated in line with the actual performance of the ISA over this time.

- If Openwork is unable to obtain information about how the ISA performed, Openwork should use this benchmark – FTSE UK Private Investors Income Total Return Index.
- I've chosen this method because the FTSE UK Private Investors Income Total Return Index is made up of a range of indices with different asset classes, mainly UK equities and government bonds. It is reasonable proxy for the type of return that could have been achieved over the period in question.
- Provide the details of the calculation to Mrs S in a clear, simple format.

### *Retirement Account*

My aim is to put Mrs S as close as possible to the position she would probably now be in if she hadn't paid OACs from her Retirement Account from July 2022 until the date she left Openwork.

Openwork should:

- Refund the OACs Openwork deducted from the Retirement Account since July 2022, and pay a return on the fee amounts from the date the fees were taken to the date of my final decision.
- The lost return on the fee amounts should be calculated in line with the actual performance of the Retirement Account over this time.
- If Openwork is unable to obtain information about how the Retirement Account performed, Openwork should use this benchmark – FTSE UK Private Investors Income Total Return Index.
- I've chosen this method because the FTSE UK Private Investors Income Total Return Index is made up of a range of indices with different asset classes, mainly UK equities and government bonds. It is reasonable proxy for the type of return that could have been achieved over the period in question.
- The compensation should be paid into Mrs S's pension if possible. The amount paid should allow for the effect of charges and any available tax relief. Compensation should not be paid into the pension plan if it would conflict with any existing protection or allowance.
- If a payment into the pension isn't possible or has protection or allowance implications, it should be paid directly to Mrs S as a lump sum. The compensation should be reduced to *notionally* allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount - it isn't a payment of tax to HMRC, so Mrs S won't be able to reclaim any of the reduction after compensation is paid.
- The *notional* allowance should be calculated using Mrs S's actual or expected marginal rate of tax at her selected retirement age.
- It's reasonable to assume that Mrs S is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Mrs S would have been able to take a tax free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.

- Provide the details of the calculation to Mrs S in a clear, simple format.

### Interest

The compensation resulting from this calculation must be paid to Mrs S within 28 days of the date Openwork receives notification of Mrs S's acceptance of my final decision. Interest must be added to the compensation amount at the rate of 8% per year simple from the date of my final decision to the date of settlement if the compensation isn't paid within 28 days of Openwork being notified of Mrs S's acceptance of my final decision.

### Compensation for distress and inconvenience

I think Mrs S was caused distress and inconvenience as a result of Openwork failing to communicate changes to the advice charging structure in a timely manner. I think £100 is fair compensation for the distress and inconvenience this caused.

### **My final decision**

I'm upholding Mrs S's complaint about Openwork Limited trading as The Openwork Partnership. I require it to pay compensation as set out above.

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

Hannah Wise  
**Ombudsman**