

The complaint

Mr L complains that he received unsuitable advice from Openwork Limited to switch an existing personal pension to another arrangement, which he says has caused him a significant financial loss. He also complains that he didn't receive the reviews he'd paid for.

What happened

In September 2014, Mr L met with an adviser who was an appointed representative of Openwork. He signed a fee agreement on 29 October 2014, agreeing to the initial advice fee and to take Openwork's standard ongoing service, for which he paid an ongoing charge ('OC') of 0.75%. The standard ongoing service was described in the Client Proposition Brochure as:

- *A Financial Planning report or summary, as appropriate, including portfolio updates and valuations on an annual basis*
- *Access to our investment platform, with the ability to view your portfolio and contractual documents online*
- *Use of our investment platform via your adviser*
- *Access to your adviser to discuss further areas of your financial planning*
- *Full access to Practice staff*
- *Client record keeping and file maintenance, for example:*
 - *Policy surrenders or partial surrenders*
 - *Administration such as changes of address*
 - *Replacement and copy documents*
 - *Unlimited telephone support*

Openwork completed a fact-find, noting that Mr L had an existing personal pension provided by Zurich, which had a value of around £136,000 and that Mr L was making monthly contributions to it. Openwork also noted that Mr L had cash savings of £100,000. The fact-find noted that Mr L was interested in pension products which provided a guarantee that the fund value wouldn't drop.

On 4 November 2014 Openwork recommended that Mr L should transfer his pension with Zurich to a pension with MetLife and invest in its Secure Capital Option via the Managed Wealth Portfolio. This provided a guaranteed value at the maturity date in 2029. It also recommended that Mr L should open a Stocks and Shares Individual Savings Account ('ISA') and invest £15,000. Mr L accepted the recommendations and the pension transfer completed in late 2014. The Secure Capital Value ('SCV') was the sum transferred (£139,346.03) less the advice charges, so approximately £135,000. After the advice fee, Mr L invested £14,400 in the ISA.

In March 2024, Openwork emailed Mr L explaining he would be moved to its Continuous Advice Service, meaning that it would schedule a meeting to consider Mr L's objectives and review the suitability of his pension every other year. It explained the next review was due in December 2024.

In April 2024 Mr L contacted the adviser to discuss his pension. A meeting was arranged and the performance of the pension was discussed. Mr L asked for details of all the fees he'd paid for the pension over the years and asked what had happened to the guarantee he was paying for. Mr L understood the pension wouldn't reduce in value but this hadn't transpired to be the case. He ultimately made a complaint to Openwork in May 2024 about the original advice as he wasn't receiving answers to his questions.

Openwork didn't uphold his complaint, saying that the advice was suitable for Mr L and that he had received yearly statements showing the value and the charges he was paying.

Mr L remained unhappy and referred his complaint to the Financial Ombudsman Service. He said he wasn't aware of any issues with his pension until late 2021.

Openwork told us that it believed Mr L had raised his complaint too late under the Regulator's Dispute Resolution ('DISP') rules. It said Mr L had complained more than six years after he'd received the advice. It added that the SCV had dropped between 2017 and 2018 and between 2019 and 2020. And as Mr L's complaint was that he was told the pension value was guaranteed not to drop, then he ought reasonably to have been aware of his cause for complaint by November 2020 at the latest. So, he'd complained more than three years after he ought reasonably to have been aware of his cause for complaint.

The Investigator considered the complaint and made the following findings:

- Mr L had complained too late about the initial advice.
- Mr L's complaint about missed reviews before July 2018 had also been referred too late. But he could consider the complaint about any reviews missed after July 2018 as the complaint had been referred to Openwork within six years of those events.

Mr L didn't accept this. He said he'd had no contact from the adviser after receiving the original advice and the first time he received a statement was in 2018. He also said his statements gave him no cause for concern because he had been told that the SCV would be locked in after each £5,000 of growth. As far as he was concerned, his statements confirmed this. The Investigator wasn't persuaded to change her opinion so the complaint was referred to an Ombudsman to consider our jurisdiction on these points.

The Ombudsman agreed with the Investigator and determined that Mr L's complaint about the original advice and missed reviews before July 2018 had been made too late. The complaint was returned to the Investigator to consider the merits of the complaint about the reviews missed after July 2018.

The Investigator ultimately upheld the complaint in part. He wasn't satisfied that Openwork had provided the ongoing service Mr L was paying for in relation to his pension in 2018, 2019 or 2021, or for his ISA in 2021. He recommended that Openwork should refund the OCs charged in those years, together with a return on them had they remained invested in the pension and the ISA.

Openwork accepted this, but said it proposed to repay the OCs, plus interest at a rate of 8% simple, without any notional deduction of tax as it believed it would be difficult to calculate the redress in any other way. It also offered Mr L £250 for the distress and inconvenience caused.

The Investigator endorsed Openwork's offer to Mr L. Mr L, however, didn't accept the offer, maintaining that the initial advice he received was unsuitable and that the adviser ought to be investigated for fraud. He didn't believe that Openwork's offer in any way compensated him for his losses – he'd invested around £139,000 and it was only worth around £155,000

now. Whereas if he'd left the pension where it was he says it would've been worth around £350,000.

As no agreement could be reached, the complaint was referred to me to make a decision.

I issued a provisional decision on 30 January 2026. While I agreed with the Investigator's view for the most part, I awarded additional redress. I explained that I thought Openwork ought to have switched off the ongoing service following Mr L's complaint and as such, it should also refund the OCs taken since January 2024 in the same manner as its earlier offer. I also thought that the refund of OCs didn't adequately compensate Mr L for the impact the OCs taken had on the SCV attached to his pension. I recommended that Openwork provide Mr L with an undertaking to compensate him for any difference in SCV on the maturity date of his pension, taking account of the OCs he will have had refunded. I explained that this undertaking would only apply if Mr L maintained the MetLife pension to maturity – if he decided to transfer away from MetLife before the maturity date, this benefit would be lost and the undertaking would be void.

Mr L said that he couldn't agree to accept any decision without being provided with exact figures. He also pointed out what he believed to be a mistake made about the sum transferred to his MetLife pension (which he thought showed that money had been taken fraudulently by the adviser). Mr L maintained that the original sale of the MetLife pension had to be considered, and I hadn't answered questions about the amounts taken out from his pension by MetLife and Openwork since it was opened in 2014.

Openwork accepted my findings for the most part, but it said it wanted to withdraw the basis of its earlier offer. This was because the redress the I had recommended had substantially changed from the earlier position on which its original offer was based. Openwork said that it would be fairer for it to pay redress as follows:

- A refund of the OCs taken from the pension for the years November 2017 to November 2019 and November 2020 to November 2021. And the OCs taken from the ISA in the year November 2020 to November 2021. And the OCs on both the pension and the ISA since January 2024.
- A further payment equivalent to the lost growth within the pension and the ISA as a result of the OCs having been taken, considering the actual funds Mr L was invested in.

It would also pay the £250 recommended in the provisional decision.

Openwork agreed to provide the undertaking as detailed in the provisional decision in respect of the SCV, to redress any future SCV loss at the maturity date. However, if Mr L didn't wish to take this up, for example, because he instead wished to transfer his pension away from MetLife before it matured in 2029, it would instead pay Mr L an extra £500 now.

I explained to Mr L that I considered Openwork's position to be fair as this was the redress I would have recommended had Openwork not made an earlier offer based on it paying interest. I addressed Mr L's further comments, but said I would be maintaining my earlier decision, save for the change to redress outlined above.

As I've received all responses to my provisional decision, I'm now providing my final decision on the matter.

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 also carefully considered Openwork and Mr L's responses to my provisional decision. Having done so, I'm upholding it for the same reasons.

I still note Mr L's strength of feeling regarding the sale of his MetLife pension and that this remains his main concern. However, this is not something I can consider. An Ombudsman determined that this complaint was made too late under the Regulator's Dispute Resolution rules, so I won't be addressing it again.

I also note that Mr L still believes the value of his pension should never have reduced, as this was what he was told when the pension was sold to him. He says he still hasn't had an explanation as to why his pension reduced. While I believe that this issue relates to the sale of the pension, which I can't consider, I explained to Mr L that his pension has two values. There is an underlying fund value which is subject to fluctuation in line with the performance of the funds his pension was invested in. This value can go up and down and is the value he'd receive if he transferred away from MetLife before the maturity date.

I explained the pension also has an SCV, which is the guaranteed value he would receive when the pension matures. This was based on the original amount transferred in, but at the policy anniversary in November, if the underlying fund value is higher than the SCV, this increase is locked in, and creates a new higher SCV. However, I explained that the SCV is still reduced proportionately by the ongoing service fees he paid to Openwork. I appreciate that this isn't what Mr L understood when the pension was sold to him, but this isn't something I can consider for the reasons I've given above. If Mr L still has any questions about how the SCV works in practice, he should revert to MetLife for further information. He should also direct his request for the exact amount of charges deducted from his pension by MetLife and Openwork to MetLife.

While Mr L hasn't commented on this point further, for completeness, I also can't consider his complaint about Openwork's failure to provide him with the ongoing service before July 2018. The Ombudsman concluded that this complaint had also been made too late. But I can consider whether Openwork provided Mr L with the ongoing service for his pension and ISA after July 2018 because this complaint was made in time.

The Investigator found that Openwork had not provided the ongoing service in relation to Mr L's pension in 2018, 2019 or 2021, or for his ISA in 2021. Openwork accepted this. So, I'll address whether the ongoing service was provided in the remaining years.

MetLife pension

The client proposition document said Mr L would receive "*A Financial Planning report or summary, as appropriate, including portfolio updates and valuations on an annual basis*", in return for the 0.75% fee he paid. The reviews were due around November each year in line with the plan anniversary.

Based on the evidence I've seen, Openwork fulfilled the requirements of this service in 2020, 2022 and 2023 (although it appears this was delivered in January 2024).

In March 2024, Openwork explained that its service proposition was changing, and Mr L had been moved to its Continuous Advice Service. It said this meant that Openwork would schedule a meeting to consider Mr L's objectives and review the suitability of his pension every other year. It explained the next review was due in December 2024.

It's evident that Mr L complained to Openwork in 2024. I accept that he was initially focused on the value of the pension and complained that this was not what he signed up for. However, when corresponding with Openwork further (as detailed in the final response letter) Mr L also complained that he hadn't heard from the adviser, and that the pension hadn't been managed in line with the fees charged. Mr L made it clear that he was looking to recover all costs on the basis of him having kept his existing Zurich pension.

Although Mr L did not ask for the ongoing service to be switched off, I think it is clear that he was unhappy with the service provided by the adviser overall. I asked Mr L why he hadn't asked for the ongoing service to be switched off and he explained that he was under the impression that Openwork wouldn't deal with him whilst the complaint was ongoing. He said he was also concerned that it would jeopardise his position if he was no longer a client of Openwork. So, while Mr L didn't explicitly request that the OCs be switched off, I think it is fair to assume that he did not wish to continue with the ongoing service being provided in respect of his pension and only kept it going so as not to jeopardise his complaint. As such, I don't think it is fair for Openwork to retain the OCs deducted since the service was last delivered in January 2024. And I note that no evidence has been provided to demonstrate that the service has in fact been provided in any event (bearing in mind that Openwork said the next review was due in December 2024 and that this would include reviewing the suitability of the arrangements).

So, for the avoidance of doubt, Openwork should remove the ongoing service and in addition to the OCs it has already agreed to refund taken in 2018, 2019 and 2021, it should also refund the OCs taken since January 2024. A further payment equivalent to the lost growth had the OCs remained invested should also be paid to Mr L.

ISA

Based on the Investigator's findings, Openwork agreed to refund the OCs taken in 2021. So, I make no further comment about the service due in this year.

I'm satisfied that Openwork provided the service for the ISA in 2018, 2019, 2020, 2022 and 2023.

Although I recognise that Mr L did not express the same concern about his ISA as he did his pension, I don't think that he would've likely wanted to continue with the ongoing service for his ISA in isolation, given his general unhappiness with the service provided by the adviser. So, for the same reasons I've given above, I also think that any OCs taken from the ISA since January 2024 should also be refunded by Openwork. A further payment equivalent to the lost growth had the OCs remained invested should also be paid to Mr L.

Mr L says that it is difficult to accept any offer of redress without being provided with exact figures. I previously provided Mr L with an estimate of the OCs he'd paid from his pension. And Openwork has since explained that the OCs proposed to be refunded for the MetLife and ISA plans for the periods in question amount to £5,838.90 and £390.10 respectively. While Openwork says the growth calculation has not been finalised, it estimates that it will be in the region of 10-15% of the total refund. I hope that this information will help Mr L to decide whether or not to accept my final decision.

Secure Capital Value

While I think the redress offered and the additional redress I've recommended is fair compensation to put the value of Mr L's pension back to the position it ought to be in, this doesn't address the impact the OCs had on the SCV. This value is separate to the pension

fund value. And MetLife has confirmed that the SCV of Mr L's pension would be higher now if the OCs hadn't been taken in the years I've recommended should be refunded.

As such, there is a potential additional loss to address here; however, this loss isn't definite. If Mr L chooses to continue with the MetLife pension, it may be that by the time the SCV option matures in 2029, the pension plan value could've increased above what the SCV ought to have been and there would be no additional loss because the SCV would've increased accordingly. However, there is also the chance that the value of the pension falls and the difference between it and the SCV grows.

Openwork has previously said that if Mr L paid the refund he receives into the MetLife pension, then this would address the gap between the actual pension value and the SCV. While this would increase the underlying pension value, this wouldn't make any immediate difference to his SCV as it will not be reviewed until 25 November 2026 (the plan anniversary), and whether it increases at that point will depend on the current fund value. As such, if Mr L were to pay the monies into the pension, and the fund value were to decrease in the lead up to the SCV being reviewed, then this would not restore the SCV to the position it ought to have been in if the OCs hadn't been taken in the years specified.

I therefore consider that a fair way to compensate Mr L for this potential future loss is for Openwork to provide him with an undertaking to compensate Mr L for any difference in SCV on the maturity date, taking account of the OCs he will have had refunded. This undertaking would only apply if Mr L maintains the MetLife pension to maturity – if he decides to transfer away from MetLife before the maturity date, this benefit is lost and the undertaking would be void.

Openwork has offered to pay Mr L an additional £500 to settle this aspect of his complaint now, should he not wish to take up the undertaking. I think that offer is fair and if Mr L accepts my final decision, he should let Openwork know if he wishes to receive the additional £500 on offer to settle the SCV issue or instead make use of the undertaking at maturity.

Putting things right

Pension and ISA

In line with its offer of 11 February 2026, Openwork should refund to Mr L the OCs taken from his pension for the years November 2017 to November 2019 and November 2020 to November 2021. It should also refund the OCs taken from his ISA in the year November 2020 to November 2021. And it should refund the OCs taken from both Mr L's pension and ISA since January 2024. Openwork should also make a payment to Mr L representing the lost growth within the pension and ISA, considering the actual funds invested in.

SCV

Openwork should provide Mr L with an undertaking to pay him the difference between value A and the combined value of values B and C to compensate him for any additional loss pertaining to the SCV on the date of maturity.

Openwork should work out the values on the date of maturity as follows:

- Openwork should ask MetLife to provide it with the notional SCV if OCs hadn't been taken for the years November 2017 to November 2019, November 2020 to

November 2021 or since January 2024. This is what the value of the SCV would've been had the OCs remained invested and is 'value A'.

- The actual value of the SCV payable on the maturity date is 'value B'.
- Mr L would have received a refund of the OCs from Openwork, and he could have invested these monies to obtain further growth. Openwork should therefore calculate the value of the refund it paid Mr L if it had been invested from the date it was paid until the date of maturity in line with the following benchmark:
 - for half the monies: FTSE UK Private Investors Income Total Return Index;
 - for the other half: average rate from fixed rate bonds.
- This is 'value C'.
- If value A is higher than the combined values of B and C then Mr L has suffered a loss on the maturity of the pension and this loss should be paid to him.

This undertaking is void if Mr L transfers away from MetLife before the maturity date.

I think it is more likely than not that if Openwork is required to carry out this undertaking on the date of maturity that MetLife will be able to provide the information Openwork needs to work out the relevant values. Openwork accepted to provide Mr L with this undertaking so it must also consider that this information will be available to it at the relevant time.

Any compensation to be paid to Mr L as a result of the undertaking 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 Mr L won't be able to reclaim any of the reduction after compensation is paid.

The *notional* allowance should be calculated using Mr L's actual or expected marginal rate of tax at his selected retirement age.

It's reasonable to assume that Mr L is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Mr L 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%.

Openwork has offered Mr L a payment of £500 if he does not accept the undertaking or wish to make use of it in future. Mr L should let Openwork if he wants to accept this additional sum.

Compensation for distress and inconvenience

Openwork offered to pay Mr L £250 for the distress and inconvenience caused by the failings identified here.

I think this sum fairly compensates Mr L for the problems he's experienced understanding the value of his pension and ISA as a result of the missed reports he ought to have received as part of the ongoing service.

My final decision

I'm upholding Mr L's complaint.

I require Openwork Limited to pay Mr L compensation and to provide him with the undertaking as set out above. Mr L may however choose to reject the undertaking in favour of additional compensation as explained above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 30 March 2026.

Hannah Wise
Ombudsman