Financial Ombudsman Service

complaint

Mr P, an Executor to the Estate, has complained that Money Wise Independent Financial Advisers Limited ("Money Wise") inappropriately advised the late Miss S to start a Long Term Care annuity. Mr P says the advice didn't refer to medically determined life expectancy. As a result of the advice, only ten months payments were paid from the original purchase price.

background

In June 2013 a meeting was held between Miss S, her solicitor, and Mr P at which she asked for a report on how to meet the shortfall in the costs of the care that Miss S was receiving. Miss S was concerned that her savings would run out at some stage in the future and was concerned to ensure that this did not happen.

In October 2013, Money Wise sent Miss S (via her solicitors) a 'Long Term Care Options Letter' setting out various options of how to meet the income shortfall. This report set out what would happen in the event of her death.

In November 2013, Money Wise sent Miss S a 'Confirmation of Recommendation' letter.

In March 2014, Miss S signed a 'Care Fees Payment Plan Personal Questionnaire'. The product provider issued an updated quotation shortly thereafter. In its letter to Miss S dated 15 April 2014, Money Wise said:

- She was 81 and considered to be in reasonable health for her age.
- She was single and had no children.
- She resided at a Nursing Home as her house had been sold for £280,000.
- She had other liquid assets of £137,000 making a total of £417,000.
- She had an income shortfall of £21,727 a year which she was meeting from her savings.
- She had said that she was cautious and did want to take any investment risk.
- Various options were then considered including 'Keep the house proceeds in cash and drawdown on the capital'; 'Purchase a deferred annuity lifetime annuity with the house proceeds'; 'Purchase an immediate annuity'; 'Rent the property'; 'Invest the monies in a balanced portfolio for income and growth.'
- The Key Features Document provided her with details of any risks and potential disadvantages which had been previously discussed.
- The cost of care services may rise faster than the payments from the plan.
- The escalating care annuity was a gamble that she would live long enough to recoup the initial outlay. It would however provide her with peace of mind that she would not run out of funds. She could also stay at the care home of her choice while leaving some assets for her beneficiaries on death.

The Long Term Care Annuity was set up. The schedule showed £144,509 was invested in return for an annual annuity of £21,727 escalating at 5% pa.

Miss S unfortunately died on 23 February 2015.

Mr P then complained to the business that the sale of the care fees annuity was inappropriate. The business did not uphold the complaint and it was then referred to this service.

Mr P said in his letter to us that:

- The financial advice should perhaps have included 'by taking out this annuity you are most likely to die within six years and your estate be consequently lessened before your outlay has been recouped'.
- Should Miss S have lived to the 'maximum expected age' her further life expectancy could only be short bearing in mind her chronic health conditions.
- Money Wise's reference to life expectancy of 92 years did not reflect the established reduced life expectancy for those needing to live in a nursing home.
- Whilst Miss S was able to make up her own mind the sale of the annuity was not done in one sitting and that he was present at all meetings with Money Wise and Miss S.

Our adjudicator investigated the matter. But he was unable to uphold the complaint.

Mr P disagreed with the adjudicator and argued that:

- Miss S should have been advised that she had substantial assets that were well in excess of her likely care costs taking into account her anticipated lifespan.
- She was unlikely to derive any financial benefit by purchasing an annuity at this stage. Rather, this would be detrimental to her estate.
- Should she reach her anticipated life expectancy and still be in 'reasonable' health, she could at that point in time consider purchasing a long term care annuity at a far more modest cost.
- The quoted life expectancy of 92 years whilst appropriate to a standard lifetime annuity was specifically not appropriate for either enhanced / impaired life or Long Term Care annuities.

Money Wise made no comments in respect of the adjudicator's opinion.

As Mr P disagreed the complaint has been referred to me for my consideration.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

It is clear that at all times Miss S was being assisted in the decision making process by her solicitor and also by a close friend. I therefore do no not consider that Miss S was forced to sign the proposal form
Miss S was concerned to make sure that her care fee shortfall continued to be met in the future and I consider that the plan would have given significant comfort to Miss S in that her fees for the residential care she was receiving were guaranteed. The overall purchase sum of £144,509 represented around 33% of the value of her assets at the time. In my view this percentage was not inappropriate given her desire to provide for her future care.

Mr P complains that the Care Plan should not have been arranged because Miss S' health and therefore life expectancy had not been properly considered. Mr P says that the financial advice should perhaps have been *'by taking out this annuity that she was most likely to die within six years and her estate be consequently lessened before her outlay had been* *recouped'*, or words to that effect. Mr P also says that Money Wise's reference to life expectancy of 92 years did not reflect the fact that life expectancy is reduced for those people living in a nursing home.

However, Money Wise made a product recommendation only. The adviser was not a medical expert. The underwriting of the Care Fees annuity would depend upon the provider's underwriters. It would be for Miss S (with the help of her solicitor and Mr P as appropriate) to decide whether to accept the recommendation or to pursue other ways of meeting the shortfall of her care fees.

In my opinion it would have been easy for Miss S, her solicitor and her friend to work out that she would have to live seven years to get her purchase money back. Miss S, her solicitor and her friend could have queried this if they felt that it was a bad deal.

In his complaint letter to Money Wise dated 20 May 2015, Mr P asked was the likelihood of loss of initial outlay made sufficiently clear? Money Wise noted that in its letter to Miss S dated 15 April 2014 the Key Features document provided her with details of any risks and potential disadvantages which had been previously discussed

The illustration that was provided and would have been discussed showed that there was a return on death within the first six months of the contract but no return on death after that. I consider that the risks of buying the care fees annuity were drawn to the attention of the parties involved.

In my view, the plan provided Miss S with peace of mind that she would not run out of funds and could stay at the care home of her choice whilst being able to leave some assets for her beneficiaries on death. Whilst I fully appreciate that it is very unfortunate that Miss S died relatively soon after the annuity had been purchased, this could not have been foreseen by Money Wise.

my final decision

I do not uphold this complaint against Money Wise Independent Financial Advisers Limited and I make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask the Executors of the Estate of Miss S to accept or reject my decision before 25 April 2016.

Adrian Hudson
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