

complaint

Ms K complains that Stirling House Financial Services Limited (Stirling) gave her unsuitable advice in 2010 when it advised her to transfer her pension fund to another provider. She thinks the level of fees she was charged to transfer and to increase her regular contributions was excessive.

background

In 2009 Ms K was advised by another firm of independent financial advisers (not the same adviser) to transfer her pension, which she did. In 2010 her adviser, who knew Ms K when he was working at the other firm, recommended that she transfer her pension to a different provider (provider 2). At that time she had stopped her contributions to her existing plan, taking a contribution holiday whilst she set up her new business.

She paid nearly £7,000 in commission to her adviser to make the transfer to a plan with provider 2. Around £90,000 was transferred. A penalty of £4,630 was also applied by the provider of her existing plan.

In 2011 Ms K wanted to resume her regular contributions into her pension plan. The adviser set up these contributions and charged 75% of the first year's premiums. She paid around £8,500 to her adviser in initial charges. She later increased her contributions and paid around a further £5,600 to her adviser in initial charges for the increased contributions.

In 2014 the adviser approached Ms K to consider rebalancing her pensions plan. She declined this advice and complained about the suitability of the previous two transfers. The firm her adviser was previously working for upheld her complaint and paid her compensation for her loss.

One of our adjudicators investigated the complaint against Stirling. He didn't uphold it and gave the following reasons:

- Stirling's adviser demonstrated from the illustrations that because of a lower annual management charge, the new plan might provide a significantly greater fund at retirement. This was after the commission and penalty had been taken into account.
- In addition the new plan could offer a wider range of funds to invest in.
- The evidence provided showed that Ms K had been made aware of the charges in the illustration.
- Overall the reasons given to recommend the transfer seemed reasonable.

Ms K didn't agree. In summary she made the following points in response:

- The background of the previous transfer and subsequent recommendation to transfer again in 2014 were relevant to the actions of the adviser in 2010.
- The level of fees she was charged was excessive and hadn't been explained to her.
- The adviser shouldn't have benefitted from the commission he received from the regular contributions as this followed a premium holiday she had taken from the previous plan.
- The growth the adjudicator said was required to make up for the adviser charge might not occur because of investment performance.
- She wasn't given the time and information in 2010 to compare the costs and the range of funds available within her existing plan and the recommended plan.

The adjudicator still considered the advice to transfer was suitable and the reasons behind the transfer were justified. He said he was satisfied the charges had been disclosed within the illustration and would've expected Ms K to have raised any objections upon receiving those documents. He also said the illustration showed that, even allowing for the charges, the resulting fund with the new provider may provide high returns. He thought therefore, the reasons given for recommending the transfer were appropriate.

Ms K responded by stating that she wasn't made aware of the charges and they weren't made clear to her. She also said she believed the adviser had 'churned' her pension plans giving her the advice he had based on the commissions and fees he would earn.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I have come to the same conclusions as the adjudicator, and largely for the same reasons.

I am only dealing here with Ms K's complaint about the suitability of the advice she was given to transfer her pension in 2010. It is not for me to decide whether the advice she was given in 2009, or in 2014, was suitable or not.

The key questions I need to consider here are:

- Did Stirling make sure the advice it gave Ms K was suitable for her needs?
- Did it give her the information she needed to make an informed choice about whether to take its advice?

If there *was* a problem with the way the advice was given then I need to consider if Ms K is worse off as a result, because she would have done something different.

suitability

The adviser noted down that he was recommending the transfer because of the lower annual charges and access to a greater number of funds and fund managers. He recorded that there would be an exit charge.

The illustrations laid out the charges that would be applied and incorporated them to show that, based on projections put forward as guidance by the regulator; it was projected more likely than not, that the plan with the new provider would produce a significantly greater fund for Ms K's retirement. This was mainly based on the fact that the new plan had a lower ongoing charging structure.

As the transfer was from one personal pension arrangement to another I consider these reasons sufficient to recommend the transfer based on Ms K's circumstances. She was 38 years old and intended to retire at 65.

informed choice

I sympathise with Ms K's situation regarding the charges. She had to pay

- a penalty on her previous plan when it was transferred;

- an adviser fee on transfer;
- an adviser fee when she resumed her regular contributions, but into a new plan with provider 2; and
- another adviser fee when she increased her contributions in to her plan with provider 2.

The illustration for the transfer set out the basic charge and adviser payment charge for the ongoing fees of the new plan. Another section headed “what are the charges?” said “*the initial charges that apply to your core investments are- adviser payment charge £6,763.12*”. The adviser charge was based on the transfer value of the fund. Stirling said that the percentage charged was at the top end of what they would’ve considered an acceptable amount to charge.

The illustration Ms K was sent regarding the regular contributions said that “*the initial charges that apply to your core investments are- adviser payment charge £8,437.50*”.

The illustration Ms K was sent for the increased contributions said “*initial adviser payment charges*” – “*12 monthly charges of £468.75*”

These charges may have been at the top end of what was considered acceptable, but were clearly disclosed and I can’t see that Ms K was misled in any way. They were in line with the terms and conditions set out. I think if Ms K had wanted more time to consider her options having received details of the charges, she could’ve asked for this. So, I don’t think I can reasonably require Stirling to refund these.

my final decision

For the reasons explained above, I don’t uphold Ms K’s complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Ms K to accept or reject my decision before 30 December 2015.

Kim Parsons
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