

complaint

Mr P has raised a complaint about the commission received by KJA Financial Services Ltd (KJA) in respect of his pension. He has said that they didn't provide him with any ongoing service and were not entitled to this commission.

background

Mr P had been advised by a financial adviser since 2006. In 2008 the adviser advised him to transfer his existing pension into a personal pension. Mr P agreed to do so and the agreement confirmed that the annual management charge was 0.5%.

In 2011 the adviser retired and his business was merged with KJA. There was no new client agreement with Mr P but, following the merger, KJA continued to deduct commission on the pension on the same terms as had been agreed with the original adviser. It is this commission that Mr P has complained about.

After the merger KJA had contacted Mr P to offer to meet and provide advice and this was repeated on several occasions. Mr P declined to meet and said he preferred to deal with matters by email. There was then little contact until 2013 when Mr P first raised his first concerns about the fees. KJA replied and provided advice on his pension as well as offering advice on how the fees could be reduced. Mr P remained unhappy with the commission deducted and brought his complaint to this office.

An adjudicator assessed Mr P's complaint and considered whether it was appropriate for KJA to receive the disputed commission in respect of Mr P's pension. In summary she said:

- When the original adviser retired he arranged to meet clients in London with KJA in November 2011. Mr P declined this meeting. KJA also invited Mr P to meetings in subsequent years which Mr P always declined. It was Mr P's opinion that there was no requirement for personal meetings as any business or advice could be given via telephone calls and emails, although he never requested any.
- Between September and November 2013 there were a number of emails between Mr P and KJA. In these Mr P wanted to know the total amount of commission deducted. The firm replied, although not with the very specific information Mr P was seeking. They also tried to negotiate lower fees with the pension provider but without success. Mr P raised further queries in the first quarter of 2014, as a result of which KJA provided Mr P with additional information. They also sent him a report which showed how the commission could be reduced by switching it to another provider. Mr P decided not to do anything about this at that time.
- Between February and March 2015 Mr P raised further queries with KJA, which resulted in his complaint. KJA then wrote to Mr P to confirm they had stopped taking the commission and were no longer advising him.
- The adjudicator's view was that the firm hadn't done anything wrong. They'd been available to meet or offer advice if required and had tried to do so. They had also responded to Mr P's queries when raised and had carried out a review

of his pension and sent him a report on this. Under the rules, the firm were entitled to receive the commission and it wasn't unreasonable of them to do so.

Mr P didn't agree with the adjudicator. He said that KJA hadn't given him any meaningful service since they had merged in 2011 but had continued to take fees. Although he had declined to meet, he felt this was irrelevant. Any communication could have been done in writing but the firm hadn't done so. He stated he would like to appeal the adjudicator's opinion and asked for an ombudsman to review the investigation.

my findings

I've considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. In doing so, I have come to the same conclusion as the adjudicator and for broadly the same reasons.

At the time Mr P's relationship began with KJA, the relevant rules allowed an adviser to receive ongoing commission. In this case Mr P had signed an agreement with his original adviser in 2008 with regard to the transfer of his pension which allowed for the payment of commission on an ongoing basis to the adviser. KJA had then bought the business including the existing bulk client account, from Mr P's original adviser, and as a result they were allowed to take any future commission.

Mr P's original agreement had been set up before 31 December 2012 (when new rules were introduced). But the new rules entitled KJA to continue to receive the commission from the pension provider in respect of his pension plan following the merger.

Mr P has said that the firm offered little in return for this commission. He has said that, even if he was unwilling to meet with the firm face to face, they could have contacted him with advice and information using other means.

I have taken these points into account. However following the merger, KJA had made a number of efforts to contact Mr P to offer to meet and or provide advice. Mr P declined initially. Between 2013 and 2015, however, he did contact them with some queries and I have seen that, at this point, KJA replied promptly, providing advice and information and drawing up a pension recommendation report for him to consider. It seems to me that they would have been willing to be more actively involved sooner if Mr P had wanted them to do so.

In the circumstances I can't agree that KJA has done anything wrong or that they weren't entitled to the ongoing commission. The commission had been agreed in 2008 and, following the merger, the firm were entitled to receive it. In addition they had taken reasonable steps to provide Mr P with advice and information. I realise Mr P may be disappointed but I do not agree that KJA should now refund their commission to Mr P.

my final decision

I do not uphold this complaint and I make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 12 February 2016.

Cerys Jones
ombudsman