

The complaint

Mr P has complained about the way 1825 Financial Planning and Advice Limited (1825) has managed his investment portfolios. He feels that no work or active management was carried out during the periods of 2017 to 2019. He's also unhappy that the Woodford Equity Income Fund (WEIF) remained a part of his investments even after it started to drastically underperform. Mr P has also complained that 1825 failed to act in a timely manner in transferring one of his pensions which he feels lost him the opportunity of growth on that pension.

What happened

Mr P, along with his wife, had been customers of 1825 (and its predecessor firm) since 2007. Mrs P has also brought a similar complaint against 1825 which is being dealt with separately.

Mr P seems to be a relatively experienced investor holding pensions and investments with a number of different firms. He held a couple of portfolios with 1825 and also used the adviser from 1825 for his overall financial planning. The management of these portfolios as well as the advice Mr P sought regarding transferring one of his pension plans is the focus of this decision.

Mr P feels that during the period of 2017 and 2019, when he terminated his relationship with 1825, the stock market had performed well but this wasn't reflected in the growth of his portfolios. He feels 1825 failed to manage his investments to ensure they were in a good position to grow in value. He has said he also raised concerns about the continued inclusion of the WEIF in the portfolios when it started to underperform towards the end of 2017 but again no action was taken by 1825 to rebalance or amend his holdings.

Mr P has also explained that around March 2017 he approached 1825 as his financial adviser to review his pension arrangements and that he wanted to transfer one of his defined benefit pension schemes held with a previous employer (DB pension). He wanted to do this because he had been notified that it had a significantly enhanced transfer value at that point in time. However, Mr P has said that 1825 failed to progress this matter and even by the time he decided to leave 1825, some two years later, 1825 hadn't made any progress on this nor was it in a position to provide any advice in relation to his pension arrangements or indeed process the transfer request.

Throughout the first half of 2017 Mr P (and his wife) appear to have written to their adviser at 1825 on a number of occasions to chase the work regarding the pension review and transfer.

Between June to September of 2017 Mr P and his wife's personal circumstances became temporarily difficult so they did not chase 1825 for progress during that time. And during that time Mr P didn't hear anything further from 1825.

In October 2017 1825 still didn't have all the valuations of all the pension's plans and the transfer value for the DB pension Mr P wanted to transfer had run passed its validity date.

However due to their personal situations at that time Mr P asked 1825 to temporarily suspend this activity for a short time.

In May 2018 Mr P asked for this work to start again. And he has explained that until the point he decided to terminate his relationship with 1825 in June 2019 1825 continued to reassure him his investments were being actively managed and the pension work was underway and being reviewed but was never in a position to review Mr P's pensions arrangements or advise on the transfer.

Mr P is unhappy that no progress was made on this matter for almost two years and feels that 1825 clearly didn't act in a timely manner. He said had it done so his DB pension would have been transferred before it had timed out and before he had asked 1825 to suspend any further work.

1825 responded by stating the suspension of the WEIF couldn't have been foreseen but acknowledged that reviews and the pension transfer didn't take place as they should have done. It acknowledged the level of service provided was not what it would normally expect a client to receive. It offered Mr P (and his wife) a total of £806.47 which comprised of 50% of the advice fee received for both Mr and Mrs P's pension review along with £250 for the trouble and upset incurred. In relation to the overall management, or lack thereof, of the portfolio 1825 didn't feel it had acted incorrectly.

Unhappy with the response Mr P brought his complaint to this service where it was assessed by one of our investigators. She was of the view that the fees charged for the pension advice should be refunded in full as she couldn't see what work 1825 had done to warrant those fees. The same applied to the management fees of the portfolio because again she wasn't persuaded 1825 had actively managed it. In relation to Woodford she didn't think its inclusion in the portfolio made it unsuitable so felt 1825 didn't need to do anymore in this regard.

I issued a provisional decision in December 2021 where I set out why I felt the complaint should be upheld. An extract is below and forms part of this decision.

Its first important for me to point out that this decision is made difficult by the lack of information from 1825. I did ask 1825 to provide further information about its relationship with Mr P along with evidence of what actions it took in relation to the management of Mr P's investments during the time in question but 1825 hasn't provided anything further than its original file submission which isn't very detailed. So much of this decision is based on what I can glean from the little information that has been provided by 1825.

Management of the overall portfolios

I asked 1825 for full details of its relationship with Mr P and its terms of business so I could identify whether Mr P was paying for an actively managed service which would have included regular reviews and regular rebalancing of the portfolios in times of underperformance. But as mentioned above 1825 didn't provide any of this information. So, from the information I do have I have to assume that the relationship was as Mr P has said it was – the portfolios should have been actively managed and regularly reviewed.

Over the period of time in question the value of Mr P's portfolios didn't change. This is unusual given he was obviously investing for growth. So with an actively managed service I would have expected to see 1825 address underperformance of the portfolios and amending it to provide more favourable growth. However this information hasn't been provided so I can't be satisfied that 1825 did this which in turn leads me to currently think that it wasn't managing the portfolio in line with its terms of business.

I therefore think the total Mr P has paid for the management of his portfolio during this time period be refunded. If 1825 can clearly show me what those management fees charged were used for then this may change when I make my final decision.

Loss of opportunity for fund growth and investment in WEIF.

Given the nature of the WEIF I see nothing wrong with the fund being included in the portfolios from the outset. But by 2017 the fund started to underperform and didn't recover ultimately leading to its suspension in 2019. Further to this, the WEIF was recategorised in 2018 to an all companies fund to reflect the decrease in the income the fund was producing. The fund also continued to invest more and more in unlisted securities from this time. So it follows that the changes in the WEIF would have changed the risk nature of the fund and in turn could have unbalanced the portfolios. So while I appreciate the collapse of the fund couldn't have been foreseen and many other financial advisers recommended their clients remain invested in WEIF, in this specific situation, because I can't be sure of what review and management took place of Mr P's investments overall I can't be sure that 1825 did anything to the portfolios to mitigate loss or underperformance as a result of the changing risk levels.

The amount invested in the WEIF was relatively small. So it can be argued this didn't impact the portfolios. But due to the lack of information from 1825 I can't be sure of what action it took, if any, to help Mr P's investments. So at this stage given the changes in the markets and the changes within the WEIF I think it's likely the portfolios would have been amended in one way or another.

So for the two issues above, because of the lack of information I simply can't be sure that the portfolios during 2017 and 2019 represented the most suitable level of risk for Mr P due to the changes in the stock market and the recategorisation of the WEIF. And I have no evidence that 1825 managed the portfolios in line with the terms of business agreed between it and Mr P. It is therefore likely the portfolios would have been rebalanced at some point during this period, most likely when the WEIF was recategorised (April 2018).

Therefore, I have set out below what 1825 must do to correct this. Pension transfer work. Mr P has told us that when he asked for the pension work to commence in March 2017, he had a transfer value for the particular DB pension that he wanted to transfer. This was £357,000 which was 35 times the annual pension pay-out he would receive at retirement age so it's not unreasonable he wanted to secure that. He's told me he had no need to draw from the funds from this particular plan so saw great potential and merit in transferring it mainly because of the enhanced transfer value. This pension was from a previous employer scheme but as Mr P no longer worked there no monies were being paid into it therefore benefits under that scheme were only subject to nominal increases.

I am satisfied with Mr P's reasoning as to why he wanted to transfer this pension. It seems to me he had thought carefully about doing this having regard to the fact the DB scheme was a valuable and secure pension to have. He has told me that this was the only pension he wanted to transfer due to the enhanced transfer value. He was happy to keep his other pensions, DB and otherwise, in place taking advantage of their security and guaranteed benefits. I am also satisfied that given Mr P's knowledge, experience and reasoning 1825 would not have objected to the transfer. So overall, I am satisfied the transfer of this DB pension would have happened within a reasonable time frame, which I think is three months from the date Mr P requested the review, had 1825 done all it should have. I've also considered whether 1825 would have indeed advised Mr P transfer from the DB scheme given the valuable nature of these pensions and the secure benefits they offer. But I know that Mr P had a number of other pension plans in place including other DB schemes and

looking at this financial position over all I see no reason why the transfer wouldn't have been made had no delays occurred.

1825 hasn't been forthcoming in explaining why it appears to have not progressed the pension advice and transfer issue for nearly two years. I have seen Mr P chased 1825 for progress on this matter before he instructed 1825 to temporarily halt any work on this matter and after Mr P instructed the work recommence. But I have no justification from 1825 for the delays nor have I seen any reason why the delays happened in the information submitted to me so I can't understand why 1825 weren't able to progress this matter.

So in my view the transfer should have happened within in three months of Mr P instructing 1825 to start its work and by not acting in line with Mr P's instructions 1825 prevented Mr P from transferring his DB pension and "locking-in" the enhanced transfer value. And I am satisfied this should have happened at some point in 2017 as there was enough time for this to have taken place before Mr P halted the work towards the end of 2017.

However when looking at how to redress this error I must take into account the fact that due to the delays and after moving away from 1825 to a different adviser Mr P didn't end up transferring this DB pension. I am aware that after his new adviser carried out a full review of his financial position the original plan was still to move the DB pension, however at the same time Mr P's wife was offered an enhanced transfer value for one of her DB pensions. So with the advice of his new adviser he decided to suspend the work on his DB plan and move forward with the transfer of his wife's pension instead. This was completed in April 2020 and in March 2020 Mr P finished full time employment and started to draw on the DB pension he initially wanted to transfer.

So what this means is that without actually transferring the DB pension Mr P hasn't suffered any actual loss. This is because whilst he was prevented from moving the pension by retaining its DB status he retained all the secured guaranteed benefits that form part of a DB pension, which included the security of the income paid out upon retirement as it wasn't reliant upon an investment for the benefit to grow in value. Mr P would not have had this had he transferred the pension to a personal pension as it would have been subject to the fluctuations in the stock market so there would be no way in telling how it would have performed and therefore what income would have been achieved by the time Mr P decided to draw on it.

I am also not able to quantify the loss because there is no way of predicting what potential growth the pension would have made had it been transferred – Mr P has told me he didn't know exactly where he wanted to transfer it at the time – so there are no values to compare it to.

However, I do agree that 1825 didn't handle the pension transfer request effectively or correctly – it seems to me it didn't follow Mr P's instructions about his pension in 2017. I therefore think 1825 must pay Mr P an amount to recognise this and refund the adviser fees for this part of the work, in full.

1825 didn't respond to my first provisional decision.

Mr P provided numerous comments summarised below:

- The PD states no loss was suffered because the DB pension wasn't transferred and therefore the secured guaranteed benefits that form part of a DB pension were retained but Mr P doesn't believe any of the subsequent DB activity is relevant. He feels some subsequent actions taken outside of the complaint timeframes have been conflated into the 1825 period which are not directly linked.

- Mr P stated he fundamentally believes the impact on his finances of 1825 not completing the transfer can clearly be shown and calculated.
- The whole point of completing the transfer was to take advantage of capital gains through market performance where the intention would be that he ended up in an overall better position than the benefits from the DB would provide in the future. He stated he had no need to take the DB in the short to medium - this was a long-term project.
- The transfer of Mrs P's DB pension was made because it was financially advantageous to them and Mr P states he would have still transferred his main DB if this enhancement had not been offered.
- Mr P did not decide to draw on the DB Pension because he needed to. This decision was based entirely on the fact that there was no hit in terms of taking it at 60 as opposed to 66. In addition, in overall payment terms it actually worked out better to taking it at 60.
- Mr P has no confidence in 1825 to carry out this calculation, therefore he requests that it is done by this Service to ensure that it is fair and accurate.
- Mr P feels the way the tax is dealt with in the methodology will severely impact him and so doesn't think the compensation is fair and reasonable. For it to be fair, the interest rate specified should surely provide him with the same recompense as the capital under performance calculation, taking his tax position into account.
- The Ombudsman has selected the timing of the recategorisation of the Woodford fund for this. This was publicly announced on 22 March 2018 . Accepting this trigger point and the Ombudsman's methodology, he wants the decision to be specific on the dates. It should state 23 March 2018 for the start date of the WEIF calculation and 16 May 2019 (the date he instructed 1825 that it was no longer to act for him) as the end date.

Given the further comments provided I issued a second provisional decision. An extract of these findings are set out below and form part of this decision:

I remain of the view this complaint should be upheld. The proposed method of redress remains largely the same as initially set out on the first provisional decision but contains some further clarity.

I have considered carefully the comments provided. I must, however, be clear that in making my decision I must do so from an impartial perspective. If I deem 1825 to have done something wrong or acted unfairly in a way that has been detrimental to Mr P (as I have in this case) then I must provide a method of redress that is fair and reasonable to both parties and one that is not punitive – this isn't what this Service is for. All I can do is ensure that where an error has occurred Mr P is put into the position he would have been in, as far as possible, had 1825 acted correctly.

I know Mr P feels strongly about the losses he says he has incurred but I can assure him that in relation to the DB transfer aspect this is the approach this Service uses in similar circumstances. I also note the comments Mr P has made about 1825 as a business and its lack of responses to him and this Service during the process of this complaint. I understand his frustration, but this isn't something I can take account of in making my decision as I must

approach this matter impartially and objectively.

Mr P says he would always have transferred his pension even if the enhancement was offered. But this isn't the case as the pension never was transferred when he moved to a different adviser. So while his intention was there this plan was superseded by a financially better decision and the fact he hasn't transferred the pension isn't something I can ignore as it significantly impacts the redress method required for the DB transfer part of the complaint.

While Mr P thinks I have conflated some events and what happened after he left 1825 is not relevant I can assure Mr P that they are indeed relevant when considering failure to transfer a DB pension that eventually was never transferred.

Mr P cannot benefit twice which in effect he would be doing if I proposed a redress/loss calculation for the DB pension because he has retained it and all its benefits. This would not be fair on 1825 and as I have already mentioned I must be mindful of making a fair and reasonable objective decision.

I appreciate I wasn't clear in the section where I mentioned I can't quantify the loss suffered. It is really more a case of there being difficulty in comparing what should have been transferred with what the DB pension is worth now – because Mr P hasn't actually transferred the DB and got it sitting in a pension somewhere (as a fund value). Only like for like can be compared and that currently doesn't exist. This can only be identified once the pension has crystallised in value which would be at the point of transfer. Obviously this hasn't happened therefore currently the comparison would have to be made between two different things which isn't correct.

Its also worth noting that when Mr P and his wife's finances are viewed together the prospect of there being a loss is even less clear as they presumably wouldn't have transferred Mrs P's DB (and got this enhancement and claimed 60% gain) if they'd transferred his DB instead. There isn't a way of doing a calculation that factors in Mrs P's losses or gains either though, because the two things aren't inextricably connected in that sort of way.

With regards to the point Mr P has raised regarding the carrying out of the calculation, in most cases this Service will not actually carry these out. This is not our responsibility. We provide the methodology and it is for the business to carry out the calculation as it will have the most accurate valuations of the holdings at the various dates required. We can however check the calculations once they have been carried out by 1825 if that eases Mr P's concerns.

With reference to the tax treatment- this is a standard approach which we use for all consumers. It will be for Mr P and 1825 to rectify any tax issues with HMRC directly as this service is not tax experts. If need be the tax can be reclaimed by Mr P once the redress is paid.

The announcement of the recategorisation of the WEIF was made on 22 March 2018 but there is nothing I can see that states this would be immediately effective or effective from a different date. In light of that I think its fair to say that the review of the fund by 1825 in light of this recategorisation should be taken as starting from 1 April 2018.

1825 provided the client agreement and terms of business which were previously asked for and with the following comments:

- Its records show that in:
 - Feb 2017 - no change review carried out & client didn't want pensions reviewing

- March 2018 – Statement of Wealth and Portfolio Report provided and meeting held in April 2018, research commenced June 2018, planner made 2 phone calls to the client providing updates and in December 2018 and a LoA for Mr P's holdings re-requested from client.
 - March 2019 - Statement of Wealth and Portfolio Report provided. No evidence of a client meeting on file.
- WEIF remained on 1825's 'hold' list right up until the fund was suspended in June 2019. See below which provides a summary of the work/conclusions the firm had undertaken on the LF Woodford fund
 - Mr P's portfolio was monitored via its central investment committee with any recommended changes to the portfolio's passed to the financial advisers to address at the clients annual review meeting. Throughout the period of the client complaint, there were no recommended changes put forward to recommend to clients and the portfolio's remained broadly in line with the clients agreed risk profile.
 - Whilst it is accepted that there was limited contact with the client, this did not have a material impact on the actual performance of their portfolio, given the points highlighted above. Whilst the point is raised around 'active management' this would generally have been around the style of investment funds chosen and not an indication of any activity other than their annual financial review (see attached client agreement).
 - The central investment team considered the performance of the WEIF throughout the period in question which included meeting with the Woodford Management team, however, based on the information that was available to 1825 and the discussions with the Woodford Team, the decision was made that on balance the fund should be retained within existing portfolio's.
 - Given the points above and the losses that would have been incurred in selling the fund within the existing portfolio's the fund was retained.
 - 1825 recognised it had not provided a level of service that Mr P should have received, but it feels it is appropriate to retain some of the agreed fees for work that had been done.

Mr P also responded by reaffirming much of his previous comments, along with:

- For the transfer of his DB pension Mr P remained of the view the loss can be quantified - the transfer value offer would've crystallised at exactly the guaranteed value and with proper management and favourable market conditions it would've increased in value, helping to put him in a position, where the monetary levels achieved, would offer more value than the known benefits from the DB scheme when taken. From the point of asking 1825 to undertake the pension transfer work to the point Mr P left 1825 he feels as the markets were favourable and due to the monies involved (guaranteed £357k, that would have crystallised if the work was completed by the timebound date) the value gain would have been significant. The real opportunity to achieve this in the period of the complaint was lost, due to 1825 never completing the work.
- The initial cost, of the almost enforced move to another IFA, was slightly more than the £800 that has been awarded so he doesn't feel this figure is fair recompense.

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.

Having done so, I am not persuaded to depart from my provisional findings.

Much of the information 1825 provided, as detailed above, is contrary to the information I have received from Mr P. For instance, 1825 states there was no review in February 2017. However, I have information from Mr P that a review took place in March 2017 when the pension works commenced. This isn't referred to by 1825. I have seen signed documents from March 2017 along with emails from Mr P to 1825 dated throughout March 2017 relating to the pension transfer. There is also an email from his specific adviser at 1825 stating letters of authority were being sent to him in relation to the pension transfer work.

Therefore, in light of this I am not persuaded that a review didn't take place and it seems to me that 1825's client record keeping is not wholly accurate.

1825 has said that no changes to the portfolio were felt necessary between 2017 and 2019. However, I remain of the view that as an actively managed service it was for 1825 to do just that – actively manage the investments. And it seems unusual for any actively managed portfolio to remain static for a period of two years. The point of having an investment actively managed is for it to be changed according to the markets in order to make the most money. This didn't happen with Mr P's portfolio and 1825 hasn't provided a sufficient reason why.

The same applies to the issue concerning the WEIF. In isolation disinvesting from the WEIF may not have been something a particular adviser would have recommended and that's not entirely unreasonable when you take account of the fact no one foresaw the fund would be suspended. However, what I would expect to see in this situation is the portfolio to be rebalanced to take account of the changing risk nature of the WEIF as it drew closer to suspension. But as I have said above, this didn't happen for reasons 1825 cannot properly explain.

It's also worth pointing out that the client agreement 1825 provided is the agreement Mr P made with the predecessor firm that 1825 took over from. This states the portfolio was to be actively managed and there is no mention of a central investment committee. If 1825 changed its terms of business when it took over then a new client agreement should have been sent out to Mr P for his acceptance.

In relation to Mr P's comments, while I appreciate he remains unhappy with the approach I have taken to the issue with the transfer of his DB pension what he has said is correct but the fact remains he has retained a valuable pension scheme the benefits of which must be taken account of when thinking about redress.

I am also satisfied with the figure of £800 I initially suggested to be paid to Mr P for 1825 failing to do any work on the DB transfer.

Therefore, in light of what I have stated above and my provisional findings I remain of the view that the complaint should be upheld.

Putting things right

In relation to the management of the investment portfolios:

Fair compensation

In assessing what would be fair compensation, I consider that my aim should be to put Mr P as close to the position he would probably now be in if 1825 had actively managed his portfolios in line with the terms of business and addressed the change in risk status of the WEIF.

I think Mr P would have invested differently. It is not possible to say *precisely* what he would have done, but I am satisfied that what I have set out below is fair and reasonable given Mr P's circumstances and objectives when he invested.

What should 1825 do?

To compensate Mr P fairly, 1825 must:

Compare the performance of Mr P's investment with that of the benchmark shown below and pay the difference between the *fair value* and the *actual value* of the investment. If the *actual value* is greater than the *fair value*, no compensation is payable.

1825 should also pay:

- Interest as set out below.
- Repay the management fees charged on Mr P's investments for the duration together with simple interest at 8% a year, from the date the fees were paid to the date of settlement.
- If the above comparison shows that no compensation is payable, the difference between the actual value and the fair value can be offset against the fees with interest.

Income tax may be payable on any interest awarded.

Portfolio name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
ISA Portfolios (x2)	Still exists and liquid	For half the investment: FTSE UK Private Investors Income	Date the WEIF was reclassified – representing	Date Mr P moved his portfolios away from	8% simple per year from final decision to settlement (if not

		Total Return Index: for the other half: average rate bonds	a definite point the portfolios should have been reviewed – 1 April 2018	1825 – 16 May 2019	settled within 28 of the business receiving the complainant's acceptance.
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Actual value

This means the actual amount payable from the investment at the end date. Fair value This is what the investment would have been worth at the end date had it produced a return using the benchmark.

Why is this remedy suitable?

I have chosen this method of compensation because:

Mr P wanted capital growth with a small risk to his capital.

- The average rate for the fixed rate bonds would be a fair measure for someone who wanted to achieve a reasonable return without risk to his capital.
- The FTSE UK Private Investors Income total return index (prior to 1 March 2017, the FTSE WMA Stock Market Income total return index) is a mix of diversified indices representing different asset classes, mainly UK equities and government bonds. It would be a fair measure for someone who was prepared to take some risk to get a higher return.
- I consider that Mr P's risk profile was in between, in the sense that he was prepared to take a small level of risk to attain his investment objectives. So, the 50/50 combination would reasonably put Mr P into that position. It does not mean that Mr P would have invested 50% of his money in a fixed rate bond and 50% in some kind of index tracker fund. Rather, I consider this a reasonable compromise that broadly reflects the sort of return Mr P could have obtained from investments suited to his objective and risk attitude.

It's important for Mr P to note that this calculation against the benchmark may not show that he lost out in keeping his portfolios where they were during this period of time. But this method is the only way of replicating, as far as possible, what I think should have happened during said period.

In relation to the pension transfer work: 1825 must:

- Pay Mr P £800 in recognition of the fact it delayed in progressing this matter with no justification why.
- Whilst I initially stated in my first provisional decision that 1825 must also repay any fees Mr P was charged for the transfer work as it is now confirmed no fees were

charged for this then this point falls away.

My final decision

My final decision is that I uphold the complaint. I direct 1825 Financial Planning And Advice Limited should pay the amount calculated as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 30 March 2022.

Ayshea Khan
Ombudsman