DRN-4573953

The complaint

Mrs C complains that Wren Sterling Financial Planning Limited ("Wren") provided her with inappropriate advice about the transfer of her pension savings in March 2020.

What happened

I issued a provisional decision on this complaint earlier this month. In that decision I explained why I didn't think the complaint should be upheld. Both parties have received a copy of the provisional decision but, for completeness, I include some extracts from it below. In my decision I said;

> *Mrs C held pension savings with a provider that I will call P. Those pension savings had been with the firm since May 1990 and had arisen from a decision to opt out of the State Earnings Related Pension Scheme. Mrs C's pension savings were invested in a with-profits arrangement that provided a guaranteed annual bonus of 4% of her pension savings until she reached age 75. Around the time of the advice Mrs C reached the selected retirement age for the policy meaning that no penalties would be levied should she decide to transfer her pension savings to another provider.*
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> *Mrs C approached Wren to seek some advice about how she might use her pension savings. At that time she was in receipt of income from a widow's pension, an occupational pension, and was also still working part time. She expected to reduce her working hours further, or cease work entirely, when she became eligible for her state pension the following year. Mrs C told Wren that her objective in seeking advice was to withdraw her pension commencement lump sum ("PCLS" – otherwise known as tax free cash) and invest the remainder of her pension savings in a way that would allow her to draw on the funds whenever she might need them in the future or leave them as an inheritance for her sons.*
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> *Wren told Mrs C that it wouldn't be possible to achieve those objectives using her existing pension plan – it didn't offer a flexible withdrawal option. So it recommended that Mrs C should transfer her pension savings to a self-invested personal pension ("SIPP") with a firm I will call S, take her PCLS, and invest the remaining pension savings into two funds that aligned with her attitude to risk as had been measured by the firm and agreed by Mrs C. Wren told Mrs C that it would charge her 3.5% of the value of her pension savings for its advice, and Mrs C also agreed to pay an ongoing fee of 1% for Wren to manage her pension investments.*
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> *Mrs C accepted Wren's advice and transferred her pension savings. But, the following year, she asked to take some additional income from her pension savings. Wren explained that it would only be able to assist her on an advised basis – and that Mrs C would need to pay a further advice fee. Wren told Mrs C that she could make the withdrawal if she preferred by contacting S directly. I understand that Mrs C did that and shortly afterwards she terminated her ongoing advice agreement with Wren.*
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> *In May 2023 Mrs C complained to Wren about the advice she'd received. In particular she noted that the value of her pension savings had fallen considerably since the*

transfer. And Mrs C said that Wren had failed to explain about the costs she would need to pay for its advice, both at the time of the transfer and should she wish to take any income payments in the future. Wren didn't agree with Mrs C's complaint. It said that it had clearly set out the charges that Mrs C would need to pay. And it said it thought its transfer and investment recommendations had been suitable for her needs and circumstances at the time. Unhappy with that response Mrs C brought her complaint to us.

The FCA's suitability rules and guidance that applied at the time Wren advised Mrs C were set out in COBS 9. The purpose of the rules and guidance is to ensure that regulated businesses, like Wren, take reasonable steps to provide advice that is suitable for their clients' needs and to ensure they're not inappropriately exposed to a level of risk beyond their investment objective and risk profile.

In order to ensure this was the case, and in line with the requirements COBS 9.2.2R, Wren needed to gather the necessary information for it to be confident that its advice met Mrs C's objectives and that it was suitable. Broadly speaking, this section sets out the requirement for a regulated advisory business to undertake a "fact find" process.

The information that Wren gathered from Mrs C was used to form both a picture of her needs at that time and in the future, and the options available to her through her existing pension arrangements. Wren also assessed Mrs C's attitude to risk, and her capacity to suffer any losses in her future pension investments. I am satisfied that Wren gathered sufficient information on which to base the advice it provided to Mrs C.

Wren identified that Mrs C's current pension investments benefitted from a guaranteed annual rate of return of 4%. That provided some security for their future growth, and might have been very attractive to Mrs C. But the plan that she held did not give Mrs C the flexibility that she was seeking, in terms of being able to take a PCLS now, but leave the remaining 75% of her pension savings invested within the tax efficient wrapper of a pension plan to be used at some time in the future or provide an inheritance for her sons. Her current plan only offered Mrs C the option of taking a uncrystallised funds pension lump sum ("UFPLS") payment meaning that to receive the maximum amount of tax-free income, Mrs C would also need to withdraw the rest of her pension funds as taxable income.

So I think it was entirely reasonable for Wren to recommend that Mrs C should transfer her pension savings to a plan that offered her a flexible drawdown approach. That would meet her objectives of taking an immediate PCLS, and leaving her remaining pension savings invested, but available for withdrawal if she needed in the future. But as part of that advice Wren needed to identify a suitable pension plan to receive Mrs C's transferred funds.

Wren recommended that Mrs C should transfer her pension savings into a SIPP. It is true that a SIPP offers significant flexibility in terms of future investment approaches. And, given what I have seen of Mrs C's circumstances, I think it unlikely that she would have needed, or been likely to use, much of that flexibility. But there was no requirement for Mrs C to use all the features of the SIPP – she could use the plan in the same way as she might use a standard personal pension plan, or a stakeholder scheme. So in itself, I would consider that the use of a SIPP would allow Mrs C to meet her investment needs.

But Wren would also need to consider the cost to Mrs C of the transfer it was proposing. As part of her agreement with Wren Mrs C agreed to pay 3.5% of the value of the transferred pension savings for the advice she received and a further 1% for its ongoing advice service. But those fees would have been payable regardless of where Wren advised Mrs C to place her pension savings. So in terms of cost what I need to consider is the ongoing costs of operating the SIPP, compared with the costs of other pension arrangements.

Wren provided Mrs C with information from the SIPP provider about the expected costs of operating the SIPP. Those showed that she would need to pay a platform charge of 0.4% together with ongoing fund charges of 0.15%. So the total cost Mrs C would need to pay for using the SIPP to hold her pension investments was 0.55%.

In my experience the costs I have detailed above are not excessive, and are likely to be no higher than Mrs C might have needed to pay had Wren recommended she hold her pension savings in a standard personal pension plan, or a stakeholder scheme. So whilst it could be argued that Mrs C was paying for features and flexibility in the SIPP that she didn't need, I'm not persuaded that a different pension arrangement would have come at a materially lower cost. So I don't think that Wren's recommendation of the use of a SIPP to hold Mrs C's pension investments was unsuitable.

I think that Wren clearly set out the costs of its initial advice and the ongoing charges in the introductory information it provided to Mrs C. And Mrs C signed the client agreement, confirming the charges that she would need to pay before the advice process commenced.

I have considered whether Wren made Mrs C sufficiently aware that she might need to pay additional charges in the future, should she want to take further income payments. I think it important to note that Mrs C didn't need to use Wren's services, or seek its advice, when she took income from her pension savings. And that was exactly the approach she took in 2021. But she might have found it useful to receive advice when taking income, and it seems reasonable to me that Wren should be compensated for any work it would have done in compiling that advice. So I don't think I would consider that Wren has done anything wrong here either.

As I have said, Wren assessed Mrs C's attitude to risk as part of its fact find process. Mrs C was given the opportunity to review and agree those findings. Wren concluded that Mrs C should be placed in risk group 3 (out of 7) placing her slightly below a medium level of risk. That required Wren to identify investments for Mrs C that would include a mix of higher risk investments such as shares, with lower and medium risk investments such as cash and fixed interest.

Wren advised Mrs C to place most of her pension savings into two investment funds that would overall place around 31% of her investments into higher risk growth assets. Wren reminded Mrs C that for her measured attitude to risk she might expect between 25% and 44% of her pension investments to be of that nature. So I would agree that the investments Wren recommended to Mrs C were suitable for her circumstances at that time.

The value of Mrs C's investments have fallen since the transfer took place. Mrs C understandably finds that very disappointing given that she has little other opportunity to generate additional income given her time of life. But I think those falls in value reflect the very difficult investment environment over the past two years rather than any shortcomings in the investment advice that Wren provided. What have generally

been seen as "safer" investments have recently performed less well than what might have previously been considered "more risky" investments. That wouldn't have been something that Wren could be expected to have predicted at the time it gave its advice.

I understand how disappointing this provisional decision will be for Mrs C. But I don't currently think the advice that Wren gave to her in 2020 was unsuitable. I think the SIPP allowed her to meet the flexibility she required from her pension savings, and at a reasonable cost. And I think the investments that Wren advised her to make were suitable for her circumstances. I think the fees that Wren charged were clearly set out at the outset and in line with the regulator's expectations. So I don't currently think this complaint should be upheld.

I invited both parties to provide us with any further comments or evidence in response to my provisional decision. Wren has said it accepts my provisional decision. Mrs C doesn't agree with the decision. She says that Wren failed to make her aware that it would be difficult to withdraw her money from the pension plan. She says that she doesn't think the firm was sensitive to her needs or acted in her best interests. She thinks Wren was only interested in the commission payment it would receive.

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.

As I set out in my provisional decision, in deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mrs C and by Wren. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

And I repeat my reflections on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

I sympathise with the feelings that Mrs C has expressed in response to my provisional decision. But I don't think her additional comments lead me to conclude that I should change the findings I have previously set out. I don't think that the steps Mrs C needed to take, in order to access her pension savings at a later date were more onerous than I would normally expect. So I don't think they were something that Wren needed to specifically discuss with Mrs C when it gave the original advice.

I think the advice that Wren gave to Mrs C was suitable for her circumstances and needs at that time. And so I think it reasonable that Wren should receive the payment that Mrs C had agreed to make for that advice.

I understand that Mrs C is disappointed with my findings but I'm not persuaded that Wren acted other than in her best interests, or did anything wrong. So I don't think this complaint should be upheld.

My final decision

For the reasons given above, and in my provisional decision, I don't uphold the complaint or make any award against Wren Sterling Financial Planning Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 27 February 2024.

Paul Reilly
Ombudsman