DRN-4729807

The complaint

Ms F complains about advice given by Navigate IFA Limited in relation to the investment of a divorce settlement into a personal pension. The investment has fallen in value by around £16,700, so to put things right she would like the value reinstated and all advice fees refunded.

Mr B was present at the review meetings and has represented Ms F in her complaint, but for ease of reading I'll mainly refer to Ms F in the decision.

What happened

In January 2017 Ms F (accompanied by Mr B), consulted an adviser from Navigate IFA Limited ("Navigate") about how to invest the lump sum she was to receive as part of her divorce settlement. She hoped to preserve the capital sum in a low-cost, low-risk personal pension, but she didn't think she needed ongoing financial advice.

The adviser reviewed Ms F's circumstances, which were that she was 48, divorced, in good health, working as a teacher, and intending to retire at 65. She had three children, two of which were still financially dependent. She was on a modest salary and wasn't contributing to her workplace pension, although she will be entitled to the State pension at age 67. Ms F's attitude to risk ("ATR") was assessed using a questionnaire. This showed she had no experience of investing, and her ATR was 3/7 "*cautious".* But it was noted Ms F wasn't relying on this pension so she could afford to take some risk with it. The adviser recommended she invest the lump sum thought to be around £140,000 in an Aviva personal pension, in its mixed portfolio (20%-60% shares) which matched her cautious ATR, managed through its own platform, allowing access to wider fund choices.

The adviser's initial advice fee was 2%, with the annual fee of 0.9%, made up of ongoing advice charges of 0.5%, Aviva's platform fee of 0.3% (plan value up to £250,000), and its fund charge of 0.1%. The adviser said this compared favourably with the cost of a stakeholder pension which was capped at 1.5% for ten years, and 1% thereafter. Ms F said her priority was a lower cost plan, so the Navigate portfolio was rejected as the costs were higher.

Ms F accepted the advice, the plan was opened and the lump sum of around £186,750 (after deducting the advice fee) was invested in July 2017. Ms F had an annual review in July 2018 at which point her fund was valued at around £194,300, so the adviser recommended things stay as they were to be reviewed a year later.

At the 2019 review meeting the fund was valued at around £200,600. Ms F confirmed there were no material changes to her objectives or circumstances, but said she was thinking of releasing a tax-free lump sum from her plan at age 55 (in 2023). The adviser said the Aviva plan had outperformed the sector average, but was no longer a top-quartile performer, so he suggested keeping the strategy under review on a rolling 6-month basis, for which there would be no additional charge. In the 2019 report Ms F's ATR is described as "*cautious balanced".*

In July 2020 the adviser emailed to say he'd been monitoring the performance of the Aviva fund and suggested a no-cost switch to the Vanguard LifeStrategy 40% Equity fund, which had a slightly lower risk profile, and he attached some information for Ms F to consider. At the review meeting the adviser noted Ms F's income comfortably met her outgoings, and she and Mr B were to be married, so retirement planning was still her main goal. The value of Ms F's plan had fallen over the year from £199,790 to £142,964, which the adviser attributed to the impact of the pandemic on global markets. Due to the "*disappointing*" -1.6% return on the Aviva fund the adviser would use Ms F's signed authority to switch to Vanguard in the next few days. Vanguard had outperformed Aviva over the period, although the adviser noted the charges were marginally (0.1%) higher.

At the 2021 review the adviser noted global equities had largely recovered to 23% above their pre-Covid peak, and he anticipated further growth due to pent-up demand. Ms F's fund had increased by 7% over the previous year, and was now valued at around £213,800, an increase of 15% since inception. Ms F's ATR was unchanged, so no changes to the investments were made.

At the 2022 review Ms F was disappointed to see her plan had fallen around 10% over the year to around £186,863, which meant it was broadly flat since inception. It was agreed not to make any changes at this point, as it had fallen in line with the market. Ms F was told Navigate's ongoing advice fee would need to be increased from 0.5% to 0.75% to remain profitable.

In November 2022 the adviser emailed Ms F with an update on the global economic climate affecting UK equities (inflation, high interest rates, UK political events, global recession and the war in Ukraine). He also explained Vanguard's "*cautious*" fund's weighting in low risk fixed interest assets usually cushions market falls, but such assets had been hit hardest and were expected to take longer to recover than equities. So he proposed moving out of Vanguard to the Copia Capital balanced fund, which is more globally diverse, but the fees are 0.3% higher than Vanguard. And as Aviva's platform charges had increased (to 0.35%) he recommended moving to a different platform, which charges only 0.15%. He also reiterated the advice fee increase to 0.75%, explaining that new clients had been paying 1% since 2019.

At the review meeting in March 2023 attended by Ms F and Mr B, the adviser recommended the switch to Copia and the change of platform, but Ms F wasn't keen to switch again, particularly when she discovered the Copia fund and alternative platform were only accessible to financial advisers. She was unhappy with the performance of her pension and queried the advice she'd been given from the outset, particularly the switch to Vanguard, when (with hindsight) her original Aviva fund had performed better. She attributed the fall in value to the impact of Navigate's charges rather than global events, and said she hadn't ever wanted ongoing advice. The adviser agreed to stop the ongoing advice charges, and on 29 March sent Ms F an email terminating the relationship.

Ms F complained, saying she'd been forced to pay for advice she hadn't wanted, Navigate's advice fees and investment decisions had caused a financial loss, and the adviser had expected her to make an investment decision (about switching to Copia) based solely on the contents of an email without the full facts.

Navigate responded on 10 July 2023 rejecting the complaint. They said (in summary) that from the outset in 2017 Ms F had agreed to ongoing reviews and had signed their fee agreement. She'd received annual reviews every year, and the advice fee was cancelled in March 2023 as requested. They gave a detailed explanation for the recommendations for the various fund switches based on comparative performance and pointed out her fund had actually increased by 1.48% over a challenging six-year period. So they didn't accept the adviser was responsible for the disappointing returns. And while the adviser had put Ms F on notice of his proposed fund switch ahead of the 2023 review meeting, no discussion had been possible due to Mr B having made his mind up about Copia. As the relationship had broken down they recommended Ms F seek an alternative financial adviser.

In August 2023 Ms F and Mr B referred the complaint to this service. Mr B accepted there had been a "*direct and frank exchange"* at the March 2023 meeting but denied he'd been rude. From the outset they felt the adviser overruled Ms F's wish for the funds to be invested on a low-cost basis without advice. But rather than properly managing her investment, in fact Navigate had only made one fund switch, and treated her with "*indifference"*. They maintained the adviser should've disclosed that the Copia Capital funds and the alternative platform were adviser-only, meaning Ms F would have no direct administrative access to her pension. To resolve the complaint Ms F wanted a refund of all advice fees, and for her fund to be restored to its original value (a loss they calculated as £16,683).

Our investigator didn't uphold the complaint, as Ms F had been charged and had received annual reviews in accordance with the client and fee agreements she'd signed. She said someone with limited investment experience likely benefited from advice to keep her pension on track, and the fees had been discussed at each review meeting. She couldn't say the switch to Vanguard had been unsuitable in terms of comparative performance. And while she didn't comment on the recommendation to switch to Copia as it hadn't gone ahead, she didn't think Ms F had been pressurised into making a decision. Finally she said Navigate was entitled to end the client relationship with Ms F, so they didn't need to do anything else.

Ms F didn't accept the investigator's view and requested a final decision. She said Navigate had "*vigorously pushed back*" against the idea of her managing the investments herself. She understood pensions should be invested for at least five years, so why had Navigate made changes sooner than that. She questioned the recommended switch to Copia prior to when the adviser knew she intended to access her pension, at age 55. And she still felt Navigate should've been transparent about the Copia fund being adviser-only. Overall she felt Navigate prioritised their fees over the interests of customers. She also mentioned the adviser had reneged on his offer to assist with releasing the 25% tax-free lump sum, which she'd managed to do herself by liaising direct with Aviva.

Ms F subsequently submitted further comments for the ombudsman to consider, saying her complaint wasn't so much about the financial detriment, but about "*paying handsomely for an unnecessary, impotent, ineffective, unsuitable, inappropriate and ill-advised service",* and Navigate's lack of "*transparency, integrity, honesty and trust".* She didn't think Navigate had really balanced her portfolio, given the switch was from one similarly constructed fund to another. And had she accepted the email recommending the fund switch, her whole fund would've been moved to a new platform, and she would "*have totally relinquished access to her fund account, being totally dependent on Navigate for every action associated with the fund".* She reiterated her dissatisfaction at the service from Navigate throughout.

So the case has come to me to issue a final decision.

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.

I appreciate Ms F's strength of feeling that after several years the value of her plan was broadly the same as at inception, and that she questions the benefit of the fees she's been paying. I'd like to reassure Ms F and Mr B I have read their comments in full and thought about them carefully. But I've come to the same outcome as the investigator, for broadly the same reasons. I'll explain why.

As part of the divorce settlement, Ms F was to receive a lump sum to invest in a pension, which would be her only provision as she wasn't contributing to her workplace scheme and didn't intend adding to this one either. The fact find captured at Ms F's initial meeting with Navigate noted she had "*no real previous investment experience*". So it was essential the funds were invested wisely and safely for the future, and she wanted to minimise the costs.

The adviser recommended an Aviva portfolio managed through its platform. It's noted Ms F had rejected Navigate's own platform as too expensive, and that the fees were lower than a stakeholder plan, so I think the adviser did take account of Ms F's wish to keep costs low. He did recommend ongoing advice, for which, like any professional service, there is a fee. But I can see that on 28 February 2017 Ms F signed Navigate's client agreement, which included a 30-day cancellation clause. She also signed their Advice Fee Agreement, to be advised on:

- Arranging a new pension account to accept a Pension Sharing Order;
- Building a suitable investment portfolio in line with her risk profile;
- Ongoing investment advice in relation to the new pension;
- Annual progress monitoring of goals and objectives;

She agreed to an initial fee of 2% (of the value of her plan) with an ongoing advice fee of 0.5% per year, which entitled Ms F to the following services:

- Access to the adviser by phone and email at no extra cost;
- Annual face to face review meetings with the adviser;
- Full investment valuation and asset review at each meeting;
- Advice on any appropriate changes to portfolio;
- Reassessment of risk profile and balancing of portfolio where necessary

It's only a two-page document which is set out quite clearly and transparently, so I think Ms F would've understood what she was agreeing to, and that she had 30 days to cancel if she wished.

The suitability report issued in April 2017, set out Ms F's circumstances and objectives, that she had a cautious ATR, and wished to have her pension "*professionally managed on an ongoing basis by Navigate IFA*". I think if the report hadn't been an accurate reflection of what was discussed at the meeting Ms F could have challenged this at the time.

The adviser recommended Ms F's pension be invested in Aviva's Mixed Investment portfolio (20-60% shares), but the plan wasn't opened until July 2017, so Ms F had time to think carefully about her decision before going ahead. If she wasn't happy with the adviser's recommendation she didn't have to accept the advice. She could've gone elsewhere, or she could've followed Navigate's choice of Aviva as her pension provider but declined the ongoing advice. She could even have opened a self-invested personal pension through Aviva's website and managed it herself, although she has acknowledged she had very little knowledge or experience of investing. And doing so may have limited the available fund choice, as some are conditional on being managed through an adviser.

Having accepted Navigate's advice I can see that prior to the March 2023 meeting following which the relationship was terminated, Ms F received annual reviews every year, and I've seen the reports for 2018, 2019, 2020, 2021 and 2022. At each meeting her personal circumstances and objectives were reviewed and updated where necessary. For example, her objectives changed in 2019, as she was thinking of releasing a tax-free lump sum at 55, ten years earlier than originally anticipated. And in 2021 her personal circumstances changed, as it's recorded Ms F and Mr B planned to marry. Her attitude to risk and capacity for loss were also reviewed every year, all of which informed the adviser's recommendations. I'm satisfied Ms F received the service she'd agreed to, as the adviser was monitoring the performance of her pension, and how the Aviva fund compared to the industry, and he recommended moving to Vanguard when its performance was no longer in the top quartile.

When recommending a switch a financial adviser must follow the 2009 regulatory checklist and guidance to ensure the switch is in the consumer's best interests. Advisers are required to clearly justify a switch to a higher cost fund, ensure the switch doesn't result in consumer losing valuable guaranteed benefits, the new fund must meet their ATR, and if they are paying for ongoing advice they must be offered reviews and understand the charges. I can see the adviser acknowledged Vanguard had slightly higher charges, which he thought would be more than outweighed by better performance. Ms F had annual reviews every year and was aware of the ongoing advice fee, the fund met her ATR, and she lost no guaranteed benefits by switching. So I can't say the adviser failed to follow the regulator's expectations when recommending the switch to Vanguard. Ms F questions why the adviser was considering switching to Copia Capital so close to when she intended accessing her pension. But I haven't reviewed the suitability of that switch, as Ms F decided not to go ahead with it. Like the investigator I don't consider the adviser's email intended to put Ms F under pressure to switch to Copia, or that she was expected to make a decision without knowing more about it. Navigate has explained they contacted clients invested in Vanguard due to concerns about performance, giving them the opportunity of switching to Copia. The switch of platform appears to have been recommended due to Aviva's fees increasing. Ms F could have agreed to the switch based on the adviser's email, but he also suggested a meeting to discuss the proposal, which I think seems reasonable.

Despite her position that she never wanted ongoing advice, I think Ms F benefited from the annual reviews with the adviser as her circumstances and investment objectives did change over time. At the initial meeting she expected to keep working until age 65, giving her pension 17 years to grow. However two years later, she decided to access it at age 55, a change which might affect the investment strategy. As the investigator explained, an investment horizon of five to ten years doesn't mean making no changes to the fund choices during that time. It simply means that performance should be viewed over the longer-term rather than reacting to short-term volatility. I've no reason to think Ms F's ATR wasn't assessed correctly as "*cautious/balanced",* but unfortunately in recent years a number of unprecedented economic shocks have affected the performance of investments, including the pandemic, the war in Ukraine, and higher interest rates. And in particular the 2022 mini-budget raised the cost of low-risk investments such as government bonds ("gilts"), which had a greater negative impact on cautious portfolios due to the higher weighting in lower risk assets. The investigator's view contained an analysis of whether the adviser's recommendations matched Ms F's ATR, which I don't feel is necessary to repeat here. And she explained our role isn't to replace the adviser's professional judgement, but to consider whether the recommendations were suitable for Ms F's objectives and ATR, and I think they were.

I appreciate Ms F's feeling that if the ongoing advice fees hadn't been deducted her pension might be worth more than it is now. Following each annual review Ms F received a report showing the performance of her portfolio, which appears to have been steadily increasing until 2022, when it was impacted for the reasons explained above, and so unfortunately it fell in value just prior to when Ms F decided to release a tax-free lump sum. But the initial strategy had been based on a longer investment horizon which would've allowed more time for her plan to recover. I'm satisfied Ms F was receiving a service in return for her fees, and I think she must've felt she derived some benefit from it, given she attended each of the review meetings over the years. And although Ms F could have cancelled the advice agreement at any point, it was the adviser not Ms F who ended it, following the intervention of Mr B at the 2023 meeting.

Ms F says this was because she was worried about the potential negative impacts of leaving her pension unmanaged, in which case she must have considered the benefits of having an adviser was worth the costs. There's no way of knowing if Ms F's plan would be in a better position if she'd managed it herself, as the same external factors would've impacted all low-risk funds. And as an inexperienced, cautious investor I think it's unlikely Ms F would've selected riskier investments than the adviser had recommended. As well as querying the rationale for switching from Aviva to Vanguard and then to Copia, Ms F suggests the adviser didn't keep her portfolio under close enough review. The benefit of remaining in the Aviva fund was only apparent with hindsight, and I wouldn't expect the adviser to make frequent changes particularly as she was invested in a fund rather than individual assets. And as it was important to minimise costs, the fees would likely be higher for a more active investment approach.

Ms F is sceptical of the adviser's explanation that investing "*isn't an exact science*". But no investment is completely risk-free, and having an adviser cannot prevent investments losing value, particularly when markets are impacted by external factors which couldn't be foreseen. Disappointing performance in itself doesn't mean the portfolio was badly managed, or that the initial recommendation to invest in Aviva or the switch to Vanguard were unsuitable. I've seen no evidence the adviser didn't act in Ms F's best interests or of a lack of integrity or transparency. I'm pleased Ms F has been able to release the tax-free lump sum without assistance. But for the reasons explained, I don't think Navigate treated Ms F unfairly, so I'm not upholding this complaint.

My final decision

I don't uphold this complaint and make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms F to accept or reject my decision before 12 August 2024.

Sarah Milne
Ombudsman