DRN-4872422

The complaint

Mr B complains that some advice he received from EB Associates Group Limited regarding the consolidation and investment of his pension savings was inappropriate.

What happened

Mr B has been assisted in making his complaint by a claims management company. But in this decision, for ease, I will generally refer to all communications as if they have been with, and from, Mr B himself.

Mr B met with EB Associates in 2019 to discuss the pension savings that he held. In particular he asked for advice on consolidating his pensions to increase the money he would have available at retirement, whilst ensuring they were invested in line with his attitude to risk. EB Associates advised Mr B to transfer his pension savings from two existing plans into a self-invested personal pension ("SIPP") that he already held. It advised Mr B to then invest all his pension savings using a model portfolio provided and managed by a third party that I will call B.

Mr B complained to EB Associates in October 2023 that its advice had been inappropriate. EB Associates said that it didn't think Mr B's complaint was about its advice, but rather about the performance of his pension investments. But Mr B confirmed he would like us to continue to consider his complaint about EB Associates.

Mr B's complaint has been assessed by one of our investigators. She thought the advice EB Associates gave to Mr B about the consolidation of his pension savings was reasonable. But she didn't think there was sufficient reason for Mr B to incur the additional costs of using the model portfolio service provided by B. So she asked EB Associates to work out whether using that service, and the additional costs it entailed, had caused Mr B to lose out.

EB Associates has calculated whether any redress would be payable to Mr B in line with the investigator's recommendations. From those calculations it has determined that Mr B's pension savings are significantly higher than if they'd just been invested in line with an appropriate benchmark. So it said that, even if its advice to use the model portfolio was inappropriate, it had resulted in a gain for Mr B. Despite that information being provided to Mr B he asked that his complaint be decided by an ombudsman. This is the last stage of our process.

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.

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 Mr B and by EB Associates. 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.

At the outset I think it is useful to reflect 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.

By consolidating his pension savings Mr B was able to meet many of the objectives he set when he asked EB Associates for its advice. He reduced the administrative burden of managing multiple pension plans. And by changing the way in which his consolidated pension savings were invested he was likely to see a better match for his overall attitude to risk. In itself the transfer of Mr B's pension savings into his existing SIPP was unlikely to have caused him any detriment.

But making that transfer, and investing his pension savings using the model portfolio service provided by B, Mr B would incur some additional charges. He agreed to pay EB Associates 5% of the transfer value for its advice. And he agreed to pay ongoing charges of 1% to EB Associates for its ongoing regular review of his pension, and 0.24% to B for the use of its model portfolio service. Mr B would also need to pay ongoing charges for the funds into which his pension savings were invested.

Mr B's investment needs were not complex, and might have been met by the use of one or more standard investment funds. It is questionable whether he needed the additional oversight that was provided by the use of the model portfolio service (together with the additional costs) when he was already paying a monthly charge for ongoing support and advice from EB Associates. In order for that recommendation to be beneficial to Mr B he would need to see his investments outperform a reasonable benchmark by more than 1%.

So, like our investigator, I'm not satisfied that the recommendation to make use of the model portfolio service was appropriate. So I am upholding that part of Mr B's complaint. But as I explained earlier, as something has gone wrong, I would look to put Mr B back into the position he would have been had appropriate advice been given. In this case I am satisfied that the consolidation of the pension plans was appropriate. But I'm not satisfied that Mr B should have been advised to pay the additional charges that arise from using the model portfolio service.

But, had that been the case, the investments that Mr B would have used would have been different. I have no way of knowing what those investment recommendations would have been. So in circumstances such as these I think it appropriate to measure the performance of Mr B's investments (including the charges he has paid) against the performance of a market benchmark. And given Mr B's measured attitude to risk I think that measurement should be against benchmarks of a combination of the average rate for fixed rate bonds and the FTSE UK Private Investors Income Total Return index. I think that combination would fairly represent the levels of risk that Mr B was willing to take to achieve some capital growth.

That was the exact recommendation that the investigator made when she considered the complaint. And following that assessment EB Associates has calculated how Mr B's pension investments would have performed if they'd grown in line with the above benchmarks. From those calculations it is clear that the use of the model portfolio has been very beneficial for Mr B – his pension investments are now valued at significantly more than if they'd grown in line with the benchmark. So whilst I don't think the advice he received was suitable, with the benefit of hindsight it hasn't resulted in him losing out.

So I am satisfied that it would not be appropriate to ask EB Associates to pay Mr B any compensation for the inappropriate advice he was given about the use of the model portfolio service.

My final decision

My final decision is that I uphold a part of Mr B's complaint. But I am satisfied that there is no compensation that is required to be paid by EB Associates Group Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 2 October 2024.

Paul Reilly
Ombudsman