

The complaint

Mrs H complains that Thinc Group Limited transferred her pension and its advice caused her significant losses.

What happened

Mrs H says that she received advice from an adviser who worked for Beeches Property & Finance who were an appointed rep of Thinc Group. She was advised to transfer her personal pension with Skandia to a Transact Personal Pension.

She says her funds were mostly invested in Sterling Mortimer alongside other investments.

Mrs H brought a complaint to Thinc Group through a professional representative who said they were concerned with the advice given to Mrs H. Her attitude to risk was low and the investments made were not compatible with this.

Thinc Group responded, it didn't uphold the complaint. It agreed at the time of advice the adviser was a representative of theirs, but they had no paperwork or information about the advice given. It had got information from the previous provider who confirmed the pension transferred was a personal pension with protected rights attached. And that when it initially went to Transact the funds were held in a number of investments. The investments in Sterling Mortimer were made in 2009 but the adviser had left their group in 2007. So they believed based on the evidence that any losses were suffered after the adviser was no longer a representative of the business.

Thinc Group also felt that Mrs H was out of time to complain to it. It said the closure of the Sterling Mortimer fund in 2010 meant that Mrs H ought to have known then she had cause for complaint. And as she didn't complain until 2022. This was more than three years after she ought to have known.

Our investigator looked into matters, he explained that he felt the complaint had been made in time, but that Thinc Group wasn't responsible for the losses suffered by Mrs H so shouldn't be upheld. Thinc Group accepted this explanation.

The investigator explained that there wasn't much evidence to go on. And as the complaint was largely about the losses suffered in relation to Sterling Mortimer (which wasn't an investment made whilst the representative was linked to Thinc Group) he wouldn't be upholding the complaint.

Mrs H's representatives agreed that the Sterling Mortimer losses happened after the involvement of Thinc Group but asked for a final decision in any event.

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 agree with the conclusion of the investigator, I'll explain why.

I've included a timeline of key events here to help frame the complaint.

September 2006

Letter from Skandia to Mrs H confirming cheque sent to Transact for £23,446.36.

August 2007

Adviser in question leaves Thinc Group – Mrs H stays with this adviser and leaves Thinc Group.

December 2009

£13,194.89 transferred in to Transact from Phoenix Life

February 2010

Purchase of Stirling Mortimer No.9 Fund UK Land 2

June 2014

Mrs H starts taking her benefits from the pension in the form of tax-free cash and regular monthly withdrawals.

May 2017

Transact write to Mrs H providing review of capped drawdown arrangement. Said Mrs H was then taking £200.55 per month gross and this would be reduced to £122.82 per month gross.

January 2021

Mrs H wrote to Transact referencing call with it on 23 December 2020. Where she was informed that her Flexi-Access Pension, some of which held in Stirling Mortimer No9 Fund UK was closed and in administration and so no more payments would be made.

jurisdiction

I agree with the investigator that the complaint has been made in time. The investigator explained the Sterling Mortimer fund still showed a value, although reduced, when Mrs H started taking her benefits from the Transact Pension in 2014. And he said there was no evidence she was given any information about the performance or closure of the fund. So, he felt there wasn't enough to say Mrs H ought to have complained at that point.

However, I think the key point is that the investment in Sterling Mortimer was made after Thinc Group's involvement. So information or knowledge of the issue with the Sterling Mortimer fund wouldn't bring about knowledge that the transfer advice given by Thinc Group was likely unsuitable. Thinc Group aren't responsible for the advice to invest in Sterling Mortimer, therefore knowledge of its inappropriateness for Mrs H, does not directly relate to the complaint we can consider here. Which is about the original transfer advice. I've seen nothing else to suggest Mrs H ought to have complained about the transfer advice more than three years before she did. So I'm satisfied the complaint has been made in time.

the merits of the complaint

As I've said above I can only consider the advice given by the adviser whilst he was part of Thinc Group. It seems the same adviser gave Mrs H the advice to invest in Sterling Mortimer but he was no longer a representative of Thinc Group at that point.

We have very little evidence to go on in relation to the transfer from Skandia to Transact. Thinc Group has no evidence regarding the advice and Mrs H hasn't been able to supply us with anything either.

Mrs H's complaint isn't particularly specific and she and her representatives have provided very little in the way of evidence or testimony for us to consider. Mrs H's pension payments stopped in 2020 and I can see that Mrs H's holdings included Sterling Mortimer and a couple of other Unregulated Collective Investment Schemes (UCIS). And it was due to the liquidity issues within these investments and the losses they suffered that her pension could no longer support her income withdrawals. Considering the transfer occurred in 2006 and she didn't complain until 2022, I suspect it is these issues that brought her to contact the professional representative. The complaint brought by the professional representative cites the result of these investments as the cause of Mrs H's substantial losses and the advice being neglectful.

Due to the lack of evidence it is difficult to make any conclusions about the reason for transfer and therefore its suitability. The evidence we do have suggests Mrs H transferred from one personal pension with standard investments to not too dissimilar holdings in terms of risk profile with another provider. And the statements from the time show us that Mrs H had received a small gain in value between the transfer date and date the adviser departed Thinc Group. So, there isn't anything here to say the advice was obviously unsuitable. Nor is there anything to say the advice was beneficial to Mrs H either. But I think what we're being asked to do here, is carry out an analysis of a transfer some seventeen years ago without any evidence of the original advice, and without any real reasoning to do so that is relevant to Thinc Group's involvement.

If I were to uphold this complaint (because the evidence led me to consider the advice unsuitable) a fair and reasonable calculation would have to be capped at a date before the change of investment occurred or at the date the adviser left Thinc Group. Meaning the key cause of the complaint, the poor performance/high risk investments, wouldn't form part of the redress. And without prior knowledge it would largely come down to a toss of a coin as to whether at the date chosen the investments within the old Skandia pension would've outperformed the investments within Transact. So I don't think this would be a fair and reasonable way to resolve this complaint.

Mrs H's representatives said they wished to take this case to decision following the investigators view, as safeguarded benefits were lost. However, the evidence shows there were no safeguarded benefits lost on transfer and all the pension had attached to it was the right to a spouse's pension. Mrs H's original pension provider Skandia confirmed that the fund being transferred was protected rights and therefore it carried a right to a 50% spouse's pension. But Transact have confirmed that this spousal benefit did carry over to its personal pension but this was lost in 2012 when protected rights were abolished. However, this would've been the same had Mrs H remained with the original provider. So Mrs H didn't lose out here.

After consideration, I think the complaint and the losses suffered largely stem from investment in high-risk funds which aren't attributable to Thinc Group, so I don't think it would be fair and reasonable to uphold this complaint.

My final decision

I do not uphold this complaint and make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 25 October 2023.

Simon Hollingshead
Ombudsman