

The complaint

Mr S complains about matters associated with his pensions with Zurich Assurance Ltd (Zurich).

What happened

Mr S said he had two personal pensions with Zurich. He had received policy information listing a company as his financial advisers that he did not recognise. He had not been contacted by them, didn't know anything about them nor how they selected their advisers. He trusted Zurich but knew nothing about Openwork and wasn't told when they took over. He hadn't been told how Openwork would use his data. He felt he couldn't trust them in the way he could trust Zurich. There were no new terms and conditions but he was paying them commission. His fund value had dropped by about £6,500. He was also unhappy his annual statement did not have numbered pages.

Zurich said Mr S complained about poor service from Zurich and lack of contact from their financial adviser. It said that when he took out his plan it was sold by a company that is now part of the Zurich Advice Network which became Openwork Limited. Openwork were now independent of Zurich. The individual who gave the advice had left but a new adviser had taken their place. Some original papers had explained that if an adviser left a new one would be appointed. As the advisers were no longer part of Zurich it had no control of them and he needed to contact them direct. It confirmed that they were copied into correspondence sent to him.

With respect to his complaint about the annual statements it apologised that the servicing name was listed twice and noted his complaint about the absence of numbered pages.

The investigator didn't uphold the complaint. They said Mr S had two policies. They had seen copy statements from 2021 and 2022. While the pages weren't numbered it wasn't for this service to tell Zurich how to run its business but they didn't think the statements were unclear or misleading. The statements also said a copy had been sent to another company with details of their address and telephone number. This should have been enough for Mr S to check that they were on the financial regulator's register. He said that Mr S's policies were opened with Allied Dunbar but this company was taken over by Zurich. In 2005 the advice aspects were taken over by a new company part owned by Zurich. In 2020 Zurich stopped owing any part of the network but the advice aspects continued to be provided.

Mr S wasn't happy that he wasn't informed of the changes to the adviser. But Zurich's 1998 data protection leaflet said it would pass his details to a new adviser if his adviser was ill or, stopped being his adviser. The leaflet didn't say they would notify him each time an adviser changed. He had also seen copies of what would have been sent out when the new network took over in 2005. As it was so long ago he didn't expect Mr S to remember receiving it. But if Mr S was unhappy with the adviser he needed to raise complaints with them about their actions. The advisers were a separate legal entity and he needed to raise a separate complaint with that company as Zurich was not responsible for them.

Mr S didn't agree. He didn't recall receiving any notification about the move to Openwork. He

also wanted Zurich to include more information on its annual statements. He said the original adviser was free but now it seemed he had to pay. The investigator said the statements didn't list any payment to the Financial advisers just plan charges.

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.

The purpose of this service is to help resolve complaints.

Mr S has mentioned a large number of issues.

Some of these were covered in the original complaint and some are new or expanded.

I asked Mr S a number of questions as I wanted to be certain I had understood his points. He said he felt pressured to answer. He needed time to reflect and think. I am sorry if Mr S felt under pressure that was certainly not my intention. I wanted to make sure I had understood the points he wanted to make. I am very grateful for the time he took to provide answers and have listened to the telephone messages he left setting these out.

Which Zurich company is party to this complaint?

Mr S questioned whether the correct company was party to this complaint. He referred to a company he called Zurich plc rather than Zurich Assurance Ltd. There are a number of companies in the Zurich group. This complaint is against Zurich Assurance Ltd. This is the name of the company that appears on his yearly pension statements.

Based on the evidence, I think it is reasonable to believe it is the correct party to this complaint and Zurich has not disputed this.

What is Advice

Mr S referred to a letter from 2023 in which Zurich asks to be notified if his plans have changed and if he intends to retire early or later. Mr S said the letters included statements, options, guidance and information to help him understand. He regarded all of these as advice.

I can understand why he would say that. If it assists him further the financial regulator has considered the difference between advice and guidance. It has suggested that

Advice - is a service which recommends a specific course of action based on the consumers individual circumstances and goals.

Guidance- provides information and/or options to narrow down the consumers choices, without making an explicit recommendation.

Advice can only be provided by a regulated individual or firm but guidance is provided by a wide range of individuals and organisations which may or may not be regulated.

Based on the evidence, I think Zurich has provided information and guidance but has not provided advice.

Drawdown

Mr S said that Zurich indicated it could not provide drawdown. He said this was in the

original policy and he had not been informed of this change. He thought he should have been told and Zurich couldn't just say it is a business decision and refuse to allow it.

I obtained a copy of Allied Dunbar Policy Provisions. The Options at retirement were a) to take a level annuity or b) a unit linked pension or c) an open market option (which is to take the fund to a new provider) and the ability to commute part of the pension.

Mr S said he wasn't contesting his 'right' to drawdown just that he had the option.

He questioned whether there were changes to terms and conditions when Allied Dunbar were taken over by Zurich. He questioned whether the open market option referred to the drawdown option. But he didn't like this as he said he would want to know who his pension was being transferred to and feared pension scams.

Unless the policy terms included the options of drawdown such an option is not automatically available to Mr S. Zurich were not required to amend the policy terms to enable this. Zurich has not indicated that it changed the policy terms in this respect when it took over.

Based on the evidence it does not seem that this option was ever available to Mr S.

Financial Adviser

Mr S also referred to the company name of the financial adviser that is listed on his yearly statement. He said his financial adviser is not listed as a limited company but seemed to be listed as an appointed representative of a network. I agree that this appears to be the case based on the papers I have seen.

Mr S said he had spoken to his financial adviser and gave the name of an individual he had spoken to. He complained there had not been a letter of introduction and he asked the adviser for its data protection policy. He said this was sent to him in August this year. This was the first communication he had received from the Financial Adviser that was now linked to his pension. It had taken until September this year to provide a letter of introduction. But he still did not know what their designation was as Ltd company or otherwise.

He said he did not want to remove them as his adviser. He didn't think it was a good step to have no adviser listed. So for now he was going to leave it with the current adviser, particularly as he was coming up to retirement.

Mr S said that when he took out the plan all correspondence listed the name of the adviser. Now the papers just referred to a company and not an individual. He did not know the new business and said he was not told of the change in adviser in around 2005 .

I do understand Mr S's position on this and the ability to contact a named individual and as he says, track where his personal information is going and with whom it is being shared. But this service cannot tell Zurich that it must list a named individual in addition to providing the name and some contact details of the business that is now listed as his financial adviser.

I understand that Mr S has now made contact and does not wish to remove the adviser at this time. While I can understand Mr S would like the individual adviser to be named I cannot direct Zurich to do that. Further as the adviser is not party to this complaint I cannot consider any complaints he has about that adviser.

Fees for financial advice

Mr S said the original advice given to take out the Allied Dunbar policy was free. There were

no charges for setting up the policy and there was never any charges shown on the paperwork.

While Mr S may not have been explicitly charged at the outset I cannot see that the policy documents suggest he has a right to free financial advice. As he says the yearly review does contain a statement suggesting that he would need to pay for future financial advice. Based on my experience and on the information presented on balance I cannot reasonably conclude that he was entitled to free financial advice.

Mr S agreed that the yearly statements did not show any payments being made to the financial adviser. But he referred to the requirements of the Retail Distribution Review (RDR) which said these fees should be put on paper in a clearer form. The statement lists the monthly and daily costs of running the plan but there is no section where the customer has to pay the adviser and the money is sent back to them. The RDR was to make things clearer so that the fees were split out and easily accounted for.

Zurich said that in this policy ongoing renewal commission was earned for each premium contribution received after an initial period. As the last contribution made was in 1993 no renewal commission had been paid since then. In relation to the RDR it said that the new requirements were clear that after its introduction any fees would need to be agreed between the adviser and client. Advice given post-RDR would be charged by an adviser as part of an external fee agreement where necessary and Zurich would hold no control or oversight on this.

I think this reasonably explains why Mr S has not seen any further disclosures under the RDR requirements.

Allowance for advice

Mr S refers to the existence of a £500 'allowance' for financial advice. He said it was referred to in Pension Wise and other pension leaflets. The information was not dependent on being provided by an IFA and is in the handbooks and was government policy.

I note what he says but in any event it was clear that Mr S is now aware that the allowance existed.

Yearly statement

Mr S complained that there were no page numbers on his statement and that it didn't contain all the information he wanted. I can understand that this was frustrating for Mr S but I cannot say that Zurich has done anything wrong by failing to number the pages of his statement. It is a business decision for Zurich whether to do this and I cannot direct it to do so.

With respect to the further information that Mr S said he wanted it to contain again I don't think Zurich did anything wrong and I cannot direct it as to the content it should include.

Data protection

Mr S said he was concerned that his adviser could pass his information around its business and other companies. Everything was being copied to them but there was no named person. The latest information showed two named people. He said the control of information is guided by the Information Commissioner and his information was being sent by post with different names attached. He felt this made tracing who had his information much harder.

I have seen a sample copy of a letter sent when Zurich Financial Adviser became Openwork

which it said was in 2005. This refers to a data protection leaflet which explains how it will hold and use his information. This includes sharing his information with advisers. So it seems to be acting in accordance with its policy.

In summary I do understand Mr S's frustrations about the various issues he has raised. But based on the information that I have seen I don't think Zurich has done anything wrong.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 23 December 2023.

Colette Bewley
Ombudsman