Case study: Pension

PENSION PLAN INVESTMENT SCHEME ACQUISITION RESULTS IN LOSSES DUE TO LIQUIDATION

Themes: Plan beneficiary as investment manager; pension plan liquidation; rights of beneficiaries; obligations of trustee; fees and charges; statutory time limits; CIFO's approach to calculation of losses.

This complaint concerns a trustee who did not act in the complainant's best interests when they promoted the acquisition of a scheme that the complainant's pension plan was invested in and that later went into liquidation.

Mr G had a pension plan which was set up as a trust and appointed himself as the investment adviser, meaning he was responsible for the allocation of his pension funds into investment opportunities. Mr G invested a portion of his pension plan into a scheme which was administered by his trustees.

In March 2013, the scheme in which Mr G's pension plan was invested was acquired by a different entity and Mr G's trustees switched his pension plan funds into this new scheme. Subsequently this investment plan went into liquidation. In 2019, Mr G made a complaint to the trustee, claiming they had not acted in his best interests when they promoted acquisition of the scheme and that the fees charged by the scheme were excessive. Mr G's trustee explained that they did not provide investment advice and they could not be held liable for any investment losses incurred but offered to refund fees up to £4,500. Mr G rejected this offer and referred his complaint to CIFO.

CIFO investigated and noted that some aspects of the complaint related to actions that occurred prior to CIFO's statutory time limit and would therefore not be within CIFO's mandate to review. The elements of Mr G's complaint that CIFO could review was that some additional fees should have been disclosed in advance of work being completed, as set out in the agreement between Mr G and the trustee. In relation to the pension plan investments, CIFO felt that Mr G's trustee did not meet the fiduciary duty owed to Mr G as a beneficiary of the pension plan when they promoted acquisition of the scheme that his pension plan was invested in.

Therefore, CIFO upheld the complaint and recommended the trustee compensate the scheme for the last amount, plus an investment return based on Mr G's previous risk rating, between March 2013 and the date of plan encashment. CIFO calculated the loss using its published 'CIFO General Approach to Compensation for Losses'. This amounted to approximately £9,500 and was based on the previous year's statement of returns that Mr G had provided and included 8% interest from May 2019 to the date Mr G's complaint was settled. In addition, CIFO recommended the trustee refund fees amounting to £7,500 and compensate Mr G £1,500 for the distress and inconvenience this matter had caused. In total, CIFO recommended approximately £18,500 in compensation.