



RISK BULLETIN

Financial Adviser Edition

March 2026

The Financial Ombudsman Service (FOS) confirms that ‘ongoing advice’ must be delivered, not merely offered.

At the end of last year, the FOS made a noteworthy decision about what level of service is enough to constitute ongoing service. While this was reported in the press at the time, it raises some interesting points at a time when the FCA is consulting on whether they should change the requirements to review ongoing suitability.

You can read the full FOS decision here - [Decision Reference DRN-5210159](#)

Key Take Aways

- Ongoing Advice Service (OAS) can be more than meetings with a client – the regular use of services such as a client portal can help to evidence that a service is being provided for the fee.
- Advisory firms that are offering “ongoing advice” need to consider proactively monitoring whether clients are using such services (not just being offered them) and actively refund ongoing advice fees where no service is received.



This is a FOS decision that concerns, amongst other things, a complaint by both Mr C and Mrs C about ongoing service. The FOS have made some comments that highlight their expectations regarding client interaction and fees charged.

In summary, one of the couple was quite responsive to the ongoing service/annual reviews and FOS were happy with this. The firm had evidence that reminders were being sent to the client every year about the possibility of an annual review and, while the client only completed a review once in four years, the client logged in to the online portal over 100 times. On the online portal the client would also have seen reminders about the reviews.



The FOS comment that

“In considering the service as a whole, and on balance, I am persuaded by the Firm’s argument about the notable value the complainants would have enjoyed in the online annual suitability reviews that took place (though, I address the shortfall in Mrs C’s case separately below), in the additional review related face-to-face meetings that Mr C mentioned in his 2024 correspondence..., in the home visits and Zoom meetings that both parties have referred to, and in the meeting(s) the adviser seems to have helped to arranged in relation to the investment provider.”

However, the other client was not as engaged and utilised their online portal much less. The FOS found that clients having access to ongoing support and advice is not the same as them actually using this ongoing support and advice.

In relation to Mrs C, the Firm argued that the client simply didn’t respond to the annual review requests and did have the benefit of the online portal etc, but FOS didn’t agree:

“...that regardless of whether (or not) Mrs C chose not to engage in the process, [the firm] was charging an ongoing fee for a service that she was not receiving.”

“I appreciate that the complainants could have considered adjusting or terminating the service (and/or its costs) at their end, but the fact remains that the Firm continued to be paid for an ongoing service she did not receive (other than in February 2023). As far as Mrs C is concerned, therein lays the basis for concluding that the OAS / Ongoing Advice Charge (OAC) did not provide fair value for her. In this regard, I echo and endorse the investigator’s reference to the regulatory expectation that a service like the OAS should be delivered, not merely offered, where it is being paid for.”

Conclusions

- We are seeing advisory firms beginning to proactively monitor client interaction with “ongoing advice”.
- Firms should be considering altering their service proposition if a client fails to attend multiple annual reviews. We are aware that some firms are even taking the approach that 1 to 2 missed reviews is enough for them to cancel the service and refund any fees charged.
- However, there is more to ongoing advice than just reviews. As we can see from the FOS decision, access to other services such as online portals and more general support can also help justify ongoing advice charges.

NOTE

- Nothing in this document is intended to be legal or regulatory advice



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