

## Ombudsman's Determination

Applicant	Mr R
Scheme	Hornbuckle SIPP ( <b>the SIPP</b> )
Respondents	Hornbuckle Limited ( <b>Hornbuckle</b> )

## Outcome

1. I do not uphold Mr R's complaint and no further action is required by Hornbuckle.
2. My reasons for reaching this decision are explained in more detail below.

## Complaint summary

3. Mr R's complaint is that Hornbuckle have unfairly increased its existing fees and applied new fees to the SIPP.

## Background information, including submissions from the parties

4. Mr R established his SIPP with Hornbuckle in 2006, and agreed to the terms and conditions. These stated the following with regard to charges and changes:

"18 our charges

...We will normally increase our charges on 1 January each year in line with any rise in the Government's Average Weekly Earnings (AWE) measure during the previous calendar year as described in the fee schedule.

We can make other increases or changes to the fees and expenses by changing these terms and conditions under section 28."

"28 Changing these terms and conditions

28.1 changes under specified circumstances

"We can change these terms and conditions (including the fee schedule and permitted investments schedule) for any of the following reasons..."

28.2 other changes

“Further, we can change the terms and conditions including the fee schedule and permitted investments schedule if we have any other valid reasons for doing so. We will not charge for transferring out your individual funds if:

- a change under this section 28.2 has any unfavourable effect on your rights under the scheme; and
- we receive your written request to transfer within 30 days’ of notice of the change.

Although, in these circumstances, we will not charge for the transfer, any outstanding charges will still be payable and any fees and charges for cashing in or selling assets, or for making an in specie transfer of any asset...will still be charged. We give you at least 30 days’ notice of any change under this section 28.2”.

5. On 16 December 2013, Hornbuckle wrote to Mr R, announcing planned changes to its fees from 1 February 2014. The letter said the key pricing changes were:

“Moderate increases to our annual administration fees where the scheme holds only standard investments. For those members holding non-standard investments or participating in a SSAS or Group SIPP scheme, fee increases are greater and reflect the cost of operating such activities.

Fees related to our Capped and Flexible Drawdown activities will remain largely unchanged...save for unlisted shares, unregulated and overseas investments.

Significant changes across our commercial property related activities, most specifically our annual property administration fees...”

6. On 24 July 2014, Mr R raised a complaint that the introduction and increase of fees for the SIPP were disproportionate and invalid. He said the annual administration fee alone had increased from £490 to £600 which was a 22.5% increase. Mr R was dissatisfied that Hornbuckle added a new charge for transferring money from the SIPP into a personal bank account as previously there had never been a charge for this. The terms and conditions also state, under section 18, that any increases should be in line with the Average Weekly Earnings, and Mr R did not agree that they were. Mr R also complained that the Financial Ombudsman Service had issued a decision on a similar case where the complaint was upheld against Hornbuckle.
7. Hornbuckle say it gave advance notice of the changes. It also explained that its pricing had not changed for three years and it felt the changes accurately reflected the market for delivering self-invested pensions in today’s market.

## **Adjudicator's Opinion**

8. Mr R's complaint was considered by one of our Adjudicators who concluded that no further action was required by Hornbuckle. The Adjudicator's findings are summarised briefly below:
  - Hornbuckle made a commercial decision to change its fee structure and it is able to do so under section 28 of the terms and conditions. It complied with the 30 day notice as set out in the terms and condition, therefore, I do not find that it has erred in making these changes.
  - Mr R believes the increase of fees and additional charges Hornbuckle are making are disproportionate. This is a matter of opinion and the terms and conditions allow Hornbuckle a lot of discretion in determining the fees it charges.
  - Hornbuckle advised Mr R that the fee structure would be changing and gave him sufficient notice of this. He was able to transfer within 30 days if he was unhappy with the new fees
9. Hornbuckle agreed with the adjudicators findings and did not make any further comments.
10. Mr R did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr R provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion, summarised above, and I will therefore only respond to the key points made by Mr R for completeness.

## **Ombudsman's decision**

11. Mr R has said, under section 18 of the terms and conditions that increases to the fees and charges should be made in line with the Average Weekly Earnings. Mr R believes the increases Hornbuckle are making are disproportionate and not in line with section 18, which refers to the annual increases applied to charges. Section 18 specifies that Hornbuckle can make other increases or changes to the fees and charges by altering the terms and conditions in-line with section 28. It is worth noting that prior to this Hornbuckle did not make any changes to the fees for three years. Hornbuckle have now made a commercial decision to change its fees, and it has followed the steps laid out in the terms and conditions, therefore, I do not find any maladministration by Hornbuckle in making these changes.
12. Hornbuckle have also added a new charge for transferring cash from the SIPP to a personal account. Mr R has complained that previously there was no charge for this. Again, this was a commercial decision that Hornbuckle are entitled to make. I am satisfied that Hornbuckle have complied with the terms and conditions which Mr R agreed to when he established the SIPP. Mr R was given the opportunity to transfer if he felt the additional fees meant the SIPP was no longer suitable.

**PO-13033**

13. In Mr R's submissions he refers to a decision made by the Financial Ombudsman Service where he says a similar complaint was upheld against Hornbuckle. As the Financial Ombudsman Service is a different organisation I do not consider it appropriate to comment on the outcome of the case, or the particular circumstances which led to that outcome. Mr R has also mentioned a case which I have determined (ref: PO-7991), this complaint was not upheld against Hornbuckle. It remains my view that Hornbuckle have acted in accordance with its terms and conditions.
14. Therefore, I do not uphold Mr R's complaint.

**Anthony Arter**

Pensions Ombudsman  
1 August 2016