

## The complaint

Mrs G complains about Redmayne-Bentley LLP, referred to as “the business”. She’s unhappy about the performance of her investment portfolio, managed under the Managed Portfolio Service (MPS). She believes her investment has been mismanaged by the business resulting in significant financial loss. She also believes that the advice to make the change was unsuitable.

## What happened

In August 2019, Mrs G invested £30,831 in the MPS for capital growth. She was in her late 60’s, married and retired. She had previous investment experience, including investments managed on a discretionary basis. Her attitude to risk (ATR) was recorded as ‘moderate risk’ and her investment goal was recorded as being over a term of 10 years.

In September 2019, her investment was worth £30,982. In March 2020, it dipped to £27,830. In December 2020, she contributed a further £15,444 and in March 2021 another £46,015. Her portfolio has grown by £681 to £92,971.

Mrs G says that since the dip in the stock market in 2020 the major indices have recovered, but the performance of the MPS has been poor. She feels the business hasn’t managed her investment as expected and as a result she’s lost out financially. She says the business could’ve been more proactive and taken advantage of the dip.

The business didn’t uphold the complaint. In summary, it said that whilst it acknowledged that the portfolio underperformed against the benchmark used to compare recent account performance, there was an inherent risk with investing in the stock market. There were also no guarantees, and some investments might perform less well than others. Also, although the UK companies may have performed strongly in the last 12 months, the MPS portfolio is invested in a range of global equities, resulting in lower exposure to UK companies.

Whilst Mrs G is unhappy about the performance, the portfolio is extremely diverse, and despite the short-term volatility it continues to invest with focus on the longer-term, in line with a 10-year horizon.

Unhappy with the business’s response, Mrs G referred her complaint to our service. One of our investigators considered the complaint but didn’t think it should be upheld. In summary, he said:

- Complaints about investment performance alone are not something that our service would consider. Without the benefit of hindsight, it’s difficult to know whether, or not, the stock market would’ve produced better returns, and it’s not something that the business could’ve predicted at the outset.
- The client agreement confirmed that Mrs G was aware that she was taking a long-term approach to investing and of the risks involved.
- Her moderate ATR/risk appetite was in line with her objectives and broadly how the investment performed.
- Although Mrs G contributed over £60,000 post pandemic – when the stock market

had recovered significantly – the war in Ukraine caused a subsequent dip in the market.

- The MPS's objectives was to provide investors with growth and income – with the aim of providing a total return designed to achieve a target of the Bank of England base rate +3.5%. Although Mrs G made a small return, this was broadly in line with the ARC Sterling Balanced Asset Index. The decline has been in line with the tolerance, but the growth has been higher.
- The business also notified Mrs G when her investment started to drop by more than 10% in March 2020 (during the pandemic) and in February 2022, at the start of the Ukraine war.
- Despite what Mrs G said about how the business ought to have behaved regarding taking advantage of the undervalued equities, the business hasn't acted unreasonably by not doing so. If it did, it would've been a significant shift from the portfolio Mrs G agreed in 2019. In other words, more exposure to equities.
- Despite what Mrs G says, in the circumstances the business hasn't done anything wrong by not asking if she'd like to change her portfolio after a drop in the stock market. Mrs G was also asked to notify the business if she wanted to change anything.

Mrs G disagreed with the investigator's view and asked for an ombudsman's decision. She made a number of points relating to management and performance, as well as the suitability of the advice. In summary, she made the following key points:

- She was unaware that her account had been changed and that she's consequently suffered a significant financial loss in terms of its value going down compared to the markets.
- The practice employed by the business to change accounts needs to be investigated.

The investigator having considered the additional points wasn't persuaded to change his mind. In summary, he said:

- Mrs G's main complaint was about the management and performance of her investment. Having considered all the evidence, he's still not persuaded that the investment wasn't managed by the business within the agreed mandate, as suggested by Mrs G.
- Mrs G also raised issues about the suitability of the 'change' in her investment which she's held for years. Having given the business an opportunity to consider this issue he can't say that the advice was unsuitable.
- Mrs G was given options, so didn't have to move to the MPS and she was given information in relation to the general risks involved.

Mrs G disagreed with the investigator's latest view. She's provided numerous submissions that I've addressed below. I don't think it's necessary to repeat them here.

As no agreement has been reached, the matter has been passed to me for review.

### **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 investigator's conclusion for much the same reasons. I'm not going to uphold this complaint.

On the face of the evidence, and on balance, despite what the parties say, I can't safely say that the business behaved unreasonably or that it's to blame for the MPS not performing better.

Before I explain why this is the case, I think it's important for me to recognise the strength of feeling Mrs G has about this matter. She has provided submissions to support the complaint, which I've read and considered carefully. However, I hope she won't take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy.

The purpose of my decision isn't to address every single point raised under a separate subject heading, or undertake a forensic analysis of the evidence, it's not what I'm required to do in order to reach a decision in this case. I appreciate this can be frustrating, but it doesn't mean I'm not considering the pertinent points in this case.

My role is to consider the evidence presented by Mrs G, and the business, and reach what I think is an independent, fair, and reasonable decision based on the facts of the case – I'm not here to take sides.

In deciding what's fair and reasonable, I must consider the relevant law, regulation, and best industry practice, but perhaps unlike a court or tribunal I'm not bound by this. It's for me to decide, based on the information I've been given, what's more likely than not to have happened.

In short, I don't uphold this complaint for the following reasons:

- Our service doesn't consider complaints in isolation about the performance of an investment. This is because performance is dependent on the financial markets and not something that a business can control or predict. So, on the face of the evidence, and on balance, despite what Mrs G says, I can't safely say that the business behaved unreasonably just because her investment didn't perform better compared to the stockmarket.
- I'm aware that prior to the switch to MPS, Mrs G's portfolio was managed under The Collectives Portfolio (TCP) service and that in May 2019 the business took the decision to cease providing this service to clients with assets under £100,000, which affected Mrs G. This is a decision that the business was entitled to make in the reasonable exercise of its legitimate commercial judgement and not something that our service would get involved in. In other words, I can't say the business has done anything wrong by incorporating this change which it was entitled to make.
- The above proposed change notwithstanding, I'm aware that the business wrote to Mrs G giving her three options – meet the £20,000 entry requirement and apply for the new MPS, change to execution only service or stop using the business's service. I note she didn't respond initially and was sent a follow up letter with the Change of Service Option Form – which she responded to on 15 July 2019, electing the new MPS.
- I note Mrs G also signed a Client Agreement Form which included questions around her investment objective and risk assessment that helped the business determine which strategy to take.
- In August 2019, an email was sent to Mrs G outlining the business's assessment and recommendation of a 'moderate' investment strategy. Later that same day Mrs G confirmed that she wished to proceed. Despite what she now says, I'm satisfied that she made an informed decision to go along with the recommendation and did so of her own volition. I'm mindful that she had several options available but chose the new

MPS. In other words, and on balance, I'm persuaded that she – more likely than not – knew what was happening regarding the change and had a reasonable opportunity to decide what she wanted to do going forward.

- Despite what Mrs G says, if she was unsure about something or wanted more information about how things would work, she could've contacted the business and/or sought advice but she didn't, which suggests that she was content with her decision and the information provided.
- The above notwithstanding, there was simply no guarantee that the change itself would produce greater results, and certainly no guarantee that it would provide a positive return. But I understand that it did, albeit a small return. I note between September 2019 and February 2022, Mrs G's investment grew by £681.
- I'm also aware that Mrs G contributed a total of around £61,459 – post the pandemic – but it's likely that the war in Ukraine had an impact on the growth of her investment.
- I understand that additional funds were placed most likely in the hope that the global financial markets would improve much in the same way that the UK markets had been improving, and there was nothing to suggest that it wouldn't. That's generally how investing in risk-based investments works.
- In the circumstances, and on balance, I can't say that making additional contributions to the investment, with a 10-year horizon in place is unreasonable. Despite what Mrs G says, I don't think that the business has done anything wrong by not investing in undervalued equities. I agree with the investigator that it probably would've resulted in a shift in the portfolio makeup previously agreed by Mrs G in 2019 – therefore resulting in a higher risk than agreed.
- I'm mindful that Mrs G was an experienced investor – I note she says she has over 40 years of experience of the stockmarket, and she's been investing with the business for over 20 years – so she is well aware that investments can go up as well as down.
- Based on the evidence, I can't safely say that her 'moderate' ATR was any more or less risk than she was willing to take, nor that it was contrary to her long-term plans. Given description of what a moderate risk means, I can't say that it's contrary to her objectives either:
  - *"As a medium risk investor, your investment strategy will seek over time to generate returns above the rate of inflation and should reflect a good share of the fluctuation in value of equity markets. Your investment strategy is likely to differ from a low-medium risk investment strategy through lower diversification by asset class and/or having greater exposure to equities, including possible exposure to shares in smaller and medium-sized companies. A medium risk investment strategy is appropriate if you have a medium to long-term timescale for investing and capacity to tolerate a temporary or (albeit unlikely) permanent loss to your capital."*
- I also can't say that this was at odds with the level of volatility that she was willing to accept, which I understand was 17.5% plus or minus, which was in hindsight broadly in line with how the investment performed.
- I don't think it's necessary to list all the volatility, but I understand that the highest monthly decline in one month was -12.45% and the maximum monthly increase in another was 15.67% which would suggest that the investment was being managed in line with Mrs G's investment strategy and mandate.
- In the circumstances, I don't think the business has done anything wrong by not checking to see if Mrs G wanted to change her portfolio after a dip in the market within a year or so of investing, and then another year or so after the additional contributions. I'm mindful she was looking for a long-term investment with a moderate risk, and there was nothing to suggest that she wanted to change this.
- I note that the business contacted Mrs G regularly (annually), and as well as providing her with information on her investment, asked her for information on any

changes in her circumstances. So, she could've informed the business if she thought she was ready and willing to take greater risk.

- In the circumstances, and on balance, I don't think the business has done anything wrong by not acting of its own volition during a dip in the market, resulting in greater risk to the investment. Without the benefit of hindsight, it's impossible to know whether, or not, this would've been beneficial to Mrs G.
- I don't think Mrs G would've appreciated the business acting unilaterally and without her authority or pushing her to follow a particular course of action.
- Despite what Mrs G says about putting her trust in the business and expecting it to do its best for her, I can't say that it didn't act in her best interests. And just because Mrs G might've sustained losses or not made as much profit, doesn't mean that the business didn't manage her investments properly. I'm mindful she was 'perfectly happy with her account with the business' that she'd held for over 20 years up until this change - that she agreed to.

I appreciate Mrs G will be thoroughly unhappy that I've reached the same conclusion as the investigator, and I realise my decision isn't what she wants to hear.

I note she believes that the business should pay her compensation, but I don't agree, because I don't think the business is responsible for any losses. Whilst I appreciate her deep frustration and anguish, I'm not going to ask the business to do anything.

On the face of the available evidence, and on balance, despite what Mrs G says, I'm unable to uphold this complaint and give her what she wants.

### **My final decision**

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 5 October 2023.

Dara Islam  
**Ombudsman**