

The complaint

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

What happened

In August 2019, Mr G invested £65,541 in the MPS for capital growth. He was in his late 60’s, married and retired. He had previous investment experience, including investments managed on a discretionary basis. His attitude to risk (ATR) was recorded as ‘moderate risk’ and his investment goal was recorded as being over a term of 10 years.

In September 2019, his investment was worth £65,224. In March 2020, it dipped to £58,543. In February 2022, he complained that the MPS recovery had been slow compared to the stock market. In other words, since the dip in the stock market in 2020 the major indices have recovered, but the performance of the MPS has been poor. He feels the business hasn’t managed his investment as expected and as a result he’s lost out financially. He says the business could’ve been more proactive and taken advantage of the dip.

In a final response letter (FRL) dated March 2022, 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 may 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 Mr 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, Mr G referred his 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 Mr G was aware that he was taking a long-term approach to investing and of the risks involved.
- His moderate ATR/risk appetite was in line with his objectives and broadly how the investment performed.
- As a medium risk investor, over time the investment sought to generate returns above the rate of inflation and reflect a good share of the fluctuation in value of equity

markets. And appropriate for medium to long term investment.

- 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%.
- Mr G was looking for a portfolio that could lose no more than -17.5% or gain 17.5% in terms of volatility. Despite the 2020 market volatility, it was in line with Mr G's risk appetite. The highest decline in one month was -12.50%, and the maximum increase 15.67%.
- Between September 2019 and February 2022 (when the complaint was made), the investment grew by £8,020 (12.29%) – around 6.1% a year.
- This was broadly in line with MPS's objective, and the return was 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 Mr G when his 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 Mr 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 Mr G agreed in 2019. In other words, more exposure to equities and greater risk.
- Despite what Mr G says, in the circumstances the business hasn't done anything wrong by not asking him if he'd like to change his portfolio after a drop in the stock market. Mr G was also asked to notify the business if he wanted to change anything.

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

- He was unaware that his account had been changed and that he'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:

- Mr G's main complaint was about the management and performance of his 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 Mr G.
- Mr G also raised issues about the suitability of the 'change' in his investment which he's held for years. Having given the business an opportunity to consider this issue he can't say that the advice was unsuitable.
- Mr G was given options, so didn't have to move to the MPS, and he was given information in relation to the general risks involved.

Mr G disagreed with the investigator's latest view. He'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 Mr G has about this matter. He has provided submissions to support the complaint, which I've read and considered carefully. However, I hope he 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 Mr 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 Mr G says, I can't safely say that the business behaved unreasonably just because his investment didn't perform better through the MPS compared to the stockmarket.
- I'm aware that prior to the switch to MPS, Mr 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 Mr 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 Mr G giving him 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 that he didn't respond initially and was sent a follow up letter with the Change of Service Option Form – which he responded to on 15 July 2019, electing the new MPS.
- I note Mr G also signed a Client Agreement Form which included questions around his investment objective and risk assessment that helped the business determine

which strategy to take.

- In August 2019, an email was sent to Mr G outlining the business's assessment and recommendation of a 'moderate' investment strategy. Later that same day Mr G confirmed that he wished to proceed. Despite what he now says, I'm satisfied that he made an informed decision to go along with the recommendation and did so of his own volition. I'm mindful that he had several options available but chose the MPS. In other words, and on balance, I'm persuaded that he – more likely than not – knew what was happening regarding the change and had a reasonable opportunity to decide what he wanted to do going forward.
- Despite what Mr G says, if he was unsure about something or wanted more information about how things would work, he could've contacted the business and/or sought advice but didn't, which suggests that he was content with his 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 – I note the investigator mentioned that between September 2019 and February 2022 (when the complaint was made), the investment grew by £8,020 (12.29%) – around 6.1% a year.
- On balance I think it's likely that the pandemic and the war in Ukraine had an impact on the investment. These are factors that certainly can't be dismissed as having an impact.
- Based on the evidence, I can't safely say that his 'moderate' ATR was any more (or less) risk than he 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 his 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 he 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 increase in another was 15.67% which would suggest that the investment was – with the benefit of hindsight – managed in line with Mr 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 Mr G wanted to change his portfolio after a dip in the market within a year or so after investing with a longer-term horizon in mind.
- I'm mindful he was looking for a long-term investment with a moderate risk, and there was nothing to suggest that he wanted to change this.
- I note that the business contacted Mr G regularly (annually), and as well as providing him with information on his investment, also asked him for information on any changes in his circumstances. So, he could've informed the business if he thought he 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 Mr G.

- I don't think Mr G would've appreciated the business acting without his authority or pushing him to follow a particular course of action that it decided unilaterally.
- Despite what Mr G says about putting his trust in the business and expecting it to do its best for him, I can't say that it didn't act in his best interests. And just because he may have sustained losses or not profited as much as he would've liked, doesn't mean that the business didn't manage his investments properly.

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

I note he believes that the business should pay him compensation, but I don't agree, because I don't think the business is responsible for any losses. Whilst I appreciate his 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 Mr G says, I'm unable uphold this complaint and give him what he 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 Mr G to accept or reject my decision before 4 October 2023.

Dara Islam
Ombudsman