

The complaint

Mr C complains that he was given unsuitable investment advice by The Financial Planning Centre Limited, referred to as "FPC", or "the business".

In short, he's unhappy that:

- Despite economic changes over the past year, the adviser didn't have his best interests in mind when dealing with his investments.
- The adviser failed to react to changes in the market causing a significant impact on his investments resulting in financial loss.
- Since the beginning of 2022, the adviser failed to take the necessary action to mitigate the losses to his portfolio.
- The adviser informed him that he was taking advice from a third-party analyst an accomplished risk-rating and investment research analysist but this wasn't true.
- Following his complaint, the adviser gave him a seven-day notice that the adviser was ending the relationship with him. He believes this is unreasonable.
- He's unhappy about the way the complaint has been handled.

To put things right, he'd like the business to repay his losses since January 2022.

What happened

One of our investigators considered the complaint but didn't think it should be upheld. In summary, she said:

- Mr C has been a client of FPC and has generally been happy with the advice provided. However, since the beginning of 2022, he's raised concerns about the performance of his investments and was advised to remain invested which he is unhappy about.
- Mr C's concerned that the adviser failed to take adequate action by suggesting
 alternative investments. Instead, he was advised to remain invested. In other words,
 the adviser failed to react to the wider economic changes resulting in financial loss.
- In terms of performance, our service is unable to uphold a complaint based on performance alone.
- Based on Mr C's answers to the risk-based questionnaire, he was prepared to take a
 moderate to high risk approach to investment, over the long term. It's therefore likely
 that Mr C agreed to and/or was aware of an economic downturn in the short term and
 understood that he needed to take a risk to generate growth.
- Despite what Mr C says about the adviser's failure to take action, the adviser isn't
 responsible for any losses sustained by the Mr C. Although Mr C was paying for
 ongoing advice, the adviser explained what was going on each time he was
 contacted by Mr C between January and May 2022 about concerns regarding a drop
 in the investment.
- There was no requirement to accept the advice given, but Mr C did. Instead, he could've provided instructions asking FPC to lower his risk.
- In the circumstances, and on balance, FPC isn't responsible for any losses sustained

- by Mr C. It wasn't providing a discretionary service, so wasn't required (or able) to provide changes to the portfolio that a fund manager could make.
- Given the historic trend of the stock market, and without the benefit of hindsight it
 wasn't unreasonable to remain invested. This service has seen situations where
 knee jerk reactions have resulted in losses crystalizing when investments have
 bounced back. So, on balance, there was a good case for Mr C remaining invested
 despite times being challenging.
- In the past few years a number of challenges have affected the global financial economy, including the war in Ukraine. FPC provided the best advice it could with the resources available so she can't say the advice was unsuitable. On balance, the business hasn't done anything wrong by not advising Mr C to crystalise his losses.
- Past performance isn't a guarantee of future performance. Whilst Mr C's portfolio has previously shown positive performance (potentially) better than other portfolios with similar objectives this didn't mean that it would continue to do so in the future.
- Despite what Mr C says, there's no evidence that it was obliged to seek advice from a third-party business. In any case, there's nothing wrong with a business utilizing research from a third-party analyst, which specialises in investment research analysis. FPC said it did use the third-party business for fund research only and based on information provided, it suggests that it did use this information.
- FPC explained that it has a number of model portfolios, and these are constructed by their investment committee, and its research is backed by the third-party investment research analyst.
- FPC also made clear that its portfolio proposition consists of ten investment portfolios
 aligned to ten different risk levels. These are constructed using top-down strategic
 asset allocation methods where it selected asset classes, geographic locations, and
 specific allocation weightings to create diversified portfolios based on the level of risk
 a client wishes to take. FPC then rebalance every six months (if necessary) to ensure
 the portfolio weightings have not drifted.
- FPC models portfolios invest across four main asst classes cash, property, bonds, and equities which it says increases diversification, spreading the risk within the portfolio and can help reduced losses in poor market condition. The practice is common within the industry and considered prudent.
- Mr C is unhappy about the way he's complaint has been handled. But complaint
 handling isn't a regulated activity and therefore not a complaint our service can
 consider. That's said FPC provided referral right in case Mr C was unhappy with the
 outcome of his complaint.
- He's unhappy that whilst he was away, FPC gave him a seven-day notice, to terminate the relationship. However, the notice was in keeping with the terms and conditions. Whilst the timing could've been better, FPC wasn't required to provide a reason as to why it was terminating its relationship with Mr C.
- On 6 May 2022, FPC turned off its charges, and offered to carry out any instructions until 16 May 2022 such as de-risking by converting Mr C's investments to cash but no instructions were provided. On 9 May 2022, FPC provided a seven-day notice to cease services.
- Mr C appointed a new adviser by 26 May. As the original meeting with FPC wasn't booked until 25 May, it wouldn't have made a difference.

Mr C disagreed with the investigator's view and asked for an ombudsman's decision. I summary, he said:

- The crux of his complaint is that he doesn't believe that the adviser conducted a review of his investments when he was clearly showing concern about the fall in value.
- He, along with his husband who has a separate complaint against the business, repeatedly asked if the asset mix in his portfolio was suitable, to help him make an informed decision about "de-risking". But all he received in return was 'generalities' about the broad reasons attached to these losses – the impact of inflation and the fall away in the value of Gilts or assurances and that he was in regular dialogue with the third-party analyst.
- Whilst FPC wasn't providing a discretionary service, the terms of his Premier Service agreement stated that he could request a review of his investments.
- He asked the adviser repeatedly the basis upon which the adviser believed the
 portfolio was appropriate for his investment needs and/or risk appetite, bearing in
 mind the changes to the market conditions. In other words, he asked the adviser to
 review the make-up of his portfolio, in order to ensure that it was right for him, but the
 adviser never answered him beyond advising him that he was having meetings with
 the third-party analyst.
- Despite agreeing to a meeting on 25 May, the adviser chose to end the relationship, before this date. This reluctance suggests that he was keen avoid having to explain his actions.
- It's unfair that he's unable to challenge the adviser not responding to his complaint fully. Instead, the adviser chose to end the relationship whilst he was out of the country which caused him additional stress, leaving him with no recourse.
- FPC was duty bound to treat him fairly but failed to do so. The adviser treated him most unfairly.

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 available evidence, and on balance, despite what Mr C says, I can't safely say that the advice to remain invested – not to crystalise his losses – in the circumstances was unsuitable.

But before I explain further why this is the case, I think it's important for me to note I very much recognise Mr C's strength of feeling, about this matter. He has provided detailed 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, it's not what I'm required to do in order to reach a decision in this case. In other words, I don't have to comment upon every single point made. My role is to consider the evidence presented by Mr C and FPC, and reach what I think is an independent, fair and reasonable decision based on the facts of the case. In the circumstances, I don't need any further evidence to make my decision.

I don't uphold this complaint, in brief, for the following reasons:

- On the face of the evidence, and on balance, despite what Mr C says, I can't safely
 say that the advice to remain invested in early 2022 was unsuitable. Despite his
 concerns, on balance I can't say that the advice wasn't prudent given the volatile
 state of the markets and there being no reason to think things wouldn't improve in the
 future.
- Despite what Mr C says, in the circumstances, and on balance, I can't safely say that the recommendation didn't consider the wider economic environment. I appreciate that investing in an alternative investment, and crystalising losses was an option, but this wasn't without risk given the circumstances. Without the benefit of hindsight it's difficult to know which option would've produced the better result financially.
- Whilst other portfolios with a similar risk profile (with other IFAs) might've done better, this doesn't mean that the advice given by the adviser was unsuitable.
- FPC gave Mr C the advice to sit tight, it did so in good faith. Each time he contacted
 the business (between January and May 2022) regarding his concerns, he was duly
 notified of what was going on. Mr C wasn't obliged to accept the advice and was free
 to do something different.
- Even though he wasn't comfortable making his own financial decisions, in order address his own concerns Mr C could've chosen, of his own volition, to instruct the business to de-risk his investments by lowering the risk or by converting all or some of his assets to cash. But he chose to follow the advice and remain invested instead.
- The above notwithstanding, even if the business had actively answered Mr C's
 questions and queries in the way that he wanted, on balance I can't safely say that
 he would've done things differently. Without the benefit of hindsight, on balance, I'm
 unable to say that Mr C wouldn't have remained invested, because that's what he did
 ultimately despite having concerns.
- I appreciate Mr C is unhappy with the performance of his investment, but performance alone isn't something that our service can consider a complaint about. In other words, the business is unable to control or predict how the investment is likely to perform as that's dependent on the financial markets and something FPC has no control over.
- On the face of the evidence, and on balance, I'm persuaded that Mr C probably had a moderate to high-risk attitude and was willing to take a greater risk for better returns. In other words, to achieve his aim, I'm satisfied that he was willing to take a risk, and some higher risk in exchange for increased potential returns.
- On balance, I'm satisfied that Mr C had a diversified portfolio. And that it didn't carry any more risk than he was willing to take.
- Based on the investigator's submissions, I note the stock market has performed in an
 upward trend with some notable dips, therefore it isn't unusual for an adviser to
 recommend staying invested during this period. In any case, it's not unusual for
 investments to recover after some volatility, whereas encashing/de-investing can
 lead to losses being crystalised without no recourse or chance of recovery.
- Of course, past performance isn't a guarantee for future performance, however, there
 was nothing to say that Mr C's portfolio wouldn't perform better in the future, similar
 to the way other portfolios he described did. So, in the circumstance, and on balance,
 I can't say that the business did anything wrong by not advising Mr C to crystalise his
 losses. In other words, and on balance, I can't say that it was wrong for him to remain
 where he was and try and ride out any volatility.
- That aside, I'm aware that several extraneous factors have affected the financial markets which in turn has affected Mr C's investment, but this isn't something that I can blame FPC for.
- Mr C says he was informed that FPC was seeking advice from another company but

- that this wasn't the case, and he was misled. But despite what Mr C says, there's no evidence that there was an advisory relationship between the relevant parties and therefore no obligation on FPC to seek advice from this third-party on his behalf.
- Despite what Mr C says, complaint handling isn't a regulated activity and therefore generally not something that we can consider a complaint about in isolation.
- Despite what Mr C says, a business is entitled in the reasonable exercise of its legitimate commercial judgement – to end a relationship with a consumer. So, in the circumstances and on balance, FPC hasn't done anything wrong by ending the relationship with Mr C with notice.
- A business isn't obliged to provide a service if it doesn't want to. In this instance, it's
 unfortunate that Mr C was abroad when the notice was given, but I'm aware that he
 was able to find an adviser a day before the original meeting was due, thereby
 minimizing any disruption this may have caused.
- Overall, and on balance, I can't safely say that Mr C was treated unfairly such that this complaint should be upheld, and compensation paid.

I appreciate that Mr C will be thoroughly unhappy that I've reached the same conclusion as the investigator. Furthermore, I realise my decision isn't what he wants to hear. Whilst I appreciate his frustration, I can't safely say that FPC behaved unreasonably such that this complaint should be upheld.

In other words, on the face of the available evidence, and on balance, I can't 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 C to accept or reject my decision before 4 January 2024.

Dara Islam
Ombudsman