

The complaint

Miss R, Mr B, Mrs J and Mrs H (the trustees) of the charity complain about Quilter Life & Pensions Limited, previously known as Old Mutual Wealth, referred to as “Quilter” or “the business”.

In short, they say that there was a delay in closing a Collective Investment Bond (CIB) and opening a Collective Investment Account (CIA) in line with their instructions. They’re also unhappy that Quilter has taken fees, reducing the value of the funds, despite failing to follow instructions.

What happened

In 2010, the charity opened a CIB. In or around April 2021, following advice from a third-party Independent Financial Adviser (the IFA) the charity opened a CIA – with a phased investment strategy.

I note Quilter says an application was made on 1 May 2021 to phase a new investment, namely a new investment of £120,000 (over 12 months) into a model portfolio, starting 1 June 2021. I understand that the portfolio can contain assets chosen by the adviser. In this case the model portfolio chosen by the old IFA for investment was named “*a Sustainable plan Dec 2020*”.

Based on what Quilter says, £120,000 was deposited in the CIC on 12 May 2021. However, between 1 May 2021 and 1 June 2021, the above model portfolio was closed by the old IFA. Miss R disagrees with this for various reasons, but Quilter says that because the model portfolio was closed before 1 June 2021 – when the first month’s phasing was due to commence – there was no asset allocation to invest the money into it. That’s why it remained in cash.

The trustees signed a CIB closure form and transfer servicing rights (TOS), after their IFA retired and they were changed to a new IFA, but they’re unhappy with delays in closing the CIB and investing in the CIA as planned.

I note that the CIB was closed, and the money transferred to the CIA on 3 December 2021. I also note that a new portfolio was set up by the new IFA and the phased investment started in December 2021.

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

- In the circumstances, he can’t say that Quilter is responsible for causing the delays.
- In short, the evidence suggests that Quilter didn’t receive the closure form and wasn’t provided with the signed transfer servicing rights document until 26 October 2021.
- The reason for his conclusion is as follows:
 - On 24 May 2021, the trustees sent the signed CIB closure form to the IFA.
 - On 25 June 2021, they sent the signed TOS to the new IFA – via the “DocuSign” process.

- The available information suggests that Quilter didn't receive the CIB closure form until/by 22 October 2021. Because of this it didn't have authority to close the CIB.
- Although Quilter was receiving information from the new IFA after 7 July 2021, the evidence shows that the TOS wasn't received by Quilter until 26 October 2021. This meant that full access to the account couldn't be given before this time.
- Quilter applied the fees and charges – to the CIB and CIA – in line with its terms and conditions. It provided the trustees with information about fees in advance. So, it was entitled to apply charges.
- Once the appropriate consent was in place, Quilter carried out the instructions provided by the trustees through their new IFA in a timely manner, without significant delay.
- Quilter has no responsibility to offer investment advice, it's simply a platform for investors.
- It has no control over investment performance and isn't responsible for any missed opportunities.

The trustees disagreed with the investigator's view and asked for an ombudsman's decision. In summary, Miss R made the following key submissions:

- The complaint is two-fold, namely closure of the CIB and not starting the phased investment in the CIA (which Quilter said would start on 1 June 2021) – the latter part is the more serious.
- How can there be evidence that shows that the closure form wasn't received? What evidence does the investigator have to support this conclusion?
- The view doesn't mention the non-starting of the phased investment into the CIA by Quilter (or the extra money given to it in April 2021) despite its written undertaking to do so. Why hasn't this been considered by the investigator.
- 24 June 2021 was when the trustees were sent the Docusign TOS document. The trustees signed an electronic transfer of servicing rights for this by 6 July 2021, as stated in the original information sent to the investigator.
- There's evidence from the new IFA to say that the document in question was signed electronically, so why is Quilter saying it didn't receive the form until 26 October 2021? The documents will be available on the Docusign system.
- The date of 26 October 2021 doesn't make sense as their new IFA was given access to the accounts on 30 September 2021.
 - In October 2021 the trustees signed a hard copy form regarding the CIA, which was emailed from their new IFA on 26 October 2021.
 - On 26 October 2021, Miss R also signed a Docusign form for the Adviser Fee Authorisation (AFA), regarding the new fees for this portfolio.
 - Quilter might be referring to these documents as the signed TOS document, but they're not the same thing.
- She accepts that the trustees were advised of the fees for the opening of the portfolio in May 2021, but from 1 June 2021 until December 2021 when the phased investment of the CIA finally started Quilter didn't do anything. It didn't provide the service they contracted with it to provide in May 2021. It sent a letter saying it would start the phased investment but didn't, and they didn't know until they received the first statement for the CIA several months later that it hadn't begun.
- She understands that the fees for the CIB was chargeable as this was still in operation.
- Quilter didn't start the investment when it said it would, so it is responsible for missed investment opportunity. It didn't do what it said it would.
- It might be that the closure of the CIB wasn't sent by their old IFA, but she sent the

original closure form on 21 October 2021.

- Any additional documents she receives she will forward.

The investigator having considered the additional arguments wasn't persuaded to change his mind. Quilter's letter confirming receipt of new funds – simply did just that – and no more. It didn't receive the necessary follow up.

Miss R made a number of submissions regarding further information she had obtained from her new IFA including the chronology of events it says it followed. But the investigator having considered the additional points wasn't persuaded to change his mind. In summary, he said:

- In respect of the TOS – signed by the trustees between 24 June 2021 and 6 June 2021 and emailed to Quilter on 7 July 2021 – Quilter queried further information that it required, which it was entitled to do. The TOS cleared on 17 September 2021.
- In respect of the CIB closure form – signed by the trustees between 22 and 23 May 2021 – the new IFA confirmed in an email to Quilter on 22 October 2021 that the form wasn't submitted. It was then submitted on the same date and actioned that month.
- In respect of the phased investment strategy, the old IFA submitted the form on 1 May 2021 – for the plan to start on 1 June 2021 – however the model portfolio chosen by the IFA had been closed by it before the start date, and that's why the funds remained in cash.
- Quilter received revised instructions via email on 29 October 2021 so that in due course the new IFA could have full access to the account.

Miss R on behalf of the charity disagreed with the investigator's view. In summary, she said:

- They were never asked for further information.
- Quilter denied that the names on the TOS were the names it had on record, which is untrue.
- Why did it take Quilter over two months to clear the TOS?
- The old IFA didn't inform the trustees that he was retiring until 4 June 2021, and that the company was merging with the new company.
- She accepts that the CIB closure form was originally lost by the old IFA (or Quilter). However, it was resubmitted in October 2021 but wasn't actioned until December 2021 – not October as Quilter says.

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 Miss R says, I'm unable to safely say that Quilter is responsible for the delays, or that it behaved unreasonably, such that the complaint should be upheld.

Before I explain further why this is the case, I think it's important for me to note I very much recognise the trustees' strength of feeling about this matter. Miss R has provided detailed 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, it's not what I'm required to do in order to reach a decision in this case. My role is to consider the evidence presented by Miss R and Quilter, and reach what I think is an independent, fair, and reasonable decision based on the facts of the case.

In deciding what's fair and reasonable, I must consider the relevant law, regulation, and best industry practice, but 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 the circumstances, and on balance, I don't uphold this complaint, in brief for the following reasons:

- On balance, I can't safely say that Quilter is responsible for the delays experienced by the charity.
- Based on a brief chronology of events it seems that Quilter didn't initially receive the necessary documentation and/or information/clarification that it needed, therefore couldn't progress matters as hoped for by the trustees.
- Despite giving an undertaking as to when the CIA might start, on balance it seems it couldn't do so as planned (mainly) for the above reasons but also others that I'll explore below. However, this doesn't mean that it did something wrong or deliberately tried to mislead the trustees.
- I also note that the CIB wasn't closed as instructed, because the relevant form wasn't supplied to Quilter as envisaged by the trustees and may have been lost.
- I'm aware that in 2018 Old Mutual Wealth's parent company changed its name to Quilter Plc and that thereafter there's been ongoing rebranding. I note in or around May/June 2021 the Old Mutual platform name was changed to Quilter, which was around the time the charity was seeking to close its CIB and open the CIA with the business.
- It's around this time that the charity's old IFA – responsible for initiating this process – also retired, and a new one was appointed – whilst the IFA businesses were merging – to continue with what had been started.
- In the circumstances and on balance, these changes (on both sides) can't be wholly dismissed and are likely to have had an impact on how matters progressed arguably by adding an additional level of complexity – for example, by registering the new IFA, and ensuring that he had the necessary access and permissions. This might explain why it took as long as it did to clear the TOS.
- I note Miss R submitted information from the charity's old IFA in order to assist with this complaint. But whilst the old IFA assisted as much as he could, I note he no longer had access to client files or Quilter, which he concedes makes determining what happened a difficult task.
- Despite what Miss R says, I think the start date for the phased investment would've been given by Quilter in good faith and done so on the understanding that all the other issues will have been sorted by then. At this point it's unlikely Quilter would've known that the charity's IFA was changing and the business merging.
- I note Quilter also says that the model portfolio chosen by the IFA had been closed by him before the start date – which Miss R disagrees with – and that's why the funds remained in cash. I note the old IFA says he failed to see how or why he would've closed a portfolio when it was being used but doesn't explicitly say that he didn't. In any case, he says that at the time he was heavily involved in the due diligence process for the new IFA and says that he wouldn't have had time to look at portfolios. On balance, it's therefore possible that certain matters could've been left unresolved

by him.

- Based on what the old IFA says, I note the completion of transfer (to the new IFA) completed on 4 June 2021 – by which time the old IFA was no longer authorised, so he couldn't help even if he wanted to.
- Consequently, for example, the new IFA, following the retirement of the charity's previous IFA, couldn't have full access to the account. Although based on what Miss R says, some access may have been granted to the new IFA earlier – I note the investigator says that the TOS cleared on 17 September 2021 and the new IFA probably first accessed the account on 30 September 2021 – but this doesn't undermine the position that the business couldn't do what it needed to without the relevant authority (and or further enquiries) which I believe was, on balance, more likely than not the case. I note the business says that the new IFA wouldn't have been able to submit instructions online, nor would it accept instructions from them, until the TOS was transferred to them. But in the circumstances, and on balance, the timings would suggest that matters were dealt with as reasonably as could be expected by Quilter, given the challenges it faced.
- I'm aware of the "bulk novation" of the charity's old IFA's clients on or around 30 September 2021, but that doesn't of itself mean that all the issues were resolved regarding the charity, its instructions and its new IFA.
- It's arguable that Quilter probably didn't need certain documents – that it thought it might've needed – such as a deed of assignment. The position regarding this isn't clear.
- But despite what Miss R says, I don't think Quilter was wrong to query some of the information and/or seek clarification where things didn't match its records. I don't think it was unreasonable for it to have done so. I note there were some issues in July/August 2021 that had to be ironed out.
 - For example, based on what the Miss R says – between 24 June 2021 and 6 July 2021, the signatures of the trustees were obtained regarding the TOS and sent on 7 July 2021 – but chased up (roughly) a month later, which is when Quilter mentioned the deed of assignment.
 - Furthermore, on 13 August 2021, the new IFA says he spoke to Quilter and was informed that the signatories didn't match its record, namely Mr B, Mr J and Miss D. It's not entirely clear what happened next, but there's a dispute between what Miss R says and what the new IFA says happened. I note Miss R denies that the new IFA queried this with her or that he was told anything by her in relation to this matter – however, he maintains he did.
 - I'm mindful that subsequently Miss R said that she met with the new IFA on 19 October 2021, and he informed her that the portfolio – which the CIA should've been invested in – had been closed when the old IFA retired – it's possible there's a link here. But this seemed strange to Miss R as the CIB was still running. Although it's not entirely clear what happened, on balance I can't say that Quilter is to blame.
 - In any case, despite what Miss R says, I note Quilter maintained that it still didn't have the signatories for the TOS. In other words, it wasn't signed by the correct people.
- Whilst I appreciate what Miss R says about the fees applied, I can't say that Quilter did anything wrong by taking fees when it did. In other words, on the face of the evidence and on balance, I'm persuaded that it was entitled to take fees and did so in line with its terms and conditions which it made clear to the trustees in or around May 2021 as well as any understanding it was likely to have with the adviser.
- I don't think the fees were dependent on any particular action as such. Quilter – a non-advised platform – was entitled to charge for services provided, regardless of the specific investment strategy. I'm mindful in its FRL it made clear that the fees were for a number of things, such as setting up and administering investments, custody

and safekeeping of investments, sending valuations and statements, freephone access to its customer care centre and online support and processing instructions and transaction and making changes to the portfolio – payment wasn't just dependent on the phased investment strategy, which I'm aware couldn't begin until much later.

- Overall, and on balance, I agree that once Quilter received the appropriate authority, it carried out the trustee's instructions (provided through their new IFA) in a reasonably timely manner.
- In the circumstances and on balance, I can't say that Quilter is responsible for any investment loss, because it isn't responsible for the delays. In any case, the investment return is not something that Quilter could predict or control and therefore not something that it's responsible for.
- In the circumstances, and on balance, for the reasons set out above, I can't say that the business behaved unreasonably such that this complaint should be upheld.

I appreciate that the trustees will be thoroughly unhappy that I've reached the same conclusion as the investigator. Furthermore, I realise my decision isn't what they want to hear. Whilst I appreciate their frustration, I can't safely say that Quilter 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 them what they want.

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 T and Mr B, Mrs H and Ms T to accept or reject my decision before 30 November 2023.

Dara Islam
Ombudsman