

## The complaint

Mr and Mrs B's representative, their daughter-in-law and Lasting Power of Attorney (LPA) ("Ms B"), complains on their behalf that they were given unsuitable investment advice by Argentis Wealth Management Ltd, formerly known as Compass Wealth Management Consultants ("Compass"), referred to as "Argentis" or "the business".

In short, Ms B says:

- The recommendation to move cash held in ISA to risk-based investments was unsuitable.
- Mr and Mrs B didn't understand the advice given.
- Ms B – as their representative and LPA – was only present at the initial meeting, but not the further recommendation meetings.
- It's unclear how Mr and Mrs B were expected to make a financial decision when they had no family member present who could ensure they understood the advice given to them.

## What happened

In October 2021, Mr and Mrs B were given the following financial advice:

- Transfer their ISAs held with Aberdeen Standard – valued at £32,342.21 and £30,774 respectively – to Elevate, via a cash transfer. The existing holdings would be sold and reinvested into the IMS Ethical Portfolio.
- Transfer their cash ISAs held with NatWest – valued at £38,979 and £54,400 respectively – to Elevate.
- Encash and transfer the joint General Investment Account (GIA) held with Aberdeen Standard – valued at £42,594.36 – to an ISA investing £20,000 each and a further £2,594.36 into a new GIA with Elevate.
- Invest 100% into the IMS Ethical portfolio.

Argentis also confirmed that Mr and Mrs B signed up to the 'choice' level of service and additional Investment Management Service (IMS). According to the 'client propositions' document, this meant that they had the option of accessing their financial adviser by phone, continuing suitability assessments and annual financial planning reviews.

I understand that through the IMS, they also had access to quarterly investment portfolio recommendations via Argentis portfolio management service and quarterly asset allocation rebalancing, amongst other services.

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

- A copy of the LPA document was requested in April 2021 but wasn't provided. Despite this and Ms B not being present – other than in the first meeting – the

subsequent meetings went ahead because Argentis saw no problems with continuing with the meeting.

- The notes suggest that Argentis offered to have Ms B in attendance, but she declined. Nevertheless, the business regularly checked Mr and Mrs B's understanding at various points in the meeting to ensure that they understood the advice and were happy to proceed.
- Even if the LPA document had been supplied it might not have made a difference. Mr and Mrs B are also named as LPA (for each other) so at least one attorney would've been present at the meeting by default. There was no requirement for Ms B to be there.
- Ms B had met the adviser and was present during an initial meeting. If there were any concerns regarding Mr and Mrs B's ability to understand, Ms B ought to have made this clear to the adviser, but she didn't.
- Despite what Ms B says about the recommendation and 'ethical investing' the recommendation met their objective for investing their money. It was recorded that they were concerned about the returns they were getting back on their deposit-based savings accounts.
- In other words, the recommendation was suitable because it met Mr and Mrs B's objective for growth, and they were made aware of the risks involved.
- Based on the adviser's notes, it seems that he discussed Mr B's "volunteering" and "donations to charity". The adviser also confirmed that there was a discussion about wanting to invest in companies that add something to the community and environment, so the recommendation to invest in the IMS Ethical Portfolio wasn't unsuitable – the adviser was only looking to meet their objectives. If Mr and Mrs B had any concerns about this, they ought to have reached out to the adviser as requested in case they had any issues.
- The investments were affordable, taken from existing investments that Mr and Mrs B weren't reliant upon them for everyday expenses. A reduction in value wouldn't have affected their lifestyle. They also had an emergency fund of £35,231 and a total monthly disposable income of approximately £1,173.90, so were in a reasonable position to invest.
- The adviser was taking a medium to long term view of their investment with a view to making their money work harder.
- The previous investments were no longer suitable to meet Mr and Mrs B's objectives. In other words, they were unlikely to achieve the long-term growth they were seeking.
- The adviser found Mr and Mrs B to be balanced risk investors. Their answers to the questionnaire would suggest that their attitude to risk was as such.
- The IMS Ethical Portfolio consisted of investing in equities, cash, fixed securities, and property. The aim of this was to balance security with returns. The mix was likely to have mitigated the risks of investing in equities and provided a layer of security.
- In any case, they were willing to take a risk – greater than they had in the past – to achieve better returns in the long(er) run, for their son.
- Based on everything she's seen she doesn't consider the recommendation to be unsuitable.
- Despite Ms B's concerns about the move to risk-based investments, she's satisfied that Mr and Mrs B wanted their monies to be working harder, with the aim of achieving greater capital growth. Given the conversations about the types of companies they wanted to invest in, it wasn't unreasonable for the adviser to recommend a more ethically appropriate portfolio.
- The adviser went through the reports and all of the recommendations as far as they could. Given that he was told that Mr and Mrs B understood what was going on, it wasn't unreasonable to proceed.

Ms B disagreed with the investigator's view and asked for an ombudsman's decision. In summary, she said:

- Concerns were raised with their new adviser in 2022 who messaged her to query whether or not the LPA was registered. She believes the original adviser made a clear recommendation that she needed to be present, but the advice continued without her.
- Mr and Mrs B were elderly and vulnerable and didn't understand what was going on. Mrs B relied on Mr B, and Mr B trusted the adviser. Their son had no clear understanding of finances and was vulnerable. According to their son, he *"didn't have a clue what was going on with his finances"*. It's easy to direct vulnerable people into making decisions they don't fully understand.
- It was made clear that she was needed to be at the meeting – it was clear from their faces from the first meeting that Mr and Mrs B didn't understand what was going on – she didn't feel the need to make this clear to the adviser.
- It was her fear that Mr and Mrs B moved their money based on advice they didn't understand, and this was confirmed. Whilst she's sure that they would've been concerned about their existing investments, it's unlikely they would've moved into a 'riskier' investment.
- The investigator's comments that Mr and Mrs B were willing to take a risk, greater than they had in the past to achieve longer term gains is perplexing. They're elderly vulnerable people – whom she has known over 30 years – who are not risk takers and have just been led to believe they're doing the right thing.

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 Ms B says, I'm unable to safely say that Argentis behaved unreasonably such that this complaint should be upheld. But before I explain further why this is the case, I think it's important for me to note I very much recognise Ms B's strength of feeling (on behalf of Mr and Mrs B), about this matter. She has provided detailed submissions to support the complaint, which I've read and considered carefully. However, I hope they 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 Ms B and Argentis, 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 understand that Argentis was formerly known as Compass – when Mr and Mrs B signed the relevant documentation – before it was rebranded in November 2022 and all agreements were transferred to Argentis. This will explain why Mr and Mrs B's original correspondence relates to Compass.

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

- Argentis quite rightly asked for the LPA which wasn't produced, it continued with the recommendation in the belief that Mr and Mrs B understood what was being said because it checked regularly. In the circumstances, and on balance, I don't think Argentis did anything wrong.
- Based on what the adviser says, I understand that Mr and Mrs B were both comfortable to proceed with the advice – which took place over two/three phone calls – without there being a family member present.
- Just because Mr and Mrs B were in their 80's didn't mean that they were automatically incapable of following financial advice or of making up their minds. I note that they were in good health and based on the Financial Conduct Authority guidance old age of itself isn't a vulnerability. Although there's a greater risk older people might be vulnerable, on balance, I'm not persuaded that Mr and Mrs B were in this instance.
- Despite what Ms B says, there's no specific evidence to suggest that they were vulnerable as such, or that they were pressurised into doing something that they didn't want to do. I appreciate what Ms B say about their son (regarding his disability/vulnerability), but he wasn't the person receiving the financial advice, so no advice was given to him.
- On balance, I'm persuaded that even if the LPA had been provided it was unlikely to have made a difference because in addition to naming Ms B and Mr and Mrs B's son as LPAs, both Mr and Mrs B were also named as LPAs. So, it's likely that there would've been a person present – most likely Mr and/or Mrs B – with LPA responsibilities even if Ms B wasn't. But this is probably immaterial given that I don't think there was a requirement to have an attorney present. And, on balance, I think it's more likely than not they were capable of understanding the advice. In other word, on the face of the evidence, and on balance, I'm not persuaded that they were incapable of understanding the evidence.
- The above notwithstanding, I'm mindful that there wasn't a specific requirement for Ms B to be there in any case, and given the wording of the LPA, at least one attorney would've been present. Furthermore, the one attorney would've been able to decide jointly or severally as per the conditions of the LPA. In other words, it wasn't necessary to have more than one attorney present, and certainly not all of them at once in order for decisions to be made.
- I agree with the investigator that if there were concerns Ms B should've made this clear to the adviser, as well as making clear that any further meetings shouldn't take place without her, but this wasn't the case suggesting that it wasn't an issue.
- On the face of the evidence, and on balance, despite what Mr B says, I can't safely say that the recommendation was unsuitable for Mr and Mrs B. In short, for the following reasons:
  - It was recorded that Mr and Mrs B were concerned about the returns they were getting on their deposit based savings and wanted better returns. In respect of the old investments, I note the adviser said:
    - *"Whilst the clients were invested ethically, they were also invested in bond funds which invest solely in fixed interest investments, which was not in line with their balanced attitude to risk and did not achieve the long term growth the clients were seeking to be able to provided and to support (name anonymised) (son) after both clients pass."*
  - On balance, I'm persuaded that the recommendation met Mr and Mrs B's objective for capital growth over the medium to long term. I'm aware that the capital was for their son's benefit therefore they might've been in a better position to take a risk-based approach with the funds.

- I note that no guarantees were given with regards to performance, and Mr and Mrs B were more likely than not made aware of the risks involved. I note they were told the investments were likely to involve some short-term volatility and any overall returns weren't guaranteed – and they confirmed that they were comfortable investing in this way.
- I appreciate Ms B is unhappy with the performance of the investments, but that's not something I can blame the business for. Argentis can't predict or control how the investment will perform, which is subject to the financial markets. So, despite what Ms B says about the returns not being enough to cover the fees, this isn't something that I can blame Argentis for. There was no suggestion that the fees wouldn't be covered.
- On the face of the evidence, and on balance, despite what Ms B says, I think the business did what it was asked to do in terms of ethical investing. I note there were discussions about Mr B wanting to invest in companies that add something to the community and environment. So, in the circumstances, and on balance, I can't say that the advice to invest in the IMS Ethical Portfolio was unsuitable or that Mr and Mrs B were made to do something they didn't want to.
- On balance, I'm satisfied that the recommendation was also affordable, given that the funds were utilized from other investments, such as other companies and cash ISAs. So, it wasn't money they'd taken out of their savings that they might've relied upon or was earmarked for some other purpose.
- I note Mr and Mrs B also confirmed that they weren't reliant on the money for current household expenses, and a fall in the value of the investments wouldn't have a significant effect on their lifestyle. In other words, they weren't reliant on this money to supplement their daily finances, and it was for their son for whom they were trying to increase the returns and therefore were more likely than not content to take a greater risk with their money. I'm mindful that they enjoyed a reasonable monthly disposable income and had access to a reasonable amount of cash for emergencies or unforeseeable circumstances.
- The advice to move investments in the first instance wasn't unsuitable as it's likely that the previous investments were no longer meeting their objectives, therefore it wasn't an unreasonable course of action – especially as Mr and Mrs B wanted to invest for greater capital growth for their son. If they'd been advised to come out of their previous investments and invest in something similar – with the same risk rating – I'd be concerned about the suitability of the new advice. But this is not the case here.
- In the circumstances, and on balance, I don't think adopting a balanced risk attitude to risk was unsuitable given their objective for capital growth. Based on the mixed asset class, I can't say that the greater risks associated with investing in equities weren't mitigated to some extent.
- In any case, and on balance, I'm persuaded that Mr and Mrs B were willing to take a risk – greater than they had in the past – to achieve better returns in the long(er) run, for their son.

I appreciate that Mr and Mrs B (and Ms B on their behalf) 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 Argentis provided unsuitable advice.

In other words, on the face of the available evidence, and on balance, I can't give him/them what he/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 Mr and Mrs B to accept or reject my decision before 1 January 2024.

Dara Islam  
**Ombudsman**