

## **The complaint**

Mr F 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 has 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 business – an accomplished risk-rating and investment research analyst – but this wasn’t true.
- The portfolio included “Baillie Gifford” holdings, but he doesn’t think this was in line with his attitude to risk.
- 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 F 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.
- Mr F’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 F’s answers to the risk questionnaire, he was prepared to take a ‘cautious’ risk.
- Within the annual review dated 25 June 2021, a reference was made to a risk questionnaire which indicated that Mr F was a level four cautious risk investor.
- It was explained that each portfolio was designed to hold different asset class weightings based on his attitude to risk. In other words, the higher up in the risk scale, the higher the equity content which increases volatility and the potential for greater capital growth.
- FPC stated that by holding a certain percentage of his investment in each of the four asset classes – cash, property, bonds, and equities – would give him an opportunity to build a successful and diversified portfolio. It was noted that:

- Mr F may tend to see himself as quite a cautious person and would tend to view risk negatively rather than as a source of opportunity.
  - He may also have limited or moderate experience of investments and wouldn't usually feel comfortable making financial decisions unaided unless they were of a less significant nature.
- As a cautious investor it was recorded that he was inclined to:
  - Look for safer investments, although he might consider taking some risk in exchange for increased potential returns;
  - consider investments in exchange for increased potential returns;
  - consider investments that could be considered higher than cautious risk, if these were part of a portfolio containing lower risk.
- It was agreed that he could hold around 26% in UK Equities and 16% in worldwide equities.
  - It was generally accepted that equities have historically outperformed cash and fixed interest assets.
- Although Mr F specifically referred to Baillie Gifford, his America holdings represented only 2% of the portfolio, and his international holdings represented only 5% of his overall holdings. Despite what Mr F says, she can't say that this fell outside of the objectives of the overall portfolio. Or that FPC failed in its duty by not suggesting that Mr F dispose of the holdings.
- In the circumstances, and on balance, FPC isn't responsible for any losses sustained by Mr F. 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 F remaining invested, even through the challenging times.
- 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 F to crystallise his losses.
- Despite what Mr F 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 utilising 'research' from a third-party analyst, which specialises in investment research analysis.
- FPC explained that it has a number of model portfolios and these are constructed by their investment committee, and its research is backed by a 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.
- The FPC model portfolios invest across the four main asset classes: Cash, Property, Bonds, and Equities. It says that investing across multiple asset classes increases diversification, spreading risk within the portfolio and can help reduce loss in poor market conditions. The practice is common and considered prudent.
- Mr F 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 F 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.
- 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 his investments to cash, but no instructions were provided. On 9 May 2022, FPC provided a seven-day notice to cease services.
- Mr F 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 F disagreed with the investigator's view and asked for an ombudsman's decision. In 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, and 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 to avoid having to explain his actions.
- He thinks 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 F says, I can't safely say that the advice to remain invested – not to crystallise 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 F'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 F 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 F 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 F 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 alternative investment and crystallising 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 F 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 F 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 to address his ongoing concerns Mr F 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 F'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 F wouldn't have remained invested, because that's what he did ultimately despite having concerns.
- I appreciate Mr F 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 F probably had a cautious risk attitude and was willing to take risk for better returns.
- It's important to note that he wasn't risk averse, so wasn't unwilling to take any risk at all. On the contrary, to achieve his aim, I'm satisfied that he was willing to take a risk - and some greater risk - in exchange for increased potential returns.
- On balance, I'm satisfied that Mr F had a diversified portfolio. And that it didn't carry any more risk than he was willing to take.
- I note it was agreed that he could hold around 26% in UK Equities and 16% in worldwide equities. Notwithstanding what Mr F says about Baillie Gifford, I note that 2% of his holdings overall were American and 5% of his overall portfolio was in international holdings. On the face of the evidence and on balance, I don't think that was unreasonable, because it wasn't at odds with his general attitude to risk.
- In any case, I note that that FPC wasn't providing a discretionary service, so wasn't

- required (or able) to make a change without authority from Mr F.
- 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 crystallised with no recourse.
- Of course, past performance isn't a guarantee for future performance, however, there was nothing to say that Mr F's portfolio wouldn't perform better in the future, similar to the way other portfolios he has referred to did. So, in the circumstance, and on balance, I can't say that the business did anything wrong by not advising Mr F to crystallise his losses.
- I'm mindful that Mr F tends to view risk negatively rather than as a source of opportunity, therefore it's arguable that it was probably better 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 F's investment, but this isn't something that I can blame FPC for.
- Mr F 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 F 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. However, based on what FPC says, it's more likely (than not) it sought some assistance from the third-party analyst in question. I note FPC maintains it has a number of model portfolios which are constructed by their investment committee and its research is backed by the third-party investment research analyst. Overall, and on balance, I can't say that Mr F was misled.
- Despite what Mr F 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 F 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 F with adequate notice.
- A business isn't obliged to provide a service if it doesn't want to. In this instance, it's unfortunate that Mr F 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 F was treated unfairly such that this complaint should be upheld, and compensation paid.

I appreciate that Mr F 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 F to accept or reject my decision before 4 January 2024.

Dara Islam  
**Ombudsman**