

The complaint

Mrs P and Mr P ('the complainants') say the private banking, portfolio management and e-banking services they received from SG Kleinwort Hambros Bank Limited ('SG') between May 2018 and December 2019 ('the complaint period') were below the standard they were entitled to expect/receive and had paid for; that SG's poor service extended to undue delays in completing the outward transfers of their portfolio and Mr P's Self-Invested Personal Pension ('SIPP') between October and December 2019, after they terminated SG's services on 8 October 2019; and that SG should refund the fees it received during the complaint period.

What happened

One of our investigators looked into the complaint and concluded it should not be upheld. In the main, he found as follows:

- The wrongdoings that allegedly happened during the complaint period are about a lack of suitability/portfolio/pension reviews, limited contact with the private banker, problems with the e-banking service, the impact on service caused by a high turnover of staff at SG and a failure to remind the complainants to top-up their New Individual Savings Account ('NISA').
- It is also alleged that SG took too long (72 hours) to liquidate portfolio's funds; that it took too long (eight working days) to transfer the funds; and that it took too long to transfer the SIPP, causing it to be uninvested and out of the market for seven days longer than it should have been.
- According to the relevant terms of service, the private banker's main role was to serve as a point of contact for customers. The complainants also had a portfolio manager and, as should be expected, they had more contact from the portfolio manager than from the private banker. Some of their portfolio was managed on an advisory basis and there is evidence of correspondence in which the portfolio manager advised trades and sought approval for them. There is also evidence of suitability reports for every recommendation presented to them. Overall, there is evidence that the portfolio was actively managed in this context and that there was regular contact from the portfolio manager.
- In terms of periodic reviews, SG was obliged to conduct portfolio reviews annually. The terms do not appear to have provided for a separate pensions review, however such a review would have formed a part of the overall portfolio review. A portfolio review was conducted in March 2018. The complainants were offered another review in June 2019 but a time that suited both parties could not be arranged. Thereafter SG's service was terminated and the complainants decided to move their assets away. It is unfortunate that the 2019 review could not happen, but it was offered and within the relevant time their portfolio was still actively managed with associated suitability reviews.

- SG says it was its business decision not to update customers about topping up their ISAs. Giving such an update would have been good customer service, but SG was not obliged to do so.
- SG cannot reasonably be held responsible for its staff making personal decisions to move elsewhere, so whilst it could have been frustrating for the complainants in terms of having to engage with new members of staff, staff turnover is not something our service would comment on.
- There is email evidence about the e-banking problems the complainants faced, but there is also evidence that in the relevant situations they were able to contact their private banker and their requests were promptly dealt with, so no detriment was caused to them.
- In the context of some liquidations of portfolios reasonably taking up to eight working days, the 72 hours the complainants have complained about was not unreasonable – especially as the portfolio had a number of different investments with different selling points/periods and a loan that had to be settled first. With regards to the SIPP, a transfer could reasonably be completed in 10 working days; in Mr P’s case the transfer instruction was on 22 November 2019; under normal circumstances it should have been completed by 6 December 2019 but because of the size of the transfer a manager’s authorisation was reasonably needed and that could not happen on this date; then, on 9 December, there was cause for the SIPP provider to re-send the relevant order due to a signatory list matter; and on the following day the CHAPS payment was issued; overall, it cannot reasonably be said that SG caused any unnecessary delays.

Mr P responded to the investigator’s views and disagreed with his conclusion(s). He maintained that the private banker had made minimal effort to engage with him prior to notice about terminating SG’s service; he said he does not dispute that the portfolio manager was in contact with him, but the contact was about specific trades and not about a more holistic treatment of the portfolio, and this stood in contrast to the holistic treatments he had experienced in periods prior to the complaint period; he said he noted the investigator’s point about the annual reviews and about having one sometime in 2019 after the one in 2018 – and not necessarily on the exact anniversary of the 2018 review – but he expected more of an *annual* process; he referred to an example of communication from SG which, he considers, displayed unprofessionalism in its inability to give a timeframe for the transfer process (three days after the relevant instruction) and displayed apathy in its approach at the time because he had already terminated its service.

The matter was referred to an ombudsman.

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.

I consider it helpful to begin with a particular part of Mr P’s complaint submissions, in which he expressly confirmed that his advisory portfolio manager had provided him with ongoing support and service during the complaint period. To Mr P’s credit, he has been consistent in this respect and he made a similar statement in response to the investigator’s findings. The inference I have drawn – reasonably, I consider – from this part of his complaint submissions is that the complainants do not wish to extend their complaint to the portfolio manager personally and/or they do/did not have a problem with him.

If the above is correct, the balance of available documentary evidence explains why. There is ample evidence – in the form of many email exchanges and suitability reports – of very active portfolio (and SIPP) management by the portfolio manager during the complaint period. The arrangement had an advisory – not discretionary – basis, so investment/trading ideas and recommendations had to be put to Mr P first, for approval, before the portfolio manager could proceed to execute them. Many email exchanges between him and Mr P during the complaint period illustrate this arrangement in practice. Furthermore, these exchanges and the investments discussed within them are broadly matched by dedicated suitability reports for the recommended investments/trades (including liquidations and reinvestments) throughout the complaint period.

With such evidence, I could not reasonably find that the complainants were deprived of a portfolio management service. They were not deprived of such a service and, in fact, they received what appears to have been a very active and competent service in this respect – I make this finding only with regards to the *service provision*, the complainants have not alleged unsuitable advice from the portfolio manager so I have had no cause to consider this or to make a finding in this respect.

There is evidence of the review that happened in March 2018 and of the written review outcome sent to the complainants at the time. I have also seen a copy of the earlier suitability review/assessment conducted for the SIPP in 2017. Notably, the 2018 review outcome also featured the SIPP and a review of its suitability at the time. As the investigator said, the terms of service do not appear to provide separately for pension reviews. However, evidence shows that the SIPP was part of the annual review in 2018 and I am satisfied that it would have formed a part of the 2019 review, had that review happened.

Thus far, I am satisfied that SG provided the complainants with ongoing active portfolio and SIPP advisory management. The issue about annual reviews is related to this. The first point to note is that given the extent of engagement between the portfolio manager and Mr P during the complaint period, the volume of correspondence between them with regards to trading and investments in the portfolio and SIPP, and the number of dedicated suitability reports which covered the relevant recommendations made at the time (in addition to ongoing reviews of suitability in the reports), I consider that SG has made a fair argument that this served as a de facto, meaningful and active ongoing review arrangement in place for the complainants' investments, irrespective of the formal annual review process. I agree with this argument.

As I set out next, I find, on balance, that SG did nothing particularly wrong in terms of the formal annual review process. Even if this was not the case, it is unlikely that I would consider, overall, that it committed a wrongdoing, because it could be argued that the active ongoing portfolio management and reviews that happened during the complaint period made a formal review in 2019 somewhat redundant in real terms. I do not suggest that it would have been justified to deprive the complainants of an annual review service they were entitled to. That would not have been justified, but the point to note is that they essentially had the benefits of an ongoing version of such a review (throughout 2018 and most of 2019) in any case.

There is no dispute that SG offered the 2019 review in June 2019. The obligation was to provide a formal review annually and nothing in the terms of service say this had to happen on or before the anniversary of the last review. Evidence that has been shared with us suggests that respective holiday commitments for the portfolio manager, the private banker and for the complainants from late June 2019 and up to late August 2019 created a difficulty in arranging a suitable review meeting date for all at the time. In September 2019 it appears that SG suggested the date of 3 October but that was not convenient for the complainants.

In early October 2019 SG then suggested further dates later in that month, but by then the complainants had decided to terminate its service.

Overall and on balance, I am persuaded that the complainants were not deprived of their entitlement to a formal annual review in 2019, having already had such a review in 2018. The 2019 review was offered but through no fault on either side it just did not happen, and by the time more dates in October were offered the matter of a review had arguably been rendered irrelevant by the termination of SG's service.

The remaining matters to address are service from the private banker, the e-banking service, the absence of a NISA top-up reminder (from SG to the complainants), the effect of SG's staff turnover upon the complainants and the transfers of the portfolio and SIPP.

As the investigator said, the private banker's role, as defined in the terms of service, is to be a point of contact for customers. Mr P has been critical of how the private banker took a reactive – and not proactive – approach during the complaint period. I consider it to be reasonably inherent within a *point of contact* official that s/he would be reactive, in response to *contacts* initiated and made by customers. I do not consider that the role extended to making unsolicited contact with customers, especially as discussion of investments was the remit of the portfolio manager, not the private banker.

I have noted Mr P's comparison with the private banking service he experienced prior to the complaint period. I consider his descriptions in this respect to be sincere and if, as it appears, the complainants had a more developed relationship with the previous private banker it is possible that they experienced much more of a personal service previously. I noted an indication of this in one of the internal correspondence between the previous private banker and the portfolio manager, in which the former updated the latter about having met with Mr P for tea at the time and about Mr P making comments about his SIPP which the private banker considered should be brought the portfolio manager's attention. This depicts the sort of past proactive service that Mr P has argued about and a closer relationship between him and the previous private banker, but the fact remains that such a service was not – before or during the complaint period – the minimum he was entitled to. What the complainants were entitled to was a private banker as a point of contact, for contact that *they* initiated, and I have not seen evidence that they were deprived in this respect during the complaint period. Any service above this from their previous private banker (and at his discretion) would have been commendable, but it did not establish the minimum entitlement that the complainants appear to be arguing for.

SG concedes that its e-banking service had shortcomings during the complaint period and it has explained the improvements it applied to the service to address them. Like the investigator, I too note evidence of Mr P's correspondence with SG highlighting problems he had with the service at different times. However, overall, SG's officials set out to assist him with those problems and the same evidence shows this – and shows Mr P's feedbacks after some of the problems were resolved or where he was guided on ways around them. I acknowledge that the service ought reasonably to have been fit for purpose, so I can understand Mr P's frustration with the experience he had, but it is also fair and reasonable to reflect the fact that SG mitigated the effects of that experience at the time by providing assistance to him upon his request. Overall and on balance, I am not persuaded to conclude that SG is liable for a wrongdoing in this matter.

I agree with the investigator's comment that it could have been an element of good service from SG to provide unprompted NISA top-up reminders to the complainants. However, it says it did not provide such a service and I do not consider that was unreasonable, given the formal annual review arrangement that was in place. Evidence from the 2018 review shows that ISA related considerations were part of the review and I am persuaded that the same

would have been the case in 2019, had a review meeting happened. The complainants could say this would have been a poor, or even pointless, substitute for a reminder ahead of the relevant 2018/19 ISA contribution deadline – which was much earlier than the review explored between June and October 2019. I can understand such a point, but it takes the matter back to the fact that SG did not provide a service for such unprompted reminders, so it cannot reasonably be held responsible for not giving such reminders.

In straightforward terms, I do not consider it appropriate to draw any findings in this case about SG's staff turnover, in isolation. I am also not persuaded to draw any such findings in relation to the overall service level complaint that the complainants have made. The individual points they have raised in their complaint have been/will be treated on evidence and merit. SG is the respondent to their complaint and if it is found that there has been a failure in service SG will be responsible for that. Whether (or not) staff turnover contributed to any such failure is not a matter that this service needs to be drawn into in this particular case. Thus far, and as I have treated above, I have not found SG responsible for the service failures alleged by the complainants.

Mr P says SG was wrong to have taken more than 72 hours to action his instruction, on 12 November 2019, to liquidate part of his portfolio ahead of its outward transfer (with the remainder to be transferred in specie) and that it was wrong to have taken eight working days (up to 22 November 2019) to fully complete execution of his instruction (that is, the partial liquidation of the portfolio and settlement of a loan within it) – before transfer of the in specie element of the portfolio was embarked upon.

After Mr P's instruction on 12 November, SG received contact from the receiving firm on the same date, essentially echoing Mr P's instruction. On 13 November SG contacted the receiving firm to highlight that the portfolio stood as security for a loan of £750,000 so actioning the instruction to liquidate part of the portfolio and to transfer the proceeds would leave the loan without requisite security. SG needed instruction to settle the loan and none was given at the time. The receiving firm replied on the same date to say the liquidation proceeds should be enough to repay the loan. On 15 November SG contacted Mr P and asked for his authority to settle the loan from the liquidation proceeds and it also checked that he had been advised by the new firm about potential tax implications arising from the liquidation and loan repayment. Mr P replied on the same date with his authority to repay the loan and that was done.

Also on 15 November, and up to the update given to Mr P at 18:15 hours on the day, there had been ongoing liquidation action by SG as part of execution of his instruction. The example of what he considers to have been unprofessional correspondence from SG appears to have happened on this date too. The receiving firm asked for a timeline and SG said it could not give one at the time but it would advise once it had a clearer idea on timings. I can understand why Mr P could have expected more – perhaps reference to a standard timeline – but it appears to me that SG wanted to convey something that was more meaningful and it was not in a position to do so at the time. It has explained that it had yet to take a full view on timings, in the context of the nature of the portfolio's components, and that the liquidation of different types of assets had potentially different settlement times.

With regards to the eight working days Mr P is unhappy about, given that the majority of the first three days appears to have been consumed by the matter of repayment of the loan from the liquidation proceeds, and then mindful of the other work that was done to complete different settlements of the liquidations, on balance, I do not consider the process to have been unduly delayed. Importantly, I have not seen evidence of unexplained periods of inactivity in which SG was neither waiting for required instruction or information or due process, nor engaged in carrying out work related to the liquidation and transfer process.

Mr P says that the transfer instruction that SG should have conveyed to his SIPP provider on 3 December 2019 was not given until 10 December 2019, and the SIPP had been liquidated on 2 December, so this meant his SIPP was uninvested and out of the market for seven days longer than it needed to be – with a loss of market gains as a result.

I consider that there is some merit in Mr P's criticisms in this matter, but not enough to establish a service failure or an unreasonable delay in the SIPP transfer or the financial loss he has referred to. It is not disputed that the SIPP portfolio was liquidated on 2 December. However, it appears that it took SG until 6 December to discuss with Mr P the need for approval from a senior banker, in direct discussion with Mr P, to instruct/process transfer of the proceeds – the size of the proceeds appears to have been beyond the approval authority held by the official he was speaking to at the time. It then transpired that no senior banker was available to talk to Mr P at the time, or over the weekend (on 7 and 8 December), so the matter was put forward to 9 December. SG acknowledges that Mr P was unhappy about this at the time. The official then explored an alternative, later on 6 December, in which Mr P would not need to speak to a senior banker and the SIPP provider could instead be instructed directly. Mr P agreed and this was done on 9 December, but a problem with the SIPP provider's signatory list was not resolved until after the cut-off time for CHAPS payment on this date, so the payment/transfer took place on 10 December.

I acknowledge that Mr P would rightly question why it took until 6 December to discuss with him transfer of the portfolio liquidated on 2 December. I had the same query in considering the matter. However, I am satisfied with evidence that SG was taking a comprehensive approach towards all the liquidations and transfers it was engaged in – over six accounts for the complainants (including their respective NISAs and the SIPP) – and that when it contacted Mr P on 6 December it did so to give a comprehensive update on all the work being conducted at the time. In this context, I do not consider it fair to say SG indulged in unexplained inactivity during the four days between these two dates, but I do recognise that an earlier and isolated update on the SIPP would, in hindsight, have been a better approach. I note a part of SG's submission on the matter which appears to concede the same, by referring to the official apologising to Mr P during the call on 6 December for having not contacted him a couple of days earlier.

I can understand Mr P's frustration at initially being led to believe a conversation with a senior banker was necessary for the process, only to thereafter discover the opposite. Having said this, the latter appears to have been discovered on the same day that he was initially led to believe the former – 6 December. The alternative was proposed to appease his unhappiness about the senior banker not being available, and it was agreed at the time. The delay between 9 and 10 December appears to have been caused by the SIPP provider's signatory list error.

Overall and on balance, I am not quite persuaded that Mr P's SIPP was unduly taken out of the market for seven days by SG's wrongdoing – which is what he has alleged. As set out above, I consider that the conversation about the SIPP on 6 December should have taken place earlier, SG appears to agree it should have happened a couple of days earlier but I consider it should perhaps have taken place by 3 December, the day after the liquidation. The delay of one day between 9 and 10 December was not SG's fault. The net result is that SG could potentially have saved four days in the matter (between 3 and 6 December) had it had the discussion with Mr P on 3 December. Having said this, I still retain my finding that SG was not intentionally idle in this regard and it simply appears to have taken the approach of waiting for 6 December to give Mr P a comprehensive update on outstanding matters at the time.

I also do not consider that there is evidence of financial loss or lost investment opportunity directly caused by SG not having the conversation with him until 6 December. I appreciate

that a hypothetical argument could be made for such loss, but more than a hypothesis is usually needed to establish a case for financial loss and in this case I consider that he would need to show – which has not been shown – that specific reinvestments planned for the liquidation proceeds post-transfer were missed at the time or were made at less favourable prices at the time directly because of the four days that SG could have saved but did not. Overall and in the context set out above, I also do not consider that these four days that could potentially have been saved, but were not, are enough to conclude the service failure that has been alleged in this matter.

My final decision

For the reasons given above, I do not uphold the complaint from Mrs P and Mr P.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P and Mr P to accept or reject my decision before 25 January 2022.

Roy Kuku
Ombudsman