

The complaint

Mr and Mrs G complain about the poor service they received from Hamilton Financial (Scotland) Ltd (“Hamilton Financial”). They say:

- Money was left uninvested.
- Their quarterly income payments almost halved, with no explanation.
- Hamilton Financial tried to persuade them to invest for the long term, which is not what they wanted.
- They’ve not received a clear offer or explanation of what happened, and they feel Hamilton Financial was dismissive of their concerns.

They want compensation for the lost income and investment potential, an explanation of what happened, and compensation for the stress they’ve been caused.

What happened

In January 2017, Mr and Mrs G signed an advisory agreement with Hamilton Financial. Their objective was between “*income and balanced*”; they were assessed as having a “*medium*” attitude to risk; and they had a five to ten year horizon for their investment. They both opened a general investment account (“GIA”) and an ISA. Their investments were held on a third-party platform and Hamilton Financial provided advice and half yearly reviews. All recommendations needed Mr and Mrs G’s agreement before they could take place.

In March 2021, Hamilton Financial recommended a sale within Mrs G’s ISA, but the cash wasn’t reinvested.

Mr and Mrs G told us they received a quarterly payment from their investments of £996 and that this was their most important investment objective. But in April 2021 the payment dropped to £909.09 and in July 2021 the payment dropped further to £542.96 without warning or explanation.

Mr and Mrs G’s advisor apologised that he hadn’t provided recommendations for the uninvested cash held in Mrs G’s ISA. He said this was an oversight. He initially offered Mr and Mrs G £565, equivalent to 3% on the uninvested cash for nine months. He then offered to round up the offer to £600. Mr and Mrs G accepted the advisor’s apology but not the compensation – they wanted a proper investigation into what had happened and whether they’d made a financial loss.

Hamilton Financial then investigated their complaint. It said it had provided investment recommendations for the uninvested cash but accepted there had been a delay in providing those recommendations. It offered to pay Mr and Mrs G £225, being a refund of its annual management fee on the money that remained uninvested. Hamilton Financial didn’t provide an explanation for the drop in Mr and Mrs G’s quarterly income payments.

During our investigation, Hamilton Financial said the income payments reduced when Mr G withdrew all his money from his GIA, and when Mrs G transferred the money in her GIA to

her ISA. It said Mr and Mrs G could have given an instruction to withdraw a higher amount at any time. But, during a meeting in August 2021, they confirmed that a quarterly income of £250 was sufficient for their needs.

Our investigator recommended Hamilton Financial should pay Mr and Mrs G £200 for the poor service they received, and the inconvenience caused, in addition to the £225 refund of fees.

Mr and Mrs G didn't agree. They said, in summary, that:

- They relied on Hamilton Financial's expertise when they agreed to its recommendations. They weren't told their income source would be affected when money was transferred into Mrs G's ISA.
- The advisor didn't know about the drop in income until Mr and Mrs G told him and he couldn't provide an explanation.
- Hamilton Financial ignored their request for income and instead tried to persuade them to invest for the long term, which they didn't think was appropriate for them.

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.

Where the evidence is incomplete, inconclusive, or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

I'm aware that I've summarised this complaint in far less detail than the parties and in my own words. There is a considerable amount of information here but I'm not going to respond to every single point made. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

For ease, I've used sub-headings to consider each of the complaint points Mr and Mrs G have raised.

Uninvested cash

In early March 2021, Hamilton Financial recommended some shares were sold in Mrs G's ISA. Mrs G says she assumed the proceeds had been safely reinvested. But her agreement was an advisory one which required her consent to any transactions. She hadn't agreed to any reinvestment so must reasonably have realised the money remained uninvested.

Mrs G contacted Hamilton Financial when she noticed the cash was uninvested and recommendations were given during a meeting in August 2021. Mrs G didn't agree to the recommendations, so the money remained uninvested.

Hamilton Financial apologised for not providing reinvestment recommendations at an earlier date due to an oversight. It offered to refund its annual management fee on the uninvested cash. The refund represented the fee for 12 months. I can't conclude that the delay in reinvesting the cash caused Mrs G any financial loss as markets were particularly volatile during this period and, when Hamilton Financial provided recommendations, Mrs G didn't

agree. So I can't conclude with any certainty that she would have agreed if these recommendations had been given any earlier. In the circumstances I think Hamilton Financial's offer to refund its fees on the uninvested cash – for a full year - is fair and reasonable.

Hamilton Financial had originally offered a higher amount. But this wasn't accepted by Mr and Mrs G, and I don't find it is obliged to reinstate that offer.

Mrs G says that as a result of the delay in reinvesting, she received three quarterly payments which were half what they should have been. I don't find the failure to recommend reinvestment and the decrease in the quarterly payments were connected and I will consider the decrease in payments separately.

Decrease in quarterly payments

From the outset, Mr and Mrs G wanted to receive an income from their investments and they set up payments of £996 a quarter. To be clear, this figure didn't represent the income generated from their investments. It was made up of income and capital. The payments came from their GIA's and their ISA's. They say their quarterly payments dropped without explanation and they are concerned that Hamilton Financial didn't seem to know about the decrease.

Mrs G received quarterly payments of £269.19 from her ISA for the entire period of her agreement with Hamilton Financial. She initially received quarterly payments of around £366 from her GIA. But these payments stopped when the assets in her GIA were transferred (over two tax years) to her ISA. Mr G received a quarterly payment from his GIA of around £362. But this also stopped when he transferred the remaining funds in his GIA to his ISA. I can see that in July 2020 Hamilton Financial asked him if he wanted to set up a regular payment of £362 from his ISA and sent him a form to sign, but this wasn't returned.

In the absence of an instruction from Mr and Mrs G to set up a monthly payment from Mr G's ISA, and to increase the monthly payment from Mrs G's ISA, the payments couldn't be altered.

I can see that during the August 2021 meeting, Mr and Mrs G told Hamilton Financial that the payments they were receiving - of £268 - was sufficient for their needs.

It would have been helpful if Hamilton Financial had provided an explanation about the quarterly payments in its final response to Mr and Mrs G's. But I don't find this makes a difference to the overall outcome of this complaint.

2021 recommendations

During the August 2021 online meeting, Mr and Mrs G explained they were now looking for an increased capital return on their portfolios, that the existing quarterly payment of £268 was sufficient, and that they were happy to invest for a reasonably long time horizon.

Hamilton Financial provided recommendations to meet these changed needs and recommended that the investment should be retained for seven to ten years. Having considered the recommendations after the meeting, Mr and Mrs G told Hamilton Financial they didn't want to tie their money up for that long, and that they preferred their previous strategy of quarterly payments. But they say despite two emails asking for alternative suggestions, Hamilton Financial didn't respond.

Mr and Mrs G didn't agree with Hamilton Financial's recommendations. Hamilton Financial told us it didn't know what Mr and Mrs G wanted because they'd provided conflicting information.

I find Hamilton Financial should have responded to Mr and Mrs G's emails when they asked for alternative suggestions. But, as Hamilton Financial wouldn't have recommended an investment time horizon of less than five years, and Mr and Mrs G had indicated they didn't want to tie their money up for any period of time, it's likely that any further recommendations from Hamilton Financial wouldn't have been agreed by Mr and Mrs G. As the expert in this relationship, Hamilton Financial should have replied to Mr and Mrs G and made sure they fully understood its approach. But, even if it had done that, I think it's unlikely the overall outcome would have changed. I say that because Mr and Mrs G have been clear they no longer wanted to invest for the medium to long term. And, by their own admission, they'd lost trust in Hamilton Finance following the reduction in their quarterly payments.

I think it's fair that Hamilton Finance pay Mr and Mrs G £200 for the lack of communication they received – in response to them asking for revised recommendations, and (as set out above) for the delay in providing reinvestment proposals.

Mr and Mrs G told us they were concerned that their meetings had been recorded without their consent. Hamilton Financial told us it does not record online meetings. It summarised its meetings with Mr and Mrs G in an email to them to check they agreed with what had been said and any proposed actions.

Irresponsible management

Mr and Mrs G say they have been left with a feeling that their finances have been irresponsibly managed and they are worried there are other discrepancies that haven't been identified. This service can only investigate discrepancies if evidence of what might have gone wrong is provided. That said, I'm satisfied from the information I've seen that Hamilton Financial provided the service set out in its agreement and that its recommendations were suitable based on Mr and Mrs G's circumstances, investment objectives and attitude to risk.

For these reasons, I agree with the conclusion reached by our investigator. I think it's fair and reasonable that Hamilton Financial pay Mr and Mrs G £200 for the poor service they received, in addition to the offer it made to the refund some of its management fees.

My final decision

My final decision is that Hamilton Financial (Scotland) Ltd should:

1. Refund annual management fees of £225 in Mrs G's ISA.
2. Pay Mr and Mrs G £200.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G and Mrs G to accept or reject my decision before 25 May 2023.

Elizabeth Dawes
Ombudsman