

The complaint

Mr and Mrs S complain about the poor performance of their investment portfolio managed by Saunderson House Limited ("SHL"), compared to benchmarks. They also complain about the fees they've been charged for the advisory service in light of this performance.

Mr S brings the complaint on behalf of himself and Mrs S.

What happened

Mr and Mrs S signed an advisory agreement with SHL in 2005. At the time they were classified as wanting to take a *"cautious to realistic"* level of risk. The agreement set out how fees would be charged.

Since 2018, the period particularly complained about, Mr and Mrs S have had an agreed aim of their investments to, *"Maximising long-term returns within the bounds of the risk profile... achieve investment growth with due regard to the preservation of capital...to balance higher risk equities and property with lower risk cash and fixed interest"*. Classified as having a *"balanced"* attitude to risk.

In 2022, Mr S complained to SHL. He was unhappy with the performance of the portfolio over the last three and five year periods and particularly in comparison to the benchmark and comparative tracker funds. He explained that he was unhappy with the fees taken for unsatisfactory performance and below average returns.

SHL responded to say that the portfolio had been managed in line with the agreed investment strategy. Whilst they acknowledged there had been underperformance, they cited market risk and unforeseen market conditions.

Our investigator didn't recommend that the complaint should be upheld. He explained why he couldn't comment on the performance of the portfolio compared to other providers or benchmarks. He concluded that the fees had been charged in line with the client agreement and explained why he thought SHL had acted fairly and reasonably.

Mr S didn't agree. He said, in summary, that:

- The fees aren't fair when professional performance has been below a reasonable level.
- Their portfolio has been outperformed by a tracker fund with minimal fees.
- The investment selection, whilst matching their risk profile, has not been good enough.
- There was an overfocus on a 'value' approach rather than growth and that they had been more cautious than necessary.

As no agreement was reached, the case has been passed to me for a decision.

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've focused on what I consider to be the pertinent points. That isn't meant as a discourtesy, it simply reflects the informal nature of our Service. I've set out the key issues I think are important here. And I've answered them below in turn.

Portfolio performance

Our investigator has already explained why we can't investigate how Mr and Mrs S' portfolio has performed in comparison to other portfolios, benchmarks or tracker funds.

I have carefully considered the information provided by SHL and I am satisfied that the investments are suitable for Mr and Mrs S' agreed investment objectives – *'Maximising long-term returns within the bounds of the risk profile'* – and risk profile – *'balanced'*.

I can see that Mr and Mrs S' investments have been kept under regular review and that the portfolio was reviewed in its entirety on at least an annual basis.

Mr S has provided notes he took from a conversation with the senior financial planner, as evidence that SHL acknowledges they should have done more. However, I am satisfied these are reflections with hindsight. Mr S notes the comments were they *"arguably should have changed approach earlier"*. This is an appraisal following performance and doesn't mean the initial advice and management was unsuitable.

So, whilst I accept that Mr S found the performance of his and Mrs S' portfolio disappointing, I don't find this was because SHL had acted wrongly or unreasonably. I am satisfied that this is due to market conditions and the underperformance of the underlying assets. I accept that this is with the benefit of hindsight and not through inappropriate selections and this isn't something I could uphold a complaint for.

Fees

Ms S hasn't complained that the fees weren't made clear. But rather, that they aren't fair in light of the performance of the portfolio compared to the benchmarks or investments with lower fees such as trackers. However, I haven't seen anything to conclude that the fees haven't been fairly charged or that I should be asking SHL to refund or rebate Mr and Mrs S.

The way SHL calculates and charges its fees was set out in the client agreement which Mr and Mrs S signed. This said that fees are time based and calculated in accordance with its hourly rate. I find the fees in Mr and Mrs S' case were charged in line with the agreement.

There is nothing in the service agreement that charges and fees are dependent on the performance of the portfolio. So, there isn't a requirement to reduce them or apply a rebate, when performance is behind a benchmark or comparator.

I appreciate that expectation was for maximised performance in return for the fees paid, but that isn't guaranteed and is dependent on external and uncontrollable factors. The obligation for the fees is to invest in line with the profile and objectives and make sure the fees were disclosed clear and agreed to. I think they were.

In summary, whilst I empathise with the disappointment Mr and Mrs S have felt over the performance of their portfolio, that isn't something that I can uphold a complaint about. SHL have met the requirements of the agreement and invested in line with Mr and Mrs S' objectives and risk profile. Unfortunately, the underlying assets haven't performed as was hoped. I also can't ask SHL to refund or rebate fees paid, when the agreement wasn't that they were conditional on performance.

My final decision

For the reasons I've explained, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S and Mr S to accept or reject my decision before 15 March 2024.

Yoni Smith
Ombudsman