DRN-4343722

The complaint

Mr and Mrs S have complained about the investment advice they received from Hammond Raggett & Company Limited ('HR'). They say the investments were too high risk for them and they are not happy with HR's response to their complaint. They would like an apology and financial recompense.

What happened

In February 2014 Mr and Mrs S transferred their ISA accounts held with another product provider to HR's Cautious Plus Managed Portfolio. Mr S had £27,602 invested and Mrs S £72,972. A further £50,000 was invested in June 2015 and Mr S added £15,000 to his investment in August 2020 plus they jointly invested £10,000 into their Collective Investment Account. Mr and Mrs S' risk rating was the same throughout, albeit with different definitions – '4/10' or 'Cautious Plus' and then 'Lowest Medium Risk'. Their account was managed on an advisory basis.

Mr and Mrs S became concerned about the impact of the war in Ukraine and were unhappy with their investments. They complained to HR in November 2022.

HR issued its final response to the complaint on 9 December 2022. It concluded;

- Mr and Mrs S' attitude to risk was assessed on multiple occasions.
- They understood risk which HR made efforts to explain to them and Mr and Mrs S had held direct equity investments which they had only disposed of in 2022.
- Mr and Mrs S had remained invested despite market falls in 2020 and had added further investment funds.
- The make-up and the risk of the portfolio – both actual and potential – were brought to their attention on many occasions and in different ways.
- Choosing not to disinvest after the falls in March 2020 and adding additional funds didn't tally with Mr and Mrs S' statement that the safety of their investments was paramount.
- Annual paper and online (since 2020) statements had been provided since Mr and Mrs S became clients of HR. No issues had previously been raised about the online statements.
- Notwithstanding the recent losses, Mr and Mrs S had made substantial gains overall of £75,055.

Mr and Mrs S weren't happy with the outcome so brought their complaint to this service. Our investigator who considered the complaint didn't think it should be upheld. He said;

- Given Mr and Mrs S' situation and objectives he didn't think the advice was unsuitable and the level of risk they were exposed to seemed fair.
- In February 2019 the attitude to risk questionnaire completed recorded Mr S a '1/10' and Mrs S as '2/10'. It was explained to them at the time that by reducing the risk to

such low levels would mean the investments would need to be transferred to cash but they would reduce their chances of higher return. They agreed to remain invested.

- This was further discussed in the August 2020 suitability letter when Mr and Mrs S increased the amount they wanted to invest. And there were regular reviews.
- From 2020 investments hadn't performed so well because of the COVID pandemic and the Ukraine war plus the mini budget in September 2022. But the investment was for the medium to long term and the losses needed to be taken in context with the growth.

Mr and Mrs S didn't agree with the investigator. They pointed out they had contacted their adviser in February 2022 as they had expected the markets to fall because of the Ukraine war but were advised to 'sit tight'. They believe this was the wrong advice. They also disputed the value of cash deposits held as referred to by the investigator. They said their complaint didn't relate to past performance but only from February 2022. They should have been advised to put their savings in a fixed rate interest account and not pay HR's fees plus charges.

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.

After doing so I've reached the same conclusions as the investigator and broadly for the same reasons. I'll explain why.

I should first make clear that I can't consider performance in and itself, but I can consider whether the investments were unsuitable for Mr and Mrs S or whether the account has been mismanaged.

I say this because provided a portfolio is invested in line with its overall objectives and disclosed risk – in this case for real returns that were at least as good as those from high street deposits for the medium to long term by investing in a broad range of assets, collective investments – within the agreed risk profile, then it wouldn't be fair or reasonable for me to uphold the complaint on this point. And I haven't seen anything to suggest that the investments recommended were outside of Mr and Mrs S' stated investment objectives or risk profile and which would lead me to uphold the complaint.

And the fact that the risk of the investments falling in value materialised, does not automatically mean that the HR has done anything wrong. In the absence of any evidence that HR gave poor advice about the investments – and the performance of the investments alone doesn't evidence this – I am unable to say that HR has done anything wrong in the overall advice given about Mr and Mrs S' investments.

In response to the investigator, Mr and Mrs S have said their complaint doesn't relate to past performance, only the performance since February 2022. But this service has an investigative remit, and I will be considering the suitability of the investments and the risk of those investments in my decision. And as part of doing so I will need to see how those investment objectives and attitude to risk came about and that inevitably means I have to review the history of Mr and Mrs S' relationship with HR.

I can't just isolate the suitability of the portfolio since February 2022, or whether Mr and Mrs S should have been advised to take a different course of action at that time, while Mr and Mrs S have been with HR for eight years. And because of that I won't be limiting my review of the complaint to Mr and Mrs S' comment that they should have been advised at that time to put their savings in a fixed rate interest account.

Mr and Mrs S' circumstances

Mr and Mrs S moved their portfolio to HR in 2014. They were both retired and in good health. Their income came from their pensions and their home was currently valued at £600,000.

Mr S held £15,000 in a cash ISA, £30,000 in National Savings, £15,000 in premium bonds and £26,864 was invested in an ISA – a total of £60,000 in cash-based products. Mrs S had £35,000 in a cash ISA, £65,000 in a bank account, £35,000 in premium bonds, £81,000 in a building society account and £72,972 invested in an ISA – a total of £216,000 in cash-based products.

Mr and Mrs S had sufficient surplus income and capital to meet short term requirements. Annual reviews of the investments and their continued suitability were carried out and Mr and Mrs S were written to with ad hoc advice as necessary – when the portfolio of investments needed to be rebalanced as examples. I'm satisfied that HR managed and reviewed Mr and Mrs S' investments in line with their regulatory responsibilities.

Mr and Mrs S' attitude to risk

I have considered how Mr and Mrs S' risk rating came about and how HR made them aware of the varying levels of risk implicit in different investments. Mr and Mrs S were seeking advice because they didn't have the knowledge or experience to make such investment decisions unaided. So, HR needs to demonstrate that it gave suitable advice taking into account Mr and Mrs S' circumstances, understanding and knowledge after ascertaining their attitude to risk.

The suitability letter from the time of the initial investment indicates that Mr and Mrs S' understanding of risk was discussed, their risk was assessed as was their risk tolerance and capacity for loss. It was established that their risk profile was 'Cautious Plus' which was defined as;

> 'As a Cautious Plus Investor you have agreed with your adviser that you are looking for an investment which, while giving some potential for real returns, aims to produce returns that are at least as good as those from a high street deposit account. A high level of security of your capital is a priority. Whilst recognising that investment values will change, you would feel uncomfortable if your investments rose and fell in value rapidly.'

Mr and Mrs S were happy to keep their money invested for at least five years, which was a medium to long term objective. And they were happy to accept some risk to their capital in order to achieve better potential returns.

Looking at Mr and Mrs S' circumstances I don't think the risk rating agreed for them was unsuitable. As recorded in the suitability letter issued at the time, I think it was most likely discussed and agreed. Taking into account Mr and Mrs S' ability to understand the investment risk and clarification of their experience or knowledge to understand the risk involved, I think Mr and Mrs S reasonably understood the risk of the investments.

Overall, I think the levels of risk implicit in investing were explained to and discussed with Mr and Mrs S and they were content to expose some of their capital to a Cautious Plus level risk investment portfolio in order to achieve the potential for capital growth over the medium to long term.

HR have provided copies of the risk questionnaires completed by Mr and Mrs S over the years and the investments recommended appear compatible with the outcomes of those questionnaires.

However, I do note that in February 2019 Mr and Mrs S' risk questionnaire returned an attitude to risk of '1/10' for Mr S and '2/10' for Mrs S which are different outcomes than those reached before February 2019 and after. We asked HR about this, and it explained it was an anomaly. A discussion was had with Mr and Mrs S, and it was agreed their risk profile should remain as previously agreed once the consequences of choosing such a low-risk rating – ie the funds would need be transferred to cash ISAs – which would be inconsistent with Mr and Mrs S' desire to generate better returns than those available on cash deposits. I find HR's response plausible and the fact that Mr and Mrs S later invested additional funds suggests they were happy with their investments and the level of risk they were taking.

<u>The advice</u>

While I'm satisfied there is sufficient evidence to show that Mr and Mrs S' attitude to risk was assessed by the adviser, I've considered whether what was recommended to them was right for their circumstances and financial objectives. As I've said above, despite having some investment experience through their ISA investments, Mr and Mrs S would have been reliant upon the advice given to them.

It's recorded that Mr and Mrs S' investment objective was for real returns that were at least as good as those from a high street deposit account so it seems likely that Mr and Mrs S did want to explore the opportunity to make their money grow more than it would have done if it were to be returned to a cash-based product. Taking everything into consideration I'm persuaded it was more likely Mr and Mrs S were willing to take some risk with their money. It was recommended that Mr and Mrs S' ISAs should be invested into HR's Cautious Plus managed portfolio. The portfolio was a fund of funds and at the time was invested;

- 32% in UK corporate bonds
- 19% in UK equity
- 14% in North America
- 8% in property
- 7% in Europe
- 5% each in Japan, UK cash, international bonds, and absolute return.

After reviewing the underlying funds, the recommended portfolio doesn't seem an unreasonable choice bearing in mind Mr and Mrs S' attitude to risk and investment objectives.

As part of the annual review discussions of June 2015 Mr and Mrs S wanted to add an additional £50,000 to their investments which had come about from a matured fixed term deposit account. The investment term was to be at least five years. Mr and Mrs S had completed a risk profile questionnaire and as a result were classified as a 'Lowest Medium Risk Investor' which was defined as;

> '…one who would probably be concerned about the possibility of losing money on their investment, but may also want to achieve higher returns than are offered by bank accounts and low risk investments. As a result, these investors are willing to

> accept only small losses by investing in some medium-risk assets such as property and possibly some shares in order to achieve a higher return.'

It was recommended that the £50,000 be invested the same (now renamed) Lowest Medium Risk Portfolio they were already invested into. As Mr and Mrs S' investment objectives and circumstances remained that same, again, I don't find that the portfolio added to was unsuitable for them.

In August 2020 Mr and Mrs S contacted HR as they had some cash savings which were attracting very little interest. Again, they wanted their investment to perform better than a bank account and investment was to be over the medium to long term. In the suitability letter Mr and Mrs S' attitude to risk was risk was recorded as;

> 'We have had numerous discussions around your attitude to risk and whilst you both consider yourselves to be typically risk averse, you understand that a degree of risk is necessary in order to generate returns above that which you could receive from a bank account. You are both currently categorised as Lowest Medium Risk investors (4/10 on the risk scale). We would describe an investor in this risk category as someone who would probably be concerned about the possibility of losing money on their investments but may also want to achieve higher returns than are offered by bank accounts and low risk investments. As a result, these investors are willing to accept only small losses by investing in some medium-risk assets such as property and possibly some shares in order to achieve a higher return. Your existing ISA investments are invested in our corresponding managed portfolio and you recently confirmed to me that you remain comfortable with this risk category.'

Mr S was advised to invest £15,000 into an ISA with a new product provider and Mr and Mrs S were advised to jointly open a general investment account with the same new product provider and invest £10,000. It was also recommended that Mr and Mrs S transfer their existing ISA accounts to the new product provider. This was to reduce costs and improve functionality.

I haven't seen anything to suggest that since 2014 Mr and Mrs S were advised to invest outside of their investment objectives and agreed attitude to risk. I'm satisfied Mr and Mrs S were given sufficient information for them to be aware of the varying levels of risk and potential rewards implicit in different types of stock market investments. So, I'm satisfied they were made aware of the alternatives that were available to them. And Mr and Mrs S had many discussions with their adviser so had additional opportunities to discuss any concerns they may have had.

I will address Mr and Mrs S' complaint that their investments have not performed well and in particular since February 2022. They say that at that time – when the FTSE All Share Index stood at 4,208 – they should have been advised to transfer their money to safe bonds or similar but were advised to stay invested. After February 2022 the markets did continue to fall, and Mr and Mrs S raised a complaint at the end of November 2022 when the FTSE All Share Index had fallen to around 4,058.

I note that Mr and Mrs S had experienced previous market downturns such as the 2020 falls caused by the COVID pandemic – the FTSE All Share Index fell to 2,837 in March 2020 – but then went on to invest a further £25,000 later in the year and didn't cash in their investments when the stock market recovered which they could have done – and which was discussed with their adviser – if they were concerned about having stock market based investments. This suggests to me that Mr and Mrs S were aware that markets can and do fall over the shorter term but over the longer term they are expected to increase.

Mr and Mrs S have said at their age – they are in their 70s – it's not right for them to have to withstand such falls and I do appreciate that there may have been lower risk options available to Mr and Mrs S that could have potentially offered them better returns than savings. But my role isn't to re-visit the advice that was given and what other options were potentially available to them. Rather it's to consider whether the advice that was given to Mr and Mrs S was suitable for them at the time and as identified prior to the investment and whether it was sufficiently explained to them. And I am satisfied it was.

I say this partly because, as pointed out by HR in its final response to Mr and Mrs S' complaint, their annual portfolio valuation was provided on 13 January 2022 and as part of that it was stated that to enable their adviser to fully reassess the suitability of their portfolio, they were asked to confirm any changes to their circumstances by 13 February. As HR didn't receive any reply there would have been no need for it to reconsider the suitability of the investments and to suggest any changes if appropriate.

And Mr and Mrs S' previous behaviour after March 2020 would indicate they were happy to stay invested despite such market falls – and made additional investments at that time – and wait for the hoped-for upturn. So, I don't think that by HR not making any suggestions to alter the investment strategy in February 2022 that HR did anything wrong. There was no precedence for it to do so and there was no reason for HR to conclude that Mr and Mrs S weren't satisfied overall.

Mr and Mrs S have said Mr S wasn't well in early 2022 and their priorities were elsewhere. But that being said, Mrs S did speak with their adviser around that time and did have the time to contact HR by email. So, while they were going through a difficult time, its evidence Mr and Mrs S did have the capacity to communicate with HR when they needed to.

While I can understand why Mr and Mrs S may not be happy with the performance of the investments during the period in question, but the issue of investment performance is not straightforward in that it is actively managed. This means the money was invested in specific assets of funds as recommended by Mr and Mrs S' adviser. If the investments in a certain period poorly performed that's because the adviser had made certain recommendations that hadn't paid off – at least in the period under review. That's disappointing, of course, but reflects the adviser's role in making recommendations – which they were supposed to do. It doesn't mean the adviser had been negligent or failed in their duty of care. A decision to take no action – as in February 2022 – is as reasoned and considered as one to take action. And it doesn't mean the adviser's recommendations won't pay off over the longer term.

Taking all of the above into account, and in the particular circumstances of this complaint, I don't uphold Mr and Mrs S' complaint. I appreciate they will be disappointed with the outcome – it's clear they feel strongly about their complaint – but I hope I have been able to explain how and why I have reached the decision that I have.

My final decision

For the reasons given, I don't uphold Mr and Mrs S complaint about Hammond Raggett & Company Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S and Mrs S to accept or reject my decision before 31 May 2024.

Catherine Langley
Ombudsman