

## The complaint

Ms B complains about ML Financial Associates Limited ('MLFA'). She complains that her investments fell in value in 2022. She wanted to use these investments to repay a mortgage, but MLFA put up barriers to her accessing her funds. It did this by cancelling or moving arranged meetings. This cost her more in repayments. She has said the customer service was not what she has paid for and MLFA should have been more proactive in avoiding her losses.

## What happened

Ms B met with MLFA in 2016. She had existing investment accounts. These were:

- A stocks and shares Individual Savings Account ('ISA') with a value of around £15,500.
- A general investment account ('GIA') with a value of about £82,000.
- Personal pension policies with a value of around £36,500.

Her portfolio had a total value of around £133,000.

MLFA recommended that Ms B move her investments to a different provider using a range of funds that were suitable for her medium attitude to risk. The ISA and GIA were moved to similar products. Her personal pensions were combined into a self-invested personal pension ('SIPP').

Ms B hasn't complained that this advice was unsuitable for her. She already invested in risk bearing funds and the advice wasn't a material change for her in this respect. I've not looked at whether the advice she was given in 2016 was suitable for her.

In October 2022 Ms B told MLFA that she wanted to surrender her investments (excluding the SIPP which she couldn't access). MLFA said that it wanted to meet with Ms B before she did this to make sure it was the right thing for her.

I've looked at all of the correspondence around this. But briefly, Ms B wasn't initially available to meet until the end of October 2022 due to her work commitments. MLFA and her couldn't arrange a time when they were both free until mid-December 2022. And I think it's reasonable to say that MLFA wanted video contact whereas Ms B would have been happy with a telephone call. It seemed to be a particularly busy time for both Ms B and MLFA. And this was complicated by Ms B being overseas (in a very different time zone) and with limited internet access at times.

It was eventually agreed that the investment surrender would proceed in early January 2023. The transfer didn't proceed, this seems to be due to a lack of clarity around the bank account that Ms B wanted the funds to be transferred to and that she wanted MLFA to make up the recent losses she had suffered – she wanted £20,000 added to the transfer value.

I understand that she still has the investments.

Ms B complained in early 2023 saying that the plans had lost a significant amount of money over the last few years. She wanted these losses refunded. She said when she had informed MLFA it had questioned why she wanted her accounts closed. And this then led to a delay in the surrender of her accounts. She tried to withdraw the investments from October 2022 and thinks that the business materially delayed this. She said it hadn't been proactive and it hadn't sent documents by password protected emails.

MLFA has considered Ms B's complaint and it has partly upheld it:

- It said it was right to offer advice when Ms B wanted to withdraw her funds and it was acting in her best interests when it did this.
- The investments have performed well. And whilst they had fallen in value at certain times, they had increased in value from the amounts she had initially invested.
- It had communicated with her many times throughout 2022 and 2023 and it had monitored her portfolio over this time. It has provided a good level of service.
- It accepted that it did take a long time to arrange a meeting, but it felt that £100 compensation was reasonable for this.

Ms B didn't agree, and she brought her complaint to the Financial Ombudsman Service.

One of our Investigators considered the complaint and partially upheld it. He said that:

- He didn't think that MLFA was acting unreasonably when it asked to meet before the surrender.
- The losses were caused by market events, MLFA isn't responsible for investment performance.
- It wasn't certain that Ms B would have encashed the investments and repaid her mortgage.
- MLFA should have done more to arrange contact with Ms B and communicated better with her. He thought it should pay £200 compensation for this, in total.

MLFA agreed with what our Investigator said.

Ms B responded and did not agree. She didn't raise any new issues at this point. As no agreement has been reached, I've gone on to consider this complaint.

### **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.

Ms B has complained about the performance of her investments and the contact she has had with MLFA over 2022 and 2023.

Looking at the value of her investments over time I can see that since the start they have increased in value from the £133,000 she initially invested. That said, there have been periods when they have fallen sharply. Particularly just before 2022. Her total portfolio had a value of about £153,000 in 2020. It rose to above £170,000 in 2021 but it had fallen to about £151,000 in late 2022. It had started to recover in early 2023 when it had a value of £157,000.

Ms B says she has lost around £20,000. She has calculated this by looking at the difference between her investments at their high point in 2021 and their lowest value in 2022. But I

don't think this is right as a starting point as Ms B still has the investments so she didn't suffer this loss. And they have increased in value again.

And whilst the investments did change in value by a significant amount, this is not usually a reason to uphold a complaint on its own. This is because the investments that Ms B has are risk bearing and they will fluctuate in value in the normal run of things. And investment returns are affected by issues outside of a business's control. The period when Ms B's investments fell in value was a turbulent time for all investments due to several external global factors (such as the continuing effect of the global pandemic and the war in Ukraine). Almost all investments suffered some kind of setback over this period.

And in this case a third-party fund manager runs the funds Ms B invests in. So MLFA would have no input into the value of the investments. And the changes in value were not due to anything that it did, or didn't, do.

Taking all of these factors into consideration, I don't think it would be fair to uphold Ms B's complaint on the basis that her investments reduced in value in 2022.

Ms B indicated that she wanted to surrender her investments and I can see that there were some problems arranging a meeting between her and MLFA – as I've outlined above.

Ms B has asked why a meeting was needed before she could surrender her ISA and GIA. MLFA has said that it was concerned about her surrendering the investments so soon after they had fallen in value. Of course, it was Ms B's decision whether or not to do this, but I don't think it was wrong for MLFA to have wanted to ensure that this was right thing for her.

This is because investments often do recover from falls in value. And as I've outlined above this process had started when Ms B was deciding to surrender her investments. And if Ms B had surrendered in late 2022 she would have 'crystallised' the recent falls in value and suffered a loss. This may not have been what she ultimately wanted to do if she was provided with full information about the downsides of doing this.

So, I don't think it was unreasonable for MLFA to have tried to ensure that Ms B had full information about the potential downsides of making a surrender before she went ahead.

Ms B says that she wanted to repay her mortgage with the funds she was trying to surrender. It doesn't seem like she informed MLFA about this at the time. We did ask Ms B for some details about this. I understand she would not have been able to redeem her full mortgage so she wouldn't have been able to fully avoid any interest rate rises. But she could have repaid some of it, she says that interest rates were expected to rise at the time which would have been a concern to her.

And having thought about what she has said I don't think it's unreasonable to say that she hadn't decided to surrender her mortgage in late 2022 or early 2023. And MLFA would have provided information about the downsides of surrendering her investments at a low point. So, I think Ms B would have a difficult decision to make.

Having thought about everything all the parties to the complaint have said about this issue I don't think there is any certainty that she would have surrendered her investments and repaid her mortgage if her contact with MLFA had gone better. And Ms B ultimately decided not to surrender her investments and repay some of her mortgage. So, I don't think that she would have done this if she had, for example, met earlier with MLFA. I'm not upholding her complaint on this basis.

It has been accepted by MLFA that it could have made things easier for Ms B in late 2022 and early 2023 when she contacted it about surrendering her investments. Whilst it was difficult to find an acceptable time, and this was partly due to MLFA employees being, for example, on leave, it was also due to Ms B's personal circumstances and the very different time zone she was resident in. But MLFA should have more clearly explained why it wanted to provide some information to Ms B before she made the surrender, and it should have arranged a telephone call (rather than a video call) with Ms B sooner than it did. I agree that it should have done things differently here and this has clearly caused Ms B some frustration. I think the £200 the Investigator thought would be reasonable compensation is right for this.

Ms B says she has not received the service that she has paid for. I've looked into the communications that she has been sent and the contact she has had. This includes an annual portfolio report and regular information about her investments. MLFA has also been available to her when she contacted it – albeit this wasn't always satisfactory for Ms B. Overall, I don't think it's fair to say that MLFA has not provided a service to Ms B.

Ms B has said that MLFA may not have sent password protected attachments. But I can't see that Ms B asked for them to do this, or that anyone has accessed any of her personal data because of how MLFA has handled communicating with her.

At the heart of this complaint is the fall in value of Ms B's investments in 2022. But whilst they did do this, and I'm sure this was a concern at the time, I don't think, considered over the full life of the investments, that they have performed particularly badly. And MLFA has no control over this in any event as risk bearing investments will fluctuate in value. But other than the problems arranging a meeting I don't think MLFA has acted incorrectly here.

### **Putting things right**

MLFA should pay Ms B £200 compensation for the distress and inconvenience it has caused her when she tried to surrender her investments. This is in total - if it has already paid any of this then it does not have to pay these amounts again.

### **My final decision**

For the reasons I've explained, I partly uphold Ms B's complaint. ML Financial Associates Limited should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B to accept or reject my decision before 9 July 2024.

Andy Burlinson  
**Ombudsman**