DRN-4712241

The complaint

Mr and Mrs B complain Prolific Financial Services Limited ("PFS") is at fault for financial loss resulting from their investments being moved into cash in March 2020.

They say PFS failed to give them the advice or assurances or service it ought to have given them in connection with this.

Investments owned by Mr and Mrs B's relatives - Mr B2, Mr B3 and Mr B4 - were moved in the same way. They make the same complaint and are represented in it by Mr and Mrs B.

Investments for a child were also moved in the same way and Mr and Mrs B make the same complaint for those investments in their capacity as trustees of the bare trust.

What happened

Mr and Mrs B had been customers of PFS for more than 20 years. In January 2020 a substantial cash sum held on the portfolio (including sums for Mr B2, Mr B3 and Mr B4) was invested into investment funds on Mr and Mrs B's instructions. This sum had been held as cash for a time before that. From time to time PFS had asked Mr and Mrs B about moving it into investment funds as Mr and Mrs B weighed up whether it was the right time to do so.

On 6 March 2020 Mr and Mrs B emailed PFS about *"Volatility"* saying: *"Hindsight, for future reference. Had we decided to not buy in January* [referring to the investment of cash into investment funds at that point] *but instead turn whole wrap to cash for one or two months, could we have?"* PFS replied on 9 March: *"Yes this would have been possible but there would be capital gains triggered from selling all the funds in the Personal Portfolios."*

Mr and Mrs B replied: *"Thanks for that Could've dumped all but affected by tax, big question is it going to drop another 10% or more Maybe next time…"* Then they replied again, adding: *"Looks like it already has, could be 30% before we've finished, should've bought that big capital item was considering Sure it's keeping you all busy".* PFS replied saying: *"This should just be short term with the unfortunate timing of the Coronavirus and Oil prices at the same time, we will see later what the IMF and various Government responses are to this."*

Mr and Mrs B replied: "*Like your optimism, I think worse to come and long time to get back to where we were, fingers crossed you're right!! And we don't end up with many countries in the Italy China situation. Can't believe we held out for a year and missed by a month, I actually said "they're not going to stop that spreading" but obviously can't do 2+2… Did you have any intelligent clients that got out early*?"

PFS replied the next day: *"Everyone stayed invested, I don't think the high impact of this could have been predicted, and Asian Markets were up slightly overnight and the FTSE is up 1.8% so far this morning (although this is no guarantee that it will stay positive throughout the day). Hopefully this is just short-term volatility to ride out."* Mr and Mrs B replied: *"That's a surprise I thought someone would've remembered sars swine or other previous stock dipper, all must just sit back for the long average, which is the game we're in to be fair. Would be nice to get a big boost once in a while though, maybe I'll reconsider dealing. As you say* *markets up so far today and new cases in China falling, but expect the rest of the world will have significant increase in cases and restricted movement hopefully not as bad as Italy and China but unfortunately enough to dent company profits for a good while and even the viability of some companies. Snakes and ladders fingers crossed for plenty of ladders… See you in the summer".*

On 19 March 2020 PFS emailed Mr and Mrs B with proposals for its *"Medium Portfolio"*, saying it had reviewed its multi-asset portfolios given *"the recent market volatility"*. It said it had identified funds that had lost more than others, due to *"investing higher proportions in Property and Alternative Investments"* and *"a larger European exposure"*. It said it recommended these be sold and the proceeds put into existing funds plus a new fund which had equity content of 50% and exposure to gold. It said the costs of the portfolio would increase from 0.68% to 0.83% but *"we feel this is necessary to provide protection in the month's going forward. Volatility will continue but we do believe the best option is to remain invested.*" It said the portfolio equity content would be 59%, decreased from 60%, and it used bonds, gold and other assets that it said should provide protection.

PFS asked Mr and Mrs B to agree to this switch but said it would let them know if there were significant gains within the taxable accounts (and hence potential tax from selling holdings).

Mr and Mrs B replied on 19 March 2020, saying: *"Many thanks for your proactive approach, very much appreciated. We're happy to be in anything that holds value or at least drops the least. Been reading that gold and certain bonds are even unpredictable, in fact finding shelter anywhere is near impossible. Ohh to have been in cash!! must be some feeling very pleased with themselves. Is anyone predicting the worst case outcome? ie bottom point? Early days, but when the upturn eventually comes we clearly don't want to be slow in the other direction, ie waiting 10 years rather than 3 to get back to 22/2/20 value, obviously our risk profile considered. (understanding that recovery time is absolutely unpredictable at the moment or even when it's happening)."* They added: *"We assume you are already preparing and modelling several recovery portfolio options, for when the no doubt volatile 3 steps forward 2 back or worse recovery begins, we look forward to seeing your strategy in due course, to be ready for when that day comes, hopefully it will be sooner rather than later and we might for once be ahead of the game."*

Mr and Mrs B also forwarded their exchange to another adviser at PFS saying: *"Hope you're weathering the storm ok Look forward to seeing you sometime in the future, who knows where who knows when…"* PFS replied: *"These are certainly unprecedented and challenging times that none of our age group have envisaged."*

Mr and Mrs B later that day suggested PFS send a weekly bulletin with a paragraph of its market thoughts *"that might provide some reassurance to clients that we're in a winning team and you're all flat out on it to achieve the best possible outcome, which I'm confident you are."* They have noted that PFS did start to send round a bulletin like this later on.

The following day - Friday 20 March 2020 - Mr and Mrs B emailed PFS with a concern about its portfolio adjustment suggestion, as the selling and buying couldn't be precisely timed so *"won't it make things worse if selling on a dip and buying on the up?"*
PFS replied that same day saying sales were *"done as a 'rebalance' which means we pre-fund the buys with the expected proceeds of the sale so that you are not out of the market during this time."* It asked Mr and Mrs B if they were happy to proceed and at 11am that day (the Friday) they said that they were. Their reply said: *"…fine go ahead for all of us Slight improvement today but not convinced we're at the bottom until no new cases in China or treatment meds or vaccine sorted."* Mr B2, Mr B3 and Mr B4 consented to this course too.

Later that day, in the late afternoon after 4pm, Mr and Mrs B emailed PFS saying: *"Hi Seriously considering all to cash on Monday, will talk then Have a good weekend".*

A phone call followed on Monday 23 March 2020, before 10am. Mr and Mrs B emailed PFS that morning at 10am, after the call, saying: *"Good to talk, most appreciated. We're going for it all to cash please ASAP. Both of us and [their relatives]. Is it possible to keep 1 unit of all items in portfolio so we can still see online and have starting point for re-entry?"*

They also said: *"Additionally VERY IMPORTANT requires confirmation and action.*
1, We understand pension/isa tax status retained indefinitely, correct?
2, Pension is covered by pension regulator and can't be lost even in cash ie no £80k limit?
3, Remaining cash, how are we covering the £80kish each limit?
4, Do we stay in sterling or look at other currencies?"

In reply PFS said it couldn't do all the sales until Wednesday or Thursday as the previously agreed portfolio changes were being processed. It also suggested that the tax position on the taxable portfolios would need to be reviewed as the sales could trigger a tax charge. It asked Mr and Mrs B if they wished in the meantime to proceed with those sales that could be done straightaway. Mr and Mrs B replied: *"Please get rid of all you can ASAP If there's CGT* [capital gains tax] *so be it One unit would be good but do what you can".*

PFS at 11am made a brief note of this exchange, after it had started to do the sales. This says Mr and Mrs B spoke to PFS and they *"want to sell all to cash"*. It went on *"I advised CGT issue and due to MP change* [the portfolio changes it was implementing] – *can't do all now* – [Mr B] *asked to do as much as can and keep monitoring"*. It then noted Mr and Mrs B wanted to keep one unit of each fund sold, to monitor future fund performance. Mr and Mrs B say PFS's notes of the call are incomplete and inaccurate (as I detail further below).

On 25 March 2020 Mr and Mrs B emailed PFS saying their *"current plan is to be super cautious with zero risk"* and they raised concerns about whether money market funds would be covered by the FSCS compensation scheme. They also noted that the values of such funds could fall and also that there were charges. PFS replied with information about the compensation limits and some solvency information. Mr and Mrs B had said: *"Lots of questions we know but, after the confusion over the pricing and timing of the sales we must be 100% certain of the rules and regulations before making further decisions."*

Mr and Mrs B consider there was poor wealth management and a lack of advice and serious attention concerning their idea on 20 March 2020 to move all their investments into cash and their instruction on 23 March 2020 to do so. They say the move was made out of fear and anxiety, including of economic collapse. They say PFS had opportunity to fully analyse the consequences and suitability of the move and to detail all the pros and cons with evidence to back its opinions – but didn't do so. They say PFS failed because at no point did it suggest the disinvestment was 'financial suicide'. They also say PFS didn't consider the suitability of the move for each individual. The trust beneficiary was a child whereas Mr and Mrs B were near retiring, for example, so the same action wouldn't suit both. Mr and Mrs B say PFS also could and should have provided reassurance that remaining invested was by far the best approach and a measured risk that would always provide the best financial outcome. They feel PFS instead treated them as an irritation and with a 'do as you please' attitude.

Mr and Mrs B say PFS *"had suggested the fall was temporary or short term in earlier emails"* but they say PFS hadn't *"justified or backed up those statements"*. They say disinvesting was the biggest decision of their lives. They say their anxiety was increasing over several weeks and becoming unbearable. They say PFS in the 23 March 2020 call said *"we don't know what's going to happen"* and *"I'm considering selling",* and so added to their worry.

Mr and Mrs B say PFS didn't explain any of the pitfalls of disinvesting. They say PFS should have told them beforehand that a move to cash would mean buying funds with costs and more potential loses and that re-investment to funds would incur charges. Also that only £85,000 per person in cash was safe and that large losses on tax-free investments couldn't be restored by topping up from taxable savings. Also that any missed upside would be amplified over many years to come. They say PFS told them more later, but it was too late.

PFS's terms of engagement promise *"On-going Review and Monitoring"* whereby PFS *"will keep your financial plan under review to ensure that it continues to meet your requirements"* and *"will be available to attend one planned meeting each year to discuss with you any changes to your objectives, and recommend changes to the financial plan accordingly"*. Mr and Mrs B point out it also says: "*We will also be available to discuss matters on the telephone or by email as necessary to keep you informed and to answer any questions you may have from time to time"* and that its ongoing service promised: "*Additional meetings, at your request, to discuss any financial / investment issues"* (which might incur extra fees).

Mr and Mrs B have sent a newspaper article that advised against *"reacting in haste to bad news, such as in the early days of the pandemic last March… By staying invested… you give your portfolio a chance to recover…"*

Mr and Mrs B say PFS had a strong opinion on the merits in general of staying invested, because it said so twice in a newsletter a year later, but it had failed to communicate this to them a year earlier. They say when once in a lifetime real wealth management was required, PFS adopted a casual and indifferent approach and took its fee regardless of outcome.

Mr and Mrs B say their investments were £0.5m below their peak when moved to cash and they told us they went back into the markets on IFA advice and were around £1m below where they would've been if they'd stayed invested. They ask PFS to restore their positions.

PFS rejected the complaint and Mr and Mrs B sent us its reply with their comments. They said the comment that PFS *"hoped this was short term volatility to ride out"* wasn't good enough as *"hope"* didn't provide the degree of reassurance required at that point. They said *"things tend to get worse before they get better"* wasn't PFS's only negative comment and it didn't offer reassurance that staying in was the best option. They said their instruction, which PFS said was clear and insistent, wasn't questioned by PFS. They said a CGT liability was doubtful due to the falls in value and PFS should've been able to tell this. They said details of the difference between cash funds and cash deposits given to them by PFS ought to have been given to them before the move to cash and not afterwards.

Mr and Mrs B said what was lacking in the updates PFS later gave on market developments was reassurance that returning to the market was definitely the thing to do and they say as late as September 2020 PFS was suggesting the possibility of a 20-30% market drop. They said the various efforts by PFS to inform or encourage them back into the market contrast with the lack of this when it really mattered when they were deciding to disinvest. They said PFS should've reaffirmed and reassured them staying put was the best option to start with.

Our investigator considered Mr and Mrs B's complaint and didn't think it ought to be upheld.

She said, in brief summary:

- With hindsight the decision to exit the market was disadvantageous and the timing of the disinvestment was unfortunate. But neither Mr and Mrs B nor PFS were to know this at the time. Many investors worried the falls were set to continue and none could have known when this would stop. Although it often is a good idea to stay invested at times of high volatility, it isn't possible to say with certainty that it will be best thing, especially in unprecedented times like those of March 2020.

- PFS was required to give effect to Mr and Mrs B's wishes and wasn't required by any rules to persuade them to take more risk than they wished to take. If Mr and Mrs B's focus was to preserve capital, PFS wasn't wrong to not persuade them otherwise.

- PFS suggested phasing back into the market over six months as early as May 2020 with a view to reviewing the position monthly for a further phase in. What PFS said didn't reassure Mr and Mrs B enough for them to wish to re-enter the market, but this is understandable as the market hadn't stabilised and it was difficult for PFS to make solid predictions at the time. Mr and Mrs B and PFS continued to discuss a return to the market in the months that followed. But Mr and Mrs B weren't confident enough to do this until May 2021. Following the move to cash, overall PFS continued to fulfil its responsibility to review, monitor and advise for Mr and Mrs B.

- More assurances from PFS wouldn't have dissuaded Mr and Mrs B from exiting the market in March 2020 given they were willing to pay CGT to exit, didn't want to take any risk and were concerned with FSCS protection for their money, even preferring cash to a cash fund. Their reluctance to re-enter the market also supports this view.

Mr and Mrs B didn't agree and raised or reiterated points including, in brief summary:

- Alarm bells should've rung on 20 March 2020 when Mr and Mrs B told PFS they were seriously considering going to cash. PFS didn't say this was inadvisable or suggest alternatives or suggest it might not be right for all six of them given their different ages.

- The crux of their complaint is that PFS never said it was a bad idea to go into cash when Mr and Mrs B raised this possibility with PFS in their call on 23 March 2020. Yet PFS twice said a year later that its always best to remain invested.

- They didn't expect PFS to predict the future or anticipate the market, but to take what they were telling PFS into account and decide what was best for wealth management.

- Earlier email exchanges had suggested that a move to cash needed full analysis and a full proposal with full detail. So the fact the tax that might result on gains was PFS's only concern, came across to them as PFS thinking the move to cash was an OK idea.

- Our investigator said PFS must have recognised the importance of their 23 March 2020 call with PFS. But her reference to the call mentions only statements that help PFS, and not ones like the adviser saying *"possibly"* when asked if he was considering going to cash. Also PFS spoke more about the covid impact on the adviser than Mr and Mrs B's *"desperate situation"* and took offence at a quip they made about covid. The fact that there isn't a call recording seems too convenient and doesn't convince Mr and Mrs B – and the call notes weren't shared or agreed with them either and should've been.

- To suggest they wouldn't have been dissuaded from exiting the market, drifts into speculation and is disturbing insofar as it seeks to predict their state of mind.

- Focus should be on PFS's performance on the day complained of and anything that happened after that is irrelevant to that. Indeed, PFS swung into overdrive later with its responses and reports, which seems likely guilty behaviour after the damage was done.

- Choices made by PFS show complacency or laziness such as their grouping together similar clients for emails. PFS took their money for years when things were easy but failed at all levels when it was needed most, because it just went along with what they

(Mr and Mrs B) were saying. They expected to be treated like six individuals and if PFS thought their proposed action was damaging, then individual analysis was required.

- It was speculative to say the attitude to risk of six people (including the child) had changed but, if that is what the investigator thought, this must also be what PFS thought - so alarm bells should've rung and PFS should've paused, re-assessed Mr and Mrs B's (and others') attitude to risk and proposed a tailored solution. As our investigator said: PFS had to bear in mind their circumstances.

- Mr and Mrs B have always followed PFS's advice or an agreed variation of it. In the mid to late 1990s PFS advised Mr B to move company pension funds to cash during market turmoil. That advice was taken and is likely where their March 2020 idea came from. In the years since then they have lost significant sums at times due to PFS's advice and the portfolio performance was average.

In reply our investigator noted PFS's phone notes didn't break any rules, but she had expected a more detailed note and possibly an email summary for Mr and Mrs B. She said that given that market outcomes can't be known, she wouldn't have expected PFS to say the move to cash was a bad idea or to have persuaded Mr and Mrs B to do otherwise.

Mr and Mrs B replied raising or reiterating a number of points including, in brief summary:

- They asked why PFS wouldn't be expected to keep them invested or give alternatives to moving everything to cash, instead of executing their instruction which was the easy option. It isn't good enough to say *"we don't know what's going to happen"* not to mention *"I might sell"* together with other very concerning comments. PFS might not have known what was going to happen but it or its trusted fund managers should've had a pretty good idea.

- Treating six individuals as one isn't acceptable. Mr and Mrs B give instructions for all six but that is very different to treating them all as one. They would expect all their differing circumstances and ages to be considered, not just for PFS's ongoing advice but in its response to their ideas.

- PFS has failed to address why, when executing the instruction on 23 March 2020, it did not say "OK, but this goes against our advice, your risk assessment and historical investing strategy are you sure you want to proceed?" - or something along those lines.

- PFS says it doesn't use execution-only orders, so surely Mr and Mrs B's order ought to have alarmed it. Mr and Mrs B have a very basic understanding of the financial system even after 30 years and they pay PFS for wealth management and to look after them, not just to execute orders. They have pointed out they have accepted PFS's advice even when and after it has lost them money.

- PFS took ages to act before its 19 March 2020 group email trying to mitigate volatility.

- The information PFS gave about cash and the fact it isn't straightforward cash, would've had a major bearing on their decision but PFS only gave it after they had moved to cash.

- Mr and Mrs B wanted PFS's advice and, if required, their suggested alternative options. PFS could've convinced them it wasn't the end of the financial system. Once moving to cash became a serious consideration for Mr and Mrs B, PFS had plenty of opportunity to do something, but it took the lazy execution-only option.

- Mr and Mrs B didn't re-enter the market later as they'd lost faith, compounded by PFS's email suggesting markets could fall again by another 20%. That email isn't in PFS's timeline and hasn't been mentioned by the investigator, together with several other negatives on their part.

- Mr and Mrs B were also nervous of inflation at re-entry. PFS assured them it would be a blip, which cost them around another 10% when they accepted its advice and re-entered.

- Speculating on what Mr and Mrs B might've done in different circumstances isn't a valid approach to deciding their complaint.

- What PFS had said about no one going into cash turned out in a much later email to be untrue.

- The call note is not a complete or even fully true reflection of the 23 March 2020 conversation. PFS knew from 20 March what the conversation would be about and from 6 March 2020 how serious the situation was getting.

- PFS's 19 March 2020 proposals grouped clients together lazily and Mr and Mrs B weren't convinced it was suitable for all six of them and so continued the dialogue.

- Mr and Mrs B weren't after persuasion but PFS's thoughts and, if necessary, alternatives. PFS's comments such as he *"might go to cash"* and *"we don't know what's going to happen"* just added to the problem.

- PFS provides extra meetings at their request, which requires full input - not just execution of their orders on the basis of 'we had little option'.

- In summary, in the lead up to 23 March 2020 PFS had ample opportunity to discredit the idea (of moving to cash) and to offer alternatives, as well as sorting out capital gains tax. Once the idea became a serious consideration on Mr and Mrs B's part, PFS had two final chances on 20 and 23 March but instead poured fuel on the flames and went for the easy option of just executing their order. PFS didn't say it believed in remaining invested or give alternatives or give them anything of use – and this contributed to their view that things must be bad if paid professionals and their fund managers don't know.

- This was the most significant act in their investment history and yet it received the least attention. They can't believe this is acceptable and that no action is required, nor do they understand why they are being used as part of the excuse (when our investigator said they would've still disinvested).

- They have been told by three independent financial advisers, an accountant and a solicitor that PFS's performance was extremely poor. If its performance is accepted then financial services are in a sorry state, compounded by the ombudsman service. If professionals in all walks of life just acted on instructions, there would be chaos. All professionals have a duty of care towards clients to look after their bests interests and ensure best outcomes.

As the matter couldn't be resolved informally, it has been passed to me to decide.

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.

Having considered all of this, I've arrived at the same conclusion as our investigator – and for broadly similar reasons. I'll explain my reasoning. But before I do, I'd emphasise I have considered all that has been sent to us by Mr and Mrs B and all they told us in a forty-minute phone conversation with our investigator to which I've listened. I'm grateful to them for the time they have taken to set out and explain the points of their complaint to us.

I've set out the background to the complaint not exhaustively but in some detail above. But in my view the issues are straightforward and can be stated concisely. PFS acted on an instruction given by Mr and Mrs B to move their investments into cash. They believe that PFS ought to have done more either before or after receiving the instruction to discourage them from making that request, which they made for their own investments and those of a child - and to which their other relatives also consented shortly afterwards.

Mr and Mrs B's view that PFS is at fault for this rests partly on the idea that PFS did little or nothing to discourage them from making this move – and in fact 'added fuel to the flames' of their concerns – and partly on the idea that such a move was plainly and obviously the wrong thing to do at the time. In view of this last point, they think PFS could and should have come out more strongly against the idea when they raised it - and taken more concrete steps when this became a formal request. As regards the first point, they say the key event was a phone call on the morning of Monday 23 March 2020, after which they gave their request, in which PFS failed to provide them with the sort of reassurance they were looking for.

They have said of that call that PFS was not on its best form, perhaps due to personal issues, and that this might explain (but wouldn't excuse) what they see as a failure at that time. But they also think PFS missed opportunities before the call to address the situation and then did very little after the call to help matters. They also point out they were sent no summary of the call to confirm PFS's understanding of what was to take place. PFS got in touch to arrange the moves that had been instructed, but it didn't discuss these or send Mr and Mrs B anything containing any reflections PFS might have on the moves.

Of the call itself, Mr and Mrs B say that as PFS didn't put an alternative suggestion to them and wasn't able to give them the degree of reassurance they were seeking as regards future market prospects, they left the call more worried than before - as they thought that if an expert doesn't know what to do, things must be bad. In terms of what might have reassured them about future market prospects, they say PFS's earlier suggestions - that the falls should just be short term or hopefully were just short term - fell short of what they needed. But they emphasise that in the call itself PFS offered no reassurances and the adviser said he didn't know what was going to happen and selling was something he might consider.

Also Mr and Mrs B point out that others they have approached since have made their own suggestions as to what PFS should've done. One suggestion was to tell them to consider selling only part of their holdings – so perhaps half or some other proportion rather than the whole. Another was to sell only the funds they might need to cover the next few years and to keep the rest invested (in essence, a suggestion to stay invested). Another was to work out whether what they would have, if they sold, would be enough for retirement and, if it was, to sell (in essence, a suggestion to sell if they were happy to settle for the value at the time). Mr and Mrs B make the point that in the call with PFS it offered no alternatives, which made them more worried and led them to think that what they were contemplating was reasonable (and to some extent endorsed by PFS).

I've thought about all this carefully. But it seems to me that what the above overlooks is that PFS had already given Mr and Mrs B both its view on the market - that this was short term volatility to ride out – and its view on how best to adjust the portfolio in light of the volatility, which was the proposal it had emailed Mr and Mrs B just days earlier and they had accepted a day before (on the Friday morning). It had made clear in that email that *"we feel this* [the proposed portfolio adjustment] *is necessary to provide protection in the month's going forward. Volatility will continue but we do believe the best option is to remain invested.*" So PFS had told Mr and Mrs B in writing just two working days earlier, and they had accepted on the previous working day, that *"we do believe the best option is to remain invested"*.

So when Mr and Mrs B emailed PFS later on Friday to say they were thinking of moving to cash entirely, and when Mr and Mrs B told PFS this on the Monday morning, they were, in doing so, rejecting the view PFS had expressed just days earlier and the proposals it was still in the process of implementing for them at the time. I agree that in the phone call PFS could've still restated its view that it was best to stay invested and restated why it had proposed the adjustments to the portfolio it had proposed and so on. But I don't see that it was obliged to do so or was negligent or at fault for not restating something it had put in writing just a few days earlier.

I understand that from Mr and Mrs B's point of view, the context of the phone call was that they had, over a period of time, begun to let PFS know that they felt concerned about the state of the markets (and regretted to some extent their decision to invest more at the start of that year and wished that they held cash instead) and so might wish to leave the market. From their point of view, this means there were opportunities for PFS to say more and to change their views or feelings. But I think this can equally be viewed as a situation in which PFS had, over that period, responded to Mr and Mrs B's concerns with reassurances and then had offered specific proposals on how to stay invested as the best option. So insofar as PFS didn't attempt to offer such reassurances or proposals to Mr and Mrs B in the call, it wouldn't be surprising if this were because such reassurances and proposals had up to that point still not reassured Mr and Mrs B or been accepted by them.

To be clear and specific, PFS in my view did try to provide reassurance on 6 March 2020 when Mr and Mrs B said that the market could fall by another ten percent and end up thirty percent down. PFS said in its reply: *"This should just be short term…"* Mr and Mrs B weren't convinced. In its further reply PFS said all its clients had stayed invested – which it said in reply to a question as to whether any clients had anticipated the covid market falls - and that: "*Hopefully this is just short-term volatility to ride out."* It then said in its 19 March 2020 new portfolio proposals, *"we do believe the best option is to remain invested."*

Our investigator took the view that had PFS reiterated its view or done something else to try to change Mr and Mrs B's view or reassure them, this wouldn't have made a difference. In my view what Mr and Mrs B have said supports this insofar as they say what PFS had told them so far wasn't sufficiently reassuring or convincing to make them want to remain invested in the way PFS had suggested. So it would seem reasonable to suppose that had PFS restated its view that the market volatility should be temporary and that remaining invested was the best idea, this is unlikely to have made a difference. But I don't need to decide this point because in my view as PFS had already put these points to Mr and Mrs B, it wasn't at fault for not making them again during the phone call. As such I don't need to reach a view as to what Mr and Mrs B might have done had PFS done this during the call.

I do note what Mr and Mrs B say about feeling more worried after the call and how PFS was not on its best form and said it was thinking of selling too. I don't doubt their recollection of what was said, but it seems to me that both parties knew, coming into the call, the proposals PFS had already made. So whatever PFS said it might do or was thinking about, its settled view and proposal was that remaining invested was best and it hadn't changed that so far.

I've thought also about whether PFS ought to have done anything else or any more than it did. I accept that it could've expressed different opinions and criticised Mr and Mrs B's plan to cash things in, but I don't think it was wrong not to do so, given that it had already in my view set out its opinion on things and Mr and Mrs B were aware of that. I find that PFS was not in a position to give a degree of assurance as to the future direction of markets such that it could remove all doubt as to whether there would be a recovery or how long this might take. I share our investigator's view that it is only with hindsight that one can be certain that the decision to move into cash turned out to be disadvantageous.

I note this disadvantage, to which Mr and Mrs B have made reference, resulted in part due to the falls that had already occurred before the move to cash, but it was also in part due to the recovery in the market that took place later, which – on the figures they have given - could've made Mr and Mrs B better off than they were to start with. Also when Mr and Mrs B did go back into the market they did so before a market fall, increasing the loss. It's agreed that PFS invited Mr and Mrs B to re-enter the market sooner a number of times, including quite soon after they had left. I acknowledge Mr and Mrs B's point that this is of limited relevance to events at and prior to the move into cash, but insofar as it does have relevance it doesn't assist Mr and Mrs B's case as PFS did not prevent or discourage them from re-entering the markets. It seems to me that in missing out on gains later, the cause would seem to be not only the decision to move to cash but the decisions later to remain in cash for a considerable time afterwards.

Mr and Mrs B question whether the move into cash could be right for all of them – including the three other relatives and the child, given they were all of differing ages. I note also that they all had different attitudes to risk too. But what was at issue at the time wasn't the degree of investment risk they would wish to take when investing, but whether they wished to take any investment risk at all at the time. They decided they did not, and in that respect the relevant circumstances for them all were the same.

I'd mention that it is apparent PFS had a conversation with Mr and Mrs B on the morning that they wanted to speak, and I've seen nothing to suggest that PFS wouldn't have been willing to arrange further conversations or advice meetings as contemplated in its terms, had Mr and Mrs B requested this. So I haven't identified a service failing in that regard. I also note that while Mr and Mrs B's email about moving to cash was sent three days before their call to PFS about it, there wasn't as much working time in between as this might suggest because the email was sent after 4pm on Friday and the call was before 10am on Monday.

I'd add that at the point when PFS received the instruction from Mr and Mrs B that they wished to move to cash, its options were limited because its obligation at that point was to carry out the instruction. Any delay on its part that led to loss could be loss that it would be responsible for. I note that PFS did raise the issue of possible capital gains tax arising, and there wasn't in fact a liability, but I don't see that this led or contributed to Mr and Mrs B's move to cash, which is what their complaint here is about. Insofar as it had any effect, it deferred the move momentarily, but Mr and Mrs B ultimately decided to go ahead anyway and weren't concerned with any capital gains tax consequences (and there weren't any).

I note that after the move to cash, PFS gave more information about the particular position of cash funds or cash deposits and how the money might be spread between such instruments. It seems that this further information was requested and provided because Mr and Mrs B were concerned that their funds have as much protection from insolvency risk as possible. I note what they've said about cash funds having charges and I note also what they say about how reinvestment charges would arise. But I'm not persuaded that more information about this at an earlier point would've made a difference to Mr and Mrs B's decision to move into cash and out of their investment funds. Indeed, it seems to me Mr and Mrs B, as investors of over twenty years, would've known moving into or out of investments may involve charges. Insofar as Mr and Mrs B raise this point in support of a broader concern that PFS acted in a lazy or negligent manner, and that they have since had what they find to be a much better service from the firm's new incarnation, I note what they say - but it doesn't change my view, expressed above, about PFS's conduct and responsibilities in relation to this complaint.

So for the reasons I've given and in light of all I've said above, I do not uphold this complaint. I'm grateful to Mr and Mrs B for the prompt and courteous assistance they have given us throughout the course of our consideration and investigation of these matters. I acknowledge what they have told us about the significance these have for, and their impact on, all the complainants. I'm aware my conclusion will be very disappointing for all those parties.

My final decision

In light of all I've said above, and for the reasons I've given, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs B and Mr B2, Mr B3 and Mr B4 to accept or reject my decision before 28 April 2024.

Richard Sheridan
Ombudsman