

The complaint

Ms P complained that Morgans Ltd (Morgans) caused her a financial loss by investing a single lump sum pension contribution into her existing funds rather than those it had previously recommended.

She would like to be compensated for any financial loss she has suffered as a consequence.

What happened

In September 2019, Ms P entered into an agreement with Morgans Ltd for it to provide her with on-going advice in respect of a Self-Invested Personal Pension (SIPP) she held with a third party provider (Provider A).

In line with this agreement, Ms P received annual pension reviews and recommendations from Morgans between October 2019 and January 2022. These recommendations were to switch investments away from fixed rate and gilts as the valuations of these elements of her pension were under pressure from rising inflation.

On 18 January 2022, Ms P contacted Morgans to discuss setting up a regular monthly personal pension contribution. Morgans responded on 20 January 2022, confirming that the overall investment performance of her SIPP had been 4.5% in 2021, net of fees and charges. It also asked Ms P to complete and return an attitude to risk form and client fact find. It also said:

In light of the heightened risk is rising inflation I want to review the funds and I think the low risk fixed interest funds could be under heavy downward pressure if my assumptions regarding inflation are correct.

Ms P replied on 24 January 2022, confirming that she wanted to make a single lump sum contribution of £20,000 in March 2022. She also expressed dissatisfaction with the recent performance of her fund.

On 27 January 2022, Morgans responded to her email, highlighting the fund switch recommendation and asking Ms P to confirm whether she wanted to action the changes.

The recommendation was to sell all fixed interest and gilt investments and reinvest the proceeds in two new funds.

Ms P did not respond until 6 March 2022. She contacted Morgans to confirm she wished to make the lump sum contribution to her pension, at the same time asking whether Morgans still believed the recommended fund switch was an appropriate course of action.

Morgans responded by email on 8 March 2022, confirming that it would action the application for the lump sum investment and arrange the payment to Provider A, although it did not address her query about the recommendation.

On 5 December 2022, Morgans sent Ms P an email attaching an annual client report and explaining that the fixed interest and gilt investments within her portfolio had experienced some significant losses during the year. The total losses within her pension were c£40,000.

Morgans once more sent Ms P a fact find and attitude to risk questionnaire. She returned these on 8 December 2022. The completed forms indicated that Ms P reviewed the value of her pension and investments at least every three months. She also told Morgans she was disappointed with the loss in value of her pension. Ms P reiterated that she had wanted a low-risk investment for her pension, saying:

circa. 7% per year compounding was my hopes for retirement.

Ms P met Morgans 14 December 2022 to discuss her pension. She contacted Morgans again on 25 January 2023 to ask for an updated valuation and informed it that she intended on making further contributions before 31 March 2023.

Morgans provided an updated investment recommendation on 13 February 2023. It also confirmed that Ms P's attitude to risk was rated as high/medium (6 out of 10), given the information she had provided.

It also asked Ms P to confirm whether she wanted to proceed with the recommended fund strategy.

Ms P contacted Morgans on 2 March 2023, saying:

I'm not sure that I want to sell any investments that have lost funds (in hope that they recover). Would it not be possible to leave the investments as they are and instead start the new investments with my monthly contributions?

Morgans replied the same day and confirmed that no fund switches were to be made in respect of the existing funds, but that all new contributions should be invested according to the new investment strategy.

On 9 March 2023, however, Ms P requested that Morgans freeze any current investments whilst she considered her options. Ms P made a further single lump sum employer contribution to her pension on 3 April 2023 into one of the previously recommended funds, along with a regular monthly contribution of £1,000 to be paid on 1st April 2023 into the same fund.

Ms P subsequently contacted Morgans on 27 June 2023 to advise it that she had transferred her pension to a new advisory firm and pension provider (Provider B).

On 8 November 2023, Ms P complained to Morgans about the poor service she considered it had provided to her, which she believed had resulted in a significant financial loss. Morgans responded to her complaint on 8 December 2023 to say that it did not uphold her complaint.

Ms P wrote to Morgans again on 17 December to make a further complaint point – namely that Morgans had not responded to the query she had made when writing to it on 6 March 2022 asking it if it still stood by the recommendations it had made to her on 27 January 2022. Morgans did not uphold this complaint point either, as Ms P had continued to make a lump sum investment and continue with regular monthly contributions despite not receiving an answer to her query

Unhappy with this response, Ms P brought her complaint to this service. Our investigator reviewed the evidence and formed the view that although they did not consider Morgans to have treated Ms P fairly, they did not feel that it could be held responsible for any financial loss Ms P had suffered, and instead felt Morgans should pay Ms P £250 in respect of her distress and inconvenience. Unhappy with this, Ms P reviewed further documentation and discovered that Morgans had not acted on an instruction she had given it in September 2020 to switch her investment strategy out of gilt funds. She raised a further complaint against Morgans on 27 May 2024 on this point. Morgans responded upholding her complaint on 24 July 2024. It conducted a loss calculation which found that Ms P had lost c£22,000 as a result. It offered her this amount, which she accepted.

Ms P was still unhappy with the recommendation from our investigator that she should be awarded £250 in respect of her distress and inconvenience as a result of her initial complaint. Morgans had originally agreed to pay this sum, but withdrew this offer after upholding Ms P's complaint and awarding her compensation for the financial loss resulting from the error which it made in September 2020.

The complaint has been passed to me to make a final 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.

Having done so, I agree with our investigator and uphold this complaint. I shall now explain my reasoning.

In making my decision, I have reviewed all the evidence provided by both Ms P and Morgans, but I will only refer to what I consider to be the key elements when reaching my decision.

Firstly, I have considered that Morgans upheld Ms P's complaint relating to it not acting on her instruction to switch funds in September 2020 and she has accepted compensation for financial loss it has awarded her as a result. Consequently, I will not consider this part of her complaint, except to note that if the instruction had been acted upon at the time, Ms P's pension would no longer have had any element of gilt investment from September 2020 onwards. She would, however, still have had an element of fixed interest investment through the corporate bonds held in her pension.

At her annual pension review on 3 December 2020, the recommendation that Ms P had accepted on 1 September 2020 was again made to her, although obviously this should already have been actioned. Seemingly unaware that she had already instructed it to make the recommended changes, Morgans attempted to contact Ms P on 17 December 2020 and 7 January 2021. Ms P did not respond, so the fund changes were not actioned at this time.

The fund change recommendations made on 27 January 2022 were again to switch out of gilts – which should already have been done in September 2020 – and to also switch out of corporate bonds. Ms P did not respond to these recommendations until 6 March 2022, and then to query whether the recommended changes were still appropriate. Morgans did not respond to this query by email and did not action these changes. In its response to Ms P's complaint, Morgans said that

Whilst our file cannot evidence that [Redacted] responded to your enquiry of 6 March 2022 by email, we do not rule out that he contacted you by telephone to discuss your query, albeit the call was not recorded on our file.

It went on to state that it reached this conclusion because it had found no evidence that her adviser had ever been

unreliable or neglectful in any of his communications with you over a number of years.

I have considered this point very carefully but cannot agree with Morgans about this. On balance, I consider that the lack of response by email or file note relating to a phone call or meeting means that it's probable that Morgans did not respond to Ms P's query.

As I have found that Morgans did not respond to Ms P's query, I now have to consider whether this caused her further financial loss apart from that for which she has already been compensated. To do this, I must decide if a response from Morgans would have led Ms P to accept the recommendation and invest her lump sum in a different way.

I can see that Morgans said that it does not consider that this lack of response caused her any financial loss. First, it says, despite not receiving an answer, Ms P went ahead with making a further lump sum contribution on 21 March which she would have known would still have been invested into the funds selected in her existing strategy. It also said that Ms P had received a number of fund change recommendations in the past which she had not acted upon, so it considered it unlikely that she would have taken this advice either.

On the first point, while I agree with Morgans that Ms P made further investments into her pension without receiving an answer, I consider that the timing of her investment was most likely driven by a desire to ensure the payment was made in the current tax year, to provide tax efficiency. Consequently, I believe that Ms P's investment does not necessarily indicate that she would not have made a different decision if she had received a response to her query.

In terms of the second point Morgans made, that Ms P had not acted on previous fund switch recommendations, the evidence is less clear than Morgans suggested in its response to her complaint. Ms P had indeed accepted a recommended fund switch in September 2020, a fact that did not become clear until after Morgans response to her initial complaint had been sent. I've also considered that although Ms P rejected the proposed fund switch Morgans made in October 2019, she subsequently accepted the recommendation when it was repeated in September 2020, although Morgans made an error and did not action the change.

Morgans made another recommendation in December 2020, although this repeated its earlier advice. Ms P did not respond to a number of attempts to contact her and no changes were made, although I note that she had already consented to these changes in September 2020.

Ms P did not receive any further fund switch recommendations until 27 January 2022, which are the changes Ms P did not respond to until 6 March to query whether they were still appropriate. I can't see that Ms P made any further attempt to contact Morgans to follow up on the lack of response to her question and proceeded to make a further lump sum contribution. I also can't see that Ms P attempted to discuss the recommendations any further with Morgans after she had made the contributions. I have also considered that she would have been aware of the opportunity to change the investments within her pension after she had made the contribution.

Taking all this into account, on balance I find that Morgans lack of response to Ms P's email of 6 March 2020 can't be held to be responsible for her subsequent losses – I can't say for certain whether Ms P would have followed Morgans recommendation, but I consider that the fact that she made no further attempt at contacting Morgans to follow up or to address the

investment strategy of her pension funds after the end of the tax year did not indicate a significant level of dissatisfaction or concern with her existing investments at that time. As

I do consider that Morgans failure to action Ms P's instruction in September 2020 and its lack of response to Ms P's request of 6 March 20220 has caused her some distress and inconvenience. I agree with our investigator that £250 is an appropriate level of compensation in the circumstances of this complaint.

Putting things right

To compensate Ms P fairly, Morgans must pay her the sum of £250 in recognition of its mistakes and the distress and inconvenience that this would have caused her.

My final decision

For the reasons given above, I uphold Ms P's complaint.

Morgans Ltd should pay Ms P the sum of £250, if it has not already done so.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 26 December 2024.

Bill Catchpole
Ombudsman