DRN-4858486

The complaint

Mrs T complains about Rathbones Investment Management Limited (RIML). She's unhappy with their lack of contact which has resulted in her portfolio losing value.

What happened

Mrs T became a discretionary client of RIML in 2015. She was assessed as having a medium attitude to risk (ATR) and agreed a mandate with them where they would look to invest her portfolio with the aim of creating capital growth and providing an income.

She complained to RIML in 2023 after a meeting with her discretionary manager (DM) to discuss her portfolio. She was unhappy as she'd expected some communication to discuss the markets, but that hadn't happened. She also wanted to know where RIML had taken their fees and her income payments from, as she thought they might have been selling down her portfolio to cover these costs.

RIML looked into her concerns but didn't uphold the complaint. They referred to a meeting they'd had with her in June 2021 where it had been agreed to increase her income payments to £5,000 per quarter. They said that between September 2021 and June 2023 her portfolio had generated c.£42,000 in income of which £40,000 had been paid to her.

They noted that she had a change of DM in 2021 as her previous DM had retired. They pointed to a number of meetings she'd had with her original DM and the new DM as evidence that they'd kept her informed. However, they explained that she hadn't been added to her new DM's mailing list and had therefore missed out on his commentary on current market events. However, they thought that they'd continued to provide her with quarterly valuations and generic central communications.

They accepted that their management fees had been taken from the portfolio's cash holdings but thought the portfolio's loss in value was due to adverse market conditions and not the deduction of fees or income payments. They noted that there was no agreement in place to stop income payments if they started to eat into the capital. And thought that the regular valuations they'd sent provided Mrs T with a good level of detail about how the portfolio was performing. However, they offered Mrs T £300 in compensation to reflect the time they'd taken to provide their final response to her complaint.

Mrs T didn't accept their findings, she reiterated that her complaint was about the level of contact from the new DM, as it was much lower than she'd previously received. She highlighted the loss in the value of her portfolio since the new DM had taken over its management. She noted that it was the new DM who had suggested that quarterly income of £5,000 was possible and thought he should have contacted her personally to discuss performance.

RIML issued a further final response, but didn't change their opinion on her complaint, so Mrs T asked for our help. The complaint was considered by one of our investigators who didn't think it should be upheld. The investigator was of the opinion that the level of communication that RIML had provided was sufficient. He didn't think that the income payments had eroded the capital value of the portfolio, instead it had been paid from income the portfolio had generated.

He noted that Mrs T's husband, who had delegated authority on her account, had a meeting with the DM in September 2022 and they'd discussed performance. They'd agreed that more activity was needed, and several trades were subsequently placed. He then noted that there was a further meeting in May 2023 where performance was again discussed. Based on the evidence he'd seen, the investigator thought that RIML had managed Mrs T's portfolio in line with the mandate that had been agreed.

Mrs T didn't agree with his findings. She reiterated that her complaint was solely about the lack of communication and advice from her new DM about the course of action needed to reduce the losses on the portfolio. She accepted that she'd received quarterly statements but thought that she'd also needed a follow-up to explain what she needed to do next. She reiterated that it was the new DM who'd suggested the increase in income from c.3%, which was sustainable and still provided capital growth, to £5,000 per quarter which had resulted in the capital value falling.

She wanted to know why the DM hadn't advised a change of strategy. He'd identified that the portfolio hadn't grown much due to the level of income being taken during the September 2022 meeting, so should have provided appropriate advice. She thought that things might have been different if she'd been included in her DM's mailing list.

The investigator wasn't persuaded to change his opinion so the complaint has been passed to me to make 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.

Having done so, I don't think this complaint should be upheld and I will now explain why. I think it's important to clarify RIML's role as DM. Their role as DM in the specific circumstances of this complaint is very different to that of a financial adviser. The fact they were managing Mrs T's portfolio under a discretionary mandate is a key point. It means that they didn't need her authority regarding their investment decisions or to make changes to her portfolio. As long as they stayed within the terms of the agreed mandate then they had full discretion to manage the portfolio as they saw fit.

I've considered the terms of the mandate that was agreed between Mrs T and RIML. It set out that the aim of the portfolio was to provide capital growth and income for living expenses during retirement. There was to be a balance between capital growth and income, but with a greater emphasis on income. It was to be managed on a medium risk basis which would aim to provide returns above the rate of inflation, and it would broadly reflect the fluctuation in value seen in the major equity markets.

It was noted that Mrs T had been investing for six to ten years, was aware of market volatility and appreciated that taking some risk was necessary in order to achieve better returns. She had an emergency cash reserve and no liabilities, but required income from the portfolio.

There were no restrictions placed on the portfolio and it would broadly consist of 10%-15% liquidity/fixed interest, 75-80% equities and 5%-10% diversifiers. Dividends would be paid out on a quarterly basis and under reporting and communication preferences, it was noted that Mrs T wanted printed valuations and tax papers with printed valuation packs to be sent quarterly.

I appreciate Mrs T's complaint is about the lack of communication, but I've firstly considered if the mandate agreed was suitable for her circumstances at the time. The reason I've considered this, is to ensure that Mrs T's portfolio wasn't being managed under a mandate that exposed her to a higher level of risk than she was prepared to take.

Having reviewed the available evidence, I think it was suitable. She had some investment experience, enough capacity for loss and an awareness of risk and return. I can also see that in 2020 there was some discussion about whether to downgrade to risk level three from risk level four, but Mrs T wanted to remain at level four as she wanted to generate income.

I think this is important as it reinforces that the main aim of the portfolio was to generate income and Mrs T was aware that she needed to take risk in order to do so. RIML provided no guarantees around the performance of the portfolio and their fees were not dependent on how well the portfolio performed.

As Mrs T has complained about the lack of contact from RIML, I've considered what had been specifically agreed. I haven't seen anywhere where it was agreed that there were to be communications outside of the quarterly valuation packs. However, it is clear that there was a difference between the level of contact Mrs T received from her original DM and the DM who subsequently took over the management of her account.

The new DM started to manage Mrs T's portfolio around June 2021. He had a meeting with her where they agreed an investment strategy including increasing the income payments to a fixed amount of £5,000 per quarter in order to meet her expenditure requirements. The DM didn't think this was a problem as the portfolio had returned over 40% over the previous five years which would have covered the income payments and provided capital growth. There was further contact in November 2021 regarding property sales and capital losses from previous years.

The next meeting was in September 2022 with Mrs T's husband where the lack of capital growth on the portfolio was discussed. The DM discussed potential strategies to combat the lack of growth, he agreed to review the holdings in the portfolio and look at potentially making changes. There was a further meeting in May 2023 between the DM and Mrs T where they discussed the portfolio's performance. So, from what I've seen, there were yearly meetings held to discuss performance, and the DM was aware of concerns around performance from around September 2022 and took action to combat this while still balancing the requirement for income.

As I've previously noted, there was a difference in the level of communication between the DMs that managed Mrs T's portfolio. However, the mandate only specified that quarterly reports needed to be sent. And from what I've seen, the DM was available for meetings when Mrs T required, so I don't think I can fairly say that he acted outside of the mandate in regard to the level of communication that had been promised.

However, there was an error here as Mrs T wasn't added to the DM's mailing list. I've therefore considered if she was disadvantaged by this error. From what I've seen, she was receiving quarterly statements detailing her portfolio's performance and she was able to contact the DM or arrange a meeting if she had any questions or wanted to change direction.

There were meetings in 2021, 2022 and 2023 where either Mrs T or her husband discussed performance and the DM's investment strategy. It's therefore difficult to say that she would have taken a different course of action if she had received more communication from the DM. Any commentary would likely have been around wider market events and not tailored to Mrs T's portfolio. I think that the meetings with the DM were more relevant to her circumstances, and I'm not persuaded that changes made to her portfolio after these meetings would have been any different or reversed on the back of any commentary that the DM sent out.

I think it's important to remember that the investment decisions made by the DM were taken with a long-term view, so were unlikely to change based on short-term market conditions. The DM appears to have been managing the portfolio in line with the mandate and with a view to providing the income Mrs T said she needed. So, taking everything into account and on balance, I'm not persuaded that the lack of this commentary has disadvantaged Mrs T. I accept that the DM made decisions which, with the benefit of hindsight, haven't resulted in the portfolio growth that Mrs T wanted, but I don't think he was acting outside the agreed mandate when he made those decisions.

I've also considered the complaint points relating to how the income and fees were taken from the portfolio. I haven't seen any evidence to suggest that holdings were being sold down to make the income payments. The income payments of £40,000 were paid from the c.£42,000 in income generated by the portfolio and the fees were taken from the portfolio's cash holdings. However, even if holdings had been sold down to make these payments, I wouldn't find that to be inappropriate. I say this because there were no restrictions in the mandate about where charges and income should be taken from.

So, in summary, while I accept that the DM made an error in not adding Mrs T to his mailing list, I don't think she's been disadvantaged by this omission. I'm satisfied that RIML managed her portfolio in line with the mandate that had been agreed and I won't be asking them to do anything further to resolve this complaint.

My final decision

For the reasons I've given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 30 December 2024.

Marc Purnell
Ombudsman