

The complaint

Mr C has complained about the actions of Equilibrium Financial Planning LLP (“Equilibrium”) over a number of years.

What happened

Mr C was a client of Equilibrium, a financial advisory firm. That relationship was terminated in 2023. The run up to, and repercussions of, that termination form part, but not all, of Mr C’s complaint.

In brief, Mr C says Equilibrium threatened to end its working relationship with him if he didn’t withdraw a complaint about earlier pension transfer advice. He says Equilibrium did then terminate its working relationship with him, which resulted in him experiencing problems in using his investment platform. He also says he experienced data protection issues at the hands of Equilibrium, and poor investment returns.

Mr C was dissatisfied with how Equilibrium addressed his concerns so he referred his complaint to us. Our investigator concluded we couldn’t consider some of Mr C’s complaint points any further because they had been referred to us too late under the rules which we must follow. In short, they weren’t in our jurisdiction. He also concluded some of Mr C’s complaint points had already been dealt with by the Financial Ombudsman Service and they wouldn’t be revisited. That still left some issues we could look at. On those, our investigator didn’t think Equilibrium had done anything wrong.

Mr C asked for an ombudsman 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.

Mr C has raised a number of concerns. Those concerns have been addressed by Equilibrium, and the Financial Ombudsman Service, at various points. Inevitably, further arguments and evidence have been provided in response. A lot of ground has been covered and I don’t consider it necessary to revisit it all again in my decision. The assessments provided by our investigators have already summarised the key issues well.

However, I will summarise the main points I will be considering. The parties will be aware of what these are from our investigators’ assessments – I’m not adding anything particularly new in that respect. But in complaints like this which are wide-ranging and touch upon issues dealt with elsewhere at the Financial Ombudsman Service, it’s helpful to be clear as to the scope of my decision. For the avoidance of doubt, I have considered everything that both parties have provided. With that in mind, Mr C’s complaint is that:

1. Equilibrium shared account details with a third party and allowed a third party to withdraw funds without Mr C’s consent. This can be summarised under the heading of “data protection issues” and, broadly speaking, that’s how it has mainly been referred to

by all involved up to now.

2. Equilibrium told Mr C it would terminate its working relationship with him if he didn't withdraw his complaint regarding pension transfer advice given in 2016. This threat is alleged to have been made in a telephone call on 26 October 2022. This can be summarised under the heading "threatening telephone call".
3. The termination of Mr C as a client of Equilibrium and the impact this has had with regards to being left on an investment platform without an adviser. This can be summarised as "termination of working relationship and its repercussions".
4. Loss of funds through negligent investment decisions between January 2022 and January 2023. This can be summarised as "investment performance issues".

I'll address each complaint point in turn.

1 – Data protection issues

The Financial Ombudsman Service can't look at every complaint that's referred to us. What we can look at is defined in the Dispute Resolution ("DISP") section of the Financial Conduct Authority ("FCA") Handbook. The relevant section here is DISP 2.8.2R, which says that unless the business provides its consent, or unless exceptional circumstances apply, we can't consider a complaint if it's brought to us more than six months after the respondent business has given its final answer on the matter.

Equilibrium's final response letter on this matter was dated 21 October 2022. The wording of the letter made it clear that Mr C could refer his complaint to the Financial Ombudsman Service within six months of the date of the letter if he remained dissatisfied. Instead, Mr C replied to Equilibrium which responded with another letter, dated 17 November 2022, in which it said it didn't have anything further to add. It said Mr C could refer his complaint to the Financial Ombudsman Service within six months from the date of that later letter.

Mr C referred his complaint to us on 25 April 2024 so comfortably after the six months allowed. Exceptional circumstances don't account for why he didn't refer it to us in time. And Equilibrium hasn't consented to us looking at this aspect of Mr C's complaint. So I'm satisfied we can't look at it any further – it isn't in our jurisdiction.

2 – Threatening telephone call

Mr C says he spoke to someone at Equilibrium on 26 October 2022. (He names the individual but for reasons of confidentiality I won't say who that is – both parties will be aware of the individual I'm referring to.) During that call, Mr C says he was told he should withdraw his complaint about the pension transfer advice he received in 2016, otherwise Equilibrium would end its working relationship with him. He says he found that threat "inappropriate and unprofessional".

Equilibrium's final response on this matter was dated 30 October 2023, which is why it was referred to us in time – Mr C having also referred this aspect of his complaint to us on 25 April 2024. (It can be assumed from now on that if I've made a finding on a particular issue then that part of the complaint was referred to us in time.)

In its final response, Equilibrium confirmed the call had been made in response to it finding out Mr C was thinking of complaining about the transfer advice he had been given. Equilibrium said it wanted to discuss matters because it didn't believe Mr C had genuine concerns about the advice but was complaining because he had nothing to lose having

engaged the services of a “no win, no fee” claims management company. According to Equilibrium, the end result of the conversation was an understanding that Mr C *didn't* want to complain but just wanted his advice to be reviewed with Equilibrium continuing to provide services to him.

On 16 December, Mr C spoke to a different person at Equilibrium. According to Equilibrium, Mr C said he had decided to complain about his earlier pension transfer advice after all. It also said Mr C mentioned his dissatisfaction with how Equilibrium had dealt with an earlier complaint (which I take to have been the one about data protection issues) and with its service in general. As a result of that call, Equilibrium says it concluded it wouldn't be able to meet Mr C's expectations and decided to end its working relationship with him.

Before deciding on this issue, it's also worth noting the following:

- Equilibrium didn't record its conversation with Mr C.
- Mr C complained about his pension transfer advice in a letter to Equilibrium dated 5 December 2022. The matter was referred to the Financial Ombudsman Service and has been looked at separately, so I won't make any further comment on it here.
- Equilibrium wrote to Mr C on 19 January 2023 to terminate its working relationship with him. This was effective as of 16 February 2023. Its fees were switched off as of this date.

Mr C's comments are certainly plausible. He was thinking of complaining about Equilibrium's pension transfer advice. Equilibrium knew that and wanted to speak to him because it didn't think his concerns were genuine. The person Mr C spoke to was senior and was likely, therefore, to have had the authority to end Equilibrium's relationship with Mr C. And, of course, Mr C did complain about his pension transfer advice and, shortly afterwards, Equilibrium did end its relationship with him.

However, an alternative reading of the situation would be that Equilibrium telephoned Mr C in order to better understand his concerns – which it was perfectly entitled to do. That call placated Mr C, for a time at least. But in the follow-up call, Mr C's disillusionment became clear – and not just in relation to the pension transfer advice – and Equilibrium, not unreasonably, decided there had been a breakdown in trust and it could no longer meet his needs. It terminated its services shortly afterwards as a result, which it was also entitled to do.

I think this points to the problem here. Without hard evidence (such as a call recording), the events can be interpreted in a number of ways. I need to consider what's fair and reasonable. Trying to coerce someone into dropping a complaint would be a serious matter and one that would have implications beyond just Mr C's complaint. It would also likely be something for the regulators to concern themselves with too. In that light, and given the paucity, and conflicting nature, of the available evidence, I don't consider it would be fair and reasonable for me to conclude Equilibrium threatened Mr C in the way he suggests.

I recognise Mr C says the telephone call should have been recorded. But this doesn't move the debate forward because the substantive issue is whether Equilibrium tried to coerce Mr C into dropping a complaint. And, on that, I can only work on the evidence that is available. Mr C also says Equilibrium shouldn't have called him out of hours and that it shouldn't have been someone so senior that did so. But it looks as though the call was arranged with Mr C's agreement. And even if it hadn't been, Mr C didn't have to talk to Equilibrium if it was inconvenient to do so – he did have some agency here.

3 – Termination of working relationship and its repercussions

In itself, Equilibrium didn't do anything wrong in withdrawing its services given it did so in line with its Retail Client Agreement. But Mr C's complaint is less about whether the agreement was correctly followed and more about Equilibrium using it as leverage to prevent a complaint and the impact withdrawing its services has had on him.

I've addressed the first point already. On the second, Mr C says he was left having to use his platform without an adviser. He says it was difficult to migrate to a new adviser and in the interim he was left unable to change his investments. As such, this aspect of Mr C's complaint is more about the functionality of the platform than Equilibrium itself. And I note Mr C has referred a separate complaint about the platform to the Financial Ombudsman Service. So I won't be covering that aspect of Mr C's complaint here. However, there's also an inference in Mr C's complaint that Equilibrium had a responsibility to somehow ensure a more orderly exit or, at the very least, have chosen a platform that had better functionality.

But, as outlined above, Equilibrium did give Mr C time to sort his affairs out following its decision to stop providing services to him. It wrote to Mr C giving him a month's notice. Thereafter, it wouldn't have been reasonable for Equilibrium to have still acted on Mr C's behalf. And I've seen nothing to indicate Equilibrium acted in an unreasonable way in using the platform in question. It was a well-known name in the market and one Equilibrium had used for many years for its clients. That's not to downplay any problems Mr C might have had using it. But that's very different from saying Equilibrium acted unfairly towards Mr C in its use of the platform. I can't reasonably conclude that here.

4 – Investment performance issues

Mr C's complaint on this front is quite narrow. He says "negligent and incompetent" investment decisions lost his pension a significant sum between January 2022 and January 2023. More specifically, he says his pension followed the FTSE and Dow Jones indices down but not up. He says his other investments, including ISAs, lost out in a similar way.

When discussing investment returns, Mr C also raised concerns about the corporate structure of Equilibrium. More specifically, he points to the splitting of the business into Equilibrium Financial Planning LLP (the firm responsible for advice and the respondent firm here) and Equilibrium Investment Management LLP (the investment management firm). Mr C says this splitting of responsibilities resulted in his charges being split across two businesses, which was a smokescreen – in his view – for his *overall* charges going up.

There is only so much I can comment on here because, as Mr C alludes to, the performance of Mr C's investments was the responsibility of the sister firm, Equilibrium Investment Management LLP. What I can say, however, is that complaints about poor investment performance don't typically succeed if that's the only complaint point. One would typically need some evidence that the investment manager made decisions that weren't in keeping with its mandate in order to conclude that it has acted in an unreasonable manner. I haven't seen anything that makes me think Mr C's investments performed so poorly, or so unexpectedly, that there's an obvious case against Equilibrium Investment Management LLP. But, as I say, I can't make a firm finding on that because this complaint is against Equilibrium Financial Planning LLP which hasn't done anything wrong in this respect.

Similarly, there is only so much I can comment on in relation to Mr C's charges. I note Mr C has referred at various points to the charges he paid as being too high. But it was never a point he developed in any sort of detail and it wasn't something he explicitly referred to when he first brought his complaint to us. And it was only relatively recently that he referred to Equilibrium being split into two and why he thinks that was cover for higher overall charges. It's unclear whether that is the extent of his concerns. For its part, Equilibrium said it reduced its advice charges following the organisational change so as to ensure the net impact was

cost-neutral to its clients, Mr C included. But it hasn't provided evidence of this or sought to address Mr C's concerns about charges – perhaps unsurprisingly given what I've just said.

It's natural for complaints to evolve over time. Where possible, we will try to accommodate that providing we can do so in a way that's fair to both parties. But that's not possible here given the precise nature of Mr C's concerns are unclear, substantive new points have been raised quite late in the day, some of Mr C's concerns *may* have been addressed in other decisions made by the Financial Ombudsman Service and Equilibrium would likely need the opportunity to investigate and respond as well. In the circumstances, it wouldn't serve either party's interests to address this issue here. If Mr C does feel like Equilibrium (or any other party) has acted unfairly towards him in the charges they applied, then that is something he would have to raise with the relevant firms.

It follows that I am not upholding Mr C's complaint.

My final decision

For the reasons given above, my final decision is to not uphold Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 15 April 2025.

Christian Wood
Ombudsman