DRN-5304385

The complaint

Mr B had an advisory account with MPA Financial Management Limited ('MPA') for his abrdn pension, from 2019 and until November 2023. He mainly says MPA did as follows –

- Failed to meet his request(s) for full and accurate disclosure of all information and documentation held in relation to him. [issue 1]
- Provided an inadequate advisory service, on specific grounds, and made it difficult for him to terminate the service. [issue 2]
- Failed to evidence when it stopped applying its Ongoing Advice Charge ('OAC') to his account. [issue 3]
- Applied the wrong, and/or an unfair, fee rate to his account, and applied an unfair practice in which lower fees were offered to clients who complained and/or threatened to terminate its service (but not to clients who did neither). [issue 4]
- Misinformed him about the need for an adviser on the abrdn investment platform. [issue 5]

MPA disputes the complaint.

What happened

MPA's response to Mr B cited and answered the specific claims and questions presented in his complaint of 8 January 2024. In the main, it said –

- The OAC agreed with him in 2019 was 1% per year. He terminated its service on 21 November 2023 and the OAC deduction was switched off on 5 December 2023 (after receipt of the last payment covering the month of November). £306.70 was received for that month and a refund of £92 was due back to him for the nine days between 21 and 30 November.

- He was not misinformed about the need for an adviser on the abrdn platform. It had used the platform since its inception and it had always been an adviser led platform, until late 2023 when Consumer Duty related requirements from the regulator led it to implement a new direct service for *orphan clients*. Therefore, what Mr B had previously been told was correct, until this new service was introduced. However, the new service did not allow direct access to the Brewin Dolphin ('BD') portfolio (one of the two funds held in his pension) because the requirement for advisers holding agency with the portfolio remained.

- Mr B has complained about his adviser not being proactive in informing him, upon his requests, about what to do to terminate the service and about what needed to be done to remove MPA's agency from his pension. In response – the adviser had been working for a short period of time and had not lost a client; so it was understandable that he did not immediately know the answers to these enquiries; what he told Mr B (that he should contact abrdn directly) was informed by what he was told by abrdn when he looked into the matter; any issues with that information were likely connected to technology/platform issues abrdn was facing at the time.

- Mr B's allegation about inadequacy of advice says – MPA failed to follow-up its 2022 review with written answers to, and advice on, questions he raised in the review; he raised further questions after a conflict, in 2023, between the adviser initially saying his pension portfolio and strategy was fine as it was (in April) then later saying (after he indicated the possibility of terminating its service) that a different fund and platform should be considered; his questions were answered in a discussion with the adviser but the adviser failed to follow-up in writing; he doubts whether (or not) the initial April advice was reliable; and, BD was sold in 2023 yet the adviser did not enquire on whether (or not) this was an issue for him, and did not give him advice on the sale. In response – the adviser's views later in 2023 sought to address the unhappiness he sensed from Mr B at the time, by suggesting a move from the BD fund to a cheaper fund, and from the abrdn platform (which was having some issues at the time) to the slightly cheaper Quilter platform (in order to avoid such issues); this does not alter the fact that the BD fund had performed well; in terms of the change of ownership of BD there was an article about this on MPA's website at the time; plus there were no changes to how BD's portfolios were managed so there was no cause to advise clients on the matter.

- Mr B says the notice he gave about considering a termination of service was followed by offers from MPA to reduce the OAC from 1% to 0.75%, and then to 0.5%. He says the inference to be drawn from this is that had he threatened to terminate the service in the past he would have secured a reduction in fees, so this indicates that he should be due a partial refund of the previous fees he paid. He also says it is an unfair practice to offer fee reductions only to those who complain or threaten to leave. In response – it does not offer better deals to clients just because they are unhappy with the service they have received.

- Overall, it is also noteworthy that Mr B has not suffered a financial loss in any of his complaint issues.

Mr B was unsatisfied with MPA's response, so he referred the matter to our service. One of our investigators looked into the issues and concluded that the complaint should not be upheld.

The investigator referred to the same complaint email from Mr B to MPA of 8 January 2024.

In terms of MPA's overall service to Mr B, after its initial pension transfer advice to him in 2019, he noted that the 2019 fee agreement confirmed the 1% per year OAC but did not specify the level of the Ongoing Advice Service ('OAS') to be delivered; in any case Mr B would have been entitled to annual reviews within the OAS and there is evidence that he received four annual reviews between 2020 and 2023 (in June 2020, February 2022, September 2022 and April 2023); this averaged out to one annual review for each year of MPA's service and that was reasonable; his profile was addressed in the reviews and his pension's investments would have been in line with this.

The investigator also noted that Mr B's pension was mainly invested in the BD fund, in which investments were actively rebalanced to ensure they matched the client's risk profile, so in the absence of a need to change the fund and given that the pension was under MPA's advice for only around four years it is not unexpected that no change was applied.

With regards to the events surrounding Mr B's termination of service, the investigator considered that MPA should have been aware of and clearer on the associated process. He observed that the adviser did try to get relevant information from abrdn, and that abrdn

should also have been able to inform Mr B, when he called them, of what was required in order to remove MPA from the pension. However, the investigator did not find that MPA made it difficult for him to terminate the service.

In his view, the adviser's suggestions on lowering costs were probably his attempt to retain Mr B as a client; that was not unreasonable; it did not mean his pension's fund was unsuitable or that the adviser was obstructing the service termination; MPA had a change in policy at the time that appears to have allowed for the 0.5% OAC offer; and, in any case, a firm's fees for its services is generally a matter for its reasonable commercial discretion, so long as the fees are transparent to and agreed by the client.

On the change of BD's ownership, the investigator found that it had no impact on Mr B's pension investment and that MPA does not appear to have had any cause to raise any concerns about it.

With regards to issue 1, the investigator appears to have shared or referred to disclosures provided by MPA during 2024. He also explained that it is a General Data Protection Regulation ('GDPR') matter, which is outside our service's jurisdiction, so he referred Mr B to the Data Commissioner (or Information Commissioner's Office ('ICO')) if he wished to pursue issue 1 further.

Mr B disagreed with the investigator's findings and considered that he had not properly dealt with the complaint.

He mainly said there are regulatory and governance issues related to MPA's operations that he is concerned about, and that our service and the regulator should also be concerned about; that his enquiries on the due process behind and legitimacy of the OAC reduction offers made to him have not been fully addressed; that the same applies to the matter of follow-up (lack thereof) on his 2022 enquiries; that the OAS entitled him to two reviews per year, so there have been shortcomings in this respect; that the £92 fee refund due to him has never been received; and that the information provided by MPA has not addressed his disclosure request.

There was further correspondence between Mr B and the investigator in which the former shared an email from MPA referring to the OAS being inclusive of two reviews per year, not one. The investigator noted that he had not seen a signed agreement confirming this and that, in any case, any issue Mr B has about the number of reviews he received would be a new complaint, which has to be put to MPA first. Mr B disagreed on both points. He referred to evidence he considered sufficient to support his claim about two reviews per year, and he considered that he had pursued the matter in correspondence with our service, so it forms a part of his complaint.

The matter was referred to an Ombudsman.

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 the investigator's conclusion about the complaint. Overall and on balance, I do not uphold it.

Mr B's complaint, as referred to us on 19 March 2024, is based on complaint emails he sent to MPA on 7 December 2023 and 8 January 2024 – to which MPA responded on 21 February 2024.

The first email was about his pursuit to move from the adviser/MPA led pension/platform to one that he self-managed (without MPA), and about his enquiries on the associated process. He acknowledged that abrdn had been contacted by both him and his MPA adviser for this purpose, but expressed dissatisfaction about the lack of feedback and clarity on the process. This sits within his allegations about MPA making it difficult for him to terminate its service and misinforming him about the need for an adviser on the abrdn platform.

The second email confirmed that the first was a complaint, and proceeded to present a further complaint based on the specific claims and questions that MPA treated in its response. Under the claim "Your firm's advice has been inadequate" there is no mention of annual reviews. Instead, this part of the complaint referred to MPA's alleged failures to follow-up in writing on specific enquiries from Mr B in 2022 and 2023, and to the lack of advice following BD's change of ownership in 2023.

What Mr B has cited for his claim that he was entitled to two annual reviews per year comes from an MPA email dated 18 March 2024, over three months after his first complaint email, over two months after his second complaint email and around a month after MPA's response to his complaint. In the email, MPA referred to questions he had asked on 8 March 2024 (which, in itself, was three and two months after his complaint emails). One of the questions was –

"*The documents that you have sent to me suggest, because there are no documents to show otherwise, that my portfolio was only reviewed by you once or twice a year at best. If that is not the case, and the portfolio was reviewed more frequently, please send me the documents to demonstrate that*."

This enquiry appears to have arisen from Mr B's consideration of documents disclosed to him by MPA in response to his information request(s). He is correct in stating that MPA's reply refers to two reviews per year, but the context remains that of an information request response. It was not a complaint response because the matter of missing annual reviews [alleged] had not formed a part of Mr B's December 2023 and January 2024 complaints, and I have not seen evidence of a complaint from Mr B alleging missing annual reviews since then and before 18 March 2024. On the next day, 19 March 2024, he referred his complaint to us.

I have addressed the above to clarify that any allegation Mr B presently has about missing annual reviews under the OAS is a new complaint that did not form part of his December 2023 and January 2024 complaints to MPA. For that reason, it did not form part of the complaint issues MPA addressed in its response and did not form part of the complaint referred to our service. I acknowledge that the investigator mentioned the reviews conducted for Mr B between 2020 and 2023, but I consider that he did so mainly to provide background context on MPA's overall service delivery. However, faced with Mr B's subsequent attempt to pursue the matter as a distinct complaint, the investigator rightly clarified that it is not an issue in the present complaint – with which I agree.

Our rules require us to ensure that a complaint has first been raised with the relevant firm, with allowance of prescribed time for the firm's response, before we look into it. This cannot be said for any allegation Mr B has about missing annual reviews, and MPA has not been given an opportunity to respond to it, so I do not have the power to address such a complaint.

The same conclusion applies to issue 1. As I understand it, it is purely about Mr B's view that MPA has not properly met his information request, in other words a GDPR matter, as the investigator said. If this was connected with the potential or actual mitigation and/or

resolution of another complaint issue there might have been a call for me to address it for that reason. However, that does not appear to be the case. Instead, it seems to be an isolated complaint about MPA's response to his information request. As he will possibly be aware, such a matter sits in the ICO's remit and he can exercise his discretion on whether (or not) to raise it with that office. I do not have the ICO's powers, so I do not have the power to determine the disclosure resolution Mr B wants in issue 1.

The claim in issue 3 appears to be unfounded.

Available evidence confirms that Mr B gave notice to MPA, on 21 November 2023, about his decision to terminate its service; MPA confirmed to him, on 8 December, that this had been conveyed to abrdn; in this respect, MPA said the adviser had "… *emailed ABRDN on 30th November, detailing that you no longer wish for us to be agents. In terms of fees, as you have requested that you no longer wish for MPA to serve as your financial advisers, your ongoing adviser charge is no longer being taken*"; in his 8 January complaint he said abrdn had confirmed to him, on 2 January, that the OAC had been stopped; and within his complaint submissions on the matter Mr B has said – "*I was told that they charged me until the end of November, but did not provide with any evidence to support*" and "*What they have told me here is correct, but I only know that because I contacted abrdn myself*" [my emphasis].

In light of the above facts, Mr B had written confirmation on 8 December 2023 (from MPA) and on 2 January 2024 (from abrdn) that the OAC had been cancelled (and that it was charged only up to the end of November 2023). There is also no dispute about when the OAC deduction was stopped. As such, a complaint about lack of evidence about the OAC's cancellation seems redundant. I have noted his point about the £92 refund. MPA's complaint response clearly presented an intention to forward the refund to him, so if that has not been done it is more likely (than not) to have been a matter of oversight, which, I expect, MPA will fix promptly. However, there is no real dispute over the refund, and it is distinct from the claim about lack of evidence in issue 3.

For the above reasons, I do not uphold issue 3.

I also do not find ground to uphold issues 2 and 5.

Like the investigator, I find the pension reviews between the parties to be helpful background context on MPA's overall ongoing service delivery. In terms of issue 2 and the specific allegations by Mr B about its follow-up and enquiry response failures in 2022 and 2023, it should be noted that there were three reviews during this period.

He has referred to expecting, but never receiving, his adviser's written answers to questions he raised during the February 2022 review. I can understand how he would feel in this respect. However, there were further reviews in September 2022 and April 2023, further correspondence between the parties in between those reviews and over 2022 and 2023, another review that seems to have happened around September 2023 and even a suitability assessment/report in October 2023.

The point I am making is that, Mr B was not abandoned by MPA after the February 2022 review. Even if, as it appears, he was displeased by a lack of follow-up on specific matters after that review, it is quite clear that numerous opportunities followed thereafter for him to seek and obtain ongoing advice and guidance from MPA – and evidence shows that he used those opportunities. On balance and for these reasons, I do not find it fair and/or reasonable to isolate the specific post-February 2022 follow-up matter as one that should be treated and/or held against MPA. After all, the OAS was an ongoing service, so such isolation could arguably conflict with that.

I have taken the same approach towards Mr B's complaint about the two questions he asked his adviser in 2023 arising from the conflict he perceived between the April 2023 review outcome supporting the status quo and the adviser's views later in the year suggesting a change of fund and platform, with prospects of slightly lower fees. He says the adviser "… *called … the next day on his mobile phone to give … the answers. That was good, but I am assuming there is no recording of the call on his mobile, and the call was not followed up with any written advice*". It is clear from this that MPA's ongoing service to Mr B enabled the adviser to make contact with him and to answer his specific questions. I am not persuaded that it is fair and/or reasonable to isolate any absence of a recording and/or written follow-up and then to conclude that they amount to a form of service failure. I do not find there was any such failure. Mr B received the answers to his questions. Shortly thereafter, he appears to have received a suitability report in October 2023 containing detailed advice on his pension.

With regards to the conflict he perceived in MPA's 2023 advice, on balance, I have not found such conflict.

No complaint about 'unsuitability' of the April review or the October report has quite been made by Mr B so this has not been put to MPA, it is a matter that the investigator did not address and that I do not address. Mr B described the crux of his complaint about the perceived conflict as follows –

With not much changing in my financial position or the economy between your two letters and the date of my review … having been told that I was considering leaving, [the adviser] *recommended a difference* [sic] *platform and different funds, blaming a lot on the high fees and relatively poor performance of the the* [sic] *Brewin Dolphin Fund*.

Had I opted simply to rely upon your letter of 4th April, then … I would likely have been worse off both in terms of investment returns, and the fees that you charged me.

In addition, I question whether the advice was really advice that I could have relied upon and challenged had it proved to be wrong. Specifically, I asked [the adviser] *to answer two questions when I saw him. He called me the next day on his mobile phone to give me the answers. That was good, but I am assuming there is no recording of the call on his mobile, and the call was not followed up with any written advice*."

I consider that his claim above is much less about him doubting the merit of the advice he was being given in 2023 and much more about his query as to why different advice was being given to him, by MPA, specifically in reaction to his decision to terminate its service. I accept that, as he said in the quote above, he questioned reliability of the April review. However, the point I made earlier about MPA's ongoing service comes into play again in this respect. The review for 2023 was not crystallised in April, and he was not abandoned in April. Thereafter, both parties continued to engage with each other under the OAS, leading to the subsequent contacts between them, the additional advice from MPA and then the October report. Any uncertainties Mr B had about the April review were essentially under ongoing treatment, eventually resulting in the alternative advice that MPA subsequently gave him.

Like the investigator, I do not find that the alternative advice later in 2023 automatically means the April review position presented by MPA amounted to a failure of the OAS. I am mindful of the second 2023 review that happened around September 2023. The October report refers to a fact find conducted on 25 September and to additional review of Mr B's pension and profile around that time. Overall, my reading of the relevant evidence is that his pension's position was kept under ongoing consideration by MPA during 2023 and that later

in the year its views were influenced by feedback from him and by considerations of ways to try to address the parts of the feedback that it considered necessary to address.

The salient point is that where Mr B sees and alleges conflicting advice in 2023, there is a competing argument that no such conflict existed and that MPA was instead delivering the service it was supposed to deliver, by keeping his pension under ongoing consideration and addressing his ongoing feedback in the process – leading to its recommendation, later in the year, of an alternative to the April review position.

On the matter of advising on the BD's change of ownership, I have not seen evidence that the event posed a potential impact on Mr B's pension holding in the BD fund prior to happening, or that it had any such impact after it happened. On this basis, I am not persuaded there is a wrongdoing to be found in MPA not giving him advice on the matter. In the circumstances it is not quite clear what that advice would have been about.

Mr B says MPA obstructed the termination of service he instructed. I have already treated how the OAC was stopped upon this instruction. The investigator observed that MPA could have done more to be knowledgeable of the process that would follow and to share that with Mr B. I agree, and I am not persuaded by the suggestion that the adviser was relatively inexperienced, had not lost a client and was not certain about the process to follow. MPA, as a firm, owed it to Mr B to guide him on what was likely to follow in terms of the change of agency for his pension, so that should have been delivered regardless of the adviser's profile. However, something similar could also be said about abrdn, it would have had its own process to follow upon receipt of confirmation that MPA's agency had been terminated and I have not seen reason why it could not have shared that with Mr B.

Having said the above, there is a difference between the MPA adviser being seemingly ill equipped to address this specific matter and the allegation made by Mr B that MPA sought to obstruct his service termination instruction. I have not seen evidence of behaviour on its part that amounted to such obstruction. To the contrary, the fact that it stopped the OAC as of the end of November 2023, nine days after the service termination instruction, shows that it accepted and had acted upon the instruction. If its advice and cost reduction ideas around the time are to be viewed as attempts to retain his account and perhaps encourage him to change his mind, that would not automatically equate to obstructing the termination instruction. Indeed, it would have been somewhat self-defeating for MPA to cause such obstruction as that was more likely (than not) to encourage his decision to leave than it was to make him reconsider the decision.

For these reasons, I do not uphold issue 2. With regards to issue 5, I consider that MPA has given a reasonable explanation for what it initially told Mr B about the abrdn platform's need for an adviser and then the changes in abrdn's operations that subsequently allowed for a form of direct relationship between a client and the platform. I do not find that Mr B was misled in this respect or that this was in any way a part of the obstruction he has alleged.

I understand Mr B's argument in issue 4, but, overall and on balance, I am not persuaded by it.

In broad terms, determination of a firm's fees is commonly a matter for its reasonable commercial discretion. With regards to a client's position in the matter, firms are expected to ensure that their fees are transparent and that information about the fees are clear, fair and not misleading, then there is the expectation that the fees applied to a client's account are the fees agreed with the client. All of these elements are met in Mr B's case.

Until the fee reductions proposed in 2023, there is evidence of the 1% per year OAC being expressed in suitability reports issued to him and in OAS/fee schedules agreed and signed

by him. The OAS schedule he signed in May 2019 confirmed his agreement to the 'MPA Wealth' version of the OAS, at the OAC of 1% per year. We have a copy of the schedule he signed in September 2022, which confirms the same. There is also evidence that this is the rate that applied to the deductions from his pension, so it is not the case that the deductions happened at a different unagreed rate.

Mr B has referred to the following term related to the MPA Wealth service, as stated in the August 2021 version of the OAS schedule –

"*The MPA fee for managing this proposition is 1% pa up to £300,000. If you exceed £500,000 at a review date you will be invited to join MPA Private Client …*".

The MPA Private Client category of the OAS is described in the document as being "… *for clients with excess of £500,000 to invest in pensions and investments*". However, there is also a fee schedule for it that says an OAC of 0.75% per year applied for this category and for portfolio values between £300,000 and £750,000. Mr B says his pension portfolio's value sat at least over £300,000 during the period of MPA's service.

He has contrasted the 2021 version of the schedule with the version he was handed in 2023, which said –

"*The MPA fee for managing this proposition is 1% pa up to £300,000. If you exceed £300,000 at a review date you will be invited to join MPA Private Client …*".

He essentially argues that the 2021 schedule contained an error and contradiction whereby, at first, no specific fee rate was applied for portfolio values between £300,000 and £500,000, then description of the MPA Private Client category appeared to both compound and contradict the error; then the error and contradiction were corrected in the 2023 version where the document consistently describes portfolios with values over £300,000 as falling under the MPA Private Client category with the 0.75% OAC applicable. He extends this argument by saying MPA's offer to him, in 2023, of a 0.5% OAC rate, shows that this was the true rate applicable to the OAS he received for his pension portfolio.

Mainly on the above grounds, Mr B says the wrong OAC was applied to him. Overall and on balance, I disagree.

The conflict and contradiction he identified in the 2021 document is correct. However, I do not have enough evidence to determine what was accurately intended in the document. It could have been MPA's intention to maintain the line that the MPA Private Client category and application of the 0.75% OAC rate began from the £500,000 value point (as the text refers to) – and based on available evidence, the value of Mr B's pension portfolio did not reach this point. It also could have been its intention to use the £300,000 value starting point for application of the 0.75% OAC rate (as the text also refers to), and available evidence shows that Mr B's portfolio's value was above this point. As such, this document neither supports nor defeats Mr B's argument. The same applies to the document he refers to from 2023. It was never signed and agreed, so its terms never applied. Even if they did, they would have applied from when they were agreed onwards. Prior to that, the schedule he signed in 2022 applied.

Weight remains with evidence of what was actually agreed between the parties. Despite the conflict and contradiction in the 2021 document, there is ample evidence of the 1% OAC being repeatedly referred to and agreed between the parties from 2019 and from 2022. If Mr B considers that a better rate could have been negotiated in the past – especially if his argument about the conflict and contradiction in the 2021 document had been pursued at the time – that is a different consideration. It is not implicit that such negotiation would have

achieved a reduced OAC, it might or it might not have, as I said above there are competing arguments for using the £300,000 value and/or the £500,000 value starting points for the 0.75% OAC rate, and MPA could have gone either way if this was raised at the time. In any case, the 1% OAC is what the parties agreed and is what was applied.

I also do not find merit in drawing inferences from the 0.5% offered to Mr B in 2023. It was within MPA's reasonable commercial discretion to make that offer. I am not persuaded to be drawn into the governance issues he has argued on this point, because they do not alter the facts that the offer was made but not accepted. As such, regardless of whether (or not) it was an offer that stood on due process and proper governance, it was never implemented and the most use Mr B has made from it is the inference he has drawn that the same offer could and/or should have been put to him in 2021. I do not find ground to make that conclusion. MPA saw cause, whatever that might have been, to make the offer to him in 2023, not in 2021 and I have not seen evidence that it ought to have made the same offer earlier.

Mr B's allegation that MPA operates an unfair practice in applying its fees (preferring to lower fees for disgruntled clients but not for non-complaining clients) is beyond the call of his personal complaint. Indeed, if there was/is such a practice and if the OAC reduction offers in 2023 resulted from that practice, as he believes, then he is presenting a case in which he benefited from the alleged practice in the form of the offers he received (and he could potentially have benefitted further had he accepted the offers). Therefore, if he argues that the alleged practice is detrimental, he is essentially pursuing a general argument, not one related to him personally or to his complaint because he did not suffer a detriment. If he says he indirectly suffered a detriment in the past because no fee reduction offers were previously made during the times in which he did not complain, that is a purely hypothetical position and there is no persuasive evidence that fee reduction offers would have been made to him if he complained in earlier years.

We are not the industry regulator, so any general concern Mr B holds about the fees related practice he alleges is beyond my remit to determine.

On the above basis, I do not uphold issue 4.

My final decision

For the reasons given above, I do not uphold Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 9 April 2025.

Roy Kuku
Ombudsman