

The complaint

Mr W complains that Rathbones Investment Management Limited ('Rathbones') failed to accurately account for the value of his pension portfolio that was invested with them in 2015. He explains that when he closed his account in February 2019 Rathbones only accounted for around 50% of his total portfolio value.

Mr W has made a number of complaints about Rathbones' alleged failure to treat him fairly under the Financial Conduct Authority's ('FCA') principles for business and conduct of business sourcebook.

What happened

Mr W set up a small self-administered scheme ('SSAS') for a company that I will refer to as Firm P. A SSAS is a type of occupational pension that a company can set up for the benefit of employees. Mr W was the director of Firm P and the SSAS was set up and administered by Pension Services Online ('PSO'). Mr W was the general trustee of the SSAS and PSO were the corporate trustees.

In December 2014 the trustees of the Firm P SSAS all signed a document entitled, "*Rathbone Unitised Portfolio Service Client Agreement And Profile For Trusts, Charities, Companies And Similar Entities*". This document authorised Rathbones to set up a Rathbone Unitised Portfolio Service ('RUPS') account for the Firm P SSAS. It authorised Rathbones to provide discretionary management of the funds invested with it.

In January 2015 around £160,000 was transferred from the Firm P SSAS to the RUPS to be invested. However, in January 2015 the corporate trustees gave Rathbones two instructions. Which were to transfer cash back to the Firm P SSAS, and to send a payment to an alternative investment to be held by the Firm P SSAS. That investment was with a long-term bond with Wooldridge.

The remaining amount held in the RUPS account – around £76,000 – was invested by Rathbones. 60,000 units were purchased in the Rathbones Multi-Asset Strategic Growth Portfolio.

In February 2019 Mr W closed the Firm P SSAS RUPS account. At that stage the RUPS account held 35,387 units in the Rathbone Multi-Asset Strategic Growth Portfolio and 30,000 in the Rathbone Multi Asset Total Return portfolio. The final settlement from Rathbones to the Firm P SSAS was around £89,000.

In February 2019 Mr W was in phone contact with Rathbones about the investment to Wooldridge. Mr W asserts that he was expressing his dissatisfaction with Rathbones conduct in actioning that payment. Rathbones did not respond to Mr W's calls as a formal complaint at that time.

On 15 September 2023 Mr W made a formal complaint to Rathbones in writing. That complaint alleged misappropriation of his pension funds relating to the payments that Rathbones made in January 2015, under the instruction of the corporate trustees.

On 22 September 2023 Rathbones responded to Mr W's complaint. It explained that it thought Mr W had made his complaint too late for it to be considered under the complaint handling rules in the FCA Handbook – DISP rules. It explained that the events he complained about happened more than six years ago, and he was aware of the issues from at least February 2019 when he'd spoken to it about them. It informed him that he would have six months from that date to refer his complaint to our service.

Mr W did not refer his complaint directly to our service. He instead continued to press his case with Rathbones and introduced additional complaint points over the course of considerable correspondence.

Rathbones responded to Mr W's additional complaint correspondence on 17 November 2023. It reiterated what it had already told him on 22 September 2023 about that issue. But provided its answer to specific additional complaint points Mr W had made that it thought were about activities within the previous six years.

Mr W continued to correspond directly with Rathbones about his complaint, adding additional specific concerns. And Rathbones decided to respond again on 22 February 2024 about, what it considered to be new points. It still explained that it was not reconsidering the issues that it had already explained were out of time in its final response letter of 22 September 2023.

Mr W referred his complaint to our service on 14 May 2024. Mr W did not agree with our investigator's opinion on what our service would be able to look into for him. So the case was initially passed to me for a jurisdiction decision.

In my jurisdiction decision I decided:

- Rathbones' subsequent complaint response letters made it clear that at no point was it reinvestigating or reconsidering that response. They were merely considering the new issues that Mr W continued to raise.
- Mr W had six months from Rathbones final response letter of 22 September 2023 to refer the complaint points, that it addressed, to our service. Therefore we did not have the jurisdiction to consider the issues that Rathbones addressed in September 2023, even though Mr W clearly disagreed with the answer he was given.
- The issues that were separately addressed and referred to us within six months of Rathbones' final answers (on those points) were things that we could consider if they were not otherwise out of our jurisdiction.
- The complaint points that we could investigate could be summarised as follows:
 - Whether the settlement of his RUPS in February 2019 was correctly calculated.
 - Rathbones' alleged failure to respond to Mr W's question in his email of 18 February 2019.
 - Rathbones' decision to move units within the RUPS was not suitable.
 - Rathbones' management fees were incorrectly calculated.

Our investigator proceeded to consider the complaint points that I had decided were in our service's jurisdiction. He was unable to resolve Mr W's complaint so it has been passed back to me to give an ombudsman's decision on a fair and reasonable outcome.

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.

I have seen that Mr W has submitted further arguments since I gave my jurisdiction decision. Having read all his submissions I can see that he doesn't agree with the decision that I made on jurisdiction. However, having considered the circumstances again I have not changed my mind. I summarised my decision above and will not repeat that here. It means that I will not be considering the issue that I understand Mr W remains the most unhappy about. Which is the loss he has suffered from the Wooldridge investment.

There are separate issues that Mr W raised with Rathbones which were addressed in subsequent response letters. Where Mr W has referred these issues within the period that our rules allow, I am able to consider these issues. I summarised what I considered were the remaining issues we could help with in my jurisdiction decision. Whilst Mr W has sent us a great deal of correspondence, and I have looked at it all, I still think the above summary of his complaint points is fair. Our service exists to provide an alternative dispute resolution service to that provided by the business complained about or the courts. We exist to resolve complaints with a minimum of formality. It is because of this that I will give a decision that I think is a fair and reasonable way to resolve the overall complaint. I do not have to respond to every argument that Mr W has sent us to do that. But I assure him that all of his arguments have been considered.

For simplicity I will address his complaint points in the same order that I set them out in my jurisdiction decision, and summarised above.

1) Was the settlement of his RUPS in February 2019 correctly calculated?

The evidence that Rathbones have provided shows the units that were held across the two funds it held at the point of settlement. Rathbones has provided the history of the investments and how the final position with the unit holdings was reached. This persuades me that the units it recorded was more likely than not correct.

Rathbones have shown the unit process for the funds which implies that the settlement figure it reached was correct. I've seen no evidence which causes me to think that the figure that Rathbones reached for the RUPS was incorrect. I do not uphold this complaint point.

2) Failure to respond to Mr W's question in his email of 18 February 2019

On 18 February 2019 Mr W requested information from Rathbones about the Firm P SSAS RUPS account. In its response letter of 17 November 2023 Rathbones accepted that it failed to respond to that request and Mr W wasn't provided the information he sought. It apologised and offered to pay him £250. I uphold this complaint point.

I've considered this offer and think that it is a fair way to compensate Mr W for the distress or inconvenience it caused. The information he sought has not caused him a financial loss and he did not spend a lot of time repeating his request for the information. Although he was without the explanation he wanted for longer than was reasonable. Still it was some time before he revisited the request. So I don't think the error would have caused him considerable distress that needed a lot of extra effort to sort out. This error did not have a bearing on the loss that caused Mr W the greatest distress, which was the loss of funds invested with Wooldridge. Whilst I am aware of the distress that loss caused Mr W, it is not attributable to this failing so is not being reflected in this compensation award.

3) Was Rathbones' decision to move units within the RUPS unsuitable?

The service that Rathbones were providing for the Firm P SSAS was its RUPS. This was a discretionary management service. It established that, for the funds under its management, that Mr W (as the SSAS beneficiary) was recorded in the client agreement as having a medium attitude to risk. I think this was reasonable. From the terms of its client agreement with the Firm P SSAS, I don't think it would be fair or reasonable to suggest that Rathbones should have been taking into consideration Mr W's wider portfolio of assets. Rathbones were not Mr W's financial advisers. It was also not responsible for the make up of any assets held in the Firm P SSAS that were not part of the RUPS.

The discretionary mandate that Rathbones had meant that it was able to utilise its discretion in terms of investment strategy.

The RUPS had purchased 60,000 units in the Rathbones Multi-Asset Strategic Growth Portfolio. These units were sold at the end of August, and Rathbones explains that this was in response to a direction from the corporate trustees of the SSAS (PSO) in response to a result of a market downturn. Rathbones explains that it re-invested the funds when the market was recovering, purchasing 59,000 units in early November 2015. It had the discretion to do this. Whilst the timing of this decision failed to produce a gain in the number of units, I don't think it was obviously unsuitable to invest the cash it held as a result of the trustee's direction.

Further changes were later made to the portfolio to move the balance across the Rathbone Multi-Asset Strategic Growth Portfolio and the Rathbone Multi Asset Total Return portfolio. Rathbones discretionary mandate permitted them to make these changes and it appears more likely than not that the overall balance was still broadly suitable for the medium attitude to risk that it was targeting.

Overall I do not uphold this complaint point.

4) Were Rathbones' management fees incorrectly calculated?

Rathbones have provided a breakdown of the fees that it charged Mr W for the provision of the RUPS product. They appear to be in line with the client agreement. Mr W has not provided any calculation that suggested that the fee is incorrect. I understand that he is unhappy with Rathbones service and suggests that it hasn't earned those fees. I have not seen any evidence that supports that. So I do not uphold this complaint point. Rathbones has provided the investment service that it was contracted to do for the Firm P SSAS.

My final decision

I am upholding complaint point 2) for the above reason. If Rathbones Investment Management Limited has not yet paid Mr W the £250 compensation that it offered in its final response letter of 17 November 2023, then it should pay him that figure when it is told that Mr W accepts my final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 14 May 2025.

Gary Lane
Ombudsman