

The complaint

Mrs T's complaint about Brooks Macdonald Asset Management Limited ('BM') concerns the bespoke discretionary managed investment portfolio service. Mrs T is unhappy with the performance of her investment portfolio and says she hasn't received the ongoing service she paid for. She says her investments would have performed better and been better suited to her needs and circumstances had BM provided the agreed level of ongoing service. Mrs T is seeking a return of the fees paid and a capital sum to bring her investments to the position they should be in.

What happened

The following is a summary only of the background leading up to the complaint to provide some context. Where it is appropriate to do so, I will refer to specific evidence or expand on what follows in support of my findings, in the section below.

In 2009, Mrs T entered into an agreement with BM for it to manage her ISA (to be run on a combined basis with her husband) on a bespoke discretionary fund managed portfolio basis. Mrs T was a client of the financial consulting arm of Brooks Macdonald – a separate firm. BM's role was to provide portfolio management services only – any wider or general financial planning advice was documented as being the responsibility of the other firm at this time.

Mrs T ultimately signed an investment mandate that BM should manage her investments on a 'Medium to High risk' growth strategy basis. This was defined as:

"An aggressive portfolio that will give exposure to a range of UK and international investments with full exposure to the higher returns and volatility of real and market investments on a longer term basis. Equity exposure is likely to range between 80-100%."

The annual management charge payable to BM at the outset was 1% (plus VAT) of the total assets under management.

In 2021, follow advice given directly by BM, Mrs T entered into an agreement for it to manage her SIPP on a bespoke discretionary portfolio basis – again with a Medium to High risk approach and with an investment term of 10+ years. The annual management fee noted at this time was 0.7% plus VAT. And the equity exposure of the portfolio was noted as being 75 - 95%.

Because BM was responsible for the advice, as part of its ongoing service, it assessed suitability on a periodic basis.

In June 2022 and again in June 2023, BM issued letters of continued suitability stating that based on Mrs T's circumstances and attitude to risk, the investment mandate would continue to be managed on the same basis.

In March 2024, Mrs T complained to BM, via her husband acting as her representative. She said in the last few years the bespoke portfolio service had failed to live up to its fees and expected performance. She said the poor performance had not been communicated to her.

And she asked why her portfolio had consistently under performed in comparison to other BM portfolios including the Medium to High risk model portfolio.

BM didn't uphold the complaint. In summary it said:

- It was satisfied the portfolio had been managed in line with the mandate.
- It had performed in line with expectations providing a return which had exceeded the benchmark in relation to the ISA.
- While the SIPP had underperformed the benchmark, it noted it was only opened in 2021 and the investment term was 10 or more years.
- Its suitability was reassessed as part of its ongoing service and Mrs T remained satisfied.
- Returns could not be guaranteed.
- It did not compare the performance of its bespoke portfolio service with its model portfolios as they are different services.
- The benchmarks used have always been the MSCI PIMFA indices as well as the MSCI UK.
- It had sent quarterly valuations which included a breakdown of the investments and performance – these were also available via its client online portal.

Dissatisfied with its response, Mrs T referred his complaint to us.

After investigating things, our Investigator didn't uphold Mrs T's complaint. In summary they said BM's role was to manage Mrs T's investments in line with her established attitude to risk – not to provide advice on the suitability of the investment or to discuss changes to her needs or risk profile, which was the role of a financial adviser. BM had managed the portfolio in line with Mrs T's Medium to High attitude to risk, and given it had produced a positive return and exceeded the benchmark, there was no evidence of poor fund management. They said BM had provided investment reports and overall, there was nothing to indicate it had done anything wrong – the performance of Mrs T's investments was down to market conditions at the time.

Mrs T disagreed. She broadly repeated the key points she'd already made. In essence Mrs T's main complaint is that BM charged her ongoing annual management fees, but it did not review her circumstances or alter the portfolio to reflect changes in her circumstances, such as changes to her financial position, future goals or taxation status. She believes BM should have carried this out and as such feels her portfolio has been mismanaged.

Because the Investigator wasn't persuaded to change their opinion, the complaint was passed to me to decide.

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've taken into account relevant law and regulations, regulatory rules, guidance and standards, codes of practice, and (where appropriate) what I consider to have been good

industry practice at the relevant time. And where the evidence is incomplete or inconclusive I've reached my decision based on the balance of probabilities – in other words, on what I think is more likely than not to have happened, given the available evidence and wider circumstances.

Having considered all of this and the evidence in this case, I've decided not to uphold this complaint for the following reasons.

A complaint purely about investment performance is not one I would typically uphold. So, if Mrs T thinks her investment should have produced a better return than it has, this alone is not grounds for me to uphold her complaint. But Mrs T has said BM failed to provide the level of ongoing service she was paying for and as such says it mismanaged her portfolio. I've therefore considered this point.

So, what ongoing service was Mrs T paying for?

Mrs T paid BM an annual management charge for its bespoke discretionary managed portfolio service – 1% plus VAT agreed at the outset and then 0.7% as noted later on. This amounts to the primary ongoing fee Mrs T paid to BM. But this fee is for the management of Mrs T's investments. While I think the ongoing duty of BM was to ensure the portfolio continued to be suitable, the extent of its responsibility here was to ensure the portfolio was run in line with the agreed mandate – that is, a growth objective based on a Medium to High risk approach.

As far as Mrs T's ISA was concerned, it was not BM's responsibility, and Mrs T was not paying for it, to carry out suitability reviews in the way she describes. At the outset Mrs T was a client of the financial advisory business of Brooks Macdonald. It appears it was this firm, acting as the professional adviser, which was involved in the advice and referral to BM to establish the bespoke portfolio service. Given its involvement, it was also likely involved in agreeing the mandate or instructions given to BM to manage the portfolio.

Mrs T has said this firm received a commission from BM – a percentage of what she was being charged via the annual management fee. Payments of this nature (trail commission) were typically to cover the cost of ongoing services such as ongoing suitability reviews. And this kind of general financial planning suitability review, including reassessing Mrs T's broader circumstances, her attitude to risk, capacity for loss, and whether the bespoke service ultimately remained suitable for her in light of her circumstances and any changes to them, would have been the responsibility – if that's what was agreed – of the advisory firm at this time. This was not the responsibility of BM. And I think the evidence from the time supports this – BM's paperwork from 2009, says it was only providing portfolio management services and that the advisory firm would provide general financial planning advice.

Mrs T says these trail commission payments were stopped in 2012 once she noticed them and so all the fees were then retained by BM. But this didn't mean BM then took on the responsibility for reviewing Mrs T's circumstances and assessing suitability on an ongoing basis for this portfolio. If Mrs T wanted that service and wanted to understand whether the portfolio remained suitable for her based on her circumstances on an ongoing basis, she would have to have appointed, and paid for, another professional adviser.

With all that said, the available evidence (a note from the advice given in 2021 to manage Mrs T's SIPP) documents that Mrs T had been a client of BM for 10+ years, and it had met with her husband annually (the ISA portfolio was run on a combined basis.) It also indicates that their joint circumstances were discussed – the note refers to there being no changes to their circumstances. So, it would appear that despite what Mrs T has said, there was engagement and discussion with BM directly around her ISA portfolio and whether there

were any changes in hers / joint circumstances which needed to be considered in line with a bespoke type of service.

And in any event, for Mrs T's SIPP, BM has provided evidence that as part of its ongoing service it did review her circumstances, including her attitude to risk and capacity for loss on an annual basis and consider the ongoing suitability. This is because as noted in 2021, for this investment, BM was responsible for suitability – it noted this was the first investment where this was the case, as suitability had previously been the responsibility of the earlier referred to advisory firm. So, the evidence shows Mrs T did receive the ongoing service she paid for here. I'm satisfied what it documented here reasonably constitutes a periodic review in line with what was agreed.

Looking at BM's key responsibility here, and whether Mrs T's portfolio was run in line with the agreed mandate as BM says was the case. I've looked at a snapshot of the portfolio make-up from 2019 through to 2024 (Mrs T's complaint to BM was based on her concerns over the last few years.) And based on what I have seen, I think it was run in line with the mandate agreed – that is a focus on growth with broadly at least an 80% equity content with exposure to a range of both UK and international investments. I'm mindful too that based on the information provided, since 2010, Mrs T's ISA investment has produced an annualised return above the relevant benchmarks, which would reasonably indicate there have been no failings in the way the portfolio was managed. And although her SIPP had underperformed, given it only commenced in 2021, and given the investment period in question, I'm not persuaded this short-term underperformance reasonably demonstrates any failing on BM's part.

I can see that in making her complaint, and in highlighting her concerns, Mrs T pointed to the underperformance of her portfolio compared to other BM portfolios including its Medium to High risk model portfolio. In response, BM said it didn't compare the bespoke portfolio service performance with the model portfolio service – they are two different offerings – and it referred to the benchmarks it uses as a measure in its quarterly valuation reports. I think BM's explanation here was fair and reasonable. I wouldn't expect BM to compare the performance of its model portfolio offering with its bespoke service. In my view, the benchmarks used and referred to are appropriate in the circumstances as they reasonably represent the investment strategy of an investor seeking capital growth from a broad range of assets with both a UK and international focus.

I understand Mrs T is disappointed that BM didn't communicate or highlight to her the poor performance – what she describes as how far off the house average her portfolio had been performing. But from what I can see BM issued valuations or investment review reports on a quarterly basis (I've seen several examples of these) which included up to date performance figures. BM also said this information was available via its client portal. And Mrs T hasn't said she didn't get these. I'm satisfied BM has met its obligations here.

In conclusion, I understand that Mrs T is disappointed with the performance of her investments. The nature of investing means returns aren't guaranteed. And I think Mrs T understands that. But unlike Mrs T, I think the disappointing performance she has described over the last few years, was down to investment market conditions, including the impact of several geopolitical events on investment returns, and not because BM failed in its duty, mismanaged her investment or otherwise acted unfairly or unreasonably.

So, it follows that I do not uphold this complaint and there's nothing BM needs to do to put things right.

My final decision

For the reasons above, I've decided not to uphold this complaint about Brooks Macdonald Asset Management Limited, so I make no award in Mrs T's favour.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 5 February 2026.

Paul Featherstone

Ombudsman