DRN-5568156

The complaint

Mr D complains that, following the transfer of his occupational pension scheme (OPS) benefits into a self-invested personal pension (SIPP), Mayfair Capital Limited (Mayfair Capital) – as the appointed investment manager, pursued an "aggressive" trading plan with his funds and invested into assets which were too high a risk for his "cautious" investment approach. He would like to be compensated for any losses he suffered due to Mayfair Capital's investment strategy.

What happened

In 2019 Mr D met with an advisory firm and was recommended to transfer his existing final salary OPS benefits into a SIPP. As part of the fact finding process the firm identified Mr D as a "highest medium risk" investor. Although a different discretionary investment manager was confirmed to manage Mr D's investments in the firm's transfer analysis report, I understand that in October 2019 a request to open a trading account with Mayfair Capital was made. Mayfair Capital has said that the advisory firm worked with it around that time for a "handful of clients" to be provided with its investment management.

Mr D and the adviser were given investment authority on the account, and it was agreed there would be an annual fee for holding investments and a transaction fee for each investment transaction. In 2021 Mayfair Capital introduced a new "rate card" which altered the way it charged for the transactions.

In November 2023, because of the performance of his SIPP assets, a professional representative complained on Mr D's behalf about Mayfair Capital's investment strategy. It said that Mr D hadn't been given suitable advice on the securities traded on the account and Mayfair Capital had carried out "high frequency" trading in individual securities. It said Mayfair Capital's investment management service hadn't been in Mr D's best interest and asked for his pension to be returned to the position it ought now to be in had the trading strategies not occurred.

As Mr D didn't receive a response within the time allowed, he brought his complaint to us where one of our investigators looked into the matter. He didn't think Mr D's complaint should be upheld. He said:

- The application form that was completed to open the trading account noted Mr D had a 'medium' attitude to risk (ATR). It also set out the maximum percentage amount to be invested within each risk profile category (low, medium and high). And although Mr D told us he was a 'cautious' investor it wouldn't be fair to say he should have been treated as such in light of the process that was used to assess his ATR.
- The application form noted that high risk investments wouldn't be used for cautious investors. So if Mr D thought he had a cautious ATR then he ought to have opted out of any high risk investments.
- From the evidence he'd seen he thought Mayfair Capital had broadly invested around 15% of Mr D's funds in high investments at any given time – as agreed.

- He noted Mr D’s concern about the level of trades that were made from 2021, but didn’t think they were “excessive” in the circumstances. He noted the general volatility in the markets after the global pandemic and that the higher level of trades didn’t continue in 2022 onwards. He also noted that Mr D hadn’t put a limit on the number of trades that could be carried out.
- He also noted that Mr D agreed each trade that was undertaken – so overall didn’t think Mayfair Capital had acted unfairly. He didn’t think it should be held responsible for the investment losses suffered by the pension portfolio.

Mr D didn’t agree with the outcome and, although he didn’t provide any further commentary, he asked for his complaint to be referred to an ombudsman. So it’s been passed to me to review.

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.

And having done so I’ve reached the same outcome as the investigator. I imagine Mr D will be disappointed by this – so I’ll explain my reasons.

The suitability of Mayfair Capital’s investment strategy at application stage

The recommendation to transfer Mr D’s OPS benefits was made by a different advisory firm who were also responsible for engaging Mayfair Capital as an investment manager. So there’s no consideration to be made here in relation to the suitability of that transfer, as the recommendation was made by another advisory firm.

Mayfair Capital’s role here was to invest the SIPP funds in relation to Mr D’s ATR and its own investment strategy within that risk profile. So I’ve begun by looking at Mr D’s application to set up a trading account with Mayfair Capital.

The application form noted that Mr D was a “medium” risk investor and would accept up to a 15% loss in the value of his SIPP – over a 12 month period – before becoming concerned. This was based on what the advisory firm had previously agreed with Mr D through an ATR questionnaire and other analysis, and was reflected in its fact find and transfer analysis report – so I think it was reasonable for Mayfair Capital to use that information in its application form. The information had only been gathered by the advisory firm a few months before and I think it’s unlikely Mr D’s ATR would have changed in that time.

But in any case Mayfair Capital simply replayed that information into the application form, so Mr D would have had another opportunity to raise concerns if he was unsure it correctly represented his situation. The application form then went on to set out the maximum percentage Mayfair Capital would invest in each risk profile category, naming them as low, medium, and high – as follows:

- High risk - a maximum of 15% in global small cap equities.
- Medium risk - a maximum of 55% in large cap equities and 15% in corporate bonds
- Low risk – a maximum of 10% in government bonds and 2% in cash.

I don't think this was an unreasonable portfolio mix in relation to Mr D's ATR and there was also a warning that high risk investments wouldn't be used for "cautious" investors. Further risk warnings were also set out around investments in general and specific to each type of asset. Mr D signed the application on 14 October 2019, so it's not unreasonable to assume that he would have been able to see how his money would be (generally) invested in line with his ATR. I would have expected him to raise concerns at that time if he didn't think the ATR definition was correct or if he was concerned about high risk investments being used if he believed he was a cautious investor.

So I can't reasonably say that Mayfair Capital proceeded unfairly or didn't consider Mr D's position as a medium risk investor.

The assertion that Mayfair Capital adopted an "aggressive" ongoing investment strategy

Mr D's representative has said that Mayfair Capital's investment strategy was too high a risk for him as it invested in individual stocks which would be considered a very high risk for a retail investment client. Furthermore it says that from early 2021 Mayfair Capital liquated most of the more mainstream funds Mr D held in favour of stocks of large, well-known companies but equally into a number of "*smaller, more obscure*" companies. It thought this strategy was unnecessary and exposed Mr D to additional risk and volatility outside of his ATR.

It's important to note that Mayfair Capital was free to adopt a strategy which invested around 15% of Mr D's assets in high risk investments. There were no restrictions on which assets it should buy and sell but simply to remain within the agreed percentages of each risk profile category. So I've looked carefully at the transactions which took place on the account during this time, and I can't reasonably say from the investment recommendations made that Mayfair Capital later recommended investing more of Mr D's fund in high risk than the agreed 15%. So, as I've said that it was reasonable for Mr D to have been assessed as a medium risk investor, and I also understand Mr D was required to agree each trade before they were processed, I don't think Mayfair Capital acted outside of the agreed investment strategy here, even if Mr D says he was unfamiliar with some of the stocks purchased and thought they exposed him to increase risk and volatility.

The number of trades made from early 2021

Mr D said that Mayfair Capital introduced a new "rate card" in early 2021 which seemed to change the basis of trading commission earnt towards a high frequency, high volume strategy. He said from that time the number of trades increased and seemed to be less "*passive*" and more of an attempt to "*time the market*".

I note that the application form offered Mr D the opportunity to choose if he wanted to apply a limit to the maximum number of monthly advisory or discretionary only trades. Risk warnings around this were also set out. Mr D choose not to apply any limits and signed the form, so, and despite the introduction of the new rate card which altered the commission basis on trades, Mayfair Capital wasn't restricted to the number of trades it could make in order to follow its investment strategy.

And, because I'm satisfied that Mayfair Capital kept broadly to the investment (risk) parameters which were agreed, it wouldn't be fair for me to uphold a complaint about poor performance alone as the very nature of investments is that their value can rise and fall because of many (external) factors. I haven't seen any evidence to suggest Mayfair Capital "guaranteed" any returns or suggested it wasn't possible for the value of the assets to fall.

But I have also gone on to look at the volume of trades that were made in case a reason for poor performance could have been attributed to an unusual (increased) pattern of trading resulting in higher fees being applied to the funds. However, like the investigator, I've found that although the number of trades did slightly more than double from 2020 to 2021, this number fell sharply in the two following years. If I accepted the reason for the increase in trading arose directly from the introduction of the new rate card, I would expect to see the numbers remain much higher if this was simply an exercise in increasing trade commission.

I also think the increase in trading in 2020 to 2021 could reasonably be attributed to the markets at that time which were particularly volatile due to the effects of the global pandemic. It doesn't seem unreasonable to me, with the effect this had on financial markets, that more buying and selling of stocks might have occurred. So I don't think there's enough persuasive evidence to support the idea that Mayfair Capital's trading pattern was particular irregular or "excessive" or that it increased significantly following the introduction of its new trading commission tariff.

Summary

Mayfair Capital wasn't responsible for the advice given to Mr D to transfer his OPS benefits to a new SIPP. That was the responsibility of another advisory firm. Mayfair Capital was responsible for implementing and following an investment strategy which was aligned to Mr D's ATR. I think it invested in assets which broadly met that ATR and, although Mr D has questioned some of the individual investment choices it made, I think it broadly followed the "mix" it agreed with Mr D at inception.

I understand Mr D didn't impose a limit on how many trades could be made and was asked to confirm each trade before it was made. I haven't heard from Mr D that Mayfair Capital made any of these trades without his agreement, so I've no reason to believe that the trades in the higher risk funds were made without his permission.

I also don't think that Mayfair Capital's trading pattern was "excessive" during this time and there's no evidence it was carried out purely to increase the commission it received. It's unfortunate if Mr D has suffered a loss to his SIPP's assets during this time and I have some sympathy for the position he now finds himself in but, taking all this into account, I don't think Mayfair Capital acted unfairly here or should have to make good any investment loss that Mr D may have suffered.

My final decision

For the reasons that I've given I don't uphold Mr D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 21 July 2025.

Keith Lawrence
Ombudsman