DRN-4785174

The complaint

In amongst numerous points, Mrs R complains about the management of her two Collective Retirement Accounts and Investment Savings Account portfolio by Greenfields Financial Management Limited (referred to as "*Greenfields*").

In summary, she says Greenfields failed to perform risk level questionnaires for some years and invested her money in funds that were too risky.

To put things right, in short, she'd like Greenfields to return the substantial losses she suffered.

What happened

In late March 2024, I issued my provisional decision, a copy of which is set out below and forms part of my final decision. In the decision I said:

"…Subject to any further submissions, provisionally I'm minded to uphold this complaint.

On the face of the evidence, and on balance, I can't safely say that Greenfields behaved reasonably in respect of certain issues, so this complaint should be upheld.

On balance, I think:

- *Greenfields made an error when it disinvested Mrs R's portfolio for a period of time, when her instructions were simply to sell and buy a fund. If there was a financial loss Greenfields should pay this amount, in addition to its goodwill gesture.*
- *Greenfields advice to invest in a portfolio seven, with a seven-risk rating, was unsuitable for Mrs R.*

So, by way of redress I think Greenfields should do the following to put things right.

1. *Refund any financial loss suffered by her portfolio, as result of it being out of the financial markets due to an error by Greenfields, in addition to the goodwill gesture offered.*
2. *Compare the value of her investment – from when she started to invest using a seven-risk rating, to when it ceased – with the FTSE UK Private Investors Income total return index (prior to 1 March 2017 the FTSE WMA Stock Market Income Total Return Index). If there's a difference, pay the loss, with 8% simple interest*
3. *Pay Mrs R £250 compensation for the distress and inconvenience caused.*

Before I explain why this is the case, I think it's important for me to note I very much recognise Mrs R's strength of feeling about this matter. She has provided detailed submissions to support the complaint, which I've read and considered carefully. However, I hope she won't take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy.

The purpose of my decision isn't to address every single point raised under a separate subject heading, it's not what I'm required to do in order to reach a decision in this case. In other words, I don't have to comment upon every single point made.

My role is to consider the evidence presented by Mrs R and Greenfields, and reach what I think is an independent, fair and reasonable decision based on the facts of the case.

Provisionally, I'm minded to uphold this complaint, in summary, for the following reasons:

- *I note that an ATR assessment wasn't carried in October 2019 and is the basis upon which the investigator upheld the complaint, but I'm not persuaded that this is the correct approach in this instance.*
- *Given Mrs R's concerns, Greenfields probably ought to have carried an assessment. However, if it had, on balance, I'm not persuaded that it would've downgraded her risk assessment – there's no (persuasive) evidence that she was a cautious risk investor – or done anything differently at that point.*
- *Being dissatisfied with the performance of the portfolio or being concerned about losses isn't necessarily evidence of a change in ATR. And this doesn't mean that Greenfields was likely to have concluded she was a cautious risk investor with a lower risk rating. I think that any suggestion that she was, is unsubstantiated.*
- *I'm mindful that discussions that took place in due course, in September 2020, confirmed that Mrs R was still a medium risk investor in line with her 2018 risk questionnaire. I'm mindful that no objections were raised by Mrs R and that she continued with her portfolio, until she became very concerned and moved to cash.*
- *But that notwithstanding, its arguable that she needed to be a medium risk investor with a six risk rating in order to meet her objectives for growth and income.*
- *In the circumstances, it's likely that the Covid-19 pandemic and the war in Ukraine adversely impacted Mrs R's investments. In other words, I can't safely say that these factors weren't, in part, behind the losses suffered by her. It's also likely that this motivated her to switch to cash in the first instance.*
- *I'm satisfied that these are factors which Greenfields couldn't predict or have any control over, so it's not something I can blame Greenfields for. However, I think this explanation applies to losses Mrs R's portfolio whilst she was a six rating only. I think the situation was different when she was advised to invest in portfolio seven containing investments that were suitable for seven rating. I've considered that below.*
- *Despite what Mrs R says, I can't safely say that the advice to put her investments in cash was unsuitable or wrong given her concerns about what was happening at the time. Whilst I also don't think that Greenfields was wrong not to conduct a full ATR assessment before providing this advice – because I don't think it was necessary given the urgency and unpredictability of the situation – I also think it's unlikely that the advice would've been different even if her ATR had been assessed. In other words, despite what Mrs R says, I can't say that Greenfields has been negligent in this regard.*
- *I don't think this is necessarily at odds with its usual advice to remain invested and affectively weather out any volatility, given her need to be cautious at that moment in time.*
- *On the face of the evidence, and on balance, despite what Greenfields says I don't think Mrs R's subsequent risk rating of seven was suitable.*
- *I don't think advising her to re-invest with higher risk rating was suitable in an effort to benefit from the 'upturn' – in the circumstances and on balance, I'm minded to think that this advice was unsuitable and too risky. It's arguable that the markets weren't sufficiently settled for this to be a viable option for Mrs R coming out of cash.*
- *Given the recent volatility, and loss, I think any suggestion that Mrs R was a risk*

rating of seven, was inaccurate and untrue. Despite what Greenfields says, I've seen no persuasive evidence that she was prepared to take a greater risk than she had done previously, or that any advice to do so was suitable.

- *I'm aware that previously (prior to reinvesting) Mrs R had been a medium risk investor with a risk rating of six – which I think was suitable. I note she then moved her portfolio to cash when the portfolio started to lose value. For reasons I've explained above, I don't think Greenfields is responsible for these losses.*
- *I note that when the markets started to level, Mrs R wanted to reinvest her money which I don't think was unreasonable. However, I'm not persuaded that Mrs R wanted to, or was happy to, reinvest with a higher risk – in other words with a risk rating of seven.*
- *On the face of the evidence, and on balance, I think it's unlikely that Mrs R would've wanted to go above a risk rating of six – which is where she was – if she'd been made aware of the higher risks involved. In other words, I think it's unlikely that Mrs R would've chosen, of her own volition, coming out of cash, to take a greater risk than she had done previously. I'm not persuaded that this was reasonable time to do so.*
- *Furthermore, apart from what Greenfields says, I've seen no persuasive evidence that a risk rating was carried out and/or that consequently she made an informed decision to take more risk to catch the upturn. I note Mrs R says doesn't know what the term means.*
- *Even if Greenfields is able to produce documentary evidence of discussions that took place with Mrs R, on a balance of probabilities, I think it's more likely (than not) Greenfields persuaded her to take a higher risk in order to try and catch the upturn, rather than it being what she wanted to do.*
- *I'm mindful that in or around May 2022, at Mrs R's request, her portfolio risk was reduced to a six, even though Greenfields previously stated that she had a risk rating of seven. In my opinion this shows that she wasn't happy to take a higher risk and was most likely persuaded to do so to try and recoup any losses she may have made.*
- *To put things right, I think Greenfields should compare what Mrs R received, with the FTSE UK Private Investors Income total return index (prior to 1 March 2017 the FTSE WMA Stock Market Income Total Return Index) and pay her the difference if there's a loss, with 8% simple interest. This is because I'm satisfied that she was willing to take a risk with her money, I'm not persuaded that she had a risk rating of seven or wanted to invest in portfolio seven.*
- *Whilst I appreciate the points made by Mrs R about her risk, I think that if the portfolio, overall, was in line with her medium risk – within a risk rating of six overall – then I don't think it's unreasonable if it's made up of funds that are higher and lower risk balancing out the overall portfolio. On balance I don't think the whole portfolio needs to be comprised of only medium risk (risk rating six) rating.*
- *Greenfields appears to concede that Mrs R's portfolio was (erroneously) out of the market for a period of three days – when midway through carrying out her instructions an employee went off ill – and her instructions weren't carried out in a timely manner.*
- *I note Mrs R's concerned that Greenfields doesn't fully explain what happened to her portfolio during this period. Mrs R's concerned that her entire portfolio was sold in error, which would suggest that it was sold to cash, for a period and subsequently reinvested, although this hasn't been made clear.*
- *Greenfields confirms that this issue was resolved within a few days, but Mrs R maintains that it was closer to a period of between 13 to 19 days. I would be grateful if Greenfields could clarify the correct position, with evidence. I'm aware that there's been some suggestion of re-balancing but I don't think this means the portfolio had to be out of the market.*
- *If the portfolio was out of the market, whether it be for 3 day or 19 days, it's likely that*

it would've lost out if the market improved. If this was the case, Greenfields should compensate Mrs R for any losses the portfolio suffered, I think it should do so in addition to its gesture of goodwill.

- *In other words, if Mr R's portfolio was sold to cash – and the markets went up during this time – the portfolio would've lost out on that additional increase in value. And reinvesting the original cash amount (without the benefit of the increase) isn't fair or reasonable in the circumstances. To put things right, I think Greenfields is responsible for working out and paying any loss suffered by the portfolio as a result of its error, which is what I think it should do.*
- *The above notwithstanding, despite what Mrs R says, I'm not persuaded that she's entitled to a refund of the ongoing fees. I'm satisfied that Greenfields was in regular contact with her regarding her investments and so on.*
- *On balance, I'm satisfied that it was on hand to offer advice and guidance and review her investments as and when appropriate. Although Mrs R is unhappy with the service provided – because it's not to the standard she expected – but not withstanding the uphold, I can't safely say that Greenfields has done anything wrong. Notwithstanding the uphold, I'm persuaded that there was a good relationship between Mrs R and Greenfields.*

I appreciate that Mrs R will be thoroughly unhappy that I've upheld the complaint but still haven't given her what she wants. Furthermore, I realise my decision isn't what she wants to hear. Whilst I appreciate her frustration, I can't safely say that Greenfields should do anymore, other than I have set out as the basis of my uphold.

In other words, on the face of the available evidence, and on balance, despite upholding the complaint, I can't and give Mrs R what she wants."

I gave the parties an opportunity to respond to my provisional decision and provide any further submissions they wished me to consider, before I considered my final decision, if appropriate to do so.

Greenfields responded but didn't agree with my provisional decision. In summary, it made the following key points:

- Mrs R's investments fell as a result of three reasons:
  - Covid-19, in late February 2020 to early March 2020.
  - the threat of 'Russian invasion of Ukraine' in the latter part of 2021.
  - the actual invasion, with the markets seeing a fall until June 2022.
- When the markets fell Mrs R wanted to be '*very cautious'*, so it recommended she put her investments in cash for a short period. However, as the markets increased it was agreed that she'd re-invest and recoup some of her losses.
- At this point it discussed her risk factor, and an increase – from a six to seven attitude to risk (ATR) – to catch the upturn.
- It was Mrs R's own constant change in mind that impacted the value of her investments.
- Mrs R was sent two emails in Spring 2022, explaining the global situation and how the markets would be affected. It made clear that if she was concerned, she could contact the business immediately. She could check the valuation of her investments but at no point, despite the correspondence, did she say that she wanted to be a cautious risk investor.
- In 2019, after completing a risk questionnaire she was a risk six. Following discussions, she was advised to invest in the GFM portfolio seven which she was happy to proceed with. If at any point she was unhappy she could've complained.
- When asked if there was a change in her ATR, she would answer that there was no

change and that she was happy with everything, meaning from its point of view there was no need to review anything.

- She didn't change to cash at the last downturn, she was advised to stay invested and await the upturn, which is what she did.
- It hasn't paid any 'compensation' to Mrs R because it doesn't accept any wrongdoing. There was a delay due to a colleague being taken ill halfway through a fund switch which meant for three days she wasn't fully invested in the markets. Given the time it would take to work out the exact figure, it agreed to waive its 'fund based remuneration' for one month which would've been a higher figure in any case. At the time Mrs R was more than happy with this course of action.
- At no point during her time with it did Mrs R indicate she was unhappy with the service she was receiving, not even when she notified it that she was getting a new adviser.
- It's concerned about where the figure of '£3,548 commission' – for the three-day delay in the pension switch – came from. This wasn't compensation, but a goodwill gesture, which was closer to £250-£350.
- It also questions where the '£17,744' deficit figure came from, and the calculations used to produce this figure.
- Evidence produced in the form of a graph shows the difference between fund six and seven, however it needs authority to speak to Quilter.
- My provisional decision seems to insinuate Mrs R was in fund five and was moved to fund six post June 2018, without a risk assessment being carried out. This is incorrect.
- In conclusion, based on Mrs R's circumstances and ATR, it advised her to invest in the GFM portfolio seven which she agreed with. Her ATR was discussed at each stage, and she confirmed she was happy to proceed. When asked if she was happy, she confirmed that she was, without giving it a reason to review her risk score.
- In order for it to ascertain what if any loss was made – due to the difference between being invested in its seven risk rating portfolio compared to the FTSE UK Private investors Income Total Return Index, the time period that her investment was delayed by the fund switch, and the exact date she disinvested from its portfolio seven and left its service – it requires information from one of the new investment providers, for which it needs Mrs R's authority. However, Mrs R is refusing to provide authority until the final decision has been reached. It can't defend its position until it has this information.

Mrs R also responded and provided a detailed response. In summary, she made the following key points:

- Her risk assessment wasn't in October 2019, it was in June 2019.
- Her concerns started in August 2019. When she raised concerns Greenfields said it was reviewing the situation and would notify her if any changes were necessary. Prior to August 2019, her funds were doing ok.
- She later emailed Greenfields in October 2019 expressing her ongoing concerns but received no reply. Prior to this, she had no need to contact Greenfields.
- If Greenfields had looked into her concerns, it would've seen a downward trend and realised the funds it had invested in were no longer appropriate.
- She was invested in unsuitable funds, including the 'Baillie Gifford Emerging Markets KiiD7' and 'Slater Recovery 100 Equities'.
- Greenfields risk levels are based on a scale of one to ten, and 'KiiD' risk levels are based on a scale of one to seven.
- As a client she was without some relevant information – including the 'score sheet' – so she was unable to make an informed decision about her investments.
- Risk level seven is described as 'Adventurous Balanced', there's no mention of a six

being 'high risk' just that it was balanced. The word 'Adventurous' was only used in autumn 2021 during a fund switch after which she raised an issue.

- Based on her assessment, she shouldn't have been placed in anything higher than KiiD risk level five, which is the equivalent of a Greenfields risk level five to six.
- Based on her analysis, at least 50% of her funds were placed in high-risk funds, with no low-risk funds.
- April to July 2020 (during Covid-19) was a very volatile time in the market. If what Greenfields say about the FTSE showing a 15% loss is true, this was all the more reason to be careful with her investments.
- The suspension of funds suggests checks might not have been made before the purchase was made.
- The sum of £195,339.80 was still in cash four months after, waiting to be reinvested, and still is.
- Despite what Greenfields says, she was still invested in funds above her risk level. And as the markets changed Greenfields did not. Funds were heavily weighted in high risk.
- Greenfields didn't take into account that she was retired, or any of her other circumstances.
- There was excessive switching. In the case of Fidelity Asia Pacific Opportunities fund Greenfields sold and purchased the fund no less than eight times, on one occasion buying and selling within five days.
- Greenfields sold stock that should've remained after it reduced her risk level to six.
- On 3 February 2020, she contacted Greenfields about the Asia situation that was brewing, by 20 February the portfolio had lost around £86,000. On 10 March she received correspondence in the form of a global update from Greenfields. Her understanding was that when there's trouble, you sell early or wait till it all blows over. On 12 March 2020, Greenfields wrote to her confirming it has reviewed her investments and asking her to make various switches. On 12 March 2020, she made the heaviest losses. There was then some confusion as funds she thought she'd bought weren't in her portfolio. She can't understand why Greenfields were still interested in purchasing equity funds.
- On 20 March 2020 Greenfields decided to sell more of her portfolio. On 25 March 2020, it stated that the worst was yet to come.
- On 15 September 2022, Greenfields confirmed that the portfolio sales were made for a number of clients.
- On 30 March 2020, five days after Greenfields sold her portfolio to cash, Greenfields confirmed that it believed there'd be no further downturn.
- In summary, Greenfields confirmed on at least four occasions that it was their idea to switch to cash.
- Four months after Greenfields sold her portfolio, it couldn't get back in the market so £195,339.80 still wasn't invested and £89,541.12 was still suspended.
- When it was reinvested, £284,880.90 was reinvested in high risk funds as evidenced earlier. Compounded by the frequent switches which is evidence of poor management. She doesn't understand why it took so long and why it wasn't invested in suitable investments – instead it reinvested in a 'cocktail' of funds that weren't suitable.
- She's unhappy about Greenfields decision to invest more of her portfolio in shares that were unsuitable.
- In September 2021, Greenfields sold her portfolio whilst making a shortcut error. It was their error which is why her investment was in cash. Without a discretionary management agreement, it sold to the value of £327,503.58 which it didn't even tell her about.
- In September 2021, there was no urgency. Her portfolio was invested prior to the meeting of 3 September 2021. There was no reason why Greenfields couldn't have

performed the ATR assessment, there was plenty of time to do so. She had after all been unhappy since August 2019. She didn't move to cash because the investment was losing value, therefore Greenfields is responsible for the losses.

- Despite her attempts to contact Greenfields, it didn't contact her once between September 2021 and September 2022.
- There are concerns regarding the Greenfields letter dated September 2023 that she wishes to raise:
    - It was Greenfields decision to put her funds into cash in March 2020.
    - In reference to this she wanted to reinvest to recoup some of her losses.
    - The risk factor change was in September 2021, which was 18 months later.
    - The author of the letter has confused 2020 with 2021.
    - Its advice to stay invested at all times contradicts its advice to sell which they confirmed was the correct thing to do.
    - It is untrue that her 'constant change of mind' impacted the value of her investments. She didn't have the knowledge or skill to go against Greenfields.
- She reiterated other inconsistencies. Such as being called a platinum client when she was gold. It's incorrect that the fees were waived as a gesture of goodwill, they were for missed growth.
- She's also highlighted concerns regarding Greenfields' response to the investigator's view which she finds confusing and inconsistent. She wasn't happy about things but was voicing her concerns throughout. The author of the response has also confused 2019 with 2021 and March 2020 with September 2021. It's also incorrect that her ATR was discussed at every meeting. As a pensioner she can't be treated in the same way as a CEO.
- Equity release was also something that came up numerous times, it wasn't something that she wanted or was even eligible to do. It wasn't something she wanted to fall back on.
- She's been with her IFA since 1 October 2022, who doesn't have her invested in a cocktail of funds. All her funds are within her ATR, they're rebalanced automatically every month, all authorised by the FCA and FSCS and doing well.
- Her issues with Greenfields aren't as a result of one issue but a 'cocktail of things' including very poor management. Her investments should've been safe, and they weren't.

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, notwithstanding the latest submissions from Mrs R and Greenfields, my decision to uphold this complaint remains the same, principally for the same reasons as set out in my provisional decision.

In other words, despite the responses to my provisional decision, I'm satisfied that no new material points have been made that persuade me I should change my decision.

In this instance, and on balance, I'm still satisfied that the key points remain the same, and have been considered by me, in my provisional decision, so I don't think I need to repeat myself.

On the face of the evidence, and on balance, despite what Mrs R and Greenfields says, I still think this complaint should be upheld and redress paid as suggested in my provisional decision. I do so for the reasons given in my provisional decision and for the following reasons:

- I'm familiar with Greenfields' position in relation to why it thinks Mrs R's investments suffered a loss. Its response isn't dissimilar to its response to the investigator's view. But aside from repeating its position, arguably it hasn't really addressed the basis of my provisional uphold and redress, which may suggest – subject to any additional data (which it can obtain in due course) – it isn't materially against my proposed course of action.
- Despite what Mrs R says, on balance, I'm still not persuaded that the advice to move to cash (at the time) was unreasonable.
- Without the benefit of hindsight, it would've been difficult to know or predict where or when the losses would end given the global situation. I'm mindful Mrs R was very concerned too and feared losing all her money. So, in the circumstances and on balance, I'm not persuaded that she would've been advised to do anything differently.
- Despite what Mrs R says, given her previous risk assessment and how pleased she generally was with a level six risk investment, I'm not persuaded that this was unsuitable for her.
- Put differently, I can't say that her risk rating was a level five or should've been (as it was in 2018) and that any redress should be based on that. I'm satisfied that she'd moved on from that point. I note she accepts that she was happy with her investments until she started to have concerns in August 2019.
- For the avoidance of doubt, I wasn't insinuating in my provisional decision that Mrs R was in fund five and was moved to fund six post June 2018, without a risk assessment being carried out.
- The above notwithstanding, when reinvesting from cash, I don't think a risk of seven was suitable despite what Greenfields says about her medium risk portfolio.
- I appreciate what Greenfields says about Mrs R not indicating her dissatisfaction during her time with it, but this isn't a bar to looking into this complaint and/or upholding it. Despite these comments, there's no issue regarding jurisdiction. Her not indicating dissatisfaction, more likely than not suggests that she was ok with a risk level six.
- Despite what Greenfields says about not reviewing her risk score, this doesn't justify it advising her to take a risk seven in the first place. As I explained in my provisional decision, I think she was persuaded to do so by Greenfields – which it seems to concede – albeit on the basis that Mrs R acquiesced to it.
- I still don't think advising her to re-invest with a higher risk rating in an effort to benefit from the 'upturn' was suitable – for the reasons set out in my provisional decision, I still think that this advice was unsuitable and too risky. It's arguable that the markets weren't sufficiently settled for this to be a viable option for Mrs R coming out of cash.
- In other words, I still think a reinvestment with a risk level seven was unsuitable for Mrs R, not only because she was reinvesting from cash, but also because that's not the level of risk she tended to take.
- Furthermore, given the volatility, and loss experienced by her, I still think any suggestion that Mrs R had a risk rating of seven, was inaccurate. Despite what Greenfields says, I've seen no persuasive evidence that she was prepared to take a greater risk than she had done previously, or that any advice to do so was suitable. So, I don't agree with Greenfields that Mrs R is responsible for any losses.
- Given the basis of my uphold and redress payment, I don't need to comment any further on Mrs R's concerns about being invested in unsuitable funds.
- I appreciate what Mrs R says about Greenfields not taking into account that she was retired or any of her circumstances, but I'm not persuaded that this was the case.
- I note that in or around May 2022, at Mrs R's request, her portfolio risk was reduced to a six, even though Greenfields previously stated that she had a risk rating of

seven. In my opinion this shows that she wasn't happy to take a higher risk and was more likely than not persuaded to do so by Greenfields.

- Based on what Mrs R says, I note she left Greenfields in August 2022 and was with her new IFA from October 2022. However, May 2022 should be the 'end' date used to calculate redress as this is when she moved back to a risk level six. If I've made an error, which I don't believe I have, this date should be supplemented by the correct date she moved back to that risk level.
- I still think that if the portfolio was out of the market, whether it be for 3 days or 19 days, it's likely that it would've lost out if the market improved. If this was the case, Greenfields should compensate Mrs R for any losses the portfolio suffered, I think it should do so in addition to its gesture of goodwill, on the basis of what she would've got had the investment remained invested.
- I appreciate what Mrs R says about her new IFA, be that as it may, this doesn't automatically mean that her investments with Greenfields from August 2019 were unsuitable. The circumstances in terms of the markets were very different, and without the benefit of hindsight it wouldn't be right to uphold this complaint in full on that basis.
- I'm aware Greenfields says that it needs additional information from the new business, and it needs Mrs R's authority to do this. It might assist matters if it liaises with Mrs R further in order to obtain this information so that it can perform the necessary calculations. Mrs R should assist with Greenfields calculating the redress if required and reasonable to do so.
- But the above doesn't prevent me from issuing my final decision about this complaint and how Greenfields should put things right.
- Despite what Greenfields says, it seems it needs the information to carry out the calculation rather than in relation to my substantive findings.

Putting things right

To put things right, I think Greenfields Financial Management Limited should do the following:

1. Refund any financial loss suffered by her portfolio, as result of it being out of the financial markets in or around September 2021, due to an error by Greenfields, in addition to the goodwill gesture already offered.
2. Compare the value of her investment – from when she started in 2021 to invest using a seven-risk rating, to when it ceased being invested at that risk level in May 2022 – with the FTSE UK Private Investors Income total return index (prior to 1 March 2017 the FTSE WMA Stock Market Income Total Return Index). If there's a difference and the actual value is less than the benchmark based value, pay Mrs. R the difference/loss, with 8% simple interest from the date of payment to the date of settlement.
3. Pay Mrs R £250 compensation for the distress and inconvenience caused.

My final decision

For the reasons set out above, and in my provisional decision, I uphold this complaint.

To put things right, Greenfields Financial Management Limited should pay redress as set out above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs R to accept or reject my decision before 29 July 2024.

Dara Islam
Ombudsman