DRN-3149371

## The complaint

Mr P has complained that he was given unsuitable advice by Barclays Bank UK PLC to invest in the Barclays Managed Growth fund.

## What happened

In March 1999, Mr P was advised to invest £6,000 in the Barclays Managed Growth fund within a Personal Equity Plan (PEP). He surrendered it in 2006 and received around £7,000 back. In 2020 he complained via a claims management company (CMC) that the investment had been mis-sold. The CMC said that as an inexperienced investor, he was advised to take too much risk and was advised to invest too much of his available money.

Barclays didn't uphold the complaint. At the meeting Mr P's partner was present, who I'll call Ms P. They said Mr and Ms P had sufficient disposable income and that Mr P was left with an adequate reserve fund. They said the fund matched Mr P's attitude to risk of medium, so the level of risk was suitable too. However, Barclays did pay Mr P £100 for delays in dealing with the complaint. The CMC, on behalf of Mr P, disagreed with the outcome of the suitability of the investment, and so brought the complaint to our service.

An investigator looked into the complaint and upheld it. She said that the risk definitions weren't clear, and as a first-time investor, Mr P wouldn't have fully understood the risk involved in the investment. She disagreed with the amount of disposable income that Barclays said he had, of £580, because that was based on Ms P's income as well as his, so he wouldn't have had full use of it.

Barclays didn't agree – they said the fund invested in blue chip companies, not speculative shares, and the government was promoting investments of this type. They felt Ms P's income should be taken into account, as they were both present at the meeting. They maintained that the investment was suitable, due to Mr P's age, investment horizon and the fact he was self-employed, which meant he would have been more familiar with making financial decisions. As the investigator wasn't persuaded to change her mind, the case has been passed to me for a decision.

## 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've reached the same conclusions as the investigator, for largely the same reasons.

At the time of the advice Mr P was 28 and had been working for ten years as a self-employed tradesman. At the meeting with the Barclays adviser, Mr P's aim was to talk about his savings. He had £10,000 in deposit accounts, hadn't previously invested and his monthly income was £1,380. The adviser didn't record a detailed breakdown of Mr and Ms P's expenditure, but they recorded that jointly, Mr and Ms P had £580 per month disposable income.

Mr P's attitude to risk was recorded as 'medium' but there's nothing in the suitability letter or fact find that details what was discussed around this. The only note appears in what I believe is a Barclays internal document, which says, under 'Additional Comments' that Mr P was "*Looking for growth. Unsure about risk*". It's possible that this statement can be interpreted in two ways – the first that he was wary of taking any risk, and the second that he was not sure how much risk he wanted to take. Having carefully considered which I think is more likely, I think it's the second interpretation and I'll explain why.

Barclays has said that the adviser would have explained the definitions of the four available risk levels – risk averse, low risk, medium risk and high risk. In my opinion the definition of 'risk averse' clearly states that it involves some guarantee and a wish to avoid any loss. As Mr P didn't pick that category, I think he was willing to take some amount of risk, which is why I think the second option is more likely the meaning of the above note in the internal document.

I've considered whether Mr P would have been able to make an informed decision about how much risk he wanted to take. The definitions of low and medium risk were:

*Low Risk – You are a reasonably cautious investor. You require a significant proportion of your savings to be in cash form. For the remainder of your investment, you are prepared to accept fluctuations in capital values to achieve your longer term investment objective.*

*Medium Risk – You are a more typical investor, requiring a proportion of your savings to be in cash form, but less than that of the low risk investor. Again, you are prepared for fluctuations in the value of the remainder of your investment, to obtain the prospect of higher long term returns to match your investment goals.*

In my opinion it would have been tricky for first-time investors to grasp the difference between those two risk levels – other than the amount of money the investor is willing to hold in cash. For instance, *'typical investors'* and '*significant'* are subjective terms and could easily sway a consumer to one risk level over the other, without really ensuring they understand what the different levels of risk entail. Because of this I think the risk levels are not very clear and would be quite subjective depending on the individual investor's understanding. There's also nothing that sets out the different assets that are likely to be involved in funds at the different risk levels – and the types of return and fluctuations that each asset type could involve. This is especially important here, given that Mr P was a first-time investor, so had no previous experience to inform his understanding.

Barclays has said the adviser would have taken Mr P through the product literature, which included risk warnings. The key features document I've been provided with is dated slightly later than Mr P invested and is from February 2000 and I believe this is the closest Barclays has, due to the passage of time. I think it's likely the key features will have been quite similar in 1999 despite the time difference, given that funds are designed as long-term investments and so the objectives of the fund are unlikely to have changed much at all in just a year. So, I think it's fair to rely on the documents I've seen, in order to make a finding in Mr P's case.

I've looked at the warnings in the key features brochures and can see they do include general warnings about how the value will be subject to fluctuations, both due to the prices changing and the currency risk attached to the overseas investments. However, they don't illustrate how drastic the fluctuations could be, nor do they further explain the different levels of risk. I've seen no evidence that the risk of equity investments, compared with the risks involved in other assets like fixed interest or property, were explained to Mr P.

Considering all of the above – that I've found the risk definitions weren't clear, that Mr P wasn't given any information about the different levels of risk of different asset classes – I don't think he was able to make a fully informed decision about the amount of risk he wanted to take. I've noted Barclay's comments that because he was self-employed, he would have been more used to making financial decisions. However, I've not seen anything to suggest he would have known any more than an average first-time investor, so I don't agree with Barclays on this point.

If he had been given clearer information, I think it's unlikely he'd have chosen to take the amount of risk that this fund presented. This is because he was investing 60% of his life savings, and having never invested before, I think it's unlikely he'd have been willing to place quite that much at the level of risk involved in this fund.

The Managed Growth fund is a fund that invests in other funds and in 2000, it consisted of 72.95% in UK funds, 26.69% in overseas funds, and 0.36% in cash/cash equivalents. There is evidence that some of the underlying funds involved fixed interest investments though Barclays has not provided any information about the underlying asset mix of the fund in 1999. However, they have previously told our service that the asset mix of the funds in 2001 meant that around 73% was invested in equities at that time.

Barclays have said that the fund invested in mostly 'blue chip' companies, not speculative shares. However, from the description of the investment strategy, and the titles of some of the underlying funds I don't agree that the fund only, or even predominantly, invested in blue chip companies. For instance, titles like the Smaller Companies Fund, and the b2 Market Track 350 Fund suggest investment in non-blue chip companies. There's no mention in the fund manager's strategy of blue chip specifically, or descriptions of similar, more traditionally stable, types of investment. There's also still significant risk of capital loss even with blue chip companies – they follow the market in times of wider market downturns.

Barclays has also said that investments of this type "*were backed as government initiatives to encourage equity ownership amongst the wider population".* This is largely irrelevant – simply because the government was encouraging people to invest, or providing tax incentives to encourage people, doesn't mean that investing in shares was suitable for everyone. So, I don't agree that the investment was as 'safe' as Barclays is making it out to be in their submissions to our service. It's a fund that appears to have invested in a range of investments which collectively had the potential to expose a large proportion of Mr P's money to a significant risk of loss.

I've also considered Mr P's capacity to take the risk involved here. I don't agree with Barclays that Mr P truly had £580 per month available as disposable income. This amount would not have been his alone to use toward making up any losses he experienced in this investment, as it was made up of Ms P's income too. Ms P, although present at the meeting, was not receiving advice about her savings and was there for a different matter. Though they were both present at the same meeting, they were receiving separate advice about their individual needs.

There was no detail recorded about how the figure of £580 was calculated, including whether that was simply their disposable income after essential spending, or if it included amounts for things like food and clothing. It's unclear whether they equally contributed to the household and how much each had left over at the end of each month. With all that in mind, I don't think it's fair to say the whole £580 would have been his to spend, or save, as he wanted.

Mr P was self-employed with no pension provision at all at the time of the sale. I appreciate that Mr P was in his late 20's and would have had a long period of time pre-retirement to save and make up for any losses. However, given the lack of pension provision, and the fact we don't know what his true disposable income was, I'm not convinced it was suitable to advise him to risk so much of his money.

Taking that alongside what I've said above about his attitude towards risk, I'm persuaded that Mr P was advised to take out an unsuitable investment and have set out below how Barclays should put this right.

Barclays has also offered £100 for delays in dealing with the complaint. This has already been paid and this issue has not been raised by Mr P with our service. So, I will not be making a finding on this element of the complaint, as it's not in dispute.

**Fair compensation**

In assessing what would be fair compensation, I consider that my aim should be to put Mr P as close to the position he would probably now be in if he had not been given unsuitable advice.

I take the view that Mr P would have invested differently. It is not possible to say *precisely* what he would have done differently. But I am satisfied that what I have set out below is fair and reasonable given Mr P's circumstances and objectives when he invested.

**What must Barclays do?**

To compensate Mr P fairly, Barclays must:

- Compare the performance of Mr P's investment with that of the benchmark shown below and pay the difference between the *fair value* and the *actual value* of the investments. If the *actual value* is greater than the *fair value*, no compensation is payable.
- Barclays should also pay interest as set out below.

Income tax may be payable on any interest awarded.

| Portfolio name | Status | Benchmark | From ("start date") | To ("end date") | Additional interest |
|---|---|---|---|---|---|
| Barclays Managed Growth fund | No longer in force | For half the investment: FTSE UK Private Investors Income Total Return Index; for the other half: average rate from fixed rate bonds | Date of investment | Date ceased to be held | 8% simple per year on any loss from the end date to the date of settlement |

***Actual value***

This means the actual amount paid from the investment at the end date.

***Fair value***

This is what the investment would have been worth at the end date had it produced a return using the benchmark.

To arrive at the *fair value* when using the fixed rate bonds as the benchmark, Barclays should use the monthly average rate for one-year fixed-rate bonds as published by the Bank of England. The rate for each month is that shown as at the end of the previous month. Those rates should be applied to the investment on an annually compounded basis.

Any withdrawal from the Barclays should be deducted from the fair value calculation at the point it was actually paid so it ceases to accrue any return in the calculation from that point on. If there is a large number of regular payments, to keep calculations simpler, I'll accept if Barclays totals all those payments and deducts that figure at the end to determine the fair value instead of deducting periodically.

**Why is this remedy suitable?**

I have decided on this method of compensation because:

- Mr P wanted Capital growth with a small risk to his capital.

- The average rate for the fixed rate bonds would be a fair measure for someone who wanted to achieve a reasonable return without risk to his capital.

- The FTSE UK Private Investors Income total return index (prior to 1 March 2017, the FTSE WMA Stock Market Income total return index) is a mix of diversified indices representing different asset classes, mainly UK equities and government bonds. It would be a fair measure for someone who was prepared to take some risk to get a higher return.

- I consider that Mr P's risk profile was in between, in the sense that he was prepared to take a small level of risk to attain his investment objectives. So, the 50/50 combination would reasonably put Mr P into that position. It does not mean that Mr P would have invested 50% of his money in a fixed rate bond and 50% in some kind of index tracker fund. Rather, I consider this a reasonable compromise that broadly reflects the sort of return Mr P could have obtained from investments suited to his objective and risk attitude.

**My final decision**

I uphold the complaint. My decision is that Barclays Bank UK PLC should pay the amount calculated as set out above.

Barclays Bank UK PLC should provide details of its calculation to Mr P in a clear, simple format.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 22 September 2022.

Katie Haywood
**Ombudsman**