

## The complaint

Mr and Mrs M complain that they received unsuitable investment advice from Fairstone Financial Management Limited.

## What happened

The details of this complaint are well known to both parties so I won't repeat them again here. In summary, our Investigator felt the advice was too risky for Mr and Mrs M so they upheld the complaint. Mr and Mrs M accepted our Investigator's view but Fairstone didn't.

To summarise, Fairstone said Mr and Mrs M were aware investments could go up or down and they wanted to invest in the long term and their risk rating and the fund they invested in were both suitable. Fairstone said the main issue is that Mr and Mrs M decided to withdraw from the fund too early when it was recommended to be held for at least five years. The events are not in dispute so I will focus on giving my reasons for this 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 agree with our Investigator. I'm upholding this complaint because I don't think the advice Fairstone gave Mr and Mrs M was suitable for them. I'll explain why.

### *Mr and Mrs M's attitude to risk*

During the fact finding process in 2016 Mr and Mrs M completed a risk profiling questionnaire which gave them an overall risk score. The scores available were on a scale of 1 to 10 with 1 being risk averse and 10 being the highest risk. The idea of the questionnaire is that it gives a representative overview of Mr and Mrs M's attitude to risk. Mrs M's answers produced just enough points to be at risk level 3. Mr M's answers showed he was at risk level 4. The fact find shows that the agreed risk level was 4. I've looked closely at the answers Mr and Mrs M gave to determine whether they did have an attitude to risk of "lowest medium" as Fairstone termed it.

Mrs M's answers do not show she was comfortable taking risk with her finances. The table below shows a snapshot of answers which I think demonstrates this:

Question	Mrs M's answer
<i>I would be willing to risk a percentage of my income/capital in order to get a good return on an investment</i>	<i>Strongly disagree</i>
<i>I would rather know that I was getting a guaranteed rate of return than be uncertain about my investments</i>	<i>Strongly agree</i>
<i>I would rather put my money in a bank account than invest in shares</i>	<i>Agree</i>
<i>I would feel comfortable investing in shares</i>	<i>Disagree</i>
<i>Overall how would you place yourself on the following scale?</i>	<i>Risk Averse</i>

The above answers show that Mrs M wasn't comfortable taking financial risk, and so I don't think it was suitable to suggest she had a risk rating of 4/10 "lowest medium".

I now turn to Mr M's answers which I think at times were contradictory but overall give the impression he also wasn't comfortable taking much financial risk.

Question	Mr M's answer
<i>I would be willing to risk a percentage of my income/capital in order to get a good return on an investment</i>	<i>Disagree</i>
<i>I would rather know that I was getting a guaranteed rate of return than be uncertain about my investments</i>	<i>Strongly agree</i>
<i>I would rather put my money in a bank account than invest in shares</i>	<i>Strongly Agree</i>
<i>I would feel comfortable investing in shares</i>	<i>Disagree</i>
<i>Overall how would you place yourself on the following scale?</i>	<i>Neither risk averse nor a risk taker</i>

I think that looking closely at the actual answers Mr and Mrs M provided, I don't think it was suitable for their agreed risk level to be 4/10. Overall, these are people that clearly weren't comfortable with taking much risk. I do acknowledge however that they were looking for a better return on their capital than they could get in their bank account, but classing them at a risk level of 4/10 appears to be unsuitable based on their answers.

#### *The advice*

Fairstone advised Mr and Mrs M to invest in a fund that had a risk rating of 4/7. That is something that I'd imagine is a medium risk investment. Fairstone hasn't been able to provide what assets the fund invested in but I think its reasonable to assume that a fund that rates itself as 4/7 is likely a medium risk investment – and so to recommend this to Mr and Mrs M, first time investors aside from having pensions, with the knowledge of their answers above is unsuitable.

Fairstone has said that it offered fund switches when Mr and Mrs M felt uneasy about the losses their investments made, but they later chose to close them. I think this likely supports the fact they weren't comfortable with losing money on their investments.

I do appreciate they were looking for more growth than they could get in their bank account, and I think that Mr and Mrs M were looking to take a small level of risk with some of their money. And I accept Mr and Mrs M had capacity for loss. But Fairstone's advice exposed Mr and Mrs M to more risk than they were willing to take, and I think that's clear from their answers to their risk profiling questionnaire. As such, the advice was unsuitable for them.

Before I move on to redress I have noted that it was important to Mr and Mrs M to have the same investments. So, whilst I think Mrs M was risk averse (and clearly said so) I do think it's likely they'd have made the decision to take a small amount of risk with their savings given Mr M was keen to get a better return than they could get in the bank. And I think, as they shared decisions over their finances, it's likely they'd have always ended up investing in identical ways to each other had suitable advice been given, rather than separately. So, in this case, I've assumed they'd have taken the same advice had it been suitable given what is recorded about them at the point of sale and throughout the complaint.

## Putting things right

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

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

## What must Fairstone do?

To compensate Mr and Mrs M fairly, Fairstone must:

- Compare the performance of Mr and Mrs M'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.
- Fairstone should also pay interest as set out below.
- Pay to Mr and Mrs M £300 for the distress caused to Mr and Mrs M at seeing the losses they didn't expect from the type of investment they wanted. They weren't comfortable taking the level of risk their money was exposed to so the losses would've caused them worry and upset.

Income tax may be payable on any interest awarded.

Portfolio name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
Aviva Investors Multi-Strategy Target Return 5 Acc 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, Fairstone 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.

### **Why is this remedy suitable?**

I have decided on this method of compensation because:

- Mr and Mrs M wanted Capital growth with a small risk to their 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 their 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 and Mrs M's risk profile was in between, in the sense that they were prepared to take a small level of risk to attain their investment objectives. So, the 50/50 combination would reasonably put Mr and Mrs M into that position. It does not mean that Mr and Mrs M would have invested 50% of their 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 and Mrs M could have obtained from investments suited to their objective and risk attitude.

### **My final decision**

I uphold the complaint. My decision is that Fairstone Financial Management Limited should pay the amount calculated as set out above.

Fairstone Financial Management Limited should provide details of its calculation to Mr and Mrs M in a clear, simple format.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M and Mrs M to accept or reject my decision before 12 October 2022.

Charlotte Wilson  
**Ombudsman**