DRN-3991349

The complaint

Ms P complains that Zurich Assurance Ltd (trading at the time as Allied Dunbar) gave her unsuitable investment advice.

This complaint is brought on behalf of Ms P by a claims management company but to keep things simple, I'll refer to Ms P as the complainant.

What happened

Ms P sought investment advice from a financial adviser on behalf of Zurich in 1998. The adviser conducted what they called 'a financial health check' and recorded down with Ms P different aspects of her financial circumstances.

Acting on the adviser's recommendation, Ms P agreed to invest £50 a month into a savings plan where the proceeds would be invested. This was called a *'Maximum Investment Plan (MIP)'*.

Ms P was looking to save as according to the adviser's fact find she wanted to increase her savings or create capital. The adviser noted that she wanted to do this to offset against future borrowings as and when required.

Ms P through her representative, says after being asked out of a scale of one to four, with four being the highest, what her attitude to risk was, she replied two. This, on Zurich's scale was on the cautious side of balanced. With Cautious being a rating of 1 and Speculative being 4. She said investing in a managed fund with 75% in equities is not a fair reflection of the attitude to risk she held at that time. She has asked how this is suitable as she had no investment experience at the time.

Ms P also complained that she was not looking for life cover and only was looking to save. She also mentioned the performance of the fund and that the life cover payment affected this performance.

Zurich replied to Ms P. It said it recommended the Maximum Investment Plan (MIP) and this started from 1 February 1998 at a monthly cost of £50. It said she maintained the monthly payments until maturity on 1 February 2008. This plan paid out at a value of around £7036 and she'd paid in £6000.

Zurich explained that life cover is automatically included in the plan, was only a very small part of Ms P's monthly contribution and Ms P was made aware. It said Ms P had a balanced approach to risk as discussed in the meeting and the MIP was suitable for someone with that attitude towards investment. It also said Ms P ought to have known about the life cover not being suitable and should have made her complaint by now. It didn't think this part of her complaint was within our service's jurisdiction to look at.

The investigator sent out three views. She first of all issued a view to say that our service could look into Ms P's complaint. Zurich then gave its consent for us to look at the merits of Ms P's complaint. Zurich also said it would offer to refund the cost of the life cover plus Bank of England base rate of interest + 1%. This was rejected by Ms P.

The investigator then issued a second view and upheld Ms P's complaint. She felt the savings plan was not suitable for Ms P as it didn't reflect her attitude to risk. She said the plan invested at least 75% in equities and this was not in line with the score she gave the adviser in the meeting that reflected her attitude to risk.

The Investigator recommended Zurich put Ms P back in a position she would have been in but for its unsuitable advice. This involved it working out the difference between a more cautious investment and what she had invested in. The investigator then issued a third view slightly altering this proposed compensation, after considering comments from both parties.

Zurich on receiving the third view, then made another offer to Ms P. This time it offered to work out compensation as if Ms P had invested in a more cautious fixed interest deposit fund. This offer was also rejected by Ms P.

Ms P's complaint has now come to me to review and decide on the merits whether she was given suitable advice or not.

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.

The crux of Ms P's complaint is that she was given advice that was unsuitable by Zurich. I have considered two key questions when I have thought about this. The first is whether Ms P had the financial capacity to take on the investment that was advised and the second is whether the investment was right for her circumstances at the time, including the amount of risk she was prepared to take.

At the time she took this advice, Ms P was in her early twenties and working. She was living at home with her parents and had no dependents. She had £8,500 worth of accumulated savings that she could rely on. She had no outstanding liabilities and sufficient spare cash each month to be able to afford the monthly investment amount that was being proposed. I find the balance of the evidence is that Ms P was in a strong enough financial situation to be able to invest.

It appears that Ms P wanted to earn a greater return than she could expect to receive if she just paid her monthly amount in deposit-based savings. She didn't require any income from the investment – she already had a monthly surplus, and I haven't been told about any unaddressed spending requirements. She was in a position to be able to invest for the medium term. I am supported in saying this by the fact that in the event she kept her investment for 10 years. I think on balance, Ms P had capacity at the time, to meet the monthly financial commitment of the MIP.

That said, just because I have concluded that Ms P had financial capacity to take on the monthly commitment doesn't automatically mean the MIP was suitable for her. It also needed to be matched with her attitude to risk and her objectives at the time. So, I have looked into this.

I have looked through the adviser's fact find form. There is a section with a question directly about risk attitude. It says: '*what is your attitude to investment?'* This suggests to me a conversation was had about Ms P's risk attitude. This led to Zurich identifying Ms P's investment approach as 'balanced' – but I can see this would be on the cautious side of balanced. I say this because the second of four options was ticked. The four categories on the fact find form were listed as cautious, then two for balanced followed by speculative. So, I think, by choosing the lower number for balanced from those listed,

Portfolio Name	Status	Benchmark	From	To	Additional Interest
Maximum	No longer	FTSE UK private	Date of	Date fund	8% simple per

Ms P was demonstrating a more cautious attitude, but that she was still willing to take some risk.

I've also thought carefully about what Ms P's investment objectives were in 1998. As I have already mentioned, the adviser ticked a box in the fact find that it was Ms P's priority to build her savings and that she was looking to accumulate tax free capital in ten years' time.

Given this objective, I think it probably was reasonable to recommend a risk-based investment to Ms P. This offered the possibility of earning a greater return than she might have expected to receive on funds kept in a deposit-based savings account.

But I'm not persuaded that I have seen enough to fairly say that the MIP reasonably reflected a level of risk that matched Ms P's attitude to risk. Zurich can't show me how it assessed Ms P's attitude to risk or explained risk to her. Bearing in mind the best available information I have about the likely make up of the fund recommended under the MIP, I think it would have exposed Ms P to more risk than she wanted to take.

There isn't sufficient evidence to show that Ms P understood the level of risk she would be exposing her savings to by investing in a fund that looks like it probably would have comprised 75% investment in equities, including overseas shares in its asset allocation. Although her recorded risk rating of 2 out of 4 – or the cautious side of balanced – suggests Ms P was willing to accept some degree of volatility, it's not clear to me that she was comfortable risking her money at the level that the investment composition of the managed fund did.

On balance, based on what I've seen and been told, I can't fairly make a finding that investing in the managed fund within the MIP was a risk that was suitable for Ms P, taking into account her financial circumstances and recorded attitude to risk. In terms of risk, taking into account her limited investment experience and the indications that she leant towards the more conservative/less speculative end of Zurich's risk scale, I think a more cautious investment strategy would've been suitable for Ms P. I also consider that the life cover offered by the policy did not meet an identified need that Ms P had. So, I am not satisfied that the recommendation was suitable for her. Zurich needs to take steps to put things right.

Putting things right

To compensate Ms P fairly, Zurich must:

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

Income tax may be payable on any interest awarded.

Investment Plan – Managed Fund	exists	investors income total return index	Investment	ceased to be held	year on any loss from 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. Any withdrawal from the Maximum Investment Plan 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.

Why is this remedy suitable?

I have chosen this method of compensation because:

- Ms P told Zurich she wanted a balanced approach to investing but chose the more cautious option within this approach. So, I think she wanted capital growth with some risk to her capital, but not the level of risk represented by the fund Zurich recommended to her.

- The FTSE UK private investors income total return index, I think achieves that aim.

- The redress I have proposed would reasonably put Ms P into a position she would have been in if the adviser had recommended to her a fund which was suitable for her. I consider this a reasonable compromise that broadly reflects the sort of return Ms P could have obtained from investments suited to her objective and risk attitude.

My final decision

I uphold Ms P's complaint about Zurich Assurance Ltd and it now needs to put things right as I have described above. Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 8 May 2023.

Mark Richardson
Ombudsman