DRN-3995454

The complaint

Mr and Mrs M have complained about the advice they were given to invest, by Ball MacLeod LLP in March 2021.

What happened

Mr and Mrs M say they met with Ball MacLeod in March 2021, to discuss how best to invest the proceeds of a house sale. Following the advice, the investments were made by July 2021.

Mr and Mrs M say they became concerned with the performance of their investment in late 2021 and early 2022. They say this was exacerbated by the market volatility following the Russia and Ukraine conflict. However, they say they had concerns regarding the advice they had been given and in particular their exposure to risk before then.

They complained to Ball MacLeod. They said they were obviously disappointed with the performance of the investment at the time, which they calculated to be a loss of approximately 22%. They said they were clear that they wanted to invest in the short term but that hadn't been followed. They were looking to invest to offset the remaining term of their mortgage and the investment hadn't been in line with their recorded attitude to risk. They also felt the investments made, exposed them too much to US tech funds.

Ball MacLeod responded. They said they didn't think it was clear that Mr and Mrs M only wanted to invest in the short-term. Whilst they acknowledged the initial need seemed to be short-term, they felt that they had moved away from this objective. They also disagreed the advice given wasn't inline with their attitude to risk. They felt the asset allocation was appropriate and they had sufficient capacity for loss.

Mr and Mrs M remained unhappy and brought their complaint to our service for an independent review. Our investigator looked into it. She said that the investment horizon was correctly set at two to three years. She felt the asset allocation was correct and correctly included premium bonds in the calculation. Whilst she understood the disappointment in the performance, she felt it was clear that capital growth was the objective over any property plans.

Mr and Mrs M didn't agree. They raised several points in response:

- They maintained the premium bonds hadn't been included in the overall portfolio.
- Their objectives were not considered, specifically the need for the money in the short term.
- They didn't need to invest and their inexperience and opposition to risk was clear.
- The high-risk nature of some of the investments wasn't made clear.
- They also pointed to other decisions this service had reached which they felt mirrored their case.

As no agreement was reached, 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.

Many points have been made in relation to this complaint – I haven't addressed each one individually. Instead, I've focused on what I consider to be the pertinent points. That isn't meant as a discourtesy, it simply reflects the informal nature of our Service. I've set out the key issues I think are important here. And I've answered them below in turn.

Firstly, I would like to say that I do empathise with the situation Mr and Mrs M have found themselves in. They have said they lost a considerable amount of money and I can see the worry and distress this caused. They have also been waiting a long time for an answer to their complaint.

I note that Mr and Mrs M have pointed to other decisions issued by this service which they say have similarities to their case. However, I would like to say that each case is reviewed on its own merits.

Fortunately, as the sale only occurred in 2021, we have been able to get a copy of both the fact find and suitability letter, completed with Mr and Mrs M at the time. They were recorded as looking to invest proceeds from the sale of a second home they owned. They owned their own home with a mortgage and had two financial dependents. The advisor explained what the investment would need to do to outperform the mortgage costs, and this appears to have been accepted by Mr and Mrs M. At the time of the advice, they were both working with a recorded joint net income of just under £100,000.

Mr and Mrs M held cash ISAs to a value of approximately £60,000 and had £100,000 in premium bonds. They were said to have £260,000 to invest and following the advice, invested £187,000 in a range of bonds and funds through a third-party platform. Their attitude to risk was recorded as *"cautious, balanced"* and 4, on a scale of 1 to 10. The description for this included, *"you are inclined to look for safer investments, although you may consider taking some risk in exchange for increased potential returns".*

The asset split of Mr and Mrs M's £187,000 investment was £129,000 into equities, £45,000 into fixed interest securities, £9,000 into property and £4,000 as cash. Considering their circumstances, objectives and attitude to risk at the time, I don't think this was unsuitable for them. They retained £100,000 in easy access and lower risk premium bonds and £60,000 in cash ISAs. Although unclear from the evidence provided, I believe they did also have some surplus left from the sale of the property as they initially had £260,000 available to invest.

Mr and Mrs M have said that the amount invested in premium bonds shouldn't have been used within their asset allocation, suggesting the consideration of it meant they were invested in riskier assets. However, I think it was fair for Ball MacLeod to consider all Mr and Mrs M's holdings when deciding on the appropriate investment strategy and portfolio split. Further, Mr and Mrs M were recorded as saying at the end of March 2021, *"With the premium bonds included within our overall savings/investments, we'd be comfortable exploring slightly riskier investments than those in the illustration".*

Mr and Mrs M have also complained that this investment advice wasn't suitable, because it was clear from the outset that this was only intended to be a short-term investment. However, I don't agree. Whilst Mr and Mrs M had said there might be a need for funds for a property move within 2-3 years of the investment, I don't think this was a clear timeframe.

Mr and Mrs M said, *"if there was a significant drop in the value of any investments which* *would put us at a disadvantage then we could simply not move”.* This suggests they didn’t make clear that had a maximum term of investment of 2-3 years. The documentation made clear the investments were longer term in nature and the risk profile report given to them gave a target term of 27 years. Mr and Mrs M’s answers to the risk questionnaire also didn’t suggest they saw this as a short-term investment. They were neutral as to whether they would accept large short-term falls for longer term returns. They also didn’t agree they would be worried if they lost money in the first few months. As well as this, the potential shorter term needs for funds was factored in when they were classified as *“cautious, balanced”* investors and the investment reflected this.

In summary, I am satisfied the investment advice was suitable. I think their circumstances meant they had sufficient capacity for loss, and they were still left with sizeable amounts as cash within ISAs and premium bonds. I believe the asset allocation of their total portfolio reflected their attitude to risk and it was right to include all their assets when considering this. I also don’t believe it was made clear they wanted a short-term investment but that their risk profile reflected that there might be a shorter-term need for funds.

My final decision

My final decision, for the reasons stated above, is that I don’t uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs M and Mr M to accept or reject my decision before 15 March 2024.

Yoni Smith
Ombudsman