DRN-4483279

The complaint

Mrs F complains that the portfolio she was advised to invest in by The Private Office Limited ("TPO") was unsuitable for her.

What happened

Mrs F met with an adviser for TPO in March 2019 having been referred to it by her solicitors. She was advised to invest £20,000 in a stocks and shares ISA, £962,000 in a General Investment Account (GIA) and a separate amount of £18,000 in a GIA, all through Novia – a web-based investment platform. The asset allocation of the portfolio recommended at the time of investment was 45% equity, 28% alternative investments and 27% fixed interest. Several months later TPO moved her portfolio from the Novia platform to the TPO invest service operated and administered by Hubwise.

Mrs F complained to TPO in August 2020 because she said she was a cautious investor and her investments didn't reflect this and she didn't understand why her portfolio had fallen so much in value. She also said she didn't know who Hubwise was and that she had wanted the opportunity of having her son at the meetings she had with the adviser.

TPO didn't uphold her complaint. In short it said that the recommendations made by the adviser were suitable based on Mrs F's identified objectives, circumstances, and requirements. It said the adviser identified that Mrs F required her investments to generate a source of income and that she believed that leaving her money in cash was wasteful and that it was agreed that she should be classified as a balanced investor for the purposes of the investment recommendation.

TPO also stated that the movement of investments from the Novia platform to the TPO invest service had been recommended in December 2019 and that Mrs F accepted the recommendation. It said there had been no change to the products or recommended investment portfolio as a result.

TPO also made clear that it had asked her on two occasions prior to making its recommendations whether she wanted a third party present but she declined this.

Mrs F referred her complaint to us and it was considered by one of our investigators who didn't think it should be upheld. In summary he made the following key points:

- TPO immediately identified that Mrs F was a vulnerable and went beyond what we would expect.
- The adviser offered to help her set up direct debits to pay her utilities as she hadn't previously had to do this.
- The recommendation made was suitable given Mrs F's objective of a monthly income and her personal and financial circumstances.
- He is satisfied that Mrs F was aware of the risks her investment could fall in value

following receipt of the suitability report and the subsequent discussion with the adviser.

- TPO made clear that if her investment was surrendered in the early years that the fund value may have decreased.

- Vulnerability doesn't automatically change a person's attitude to risk and TPO treated Mrs F in line with the FCA's guidance.

- Mrs F agreed to the transfer of her investments from one platform to another and didn't raise any queries that suggested she didn't understand what this meant.

Mrs F didn't agree with the investigator, her main reason being that she was a low risk investor. The matter has therefore been referred to me to review the complaint and make 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.

I am not going to set out in full the rules that TPO had to comply with when advising Mrs F. The main issue in this complaint is whether or not the recommended portfolio was suitable for Mrs F.

When considering suitability TPO had to obtain the necessary information regarding Mrs F's knowledge and experience in relation to the investment recommended, her financial situation, including her ability to bear losses, and her investment objectives – including her risk tolerance - so that it only recommended investments that were suitable for her.

It needed to obtain the information necessary to be satisfied that; its recommendation met Mrs F's objectives including her risk tolerance; she could bear the risks of the investments recommended; she had the necessary experience and knowledge to understand the risks.

I have considered the advice provided by TPO with the above in mind and having done so I am not satisfied that the advice provided to Mrs F was unsuitable for her, and I explain why below.

One of the points raised by Mrs F is that she was a vulnerable customer and there is a suggestion by her that this is something that wasn't taken into account by the adviser. Firms need to be able to identify vulnerable customers and ensure they are treated fairly but this doesn't mean there is a need to specifically refer to a customer as vulnerable.

From considering the documents that have been provided and what TPO has said in the course of this complaint the adviser did identify that Mrs F was a vulnerable customer. For example, in an internal email dated 8 March 2019 from the adviser to another TPO employee the adviser refers to Mrs F having very little in the way of schooling and that whilst she could read, she finds it hard work. The adviser identifies a need to summarise all advice at the front and then go through this in a meeting. She states:

"I will need an agenda with all key points on to make it easier for her and ensure that nothing important isn't fully explained."

In a further internal email dated 13 July 2019 the adviser states that she would class Mrs F as vulnerable. The email refers to intimidation from her ex-husband and pressure from one of her sons.

In the circumstances I am satisfied that the adviser did identify Mrs F as vulnerable in more than one way and did consider what might be done to address this. The suitability report that the adviser subsequently sent starts with an ‘executive summary’ which summarises her objective as being to invest some of the money received from her recent divorce settlement to maintain her current lifestyle and draw a regular income. It then sets out the investment recommendations to achieve that objective - namely, to invest £20,000 in a stocks and shares ISA and £962,000 in a GIA – both invested in accordance with an investment strategy identified as Asset Allocated Income 1 (“AA Income 1”) – with £18,000 to be held as a cash in a second GIA.

Mrs F had total assets of £2.1 million so the overall investment of £1 million left her with £1.1 million with £800,000 being for house purchase and £300,000 as a cash reserve – although subsequently the amount identified as needed for the house purchase was reduced.

The suitability report thereafter goes into much more detail but it is the risk of the recommended portfolio that is the main issue raised in the complaint and I have concentrated on this. The investment objective of the AA Income 1 portfolio is stated to be “*to generate a sustainable degree of income whilst delivering the potential for capital growth in excess of the income over the medium term and full economic cycle and that this is achieved by taking a moderate amount of investment risk”.*

The suitability report states the following about Mrs F’s attitude to risk:

“When it comes to investing for income your attitude to risk is Very Cautious *and you feel very anxious about risk but whilst you find risk very scary you feel a responsibility to look after your money. You believe that leaving the money in cash would be wasteful and feel anxious at the moment that you are losing out by not being invested – it’s not earning you anything and you need an income. For this reason we have classified you as a balanced investor, which can be described as follows:*

You are prepared to take a moderate amount of investment risk as preservation of capital is less important to you than the potential for increased growth or income. You are looking for the realistic potential for growth or income above inflation and you accept that your investments will rise and fall in value frequently in order to achieve this potential. These fluctuations may be significant and you accept that relatively larger losses may occur.

The report then goes on to state:

“We agreed this would be the most suitable strategy with the opportunity to beat inflation. This will be monitored as you become more experienced with the possibility of moving to a higher risk strategy should the circumstances dictate.”

There has, perhaps understandably, been some focus in the complaint on Mrs F being a vulnerable client and her ‘very cautious’ attitude to risk. In terms of her vulnerability, this isn’t determinative of risk. In terms of her attitude to risk, whilst this is important, making a recommendation based only on this doesn’t necessarily make it suitable.

Mrs F wouldn’t necessarily have understood what was meant by terms such as ‘moderate risk’ or ‘balanced investor’ without some further explanation but it seems to me the adviser was aware of this which is why she discussed the recommendations set out in the suitability report with Mrs F. I think it is more likely than not Mrs F will have had some understanding of what was meant by moderate risk following such discussion and that being identified as a balanced investor meant she would be invested in a portfolio that wasn’t low risk and through which her capital would be at risk.

The evidence makes clear that Mrs F needed an income and this was identified as her main objective. There is nothing to suggest she had some other means that would provide her with the sort of income she wanted outside of investing. As she would need her money to provide an income over her lifetime, it was also important that the return from such investment was enough to potentially avoid her capital being eroded over time.

The suitability report refers to a cash flow exercise having been completed showing that Mrs F was spending around £3,000 each month. The recommended portfolio had historically provided an annual return of 3.71% according to the information in the suitability report. That level of return was in line with the amount needed to cover her current spending without having to eat into her capital.

The recommended portfolio did fit with her income objective based on her spending and so in my view was on the face of it suitable based on that objective. I think it is very doubtful that she would have been able to achieve anywhere close to the level of income the cash flow exercise indicated she needed by investing in a product that accorded with her 'very cautious' attitude to risk.

I think Mrs F more likely than not would have understood this following her discussion with the adviser. In short, I think it is likely that she knew she had to take more risk than she was comfortable with to achieve her income objective and was willing to take that risk accordingly. The recommendation was also suitable in terms of her capacity to take risk as she was left with a cash amount of at least £300,000 based on the figures in the suitability report.

I am sure that the sudden drop in the value of her portfolio in early 2020 will have come as a great shock to her, as it did to many other investors, and is what caused her to complain. The extent of the drop is probably not something she will have contemplated regardless of her understanding that the portfolio could drop in value. However, just because the drop was larger than she might have anticipated doesn't make the portfolio unsuitable.

In summary I am not satisfied that the adviser was wrong to categorise Mrs F as a balanced investor in relation to investing to achieve her objective of providing an income that was sufficient to cover her spending. And I think the recommended portfolio was suitable for a balanced investor. I also think Mrs F, more likely than not, was aware that in investing in the portfolio she was taking more than a cautious risk with her capital and that her portfolio could fall in value and she could suffer a capital loss. I think she was willing to accept the risks to achieve her goal of providing a reasonable income that allowed her to maintain her spending.

Mrs F also raised an issue when she first complained, about not being given the opportunity to have her son attend the meetings with the adviser. However, she didn't indicate she disagreed with the investigator's finding that she had been given the opportunity to have someone else with her when she met with the adviser. I have in any event considered this and agree with the investigator that this was discussed and Mrs F chose not to have anyone else present.

Mrs F also complained she wasn't aware of who Hubwise was but I am satisfied she was informed of the proposed move from Novia and in any event there was no change to her investments as a result of this.

My final decision

I don’t uphold this complaint for the reasons I have set out above.

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

Philip Gibbons
Ombudsman