DRN-4839496

Financial Ombudsman Service

The complaint

Miss G complains that she was given unsuitable investment advice by an advisor from Perspective (South) Limited (Perspective). She says that the advice didn't match her attitude to risk or needs at the time, and that she suffered a significant loss because of this.

What happened

In April 2021, Miss G first discussed the possibility of investing the proceeds of her house sale through Perspective. Her plan was to move in with her partner and invest the available funds. She then spoke through this and met with the advisor on several occasions between April and July 2021.

In July 2021, following the advice she was given, Miss G invested approximately £20,000 into an individual savings account (ISA) and £705,000 into a general investment account (GIA).

Miss G says she first raised concerns about the performance of her investments in October 2021. Sufficiently worried about the loss in value, she transferred her investment out in January 2022. She complained to Perspective later that year. She said that the investment advice wasn't suitable as she had intended to use the funds for a property purchase. She also said the documentation from the sale included several inaccuracies and that she should have been advised to cash in the investments prior to when she did.

Perspective responded to Miss G in November 2022 but didn't uphold her complaint. They said they couldn't locate any calls when Miss G told them of information conflicting with the financial report. Such as she still wished to buy a home. They said they completed a risk questionnaire and Miss G signed to confirm receipt with the suitability report. They maintained the advice given was suitable.

Miss G remained unhappy and brought her complaint to our service for an independent review. Our investigator looked into it but didn't think it was a case that should be upheld. She said she thought the advice was suitable and that Miss G had signed to confirm she had received and read the necessary paperwork.

Miss G didn't agree. Amongst several points raised in response to the view, she said:

- She'd made clear she'd need the funds in the short term and was looking at buying a property.
- She didn't complete or answer any risk profiling, and questioned the date given on the questionnaire.
- She maintained the investment wasn't suitable and exposed her to more risk than she was willing or able to take.
- She said that Perspective hadn't followed the correct process and that she hadn't seen all the documents from the point of sale.

As no agreement was reached, the case was passed to me for a decision. I issued a provisional decision on the matter on 24 May 2024, an extract from which forms part of my decision below.

> My provisional decision
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> Having done so, I have reached a different conclusion to the investigator. Let me explain why. I have relied on the evidence provided from both parties. From the point of sale this includes two fact finds, a suitability report and a risk assessment.
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> Miss G's circumstances at the time of the sale were that she was retired and divorced, with no financial dependants. She was in the process of selling her home for approximately £785,000 and was going to move in with her partner. She was recorded as having approximately £20,000 in savings and no other investments or liabilities.
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> The fact finds record Miss G as looking to invest the proceeds from the house sale to achieve both income and growth. She was said to be looking for approximately £1,000 a month for living expenses. She was not recorded as having any other income.
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> Miss G has said that Perspective were aware that she still intended to purchase a property in the short term, after making this investment. She therefore complains that the investment was unsuitable for her as it was a longer-term product and she would need the funds sooner than that. However, I can't safely conclude from the evidence available to me that Perspective were aware of this. The notes don't suggest this was discussed and the fact find says that, "Further down the line you may want to buy a property yourself, but only in extreme conditions such as your relationship failing, or to rent out but this is on the back burner due to the high costs of buying, managing and selling property".
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> Miss G was advised to invest into an ISA and GIA. Within these she was invested almost 50/50 across two funds. One of which had an asset allocation of 60% equities and 40% bonds. The other invested between 40-60% in equities. She was left with approximately £80,000 in cash.
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> Having considered the steps Perspective took when advising Miss G, I don't believe they did enough to establish her income needs for necessary expenditure. Or her full attitude to risk. Miss G was retired but with no income streams. Her planned expenditure wasn't recorded in either fact find, with a note to say it would change as she was to move in with her partner.
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> I don't think Perspective did enough to find out Miss G's true financial needs. They relied on her saying £1,000 per month should be enough. I also don't think Perspective did enough to find out Miss G's true attitude to risk. The suitability report says that risk was discussed at length. However, there are no notes of this or what was said. It also says a risk profiling questionnaire wasn't filled in at the time of the advice. It sates, "You have not completed the Morningstar Risk profiling Questionnaire yet. The questionnaire has been designed to assess your knowledge, experience, attitudes towards the investment risk and capacity for loss. This will be completed when we finally meet face to face, and before any investments are made". Neither of the fact

finds discuss risk at length. Both seem to rely on Miss G classifying herself as having a moderate attitude to risk (the middle of six risk ratings).

Perspective have provided a completed risk questionnaire but it is dated 6 July 2021, the day before the documents were sent to Miss G and some weeks after the facts finds and suitability report were completed and dated. In essence, I believe the recommendation to Miss G was prior to any proper risk profiling. Further, Miss G has said that she did not go through any risk profile questionnaire with the advisor on 6 July 2021. She says she called them on that date to discuss the investment but has provided evidence of it being a ten- minute phone call and not sufficient for the full questionnaire to have been completed.

If Perspective had taken sufficient steps to establish Miss G's income needs and attitude to risk, I don't believe they would have given her the advice they did. Miss G was likely to have a need for at least £1,000 per month income, to meet her expenditure needs. The suitability report says that "income will be paid at a starting rate of £1,000 pm tax free and can be varied". However, from the evidence provided to me this was never done and so Miss G was left to live off the cash reserve she was left with, depleting this.

I also don't believe Miss G was in a position to take the level of risk brought by these investments. Exposing approximately 50% of her investment to high-risk equities. She had little capacity for loss and would not be able to recover any losses that this investment brought about. Miss G's future needs were also very uncertain and I don't believe she was in a position to invest for the longer term, when she could very easily have had a short term requirement for the funds. I am therefore not surprised to see that she raised concerns about losses two months after investing and transferred the investment out after less than six months. She wasn't willing or able to tolerate the losses this investment brought, and that should have been clear to see at the point of sale.

In summary, I don't believe the advice given to Miss G was suitable. I don't think Perspective did enough to establish her income needs and attitude to risk. I believe if they had, they wouldn't have recommended she invest approximately half of her funds into equities and all the invested amount into funds that should be seen as longer-term investments. This was likely to leave Miss G with insufficient income, meaning she would be depleting her cash reserve. Further decreasing her capacity for loss.

Perspective responded to say they accepted the findings set out in the provisional decision.

Miss G responded to say….

- She had relied on the advice she was given and was a novice investor.
- Perspective were aware it was always her intention to buy a home.
- She had no capacity for loss, with no other income and her savings had been overstated.
- She never received the income that was estimated.

- The investment was too large and lacked diversification.
- She should also be refunded the fees paid.

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.

Whilst I appreciate Miss G's comments in response to my provisional decision, my findings remain as I set out.

I acknowledge her comments and I am upholding her complaint that the advice wasn't suitable. I am satisfied with the level of redress I have proposed. I think Miss G could take some element of risk with the investment and so a 50/50 benchmark is fair in these circumstances.

Miss G has also asked for a return of fees paid for this investment. However, I don't agree that would be fair. Miss G seeked advice and it is my role to put her back in the position she would have been in had no error been made. In that case, she still would have paid for the advice given, albeit the advice would have been different to what she received. Because of these reasons, my outcome and redress are as set out in my provisional decision.

Putting things right

Fair compensation

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

I think Miss G would have invested differently. It is not possible to say precisely what she would have done, but I am satisfied that what I have set out below is fair and reasonable given Miss G's circumstances and objectives when she invested.

What should Perspective do?

To compensate Miss G fairly, Perspective must:

- Compare the performance of Miss G'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.

- Perspective should also add any interest set out below to the compensation payable.

Income tax may be payable on any interest awarded.

Portfolio name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
ISA and GIA	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, Perspective 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 ISA and GIA 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 Perspective 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 chosen this method of compensation because:

- Miss G wanted Income with some growth with a small risk to her 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 her 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 Miss G's risk profile was in between, in the sense that she was prepared to take a small level of risk to attain her investment objectives. So, the 50/50 combination would reasonably put Miss G into that position. It does not mean

that Miss G would have invested 50% of her 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 Miss G could have obtained from investments suited to her objective and risk attitude.

My final decision

My final decision is that I uphold the complaint against Perspective (South) Limited and they should pay the amount calculated as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 5 July 2024.

Yoni Smith
Ombudsman