DRN-4839991

The complaint

Mr W complains that Catterall Keating Financial Planning Limited's ('CKFP') advice to transfer his investment ISA to a new provider was unsuitable.

Mr W also doesn't think CKFP monitored his ISA properly after the transfer and would now like them to recompense him for his losses.

What happened

In October 2020, Mr W met with an adviser from CKFP to discuss his investment ISA that was valued at around £58,000 which he was also paying £500 a month into. After reviewing Mr W's circumstances and objectives, CKFP recommended he move his ISA that was invested under a discretionary fund management arrangement with a business that I shall call Firm N to a new ISA with Aegon. CKFP also recommended Mr W continue contributing the £500 a month but into the new plan.

In January 2023, CKFP met with Mr W to revisit his objectives and assess the ongoing suitability of the ISA recommendation. After revisiting the level of risk that Mr W was prepared to take with his investments, the adviser determined that his attitude towards investment risk had increased from a medium to a medium-high. As a result, CKFP altered the funds within Mr W's investment ISA to align with his new risk appetite.

Mr W decided to formally complain to CKFP in November 2023 after seeing the value of his ISA fall. In summary, he said that he'd not expected his investment to fall by more than 10% but after 34 months, it had fallen by 34% taking into account his regular monthly direct debit of £500.

After reviewing Mr W's complaint, CKFP concluded they were satisfied they'd done nothing wrong. They also said, in summary, that they had carefully considered Mr W's objectives and the level of risk he wanted to take in both 2020 and 2023 and they felt the recommendations that followed were suitable for his needs.

Mr W remained unhappy with CKFP's reply, so he wrote to them again explaining that he didn't feel that they'd done enough to mitigate the losses that he'd seen. In addition, Mr W also explained that he didn't believe either CKFP had done enough to review his investments with sufficient robustness to prevent his fund from dwindling away; he thought CKFP had led him to believe that this new investment with Aegon would outstrip inflation and outperform his previous provider.

CKFP responded to Mr W's further concerns by reiterating their position – that is to say, that they considered their original advice was suitable. But, CKFP also explained that as financial advisers, it's not their role to actively manage the investments within Mr W's plan, that role rests with the fund managers of the respective investments within which Mr W's monies sat. CKFP said that they don't make knee jerk reactions to short term fluctuations within the market and the recommendations that they'd made to Mr W were designed as medium to long term solutions.

Mr W was unhappy with CKFP's response, so he referred his complaint to this service. In summary, he reiterated the same points that he'd made to CKFP, and that was, he was unhappy his investment had lost so much money and that he didn't believe the recommendation they'd made was suitable for his circumstances and objectives as well as his investment risk tolerances. In addition, Mr W said that CKFP had received monthly fees to review his ISA but he was convinced that those reviews or monitoring never took place and that's the reason why he lost £20,000.

The complaint was then considered by one of our Investigators. He concluded that CKFP hadn't treated Mr W unfairly because from what he'd seen, Mr W was an experienced investor and had the capacity to take risks at the level that CKFP had recommended. Our Investigator didn't think the recommendation CKFP had arranged for Mr W was unsuitable.

Mr W, however, disagreed with our Investigator's findings. In summary, he said that he was promised by CKFP that the new investment would outperform his old existing portfolio with Firm N and that he could expect to see this in a short period of time. In addition, Mr W said that he was never informed by CKFP that they wouldn't be managing his investments on a discretionary basis, otherwise he wouldn't have transferred his funds. Mr W also said that he has a very limited amount of knowledge about the stock market and has tried to compile his own portfolio without success but, he says, that is his risk.

Our Investigator was not persuaded to change his view as he didn't believe Mr W had presented any new arguments he'd not already considered or responded to. Unhappy with that outcome, Mr W then asked the Investigator to pass the case to an Ombudsman 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.

I have summarised this complaint in less detail than Mr W has done and I've done so using my own words. The purpose of my decision isn't to address every single point raised by all of the parties involved. If there's something I've not mentioned, it isn't because I've ignored it - I haven't. I'm satisfied that I don't need to comment on every individual argument to be able to reach what I think is the right outcome. No discourtesy is intended by this; our rules allow me to do this and it simply reflects the informal nature of our service as a free alternative to the courts. Instead, I will focus on what I find to be the key issue here, which is whether the ISA transfer and subsequent advice that CKFP provided to Mr W was suitable.

My role is to consider the evidence presented by Mr W and CKFP in order to reach what I think is an independent, fair and reasonable decision based on the facts of the case. In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice. Where there's conflicting information about what happened and gaps in what we know, my role is to weigh up the evidence we do have, but it is for me to decide, based on the available information that I've been given, what's more likely than not to have happened. And, having done so, I'm not upholding Mr W's complaint - I'll explain why below.

It seems to me that the crux of Mr W's complaint is that he's unhappy his investment ISA has gone down in value by around £20,000 in three years. Mr W says that from the discussions he held with CKFP, he thought his monies wouldn't fall by any more than 10%. So, after not seeing any gains in his portfolio within the first three years of his investment, he raised his concerns with his adviser. Whilst I can consider complaints about investment performance, in most instances, I would need to see evidence that CKFP had done something wrong and can't just rely on actual or perceived poor performance. That's because even if Mr W's funds have underperformed compared to the rest of the market, we don't usually think this proves the funds were mismanaged. Many consumers saw the value of their investment funds fall over the same period as Mr W's ISA given the economic conditions not just across the UK, but wider financial markets too. So, to be clear, this isn't just a CKFP issue and it's something many other consumers had to go through at other businesses too over this time. Despite this, in light of the comments Mr W has made, I have gone on to consider whether the advice that CKFP provided to him was suitable.

1. <u>CKFP's advice in October 2020</u>

When CKFP met with Mr W, he was 60 years old, divorced, in good health, had two non-financially dependant children, worked full time earning a salary of c£35,300 per annum, disposable income of £850 per month and was mortgage free. In addition, he had bank and savings accounts of £25,000, a share portfolio of £22,000 and an existing investment ISA of c£58,000 that he was also saving £500 per month into. He also had a car loan of £133 per month that ended in 2025.

When Mr W met with CKFP, he explained that he was unhappy with the growth being achieved on his existing investment ISA since the plan had started in 2015 and he was also unhappy with the charges that he was paying. His ISA at that time was invested under a discretionary managed arrangement and held 21 funds and had charges of 0.32% for the wrapper, 0.35% for the discretionary fund manager, 0.49% ongoing advice fee and fund management charges of between 0.08% to 1.47% per annum for the underlying 21 investments. In total, Mr W was paying charges of 1.88%.

Mr W agreed that his objective was investment growth over the medium term. So, CKFP completed a questionnaire with Mr W to determine the level of risk that he was prepared to accept in order to achieve the potential of greater returns. The adviser concluded that Mr W was a 'medium' risk investor, or 5 out of 10 on their risk scale. Following this, CKFP recommended Mr W invest his monies under the following asset allocation: Fixed interest – 35%, property – 15%, UK equities – 15%, European equities – 9%, North American equities – 9%, far east excluding Japan – 7%, Japan equities – 4% and emerging markets – 6%. Within CKFP's suitability letter to Mr W, they set out ten different managed funds that they considered would meet his needs under the 'Cofunds Portfolio – Risk 5' umbrella.

Following the recommendation, the charges on the ISA were 0.29% per annum for the wrapper, ongoing charges of 0.29% to 1.85% per annum for the funds and an ongoing advice fee of 0.5% per annum which equated to around £320 per annum (which took account of the £500 per month contributions). CKFP also levied an initial advice fee of 3%, £1,742. However, CKFP didn't monetise the total charges into pounds and pence as they should have done, so a comparison of what Mr W was paying previously (1.88%) with what he would be paying under the new arrangement wasn't immediately obvious. That's also because CKFP didn't produce a blended, or average fund price figure for the new portfolio either, but it would seem that the new arrangement was cheaper because he'd no longer be paying the discretionary fund manager's fee.

CKFP did undertake a performance comparison of Mr W's existing ISA and compared it to the returns that he might have achieved had his monies been invested in the Cofunds

Portfolio that was recommended with themselves. The latter showed an improvement over the one, three and five year windows.

In the suitability letter that CKFP issued to Mr W of 13 November 2020, they warned that there was no guarantee the new recommendation would perform any better than his previous plan and that the value of his ISA could fall in value as well as rise.

2. <u>Was the advice that CKFP provided to Mr W in October 2020 suitable?</u>

I've given careful thought to Mr W's circumstances and objectives at the time of CKFP's original advice. Mr W states that he has a very limited amount of knowledge of the stock market. But, despite what he says, I don't think that's a fair assessment. I think it's clear from CKFP's early interactions with Mr W that he's an experienced investor - he's held stock market-based investments for a number of years (both through a discretionary managed arrangement and a personal share portfolio) and during that time, he's experienced seeing the value of his monies fall as well as rise. So, it's clear to me that Mr W understands the value of any stock market-based investment doesn't come without its risks – he's already conceded he knows as much because he says that he's tried to compile his own share portfolio, but without success.

In addition, Mr W's ISA monies had already been invested for around five years by the point that he met with CKFP and it would seem that the weight of his funds were in equity-based funds. So, I'm satisfied that Mr W wasn't a novice investor and he was going into any new investment with his eyes open.

I've looked closely at Mr W's answers to the questionnaire that he completed when CKFP were establishing the level of risk he was prepared to take with his money. It states that he was looking to invest for at least six years plus and he confirmed that *"I want to achieve higher medium-term returns than inflation. I understand there may be occasional extended periods where my investments might fall in value".*

When asked which investment Mr W would prefer out of four different possible portfolios and outcomes that had initially invested £100,000 at the outset, he selected: *"Portfolio B: It could be worth anywhere between £85,000 and £125,000".* And, when asked *"What level of fall in the value of this portfolio over a one-year period would concern you, bearing in mind that investment in shares requires a long-term view?"* – Mr W answered: "*More than 10%".* In addition, when asked to think about how he would feel in a scenario where he'd invested £100,000 a year ago and having checked today it was worth £87,000, Mr W responded "*Patient – I'd sit tight, expecting the portfolio to recover*". Finally, Mr W confirmed that he was "*Willing to take more risk with half of the money*". Based on the responses to Mr W's questionnaire, CKFP determined that he was a medium risk investor. Looking at Mr W's wider financial circumstances at the time, I don't think that's an unreasonable assessment because he did appear to have the capacity to take risks at that level.

I've looked closely at the portfolio that CKFP placed Mr W's monies into. The key consideration when looking at Mr W's portfolio is whether or not the assets that it held were consistent with what he was told the portfolio would be invested in, including the spread of assets, the individual split between funds and any other relevant information involving risk. It's clear to me that the portfolio was invested in line with what he was told at the outset. The ten managed funds that the portfolio held were aligned with the split that was described in the suitability letter and I'm satisfied each funds' objectives and holding were also consistent with the particular portfolio that Mr W had chosen.

There's no doubt that the returns of the portfolio weren't as either CKFP or Mr W had hoped, but the reality is that these are performance considerations that could apply to almost any collective investment predominantly invested in equities and fixed interest securities. I don't think it's fair or reasonable to hold CKFP responsible for the performance of individual funds that they had no involvement in managing.

So, when looking at investment losses arising from holdings in a portfolio, it isn't usually fair to focus on the holdings that suffered a loss, ignoring the remainder of the portfolio, like Mr W's, which contained ten different funds. And they themselves held a multitude of different assets within them. Instead, it's important that I take into account both the asset itself, as I've done above, and the extent to which his portfolio was invested in it. The same is true when looking at whether the description of a particular fund is fair, clear and not misleading, compared to what it actually invests in. Based on what I've seen, I think the portfolio that CKFP recommended to Mr W in October 2020 met his objectives and as such, the plan was suitable for his needs at that particular point.

In his complaint to this service, Mr W states that he was never informed by CKFP that they wouldn't be managing his investments on a discretionary basis otherwise he wouldn't have transferred his funds. However, from the evidence presented to me, Mr W never suggested that he wanted his monies managed on a bespoke basis. But in any event, his two priorities were improving performance and reducing costs so if he wanted to reduce the charges on his investment, staying in a discretionary arrangement wouldn't have met his needs.

3a. <u>What about the ongoing suitability of the ISA investment?</u>

Mr W states that he doesn't believe CKFP did enough to review his investments with sufficient robustness to prevent his fund from 'dwindling away'. When Mr W accepted wealth planning advice from CKFP, he signed up to their ongoing annual review service. That service was designed to ensure that any plans recommended remained suitable for Mr W's needs. And, CKFP levied a fee of 0.5% per annum of the total funds under management in Mr W's ISA for that service.

I think it's important to make a distinction about what CKFP's responsibilities were and what those of the fund managers were. It was CKFP's role to ensure that the ISA and the funds that Mr W was invested in remained appropriate and it's the fund managers' role to continue managing Mr W's monies according to the risk mandate of the fund throughout the period of time that those funds remain invested. That meant it wasn't CKFP's remit to decide which underlying instruments to purchase in the fund, that role was the fund managers.

CKFP provided the original investment advice in October 2020, and the ISA transfer to Cofunds was completed on 12 January 2021. That meant Mr W's first annual review was due around 12 months later. From what I've seen, CKFP emailed Mr W his valuation on 19 January 2022 and a telephone discussion took place the next day when Mr W called to discuss his statement. Given the impact of Covid at that time, CKFP weren't inviting customers into their office for face-to-face meetings, but that discussion determined that no alterations were necessary. Given the plan would've only been a year old at that point combined with the fact the plan's performance had shown a reasonable return at that stage, I don't think that was an unreasonable outcome.

3b. <u>Was the review advice that CKFP provided to Mr W in January 2023 suitable?</u>

When CKFP did meet with Mr W in January 2023, they decided that alterations to his ISA, which at that point had decreased in value to c£57,300, had become necessary. At that meeting, CKFP revisited Mr W's fact find document and updated it with his circumstances at that time. In the 27 or so months that had elapsed since the original meeting in October 2020, Mr W's financial situation had improved; his salary had increased to £37,600, he was in receipt of a pension and had deposits and National Savings of c£95,000. As well as capturing Mr W's financial position, CKFP also revisited the level of risk he was prepared to take with his savings. I've compared Mr W's responses to the 2023 questionnaire with his answers to the 2020 questionnaire.

When asked in 2023 what percentage of his total assets he was prepared to invest now, Mr W selected 25% to less than 50% (rather than the 50% to less than 75% he answered back in 2020). But, as Mr W's wealth had increased, the amount he was prepared to invest was not broadly dissimilar. When asked which investment Mr W would prefer that showed the possible outcomes of four different portfolios that had initially invested £100,000 at the outset, he selected: "*Portfolio C: It could be worth anywhere between £77,000 and £137,000*". Whereas in 2020, he was more cautious and selected "*Portfolio B: It could be worth anywhere between £85,000 and £125,000*". And, when asked "*What level of fall in the value of this portfolio over a one-year period would concern you, bearing in mind that investment in shares requires a long-term view*?" – Mr W answered: "*More than 20%*"; back in 2020, he selected "*More than 10%".*

As a consequence of answering the questions slightly differently in 2023, CKFP determined that Mr W's risk appetite had increased from '5 - Medium' to a '7 – Medium to High'. CKFP's review letter then set about explaining that because of this change, they were recommending he alter the underlying funds within the ISA. That meant, CKFP were halving the amount of fixed interest, reducing the amount of property and increasing the equity content of his ISA portfolio.

Whilst CKFP's letter doesn't state why the consumer was prepared to accept more risk than previously, I well suspect the desire to see an improved performance played a major part in the decision making process, but from what I've seen of Mr W's circumstances in 2023, I don't think CKFP's risk assessment conclusion was unreasonable. And, based on Mr W's improved financial circumstances (his increased income, final salary pension and large deposit balances), I'm satisfied that he also had the capacity to take risks at that level too and the regular premium into the plan remained affordable. I've looked closely at the funds that CKFP recommended following Mr W's change in risk appetite. Based on what I've seen, I think the portfolio that CKFP recommended to Mr W at that time was appropriately aligned to his risk profile. I'm satisfied that the plan continued to meet Mr W's objectives and as such, it remained suitable for his needs at that particular point.

I understand that Mr W transferred his investment away to another provider in late 2023 after becoming disappointed by the returns. Investing by its very nature isn't a short-term endeavour and there will on occasions be exceptional market conditions, such as what Mr W experienced in the window that he was with CKFP that impact the value of the underlying investments – these include the pandemic and the market shock following the Truss mini-budget and wider economic factors, all of which were outside of the control of CKFP and weren't just limited to Mr W but other customers too.

Note - whilst I don't believe the revised charges of the new portfolio were particularly well documented in CKFP's 2023 review letter, I'm satisfied that it's more likely than not that it wouldn't have made a difference to the outcome of the January 2023 meeting.

<u>Summary</u>

From the literature that I've seen, at no point did CKFP offer Mr W any warranties that his monies were invested risk-free. Both of the portfolios CKFP recommended had a mixture of equity funds and fixed interest funds, and some had an exposure to property. I've taken into account the various investments in those portfolios and I don't think they were unsuitable or not in line with Mr W's stated risk profile.

In terms of the broader advice which Mr W received, I'm satisfied it was fair and reasonable for CKFP to have concluded that its recommendations were suitable for him. As an experienced investor, Mr W knew of course that performance could not be guaranteed and that whilst CKFP was clearly aiming to recommend investments which would perform well, there was a risk that there might be volatility in the value of Mr W's holdings.

I've seen nothing to persuade me that the individual funds that made up the two different portfolios were not in line with what Mr W wanted, and crucially not aligned to his risk profile overall and I've seen nothing to persuade me that CKFP failed to adequately provide the service to Mr W that he was paying for. And, just because Mr W hasn't seen the returns he'd hoped for, it doesn't mean CKFP has done something wrong.

My final decision

I'm not upholding Mr W's complaint and as such, I won't be instructing Catterall Keating Financial Planning Limited to take any further action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 18 November 2024.

Simon Fox
Ombudsman