DRN-4973942

The complaint

Mr L complains that Direct IFA's Ltd ("DIFA") gave him unsuitable investment advice. He says the level of risk in the recommended investment wasn't appropriate for him.

The complaint has been brought on Mr L's behalf by a claims management company. To keep things simple, I'll refer to everything as if it's been said by Mr L.

What happened

Mr L says he sought advice from DIFA in 2009. He was advised to invest £7,000 in a "diversified" fund within an ISA. Later the same year, he was advised to invest around £9,000 in a "moderate" fund. He says the investments weren't suitable for him given his circumstances – in summary, he'd only ever held very low risk investments and didn't have any experience of equities; and he couldn't afford to take any financial risks because he was in a precarious financial position.

DIFA initially didn't agree to us investigating the complaint because, it said, it had been brought too late. It said Mr L should reasonably have known he had cause to complain when he encashed the investments in 2011.

The complaint was referred to one of our ombudsman who decided the complaint had been brought in time. They concluded Mr L wouldn't have had any reason to question the advice he was given until he spoke to a CMC; and he brought his complaint within three years of that.

An investigator considered the merits of the complaint. He didn't recommend that it should be upheld. He noted the lack of information available from both parties from the time of the sale and he didn't think there was evidence to show that the advice given by DIFA in 2009 was unsuitable for Mr L.

Mr L didn't agree. He accepted the paperwork was limited. But he said paperwork from 2004 showed his circumstances and attitude to risk and this hadn't changed significantly in 2009.

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 advice complained about was given several years ago and there are limited records from the time of the sale. Whilst Mr L has provided his recollection of his circumstances in 2009, I can't be sure exactly what was discussed. I therefore reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

The paperwork provided by Mr L relates to investment advice that he received in 2004/05. I can't rely on the evidence in that paperwork because it was completed around five years before the advice that is the subject of this complaint. But I have taken it into consideration in reaching my conclusion.

Having considered everything carefully, I find I have come to the same conclusion as the investigator for the following reasons:

- Mr L had been assessed as having a "cautious" attitude to risk in 2004. And in 2009 he remained an inexperienced investor having no, or very limited, equity investment. But it doesn't automatically follow that he would have remained a cautious investor in 2009. I think it's possible he wanted to take some risk with some of his money in the hope of receiving a better capital return.

- I can't say what discussions took place about risk or how Mr L's attitude to risk was assessed. But I think it's more likely than not that this would have been discussed in some detail and would have been set out in a suitability letter. So, on balance, I think Mr L would have understood the risks involved in the investments recommended in 2009. And, as he went ahead with those investments, I think it more likely than not that he was comfortable with the risks involved.

- The 2004 paperwork shows Mr L only received a moderate salary and had a small monthly disposable income. But he didn't have any liabilities or dependents and was living with his parents, so wouldn't appear to have had any major outgoings or financial responsibilities. He recalls his circumstances had not changed much in 2009. And he hasn't told us that he needed the investment for a specific purpose or for a specific future event. So I think he had the capacity to take an increased risk with a proportion of his investment in the hope of receiving a better return over the medium to longer term. I say this because I don't think any losses on his investment would have had an adverse impact on his lifestyle. And he would probably have been able to make up any losses on the investment over time, because he didn't need the investment for a specific purpose.

- I've not seen evidence to show that the investment was unaffordable for Mr L. It looks likely the money for the investment came from existing bonds; he didn't appear to have any immediate need for the money; and more likely than not he had enough in his account to meet any unforeseen emergencies.

Overall, and on balance, I'm not persuaded that the advice DIFA gave Mr L in 2009 was unsuitable for him.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 5 February 2025.

Elizabeth Dawes
Ombudsman