DRN-4975545

Financial Ombudsman Service

The complaint

Mr and Mrs O have complained about the suitability of the advice they were given by M&G Wealth Advice Limited (M&G) to invest in individual savings accounts (ISAs) and an open-ended investment company (OEIC).

What happened

Mr O contacted a subsidiary of M&G, who manage part of his pension. He made them aware he was retiring and stopping AVC contributions. They suggested he might want to speak to a financial advisor regarding pension planning and was put it touch with a M&G adviser.

The meeting went ahead in August 2021 and on the back of that Mr and Mr O were advised to invest and transfer into ISAs approximately £80,000. They also invested approximately £15,000 into a joint OEIC.

Over the next couple of years, Mr and Mrs O were concerned with the performance of the investments. They say they surrendered the investments in September 2023, making a loss of approximately £12,000.

They complained to M&G, who responded to say that the advice they had given was suitable for their needs at the time and that the investment was longer term. Mr and Mrs O remained unhappy, they brought their complaint to our service for an independent review.

Our investigator looked into it, she said that she didn't agree with the risk profile attributed to Mr and Mr O, of medium risk. She thought the complaint should be upheld as the investment posed more risk than the customers were willing or able to take.

Neither Mr and Mrs O, nor M&G agreed. The business replied in full and amongst their points they said that the recorded attitude to risk (ATR) was a fair one and the customers were still left with over £100,000 on deposit. They said whilst the performance had been disappointing during that period, it was short term fluctuations due to a volatile market. Mr and Mrs O replied to say that the adviser's initial fee should be refunded. They said that they wouldn't have invested had they not made this investment and so they shouldn't have to pay a fee.

As no agreement was reached, the case has been passed to me to decide.

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.

Having done so, I agree with the investigator that this advice wasn't suitable for Mr and Mrs O's circumstances at the time. I'll explain why. I have based my decision on the point-of-sale documentation amongst other things. This includes the joint fact-find and suitability report.

After speaking to the business regarding their AVC pension and stopping contributions, Mr and Mrs O were given full financial advice and invested approximately £100,000 into one fund. This was inside and outside of an ISA wrapper and some of the ISA investment came from transferring their cash ISAs from a previous provider. The fund they invested into was recorded as investing approximately 40-60% into equities and was recorded as medium risk.

Mr and Mrs O at the time of the advice were retired and both 61 years old. They had no financial dependants and owned their own home, with no recorded liabilities. After this advice they were to have £100,000 remaining in cash-based deposit savings. They were recorded as not having any prior investment experience. They had a joint disposable income of over £2,000 after receipt of pension payments and savings income. They were recorded in the suitability report as looking to invest this money in the medium to longer term with *"the aim of outstripping inflation".*

Having consider all of this, I don't think the advice was suitable. The total investment (approximately £100,000) went into a fund of funds, which invested at least 70% of assets into other funds and is said to average about 40-60% equity exposure at any time. It was marked as 4 out 7 on a risk profile (7 being the highest risk) and was said to aim to limit volatility to 12% over a rolling five-year period (but with no guarantee). Considering Mr and Mrs O were retired and had little capacity to recover losses as well as their lack of investment experience and their goal was only to outstrip inflation, I think this investment carried too much risk. I am not surprised to see Mr and Mrs O were alarmed when the performance of the investment fell and that they cashed it in after two years.

I think Mr and Mrs O's answers during their risk profiling should have made the adviser aware of this. They agree they wanted their money to be safe and would prefer small certain gains, than larger uncertain ones even if it meant lower returns. I think these answers, as well as their circumstances at the time, show they weren't willing or able to take the risk with their investment that this fund of funds posed.

Mr and Mrs O have said the initial fee should be refunded. However, I don't agree. When we feel an investment has been mis-sold (as I do here), our aim is to put the customer as close to back into the position they would have been in, had no error occurred. Here, I am satisfied that Mr and Mrs O were looking to invest some of their savings, in the hope of achieving a better return than inflation. A goal they signed to confirm they agreed with at the sale. Although I appreciate the business instigated the meeting, Mr and Mrs O agreed to it and I am satisfied they were happy to invest. The redress I propose puts them back in the position of making a less risky investment, more suited to their circumstances at the time. They would have paid an initial fee to do this. So, I don't agree it would be fair to refund this.

In summary, I think the investment carried too much risk and more than Mr and Mrs O were willing or able to take. M&G should put things right as was recommended by the Investigator and set out below.

Putting things right

Fair compensation

In assessing what would be fair compensation, I consider that my aim should be to put Mr and Mrs O as close to the position they would probably now be in if they had not been given unsuitable advice.

I take the view that Mr and Mrs O would have invested differently. It is not possible to say precisely what they would have done differently. But I am satisfied that what I have set out below is fair and reasonable given Mr and Mrs O's circumstances and objectives when they invested.

What should you do?

To compensate Mr and Mrs O fairly you should:

- Compare the performance of Mr and Mrs O'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.

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

- Provide the details of the calculation to Mr and Mrs O in a clear, simple format.

Income tax may be payable on any interest awarded.

Portfolio name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
Prudential Risk Managed Active 3 Class R Acc	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, you 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. Apply those rates to the investment on an annually compounded basis.

Why is this remedy suitable?

I have chosen this method of compensation because:

- Mr and Mrs O wanted Capital growth with a small risk to their 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 their 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 Mr and Mrs O risk profile was in between, in the sense that they were prepared to take a small level of risk to attain their investment objectives. So, the 50/50 combination would reasonably put Mr and Mrs O into that position. It does not mean that Mr and Mrs O would have invested 50% of their 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 Mr and Mrs O could have obtained from investments suited to their objective and risk attitude.

The information about the average rate can be found on the Bank of England's website by searching for 'quoted household interest rates' and then clicking on the related link to their database, or by entering this address www.bankofengland.co.uk/boeapps/database, clicking on: Interest & exchange rates data / Quoted household interest rates / Deposit rates - Fixed rate bonds / 1 year (IUMWTFA) and then exporting the source data.

There is guidance on how to carry out calculations available on our website, which can be found by following this link: https://www.financial-ombudsman.org.uk/businesses/resolving-complaint/understanding-compensation/compensation-investment-complaints. Alternatively, just type 'compensation for investment complaints' into the search bar on our website: www.financial-ombudsman.org.uk.

My final decision

My final decision for the reasons stated above, is that I uphold this complaint against M&G Wealth Advice Limited. They should put things right as I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O and Mrs O to accept or reject my decision before 23 December 2024.

Yoni Smith
Ombudsman