DRN-5070451

The complaint

Mr and Mrs B complain that compensation offered to them by Fairstone Financial Management Limited in respect of the provision of unsuitable investment advice fails to put them back in the position they'd have been in if they'd been suitably advised.

What happened

Mr and Mrs B received the advice in question from Firestone in 2021. They had a sum of £340,000 available but a large proportion of this, just over £290,000, they wanted to be ringfenced to pay for their children's education over the next seven years. Despite this clear objective, the adviser recommended the entire amount be invested in a general investment account feeding two ISAs.

By 2023 Mr and Mrs B had become concerned with the advice due to the fall in value of the investment. They complained to Fairstone, which accepted the advice had been unsuitable as it wasn't appropriate to commit the ringfenced money, given that the intended use would require it to be drawn upon almost immediately and then frequently at regular intervals.

Fairstone proposed a form of redress that compared the investment performance of the ringfenced school fees money with a return based on a deposit account that followed the Bank of England base rate from when the money was invested in June 2021 to present. It determined a figure for redress that took into account the withdrawals taken during that time for school fees. However, it shortly after revised the figure downwards to take account of income tax it felt Mr and Mrs B would've paid.

Unhappy with this and the apparent discrepancy between what Fairstone was offering and what they felt they should be receiving, the complaint was referred to this service.

Our investigator noted that there was no dispute regarding whether the complaint should be upheld, so she looked solely at the compensation issue. She concluded that what Fairstone had proposed wasn't in line with this service's usual approach to this type of issue. So, she recommended an alternative form of redress based on the benchmark this service would normally use when it was determined that the complainant hadn't wanted to take any risk with their money - the monthly average rate for one-year fixed-rate bonds as published by the Bank of England. The investigator also proposed that Fairstone pay Mr and Mrs B £150 for the distress and inconvenience caused by the matter.

Mr and Mrs B accepted this, but Fairstone questioned the use of the fixed-rate bond benchmark as it felt that type of bond wouldn't have been fit for purpose because it would've have tied up the money when regular access was clearly required.

The investigator explained that the use of the benchmark was intended only to broadly represent the type of return that might be achieved in a no-risk environment. Its use wasn't intended to imply that Mr and Mrs B would have only used fixed-rate bonds.

As the matter remained unresolved, it was referred 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 find myself in agreement with the approach taken by the investigator regarding an appropriate means by which Mr and Mrs B should be compensated. There's little I really need to add.

As noted, the fixed-rate benchmark is simply used as a proxy to represent the kind of return that might be achieved where no-risk, or maybe very limited risk was required. As Fairstone accepted, investing the school fees money when immediate and regular access was required wasn't suitable. If Mr and Mrs B hadn't been incorrectly advised, they would've done something else with the money.

But I can't definitively say what that would've been – they may, for instance, have held some on deposit and put some in varying term fixed-rate bonds. But what is definite is that they shouldn't have ended up with the money subject to any kind of market volatility. In all the circumstances, I'm satisfied the investigator's proposed redress (including the £150 to acknowledge the distress and inconvenience created by the unsuitable advice and its consequences) represents a fair and reasonable way by which to compensate Mr and Mrs B.

Putting things right

Fair compensation

In assessing what would be fair compensation, I consider my aim should be to put Mr and Mrs B 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 B 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 B's circumstances and objectives when they invested.

What must Fairstone do?

To compensate Mr and Mrs B fairly, Fairstone must:

- Compare the performance of Mr and Mrs B's investment with that of the benchmark shown below and pay the difference between the *fair value* and the *actual value* of the investments. If the *actual value* is greater than the *fair value*, no compensation is payable.

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

- Pay to Mr and Mrs B £150 for the distress and convenience created by the unsuitable advice.

Income tax may be payable on any interest awarded.

Portfolio name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest

School Fees (£291,824)	Still exists and liquid	Average rate from fixed rate bonds	Date of investment	Date of settlement	Not applicable

Actual value

This means the actual amount payable 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, Fairstone 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 Fairstone 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 Fairstone 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 decided on this method of compensation because:

- Mr and Mrs B wanted to achieve a reasonable return without risking any of their capital.

- The average rate for the fixed rate bonds would be a fair measure given Mr and Mrs B's circumstances and objectives. It does not mean that Mr and Mrs B would have invested only in a fixed rate bond. It is the sort of investment return a consumer could have obtained with little risk to their capital.

My final decision

For the reasons given, my final decision is that I uphold the complaint and direct Fairstone Financial Management Limited to compensate Mr and Mrs B as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B and Mrs B to accept or reject my decision before 21 April 2025.

James Harris
Ombudsman