DRN-5360286

The complaint

Ms H and Mr S complain that they were given unsuitable investment advice by Wealth At Work Limited ("WaW") in 2018.

In summary, they say:

- They were mis-sold investments as low risk (cautious) investments.
- They were advised that the investments were the only options (for them) given their aims and objectives.
- They were given the impression that the investments would maintain their value whilst providing an income, but this was incorrect.
- They weren't sufficiently warned about the risk involved, and the investments suffered a 21% loss.
- The investments were mismanaged.
- Since 2020, there's been a lack of service and proactive management of their investments despite them paying annual management fees.

To put things right, they'd like assistance with their portfolio restructuring and compensation for losses claimed (namely loss in investment value) by reducing their management fees for the period of substandard service or both.

What happened

In 2017, Ms H inherited some money from her deceased mother and was looking at investing it, whilst being able to withdraw an income if required to supplement other incomes. In due course, both she and Mr S sought advice that enabled them to do this.

They say they were advised that the Bond ISA portfolio was their only option, and they were under the impression that the bonds would maintain their value, whilst paying out interest that could be used as income. They say they stressed their objective for growth.

Since 2020, they experienced a reduced standard of service from WaW where previously it has been good. In particular, income payments stopped without warning in November 2020 and their long-term adviser was moved to another role.

When the bond markets weren't performing, they should've been contacted proactively. As of September 2023, they lost 21% of their investments, which is more than the income they received. Overall, they don't believe that they've received value for money.

WaW partially upheld the complaint. In summary, it said that it accepts that it didn't contact Ms H and Mr S when it should've regarding the insufficient funds to pay an income and or fees and charges. That aside, it doesn't accept that the overall recommendation was unsuitable or that it wasn't in line with Ms H's and Mr S's ATR, aims and objectives.

It also made the following key points.

- "Fixed-income investors should be prepared to hold their positions until the bonds

reach maturity, as selling a bond before maturity could result in a loss if interest rates have moved unfavorably".
- "Investing should be considered over the medium to long term. If a client's objective remains, difficult market conditions wouldn't mean that a certain strategy should be abandoned".

Unhappy with WaW's response, Ms H and Mr S referred the complaint to our service.

One of our investigators considered the complaint and thought it should be (partially) upheld. In summary, she said:

- WaW behaved unreasonably by the following: failing to conduct a review in 2022 (despite being paid for it), conducting an unsmooth handover and failing to notify Ms H and Mr S regarding stoppage in income payments.
- To put things right, it should do the following:
    - Refund the advisory fees taken for 2022.
    - Pay £175 compensation for the distress and inconvenience caused.
- The above notwithstanding, she's unable to say that the advice, notwithstanding a 21% loss, was unsuitable given Ms H's and Mr S's aims and objectives (which remained unchanged).
- These types of investments carry an inherent risk, but in this case it wasn't unsuitable.
- Just because the investment suffered a loss doesn't mean that the recommendation was unsuitable. The loss in value was down to a number of external factors unconnected to the business.
- The advice given was in line a cautious ATR and need to generate an income. It also complied with COBS 9.2.1.
- WaW used fixed term bonds (issued by companies and governments) to fulfill an income objective which isn't unsuitable.
- The bond portfolio contained a collection of bonds, used to pay a fixed income, and run for a fixed term. On maturity the 'face value' of the bond would be returned. This doesn't mean capital invested.
- The portfolios were managed on a discretionary basis, and although the values have fallen, they've also generated an income of £24,908 (at the time). But the loss isn't attributable to WaW, but several external factors.
- The investigator doesn't agree that Ms H and Mr S weren't made aware of the risks involved or that they weren't willing to take a risk to achieve their objectives.
- In other words, she satisfied that they were adequately informed about the risks associated with the investment and they were prepared to take a risk.
- In 2018, Ms H and Mr S ticked 'Yes' to the following questions:
    - "*Are you willing to put your capital at risk to produce a level of income*"?
    - "*I am prepared to accept more risk that bonds may default in order to generate more income*".
- The recommendation letter also made explicitly clear the following risk:
- "*As mentioned earlier, bond prices go up and down due to demand. Generally, bond prices move if interest rates change (or appear to be about to change) or if the financial health of the borrower improves or gets worse. Consequently, depending upon the timing of a bond purchase and subsequent changes in the economic climate, it is possible to make either a capital gain or capital loss on maturity. Additionally, although the income element offers a high level of security, you should also not underestimate the eroding effects of inflation. Inflation can have a serious effect on the value of your money, even over relatively short periods*."
- So WaW made clear that if the rate of inflation exceeds the bond's interest rate, the bonds purchasing power and principal payments may decrease over time.

- Bond are generally considered less risky than investment in stocks. They also offer potential for a steady income and diversification within an investment portfolio. Therefore, she's satisfied that this still falls within their cautious ATR and aim of generating an income.
- In terms of income payments, it's right that income payments were stopped in November 2020 without notifying Ms H and Mr S.
- The bond coupon payments are paid into the cash element of the portfolio, which are used to make the income payments as well as management fees. But in this instance, there wasn't enough cash to make these payments.
- Although WaW says it has systems in place to prevent the cash element from falling below the required threshold to fulfil its (above) purpose – in this case it failed.
- A report was produced (and distributed to regional managers on 23 October 2020) which identified that the account had a low cash balance, but this information wasn't passed on to Ms H and Mr S resulting in three missed payments in November 2020, December 2020, and January 2021.
- In due course, the 2021 review letter noted that there wasn't a need for income (for a short period). The review stated:
- "*Although there is no immediate change of objectives to your investment objectives we have agreed to put your regular £500 per month income withdrawals on hold until July. As Mr S's income increased upon receipt of his additional (company name anonymised) pension scheme (£4,000 approximately) you feel there may not be an income requirement to maintain your lifestyle. Although you find the regular income desirable you are aware you have sufficient cash reserves to supplement your month to month income requirements. Therefore, you wish to run your lifestyles without the additional £500 per month for the next six months and will make a decision at this point*."
- Following a review in August 2021, the income was recommenced. Nevertheless, the WaW accepts fault.
- In terms of review, there was decline in service in 2022 with a change in adviser and meetings being rescheduled.
- It's unclear whether or not an hour-long meeting in July 2022 constituted a review or was for withdrawal instructions. WaW has been unable to clarify the position, which would suggest a review didn't take place. In the circumstances it should pay compensation as suggested above.

Ms H and Mr S disagreed with the investigator's view and asked for an ombudsman's decision. In summary, they said:

- They don't agree that the recommendation complied with COBS 9.2.1.
- With reference to COBS 9.2.1 (2) (a) – they're not experienced investors and due to conflicting information from WaW – whether they bought at nominal value or not – they're confused as to their best course of action.
- With reference to COBS 9.2.1 (2) (c) their objective has always been preservation of capital and keeping pace with inflation. The letter dated 30 July 2018 noted the "The aim of the investments is to provide the income, to increase the yield over and above cash deposits, and also provide an element of long-term capital security." But they still don't believe that they were sufficiently informed of the risks involved with the Bond ISA.
- They were never told when the bonds would reach maturity. They understand the impact of inflation, but don't they don't seem to have any guarantee that the nominal value would be returned.
- The Income Element Questionnaire (IEQ) they signed on 1 August 2018 – it was posted to them after the 30 July 2018 meeting, and came ticked.
- Last year they were told that all of their money (in bond ISAs) was transferred into a

Growth ISA – they weren't advised to keep the money in the income fund. In a letter dated 7 August 2023, the adviser said:

- "*I recommend that following the £13,000 ad hoc withdrawal from Mr S's ISA, that you sell your existing bonds held within the Income Element of your portfolios and reinvest the proceeds into a Balanced Growth Portfolio in your respective names*".
- In 2022, they didn't receive a full financial review. They appreciate the refund plus the £175 for the distress and inconvenience caused. However, they don't accept that this "*puts things right*".

WaW provided the following response:

- Despite what Ms H and Mr S say about COBS 9.2.1, page 25 of the IPS dated 25 January 2018 provided an overview of the bond portfolio, which states:
    - The bonds we use pay a fixed income (the coupon) each year.
    - They run for a fixed term, with pre-set maturity date.
    - On maturity, the face value ('the nominal') of the bond is returned.
- Page 26 states: "*I should point out that the illustrative bond portfolio set out above, if purchased today would result in a capital loss of approximately 23.19% over the average weighted term of the portfolio and in order to replace that loss, it is vitally important that your investment strategy has growth potential*".
- Rather than implying the bonds were purchased at nominal value, it states that they would be purchased at a loss, implying that some bonds would be purchased below the nominal value.
- The review letter dated 30 July 2018 stated: "*I should point out that the illustrative bond portfolio set out above, if purchased today would result in a capital loss of approximately 18.41% over the average weighted term of the portfolio and in order to replace that loss, it is vitally important that your investment strategy has growth potential*".
- Despite what Ms H and Mr S say about COBS 9.2.1 (2) (a), conflicting information wasn't provided.
- Despite what they say about COBS 9.2.1 (2) (c) and their objective being preservation of capital and keeping up with inflation, page 1 of the review letter dated 30 July 2018 makes clear that they had two main objectives:
    - An income objective, "*to provide £500 a month to supplement their income and provide additional surplus income for acceptable standard of living*".
    - A growth objective which was "*the preservation of capital over the longer term… a strategy that can also deliver sufficient capital growth to allow the 'real' value of your investment to keep pace with inflation*."
- The letter makes clear their objectives and recommendations (to meet those objectives) isn't mutually exclusive. Page 3 highlights the potential capital loss of purchasing the bonds, and the need to have growth "*To replace that loss, it is vitally important that your investment has a growth element*".
- On page 4, the importance of having a growth element was reinforced when discussing the impact of inflation on the bond portfolio – a graph was included that showed "*Purchasing power of £100 since 1993*").
- A recommendation was provided to meet both income and growth. The following portfolio summary was recommended with a total of £252,480.73:
    - Income element:
        - Ms H
            - £104,045 invested in the Bond Portfolio 2 ISA (via internal transfer)
            - £20,000 invested Bond Portfolio 2 ISA (new subscription 2017/2018)
        - Mr S

        - £20,000 invested in the Bond Portfolio 2 ISA (new subscription).
            - Total: £144,045.36 – average current yield at 4.33%
  - Growth element:
    - M H and Mr S
      - £20,000 invested in the Cautious Portfolio (new monies)
    - Mr S
      - £80,435.37 invested the ISA portfolio (existing)

        Total: £100,435.37
  - Cash element:
    - Ms H and Mr S
    - £10,000 liquidity fund (new monies)
      - Total: £10,000 current yield 0.548%
- Despite what Ms H and Mr S say about inflation and warning them (because their objective for growth wasn't being met) WaW maintains its advice is long term to meet specific needs. It wouldn't look to make a change to that just to meet short term volatility.
- The review letter dated 3 February 2021 confirms that it was agreed to stop the income payments until July 2021 as Mr S has started to draw an additional pension. It was a temporary measure.
- Following the August 2021 review – when it was confirmed that Ms H and Mr S wished to recommence their £500 income – the strategy for income and growth was recommenced.
- Despite what Ms H and Mr S say about the IEQ, the original form wasn't signed as the recommendation wasn't proceeded with. In any case another review took place on July 2018, whilst IEQ answers were revisited they hadn't changed which is why they were sent (pre-filled) for signing.
- Despite what Ms H and Mr S say about the 28 June 2023 meeting and conflicting advice this isn't correct.
- The letter refers to the £500 a month withdrawal from "*My Wealth ISA*", in circumstances where Ms H and Mr S have confirmed that their pension income covered their expenditure, and the regular withdrawal was for ad hoc expenses which will be replaced by Ms H's state pension in March 2024 – amounting £10,088 gross a year.
- The adviser recommended a one-off withdrawal to cover Ms H's monthly withdrawal until she's in receipt of the state pension in nine months' time. They confirmed the withdrawal of £13,000 – to come from Mr S's ISA alone - as such the objective regarding Ms H's ISA will change to long term capital growth. As Mr S wasn't withdrawing an income – and didn't intend to – a restructuring was recommended.
- The letter is dated 29 June 2023 (not 28 June as suggested by Ms H and Mr S) and the date of the meeting was 22 June 2023. The recommendations were made in light of changes to Ms H and Mr S's circumstances.
- All bonds within the portfolio were held with the intention to hold until maturity. This is what provides the stable and predictable income the portfolio is designed to generate. To mitigate risk and reduce the impact of default and reinvestment yields, the bond portfolio is diversified by issuer and maturity dates.
- The portfolio is actively managed, when the bond matures the proceeds are reinvested into a new issue with a redemption date in the future. When a recommendation is to sell the bond portfolio due to change in circumstances, bonds would need to be sold prior to maturity. That's why they don't advise to hold until maturity because the maturity evolves over time.
- The advice within the 29 July 2023 letter wasn't taken up by Ms H and Mr S.

As no agreement has been reached the matter has been passed to me for review.

On 31 January 2025 I issued my provisional decision, a copy of which is stated below and forms part of my final decision. In the decision I said:

"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, subject to any further submissions, provisionally I'm going to (partially) uphold this complaint.

- *I've seen no persuasive evidence that a formal review took place in 2022, therefore I can't safely conclude that it did. Unless WaW can provide evidence to the contrary, I think it should refund the advisory fees taken for that year along with any investment returns based on the actual growth of Ms H's and Mr S's investment, from the date the fee was taken to the date of settlement.*
- *I don't think WaW behaved reasonably when it failed to notify Ms H and Mr S that there were insufficient funds in their cash account which weren't enough to pay an income or cover its fees. In the circumstances, and on balance, I think WaW should pay Ms H and Mr S £300 compensation for the distress and inconvenience caused.*

If my findings remain unchanged in the final decision, I intend to use the above redress provisions.

Before I explain why this is the case, I'd like to thank the parties for their considerable patience whilst this matter has awaited review by an ombudsman, due to the current demand for our service.

I also think it's important for me to note I very much recognise Ms H and Mr S's strength of feeling about this matter. They have provided detailed submissions to support the complaint, which I've read and considered carefully. However, I hope she won't take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy.

The purpose of my decision isn't to address every single point raised. My role is to consider the evidence presented by Ms H and Mr S, and WaW, and reach what I think is an independent, fair, and reasonable decision based on the facts of the case.

I note that Ms H and Mr S had been clients of WaW since 2014, when they'd transferred an ISA each with a combined value of £65,513 into the cautious portfolio.

I understand that following Mr S's receipt of early retirement/redundancy they invested a further £15,240 each (totalling £30,480) into the cautious portfolio ISAs.

On 17 January 2018, Ms H and Mr S had a review meeting with their adviser in which they discussed using cash reserve to meet an income shortfall. The wished to consider generating an income from their existing portfolio and cash reserves to meet the shortfall. As this was a "change in strategy", their adviser completed an Investment Planning Report (IPR) dated 25 January 2018.

It was recorded that Mr S had an income of £27,076 gross a year and Ms H had an income of £4,800 gross a year although she expected to receive a further £3,360 a year from March 2018 as a result of another pension. But with an outgoing of £34,000 they had a shortfall of approximately £5,239 a year (which would be reduced further by £3,360 from March).

It was noted that Ms H and Mr S were interested in generating an additional income of *around £700 a month from their existing portfolio to maintain a suitable standard of living. It was also noted that they had an objective for capital growth – preserve capital over the longer term in line with inflation.*

Based on the above, they were recommended the following:

1. Fully utilise their 2017/2018 ISA allowance.
2. Transfer their WaW cautious ISAs to Bond Portfolio 2 ISAs, to produce tax free income.
3. Invest £20,000 each into the diversified ISA Cautious Growth Portfolio, fully utilizing the 2018/19 allowances.
4. Invest £90,000 into a diversified Cautious Growth Portfolio.
5. Invest £10,000 into the cash element to provide them with easy access to part of their capital and for payment of ongoing fees and charges.

WaW said based on the average yield of 4.62% on bond portfolio 2, the income of £700 a month would be met. So, a recommendation to invest into the Cautious portfolio was suitable in meeting their capital growth objective.

On 21 February 2018, Ms H's and Mr S's income objective was further discussed. In a letter dated 23 February 2018 it was noted they said it wasn't a necessity to maintain their current lifestyle, as they would utilise cash reserves if required to top up their income. However, they considered taking a fixed income to ensure they don't have to rely on cash reserves – the income generated would be seen as desirable more than required. At the time they wished to remain invested for growth only and would consider income and expenditure requirements in future. They still had an expenditure of £34,000 against a joint income of £27,761 and Ms H's pension would commence in April 2018, leaving a shortfall if £2,000 a year.

Ms H and Mr S didn't proceed with the recommendation – but wished to utilise their ISA allowances and as part of their capital growth objectives and invested £20,000 each into the Cautious ISAs.

On 4 July 2018, Ms H and Mr S met again to review their income objectives. In a subsequent letter dated 30 July 2018, their monthly commitments were recorded as £32,724 a year and they had a joint shortfall of around £1,276 a year. The letter went onto confirm that they were interested in a strategy that would generate £500 a month to supplement their income and provide a suitable standard of living. The letter also went on to confirm that their growth objective remained as documented on the IPR dated 25 January 2018.

In the circumstances the adviser recommended the following:

- *Redirect Ms H's cautious Portfolio Growth ISA (value at around £104,045) into a Bond Portfolio 2 Income ISA.*
- *£20,000 each into Bond Portfolio 2 ISAs (for tax year 2018/19).*
- *£20,000 into a joint Cautious Portfolio General Investment Account.*
- *£10,000 into a joint Cash Element.*

Based on the average yield at the time of 4.33% on Bond Portfolio 2, the income objective would be met. I'm satisfied that the recommendation met the (lower) need for income at £500 a month. Also, the recommendation to invest in the Cautious portfolio was suitable in meeting the capital growth objectives. In the circumstances I don't accept that they were led to believe the bonds were their only option. I note the Bond Portfolio 2 was recommended which would pay £6,237 a year, sufficient to cover the aim of withdrawing £500 a month.

<u>Performance, value and suitability</u>

Poor (portfolio) performance is not something that I can blame WaW for, because it's not something that it could predict or control. Performance is down to a multitude of factors, including risk (which I don't think was unsuitable given their circumstances, aims and objectives at the time) and the global geopolitical climate, that WaW has no control over. I appreciate Ms H and Mr S were hoping for greater growth, but the portfolio growth not meeting their expectation doesn't mean that WaW did something wrong. I note that no guarantees were given as to how the investments would perform.

The above points are fundamental as to why I can't safely say that WaW is to blame for the performance of Ms H and Mr S's portfolio, and/or why it shouldn't have to subsequently adjust the fees. The two key points, as I will clarify below, aren't connected.

I think Ms H's and Mr S's complaint is primarily about the value of their portfolio (decreasing overall and/or not growing as they'd hoped), thus their unhappiness about the management of it, and consequently about the fees paid, which I will address further below.

Ms H and Mr S appear to accept that market performance can fluctuate – but according to them, they don't end up with losses, as in her case which I don't agree with. Despite what they say, there were no guarantees given that the portfolio would leave them better off, and I've seen nothing to suggest that they were promised that they'd be returned their capital in addition to the income taken. In other words, whilst they wanted capital preservation in line with inflation, their capital wasn't protected and they were warned about the effects of inflation, as there was no guarantee.

But in this case, Ms H and Mr S were recommended an approach which met their key objectives, namely for growth, and income, which they were happy with, and I don't think was unsuitable. In this instance the portfolio not performing as hoped, doesn't (automatically) mean that it was mismanaged.

I note that Ms H and Mr S weren't without investment experience, and they were willing to take a risk to achieve their objective of growth and income. I'm satisfied that they aware of the risks involved, and accepted fluctuations, as well as the risk of not making any growth and enduring a loss instead. The fact that the portfolio didn't perform as they'd hoped, and they still had to pay fees, isn't evidence of mismanagement or of WaW doing anything wrong. I'm mindful that notwithstanding the decrease in value, they also managed to draw an income that satisfied for objective.

Overall, and on balance, despite what Ms H and Mr S say, I'm satisfied they knew that the portfolio investment came with a risk, and at a cost, and with no guarantees. In other words, their capital wasn't guaranteed/protected, the service wasn't free, and the charges/fees weren't dependent on them making money.

I'm persuaded that Ms H and Mr S could afford to invest and were in a good position to do so. I note they had an independent source of income (which they wanted to top up) that was separate to their portfolio investment. They also had access to a reasonable amount of money (in case of emergencies) and had some capacity for loss.

The latter of course doesn't mean that just because they could afford to lose money (or had means to replace any losses) it was 'ok' for them to lose money. I agree that capacity for loss doesn't excuse the business from doing what it was paid to do, in this case to manage their portfolio which I believe, notwithstanding the basis of my uphold, it has done.

<u>Risk</u>

I'm aware that in 2014, Ms H and Mr S were assessed as cautious. And during subsequent reviews this was confirmed to still be the case.

In addition to the 2018 assessment, the letter dated 30 July 2018, made clear that a purchase in the bond element at the time would result in a capital loss of approximately 18.41% over the average weighted term of the portfolio. It also stressed the importance of having concurrent growth strategy that was being provided within the growth element held predominantly by Mr S.

In addition to what the investigator said, I also note that in 2018 both Ms H and Mr S answered "No" to the following question: "the cost of buying less risky bonds may be more than buying high risk bonds. Are you prepared to accept the extra cost, bearing in mind that this will also provide you with less income?".

In response to the statement – "In certain market conditions we may have to pay more bonds than we will receive back at maturity. This will reduce the overall return you receive on the bond portfolio" – Ms H and Mr S indicated "keep the amount you have to purchase the bonds to a minimum, accepting that this may require the purchase of high risk bonds".

I'm also mindful in 2018, Ms H and Mr S ticked 'Yes' to the following questions:

- *"Are you willing to put your capital at risk to produce a level of income"?*
- *"I am prepared to accept more risk that bonds may default in order to generate more income"*

In the circumstances, and on balance, I'm unable to pay that the level of risk wasn't suitable or in line with what they were prepared to take in this instance, in order to fulfil their objectives.

External factors

Despite what Ms H and Mr S says, I'm unable to say that WaW behaved without any regard to her portfolio.

I note their portfolio was with WaW during the Covid-19 global pandemic, which was a very volatile, unpredictable and unprecedented time for the financial markets and consequently for investors alike. I think WaW did what it thought was best for the portfolio during this period. Based on what it says, I agree that it wasn't wrong to make immediate changes – despite having longer term goals – in the face of short-term volatility.

On balance, I'm satisfied that the portfolio was managed on discretionary basis, in good faith, and with Ms H's and Mr S's best interests at heart.

I note Ms H and Mr S didn't always have to take WaW's advice or approach, and they weren't obliged to, if they didn't feel it met with her objectives. I note they had a reasonable amount of time to think things over before making an informed decision. I'm aware that they didn't just accept the advice from the outset. It's arguable that this suggests that they weren't made to do something that they didn't want to or were unhappy with. Given the explanation by WaW, the makeup of the portfolio, I also don't accept that they were misled about the risk involved.

I think without the benefit of hindsight, it's impossible to know what approach should've been taken. Nevertheless, I'm satisfied that WaW acted within its authority and in an effort to do what was in Ms H and Mr S's best interest. I note that an approach might not have always worked out for the better, but this isn't something I can blame WaW for. Without the benefit *of hindsight, it's difficult to know which investment approach guaranteed to succeed.*

<u>COBS</u>

Based on the above, under the relevant sections of the Conduct of Business Sourcebook (COBS), I'm satisfied that WaW took reasonable steps to ensure it fulfilled its obligations.

Under COBS 9.2.1 (and 9.2.2) I'm satisfied that the recommendation was suitable for Ms H and Mr S, and that WaW took reasonable steps to ensure that it obtained the necessary information regarding their knowledge, experience, and investment objective. In the circumstances, I'm not persuaded that the recommendation was made without reasonably considering their circumstances and objectives and was done so on the basis of their information.

For the reasons set out by WaW, I'm not persuaded that Ms H and Mr S were given conflicting information. If they were unsure about something they were in a position to seek clarification from the business. Despite what they say, I'm satisfied that the latest advice they received in 2023 was in relation to anticipated changes in their circumstances and their desire to take a greater risk as per the 29 June 2023 letter.

<u>Formal review 2022</u>

The above notwithstanding, on the face of the evidence, and on balance, despite what WaW says I'm not persuaded that a formal review took place in 2022. In this instance it was therefore unreasonable to charge an advisory fee for a service that wasn't provided.

I appreciate Ms H and Mr S had 'access' to advice but they didn't receive a formal suitability review. I note that having met up with an adviser perhaps they could've done, if they asked for one, but that's not the point. In the circumstances I don't think it's fair that Ms H and Mr S had access to a service they paid for but didn't receive. In my opinion, it's crucial that the service was provided, and not just offered, for the fee charged.

In the circumstances I'd like WaW to refund the advisory fees taken for 2022, and also refund the growth of the investment if there hadn't been a deduction for the advice charge. That's why I've not asked it to pay the 8% interest, which I think is reasonable in the circumstances. This redress is in addition to the refund of the fees.

By way of explanation, WaW needs to calculate the actual growth of the investment, from the date the fee was taken – but as if the deduction wasn't made – every month, until the complaint is settled.

For example, if we're looking at a £100 fee taken in July 2022 and WaW can show that Ms H's and Mr S's portfolio has grown a total of 32% between January 2020 and now – then the refund for that fee ought to be £132 – then that process needs to be completed for each fee taken for a missed annual review.

<u>Insufficient funds to pay income and fees</u>

In addition to the comments made above, I'm persuaded that WaW failed to notify Ms H and/or Mr S regarding the lack of sufficient funds in the cash account. Whilst it accepts this wrongdoing, it hasn't acknowledged the distress and inconvenience caused by the sudden stop in income as well as the lack of payment of fees for several months.

I think this episode will have come as an unexpected and unpleasant surprise to Ms H and Mr S. I think that WaW could've done something about it – for example by keeping them *better informed and thus allowing them to be better prepared – but it failed to do so.*

I note WaW says that a Teams meeting took place with Ms H and Mr S on 02 February 2021 after which it was noted (in a letter dated 3 February 2021) that the £500 withdrawals were being put on hold until July. And given Mr S's additional income from his pension the income may not be necessary to maintain their lifestyle.

But I note that this was all done post the income having stopped out without notice in November 2020, despite WaW knowing as early as September/October 2021 (when the report was produced) about the issue, but this wasn't brought to Ms H and Mr S's attention. In any case, I'm aware that following discussion in August 2021, Ms H and Mr S wished to recommence their £500 income and this is what happened.

The above notwithstanding, I think WaW should pay Ms H and Mr S £300 compensation (£150 each) for the distress and inconvenience caused by this (and the lack of review) which I think is fair and reasonable in the circumstances.

I appreciate Ms H and Mr S will be unhappy that I've upheld the complaint but still haven't given them what they want. But on the face of the available evidence, and on balance, despite what they say, I can't."

I gave the parties an opportunity to respond to my provisional decision and provide any further submissions they wished me to consider before I considered my final decision, if appropriate to do so.

WaW hasn't responded to my provisional decision and hasn't provided any further submissions for me to consider, despite being given additional time to do so.

Ms H and Mr S have responded but don't agree with my provisional decision. In summary they made the following key points:

- They're thankful for the time taken to consider their case.
- They've one concern that they don't feel has been addressed in relation to the face-to-face meeting which they didn't have.
- Following an initial face-to-face meeting on 4 July 2018, they spent some days before deciding how to proceed. They were contacted by their adviser via email on 17 July 2018, to which they replied on 18 July 2018. They returned an email confirming that they'd go ahead with the investment in the bond portfolios. They didn't meet face to face but were sent a letter dated 30 July 2018, which is referred to in my decision.
- A very significant IEQ came with this, with boxes already ticked, and they were asked to sign. They don't recall seeing the form before 30 July 2018 at any face-to-face meeting nor discussing risk alternatives.
- This goes against their cautious approach, and they wouldn't have ticked the boxes themselves.
- Since they didn't discuss this face to face, they didn't properly understand the significance of it, and in hindsight, shouldn't have signed the form.
- They object to any reference being made to the IEQ to decide their case.
- The'd like me to reconsider their case, not because they're unhappy about the value of their investment but because WaW has acted unethically.
- They've resent some documentation they wished me to consider.

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, considering the latest submissions from Ms H and Mr S, and no new submissions from WaW my decision to uphold this complaint remains the same, principally for the same reasons, as set out in my provisional decision.

In other words, despite being given the time and opportunity to respond to my provisional decision, I'm satisfied that no new material points have been made that persuade me I should change my decision.

For the reasons set out in my provisional decision, I partially uphold this complaint.

I've still seen no persuasive evidence that a formal review took place in 2022, therefore I can't safely conclude that it did. WaW still hasn't provided any evidence to the contrary, therefore I think it should refund the advisory fees taken for that year along with any investment returns based on the actual growth of Ms H's and Mr S's investment, from the date the fee was taken to the date of settlement.

I also still don't think WaW behaved reasonably when it failed to notify Ms H and Mr S that there were insufficient funds in their cash account which weren't enough to pay an income or cover its fees. In the circumstances, and on balance, I still think WaW should pay them £300 compensation for the distress and inconvenience caused.

I'm still satisfied that the key points remain the same, and have been considered by me, in my provisional decision, so I don't need to go over the material again. However, I've briefly addressed Ms H and Mr S's latest submissions below:

- I note a face-to-face meeting took place with the adviser on 4 July 2018, and Ms H and Mr S spent some days deciding on how to proceed. In the circumstances, and on balance, I think it's safe say that any subsequent correspondence, post the face-to-face meeting, was a continuation of any discussions they had at the initial meeting.
- In the circumstances, and on balance, I'm unable to safely say that it was necessary to hold another face-to-face meeting. It seems that subsequent communication, whether via the phone, email or post was effective. If Ms H and Mr S wanted another face-to-face meeting, they were entitled to ask for one, but they didn't.
- I'm mindful that Ms H and Mr S *now* regret signing the IEQ (because they don't think it accurately reflects their position), but I think it's likely they do so with the benefit of hindsight, which isn't a basis upon which I can uphold this complaint.
- I made my decision based on the available evidence – and that includes, in part, the IEQ - however the IEQ doesn't form the sole and decisive basis of my decision, so I'm not persuaded to change my decision based on submissions that I've already considered.
- In the circumstances, and on balance, despite what Ms H and Mr S now say, I think it's more likely (than not) they signed the relevant form because they were content with it at the time. I'm aware that they didn't have to sign the document if they were unhappy with it, but they did, and without raising an issue.
- I note Ms H and Mr S say that they don't recall seeing the IEQ and/or discussing risk alternatives with the adviser, but I think it's highly unlikely that they wouldn't have discussed risk at all. I'm mindful that memories can fade over time, and it's possible that their memory of what happened in 2018 is not now as good as it was then.

I appreciate that Ms H and Mr S will be unhappy that I haven’t agreed with their entire complaint. Furthermore, I realise my decision isn't what they want to hear. But on the face of the available evidence, and on balance, I think the conclusion I have reached and the redress I have awarded is fair and reasonable in all the circumstances.

Putting things right

To put things right, Wealth At Work Limited should do the following:

- Refund the advisory fees taken for 2022, along with investment returns based on the actual growth of Ms H’s and Mr S’s investment, from the date the fee was taken to the date of settlement.
- Pay Ms H and Mr S £300 compensation for the distress and inconvenience caused.

My final decision

For the reasons set out above, and in my provisional decision, I uphold this complaint.

To put things right, Wealth At Work Limited pay the redress set out above:

Under the rules of the Financial Ombudsman Service, I’m required to ask Ms H and Mr S to accept or reject my decision before 8 April 2025.

Dara Islam
Ombudsman