

The complaint

Mrs C complains about the suitability of advice she was given to invest into an Individual Savings Account (ISA) by The Heritage Financial Planning Partnership (Heritage).

What happened

The details of what happened are well known to both parties and were covered well by the Investigator in their view, so I will just summarise them here:

- In early 2018, Mrs C (as an existing client of Heritage), discussed the possibility with them of switching from her cash ISAs and savings that she held at the time. Heritage say this is because she was looking for a better return.
- In May 2018, Mrs C transferred approximately £80,000 into a growth fund, within her ISA wrapper.
- Mrs C subsequently topped that up amount up twice, in April and July 2019.
- Mrs C also invested separately from her savings accounts into a General Investment Account (GIA) in December 2018 and topped that up in February 2020.
- In March 2020, Mrs C says she made Heritage aware she was unhappy with the drop in value she had experienced.
- In September 2020, further advice was given to switch her ISA investments to a new provider. Mrs C then topped this up further in December 2020 and August 2021.
- Mrs C says she remained unhappy with the performance of her investment and changed advisor from Heritage in September 2022.

Mrs C brought a complaint to our Service at the end of 2023. She said the initial and ongoing ISA advice hadn't been suitable for her. She also complained separately about the advice to invest in the GIA.

Heritage responded to say the advice they had given was appropriate for Mrs C at the time. The funds were suitable for her needs and circumstances and the advice matched her investment requirements.

Our Investigator looked into it. He said that whilst it was understandable Mrs C was unhappy with the performance of her investments, he thought the advice she had been given by Heritage was suitable.

Mrs C remained unhappy. She responded in full and amongst her points in reply, she said there was a lack of record keeping and notes, her involvement in the process doesn't negate Heritage's requirement to give suitable advice and the advice exposed her to too much risk.

As no agreement was reached, the case was passed to me to decide. I issued my provisional findings on 28 February 2025. An extract from which, forms part of my decision below:

I've set out the key issues I think are important here. And I've answered them below in turn.

Initial 2018 ISA advice and subsequent top-ups into that account

At the time of the 2018 advice Mrs C was married (her husband has complained separately about the advice he was given) and retired. She was in receipt of state pension income as well as from an annuity. She owned her own home as well and had a mortgage on two separate properties, which she received rental income from. Along with her husband, they had a net joint disposable monthly income of approximately £1,000. They also had joint savings (including the cash ISAs) of approximately £1,000,000.

Mrs C was recorded within the suitability report at the time as wanting to switch from the cash ISAs she held at the time, for the potential of greater growth. She was said to be unhappy with the low levels of interest she was receiving.

Mrs C completed a risk profile questionnaire prior to the advice, in February 2018. Based on the Mrs C's answers, she was given an attitude to risk rating of 6 out of 10, but a capacity for risk rating of 4 out of 10. Mrs C was advised in May 2018, on the basis of the lower risk rating. Which was described as "lowest medium".

The advice she was given saw her switch approximately £80,000 from her cash ISAs into a growth fund within the ISA wrapper. This was a 'with-profits' fund that was said to invest into "UK and overseas equities, property, fixed interest securities, index linked securities and other specialist investments". Its own fund factsheet at the time gave it a risk rating of 4 out of 10.

Mrs C completed another risk profile questionnaire in October 2018. I believe this was prior to her making the GIA investment (being considered separately). Based on the answers she gave here, her attitude to risk rating remained 5 out of 10. Mrs C made two further ISA top-ups of £20,000 each, into the same fund, in 2019. Which went into the following two ISA years.

I am satisfied the advice Mrs C was given here was suitable. She was clearly looking for a better return than the cash ISAs were providing her. This with-profits fund matched her circumstances, needs and attitude to risk. She was also left with sufficient savings elsewhere and had enough capacity to recover any losses.

2020 ISA advice and subsequent top-ups into that account

Mrs C has expressed particular concern through her new advisor, at the advice she was given to switch from the with-profits funds in 2020. Specifically, that the funds invested into at this time carried too much risk. Having considered the circumstances at the time, I agree.

In September 2020, Mrs C was advised to switch her stocks and shares ISA investments from the with-profits fund, into two new funds on a new platform. This was said to have been led by Mrs C's unhappiness with the performance and recovery of the with-profits funds, despite the explanation of the smoothing process to her and Mr C. The funds switched into were on the same platform that Mrs C had invested into through her GIA and an ISA transfer of approximately £7,000 during 2019.

Following this advice (and two further subsequent top-ups into the funds), the risk exposure of Mrs C's investments had increased significantly and the amount she had in cash ISAs or deposit accounts had reduced significantly. This advice meant she had gone from joint cash savings of approximately £1,000,000. To approximately £160,000 invested in medium risk, equity-based funds, £165,000 into funds with a similar risk exposure within the GIA and joint cash savings with her husband had reduced to less than £500,000. Mrs C was now almost 70 years old.

The funds Mrs C invested into were classified as 5 and 6 out of 10, contrary to the 4 out of 10 with-profits fund risk rating. Whilst I haven't been provided with a risk profile questionnaire from this time, the suitability report states that Mrs C has an attitude to risk in line with the new recommended funds. This is higher than the 4 out of 10 two years prior for the initial advice. I am not satisfied this rating was correct or fair. I haven't been provided with any questionnaire to show how this rating was arrived at and the last questionnaire we do have is from over two years prior.

In summary, whilst I am satisfied the advice to invest and top-up in 2018 was suitable and matched Mrs C's circumstances and needs at the time. I think the advice in 2020 onwards was unsuitable and placed Mrs C's investments at more risk than she was willing to take.

Mrs C responded to my provisional decision, through Mr C, to say she accepted the findings. However, she did provide comments querying the method of redress. In particular, whether it took account for the distress and inconvenience caused and whether it correctly compensated her.

Heritage responded in full. Amongst their points in reply, they said:

- They provided risk profile reports from the end of 2019 and stated they were supported from communications at the time.
- They disputed that Mr or Mrs C were unhappy with the performance of investments and said concerns were only raised after uncontrollable national or worldwide events and factors which impacted performance.
- They said Mr and Mrs C had crystallised any losses by transferring or surrendering investments which were designed to be invested over the longer term. And stated they were no longer aware what assets were held.

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 initial ISA advice complained about (which I am not upholding) was following Mrs C completing a risk profile report in February 2018, and being recorded as having a "*lowest*"

medium" risk profile of 4 out of 10. Heritage have now provided a risk profile report from late 2019 where Mrs C is recorded as having a "*low medium*" risk profile. This was the basis for the advice which I don't believe was suitable, which was given in September 2020.

The funds she was recommended to switch into were recorded as 5 and 6 out of 10 on a risk rating and I believe carried more risk than she was willing to take and not in line with her profile. After the ISA was switched and topped-up and the total GIA investment, Mrs C had approximately £285,000 invested into equity-based funds. Less than two years after all her savings were cash or deposit based, and after having zero investment experience in her life previously. Joint cash savings with her husband, after the advice, had fallen to approximately £500,000 (half of what they were before the advice).

I also maintain as I set out provisionally, that this investment doesn't suitably fit with the comments Mrs C made in her risk profile questionnaires, including the more recent one I have now been given. Although I appreciate it is completed contradictorily in parts, she states, she doesn't take risks and that she wouldn't take risk even if there was a chance she could make a lot of money.

In regard to Mrs C's comments, I am satisfied this is the fairest redress methodology, in line with what this service awards, to put customers as close to back in the position they would be in. had they received suitable advice. In this case, she would have been advised to invest into less risky funds. However, she still would have been advised (and was looking for advice) so she should pay for that, and I won't be asking Heritage to refund the advice fees.

In summary, whilst I am satisfied the initial 2018 advice was suitable for Mrs C, I don't believe the 2020 advice (and therefore subsequent top-ups) was. It exposed Mrs C to more risk than she was able to take.

Putting things right

Fair compensation

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

I think Mrs C would have invested differently. It is not possible to say precisely what she would have done, but I am satisfied that what I have set out below is fair and reasonable given Mrs C's circumstances and objectives when she invested.

What should Heritage do?

To compensate Mrs C fairly, Heritage must:

- Compare the performance of Mrs C'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.
- Heritage should also add any interest set out below to the compensation payable.

Income tax may be payable on any interest awarded.

Investment name	Status	Benchmark	From ("start date")	To ("end date")
2020 ISA investments and subsequent top-ups	No longer exists	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

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, Heritage 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 additional sum that Mrs C paid into the investment should be added to the fair value calculation at the point it was actually paid in.

Any withdrawal, income or other distributions paid out of the investments 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 Heritage totals all those payments and deducts that figure at the end to determine the fair value instead of deducting periodically. If any distributions or income were automatically paid out into a portfolio and left uninvested, they must be deducted at the end to determine the fair value, and not periodically.

Why is this remedy suitable?

I have chosen this method of compensation because:

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

My final decision

I uphold the complaint. My final decision is that The Heritage Financial Planning Partnership should pay the amount calculated as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 14 April 2025.

Yoni Smith
Ombudsman