DRN-5397599

Financial Ombudsman Service

The complaint

Mr C complains about the suitability of advice he was given to invest into a General Investment Account (GIA) 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, Mr C (as an existing client of Heritage), discussed the possibility with them of switching from his cash ISAs and savings that he held at the time. Heritage say this is because he was looking for a better return.

- In May 2018, Mr C transferred approximately £80,000 into a growth fund, within his ISA wrapper.

- Mr C subsequently topped that amount up twice, in April and July 2019.

- Mr C also invested separately from his savings accounts into a General Investment Account (GIA) in December 2019 (following advice earlier that year) and topped that up in February 2020.

- In March 2020, Mr C says he made Heritage aware he was unhappy with the drop in value he had experienced.

- In September 2020, further advice was given to switch his ISA investments to a new provider. Mr C then topped this up further in December 2020 and August 2021.

- Mr C says he remained unhappy with the performance of his investment and changed advisor from Heritage in September 2022.

Mr C brought a complaint to our Service at the end of 2023. He said the initial and ongoing advice hadn't been suitable for him. He also complained (as did Mrs C) separately about the advice to invest in the ISA.

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

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

Mr C remained unhappy. He responded in full and amongst his points in reply, he said there was a lack of record keeping and notes, his involvement in the process doesn't negate Heritage's requirement to give suitable advice and the advice exposed him 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:

> At the time of the advice Mr C was married (his wife has complained separately about the advice she was given) and retired. He was in receipt of state pension income as well as from an annuity. He owned his own home as well as having a mortgage on two further properties, which he received rental income from. Along with his wife, they had a net joint disposable monthly income of approximately £1,000. They had joint savings of approximately £1,000,000, and following the advice in 2018 Mr C had approximately £120,000 invested into a stocks and shares ISA.
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> Mr C was recorded within the suitability report at the time as wanting a better return from his savings. He was said to be unhappy with the low levels of interest he was receiving. Mr C completed a risk profile questionnaire prior to the advice, firstly in October 2018. Heritage say he completed a new questionnaire and it gave the same results in early 2019. Based on the answers he gave here, his attitude to risk rating was recorded as 6 out of 10 and 'high medium'. I haven't been provided with any later risk profile questionnaires, closer to the investment date.
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> The advice he was given saw him invest approximately £100,000 from his cash savings into a GIA. It appears that the initial advice (early 2019) was to invest this amount across two funds, but that the investment (late 2019 due to illness) was split across three funds. I haven't been provided with any evidence to show why the fund change was made. Mr C topped-up his GIA account by a further £60,000 in early 2020.
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> Having reviewed the fund factsheets from the time, two of the funds invested up to 85% into international equities and were considered high risk funds. This GIA investment and top-up meant Mr C had approximately £300,000 invested into equity-based investments. This was less than two years after Mr C had all his savings in cash and deposit-based instruments and having no prior investment experience.
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> Due to his circumstances, he had little capacity to recover losses. He was recorded as looking to access money from these investments which are intended for the long term, within the next 6 to 10 years. Whilst Mr C also answered the latest risk profile questionnaire quite contradictorily, he stated he was an individual who doesn't take financial risks.
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> Based on this, I'm not satisfied the advice Mr C was given here was suitable. Whilst he was clearly looking for a better return and growth than his savings and ISAs were providing him, the advice given had placed his savings at a higher risk than he was looking or willing to take. I am not surprised to see that Mr C was so alarmed and concerned with the losses he experienced in 2020 and surrendered or transferred the investments only two years later.

Mr C responded to my provisional decision to say he accepted the findings. However, he 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 him.

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

- They provided risk profile reports from the end of 2019 and defended the increase in risk ratings through their knowledge of Mr C and ongoing communications at the time.
- They disputed that Mr C was unhappy with the performance of investments and said concerns were on raised after uncontrollable national or worldwide events and factors which impacted performance.
- They said Mr C had crystalised 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.
- They said Mr C was invested into multi-asset funds which had exposure to between 40-85% equities this included UK equities. At the time, the funds had a weighted risk profile average of 6.
- They also said that Mr C had never shown genuine concern at the investment performance and the volatility. They said he had instead in January 2021 commented how pleased he was with the funds.

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 see no reason to depart from the findings I reached in my provisional decision. Let me explain why.

Mr C invested into the GIA based on the advice he was given in January 2019. Due to personal circumstances, it didn't go ahead until late 2019. Heritage have now provided me with a risk profile report from November 2019. It classifies Mr C as a having a "*high medium*" risk profile (Heritage say the funds invested into were in line with this). But I don't agree this advice was suitable.

Mr C now had £300,000 invested in equity-based funds, which could invest up to 85% into equities. Less than two years after having all his savings in cash instruments and (apart from his pension) and with being recorded as having no other prior investment experience. Mr C's risk rating had apparently increased from 4 out of 10, to 6 out of 10, in less than 2 years, and despite any real change in circumstances. I believe Heritage should have done more to question this and whether it was accurate. Mr C was still recorded in the most recent risk profile report I have now been given, as not being someone who takes financial risks. Regardless what his correct rating was, I think this GIA which could have invested up to 85% into equities and put his life savings at considerable risk, was too risk for him.

In regard to Mr 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, he would have been advised to invest into less risky funds. However, he still would have been advised (and was looking for advice) so he should pay for that, and I won't be asking Heritage to refund the advice fees.

In summary, my decision remains as I set out provisionally, that the advice Mr C was given to invest into (and top-up) this GIA, was unsuitable. Regardless of the risk rating (which I am not satisfied was an accurate reflection), Mr C was exposed to more risk than he was willing to take, and I haven't been provided with anything in response to my provisional decision that changes my decision on that.

Putting things right

Fair compensation

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

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

What should Heritage do?

To compensate Mr C fairly, Heritage must:

- Compare the performance of Mr 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.

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

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 Mr C paid into the investment should be added to the fair value calculation at the point it was actually paid in.

Any withdrawal from the GIA 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.

Why is this remedy suitable?

I have chosen this method of compensation because:

- Mr C wanted Capital growth with a small risk to his 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 his 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 C's risk profile was in between, in the sense that he was prepared to take a small level of risk to attain his investment objectives. So, the 50/50 combination would reasonably put Mr C into that position. It does not mean that Mr C would have invested 50% of his 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 C could have obtained from investments suited to his 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 Mr C to accept or reject my decision before 14 April 2025.

Yoni Smith
Ombudsman