DRN-5397722

Financial Ombudsman Service

The complaint

Mrs C complains about the suitability of advice she 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, 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 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 2019 (following advice earlier that year) 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 advice hadn't been suitable for her. She also complained (as did Mr C) separately about the advice to invest in the ISA.

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 (through Mr C) 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 decision on 28 February 2025. An extract from which, forms part of my decision below:

> At the time of the 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 as having a mortgage on two further properties, which she received rental income from. Along with her husband, 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 Mrs C had approximately £120,000 invested into a stocks and shares ISA.
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> Mrs C was recorded within the suitability report at the time as wanting a better return from her savings. She was said to be unhappy with the low levels of interest she was receiving.
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> Mrs C completed a risk profile questionnaire prior to the advice, firstly in October 2018. Heritage say she completed a new questionnaire and it gave the same results in early 2019. Based on the answers she gave here, her attitude to risk rating was recorded as 5 out of 10 and 'low medium'. I haven't been provided with any later risk profile questionnaires, closer to the investment date.
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> The advice she was given saw her invest approximately £100,000 from her cash savings into a GIA. This was split across two funds. Mrs C topped-up her GIA account by a further £60,000 in early 2020. Mrs C has said that the policy had fallen in value from £160,000 to approximately £105,000 by the time it was transferred out in October 2022.
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> Having reviewed the fund factsheets from the time, the two funds invested were considered mixed asset finds. With one investing up to 60% into international equities and there other approximately 40%. They were considered medium risk funds. This GIA investment and top-up meant Mrs C had approximately £300,000 invested into equity-based investments. This was less than two years after Mrs C had all her savings in cash and deposit-based instruments and having no prior investment experience.
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> Due to her circumstances, she had little capacity to recover losses. Her husband 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 Mrs C also answered the latest risk profile questionnaire (October 2018) quite contradictorily, she stated she was an individual who doesn't take financial risks. She confirmed she wouldn't take more financial risk if there was a chance of making a lot of money. And she confirmed she could suffer only medium losses.
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> This investment didn't go ahead until early 2020, based on information last gathered in October 2018. I haven't been provided with any evidence of any further fact gathering or risk profiling for Mrs C, after that point and prior to this investment.

> Based on this, I'm not satisfied the advice Mrs C was given was suitable. Whilst she was clearly looking for a better return and growth than her savings and ISAs were providing her, the advice given had placed her savings at a higher risk than she was looking or willing to take. I am not surprised to see that Mrs C was so alarmed and concerned with the losses she experienced in 2020, she surrendered or transferred the investments only two years later.

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 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 categorically denied that Mrs C's GIA policy has fallen in value as she had stated and provided valuations to support this.
- They said her GIA has invested into multi-asset funds with exposure to between 40-45% equities including UK equities and provided the KIID's.

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.

Mrs C invested into the GIA based on the advice she 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 Mrs C as a having a "*low medium*" risk profile (Heritage say the funds invested into were in line with this). But I don't agree this advice was suitable.

After 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).

Heritage have provided the KIIDs for the funds Mrs C invested in and said they only invested 40-45% into equites. Whilst I don't agree (one of the KIIDs says up to 60%), this still carried more risk than Mrs C was willing or able to take. The KIIDs state the funds are medium risk and give a risk rating of 4 out of 7. Higher than Mrs C's "*low medium*" risk profile.

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, my decision remains as I set out provisionally, that the advice Mrs C was given to invest into (and top-up) this GIA, was unsuitable. Regardless of the risk rating, Mrs C was exposed to more risk than she 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 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.

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 Mrs 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:

- 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