

## **The complaint**

Ms M and Mrs W, as trustees of the M Trust, complain about investment advice provided by Fiveways Financial Planning Limited.

In summary, they feel the performance of the recommended investment has been poor and the fees charged for the advice excessive. Further, they say there's also been a failure to provide ongoing advice and reviews, along with other general administrative issues.

## **What happened**

The background to the complaint will be well known to all parties, so I'll only give some key details here.

In 2017 Fiveways provided investment advice in respect of a sum of £240,000 held in the M trust for the primary benefit of the trustees' nephew.

Over the course of several meetings, it was agreed that £200,000 would be committed to an offshore investment bond invested at a cautious level of risk. £197,000 was invested, with the balance held in cash to pay for ongoing fees. It was hoped the investment would provide an ongoing annual income of around £7,000 and £37,250 was initially retained in the trustee bank account to facilitate the income payments while the invested capital had opportunity to grow.

Over the next few years, the investment was reviewed annually by Fiveways, in line with the ongoing service agreed at the outset. No changes were made to the arrangement as the circumstances remained broadly the same. In the review meeting of March 2022, the trustees expressed some disappointment regarding performance, so Fiveways carried out some comparisons with similar alternative investments. But while some potential fees savings were identified, the comparisons demonstrated no notable difference in performance with the alternatives.

A further annual review was offered to the trustees midway through 2023. But it was declined as they felt there was little benefit to the meetings given the bond's performance remained poor. In 2024, with no further reviews having been carried out, the trustees complained to Fiveways, broadly in terms as set out above.

Fiveways issued its final response to the trustees in September 2024 saying, in brief, that the performance of the fund had been impacted by the general market situation over the period in question and also the fees and charges, which it felt had been clearly set out and explained at the outset.

Fiveways confirmed there'd been reviews carried out to ensure the investment remained suitable and in line with the required risk level. However, it acknowledged there'd been several failings for which it apologised and offered compensation –

- Interest had been incurred on the cash account intended to pay the bond fees as Fiveways had failed to note the account going into arrears. It offered £923.59 for this

issue.

- Annual reviews hadn't been carried out for 2023 and 2024, for which it offered a refund of the relevant ongoing charges of £3317.50.
- It said errors made in relation to the deposit interest account may have led to a change in the fund value and the failures of communication would've caused distress. A sum of £758.91 to acknowledge this was offered.

Combined this constituted a total offer of £5,000.

The trustees didn't accept this and referred the complaint to this service. They were concerned with what they saw as Fiveways making the offer conditional. But they also raised some further points regarding the failure to carry out the annual reviews and the apparent falsifying of the attitude to risk in the absence of any confirmation from them. They also felt Fiveways should compensate for the poor performance of the bond.

An investigator considered the matter and concluded that Fiveways' offer was fair. However, the trustees remained concerned about several issues. Primarily the apparent falsification of the attitude to risk in 2024 when no review had taken place, but also fees relating to 2025 and the ongoing issue of Fiveways' offer being 'conditional'.

As no agreement was reached, the matter's been referred to me to review.

### **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've concluded that the offer Fiveways has made to settle the complaint is fair and reasonable in all the circumstances and should now be paid to the trustees.

I want to assure the trustees that I've read and considered everything on the file. But that said, I'm satisfied I don't need to comment on every point raised to reach what I consider to be a fair and reasonable decision. Where I've chosen not to comment on something, it's not because I haven't considered it. It's because I've focused on what I think are the key issues. That approach is in line with the rules we operate under.

In respect of the key issues, I think it's fair to say that the trustees' main concern with the recommendation made by Fiveways in 2017 is with the bond's performance. But the performance was not the responsibility of Fiveways. Its role was to ensure it recommended a suitable means by which to meet the investment objective, which was, as recorded in the Financial Planning Report issued to the trustees in October 2017, capital growth over the long term and a regular income.

The recommendation was to invest in an offshore investment bond managed on a discretionary basis. It was noted that the trustees didn't want to take significant amounts of risk, so a 'cautious' mandate that most closely matched their requirements was chosen. And it's been confirmed that the bond's portfolio was managed to that mandate throughout.

In all the circumstances, this strikes me as a suitable recommendation. I appreciate that the performance of the bond didn't meet the trustees' expectations, but I think it was made clear at the outset the value could fall, and the level of income might have to be adjusted as a result. And I think it's also important to remember that the period November 2017 to when the complaint was made included some unprecedented events – most notably the covid pandemic - and periods of significant market volatility.

At the review of April 2022, there'd been an increase in the bond's value to nearly £213,000, which was lost by mid-2023, the point at which the trustees were clearly questioning the ongoing performance. But 2022-23 was a very volatile period during which the war in Ukraine started, other financial/political events occurred. The markets in general saw repeated falls in value and very little overall growth, which impacted investments of all types. The comparison exercises carried out by Fiveways in 2022 and again in 2024 in response to the trustees' ongoing concerns support this.

The various fees and charges associated with the recommendation will also have impacted its performance. But I'm satisfied these were set out clearly at the outset and in general correctly applied (and where they weren't – such as the charges for reviews not carried out – Fiveways' offer addresses this).

I note the trustees' concern about what they've described as the falsification of the attitude to risk in 2023 when no review meeting took place. But I don't think there was any malicious intent in this, it appears it was simply the adviser's view in light of the current circumstances, which appears to be reasonable - although I appreciate it would've been better for a meeting to be held. But again, this issue is acknowledged as part of the offer already made.

In summary, I can understand the reasons for the trustees raising their concerns. Given the circumstances this is a matter that will be very important to them. But I'm satisfied that the offer made by Fiveways is fair and reasonable, which I note was updated slightly in November 2024 to include a further interest charge, which is reflected below.

### **My final decision**

Fiveways Financial Planning Limited has already made an offer to Ms M and Mrs W as trustees of the M Trust of £5,067.27 to settle the complaint, and I think this offer is fair in all the circumstances.

So, my decision is that Fiveways Financial Planning Limited should pay the trustees £5,067.27.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M and Mrs W as trustees of the M Trust to accept or reject my decision before 4 September 2025.

James Harris  
**Ombudsman**