

The complaint

Mr L complains about the suitability of advice provided by The Acorn Partnership IFA LLP ("Acorn") in relation to a pension and investment bond.

What happened

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

In 2014 Mr L received advice from Acorn to switch his pension to a new provider and start an investment bond using some of his savings. At the time he was married, retired, aged 75, with a month income of £2,000 from his pension and rental income. He was categorised as a cautious investor with a low capacity for loss.

Although it was noted that Mr L didn't need or want additional income, he did want the ability to potentially receive an income at some point in the future, and it not be subject to stock market influence. The recommended pension and investment bond included a guaranteed minimum income benefit, which came at a charge of 0.95%, in addition to the other charges and fees.

Mr L's representative complained to Acorn about the suitability of advice in February 2025. Acorn issued its final response not upholding the complaint saying, in brief, that the recommendation had been consistent with Mr L's instructions and objectives.

The complaint was referred to this service and considered by an investigator who concluded it should be upheld. He said, in brief –

- Acorn obtained details of Mr L's objectives and recommended a solution which could potentially meet them. However, the investigator didn't think the solution had been in Mr L's best interests, and it had been Acorn's responsibility to ensure it was.
- The records kept by Acorn were limited with just one document provided that detailed the advice given and reasons behind it. The financial planning document provided some background information relating to Mr L's circumstances, in terms of his finances. It appeared accepted that Mr L already had sufficient income to meet his requirements in the foreseeable future.
- The investigator felt Acorn's view was that it simply fulfilled Mr L's objectives by recommending a solution which met them. As noted, he wanted the potential for income to be "turned on" at any time. However, Acorn wasn't an order taker. The transactions weren't on an execution-only basis, advice was provided. The investigator said a consumer being made aware of a recommended solution's features, benefits and costs didn't make unsuitable advice suitable.
- Mr L was 75 at the time of the advice with a stable and reliable income with no additional requirement at the time.
- Charges were taken from the advice, reducing the amount of investment. Further, as the bond and pension have progressed, although the guaranteed income amount has increased each year, the surrender and death benefit values have decreased due to the ongoing charges being deducted.

- The main benefit of the guaranteed minimum income feature only came into effect when an income was taken. If no income was taken, and the benefits were taken by some other means such as surrender or death, Mr L would likely get less back than he'd invested due to the initial and ongoing advice fees, as well as the other annual charges levied by the provider. Given Mr L's age at the time and him not needing an income, it was unlikely he would've benefited from the recommended solution.
- The investigator accepted that guaranteeing an income which might've been required in the future was Mr L's objective. However, as noted, Acorn wasn't an order taker, it could've suggested several other options.

The investigator proposed that Acorn compensate Mr L by putting him in the position he'd be in if he'd invested differently, comparing the performance of the recommended investments with this service's 'cautious' investment benchmark.

Mr L's representative accepted the investigator's view. Acorn indicated its willingness to compensate Mr L in the proposed manner but explained that it was engaging a third party to assist with the calculations and asked whether it could use the FTSE 100 Index as an alternative benchmark. The investigator explained that the alternative could be put to Mr L but as no further information was then forthcoming the matter was referred to me to review and decide.

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 come to the same conclusions as the investigator for the same reasons. I find that the complaint should be upheld. As such, I don't feel I need to add anything further in respect of the merits of the complaint.

In respect of putting things right for Mr L, given Acorn's previous agreement to make settlement in the manner proposed by the investigator I would hope that the issuing of this final decision, which once accepted by Mr L becomes legally binding, will prompt a swift settlement to the matter.

Putting things right

Fair compensation

In assessing what would be fair compensation, my aim is to put Mr L as close as possible to the position he would probably now be in if he had been given suitable advice.

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

What should Acorn do?

To compensate Mr L fairly Acorn should:

- Compare the performance of Mr L's investment with that of the benchmark shown below. If the fair value is greater than the actual value, there is a loss and compensation is payable. If the actual value is greater than the fair value, no compensation is payable.
- If there is a loss, Acorn should pay into Mr L's pension plan, to increase its value by

the amount of the compensation and any interest. The payment should allow for the effect of charges and any available tax relief. Acorn shouldn't pay the compensation into the pension plan if it would conflict with any existing protection or allowance.

- If Acorn is unable to pay the compensation into Mr L's pension plan, it should pay that amount direct to him. But had it been possible to pay into the plan, it would've provided a taxable income. Therefore, the compensation should be reduced to notionally allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount - it isn't a payment of tax to HMRC, so Mr L won't be able to reclaim any of the reduction after compensation is paid.
- The notional allowance should be calculated using Mr L's actual or expected marginal rate of tax at his selected retirement age.
- It's reasonable to assume that Mr L is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Mr L would've been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.
- Acorn should also add any interest set out below to the compensation payable.
- Provide the details of the calculation to Mr L in a clear, simple format.

Portfolio name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
Pension	Still exists and liquid	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 of my final decision	8% simple per year from final decision to settlement (if not settled within 28 days of the business receiving the complainant's acceptance)

Regarding the investment bond

- Compare the performance of Mr L'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.
- Acorn should also add any interest set out below to the compensation payable.
- Provide the details of the calculation to Mr L in a clear, simple format.

Portfolio name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
Investment	Still exists	For half the	Date of investment	Date of my final decision	8% simple per year from

Bond	and liquid	investment: FTSE UK Private Investors Income Total Return Index; for the other half: average rate from fixed rate bonds			final decision to settlement (if not settled within 28 days of the business receiving the complainant's acceptance)
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Actual value

This means the actual amount payable 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, you 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. Apply those rates to the investment on an annually compounded basis.

Why is this remedy suitable?

I've chosen this method of compensation because:

- Mr L 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 made up of a range of indices with different asset classes, mainly UK equities and government bonds. It's a fair measure for someone who was prepared to take some risk to get a higher return.
- I consider that Mr L'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 L into that position. It does not mean that Mr L would have invested 50% of his money in a fixed rate bond and 50% in some kind of index tracker investment. Rather, I consider this a reasonable compromise that broadly reflects the sort of return Mr L could have obtained from investments suited to his objective and risk attitude.

My final decision

For the reasons given, my final decision is that I uphold the complaint and direct The Acorn Partnership IFA LLP to compensate Mr L as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 24 September 2025.

James Harris
Ombudsman