

## The complaint

Ms S complains about advice given by Yodelar Investments Limited to invest £300,000 in a portfolio, which she feels was unsuitable due to the level of risk involved.

## What happened

In July 2021 Ms S was nearing retirement and planning on selling her business, so she sought the advice of Yodelar, having received marketing information published by them which said they were outperforming her current investment provider. Her aim was to invest and grow the cash she held, with the aim of ensuring she'd have enough income once she sold her business to maintain her standard of living. Yodelar advised her to invest £300,000 in their High Balanced Portfolio. By 2023, the portfolio had lost around £80,000 in value, and Ms S complained, in summary saying:

- The marketing material was misleading - it suggested they had been running portfolios for at least five years, but she'd since discovered they had only been established in 2019, and had she known that she wouldn't have invested with them.
- She'd made it clear that her investments would need to grow as much as possible to help with retirement. Her interest only mortgage was due to end in 2025 and she would require around £275,000 to repay it. She felt she couldn't have afforded to take as much risk as she was advised to.
- She'd discovered that the investments within the portfolio were not split in the way originally advised by Yodelar and involved a higher amount of risk.
- She was unhappy with some changes that had been made to the portfolio in 2023.

Yodelar didn't uphold the complaint, setting out that the marketing material was not a recommendation to invest and was produced several months prior to Ms S investing with them. They said the advice was suitable, as the notes written by the adviser indicate they had discussions around her capacity for loss and Ms S had told them she could afford a medium loss. They said this was reflected in the later annual reviews that took place. They explained that all decisions about the contents of the portfolio were made with Ms S and that they wouldn't have made any changes without her agreement.

Ms S remained unhappy and brought her complaint to our service and surrendered the investments, receiving around £248,000 in total. An investigator at our service upheld the complaint, setting out that he felt Ms S didn't have the capacity to take as much risk as she did, because in 2025 she'd need to repay £275,000 on her mortgage. The only other assets she held were £235,000 in a stocks and shares ISA, which was at the same level of risk as the Yodelar portfolio, and after planned expenditure on house renovations, she would have just £40,000 in cash. He said Yodelar ought to compare the performance of Ms S' investment portfolio with the returns from one-year fixed rate bonds, and pay her the difference, plus £250 compensation.

Yodelar didn't agree with the outcome, making the following points:

- Ms S had told them she planned to repay the mortgage with her ISA and that she wouldn't be accessing the £300,000 for at least five years.

- Shortly after the advice was given, they had identified that Ms S's stated attitude to risk was higher than her stated capacity for risk, which was small. So, on 5 August 2021 they spoke to Ms S to explain that lower risk investments may be better suited if she was not able to take the level of investment risk involved, but that she had said she was actually willing to take a medium loss.
- The £100,000 cash earmarked for renovations, wasn't fully budgeted and was only an estimate, so in reality Ms S had more in a no risk environment.
- It was clear Ms S wanted to invest and so it wasn't realistic to say she would have left her money in savings accounts.
- Ms S told them she would receive £40,000 per year over the following four years through the sale of her business, so wouldn't need to access the £300,000.
- They felt the investigator had placed too much reliance on Ms S' recollections, particularly that she remembers telling Yodelar that she'd need to use at least some of the portfolio to repay her mortgage.
- Ms S had some unforeseen expenses because she chose to help her son financially in the years since the advice, which depleted her assets and that's what has meant the ISA could no longer be fully utilised to repay the mortgage.

The investigator wasn't persuaded to change his mind, so the complaint was passed to me for a decision. I issued a provisional decision on the complaint, and made the following findings:

### **My provisional decision**

*"As they were giving advice, Yodelar had certain obligations towards Ms S. This included making a suitable recommendation, based on Ms S' circumstances, objectives, investment experience and attitude to risk. The information supplied by Yodelar about their recommendation needed to be clear, fair and not-misleading in order for Ms S to make an informed decision about whether to go ahead with the recommendation.*

*At the time of the advice, Ms S had £235,000 in an ISA and £160,000 in her pension, both with a third party, which Yodelar has said was at the same level of risk as their portfolio, of seven out of ten. She had plans to spend around £100,000 of the £440,000 cash held in various current and savings accounts. Her interest only mortgage was due to end in November 2025 and had £275,000 outstanding. After the advice Yodelar gave and taking that planned expenditure into account, Ms S held £695,000 at a risk level of seven out of ten, and just £40,000 in current/savings accounts. I'm satisfied the advice was unsuitable for the following reasons:*

- *Her circumstances were imminently going to change and Ms A was going to go from receiving a regular guaranteed income, to having to more carefully manage her investments and any withdrawals taken, with a view to ensuring it would last the rest of her life. I'm not convinced the advice given by Yodelar ensured that Ms S understood how those goals would be impacted if the investment didn't perform as well as hoped.*
- *Although they weren't advising her on mortgages or on her ISA and pension directly, Yodelar still had an obligation to take those facts into account when deciding on suitable investment advice. They needed to consider how much risk her other investments involved, and the level of risk this portfolio would bring her overall assets to, and whether that was suitable in the round.*
- *Ms S had told Yodelar she had a need for £40,000 per annum income in retirement – and that from 2025 she wouldn't have any income other than any taken from her*

investments, until 2028 when her state pension began. State pension would only fulfil about a quarter of her income needs. Once her business was sold, her expenses would be £3,227 per month, so she wouldn't have the capacity to save further to make up for losses experienced, as there wasn't much disposable income.

- There's no evidence of any modelling taking place setting out how long her investment and pension assets would last, based on different potential returns or any projections of what sort of returns would be needed based on her ideal income level.
- It is clear to me that Ms S was going to be relying on the £300,000 for income and running out of income was a major risk here – if no growth was achieved that amount would only sustain Ms S for around eight years. She was only 60 at the time of the advice, so needed to manage her overall assets to ensure she had sufficient income for a potentially long period of time.
- Yodelar has disputed that Ms S told them she'd need to use some of the portfolio money to repay the mortgage. In my view, it's irrelevant whether or not Ms S told Yodelar that she was planning use this £300,000 for that purpose. This is because it's clear she didn't have enough in the ISA to repay her mortgage in 2021. The ISA would need to grow by £40,000 in four years after charges, which wasn't guaranteed. Even if it didn't lose any money, Yodelar ought reasonably to have inferred that any shortfall would need to come from other assets to repay the mortgage. While repaying the mortgage early was discussed, they didn't point out or discuss the potential shortfall and how that could impact her retirement income.
- Yodelar has referred to Ms S saying she was planning on using the profits she's expected to come from this investment to supplement her income – but there's no notes of any specific amounts she was expecting. Part of an adviser's role is educational – they need to ensure their customer understands the nature of the product and asset types involved. Here there were missed opportunities to ensure Ms S' expectations were not inflated and that she properly understood the impact of losses on her plans.
- In my view, the notes made by the adviser show that Ms S tended to equate higher risk with higher reward – and didn't fully appreciate the impact on her future income if the investments fell rather than grew. For instance, the call note from 5 August 2021 said “she didn't feel that lower risk portfolios reflected her aim to grow her money and she is still happy to accept the level of risk to get a better potential outcome.” There was no warning that this might not happen or any tempering of her expectations of growth. Though I appreciate Ms S had invested previously and had some knowledge of investments as a result, I'm persuaded that she had quite a positive outlook of this investment and was clearly reliant on growth from it to support her income needs.
- If a scenario had been presented to Ms S setting out how investment loss would have impacted her plans, then this likely would have helped Ms S fully understand the potential downsides of the risk she was taking. There doesn't appear to have been a particularly concerted effort on Yodelar's part to manage Ms S' expectations about potential growth. This is particularly important given Ms S' introduction to Yodelar was their marketing material which heavily focuses on positive returns. So an additional step during the advice process could have gone far to balance what appears to me to be an overly optimistic outlook.
- In August 2021 when Yodelar reviewed the advice given and spoke to Ms S, I'm not satisfied they clearly explained the advice was unsuitable due to her stated capacity.

*The language used by the adviser in the note suggested that she “may” want to think about lowering the risk level – not that the chosen portfolio was unsuitable for her based on her capacity. In my view, the chosen portfolio shouldn’t have been presented to Ms S in the first place, had her capacity for risk properly been taken into account. Yodelar had an obligation to give clear and not misleading information to Ms S and had they done so they would have explained that on review the advice was not suitable because the risk being taken was too high for her circumstances.*

- *Yodelar has suggested that the £100,000 was an estimate and wouldn’t necessarily all be spent. However, I’m not persuaded that approach is a fair one to take as it’s clear the £100,000 was earmarked for a purpose, so wasn’t something Ms S would be able to rely on for income later in life.*

*For those reasons I’m satisfied the advice given wasn’t suitable for Ms S’ circumstances. She didn’t have the ability to make up for losses and had a need for a more stable return on her investments. However, I am satisfied that investing at least some of the £300,000 in general would have been suitable for her – just not at the level of risk taken. This is because against the background of the savings returns available in July 2021, investing would not have been an unsuitable option generally, to get Ms S’ money to work harder for her. That would have been a reasonable step particularly given her long term income needs. This is the reason I’ve chosen a different benchmark to the investigator, to account for the fact that some amount of risk would have been suitable.*

*As I’ve found the investment was unsuitable, there’s no need for me to address Ms S’ other complaint points as the redress I’ve proposed puts right any later alleged error.”*

I went on to set out that Yodelar should compare the performance of Ms S’ High Balanced Portfolio, against the performance of two benchmark. For half the investment I said they should use the FTSE UK Private Investors Income Total Return Index and for the other half the average rate from fixed rate bonds. I agreed with the investigator that £250 compensation should be paid for the distress and inconvenience caused.

### **Replies to my provisional decision**

Ms S replied and confirmed that she accepted the outcome.

Yodelar acknowledged receipt of the provisional decision but didn’t provide any further reply by the deadline given.

### **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, as I’ve not received any further submissions from Yodelar, and Ms S accepts the outcome, I see no reason to depart from the findings set out in my provisional decision (copied above) and I make them final.

### **Fair compensation**

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

I take the view that Ms S would have invested differently. It is not possible to say *precisely*

what she would have done differently. But I am satisfied that what I have set out below is fair and reasonable given Ms S' circumstances and objectives when she invested.

**What must Yodelar do?**

To compensate Ms S fairly, Yodelar must:

- Compare the performance of Ms S' investment with that of the benchmark shown below and pay the difference between the *fair value* and the *actual value* of the investments. If the *actual value* is greater than the *fair value*, no compensation is payable.
- Yodelar should also add any interest set out below to the compensation payable.
- Pay to Ms S £250 for the distress and inconvenience caused by the situation.

Income tax may be payable on any interest awarded.

Portfolio name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
£300,000 invested in the High Balanced Portfolio	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	Pay 8% simple interest per year on any loss from the end date to the date of settlement.

**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, Yodelar 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 withdrawal from the £300,000 invested in the High Balanced Portfolio 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. I don't believe any income was taken but if I'm wrong and if there is a large number of regular payments, to keep calculations simpler, I'll accept if Yodelar totals all those payments and deducts that figure at the end to determine the fair value instead of deducting periodically.

Yodelar must pay the compensation within 28 calendar days of the date on which we tell it Ms S accepts my final decision.

If Yodelar fails to pay the compensation by this date, it should pay 8% simple interest per year on the loss, for the period following the deadline to the date of settlement.

### **Why is this remedy suitable?**

I have decided on this method of compensation because:

- Ms S wanted growth to provide an income and could only afford to take a small risk with 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 Ms 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 Ms S into that position. It does not mean that Ms S 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 Ms S could have obtained from investments suited to her objective and risk attitude.

### **My final decision**

I uphold the complaint. My decision is that Yodelar Investments Limited should pay the amount calculated as set out above.

Yodelar Investments Limited should provide details of its calculation to Ms S in a clear, simple format.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms S to accept or reject my decision before 24 February 2026.

Katie Haywood  
**Ombudsman**