complaint

Mrs B’s complaint concerns advice given to her by Bankhouse Financial Management Ltd to start an investment bond and an ISA. She says was advised to invest in what she now believes were unsuitable, high risk funds. She has also said that it was never her intention to put her money at risk and she made this clear to the adviser at the outset.

background

Following my review of the complaint, I issued a provisional decision, a copy of which is attached.

In brief, I noted that the recommendation as a whole, including additional amounts added to both investments soon after commencement, left Mrs B with her newly invested money split approximately two thirds in property; one third in equities. Looking at her circumstances at the time and considering her attitude to risk, this didn’t strike me as a suitable allocation. I didn’t consider it to be consistent with the “broad spread of investments” that it was documented as being important to her.

This being so, I was of the view that neither recommendation was suitable for Mrs B and I felt she should be compensated for any loss incurred as a result of the advice.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

Neither party had any additional comments they wished to make in light of my provisional decision. This being so, I see no reason to depart from my previous conclusions, which I continue to believe are fair and reasonable in all the circumstances.

my final decision

For the reasons given, my final decision is that I uphold the complaint.

I direct Bankhouse Financial Management Ltd to calculate and pay compensation to Mrs B as set out in my provisional decision, which is attached below.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs B to accept or reject my decision before 13 March 2015.

James Harris
ombudsman

COPY PROVISONAL DECISION

complaint

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background

Mrs B was sold these investments in March 2006. She was recently widowed and had funds of approximately £50,000 to invest from her late husband's estate. She met with an adviser from Bankhouse Financial Management Ltd, who after completing a fact find for Mrs B, recommended that she invest £50,000 in a Skandia investment bond and £7,000 in a Sterling Maxi ISA, to make use of her annual ISA allowance.

The fact find established that Mrs B had a 'cautious to realistic' investment approach. The fund selection for Mrs B's Skandia bond consisted of 80% property funds with the remaining 20% in equity based funds. The funds selected for her ISA were more varied, with 33% in Artemis UK Special Situations, 33% in Rathbone Income and 34% in Multimanager Protected Profits. A further £13,000 was invested into Mrs B's Skandia bond in June 2006 and an additional £7,000 invested into her Sterling ISA, to make use of her annual allowance for that financial year.

In May 2009 Mrs B changed her firm of financial advisers and in June 2010 she was advised to switch the funds in her Skandia bond to a more varied selection, with only a small percentage remaining in property. Her ISA remained invested in the original funds selected.

In July 2012 Mrs B again changed her firm of financial advisers and at this time was informed by them that her bond and ISA had been placed in high risk funds. A further switch was recommended for her Skandia bond in October 2012.

Mrs B raised a complaint at this time in relation to the original advice received. She confirmed it was never her intention to put her money at risk and considered the funds originally selected for her investments had been the reason for the substantial losses she had incurred. She was now seeking compensation in relation to these losses.

Our adjudicator looked into the fund selection on both investments. She noted that the bond's high proportion of property funds, following the mortgage crisis in 2008, had significantly impacted on the value of Mrs B's investment. In respect of the ISA, the adjudicator noted that the Artemis UK Special Situations fund was described as having '*greater fluctuations in value, which at times may be dramatic'.* This did not appear to match the cautious to realistic investment approach for Mrs B.

The adjudicator recommended Mrs B's complaint should be upheld against Bankhouse as the business that had provided the original investment advice. While she considered the recommendations to be suitable investment vehicles for Mrs B, she felt the selected funds didn't match her investment approach. She recommended that redress should be paid to Mrs B based on a comparison with a combination of a stock market index and fixed rate bonds.

Bankhouse didn't agree. It said the ISA should not be considered as part of the complaint as it had not suffered a loss. It also considered the property selection prior to the credit crunch was considered low to medium risk and therefore matched Mrs B's investment approach.

In light of Bankhouse's comments, to confirm if a loss had been incurred - based on the redress approach recommended - the adjudicator carried out some calculations. These showed that a loss had been incurred on both the bond and the ISA.

This information was provided to the business. At the same time, the adjudicator reiterated her view that the fund selection for Mrs B's bond was too heavily invested into property funds and the ISA fund selection had not matched Mrs B's investment approach.

This opinion was again rejected by Bankhouse. It said the adjudicator had not given consideration to the fact that Mrs B had moved firms and therefore it had not been given the opportunity to review her portfolio and make any adjustments required. It also stated that the latest fund selection for her bond now had a large proportion in equities and if the complaint is based on suitability, this should also be taken into consideration.

Bankhouse still considered the ISA should be excluded from the complaint as it had not suffered a loss, noting also that 32% of the initial investment in it had been placed into a protected profits fund, with an underlying guarantee.

As agreement could not be reached, the complaint was referred for to me to review.

my provisional findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

At the time of the advice Mrs B was aged 69 and recently widowed. She was investing funds realised from her late husband's estate and while she did have some existing investments, these had been started when her husband was alive and it would appear from what she has said that she was not particularly involved with the establishment or on-going management of them.

Her objective was noted as being to achieve a return above that of cash deposits and her attitude to risk determined as 'cautious to realistic'. This was described as;

'You would like to benefit from long term investment returns but are wary of stock market volatility and would like to make some compensation by means of low risk investments.'

Given this description, coupled with a consideration of Mrs B's circumstances, I don't think the advice to invest in equity based funds for her ISA can be considered suitable. The Artemis UK Special Situations fund, in particular, was likely to demonstrate a high degree of volatility. I accept that one of the three was a protected profits fund, which offered an element of capital guarantee. But overall I consider the ISA recommendation carried a greater level of risk than Mrs B was likely to have wanted to expose her money to.

Turning to the bond recommendation, I have noted what the business has said about property funds - in which the bond was 80% invested – being seen as lower risk at the time of advice and therefore a suitable by means by which to help Mrs B avoid volatility. But I think committing such a large proportion of the bond to a single asset class demonstrated a lack of diversity that in turn created its own risk of volatility. Any downturn in the property market would have had serious consequences for Mrs B, as transpired.

Ultimately, the recommendation as a whole, including the additional amounts added to both investments soon after commencement, left Mrs B with the newly invested money split approximately two thirds in property; one third in equities. Again, looking at her circumstances at the time and considering her attitude to risk, this does not strike me as a suitable allocation. It is not consistent with the 'broad spread of investments' that it was documented as being important to her.

This being so, I'm satisfied that neither recommendation was suitable for Mrs B and I agree she should be compensated for any loss incurred as a result of the unsuitable recommendations. I note what the business has said in respect of the adjudicator's proposed redress, that it is unfair because as a result of Mrs B moving firms in 2009 beyond that point it was no longer in a position to be able to advise her to change how she was invested.

I think it's reasonable that the redress in respect of the bond be capped at the point that Mrs B's new adviser made recommendations to switch funds in 2010. But any loss calculated should also be adjusted to reflect proportionately any change in value of the bond since the switch, *ie* if its value has increased/decreased by 20% since the switch any loss should also be increased/decreased by 20%. This is to reflect the fact that it is most likely that the proportion of the monies 'lost' at the point of the switch would have been invested in the same way going forward, as part of the bond.

However, as the ISA has remained as recommended in 2006 I am of the view that it is reasonable its redress should be calculated to the date of settlement.

fair compensation

To compensate Mrs B fairly, the business should put her as close to the position she would probably now be in if she had not been given unsuitable advice.

I think Mrs B would have invested differently. It is not possible to say *precisely* what she would have done differently. But I am satisfied that what I set out below is fair and reasonable given her circumstances and objectives when she invested.

what should the business do?

To compensate Mrs B fairly, Bankhouse should

compare

- the performance of Mrs B's investment – the bond and the ISA

with

- the position she would now be in if 50% of her investment had produced a return matching the average return from fixed rate bonds and 50% had performed in line with the WMA Stock Market Income Total Return Index ('WMA index')

If there is a loss, the business should pay this to Mrs B, appropriately adjusted to take into account the switch, as described above.

why is this remedy suitable?

I have chosen this method of compensation because:

- Mrs B wanted growth with small risk to her capital.
- The average rate is the rate for fixed rate bonds with 12 to 17 months maturity (as published by Bank of England). The WMA index is a mix of diversified indices representing different asset classes, mainly UK equities and government bonds.
- The average rate would be a fair measure for someone who wanted to achieve a reasonable return without risk to her capital and the WMA index for someone who was prepared to take some risk to get a higher return.
- I consider that Mrs B'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 her into that position.
- It does not mean that Mrs B 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 B could have obtained from investments suited to her objective and risk attitude.

how to calculate the compensation

The compensation payable to Mrs B is the difference between the *total fair value* and the *actual value* of her investment. If the *actual value* is greater than the *total fair value*, no compensation is payable.

actual value

This means the value of the investment if terminated on the date of calculation.

total fair value

This is what the investment would have been worth if it had obtained a return using the method of compensation set out above. It is the total of 'average rate element' and 'APCIMS index element'.

<u>average rate element</u>

To arrive at this value Bankhouse should:

- find out the average rate for fixed rate bonds, as published by the Bank of England, for each month from the date of investment to the date of calculation
- the rate for each month is that published at the end of the previous month
- use the rate for each month to calculate the return for that month on 50% of the investment
- the calculation should be carried out on an annually compounded basis; that is, with the return added to the investment at each anniversary
- work out the value to the date of calculation

<u>WMA index element</u>

To arrive at this value the business should:

- work out what 50% of the investment would have been worth, if it had performed in line with FTSE WMA Stock Market Income (Total Return) index to the date of calculation

additional capital

Any additional sum that Mrs B paid into the investment should be added to the calculation (split equally between average rate element and WMA element) from the point in time when it was actually paid in.

withdrawals and income payments

Any withdrawal or income payment that Mrs B received from the investment should be deducted from the calculation (split equally between average rate element and WMA element) at the point it was actually paid so it ceases to accrue any return in the calculation from that point on.

If there are a large number of regular payments, to keep calculations simpler, I will accept if the business adds all those payments to the *actual value* and compares that total with the *total fair value* instead of periodically deducting them.

further information

- I am assuming that the investment is still in force. If it is not the case the parties should inform me immediately.

- The information about the average rate can be found in the “Statistics” section of the Bank of England website. It is available under the section headed Interest and Exchange rates data / quoted household interest rates / fixed rate bonds / one year. The information about WMA index can be found in the website of the Wealth Management Association or the FTSE Group.

my provisional decision

For the reasons given, but subject to any further submissions I may receive, I am currently minded to uphold the complaint and direct Bankhouse Financial Management Ltd to pay
Mrs B compensation as set out above.

James Harris
ombudsman