

complaint

Mr C has complained through a third party representative that advice he received from Nationwide Building Society in April and August 2011 to redirect some of his capital from deposit-based accounts to a stocks and shares Individual Savings Account (ISA) was unsuitable.

Specifically, his representative has said that:

- while Mr C was an experienced investor, this advice placed 82% of his capital in risk-based investments and left him only £37,000 on deposit for emergencies;
- he was retired on a restricted income and did not have the capacity to replace any capital losses;
- he was widowed and lived in rental accommodation which committed him to rental payment for the remainder of his life;
- while his attitude to risk was recorded as 'medium', on one of the investment funds recommended by the adviser was highly speculative;
- in recommending Mr C to transfer some of his capital from a cash ISA, the adviser gave him no warning that the proceeds of the stocks and shares ISA could not be switched back to a cash ISA.

background

Mr C's complaint was investigated by one of our adjudicators, who concluded that it should not be upheld because she considered that he was prepared to place his capital at risk for potentially greater returns. She also considered that he still retained sufficient capital on deposit for immediate access and that he was also expecting the proceeds of fixed rate bonds that were due to mature over the next 12 months.

In response, Mr C's representative did not agree with the adjudicator's assessment and maintained that:

- one of the selected funds was considerably more speculative than his attitude to risk at the time;
- Mr C was retired and had little capacity for loss;
- the proportion of his total capital savings invested in risk-based products was too high;
- Mr C was not made sufficiently aware that he could not transfer the value of his stocks and shares ISA back to a cash ISA.

As no agreement has been reached in this complaint, it has been referred to me for review.

findings

I have considered all the available evidence and arguments from the outset, in order to decide what is fair and reasonable in the circumstances of this complaint. Having done so, I find that I agree with the conclusions reached by the adjudicator, and for essentially the same reasons.

At the point of sale in April 2011, my understanding is that Mr C's monthly expenditure exceeded his income until July 2011 when he was due to receive his basic state pension and benefits from a personal pension policy, which would then give him a monthly

disposable income. The personal pension policy also gave him the option to take a tax-free cash lump sum in lieu of some pension income.

Mr C held substantial capital savings, of which around 59% was invested in risk-based products and the remainder held on deposit. Part of Mr C's total capital savings was equity from the sale of his house in 2007 and he had been renting a property for the last four years.

Following the advice he received in April 2011 to redirect £25,000 from a cash ISA to five funds within a stocks and shares ISA, he retained more than 29% of his capital on deposit and around 71% in various risk-based investments. Mr C's attitude to risk was recorded as 'medium', which was the same approach to investment as he had disclosed throughout his dealings with this adviser since 1994. While Mr C was advised to invest in one moderately speculative fund, this investment amounted to 2½% of his total capital and the collective risk profile of the five funds within the ISA was consistent with his 'medium' risk profile.

Once his income had increased in July 2011, Mr C was advised to reinvest the proceeds of a cash ISA and a fixed rate bond in a range of 'medium' risk-rated funds of another stocks and shares ISA. This still enabled him to retain more than 24% of his total capital savings on deposit and he held a further significant sum in a bond whose original capital (less withdrawals) was 'protected' and accessible in February 2012.

Given the low rates of return then current available from deposit-based products in 2011, I am satisfied that the advice Mr C received was suitable for his objective of achieving greater potential returns while adopting a 'medium' attitude to risk. By July 2011, his pension arrangements would give him a reasonable disposable income and the amount of capital he still held on deposit gave him sufficient financial resources to recover any potential capital losses in retirement.

The documentation produced at the point of sale also confirms that alternative investments, including stakeholder pensions, were discussed with Mr C and he rejected these options because he required access to his capital as a lump sum. While he did agree to invest in risk-based products in 2011, notwithstanding that his capital was at risk, the proceeds of these investments were accessible to him at any time. The adviser did also warn him that the value of the stocks and shares ISA could not be returned to his cash ISA.

On balance, I am satisfied the advice Mr C received in 2011 did not compromise his financial position at the time to satisfy his objective of achieving a worthwhile return on more of his capital savings than if he continued to hold it on deposit.

My final decision

My final decision is that I do not uphold Mr C's complaint.

**Kim Davenport
ombudsman**