Financial Ombudsman Service

complaint

Mr and Mrs H's representative complained that National Westminster Bank Plc advised them to invest too much of their money in risk-based products and that the funds recommended were too risky, particularly given they were first-time investors.

background

The background and circumstances of this complaint are set out within my provisional decision of 18 December 2018. A copy of this is attached and forms part of this decision.

Both parties accepted my provisional decision.

NatWest added that the result of its advice meant £53,000 of Mr and Mrs H's £82,000 was invested - and not £79,000 as I indicated. Also, that it had not meant to imply the £3,000 demutualised shares had come from the £10,000 share pot.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

For the reasons outlined in that decision I am satisfied that this complaint should be upheld and that compensation should be based on Mr and Mrs H only investing £5,000 each in the recommended ISA-held products. I believe the other £5,000 (each) should have been invested in a low/cautious risk product, again for the reasons previously outlined.

NatWest should therefore compare the return they each received on £5,000 of the £10,000 they invested with what they would have earned if these sums had been invested in a suitably low risk product. To do this it should use this service's recommended formula for assessing potential returns on low risk investments: that is an equal combination of the returns on Bank of England bonds of 12 to 17 months' maturity and the returns shown via the FTSE UK Private Investors Total Income Index.

In making this calculation it should take into account 50% of any withdrawals Mr or Mrs H respectively made (this being a fair percentage). If this calculation shows a loss it should pay this and add 8% simple interest per annum to this loss figure from the date of surrender of their respective ISA-held products to the date of settlement of this complaint.

my final decision

I uphold this complaint and instruct National Westminster Bank Plc to pay compensation as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs H to accept or reject my decision before 21 February 2019.

Tony Moss
ombudsman

provisional decision

complaint

Mrs and Mr H's representative complained that National Westminster Bank Plc advised them to invest too much of their money into risk-based products and that the funds recommended were too risky, particularly given they were first-time investors.

background

In 2000 Mr and Mrs H had £71,000 on deposit, partly due to a recent inheritance, plus £3,000 in building society shares. The advisor recorded that Mr H intended to use £10,000 of this money to 'dabble' in shares and that they were due to receive a further £8,000 inheritance. They were advised to invest a total of £40,000 split between a joint bond and two individual ISAs. So when added to their existing shares and the proposed new share purchases, this would result in £53,000 of their projected money £79,000 in risk-based products.

The advisor told them that the ISA funds were 'medium risk' while the £20,000 was split equally between two funds, one low risk (the Security Managed fund) and one medium risk (the Growth Managed fund). This meant that £30,000 was exposed to a medium risk and £10,000 to a low risk, according to the advisor.

One of our adjudicators considered the complaint and thought it should be upheld. He felt Mr and Mrs H should have been advised to keep 50% of their money in risk-free products i.e. to invest no more than £28,000 (taking account of their existing shares, proposed share acquisitions and forthcoming inheritance).

He also felt that too much of their money was exposed to too much risk, given Mr and Mrs H appeared to have no real investment experience beyond owning some demutualised shares.

He acknowledged that there were a variety of possible ways to deliver reasonable compensation, but felt the following redress was simple and fair:

NatWest should calculate compensation on the basis that Mr and Mrs H should only have put £4,000 each into their risk-based ISAs (rather than £10,000 each), and the return they'd got on the other £6,000 each should be compared with the returns available via the Bank of England's fixed-rate bonds of 12 to 17 months' maturity. It should also compare the returns on the remaining £4,000 they'd put into the ISAs with what they might have got via a low risk investment (given these ISA funds were medium risk). To do this it should use the low risk formula recommended by this service known as 50/50 (which he outlined)

He said NatWest should then add 8% simple interest per annum to these 'losses', from the date the ISAs were surrendered to the date of settlement of this complaint. If NatWest had recommended this mix of low and no risk investments for the £20,000 they'd put in the ISAs, he felt the other £20,000 jointly invested in a bond containing an equal mix of low and medium risk funds would have been appropriate. He therefore did not feel compensation needed to be paid in relation to this investment.

The adjudicator's formula was broadly based on two assumptions: that Mr and Mrs H should of this half should have been in medium risk ones (the other two thirds being in low risk).

NatWest disagreed, and said:

- The fact that Mr H may have 'dabbled in shares' previously and was prepared to put aside £10,000 to undertake this high risk undertaking strengthens its view that the amount placed at risk wasn't too high for their risk appetite
- Mr and Mrs H had a substantial disposable income which could easily increase their wealth over a short period time, and therefore build up their cash reserves

- It does not agree that the customers invested too much overall and believes that the ISA funds selected were suitable for their documented needs and objectives
- Mr H may have purchased the £3,000 building society shares out of the £10,000 that the advisor recorded him wanting to use to 'dabble' in shares

my provisional findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I agree with the adjudicator that it is often appropriate to recommend putting at risk no more than half of a client's assets, particularly if s/he has little investment experience. But in this case I am not persuaded the advisor should have said that £40,000 was definitely too much.

Firstly, the evidence suggests Mr and Mrs H wanted to invest this amount (rather than the advisor coming up with this figure), possibly because this was the sum recently inherited. They were still left with a very substantial amount in cash, along with a significant monthly income surplus, after this investment. As a result they appeared easily able to make this level of investment without needing to cash it in early. Mr H's desire to use £10,000 to 'dabble' in shares also underlines his apparent decision to make some investments with this newly-acquired money.

So I don't believe NatWest should pay compensation on the basis that some of this money should not have been invested at all.

However, I am not convinced it was appropriate to recommend putting 70% - let alone 75% - of this money in what were medium risk funds i.e. the ISAs and half of the bond. I note that NatWest and the adjudicator did not appear to agree about a number of aspects of the products, their literature and risk levels. But, from what I've read, there seems to be an acceptance about the overall risk levels of the respective products.

The advisor recorded that Mr and Mrs H were comfortable with a 60/40 split between medium and low risk investments but then recommended a 70/30 split. Mr and Mrs H then chose to alter the balance between the investments in the ISAs and the bond, probably due to ISA limits having increased, and this resulted in a 75/25 split. I've seen no evidence that the advisor warned them this resulted in them far exceeding the 60/40 which he'd recorded they were happy with (something which I don't feel was suitable in any case). So I am satisfied that NatWest should be responsible for the 'advice' regarding the final invested sums.

On top of this I've seen no persuasive evidence to indicate that the advisor fully explained what the implications of words like medium or low risk meant. Given Mr and Mrs H had no experience of these sorts of risk-based investments (I don't count their ownership of, potentially demutualised, building society shares). I think he needed to do far more to ensure Mr and Mrs H fully understood the potential implications of these risk categories.

On balance, taking account of their lack of investment experience and general circumstances, I feel that they should not have been advised to invest more than half the £40,000 in medium risk products. If so advised, I think it is more likely than not that they would have agreed to a recommendation to split their money equally between medium and low risk funds.

I am satisfied that the £20,000 in the bond contained this sort of low/medium mix and so I don't believe this was an unreasonable recommendation, and therefore don't intend to instruct NatWest to pay any compensation on this product. By contrast, all the money invested in their individual ISAs was exposed to a medium level of risk which I think was not sensible or appropriate. So I intend to instruct NatWest to pay compensation on the basis that they should have been advised to expose half of this money to a low risk only by comparing the return they got on 50% of their invested ISA sums with what they would have got via a more suitable low risk product.

It should do this by using the formula recommended by this service as suitable for calculating likely returns on a low risk investment, known as 50/50. In making such a calculation NatWest should factor in the various withdrawals, assuming that half of each withdrawal should be taken into account when assessing potential loss. I will set this out in detail in my final decision. It should also add 8% simple interest per annum on any loss from the date each ISA was surrendered to the date of settlement of this complaint.

my provisional decision

I currently intend to uphold this complaint and instruct NatWest to pay compensation as outlined above.

Tony Moss
ombudsman