

complaint

Mr L has complained about BlackStar Wealth Management Ltd. He's unhappy about a pension transfer it arranged for him.

background

In 2015 Mr L took advice from BlackStar as he wished to transfer the deferred benefits he held in a former employers occupational pension scheme (OPS). He was advised to transfer around £150,000 into a self investment personal pension (SIPP). Once the transfer was made the specific investments were to be selected by a discretionary fund manager (DFM).

The OPS was a defined benefit scheme (or final salary scheme) but Mr L has said that he has no complaint about the transfer itself.

BlackStar recommended a DFM and sent instructions to it. It said that Mr L's funds should be invested into a model portfolio in line with a risk profile of "7". This was a mistake as it should have said that the risk profile it had assessed was "4".

The DFM invested the funds into a small number of assets. Some of these assets have failed and others have become illiquid. So Mr L has lost out.

Mr L complained to this service about the DFM which was a regulated entity in its own right. This service has dealt with a number of similar complaints from other consumers about the same DFM. The complaint was upheld but the DFM went into default with the regulator which meant that the complaint had to be referred to the FSCS. Mr L says that complaint is ongoing.

Mr L also complained about BlackStar. It upheld Mr L's complaint in part. It agreed to waive its annual charges until the complaint with the DFM was resolved. But it said that the DFM was responsible for any investment loss.

Our adjudicator investigated the complaint and said it should be upheld. He said that BlackStar should pay investment loss by comparing two notional values. These were the notional value of the funds if investment had been in line with a risk profile of 7, and the notional value if invested at a risk profile of 4. There would only be a loss if the lower risk profile (4) had performed better than the higher (7). But this was not actually the case by reference to standard industry benchmarks and was unlikely to be the case in the future unless there was some significant change in investment conditions.

The adjudicator explained that any assessment should be made after the complaint against the DFM was resolved. But that complaint is no longer with this service.

Mr L didn't agree. He remains unhappy that BlackStar made a mistake and also referred him to the DFM which invested badly and caused him loss.

The complaint has been referred to me so that a final decision can be made.

my 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.

BlackStar has always accepted that it made a mistake in its instruction to the DFM. But the DFM was a regulated entity in its own right and was responsible for the investment choices it made. I agree with the adjudicator that there was a lack of diversity in the investments it chose for Mr L. Also, the investments were non-mainstream and lacked liquidity.

But BlackStar did make a mistake. I agree that it is fair that it should put Mr L in the position he would have been in but for that mistake. BlackStar should pay any investment loss by comparing two notional values. These should be the notional value of the funds if investment had been in line with a risk profile of "7" and the notional value if invested at a risk profile of "4". There will only be a loss if the lower risk profile (4) has performed better than the higher risk profile of (7). I think it's fair to use a notional valuation as BlackStar wasn't responsible for the actual investments selected.

The benchmark to be applied for risk profile "7" should be the FTSE UK Private Investors Income Total Return Index alone.

The benchmark to be applied for risk profile "4" should be a 50/50 combination of the FTSE UK Private Investors Income Total Return Index and the average fixed rate benchmark.

The calculation should be made at the date of this decision. But in this case, the calculation is likely to show no loss.

my final decision

My decision is that I uphold this complaint about BlackStar Wealth Management Ltd. It should waive its annual charges until the complaint with the DFM is resolved.

It should calculate any investment loss using the formula set out above. It's likely that this will show no loss and if so no further award is payable.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 17 May 2019.

Keith Taylor
ombudsman