DRN-4529701

The complaint

Mr H has complained about the advice he received from Barclays Bank UK PLC (Barclays) to invest into a Barclays Personal Investment Management Portfolio (BPIM). He says that the advice to invest was not suitable for him at the time and in particular it carried too much risk.

Mr H is being represented with this complaint by a CMC.

What happened

In December 1998, Mr H was advised by Barclays to invest £50,000 into a BPIM.
The investment was surrendered between June and July 2002, with Mr H receiving proceeds of approximately £48,100.

Mr H complained through a CMC in August 2021 that the BPIM was unsuitable for him. They said that Mr H's attitude to risk hadn't been fully assessed and his future needs hadn't been considered. They also said that an inappropriately low amount of free assets were left after the investment and the level of risk taken was too high.

Barclays didn't uphold the complaint. In response to the complaint issues raised, they said, that the investment had met Mr H's attitude to risk. They also said it met his future objectives at the time of investment and was affordable with a sufficient cash reserve left. Mr H wasn't happy with this response, so he brought his complaint to us.

The investigator recommended upholding the complaint. She thought that the level of risk within the portfolio was unsuitable based on Mr H's circumstances at the time. She was particularly concerned that the portfolio seemed to include Mr H's cash reserve as an uninvested amount and in her opinion, make it seem a more balanced investment. She set out the steps she felt Barclays needed to take to put things right.

Barclays didn't agree. Maintaining it was suitable for Mr H and pointing to other decisions reached by this Service regarding a BPIM.

As the complaint hasn't been resolved, it comes to me to decide.

I issued a provisional decision on this case. An extract from which, forms part of my decision below.

> "My Provisional Decision
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> I've looked at what I know about Mr H's overall financial situation when he took out this investment. In addition to what the parties have told me, I think it's reasonable for me to rely on information in the 'fact find' document and other point of sale documents.

Barclays has provided details of other cases this service has decided on, in similar circumstances, regarding the same product. Whilst I am aware of them and the decisions reached, each case is decided on its own merits.

Mr H was a director of his own company along with his wife (who received advice to invest into the same managed portfolio a few months later). He was recorded as having £80,000 as available cash funds and a net monthly disposable income of £800. He had no dependants and owned his own home with his wife, mortgage free. He was said to be looking to achieve capital growth whilst willing to take a medium risk.

Medium risk doesn't appear to have been defined at the point of sale, according to the paperwork I have been provided with. But it was the option selected by Mr H, with the options being risk adverse, low risk, medium risk or high risk. Following this Mr H was advised to invest £50,000 into the BPIM.

The January 1999 guidelines (just after this investment but we haven't been provided with prior ones) for this portfolio are Fixed Interest 10%, UK equities 70%, International Equities 10%, Liquidity 10%. This meant Mr H retained £30,000 as cash and the portfolio had a further 10% (£5,000 approximately) held as cash under the guidelines.

I can accept that, superficially at least, an argument could be made that the BPIM involves a fairly high concentration of assets which might typically be regarded as being risky. But in context, I think that such an argument takes too narrow a view of Mr H's circumstances. And in particular, the amount of uninvested cash he'd retained, along with his disposable income. It's my view that Barclays was correct to take account of Mr H's uninvested cash when tailoring its recommendations to his circumstances. Doing so meant that whilst roughly 57% of his money was invested in the BPIM, and a good percentage of that was in equities, the remaining 43% of his money was kept stable in cash that he could earn interest on. Barclays also appears to have factored in that Mr H's disposable income will've allowed him to top up his savings, and replenish any losses he might've made on the BPIM.

Acting fairly and reasonably, I wouldn't expect Barclays to have assessed the risk Mr H was taking by focussing narrowly on a single product. In my opinion, giving suitable advice would mean taking account of all of Mr H's circumstances when making any recommendations. And I'm satisfied on balance that the bank's likely to have done that in this case. It's my view that the risks taken in the BPIM are balanced by the considerable cash element that was accounted for in the bank's advice. Looked at as a whole, I'm not persuaded Barclays' recommendations exposed Mr H to more risk than the evidence available suggests he was prepared to take at the time.

Overall, in summary, I think Barclays made a suitable recommendation to Mr H. He retained a large cash reserve and had sufficient disposable income to cover any unexpected costs or losses. Whilst the portfolio exposed him to some riskier investments, overall, I think his portfolio was in line with his elected and appropriate level of risk. So, I am satisfied that the recommendation was suitable for him. This means Barclays don't need to do anything further. For these reasons, I am not upholding this complaint."

Barclays responded to acknowledge receipt of the provisional findings, but confirmed they had nothing further to add.

Mr H responded through his CMC with several points, including:

- More consideration for pension contributions should have been given and not ruled out, with a shortfall in this area.
- Impact on the cash reserve by future increased pension contributions should have been factored in.
- Impact on the cash reserve by potential further investment into fixed rate bonds should have been factored in.
- The advice was unsuitable, particularly because Mr and Mrs H's income was very variable and dependent on the profitability of their business.
- Mr and Mrs H's remuneration from the business was lower than recorded, when taken on an average over the three years prior. They maintained this would have been the fair calculation rather than just looking at the year previous.
- A business loan to Mrs H had not been repaid at the time of the advice.
- It wasn't appropriate for Mr and Mrs H to have been recorded with the second most adventurous investment objective of "capital growth with safety".
- They concluded that, *"overall given the variable company income and the associated impact on Mr & Mrs H's income, the limited reserves held within their company and the significant loan they owed to the company; and the lack of pension provision which was to be considered further in the near future we consider the investment was inappropriate particularly given the level of risk".*

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 considered this and the responses to my provisional decision in full, I remain of the opinion that Barclays made a suitable recommendation to Mr H. I will address each of the specific considerations that their representative provided in response to my provisional decision.

The CMC has said that it should have been factored in that Mr and Mrs H would likely increase their pension contributions. This would in turn impact on the net disposable income and cash reserve. However, it was noted in the fact find that Mr and Mrs H did not want to discuss pension planning in more detail. I can't see anything that would have made it clear to the adviser that there was going to be an increase in contributions in this area, they declined the recommendation to discuss increasing contributions.

I appreciate the CMC says an increase in contributions later happened and that it should have been clear to the adviser at the time due to what Mr H said he needed in retirement, but I don't agree. Mr H might have been planning to fund it with an alternative source which wasn't clear at the time, and he declined the opportunity to go through that in detail. I wouldn't have expected this advice to be tapered by something that Mr H had declined to do.

Mr H also declined to discuss fixed rate products at the time but confirmed he will consider them. Again, I wouldn't expect a future prospect of an investment there, to taper this investment. That can be considered at a later point, if Mr H did decide he wanted to go ahead with some other investments such as fixed rate products.

The CMC has also said that the advice wasn't suitable because Mr and Mrs H's income from the business was usually lower than it was at the time of the advice. However, I can't see anything to show that Barclays were made aware of this or an outstanding business loan to Mrs H. This wasn't included in the fact find, so I wouldn't have expected Barclays to have considered it. I also think it was fair they only considered the previous year's income, as that is all I can see they were made aware of.

The CMC has also said that it wasn't appropriate for Mr and Mrs H to have been given the second highest investment objective category. Whilst I understand this, I haven't focused my decision on ratings. But rather the suitability of the advice considering the circumstances of Mr and Mrs H at the time.

In summary, my findings on this case haven't changed following the responses to my provisional decision. I still believe the recommendation made by Barclays to Mr H was suitable.

My final decision

My final decision, for the reasons set out above, is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 19 January 2024.

Yoni Smith
Ombudsman