

The complaint

Mrs N's representative, a claims management company (CMC), complains on her behalf that she was given unsuitable investment advice by St. James's Place Wealth Management Plc, referred to as "SJP".

In short, the CMC says that the 2007 advice to invest in an ISA and Investment Bond was unsuitable because, as a novice investor, she was advised to take too much risk with her money.

What happened

One of our investigators considered the complaint but didn't think it should be upheld. In summary, she said:

- Despite what Mrs N says about the investment being too much risk for an investor with no prior knowledge or experience of the 'stocks and shares market', the fact find showed that she had prior experience of investing in the stock market.
 - At the time of the advice, Mrs N held £3,000 in single company shares.
- SJP assessed Mrs N as a medium/balanced risk investor. Categorized as a three on a scale of one to five. One being low risk /cautious, and five being high risk / speculative.
- Mrs N wanted to utilise her tax allowance and invest for potential growth over the medium to long term. But she refused to disclose her income and expenditure because the funds came from an inheritance, so this didn't affect her.
- Mrs N had £70,000 left from her inheritance. She was advised to invest £7,000 into an ISA (invested in the UK & General Progressive Fund and Worldwide Opportunities Fund) and £40,000 into an Investment Bond (invested between six balanced managed funds). This left £23,000 as a cash reserve.
- The funds offered diversity and were in line with Mrs N's attitude to risk. According to the evidence, the investment was in line with her objectives.

The CMC disagreed with the investigator's view and asked for an ombudsman's decision. In summary, it said:

- Mrs N was a relatively inexperienced investor, and although she held a modest £3,000 of Marks and Spencer (M&S) shares this didn't make her a 'sophisticated investor' as the recommended investment/funds would suggest.
- The risk in the Worldwide Opportunities Fund would've increased due to the exchange rate.

As no agreement has been reached the matter has been passed to me for review.

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 done so, I agree with the investigator's conclusion for much the same reasons. I'm not going to uphold this complaint.

On the face of the evidence, and on balance, despite what the CMC says, I can't safely say that SJP gave unsuitable investment advice.

But before I explain further why this is the case, I think it's important for me to note I very much recognise Mrs N's strength of feeling about this matter. She has provided submissions to support the complaint, which I've read and considered carefully. However, I hope she won't take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy.

The purpose of my decision isn't to address every single point raised under a separate subject heading, it's not what I'm required to do in order to reach a decision in this case. My role is to consider the evidence presented by Mrs N and SJP, and reach what I think is an independent, fair and reasonable decision based on the facts of the case.

In deciding what's fair and reasonable, I must consider the relevant law, regulation, and best industry practice, but perhaps unlike a court or tribunal I'm not bound by this. It's for me to decide, based on the information I've been given, on a balance of probabilities what's more likely than not to have happened.

I'm not going to uphold this complaint, in brief, for the following reasons:

- Given the source of the funds, I don't think Mrs N took any more risk than she was willing to take with that portion of her remaining inheritance money.
 - I note she was in her late 40s, married with two dependent children and she was a homemaker. She owned her home with her husband and had joint assets of £30,000.
 - Prior to investing she had £70,000 on deposit of which she wanted to invest £47,000.
- This may explain why she didn't want to disclose her income and expenditure because it didn't affect her finances, and or lifestyle. I'm mindful that Mrs N's husband was the main earner and was a higher-rate tax payer, working for a company at a senior level. It's arguable that this money could've been replaced if needed and that given its source, she wasn't dependent on it. In any case, an adviser can only advise based on the information provided.
- In other words, I'm satisfied that Mrs N had no plans for the funds over the medium to long term and therefore could afford to take a (greater) risk in order to achieve better returns. I'm mindful her recorded priority was "Investing for Growth", which was important to her. She wasn't hoping to create capital for a specific purpose or for income and didn't require access to this capital.
- In the circumstances, and on balance, I can't safely say that her objective to invest in a tax efficient way for potential growth over the medium to long term (five to ten years) wasn't met. In other words, on balance I'm satisfied that Mrs N was happy to follow the recommendation and invest in the ISA and the investment bond.
- I'm also aware that alternative investments were discussed and discounted. There's no suggestion that Mrs N was made to do anything that she didn't want to.
- I should also point out that our service doesn't generally consider complaints about investment performance alone, which can be dependent on a number of factors – such as the stockmarket for example – which are outside the control of SJP. Based on what the CMC says, it seems the investment didn't do as well as Mrs N might've hoped, but in the circumstances that's not something I can blame SJP for.
- It's only with the benefit of hindsight the CMC might be able to say that other

investments might've performed better, but that doesn't mean the recommendation by SJP at the time was unsuitable.

- On balance, I'm satisfied that Mrs N's attitude to risk was discussed, and she was content with her categorisation. She chose to invest in the ISA (investing 50% in the Worldwide Opportunities Fund and 50% into the UK & General Progressive Fund) and investment bond (investing equally between six Managed Funds (listed below) out of an option of 20) spreading the risk:
 - 17% THSP Managed Fund
 - 17% Invesco Perpetual Managed Fund
 - 17% Schroder Managed Fund
 - 17% World Wide Managed Fund
 - 16% Axa Framlington Managed Fund
 - 16% Newton Goal Managed Fund
- Despite what the CMC says, I don't think the investigator was suggesting that Mrs N was a 'sophisticated investor'. However, she's not without investment experience – she owned £3,000 worth of M&S shares - and was likely to have been aware of the general risks involved.
- Despite what the CMC says, I think she was able and willing to take a risk with a portion of her (remaining) inheritance money. I note she had access to a reasonable amount of cash in case of an unexpected emergency or short-term needs.
- Notwithstanding the risks involved, I haven't seen any evidence that Mrs N needed to be a 'sophisticated investor' in order to invest in the ISA and investment bond recommended by SJP.

I appreciate that Mrs N will be thoroughly unhappy that I've reached the same conclusion as the investigator. Furthermore, I realise my decision isn't what she wants to hear. Whilst I appreciate her frustration, I can't safely say that SJP behaved unreasonably.

In other words, on the face of the available evidence, and on balance, I can't uphold this complaint and give her what she wants.

My final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N to accept or reject my decision before 8 December 2023.

Dara Islam
Ombudsman