DRN-3376632

The complaint

Mr S complains that he was given unsuitable investment advice by Premier Benefit Solutions Limited trading as Premier Wealth Planning (PWP). He's unhappy with their advice to invest in the Woodford Equity Income Fund (WEIF) as he thinks it carried a higher level of risk than was appropriate for his circumstances at the time.

What happened

Mr S received investment advice from PWP in January 2016. A financial review from the time noted that he had a reasonable knowledge of investments and a moderate attitude to risk (ATR). He was aged 54, in good health and married with two financially dependent children. He had an annual income of £150,000 and a joint monthly expenditure of around £5,000. He and his wife owned two properties worth a combined £2m with an outstanding mortgage of £200,000. He had a SIPP worth around £605,000 and cash of around £50,000 held jointly with his wife.

PWP advised him to invest his SIPP holdings in their Premier Moderate Growth Portfolio. The Portfolio invested in a range of funds, one of which was the WEIF. They also advised him to invest 100% of his children's portfolios in the WEIF.

In October 2016 Mr S took £15,000 from his initial investment in the WEIF and in July 2017, he sold his children's investments in the WEIF. Trading in the WEIF was suspended in June 2019. Mr S complained to PWP in December 2019 about the recommendation to invest in the WEIF and about charges that had been taken from his children's investments. PWP partially upheld the complaint and said, in summary:

- The WEIF wasn't an unsuitable recommendation when taken into account with the other holdings in Mr S' portfolio and his investment objectives.
- They were satisfied that Mr S had been made verbally aware and had been given sufficient documentation about the makeup and risk elements of the WEIF.
- They had no record of Mr S raising any concerns about the WEIF prior to its suspension.
- They accepted that an agreement had been reached regarding no initial or ongoing fees to be taken from his children's investments and offered a refund of the charges taken.

Mr S didn't agree with their findings and brought the complaint to this service where it was considered by one of our investigators. The investigator didn't think the complaint should be upheld and said, in summary:

- From what he'd seen Mr S' portfolio was suitably balanced between low-risk assets such as cash and property and high-risk assets such as equities. Mr S' holdings in the WEIF only equated to around 3% of his overall portfolio. Therefore, he didn't think the inclusion of the WEIF in Mr S' portfolio made the level of risk unsuitable.

- At the time the advice was given, Mr S had shown an interest in UK Equity income funds. Notes from the January 2016 meeting said : '*** *stated that he is looking for the fund to comfortably outperform inflation and cash deposits and he very much likes my idea of utilising a UK Equity Dividend fund and the underlying asset allocation, which has a bias towards more defensive blue chip stocks*.'

- The investigator noted that the WEIF aimed to: '*Provide a reasonable level of income together with capital growth'.* He also noted that in 2016 it had provided a historic income yield of 3.4% and around 50% of the fund holdings were invested in companies worth over £5bn. He thought this demonstrated that the WEIF was compatible with the fund characteristics Mr S was looking for and therefore wasn't an unsuitable choice.

- He thought the advice to invest Mr S' children's funds solely into the WEIF was arguably unsuitable due to the lack of diversification. But given that the investments were later sold and replaced with another singular investment, he wasn't persuaded that any different advice would have changed things and noted that the investments had generated a strong return by the time they were sold. Therefore, on balance, he didn't think Mr S had lost out from the lack of diversification.

- He thought the WEIF's key investor information document (KIID) set out its investment policy and made it clear the fund had the potential to invest in a range of investments, including unquoted illiquid stocks, to achieve its aim.

- He hadn't seen evidence of an explicit statement made by PWP at the time that the WEIF included investments in unquoted, potentially illiquid stocks. But he was persuaded the potential for exposure to unquoted illiquid investments and the risks associated with this, were brought to Mr S' attention.

- The investigator hadn't seen that any questions were raised about the fund's underlying holdings at the time despite the information provided.

- He noted that the overall holdings in small companies (those worth less than £250m) within the WEIF was very low at the time – less than 7%. And the WEIF was also considered at the time to be a high-quality UK Equity Income fund. Therefore, he wasn't persuaded PWP made an error or that a different course of action would have been taken if they'd done more to highlight the WEIF's holding in smaller companies.

- PWP had refunded all charges relating to Mr S' children's investments so he didn't think they needed to take any further action in relation to this point.

Mr S didn't agree with his findings and said, in summary:

- The investigator had said that the riskiness of the WEIF had been diluted by the other holdings in his portfolio but the makeup of the portfolio he'd referenced wasn't a true reflection of the fully invested portfolio he'd been trying to achieve – the fact that it contained over 50% Money Market and Property holdings demonstrated that it was a temporary holding ahead of drip-feeding the cash into the markets over time.

- The WEIF was very risky, adventurous fund and had no place in a portfolio for a balanced investor.

- There were doubts expressed in media coverage at the time about the WEIF but PWP didn't look into it enough and just followed general sentiment and the fund's track record.

The investigator wasn't persuaded to change his opinion so the complaint has been passed to me to make a decision.

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 don't think this complaint should be upheld, I will now explain why.

The financial review from 2016 set out that Mr S was looking to move his SIPP away from a discretionary relationship with another business (B1) as he wasn't happy with its performance. He was also looking to simplify his children's investments and move their existing holdings and cash into a new portfolio.

He was assessed as having a moderate ATR and was looking to invest for another 10 years before he retired. He'd previously held investments in ISAs, OEICs and individual shares but didn't describe himself as an experienced investor and preferred to take advice regarding any investment decisions. It had previously been recorded that he had the capacity to replace any losses from a large cash holding in his business and he'd previously experienced losses with no immediate effect.

Taking all this into account, I think I can be reasonably confident that Mr S was prepared to accept some risk for the sake of financial reward in the medium to long term. PWP recommended that he move his SIPP to their Premier Moderate Growth Portfolio – which included the WEIF - and his children's investments to the WEIF.

I've considered if the WEIF was suitable to be included in Mr S' portfolio. The objective stated in its 2016 fund factsheet was: '*To provide a reasonable level of income together with capital growth. This will be achieved by investing primarily in UK listed companies*.' From what I've seen of Mr S' objectives, I don't think the this was inconsistent with what he wanted. However, I note that it had a risk rating of 5 out 7, which in isolation was riskier than Mr S' ATR. So, I've also considered the makeup of his portfolio and what he had been told at the time of the initial recommendation.

From what I've seen the WEIF made up a small part of Mr S' SIPP. I've seen a valuation from November 2016 which shows that the WEIF only made up around 3.5% of his SIPP which at the time was valued at around £673,000. I don't think it's unreasonable for a portfolio to include products that are lower or higher risk than an investor's stated ATR – provided the overall balance of the portfolio is suitable.

The report Mr S was given in 2016 by PWP said '*Please be aware that there may be occasions when an individual fund may have a higher risk rating than your overall stated attitude to risk. If this is the case, then the overall risk rating applied to all of the combined funds being recommended is still designed to meet your stated tolerance. I explained this during our meeting and you were comfortable with this approach.*' So, I don't think it's unreasonable to suggest that Mr S ought reasonably to have been aware that his portfolio might contain investments in higher risk products, which would be balanced out by lower risk investments.

I take the point Mr S has made that the cash holding was high at the time. This appears to be partially due to profit taking of around £60,000 on some of his equity-based investments in September 2016 and £35,000 in October 2016. But even if the £95,000 had remained invested the split of his portfolio would have been approximately 23% UK Equities, 29% Money Market Instruments, 9% Property, 17% Overseas Equities, 13% Multi Asset, 9%

Specialist. On balance, I'm not persuaded that this asset split was inappropriate for an investor with a moderate ATR.

Taking everything into account and given the nature of the WEIF, I don't think that its inclusion in Mr S' SIPP was unsuitable at the time. It constituted a small percentage of his portfolio at the time and was balanced out by other lower risk investments held within the portfolio - specifically a higher percentage of cash-based holdings.

A balanced or moderate portfolio will vary in its makeup, depending on a range of factors specific to the investor and their circumstances. As I've previously said, I think Mr S ought to have been aware of the how the portfolio would be made up and he accepted the principle of higher risk investments being balanced out by other lower risk investments in the creation of a moderate portfolio.

Therefore, I don't think I can fairly say that an investment of around 3% invested in the WEIF, despite the higher risks it carried, was in this instance unsuitable within a moderate risk portfolio for Mr S.

I've then considered the advice to invest Mr S' children's funds into the WEIF. I've thought about if the recommendation to invest in the WEIF was suitable for Mr S in respect of his objectives for his children – and if he was given reasonable information about it. Mr S' stated objective for his children's investments was '*to tidy up the investments you hold for ****** and ******, adding their existing Scottish Widows Unit Trusts to the wrap platform having the ability to add further cash to these accounts from the HSBC funds*'.

The funds were previously invested in the Scottish Widows Balanced Growth Portfolio Fund which was a medium risk fund. The WEIF was slightly riskier and it was noted that PWP had considered retaining the Scottish Widows investment and making internal fund switches to ensure that the funds were invested in accordance with Mr S' risk profile. However, this was discounted as Mr S '*requested that we add the Scottish Widows Investment to your existing standard life wrap platform to simplify your finances and to allow you to add further cash to these accounts*'.

I've also seen an email exchange where Mr S said '*I agree with the Woodford UK equity income for the children and confirm you should put the £20k I gave you into that investment'.* The investments were sold in 2017 and the funds were then used to purchase the Fundsmith Equity Fund which carried a similar level of risk to the WEIF. So, on balance, I'm persuaded that Mr S was willing to take a slightly higher level of risk for his children's investments compared to his own portfolio. That being said, I share the investigator's concern with the lack of diversification, but given Mr S' objective was to simplify the investments, I don't think the recommendation was unsuitable.

In summary, I appreciate the concerns Mr S has raised. But having taken everything into account, I don't think I can fairly say PWP acted incorrectly and I won't be asking them to take any further action in respect of the advice they gave to Mr S.

My final decision

For the reasons I've given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr S to accept or reject my decision before 8 July 2022.

Marc Purnell
Ombudsman