DRN-4430951

The complaint

Ms K is unhappy about the advice she was given in 2021 by Quilter Financial Planning Solutions Limited ('Quilter'). She says she did not want to take huge risks with her investments. And she understood that an investment with a balanced risk would not be volatile. But the investment she made fell by a significant amount shortly after it had been started.

What happened

Ms K met with Quilter in 2021. The information recorded at the time of sale showed that she was 63 years old, was single and had no dependents. She owned her own home. She had an income of £5,000 a year and her outgoings were also documented as being £5,000 over the same period. She had the following savings and investments:

- £40,000 in cash savings accounts.
- £50,000 in National Savings and Investments.
- £64,000 in a cash Individual Savings Account ('ISA').

Ms K also had several personal pension arrangements. The value of these was shown as being just over £100,000 on the fact find. She was given advice about these around the same time, and they were transferred into new arrangements a few months later. This pensions advice has been considered separately by the Financial Ombudsman Service.

Ms K and Quilter completed a questionnaire about her attitude to risk ('ATR') and it was recorded as being 'balanced'. And she wanted to increase the return that she was receiving from her money as she was only receiving an interest rate of 1.5% a year from the cash ISA.

In September 2021 she was given advice to invest about £64,000 in a stocks and shares ISA. This invested in six funds that were all broadly medium risk rated. This was funded from her cash ISA.

Ms K first made her complaint to Quilter in February 2022 when she realised the investments had significantly fallen in value. She couldn't understand why she had been advised to invest in a falling market and she didn't understand that it could be so volatile. She said the adviser didn't provide adequate assistance when the investments fell in value and he made promises about performance that haven't been borne out.

Quilter considered Ms K's complaint and has not upheld it. It said it provided full information to Ms K and it was agreed that she had a balanced attitude to risk. The investments were suitable where this was the case. It wasn't responsible for the very volatile market performance since Ms K made her investment which was largely precipitated by the Covid-19 pandemic. It couldn't 'time' the market in the way that Ms K wanted it to. As a gesture of goodwill, it offered to refund any adviser fees Ms K had paid which amounted to £267.84. But it calculated using a representative index that Ms K would have only made a small loss if she would have invested differently.

One of our Investigators considered this complaint and thought that it should be upheld. Our Investigator said that:

- Whilst Ms K was assessed as having a balanced attitude to risk it was unlikely that she properly understood the risk of the funds she started.
- Her circumstances didn't support that she was a 'medium' risk investor. She had very little capacity for loss given her income, the level of savings she had, and her time of life.
- She was nearing retirement and would be reliant on the savings she had to support herself going forward.
- The risk of the funds was probably too high for her.

Quilter responded and didn't agree, it said that:

- Ms K invested just over 40% of her savings, the other 60% was held in savings accounts earning a low rate of interest.
- Ms K was left with £90,000 on deposit which would cover her outgoings for a significant amount of time.
- It noted that one the reasons the pension advice was unsuitable was the short time Ms K had until retirement. But Ms K wouldn't be reliant on these invested funds in the same way, and she could absorb any short-term losses given the other assets she had.

As no agreement has been reached the complaint has been passed to me to issue my final 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.

The funds Ms K was advised to invest in were considered suitable for a medium or balanced risk investor. They had a relatively high equity content and could, at times, be volatile. I appreciate that, due to the timing of when Ms K invested, the fluctuations in value she faced were perhaps higher than ordinarily would have been expected. But this situation is not unprecedented or even that unusual. Investments with a relatively high equity content can change in value very significantly over a short period of time, and it is one of the established risks of them. I've thought about whether it was right to have advised Ms K to take this risk.

I've firstly looked at the information Quilter recorded about Ms K's attitude to risk in the ATR questionnaire. The answers she gave to some of the questions did indicate that she could bear some risk.

But other information contradicted this, for example it was recorded that she said *'at her age I don't want to be making losses as I'm not young or working with a salary'*. And whilst she said a fall in value of 10% would be the maximum she would accept, she also said she would be *'very angry'* if the investment gave her less than she invested and she may have to find work to make ends meet if it didn't perform as well as she needed it to.

I think if Quilter had better explored these inconsistencies it would have been apparent that Ms K was very uncomfortable with investment losses.

Ms K's circumstances tend to support a lower tolerance, and capacity, to take investment risk. I can see that Ms K had invested in equity-based funds in her pensions, but these are very long term investments and so it is not unusual that these would invest in risk bearing areas. And there is no evidence that Ms K made any investment decisions about these on her own. So, I don't think it was right that these investments were used to support the idea that Ms K was an 'experienced' investor. I don't think this was the case.

I also think it's revealing that all of the investments she had that were not pension related were in areas that are usually considered to be risk free. Which indicates to me that Ms K had very little, if any, experience of investments herself. And didn't ordinarily want to take investment risk. So, having looked at everything, I'm not persuaded Ms K's attitude to risk should have been assessed as being as high as 'balanced'.

Quilter has said that Ms K would have a longer time frame to invest in the ISA as she would be unlikely to be reliant on all of the funds in it. She had other money in deposits that she could access and so could potentially leave the ISA invested and avoid surrendering it at a time when its value had reduced. I've noted that the ISA represented about 40% of her non-pension portfolio.

But I don't think this is entirely reasonable. Ms K was approaching retirement and, as she said, she would probably be reliant on these funds when this did happen. So, a reasonable starting point is that she wouldn't want to take significant risks with them, and I think this was the case here, as she said.

It's also likely that Ms K would want to change how her investments were structured to support her retirement. So, putting a significant proportion of them in an area that should be considered a long term investments wasn't entirely right.

So, whilst if Ms K may have been able, in theory, to leave the funds to recover if this was needed. She clearly didn't want to be in this situation. And I think this was the reason that Ms K indicated that she thought any significant fall in value of this investment would be detrimental to her.

I appreciate that Ms K indicated that she could take some risk. And I agree that this is likely to be the case and she may not have been able to avoid all the fluctuations in value that she did face. But I think it's clear that it wasn't right for her to make a significant proportion of medium risk investments. These had a greater potential for volatility than lower risk investments, I think this is what Ms K should have been advised to take.

I don't think it was suitable for Ms K to invest £64,000 in a stocks and shares ISA in the funds that she did. I'm upholding Ms K's complaint on this basis.

Putting things right

In assessing what would be fair compensation, I consider that my aim should be to put Ms K as close to the position she would probably now be in if she had not been given unsuitable advice.

I take the view that Ms K would have invested differently. It is not possible to say *precisely* what she would have done differently. But I am satisfied that what I have set out below is fair and reasonable given Ms K's circumstances and objectives when she invested.

What must Quilter do?

To compensate Ms K fairly, Quilter must:

- Compare the performance of Ms K's investment with that of the benchmark shown below and pay the difference between the *fair value* and the *actual value* of the investments. If the *actual value* is greater than the *fair value*, no compensation is payable.
- Quilter should also add any interest set out below to the compensation payable.

Income tax may be payable on any interest awarded.

Investment name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
Aviva stocks and share ISA	Still exists and liquid	For half the investment: FTSE UK Private Investors Income Total Return Index; for the other half: average rate from fixed rate bonds	Date of investment	Date of my final decision	8% simple per year from final decision to settlement (if not settled within 28 days of the business receiving the complainant's acceptance)

Actual value

This means the actual amount payable from the investment at the end date.

Fair value

This is what the investment would have been worth at the end date had it produced a return using the benchmark.

To arrive at the *fair value* when using the fixed rate bonds as the benchmark, Quilter should use the monthly average rate for one-year fixed-rate bonds as published by the Bank of England. The rate for each month is that shown as at the end of the previous month. Those rates should be applied to the investment on an annually compounded basis.

Any additional sum paid into the investment should be added to the *fair value* calculation from the point in time when it was actually paid in.

Any withdrawal, income or other distributions paid out of the investments should be deducted from the fair value calculation at the point it was actually paid so it ceases to accrue any return in the calculation from that point on. If there is a large number of regular payments, to keep calculations simpler, I'll accept if Quilter totals all those payments and deducts that figure at the end to determine the fair value instead of deducting periodically. If any distributions or income were automatically paid out into a portfolio and left uninvested, they must be deducted at the end to determine the fair value, and not periodically.

Why is this remedy suitable?

I have decided on this method of compensation because:

Ms K wanted Capital growth with a small risk to her capital.

- The average rate for the fixed rate bonds would be a fair measure for someone who wanted to achieve a reasonable return without risk to her capital.
- The FTSE UK Private Investors Income ***Total Return*** index (prior to 1 March 2017, the FTSE WMA Stock Market Income total return index) is a mix of diversified indices representing different asset classes, mainly UK equities and government bonds. It would be a fair measure for someone who was prepared to take some risk to get a higher return.
- I consider that Ms K's risk profile was in between, in the sense that she was prepared to take a small level of risk to attain her investment objectives. So, the 50/50 combination would reasonably put Ms K into that position. It does not mean that Ms K would have invested 50% of her money in a fixed rate bond and 50% in some kind of index tracker fund. Rather, I consider this a reasonable compromise that broadly reflects the sort of return Ms K could have obtained from investments suited to her objective and risk attitude.

My final decision

I uphold the complaint. My decision is that Quilter Financial Planning Solutions Limited should pay the amount calculated as set out above.

Quilter Financial Planning Solutions Limited should provide details of its calculation to Ms K in a clear, simple format.

Under the rules of the Financial Ombudsman Service, I’m required to ask Ms K to accept or reject my decision before 5 April 2024.

Andy Burlinson
Ombudsman