DRN-4612729

The complaint

Mrs K complains about some advice and information she received from Nugenis Financial Planning Limited ('Nugenis'). She says that it wasn't made clear to her that an investment she had was being used to fund a whole of life policy. She also complaints that her accounts, and investments, have been mis-managed over time.

Mrs K is represented by some of her family members. For ease of reading, I'll refer to all the comments made as being from Mrs K.

What happened

Mrs K has referred to advice she has been given by another business in 2017 to start a whole of life policy. I can only look at the advice Mrs K has been given by Nugenis since she became a customer of it in July 2020. I understand a full review of her circumstances took place in November 2021 and Nugenis gave Mrs K advice to move some of her investments in January 2022.

This means I can't consider the advice Mrs K was given to start a whole of life policy in 2017. And I also can't look at whether it was right for this policy to be funded by one of her investments. Nugenis didn't advise Mrs K to start this policy and make the funding arrangement.

At the time Nugenis gave Mrs K advice, that is in January 2022, she was aged 68 and retired with an annual income of just over £20,000. This income met her needs. According to the suitability letter, Mrs K had the following savings and investments:

- £130,000 held in savings accounts.
- £32,000 in a cash Individual Savings Account ('ISA')
- £75,000 held on deposit.
- £50,000 in premium bonds.
- £22,000 in a stocks and shares ISA.
- £138,597 in a General Investment Account ('GIA').
- Her home was worth £550,000 and she had a second property which was worth £250,000.

Mrs K had a small self administered pension scheme ('SASS') but she regarded this as being provision for her family on her death. So, it was excluded from the advice given by Nugenis.

Mrs K also had a whole of life policy which was started in 2017. This provided life cover of £360,000 and it had monthly premiums of £673.17. The premiums for this were funded by taking withdrawals from the GIA. I understand it was intended that the returns from the GIA would provide enough to fund the whole of life policy without losing value.

The suitability letter said that Mrs K's attitude to risk was low, or low to medium. It said she should continue to invest in a cautious portfolio. And that she could invest around half her assets in risk bearing areas. Because of this she was given advice to transfer some savings and investments she held into other funds. The advice she was given was to:

- Invest £20,000 into a new stocks and shares ISA.
- Transfer her cash ISA to a new stocks and shares ISA.
- Invest around £3,500 (as a lump sum) into a new Self Invested Personal Pension ('SIPP')
- Invest £52,120 into her existing GIA.

The new investments would be funded from the money she had in savings accounts.

The correspondence shows that Mrs K's investments did fall in value after the advice was given to her. And she talked to Nugenis about this in November 2022. She was told that investments do fluctuate in value, and she should wait until they recover. As far as I can see she did this.

However, I understand that Mrs K went on to cancel the whole of life policy.

Mrs K has complained about the advice she has been given by Nugenis. There has been a lot of correspondence in this complaint but a summary of the main issues that Mrs K has complained about are:

- Nugenis didn't advise Mrs K that the whole of life policy was being funded by the GIA. And given the size of the premiums, and the amount held in this, the GIA could potentially have no value in the future.
- The recommendations were not affordable and were negligent. Mrs K didn't understand what she was advised to do
- The performance of the investments was poor, and Mrs K lost a lot of money in a short period of time.

Nugenis has considered Mrs K's complaint and did not uphold it, it said that:

- It did not advise Mrs K to start the whole of life policy she has complained about. It isn't responsible for how it was set up.
- Since taking over the servicing of the whole of life policy in 2020 there has was no reason to think that she was unhappy with it. Nugenis thinks it was suitable for her.
- Mrs K hasn't experienced significant financial losses from the GIA. This is either due to the investments within the GIA itself or the premiums being paid from it to support the whole of life policy.
- Mrs K and her trusted family members were always present for the advice, and they all understood and agreed with it. Mrs K drove the meetings and fully understood what was discussed.
- It offered £250 as an ex-gratia payment to settle the complaint. I understand this wasn't accepted by Mrs K and this offer is now withdrawn.

Mrs K responded and didn't agree. She disputed that she knew how the whole of life policy was being funded. If she had been made aware of this, she would have altered it. This is because it was not cost neutral, and by this she meant that the whole of life plan was costing more than the returns the GIA was providing.

Mrs K brought her complaint to the Financial Ombudsman Service. One of our Investigators considered it and didn't uphold it, they said that:

- She couldn't consider the advice given to start the whole of life policy, or to fund it from the GIA, as a separate business to the respondent business gave this advice.
- Nugenis correctly recorded Mrs K's circumstances, including her attitude to risk in 2021.
- Nugenis made a series of investment recommendations, and these weren't unsuitable for Mrs K and didn't leave her with too little ready cash.
- Mrs K was given full information about these investments including the risk of them.

Mrs K responded and didn't agree.

- Nugenis should have clearly explained that the whole of life policy was being paid for by the returns from the GIA. And that the balance of the GIA could become zero.
- This should have been reviewed and discussed with Mrs K. She was not informed that she may need to invest further monies into the GIA to fund the whole of life policy
- Mrs K said that she did not want to take any risk in the future, and any advice should have been given on this basis.

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.

I think it's reasonable to say that much of Mrs K's dissatisfaction stems from advice she was given to start a whole of life policy in 2017. She was given this advice to mitigate her estates potential liability to inheritance tax (IHT). Mrs K says the intention was that the GIA she had would provide high enough returns to pay the monthly premiums and so the arrangement would be 'cost neutral'.

But Nugenis didn't advise Mrs K to take out the whole of life policy, start the GIA, or make this premium payment arrangement. So, it isn't responsible for whether any of these were suitable for her.

Nugenis did review Mrs K's financial circumstances, and this included the whole of life policy and the GIA. The suitability letter of January 2022 says that:

'Your existing GIA […] *with* […] *was set up originally to pay the premiums on your Whole of Life policy. You have been happy with this arrangement and wish to continue to fund your premiums from this plan.'*

So, I think it is reasonable to say that the whole of life arrangement was reviewed in 2022 and Mrs K indicated that she was happy with it. Nugenis says the policy was set up to mitigate against IHT and the sum assured still met the projected IHT liability amount in 2022. So, I can't see that there were any obvious reasons why she should have been told to cancel this policy.

And I don't think that Nugenis should have specifically informed Mrs K about the arrangement that was in place to pay the premiums for this policy from the returns the GIA provided. This information would be available to Mrs K elsewhere, for example on her bank or policy statements. And I think she could have made decision about how to pay the premiums to it on an ongoing basis herself, or with the family members that she says assisted her over time.

So, I'm not upholding her complaint about any information she was, or wasn't, given by Nugenis about the whole of life policy or how the premiums were paid.

In 2021 Nugenis assessed Mrs K's attitude to risk. It said this was low, or low to medium, or four on a scale of one to ten. It said she should be classified as a 'cautious' investor overall and should have a 'cautious' investment strategy. This seems to be broadly correct. The evidence from the time of sale doesn't show that Mrs K only wanted risk free investments.

As I've detailed above Mrs K did have a significant amount of assets and investments. Particularly if her properties are included. And a large proportion of this was held on deposit. It was documented that she wanted to invest further to improve on the returns she was receiving on deposit. And this doesn't seem unreasonable, given that she didn't seem to need to access this money on a day-to-day basis. And so could invest over a longer timeframe to avoid any need to cash in the investments when they may have fallen in value.

The advice was given to invest in a 'cautious' portfolio that her GIA already invested in using a discretionary fund manager ('DFM') and the advice in relation to the SIPP could be invested in a 'cautious' passive fund. Nugenis confirmed at the time of sale that Mrs K was happy with this DFM arrangement.

Overall, I don't think that any of the investments that Nugenis advised Mrs K to start had more risk than she was prepared to take.

Mrs K has said that the investments left her with too little capital, and she couldn't afford them. But I don't think this is the case. According to the asset summary in the 2022 suitability letter Mrs K had about £287,000 in interest bearing, capital secure, investments. And this recommendation was for just over £75,000 of this to be moved to risk bearing investments. And the suitability letter directly addressed this when it said that Mrs K would be left with £130,000 of savings and £50,000 in premium bonds for emergencies after the advice. I don't think Nugenis advised Mrs K to invest too high a proportion of her assets, or that Mrs K couldn't afford the recommendation.

Nugenis may have planned that Mrs K would continue to move some further funds from her deposit and savings accounts to stocks and shares ISA's and the SIPP. But this was always subject to reviews, and I don't think there was any real intention to move all her deposit funds in this way.

Mrs K's investments did fall in value, and I can see that in November 2022 she discussed this with Nugenis. I understand she was advised not to sell the investments at a low point. And I understand she didn't make any changes to her investments then. Again, this seems reasonable as risk bearing investments do move up and down in value, and she had no need to use the funds invested in this product and so could do this.

Having considered everything, I don't think the advice Mrs K has been given by Nugenis was unsuitable for her. And I don't think it needed to have provided further information to Mrs K.

My final decision

For the reasons set out above, I don't uphold Mrs K's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 4 April 2024.

Andy Burlinson
Ombudsman