Financial Ombudsman Service

## complaint

Mr and Mrs C complain about the advice they received from PFP WEALTH PLANNING LLP (PFP) in relation to their joint investment portfolio. They believe PFP made risky investments when they were cautious investors.

## background

The adjudicator thought the complaint should be upheld. Is summary, she said:

- The suitability letters PFP sent to Mr and Mrs C indicated their attitude to risk to be balanced.
- But the adjudicator did not think the investment portfolio had been managed in line with this risk profile.
- The details of the holdings did not represent a portfolio which would have been suitable for balanced investors.

PFP did not agree with the adjudicator's view. It said the risk allocation figures from September 2013 the adjudicator had used in her assessment included investments outside the portfolio, which were of a higher risk. PFP provided updated amounts which excluded the other investments. PFP also said Mr and Mrs C issued instructions to liquidate the holdings and pay them the cash. This was completed during November and December 2013.

The adjudicator was not persuaded to change her opinion. She did not think the new information showed that the investment portfolio was compatible with Mr and Mrs C's attitude to risk.

As the matter remains unresolved, it has been passed to me for review.

## my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

It appears that Mr and Mrs C were advised to invest their capital in the investment portfolio as part of an overall portfolio of investments including Mr C's pension and individual savings account (ISA). The level of risk that was agreed between Mr and Mrs C and PFP was 'balanced'. However, I consider that it is also important to note that Mr and Mrs C described themselves as overall cautious investors. It seems the majority of their assets were held in deposit type funds. Mr and Mrs C were interested in investing some of this money. But it was noted they did not want to increase the risk dramatically.

I think Mr and Mrs C would have expected the joint portfolio to have been invested in a mix of funds which would have provided them with a balanced level of risk, at the most. But the funds recommended by PFP contained a considerable degree of risk. They consisted largely of hedge funds, with some investing in futures, gold and silver mining, and Asian bonds.

Having considered the individual holdings within the joint portfolio, I do not think the mix of funds and asset was in line with a balanced level of risk.

As noted above, Mr and Mrs C were also being advised in relation to investments in Mr C's name. These include his ISA and pension. However, while these may have been combined in an overall portfolio, I do not think the other elements mitigated the risks posed by the joint investment portfolio. The pension and ISA also contained significant risk.

I have noted the points made by PFP about the other investments held by Mr C. It has provided evidence he invested in higher risk areas, such as enterprise investment schemes (EIS). Although I appreciate this, I do not think these investments justify the risk posed by the funds in Mr and Mrs C's joint portfolio. This should have been invested in line with their agreed risk profile. The fact Mr C may have been prepared to take more risk elsewhere does not alter this.

I understand Mr and Mrs C elected to encash the portfolio. I have therefore adjusted the compensation to reflect this change.

**fair compensation**

In assessing what would be fair compensation, I consider that my aim should be to put Mr and Mrs C as close to the position they would probably now be in if they had not been given unsuitable advice.

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

**what should PFP do?**

To compensate Mr and Mrs C fairly, PFP must:

- Compare the performance of Mr and Mrs C's investment with that of the benchmark shown below and pay the difference between the *fair value* and the *actual value* of the investment. If the *actual value* is greater than the *fair value*, no compensation is payable.

  PFP should also pay interest as set out below.

- Pay to Mr and Mrs C £200 for the uncertainty they have suffered while the value of their investment has fallen.

Income tax may be payable on any interest awarded.

| investment name | status | benchmark | from ("start date") | to ("end date") | additional interest |
|---|---|---|---|---|---|
| joint investment portfolio | surrendered | for half the investment: FTSE WMA Stock Market Income Total Return Index; for the other half: average rate from fixed rate bonds | date of investment | date surrendered | 8% simple per year on any loss from the end date to the date of settlement |

***actual value***

This means the actual amount paid 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, PFP should use the monthly average rate for the fixed rate bonds with 12 to 17 months maturity 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 payment out of the investment should be deducted from the *fair value* at the point it was actually paid so it ceases to accrue any return in the calculation from that point on.

If there are a large number of regular payments, to keep calculations simpler, I will accept if PFP totals all those payments and deducts that figure at the end instead of deducting periodically.

**why is this remedy suitable?**

I have decided on this method of compensation because:

- Mr and Mrs C wanted capital growth with a small risk to their 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 their capital.
- The WMA 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 Mr and Mrs C's risk profile was in between, in the sense that they were prepared to take a small level of risk to attain their investment objectives. So, the 50/50 combination would reasonably put Mr and Mrs C into that position. It does not mean that Mr and Mrs C would have invested 50% of their 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 Mr and Mrs C could have obtained from investments suited to their objective and risk attitude.

- The additional interest is for being deprived of the use of any compensation money since the end date.

**my final decision**

I uphold the complaint. My decision is that PFP WEALTH PLANNING LLP should pay the amount calculated as set out above.

PFP WEALTH PLANNING LLP should provide details of its calculation to Mr and Mrs C in a clear, simple format.

In addition, PFP WEALTH PLANNING LLP should pay Mr and Mrs C £200 for the uncertainty they have suffered while the value of their investment has fallen.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr and Mrs C either to accept or reject my decision before 10 July 2015.

Doug Mansell
**Ombudsman**