Case study: Investment/Funds

UNSUITABLE INVESTMENT ADVICE RESULTS IN HIGHER INVESTMENT RETURN

Themes: Investment adviser; risk profile; risk appetite; inclusion of real estate holdings in investment portfolio for investment risk and concentration risk purposes; vulnerable investor.

This complaint relates to unsuitable investment advice provided to an investor.

Ms Y held an investment portfolio and in 2019 a family member, Mr Y obtained a lasting power of attorney (LPA) to assist with Ms Y's financial affairs. Mr Y engaged a different financial adviser to review Ms Y's investment portfolio. The new financial adviser reported a number of concerns about how Ms Y's portfolio had been managed. Mr Y made a complaint to the original investment adviser, saying that the investments had performed poorly, that Ms Y had not received a return commensurate with the risk her portfolio had been exposed to, and that unclear and excessive fees had been applied. The investment adviser rejected the complaint, saying the fees were clearly set out and agreed by Ms Y, her portfolio had achieved her stated objectives and they had not considered her as vulnerable until they received the LPA . The investment adviser offered to refund fees applied to one investment made in 2013, amounting to approximately £10,000, as they agreed this created an unacceptable level of investment risk concentration. Mr Y rejected their offer and referred the complaint to CIFO.

CIFO investigated and advised Mr Y that CIFO were unable to consider complaints regarding investment performance and felt the fees and charges were clearly and fairly set out and agreed by Ms Y. CIFO noted that the investment adviser had recommended several high-risk investments to Ms Y despite her overall portfolio being exposed to more than her documented risk appetite. The investment adviser disputed the high-risk concentration and said Ms Y's real estate assets had been taken into account when determining her investment portfolio's risk concentration. However, CIFO found that Ms Y's real estate assets had not always been considered as part of her investment portfolio and that the financial adviser had never explained to her that it would be. CIFO concluded that Ms Y's real estate assets should have been excluded from the risk assessment of her investment portfolio, making some of the investment recommendations unsuitable for Ms Y. CIFO recommended that the financial adviser compare the performance of the over-concentration in higher risk products to a suitable benchmark for Ms Y's recorded attitude to risk. This calculation showed that Ms Y had made higher returns from the unsuitable investment recommendations than she would if her portfolio had been invested in line with her objectives. Although CIFO upheld the complaint it did not award any compensation because Ms Y had suffered no loss.

Mr Y argued that this was unfair as the investment adviser had been allowed to get away with making unsuitable recommendations. CIFO confirmed that it had provided feedback to the investment adviser about its recommendations. CIFO's remit is not to fine or punish businesses as a regulator might, but to put the complainant back in the position they were in prior to the complaint.

In this instance Ms Y received better investment returns than she would have otherwise obtained. Therefore, no compensation was warranted.