

The complaint

Miss D's representative, a Claims Management Company (CMC), complains on her behalf that she was given unsuitable investment advice by Prudential Assurance Company Limited (the business).

In short, the CMC says:

- Consideration wasn't given to alternative products.
- A more suitable investment would've been to invest in a more cautious investment.
- Miss D withdrew large sums of money over the years from her two savings policies until they were both encashed, suggesting she was advised to invest too much of her money.

What happened

Miss D was advised to invest in two savings policies.

In June 1995, Miss D was initially advised to invest £10,000 into a Prudence Savings Account (PSA). The business maintains this was a low risk With-Profits investment with no fixed end date.

It was recorded in the fact find that:

- Miss D was 50 years of age, in good health and working.
- She had a net monthly income of £1,500, outgoings of £948 and a net disposable monthly income of £552.
- She had money held in shares, a PEP, and deposit account.
- She wasn't anticipating any changes to her life and wanted to invest for the future.

In December 1996, Miss D was advised to invest a further £50,000 into the PSA. At this time, it was recorded that she was retired, and in addition to the above, had another £121,000 in a deposit account, making a total of £155,000, and she had a £302 net disposable income. In March 1997, Miss D invested another £1,523 into the PSA using money from matured savings policies.

In August 1999, Miss D was advised to invest £20,000 into a Prudential Investment Bond (PIB). At the time it was recorded that she was:

- 54 years of age and retired for three years.
- She had a net monthly disposable income of £207.
- She still had a sum of money comprised of, unit-trusts, PEPs and PSA.
- She had £58,000 remaining in a cash deposit account.

One of our investigators considered the complaint but didn't think it should be upheld. In summary, he said:

- He was satisfied that in 1995 Miss D had a diversified portfolio comprised of deposit-based savings, shares, a PEP and a TESSA which suggests that she wanted to invest money differently to what she had.
- The PSA was invested in a With-Profits funds, and therefore was invested in low risk funds compared to funds linked to the stock market. Miss D was also given policy documentation that made clear the nature and operation of the PSA so that she knew, or ought reasonably to have known how it worked.
- On the face of it, Miss D was prepared to invest in the medium to long term with a minimum of five years.
- Even though in 1996 Miss D invested another £50,000 into the PSA, this was out of £155,000 held in her deposit account, leaving her with at least £75,000 available in cash, so leaving her with access to a reasonable amount of cash.
- In 1999, Miss D invested £20,000 in a PIB, in a low risk in With-Profits fund, which wasn't outside of her investment experience. And she still had £38,000 left in cash reserves.
- Overall, Miss D's money was spread across cash savings, low risk investments (such as the PSA and PIB), unit-trusts/a PEP and individual shares.
- Although the CMC says Miss D withdrew large portions of her money over 11 years and withdrew most of it in 2014, this doesn't mean she was given unsuitable advice.
- Miss D at the point of sale in 1995 and 1999 didn't anticipate any changes to her financial circumstances, so it's unlikely the adviser would've foreseen any changes at the time.

The CMC disagreed with the investigator's conclusions. It maintains that Miss D was advised to invest too much money without any diversification. It also says that Miss D doesn't understand the investigator's view, despite its efforts to explain the reasons. It said Miss D made the following points:

- Her husband's health situation is worse. A lot has happened over the last year including her being diagnosed with breast cancer (resulting in a full mastectomy) and her mother going into care.
- Any money would be helpful to her right now. She is hanging by a thread.
- She finds the investigator's view very confusing.

As no agreement has been reached the matter has been passed to me for review.

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 agree with the investigator's conclusions for much the same reasons. I'm not going to uphold this complaint.

On the face of the evidence, and on balance, despite what the CMC says, I'm not persuaded that the advice to invest in the PSA and the PIB was unsuitable, even if there were other options available.

But before I explain further why this is the case, I think it's important for me to note I very much recognise Miss D's strength of feeling about this matter. I'm very sorry to hear about her ill health and what she's been through with her mother and family member who is now deceased.

The CMC has provided detailed submissions to support the complaint, which I've read and considered carefully. However, I hope Miss D won't take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy.

The purpose of my decision isn't to address every single point raised. My role is to consider the evidence presented by the CMC and the business, and reach what I think is an independent, fair and reasonable decision based on the facts of the case.

In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice but I'm not bound by it. It's for me to decide, based on the information I've been given, what's more likely than not to have happened.

On the face of the evidence and on balance, despite what the CMC says I'm broadly satisfied that in 1995 Miss D was prepared to invest in the PSA in the medium to long term but for a minimum of five years. I note the business says she wanted to invest for at least 10 years leading her into retirement as she was still working at time, so I'm unable to say that a policy with no end date was unsuitable in the circumstances.

Although I wouldn't regard Miss D to be an experienced investor, I'm mindful that she wasn't without financial experience. I note she had money in savings, shares/a PEP as well as money held in a deposit account. Her objective was clear in that she wanted to invest for gain and for the future, and overall, I'm satisfied the recommendation met this need.

In the circumstances I'm not persuaded that she wasn't aware of alternatives, I'm reasonably satisfied that she wanted to invest in something that she hadn't invested in before but was still broadly in line with her attitude to risk. I also note that after investing £10,000 she still had access to a reasonable amount of cash. So, I'm unable to say that the recommendation was unsuitable.

I note the points the CMC makes about investing in a more cautious investment, I should make clear from the outset that I'm not specifically looking at whether Miss D was a low/cautious risk investor or whether the recommendations were. I'm considering if the recommendations were generally suitable for her and on balance, I'm satisfied that they were.

In other words, Miss D wanted to invest her money for growth, which I think she was unlikely to achieve without taking some risk. I note that she was aware that her investment could go up or down. I'm not persuaded that she was risk averse, and I've seen nothing to suggest that any guarantees were given to her. So, in the circumstances I'm unable to say she was advised to take an unsuitable risk given her overall objectives.

I'm conscious Miss D was given policy documentation including the Key Features Document that made clear the nature and operation of the PSA, and therefore she knew, or ought reasonably to have known, about what the product entailed. So, if there was anything that she was unhappy with she had the opportunity to seek clarification or cancel the policy.

Instead, around 18 months later, in 1996 Miss D invested another £50,000 into the PSA. Although this was much higher than what she'd invested previously, I note that she had £155,000 held in a cash deposit account, and still had £75,000 remaining. In the circumstances I'm satisfied that she still had access to a reasonable amount of cash and

was comfortable in re-investing in a policy she'd invested in 18 months or so earlier. I also note that she went on to invest another £1,523 a year or so later using some of the proceeds from PruSave policies. This doesn't suggest to me that she was unhappy with the PSA or had any liquidity issues.

Before I move on to the second policy, I ought to address what happened with the PSA in terms of withdrawals. I note in May 2003, Miss D made the first withdrawal of £10,000 which was roughly just under eight years after she first invested, which seems to me to be broadly in line with her investment objectives at the time.

I note that there were further withdrawals – £48,000 between then and November 2003 – eight years from the policy start and six/seven years from the policy top-ups, but in my opinion, this isn't evidence that she was given unsuitable advice.

On the face of the evidence, there was no suggestion that the money would generally remain invested for any longer than these periods. And if there was a reason why Miss D needed the money – which Miss D alluded to in a complaint letter – it certainly wasn't clear at the point of sale (or top-ups) and therefore I don't think could've been foreseen by the business.

I'm aware Miss D says she made some large withdrawals to help a family friend who'd become terminally ill, and her own mother ended up in a nursing home, but this isn't something that could've been foreseen by the business, and not unless she made this clear that she'd need money for these particular purposes. So, whilst I'm sorry for everything Miss D had suffered, including her own ill health, I'm unable to say the recommendation made in 1995 and the subsequent top-ups were unsuitable for her based on the withdrawals made.

On the face of the evidence, and on balance, despite what the CMC says, I'm also satisfied that the recommendation to invest in the PIB was suitable. I'm satisfied the recommendation met her objective for growth and didn't involve any more risk that she was willing to take at the time. I note it was recorded that her attitude to risk was '*very cautious*', which I don't think is unusual given that she was three years into retirement.

I note the CMC complains that Miss D shouldn't have been advised to invest in a '*medium risk product*' but I note the business has confirmed that it's a low risk investment, so it might well be that the CMC was mistaken, and its concerns are unfounded.

In any event, I note Miss D still had £58,000 in her savings account, and even after her investment had access to a reasonable amount of money available for emergencies during her retirement. I also note she had no plan for the remainder of her savings and certainly no suggestion that she'd need the money to help friends and family. And despite what the CMC says there still appears to be no issues surrounding liquidity of her assets.

But even if she did need money, I note she was able to access it from the PIB, if she needed it, even though it was recommended that she keep the money for at least five years. I note that in 2014, Miss D withdrew £10,000, roughly 14 years after the policy started. I'm mindful she started to withdraw money from the PSA four or five years after investing in the PIB, but still kept the PIB without making any withdrawals until 2014. Which suggests she was happy to keep her investments for a minimum of five or six years (or much longer) before making any withdrawals.

I'm mindful that Miss D is upset about being told that she was making withdrawals "*without permission to do so*", and that she feels that's she's free to do what she wishes with her own money. I note the business is sorry if this is what was communicated to her, and that it wouldn't have done so purposefully to offend her, but it's still unable to locate any

correspondence suggesting that this is what was said. Whilst I agree it was Miss D's money and she is free to do what she wishes, even if this statement was made it doesn't mean she was given unsuitable advice.

I appreciate the point the CMC makes about diversity and I'm aware of its benefits and disadvantages, but overall, I'm satisfied that Miss D's money was invested in a number of products broadly within her risk attitude. Given her circumstances and that she was in retirement I'm unable to say that the recommendations were wrong for her.

I appreciate Miss D will be unhappy I've reached the same conclusion as the investigator. Furthermore, I realise my decision isn't what she wants to hear. But on the face of the available evidence, I'm unable to uphold this complaint and give her what she wants.

My final decision

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss D to accept or reject my decision before 6July2020.

Dara Islam
Ombudsman