

The complaint

Mr C has complained about the advice he received from Lloyds Bank PLC ('Lloyds') to invest into a stocks and shares ISA.

Mr C is represented by a third party but for ease I'll refer to 'Mr C' in this decision.

What happened

In July 2000 Mr C invested £5,000 into an ISA upon the advice of Lloyds. The funds were invested into a UK Growth Fund. Mr C sold the investment in February 2011 and received proceeds of £5,674.42.

Mr C says the investment was too high a risk for him as an inexperienced investor and while he didn't suffer a financial loss, he wants redress based on the performance of a product that would have been more suitable for him. He complained to Lloyds about the advice he had been given.

In its response Lloyds didn't uphold the complaint. It said;

- It didn't believe that by investing in the fund it stopped Mr C from wanting to make his money work harder and gain better returns than a deposit account. It was reasonable for him to invest some of his money over the medium to long term.
- The adviser had collected all Mr C's personal and financial circumstances prior to the advice and would have discussed any financial plans he had. It said Mr C was happy to invest some of his savings and was left with a reasonable amount of deposit-based savings for contingency. The level of risk was appropriate, providing a balance between risk and reward. It was in place for over ten years so was affordable for him over the medium to long term.
- By using the ISA wrapper some of Mr C's savings were invested in a tax efficient way and he was given sufficient information about the risks, aims and benefits before making the investment.

Mr C wasn't happy with the outcome and brought his complaint to this service. He said the advice to invest into the UK Growth Fund was unsuitable for an inexperienced investor such as himself. He hadn't suffered a loss when he sold the investment but had only become aware he had cause for complaint about the advice to invest after contacting his representative.

The investigator who considered Mr C's complaint didn't think it should be upheld. In summary;

- Mr C's recollection was that he was made redundant at some point in the summer of 2000 and that the funds he had were his redundancy pay. But the investigator had to rely on what was recorded at the point of sale and at that time it was recorded that Mr C was employed.
- Just because Mr C was an inexperienced investor didn't necessarily mean he should

have only been recommended no or low risk products but instead what was suitable for him and what he wanted.

- At the point of sale Mr C wanted growth and didn't want to increase his regular savings so the investigator thought the UK Growth Fund met his need for growth and met his objectives. It was recorded Mr C wanted to take a medium risk and the UK Growth Fund was defined as such by Lloyds.
- The investigator thought the investment of £5,000 was affordable and only accounted for less than 20% of Mr C's savings. He had the means to replace the funds. The Fund matched Mr C's attitude to risk, his aims for growth and to get a better return than savings.
- The investigator wasn't persuaded Mr C did not want to take a medium risk with his investment.

Mr C didn't agree with the investigator. While there were some differences in his recollection and the information collated by Lloyds, the UK Growth Fund was too high a risk for a first-time investor, it was largely invested into equities. Mr C wanted to achieve greater growth but didn't have to take a medium risk to achieve this but for a first-time investor the investment was a step too far. There would have been lower risk options available for him. Lloyds didn't have anything further to add.

As the complaint couldn't be resolved, it has been passed to me for 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.

Mr C's circumstances

I've considered Mr C's circumstances at the time the advice was given and as recorded in Lloyds' 'Financial Interview' document.

I should first say that I agree with the investigator that it is reasonable to rely on the information recorded in the fact find from the time of the sale. Mr C has said that his recollection is that he was made redundant in the summer of 2000 and that the cash he held came about as a result of his redundancy payment. But I am mindful that its over 20 years since the sale and memories can fade and in both the fact find and the ISA application it was recorded Mr C was employed and had been for many years. So, based on this contemporaneous record of what was said, I think its most likely the savings Mr C held at the time came about as a result of excess income over expenditure – or similar – rather than as a result of a redundancy payment.

Its recorded that Mr C was 45 years of age, a homeowner with a mortgage and had been with his employer for 28 years. He had two savings accounts totalling just over £30,000. He didn't hold any investments. Under the '*attitude to risk*' section it was recorded Mr C was prepared to take a medium risk with his investment and wanted to invest £5,000 over the longer term. It was recorded he wanted '*to create investment from excess cash held on bank accounts.*'

Under the '*suggested solutions*' section in the Summary and Recommendations document it said '*...you could commit £5,000.00 into a Unit Trust Individual Savings Account which offers the opportunity of capital growth over the medium to long term. This would mean that potential capital growth could be achieved in a tax efficient environment free from personal Income Tax and Capital Gains Tax liabilities.*'

I note that Mr C signed and dated the document to confirm what was recorded was an accurate reflection of his financial circumstances, the risk and characteristics of the products had been explained to him and he understood them. Because of this, I think it's reasonable to rely on the information that was recorded about Mr C's circumstances. If what was recorded wasn't right, Mr C had the opportunity to correct it. And I think it's reasonable for Lloyds to have relied on what it was told by Mr C at the time. It confirmed its understanding to Mr C and he didn't correct it, so it wouldn't be fair to now judge the advice it gave against information it wasn't aware of.

Three weeks later Mr C completed and signed an application form for a unit trust Maxi ISA to invest £5,000 into the UK Growth Fund.

Mr C's attitude to risk

For this investment, Mr C's attitude to risk was recorded as being medium. I have considered how this came about and how Lloyds made Mr C aware of the varying levels of risk implicit in different investments, particularly bearing in mind he was a novice investor. Mr C was seeking advice because he didn't have the knowledge or experience to make such an investment decision unaided. So, Lloyds needs to demonstrate that it gave suitable advice taking into account Mr C's circumstances, understanding and knowledge after ascertaining his attitude to risk.

As well as the 'Financial Review' document Lloyds has told us at the time of the sale its adviser had to use a strict process in order to establish a customer's attitude to risk. It said the adviser would have introduced its fund guide to the customer at the first interview and would have explained the risk and rewards of stock market investment, the varying levels of risk and what was meant by them.

Lloyds said it would also have been explained to Mr C the importance of keeping enough capital back to cover short term requirements. Lloyds told us there was a second interview where Mr C could have asked any questions and then agreed to invest, or otherwise. Also, at the second meeting the adviser would have again discussed with Mr C the chosen fund and explained its risk rating and characteristics.

Whilst I'm not convinced that Lloyds has been able to show us how it came to the conclusion that Mr C was a medium risk investor, overall, I think this was most likely discussed and agreed. Even though I don't have evidence that the risk of investing was explained to Mr C, taking into account his ability to understand investment risk and clarification of his experience or knowledge to understand the risk involved, I think he reasonably understood the risk of the investment.

I say this because Mr C did sign to say, *'I have had explained to me and understand the risks and characteristic of the products which are being proposed'*. This was after the second meeting which took place around three weeks after the first. And I see from Mr C's complaint form that he said he was told that the value of his investment could fluctuate which would suggest there was some sort of discussion about the proposed investment and the potential pitfalls. And Lloyds has told us that as part of its advisory process Mr C would have been guided through the fund brochure – which tallies with what Mr C has said about his awareness that the value of his investment could fluctuate – so I haven't seen anything to suggest that this was not the case.

The brochure Lloyds has given us from around the time of the sale is a 20-page document and it has a section on stock market investment explaining various risk levels from 'no risk' to 'high risk'. Medium risk was defined as *'Investment primarily in UK stocks and shares, with*

some fixed interest securities and overseas investments'. Under the 'Medium risk' section of that brochure the UK Growth Fund is listed. And under the 'investment aims' of the fund it says, '*Aims to provide long-term capital growth through a wide range of UK ordinary shares.*'

So taking all of this into account, I think the levels of risk implicit in investing were explained to and discussed with Mr C and he was content to expose his investment money to a medium level of risk in order to achieve the potential of capital growth over the medium to long term.

The advice

While I'm satisfied it was most likely the case that Mr C's attitude to risk was assessed by the adviser – even though it was only as far as was recorded in the fact find and there's no evidence of how Mr C's attitude to risk was actually assessed – I've considered whether what was recommended to him was right for his circumstances and financial objectives. As I've said above, without any investment experience Mr C would have been totally reliant upon the advice given to him. And I've borne in mind what he'd done previously with his money – by putting it in a risk-free environment in a savings account.

But as mentioned above its recorded that Mr C's investment objective was for the potential for capital growth so it seems likely that Mr C did want to explore the opportunity to make his money grow more than it had done while in his savings accounts. Taking everything into consideration I'm persuaded it was more likely that Mr C was willing to take some risk with his money.

Mr C has told us he wanted to achieve potentially better returns than cash deposits for some of his money. He said he was prepared to take a low level of risk and that the UK Growth Fund was too high in risk for a first-time investor. I've considered this point. Mr C's personal and financial circumstances seem to have been stable – he was 45 years of age at the time of the advice, he had just over £30,000 in savings, he had a mortgage and been with the same employer for 28 years.

Mr C has argued that as a first-time investor a medium risk investment was too high a risk for him. I've considered whether, bearing in mind Mr C's age and circumstances whether investing in a medium risk investment for the medium to longer term was right for him. And I've seen nothing to conclude that it wasn't.

I say this because £5,000 represented just over 15% of Mr C's investable assets and because of his age and circumstances I think he was in the position to absorb any losses he could potentially have suffered. So, I think it was affordable for him. And like the investigator, just because Mr C had only held his assets in savings prior to the investment recommendation doesn't necessarily mean that a medium risk investment was wrong for him.

Overall, Lloyds was suggesting that Mr C take a small portion of the money he had previously held in a bank account and put it into a stock market investment. This, on the face of it, doesn't seem an unreasonable way to introduce an investor to stock market investments that would allow him to see the benefits of that type of asset while limiting the impact on his overall financial standing were risks to materialise. But in order for him to do so I would expect to see that all of the options and risks were clearly explained to him.

As I've said I think it's more likely Mr C was given sufficient information for him to be aware of the varying levels of risk and potential rewards implicit in different types of stock market investments. So, I'm satisfied he was made aware of the alternatives that were available to

him. And Mr C had two meetings with Lloyds' representatives so had an additional opportunity prior to investing to discuss any concerns he may have had.

However, I do appreciate that there were probably lower than medium risk options available to Mr C at the time that could have potentially offered him better returns than savings. But my role isn't to re-visit the advice that he was given and what other options were potentially available to him. Rather it's to consider whether the advice that was given to Mr C was suitable for him at the time and as identified prior to the investment and whether it was sufficiently explained to him.

Taking all of the above into consideration, and in the individual circumstances of this complaint, I don't find that the advice given to Mr C was unsuitable for him bearing in mind his personal and financial circumstances, his attitude to risk and his investment requirements. It follows that I don't uphold Mr C's complaint.

No doubt Mr C will be disappointed with my conclusion, but I hope I have been able to explain how and why I have reached it.

My final decision

For the reasons give above, I do not uphold Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 5 September 2022.

Catherine Langley
Ombudsman