DRN-3087299

The complaint

Mr G has complained about the advice he received from Lloyds Bank PLC ('Lloyds') in 2001 to invest into an Asset Management Service ('AMS') portfolio. Mr G says he was advised to invest too much of his capital and with too much risk.

Mr G is represented by a third party, but for ease of reference I'll refer to Mr G in my final decision.

What happened

As a result of a compensation payment Mr G received a considerable sum of money. It was agreed in May 2001 that Mr G would meet with Lloyds – along with his brother – because of Mr G's need for support. In advance of the meeting Mr G's brother was sent a copy of the financial report which was to be discussed at the meeting held in June 2001.

At the time Mr G's assets and circumstances were recorded in the financial report as being:

- £317,000 held on deposit,
- £7,000 in a stocks and shares ISA with another provider,
- The expectation of an additional £200,000 to £250,000 to be available in the next 12 months.
- Mr G wasn't able to work and Lloyds told us he wanted an income of £12,500.

Lloyds has told us it was only possible for Mr G to achieve an annual income of £10,500 with the amount of capital he had. As a result of the meeting an AMS account valued at £317,000 was to be opened with Lloyds with the following investment portfolio:

- £115,000 to be invested into gilts,
- £20,000 to be invested in a with profits bond,
- £110,000 to be invested into a mixture of equities,
- £72,000 to be retained in cash.

In March 2002 Mr G received an additional £50,000 and was expecting another £400,000. He wanted to keep £67,000 in cash for a potential business opportunity with a member of his family. He required more income with safety so an additional £50,000 was invested in gilts which increased his income by a further £3,000 per year.
In June 2002 Mr G wanted to make a payment of £15,000 to a family member. He had received a further £50,000 which was to be kept in cash. As a result, his portfolio was invested:

- £115,000 held in cash,
- £200,000 invested in gilts,
- £84,000 invested in a with profit bond and equities.

A total investment of £399,000.

In 2003 Mr G wanted £200,000 for a deposit on some properties he was to buy for rental purposes. After such a withdrawal the AMS portfolio couldn't be sustained and was closed.

Mr G complained to Lloyds. He said he wasn't able to work, couldn't replace any lost capital and needed support from carers. Mr G suffered from memory loss and was unable to recall his brother being in attendance at the meeting. Mr G said he had been advised to invest too much of his capital and with too much investment risk. He didn't have any prior investment knowledge or experience.

Lloyds responded to Mr G's complaint in November 2020. It said:

- It was aware that Mr G had only limited experience and dealings with large sums of money and making the type of investment that he did.
- Mr G had had a significant change in his circumstances in the five years prior to his investment. He needed immediate income, it was prudent for him to have sought advice and his investment in 2001 was appropriate. Additional income had been needed in March 2002 and the further investment into gilts met that requirement.
- Mr G's decision to invest into property in 2003 wasn't known at the outset of his relationship with Lloyds when he had been recommended medium to long term investments.
- He was 26 years of age in 2001, needed income over the longer term and the AMS portfolio recommendation was appropriate.

Mr G wasn't happy with the outcome to his complaint so brought it to this service. Our adjudicator who considered the complaint didn't think it should be upheld. They thought that Lloyd's recommendation wasn't unsuitable.

Mr G disagreed. He had been a vulnerable client and he said the advice was unsuitable for him.

As the complaint remains unresolved, it has been passed to me for a 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.

After doing so I've decided not to uphold Mr G's complaint. I'll explain why.

Lloyds doesn't have all of the documents from the point of sale in 2001. However, I don't find this surprising given how long ago this recommendation was made and the subsequent closure of the portfolio in 2003.

But Lloyds has been able to give us a copy of the Financial Report from June 2001. It's recorded at the top of that Report that it was based on the information gathered between Mr G, his brother and the adviser.

It said the portfolio would be constructed taking into account Mr G's overall aims, the degree of security he required, the length of time of investment, his income and capital requirements and his need for cash reserves. At that time Mr G's assets totalled £317,000 in cash/deposit type products as well as £7,000 within another product provider's ISA which was recorded as being a medium risk investment.

In the Report, its recorded Mr G's personal objectives were (when further funds were received) to invest a total of £400,000 with a balance between capital growth and income and also wanted to maintain a cash reserve of £200,000.

The recommended action included an exposure to the UK equity stock market in blue chip shareholdings to provide for the potential of capital growth. And that increase in risk was to be balanced with gilts which would provide capital security and provide the majority of the income needed. Tax efficient products were to be considered.

The low risk investments recommended included gilts, a Tessa, £51,600 cash in a current account and an IGSA all totalling £187,100. The medium risk investments included an equity-based portfolio, a with profits bond and the ISA. They totalled £137,500. Mr G's main residence and goods were valued at £180,000. No high-risk investments were included. The total portfolio was valued at £504,600, or £324,600 excluding Mr G's property.

The outcome of the recommendation was that 58% of Mr G's investible funds at the time were to be invested into lower risk investments and 42% in medium risk investments which were to provide the potential for capital growth over the medium to longer term.
After the changes made in 2002, and compared to the 2001 portfolio, the portfolio was now invested:

- £115,000 held in cash (plus £43,000),
- £200,000 invested in gilts (plus £85,000),
- £84,000 invested in a with profit bond and equities (minus £46,000),

Of the amended portfolio 79% of Mr G's invested assets were in lower risk investments and the balance in equities and with profits bond.

Mr G's investment objectives and attitude to risk

In the absence paperwork from 2001 evidencing how Mr G's attitude to risk Lloyds concluded he was willing to take and what his investment objectives were, I have to consider whether the conclusion it did reach was reasonable. I've also borne in mind Mr G was new to investing and would be reliant upon the advice given to him.

While I can't know for sure what was discussed before and at the July 2001 meeting and how Mr G's attitude to risk and investment objectives were ascertained and identified, I've reviewed the information I do have and taken into account what was known about Mr G's circumstances at the time.

Mr G had been awarded a large sum of money. Those funds were to help sustain Mr G, who was unlikely to be able to work, and who needed support. Mr G had very limited investment experience – particularly with this amount of funds – and Lloyds had to take this into account I've also carefully considered Mr G's capacity for loss and inability to replace any losses bearing in mind the funds were to sustain him for the long term. Mr G was aged 26 years at the time and unexpected to be able to work.

Over this kind of timescale, I don't think the conclusions reached by Lloyds were unsuitable. Mr G had a long term need for his money and had an immediate need for income but too cautious an approach may have increased the risks of his capital not meeting his growth objectives or eroding his money's value against inflation. Some capital growth would have been needed to sustain that level of income over the longer-term and this would mean accepting a certain level of risk. A low/medium attitude to risk meant Mr G could have lower risk investments to produce his income but also achieve the capital growth he'd need over the longer term by adding in some medium risk investments. I don't think this was an unreasonable outcome.

I've also taken into account that at the time of the recommendation it wasn't known that Mr G would be removing half of the funds to invest into property – a different asset class and with a different risk rating.

So, I don't think it's unreasonable to assume the investment objectives and subsequent recommendations would have been different if that had been known, and in particular the medium to longer term investment objective which would be needed for equity growth.

Were the investment recommendations suitable?

As identified by Lloyds, Mr G was inexperienced in dealing with these large sums of money and had little investment experience and knowledge. It's clear these funds were very important to Mr G.

The Financial Report which was discussed with Mr G and his brother in June 2001 explained Lloyds' rationale for making the various investment recommendations that it did. It also explained the types of risks involved including fluctuations in value, the suggested length of time for investment and the various returns and growth the different investments would potentially provide.

So, I think the reasons for the suggested portfolio and investments were more likely discussed and agreed along with the risks involved being explained to Mr G.

I don't find the recommendation to invest a proportion of the portfolio into blue chip equities over the medium to longer term unsuitable even though there was potential in the short term for stock market volatility and fluctuations in value. And it wasn't known Mr G would be taking half of his capital out of the portfolio.

The portfolio that resulted in 2002 – when more of the expected cash had been received – had a significant exposure to lower risk investments and cash, and just over 20% exposure to medium risk equities to provide the capital growth. I don't think those investments exposed Mr G to too much risk.

In conclusion, I don't find that the investment recommendations made were unsuitable for Mr G's needs and were in line with his investment objectives and attitude to risk that that I think were reasonably identified at the outset in 2001.

The rationale to invest for a mixture of income and capital growth for the medium to longer term wasn't unreasonable bearing in mind Mr G's circumstances at the time. And the underlying investments reflected his investment objectives and attitude to risk in order to meet those objectives.

Having considered the overall evidence and in the individual circumstances of this complaint I have not seen sufficient persuasive evidence that the AMS portfolio was unsuitable for Mr G. I have not seen any evidence he wasn't prepared to take some risk with the money in order to achieve his investment objectives. And the amount invested left sufficient cash available to him if he needed it.

I appreciate that Mr G will be disappointed with my decision, but I hope I have been able to explain how I have reached it and why.

My final decision

For the reasons I have given above, my final decision is that I do not uphold Mr G’s complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr G to accept or reject my decision before 17 June 2022.

Catherine Langley
Ombudsman