DRN-3300784

The complaint

Mrs D has complained about the advice she received from Lloyds Bank PLC ('Lloyds') to invest into two Guaranteed Investment Bonds ('GIBS').

Mrs D is represented by a third party but for ease of reference I shall refer to 'Mrs D' in my decision.

What happened

In June 2004 and March 2005 Mrs D met with a representative of Lloyds and was advised on both occasions to invest into a GIB - £10,500 and £10,000 respectively.

The GIBs matured on 29 July 2009 for £10,531.50 and 17 March 2010 for £11,022. Mrs D became concerned about the advice she had received and that no no risk alternatives were discussed. The level of risk was too high risk and the product wasn't explained to her. She complained to Lloyds.

Lloyds responded to Mrs D's complaint and didn't think the advice was unsuitable. It said;

- For both investments Mrs D had met with a Lloyds' representative twice before investing during which time all her personal circumstances were recorded.
- Her attitude to risk was assessed as low risk.
- The GIBs she was advised to invest into were a low/cautious risk investments and were considered suitable for an investor with Mrs D's level of experience.
- Mrs D had complained that no risk alternative products weren't discussed. As part of the advice Mrs D had received in June 2004, she invested £4,500 into a term deposit account. Similar products were available in 2005 and as she had taken out a term deposit account the previous year Lloyds didn't think it was unreasonable to consider she would have been aware of the availability of this type of product.

Mrs D wasn't happy with the outcome to her complaint and brought it to the Financial Ombudsman. Our investigator who considered the complaint didn't think it should be upheld. He said;

- Lloyds had fully considered Mrs D's circumstances and made the recommendations on that basis.
- The total amount invested didn't represent a significant portion of Mrs D's available funds.
- The GIBs matched Mrs D's requirements of capital security and the potential for capital growth. Mrs D had no liabilities or planned expenditure and the recommendation was suitable.
- Mrs D had previous investments and deposit-based accounts so was aware of alternatives available.
- The money was invested into the product which suited her appetite for risk and her

objective as per the fact find.

Mrs D didn't agree and said;

- As she was due to retire and had only paid seven years of pension contributions her income was going to dramatically drop.
- There were other alternatives that could have been accessed within five years without penalties – most notably a multi-year fixed rate bond.
- The 2005 income of £2,440 per month was only for a short period of overlap between Mrs D still working and drawing on her pension.
- The with profit bonds Mrs D held were very low risk and less complicated than the GIBs which had a complex system of capping every six months.
- The investigator hadn't considered the limitations of the maximum annual growth, which was capped, and that the stock market would have had to perform exceptionally for the GIBs to provide a better return than fixed rate bonds.

The investigator responded but said the points made hadn't changed his mind. As the complaint couldn't be resolved it has been passed to me for a 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 reached the same conclusion as the investigator for broadly the same reasons. I'll explain why.

<u>Mrs D's circumstances</u>

- <u>June 2004</u>

Lloyds has given us a copy of the 'Personal Summary and Recommendations' for the June 2004 investment. Its recorded that Mrs D's priority was to 'receive advice relating to making investments.' And that she 'wished to investigate ways to obtain better growth than at present over the medium to long term and although you are prepared to accept some risk you would like the comfort of some capital security.' Her stated attitude to risk was low which Lloyds said was 'typically in cash and fixed interest securities with minimal investments in stocks and shares'.

At the time its recorded in the 'Personal Factfind' that Mrs D was 65 years of age, married and owned her home mortgage free. She stopped paying into her pension when she turned 65 years but had only paid about seven years of contributions. She had £7,917 in her current bank account and a total of £44,898 spread over four savings accounts.

Mrs D held a Maxi Equity ISA valued at £7,509 and which had been held since 2002, and two growth bonds totalling £21,001 invested into in 1997 and 2000. Its recorded that Mrs D wasn't happy with the with profit bonds as they had gone down in value, but one was still in profit and she intended on surrendering it but was to retain the second one pending recovery.

Mrs D was employed and had been for 47 years. She was earning £24,000 per annum and had monthly excess income over expenditure of £550.

A £10,500 investment into the five-year GIB was recommended as it would provide the potential for capital growth linked to the performance of the FTSE 100 Index with a guaranteed return of the capital invested. It's made clear that the performance may be limited compared to direct investment into shares but that with the GIB, Mrs D could potentially receive stock market growth with her capital guaranteed.

- March 2005

Lloyds has also given us the 'Personal Summary and Recommendations' from 2005. Again, its recorded that Mrs D's priority was to receive advice relating to making investments. And her objective was to invest £10,000 over a five-year term for potentially a greater return than leaving the cash on deposit but with the capital guaranteed.

It was recorded that Mrs D didn't have anything specific she wished to save for but with her current income and the money she held on deposit meant she could afford to commit the money for a five-year period. Her capacity and appetite for was risk was cautious which Lloyds said meant investment with a relatively modest risk to the capital value and/or income.

At that time Mrs D was 66 years of age and intended to retire at 67. She didn't require specific retirement advice, but it was recorded that the representative had 'taken into consideration the likely changes in your circumstances at retirement in respect of the advice and recommendation(s) given above.'

The 'Personal Factfind' recorded that Mrs D was still in full time employment. Her financial situation was that she had £5,859 in her current account, a total of £49,403 in savings accounts for 'rainy day savings'. She also had a one-year term deposit of £4,500 for 'better growth' and £9,000 in a Tess ISA invested in 2002 for a five-year term. As well as the GIB she had invested into the year before Mrs D had invested £10,000 in a with profits bond in 2000 and had made a regular monthly investment into an OEIC since 2002 which in total were valued at £21,725. The latter two investments were recorded as having a balanced investment approach. At that time Mrs D was earning £24,000 per annum plus an annual pension income of £6,000.

£10,000 was to be invested into a further GIB for a five-year term. Again, it offered the potential for capital growth linked to the FTSE 100 index but with the capital guaranteed.

Mrs D's attitude to risk and the advice

There's no record of how Mrs D's attitude to risk was established – only that its recorded. So, I have gone onto consider whether Lloyds collected sufficient information about Mrs D's circumstances and objectives to enable it to assess her attitude to risk.

While it's clear that Mrs D did have some investment experience, I've borne in mind that Mrs D was seeking advice because she 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 Mrs D's circumstances, understanding and knowledge after ascertaining her attitude to risk.

Clearly, I can't know for sure what was discussed at the meetings Mrs D had with Lloyds' representatives but from the documentary evidence that is available, I'm not convinced that Lloyds has been able to show us how it established Mrs D's attitude to risk.

However, in the absence of documentation to evidence how the risk assessment for Mrs D was carried out I have taken into account her circumstances as recorded in the Personal

Factfinds and Personal Summary and Recommendations to see whether the level of risk the investments exposed her to was right for her.

As mentioned above, Mrs D was due to retire. She had cash in her current and savings accounts as well as other investments whose maximum level of risk was recorded as balanced.

Its recorded that Mrs D did want the possibility for some capital growth but with the capital guaranteed. So, it doesn't seem unreasonable for Mrs D to have invested a proportion of her funds for capital growth – albeit that growth being capped – but with no risk to her capital. And Mrs D had no liabilities or future plans for the money so a medium investment term for capital growth for some of her funds doesn't seem unreasonable.

Overall, I'm satisfied that taking into account Mrs D's circumstances, investment experience and objectives I don't think the risk rating of cautious for this portion of her investments was unsuitable for her.

For the investment made in 2004 Mrs D had funds invested of £28,510 and she held £44,898 in her savings accounts as well as £7,917 in her current account – a total of £81,325. It was recommended that £10,500 be invested which represented 23% of her available savings account funds and 13% of her overall assets.

For the 2005 investment Mrs D had total assets of £100,987 and the £10,000 invested represented 20% of her available savings or 10% of her overall assets. When both bonds were invested into, they represented 20% of Mrs D overall assets. I don't think these proportions were unreasonable and there's nothing to suggest they were unaffordable for Mrs D, particularly bearing in mind that her capital was protected.

Mrs D has referred to the limitations to the growth of the GIB as well as that they were complex. As Mrs D wanted guarantees for the capital invested its inevitable this would have to be balanced with the potential for growth because of the link between risk and reward. And I accept these investments may not have been as straightforward as other investments, but Mrs D had meetings with Lloyds' advisers twice for both investments and also received a key features document, an illustration and explanatory brochure prior to investment. So I think if she was unsure about what she was investing into I would have expected her to have raised her concerns at the meetings or as a result of reviewing the product documentation which she confirmed she had read.

Mrs D had concerns about the pending reduction in her income when she was to retire and her limited pension contributions.

I note that for the 2004 investment the Personal Factfind records that for pension planning it said 'Need identified, but did not wish to investigate'. And for the 2005 recommendation its recorded that it had been outlined to Mrs D the importance of making financial provision for her retirement but that she didn't wish to receive further advice at the time as she didn't want to lose access to her capital and didn't require specific retirement income advice. It also stated she was aware of the consequences of not taking action in that area.

After investment Mrs D still had sufficient funds available to her in her current and savings accounts to provide any capital or income she may have required plus the knowledge that the two GIB investments were guaranteed to return the capital invested upon the respective five-year encashment dates. With the pending retirement I don't think Mrs D was in a position to be able to replace any capital losses. The capital invested was guaranteed so in the circumstances I'm unable to say the recommendation was unsuitable for Mrs D.

However, I do appreciate that there were probably different investment options available to Mrs D at the time – including the fixed rate bonds referred to – that could have potentially offered her better returns. But my role isn't to re-visit the advice that she was given and what other options were potentially available to her. Rather it's to consider whether the advice that was given to Mrs D was suitable for her at the time and as identified prior to the investment, and I am satisfied that it was.

Taking all of the above into consideration, and in the individual circumstances of this complaint, I don't have anything to conclude that the advice given to Mrs D was unsuitable for her bearing in mind her personal and financial circumstances, and her investment requirements. It follows that I don't intend to uphold Mrs D's complaint.

No doubt Mrs D will be disappointed with my decision, but I hope I have been able to explain how and why I have reached it.

My final decision

My final decision is that I do not uphold Mrs D's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 9 February 2023.

Catherine Langley
Ombudsman