DRN-3334595

The complaint

Mr C complains on behalf of himself and the estate of the late Mrs C that Nationwide Building Society wrongly advised them to invest £5,000 into a Guaranteed Equity Bond (GEB) in 1997. Mr C and the estate of Mrs C are represented by a claims management company ('CMC').

What happened

After completing a financial review with Nationwide, the adviser recommended Mr and Mrs C jointly invest £5,000 into a Nationwide World Guaranteed Equity Bond (GEB). When the policy matured in October 2002 it returned the original capital.

Mrs C passed in 2010 and Mr C obtained probate for the estate.

In 2021, the CMC complained to Nationwide that Mr and Mrs C were advised to place more than half of their free assets into the GEB; they had some investment experience, but this was limited to very low risk investments. And that Mr and Mrs C weren't given sufficient information about how the GEB worked. The CMC said there was no evidence Nationwide had compared the GEB against current deposits and bond rates, and if Mr and Mrs C had been aware of attractive interest rates on these products, they would have chosen to invest in a fixed rate bond instead of the GEB.

Nationwide didn't uphold the complaint and consented to the Financial Ombudsman Service considering the case if Mr C and the estate of Mrs C didn't agree. Nationwide thought Mr and Mrs C had some investment experience and highlighted two tax-exempt special savings accounts (TESSA), a Personal Equity Plan (PEP) and an investment bond they held at the time. Nationwide explained the fact-find recorded there was over £20,000 held in cash accounts in the name of Mrs C and they'd only recommended an investment of £5,000. Nationwide thought the key features documents explained the aims and the risks of the GEB and said this investment reflected Mr C's attitude to investment risk.

On behalf of Mr C and the estate of Mrs C, the CMC brought the complaint to the Financial Ombudsman Service. One of our Investigators looked into things and thought Mr and Mrs C wouldn't have invested into the GEB if they had known there was only a chance of just getting their capital back with the GEB. The Investigator thought it likely they would have chosen a different option at the time as it was clear their intentions were to return their capital and some growth for the future.

Nationwide didn't agree with the Investigator and asked that an Ombudsman decides the complaint.

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.

I've reviewed the comments the CMC and Nationwide asked me to consider. Nationwide believe I should take into account that Mr C purchased a similar product a number of years later, and that in similar cases the Financial Ombudsman hasn't upheld the complaint. I should clarify here that I've reached my final decision taking into account the circumstances of this particular case and the specific product sold.

Mr and Mrs C held a number of investments before Nationwide provided them with a recommendation. These included a mixture of cash, an investment bond and unit linked funds in a PEP. This suggests Mr and Mrs C had a limited knowledge of investments and risk versus reward, but it's likely they weren't experienced investors with an understanding of worldwide capital markets.

Nationwide recommended Mr and Mrs C invest £5,000 for the term of the GEB. This left more than £15,000 as an emergency fund. Nationwide further recommended Mrs C cash into a postal deposit account paying a gross interest rate of 6.75%. Taking into account the incomes for Mr and Mrs C at the time, this wasn't an unreasonable recommendation. The recommendations support there was a discussion about interest paying accounts at the time, but that Nationwide were looking at other areas for potential capital growth for a proportion of the available funds. The recommendation report section of the fact-find lists what Nationwide considered suitable products at the time. The list made no reference to fixed interest bonds over a similar term as the GEB. Although Nationwide say the advisor would have discussed fixed rate bonds, taking into account this wasn't recorded in the fact-find or recommendation report, I think it's unlikely this option was provided to Mr and Mrs C.

The fact-find went on to record Mr and Mrs C's objective for the £5,000 was capital growth with no risk to the capital. The attitude to investment risk for Mr C differed to that of Mrs C. They were recorded as:

Mr C – Balanced – willing to accept a moderate degree of risk in order to achieve potentially higher return over the medium term (more than 5-years). And prefers to leave investment decisions to experts.
Mrs C – Cautious – prefers to ensure capital is exposed to little or no risk but with potentially lower rate of returns (Bank account/National Savings).

Although the CMC says Nationwide hasn't taken into account Mrs C had a lower attitude to investment risk than Mr C, I don't consider this is a fair and reasonable observation. In reviewing what the full recommendations were, I consider Mrs C's attitude to investment risk was taken into account, in particular moving cash to a 60-day account with a reasonable rate of interest. But, just as importantly when planning a portfolio of investments, I'm satisfied the GEB also took into account Mr C's attitude to investment risk as well. I appreciate the GEB investment was in joint names, but holistically I don't think it was unsuitable to include Mrs C within this investment. The cash investments were held in the name of Mrs C as she was a non-taxpayer at the time, so this seems reasonable to me.

So, having considered the investments as a whole, it seems to me the crux of this complaint is simply whether the recommendation of the GEB was suitable in the circumstances of this case. And in particular whether the information Nationwide provided at the point of sale was sufficient for Mr and Mrs C to have reasonable understanding how the GEB worked.

The key features document provided details of simulated past performance against a UK savings account, but also made it clear there was no guarantee of future performance. The CMC and the Investigator thought Mr and Mrs C had no experience of the world indices used and it wouldn't have been easy for them to understand how the GEB was performing. I considered this, but Mr C had expressed he preferred to leave investment decisions to experts. So, I don't think a lack of understanding of the world indices would reasonably have influenced Mr and Mrs C's decision to invest here.

I'm satisfied Mr and Mrs C likely understood the risks associated with the product. This is supported by the comments from the CMC saying that, *"Mr and Mrs C knew when they started their investment that only the original capital was guaranteed, which was duly returned to our client and his wife when the investment matured."*

The key features document provided an explanation and diagram showing the maximum return of the investment was 100%, and that the minimum would be a return of capital. It shows that the performance of the GEB was linked to the performance of four world indices and goes on to say:

"The {GEB} is a fixed six-year Bond. At the end of each year during the term on the Bond anniversary, we will work out if the Bond has risen, or fallen in value. The maximum rise in any one year is 16.66%. There is no maximum fall. At the end of the six-year term, we will add up the percentage rise or fall in each year to give an overall percentage return. If there has been an overall percentage rise during the term, then your original investment will be increased by this amount and the total paid to you. If there has been no growth at all, or an overall percentage fall during the term, you will still get back the whole of your original Investment". The key features document went on to explain that any positive performance was capped at 16.66% per year, but there was no downside performance limit each year. And any one year of poor performance would have a significant impact on any positive returns.

In the recommendation report, Nationwide say, *"A World GEB is linked to a collection of stock market indices and you will receive a return on your investment based on the increase of these over the 5-year term of the bond with the collective indices being averaged out over the last 12-months. However, should the collective Indices not increase then you will receive a guaranteed return of your original capital. You will receive 100% of the growth of the collective indices over the term."* This isn't an accurate description of how the GEB worked and made no mention of the potential impact of any significant downturn in any one year of the years the bond remained invested. Nor did it provide a reasonable explanation of the limited upside potential versus the unlimited downside potential. It seems likely to me the advisor would have read out his recommendations and that Mr and Mrs C would not have understood the significant impact of any negative performance in any one year.

Although the GEB guaranteed a return of capital, this return was instead of any interest Mr and Mrs C could have earned. In my view, there was a very real risk Mr and Mrs C wouldn't receive a return on their capital, or that any return would be quite small compared to a more limited potential for a higher return. In this case this is what happened. And whilst Mr and Mrs C understood they may only get their capital back, which is not in dispute, I'm not persuaded this particular GEB was suitable to help them achieve their objective for capital growth. This is particularly so as Mr and Mrs C had limited investment experience and relied in the advice provided by Nationwide.

What I think Nationwide should do

As I think don't think the bond was suitable, I think Mr C and the estate of Mrs C should be compensated.

Fair compensation

In assessing what would be fair compensation, I consider that my aim should be to put Mr C and the estate of Mrs C as close to the position he would probably now be in if Mr and Mrs C hadn't been given unsuitable advice.

I take the view that Mr and Mrs C would have invested differently. It isn't possible to say *precisely* what they would have done differently. But I am satisfied that what I have set out below is fair and reasonable given Mr and Mrs C's circumstances and objectives when they invested.

What Nationwide should you do?

To compensate Mr C and the estate of Mrs C, Nationwide should:

- Compare the performance of Mr and Mrs C's investment with that of the benchmark shown below and pay the difference between the *fair value* and the *actual value* of the investment. If the *actual value* is greater than the *fair value*, no compensation is payable.

- Nationwide should also pay interest as set out below.
- Provide the details of the calculation to Mr C and the estate of Mrs C in a clear, simple format.

Income tax may be payable on any interest awarded.

Portfolio name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
Guaranteed Equity Bond (World GEB)	Matured	Average rate from fixed rate bonds	Date of investment	Date of maturity	8% simple per year on any loss from the end date to the date of settlement

Actual Value

This means the actual amount paid from the investment at the end date.

Fair value

This is what the investment would have been worth at the end date had it produced a return using the benchmark.

To arrive at the *fair value* when using the fixed rate bonds as the benchmark, Nationwide should use the monthly average rate for one-year fixed-rate bonds as published by the Bank of England. The rate for each month is that shown as at the end of the previous month. Nationwide should apply those rates to the investment on an annually compounded basis.

Why is this remedy suitable?

I have decided to use this method of compensation because:

- Mr and Mrs C wanted to achieve a reasonable return without risking any of their capital.
- The average rate for the fixed rate bonds would be a fair measure given the circumstances and objectives of Mr and Mrs C. It does not mean that Mr and Mrs C would have invested only in a fixed rate bond.
- It is the sort of investment return a consumer could have obtained with little risk to their capital.

The information about the average rate can be found on the Bank of England's website by searching for 'quoted household interest rates' and then clicking on the related link to their database, or by entering this address: www.bankofengland.co.uk/boeapps/database , clicking on: Interest & exchange rates data / Quoted household interest rates / Deposit rates - Fixed rate bonds / 1 year (IUMWTFA) and then exporting the source data.

There is guidance on how to carry out calculations available on our website, which can be found by following this link: https://www.financialombudsman.org.uk/businesses/resolving-complaint/understandingcompensation/compensation-investment-complaints

My final decision

I've decided to uphold the complaint and that Nationwide Building Society should pay the amount calculated as set out above. Nationwide should provide details of its calculation to Mr C and the estate of Mrs C in a clear, simple format.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and the estate of Mrs C to accept or reject my decision before 13 October 2022.

Paul Lawton
Ombudsman