DRN-3488129

The complaint

Mr G complains that Sanlam Financial Services UK Limited, trading as Sanlam Wealth provided unsuitable advice in recommending a whole of life Merchant Investors Money Programme.

What happened

Mr G was recommended to take out a whole of life policy in 1989. The adviser who recommended the policy worked for a business that has now been acquired by Sanlam Wealth and it has taken on responsibility for the sale of the policy. Although the policy was later written in trust, it was re-assigned to Mr G before it was surrendered in January 2005.

Mr G, who is represented by a claims management company (CMC), complained to Sanlam Wealth that the policy was unsuitable for his needs and that the adviser hadn't considered a shorter-term policy with an extension option that would have produced a greater return due to its lower charges.

Initially Sanlam Wealth thought the complaint had been made out of time and Mr G brought the complaint to the Financial Ombudsman Service. One of our Investigators looked into things and thought Mr G's complaint had been made in time. Sanlam Wealth then gave consent for the Financial Ombudsman Service to consider the complaint, but said that it didn't uphold the complaint made by Mr G.

The Investigator considered the evidence provided and thought the complaint should be upheld. To put things right, the Investigator thought that Sanlam Wealth should pay Mr G redress based on what it is more likely he would have done at the time.

Sanlam Wealth 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 understand that Sanlam Wealth will be disappointed, but for very much the same reasons as the Investigator I've decided to uphold the complaint. I will now explain why and also what I consider to be a fair and reasonable remedy.

There's no dispute that at the time of the sale Mr G was single, employed and had no dependents. The fact-find recorded Mr G's objectives were travel, family, children, a car, and noted that Mr G intended to go back to his home country in 20 years. At the time Mr G held £9,000 savings in building society or bank accounts.

Sanlam Wealth says that the policy fulfilled Mr G's need to save for the longer term and there is nothing to suggest otherwise. I've noted this comment, but in my opinion, this supports Mr G's primary goal was for savings and not life cover.

Sanlam Wealth added that it’s possible for more than one product to be suitable for a consumer based on their circumstances. And, whilst a shorter original term could also be suitable, that doesn’t mean the product sold to Mr G was unsuitable - and it doesn’t think the reduced charges alone is enough to uphold the complaint. I’ve seen the fact-find records that the objective of the policy was to *“cater for 20 years capital creation”*. The whole of life policy Sanlam Wealth recommended included an element of life cover, the cost of which was deducted from the investment fund within the policy. As Mr G got older, the cost of this life cover would likely increase, and I consider this is an important consideration as it would impact the amount being invested for long term savings. In my opinion, this makes the whole of life policy recommended unsuitable for Mr G at the time, regardless of whether or not a shorter-term investment programme had been considered.

I’m persuaded that Mr G most likely wanted to save for the objectives agreed in 1989, but I can see he held all of his savings at this time in cash. There’s nothing recorded within the fact-find to support Sanlam Wealth discussed investment risk Mr G and it’s not possible for me to say precisely how Mr G would have invested his savings. However, in considering what is a suitable remedy in this case, I’ve decided it’s more likely than not Mr G wouldn’t have wanted to take any risk with his savings at the time and wouldn’t have invested in a unit linked fund.

Putting things right

In assessing what would be fair compensation, my aim is to put Mr G as close to the position he would probably now be in if he hadn’t been given unsuitable advice. I’m satisfied that what I’ve set out below is fair and reasonable given the circumstances of Mr G at the time of the sale and it takes into account the policy was G surrendered in 2005.

My final decision

I’ve decided to uphold Mr G’s complaint and Sanlam Financial Services UK Limited, trading as Sanlam Wealth should pay Mr G compensation based on the following calculations:

A = the contributions invested up to the date of surrender
B = a return on each contribution at Bank of England base rate compounded yearly from the date it was paid to the date of surrender
C = the surrender value of the policy in January 2005
D = A+B – C representing the investment loss at the date of surrender if any

Sanlam Financial Services UK Limited, trading as Sanlam Wealth should pay Mr G simple interest of 8% per year on D, if any compensation is payable, from the date of surrender to the date compensation is paid.

Compensation for capital growth on the contributions in ‘B’ is not usually subject to income tax. However, if Sanlam Wealth considers that tax is payable on the interest, it should send a tax deduction certificate with the payment. Mr G may reclaim any tax overpaid from HM Revenue and Customs if his tax status allows him to do so.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr G to accept or reject my decision before 8 February 2023.

Paul Lawton
Ombudsman