DRN-3594662

The complaint

Mr and Mrs W complain about advice they received from Lloyds Bank Plc (Lloyds) in 1997 to take out Unit Trusts, Personal Equity Plans (PEPs), Growth Bonds and Stepped Rate Bonds.

They also complain about advice they received in 2000 to take out Unit Trust Maxi Individual Savings Accounts (ISAs) and a With-Profits Bond.

What happened

Mr and Mrs W met with an adviser in 1997. They were recommended Unit Trusts, PEPs, Growth Bonds and Stepped Rate Bonds which they took out.

In 2000 they again met with an adviser and were each recommended a Unit Trust Maxi ISA and a joint With-Profits Bond which they took out.

The Stepped Rate Bonds had a three- year term and matured in 2000, at around the time Mr and Mrs W took out the second set of investments.

In 2001 Mr and Mrs W surrendered several of their investments.

In 2020 a claims management company (CMC) acting on their behalf complained to Lloyds.

It said that the adviser failed to adequately assess Mr and Mrs W's attitude to risk. It said Mr and Mrs W had no investment experience and weren't prepared to take the level of risk posed by the recommended products.

The CMC also said the adviser failed to properly assess whether Mr and Mrs W were able to hold the entire investment over the medium to long term. It said several withdrawals made in the early days of the investment demonstrated that investing in the products over the medium to long term was inappropriate.

The CMC said Mr and Mrs W had an outstanding mortgage which should have been paid prior to investing. It also said protection policies should have been prioritised over investing.

The CMC said the adviser didn't fully establish Mr and Mrs W's long- term financial circumstances and didn't consider their future expenditure which left them with a depleted emergency fund.

The CMC said that the nature of the products meant they were unsuitable for Mr and Mrs W and the adviser failed to discuss more suitable alternatives. It also said the adviser failed to arrange sufficient follow up meetings to ensure the investments fully met Mr and Mrs W's requirements.

Lloyds said their complaint was out of time. The complaint was referred to our service and it was determined by an ombudsman that the complaint had been brought in time and so could be considered.

Lloyds said the recommendations made in 1997 and 2000 were suitable for Mr and Mrs W. It said Mr and Mrs W had a significant amount of available savings on each occasion. So, it said it was reasonable that they invested a small proportion of their capital into products that offered the potential of long-term capital growth and gave them the opportunity to utilise their tax-free allowances.

In addition, Lloyds said the investments also provided some diversification of their portfolio.

The CMC didn't agree and reiterated the points it had made in the complaint.

Our investigator looked at the merits of the complaint. He didn't consider the complaint should be upheld. He considered Mr and Mrs W's circumstances in 1997. He noted they required £20,000 a year in income, they had no planned expenditure and they had over £500,000 in savings. He considered their financial position was stable. Taking all this into consideration, the investigator felt they were able to invest £84,000.

The investigator said that as the growth bond was capital secure the recommended investments left them with about 12 percent of their available assets at risk of capital loss. He didn't think that was unsuitable considering their circumstances and their objective of investing over the medium to long term in order to achieve a return on their capital.

The investigator also considered the recommendation made by Lloyds in 2000 to invest a further £7,000 in a Unit Trust Maxi ISA . He noted that Mr and Mrs W were working by then, so they had a stable monthly income and they had no financial commitments or planned expenditure. He also took into account that they had around £330,000 as a cash reserve after the advice was provided. The investigator also thought Mr and Mrs W had some investment experience by 2000. Overall, he didn't feel a further £7,000 invested in a medium risk fund was unsuitable.

The CMC disagreed with the investigator's conclusions. It said that Mr and Mrs W had recently been given a life-changing amount of money and they had previously had a modest lifestyle. The CMC said prior to receiving this money Mr and Mrs W had never considered investments as they had no funds to invest.

The CMC said that the adviser should have focused on protection and estate planning, such as provision for their children. It said although money had been gifted to family members no consideration had been given by the adviser to planning for Mr and Mrs W's children. The CMC said it was questionable whether Mr and Mrs W needed investment advice.

The CMC also didn't agree that Mr and Mrs W could afford the investments or had capacity for loss. It said no assessment had been made of their attitude to risk or their capacity for loss. The CMC said Mr and Mrs W were inexperienced investors and they didn't want to lose any of their money. It said greater consideration should have been given to potential future expenditure, even if it was unforeseen.

The CMC reiterated that the advice was unsuitable for inexperienced consumers such as Mr and Mrs W and greater consideration should have been given to other financial priorities rather than investing.

The investigator considered the points made on Mr and Mrs W's behalf but didn't think the recommendations were unsuitable taking into account Mr and Mrs W's circumstances and objectives. He said, having reviewed the contents of the fact find, that he thought Lloyds gathered information about Mr and Mrs W's objectives, had discussed with them how the recommendation met their needs and had also considered the risk they were willing to take.

The investigator felt that Mr and Mrs W were able to invest those amounts and they had some capacity for loss. He reiterated that the products taken out as result of the 1997 recommendations still left Mr and Mrs W with over 80 percent of their money in cash reserve.

As no agreement could be reached the complaint was referred to me for review.

We asked for further information in respect of some of the investments taken out by Mr and Mrs W that hadn't been covered in the final response letter provided by Lloyds.

Lloyds provided a second final response letter that had been issued to Mr and Mrs W at the same time as the final response letter relating to the Unit Trusts, PEPs, and ISAs. That response letter referred to Stepped Rate Bonds and Growth (Guaranteed Stock Market) Bonds taken out in 1997 and a With-Profits Bond taken out in 2000.

Lloyds didn't uphold the complaint about the With-Profits Bond as it said the adviser had taken into account Mr and Mrs W's personal circumstances and it said the amount and level of risk was appropriate for them. Lloyds also said Mr and Mrs W had been provided with documentation explaining how the bond worked and they had held it for over five years.

Lloyds didn't investigate the Stepped Rate Bonds as it said these products were deposit- based rather than investments. Lloyds said as Mr and Mrs W had complained about "investments" they had taken out it wouldn't be looking into those further. Although it said if Mr and Mrs W wanted those products to be reviewed, they should inform Lloyds.

Lloyds also said it had very limited information about the Growth Bonds, so it wasn't able to investigate those. It said that if Mr and Mr W wanted this part of their complaint to be re-opened, they should provide Lloyds with further information about the Growth Bonds.

Lloyds noted that Mr and Mrs W hadn't responded to *this* final response letter and the complaint, brought by the CMC on their behalf, referred to specific investment plan numbers which didn't include those investments. So, it said it didn't think Mr and Mrs W had referred those matters to our service.

Lloyds also said it had issued two final response letters because some of the matters were brought separately by Mr and Mrs W, and the others were bought on their behalf, by their representative.

Mr and Mrs W said they hadn't received that second final response letter. Their representative stated that their complaint to our service was about all the investments they had taken out as a result of advice given to them by Lloyds in 1997 and 2000.

Lloyds consented to our service looking at the complaint about the Growth Bonds and the With-Profits Bond. It investigated the complaint about the Stepped Rate Bonds and upheld that complaint. Lloyds said that the interest rate on those bonds was pre-determined and increased each year. It noted that during the three-year period that the bonds had been in place (1997-2000) Mr and Mrs W had made requests for an overdraft facility. Lloyds said that suggested too much had been invested in the Stepped Rate Bonds. So, it offered Mr and Mrs W £250 for the trouble and upset caused to them as a result.

The CMC representing Mr and Mrs W didn't agree with the amount of compensation offered. It said that amount didn't take into account the effects caused by the over commitment into these investments and any charges incurred as a result.

As no agreement could be reached those matters also form part of this review.

I provisionally concluded that Mr and Mrs W's complaint should be upheld in part on the basis that I considered the offer of £250 made in respect of the Stepped Rate Bonds to be fair. I didn't make any further award.

Lloyds acknowledged and accepted my provisional decision.

The CMC representing Mr and Mrs W disagreed with my provisional decision. In summary it said:

- It had been documented that Mr and Mrs W had given up work after winning a substantial amount of money.
- They weren't in a stable financial position. While the CMC had previously described their lifestyle prior to their win as "modest," having discussed this further with Mr W, he had completely disagreed. Mr W had described borrowing money from a relative to make a small purchase just before they won the money.

- It didn’t agree that the couple held anything in ‘savings’. It said the definition of savings is ‘the money one has **saved**, especially through a bank or official scheme’. It said a lottery win did not fall within this definition as it was a windfall and completely unexpected.
- It said that both the Ombudsman and the business had concluded that too much of the couple’s capital was invested into the Stepped Bonds. So, it said a full calculation should be carried out to establish if any loss has occurred because of this poor advice. It said in any other case, a calculation would take place.
- It also said it wasn’t just the money invested in the Stepped Bonds that needed to be considered. It said if too much was invested in the Stepped Bonds, then the same would apply to the equity-based investments sold at the same time.
- It said this was evidenced by the fact that the couple made multiple overdraft requests to the bank shortly after the investments were made. It said if Mr and Mrs W had sufficient money available to them or had understood the products they had been sold, they wouldn’t have required overdrafts or have needed to make withdrawals from the actual investments.
- Mr W has said that, in addition to the overdraft requests and withdrawals, they took a further mortgage (from a provider that was part of the same group) to ease their immediate financial concerns.
- It said stating that the Stepped Bonds could’ve been encashed, with only a loss of interest, supported the assertion that they were mis- sold. It said sensible, smaller deposit-based investments, where Mr and Mrs W’s capital wouldn’t have been tied up for such long periods, would’ve been a far better option. The CMC said should a need have arisen (as it did), it is likely there wouldn’t have been any loss of interest or capital.
- It didn’t agree that Mr and Mrs W were ‘able’ to take some risk with a small proportion of their ‘savings’ in the ‘hope’ of achieving a better return on their capital. The CMC also questioned whether Mr and Mrs W needed to do that.
- It had been documented that Mr and Mrs W wanted some growth and £20,000 per year income. It said this requirement could’ve very easily been achieved through sensible deposit-based investments where their capital wouldn’t have been tied up for such long periods.
- It said if the £20,000 annual income was the overriding factor, then repaying the mortgage would have helped with their income needs by removing the mortgage or endowment payments. It said it thought the adviser had overlooked this and had instead sold investments to Mr and Mrs W that they didn’t need.
- It agreed that the couple had no firm intentions to purchase property and didn’t make the adviser aware of any planned large expenditure. However, it said this was because the adviser was there when they went to collect the money from their win. So, the CMC said it was understandable that at that time, they didn’t have any firm intentions of any kind. It also said Mr and Mrs W weren’t given sufficient time and were put under pressure at a time when their life had changed significantly.
- It thought the funds in the equity-based investments were unsuitable for consumers who had never previously invested. It said although the overseas equities may be described as medium risk, they were far riskier.
- It said that protection and estate planning should have been the number one priority. It noted the endowment was in place to cover the existing mortgage and would have done no more than pay it off.

- It noted that a whole of life policy put in trust for the children would have been outside of the estate, but there was no evidence that a policy was put into force. In addition, it said by selling the investments with the overriding intention of the capital growing, the adviser appeared to have compounded the problem.
- It said Mr and Mrs W needed sophisticated planning with a tax and trust adviser. It said it didn't believe the adviser was sufficiently trained or able to give such advice.

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 have carefully considered the points raised by Mr and Mrs W's representative in response to my provisional decision and I still remain of the same view, set out in that decision, an insert of which is attached, and forms part of this decision.

I will address the points raised and provide further explanation of my reasoning in order to clarify matters. Where I don't specifically refer to a point raised in response to my provisional decision, that is because I consider that issue has already been addressed in the body of my provisional decision, or it doesn't have any real impact on the decision.

<u>Source of their capital</u>

I acknowledge that Mr and Mrs W suddenly received a large amount of money. So, I agree that they didn't have that capital as a result of long-term saving. However, at the time the advice was given some of their newly acquired capital had been spent on a new property and the rest was held on deposit and referred to in the financial analysis document, signed by Mr and Mrs W, as savings. So, on that basis, I think it did constitute savings, albeit I agree that the money had been recently acquired.

<u>Timing of advice</u>

I note what Mr and Mrs W's representative has said about the adviser being in contact with them early on, at the time they collected their winnings. However, I can also see that there was more than one meeting with the adviser in 1997, and as I have noted in my provisional decision, it was recorded that Mr and Mrs W had revised the amount they wished to invest in a risk area and hadn't agreed to follow all of the recommendation. So, I'm not persuaded on balance that Mr and Mrs W were put under pressure or given insufficient time by the adviser to consider their decision to take out investments and place money in the Stepped Bonds.

<u>Risk-based investments</u>

I still don't consider the proportion of their capital Mr and Mrs W placed in risk-based investments was unsuitable taking into account their circumstances and objectives at the time.

I don't think it was unreasonable to place some of their capital at risk in order to try to achieve a better return, rather than placing all their capital in one type of product. And I don't think that having no investment experience, of itself, means they shouldn't have invested in equity-based products. It really depends on their circumstances and objectives at the time and the amount invested.

<u>Stepped Rate Bonds</u>

I don't think my provisional conclusions in respect of the taking out of Stepped Bonds have been summarised entirely accurately by Mr and Mrs W's representative. I didn't conclude in my provisional decision that the Stepped Bonds were unsuitable for Mr and Mrs W. In fact, I said I *didn't* consider they were unsuitable in principle as they helped to diversify their investments and they provided an income. I also said I thought they were a reasonable way of providing a guaranteed income without risking their capital.

I note the Stepped Bonds were made up of a joint bond of £215,000 and single bonds of £90,000 and £60,000 respectively. So, the money wasn't all placed in one bond.

I did say Mr and Mrs W *could've* placed less in Stepped Bonds, but I also noted that placing less in the bonds and leaving that money instead in savings or on deposit, was more likely than not, to have resulted in less income. And Mr and Mrs W required income in 1997 as they had given up work.

I don't agree that suggesting Mr and Mrs W could've made a partial encashment from one of the Stepped Bonds, with only a loss of interest, necessarily leads to the conclusion that those bonds were mis-sold. I referred to the partial encashment in the context of Mr and Mrs W making withdrawals from their Unit Trusts and PEPs and I suggested it was one potential alternative.

Even if I had reached the conclusion that less *should* have been placed in the Stepped Bonds, it doesn't follow that less should also have been placed in the other products taken out in 1997. As I have said, I don't think the proportion of their capital invested in those other investments, was unsuitable taking into account Mr and Mrs W's circumstances and objectives at the time.

<u>Overdraft requests</u>

I also didn't conclude in my provisional decision that the taking out of Stepped Bonds caused Mr and Mrs W to require an overdraft facility.

Lloyds has said that the requests for an overdraft facility suggested that the amount placed in the Stepped Bonds was too high and it offered compensation of £250 on that basis.

However, it seems more likely than not that the estimate of the income Mr and Mrs W said they required in 1997, namely £20,000, was unrealistic because, as I have said in my provisional decision, the amount placed in those bonds would've provided that level of income.

Their representative has also said their income requirements would've been lower if they had repaid the mortgage on their rental property, but it was recorded that they didn't want to do that. That may be because repaying a mortgage means a consumer permanently loses access to that capital and some consumers want to keep their capital, even if that means paying more on their mortgage overall.

As I said in my provisional decision the overdraft amounts were relatively small. And the first overdraft facility was cancelled after three months. So, I think Mr and Mrs W could've accessed money from their savings instead and if they had done so, they wouldn't have incurred any overdraft costs.

So, taking into account the level of overdrafts requested, Mr and Mrs W *could've* placed about £3,000- £4,000 less in the Stepped Bonds and instead placed that smaller amount of money in a different deposit-based product for a shorter term. But I'm not persuaded, on balance, that if they had done so, they would have received more than the 6 % rate they were receiving from the Stepped Bonds which then increased each year, to 6.5% in the second year and then to 7.5% in the final year. Because the amount of money being placed in a deposit-based product and the length of the fixed term generally affects the interest rate received. So, smaller deposits for shorter terms are unlikely on balance to have produced a better return. I also note the fixed rate on the Stepped Bonds was not too dissimilar to Bank of England base rate at the time.

And as I have said, I'm not persuaded on balance that the taking out of the Stepped Bonds caused Mr and Mrs W to take out an overdraft. And, even assuming it did, it is not known whether they used the whole overdraft amount over the whole period, and neither party is able to provide any further evidence on any costs, so we cannot now say, what costs they incurred.

I also note what has been said about Mr and Mrs W taking out another mortgage to cover their living costs. I can see the complaint brought on their behalf argues that they should have been advised to repay their existing mortgage but I can't see any reference in the complaint sent to the business, or in the complaint details provided to our service when it was referred, to taking out a new mortgage to cover their living costs between 1997 and 2000. And the business' records don't show a mortgage being taken out around this time.

I also note that Mr W has previously mentioned taking withdrawals from their investments in order to buy a new property. So, it may be that a further mortgage was taken out for that purpose, at some point. In any event, overall, I don't find that to be persuasive evidence of unsuitable advice being given to place too much of their capital in Stepped Bonds.

<u>Other priorities</u>

Their representative has also said that protection and estate planning should have been the first priority. But I think Mr and Mrs W's most pressing need was to make their capital work to provide them with an income.

So, overall, I still consider the compensation offered by Lloyds is fair and reasonable in the circumstances.

An insert from my provisional decision is reproduced below and forms part of this decision.

What I have provisionally 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 and Mrs W met with an adviser in 1997. A fact find was completed which recorded their circumstances and objectives. They were both in their late 20s and married with three dependent children. Mr and Mrs W had won some money and weren't working. They held over £500,000 in savings.

Mr and Mrs W had recently moved to a new property which they had paid for in cash. It was recorded that they intended to rent out their old property (which they owned with a small mortgage) and weren't looking to pay off the mortgage on that property.

The point of sale documentation recorded that Mr and Mrs W were looking to invest some capital for a mixture of income and capital growth. It also noted they wanted to use some of their capital to produce income and they required an additional £20,000 income.

The adviser recommended they each invest £12,000 in a Growth Bond, £24,000 in a Unit Trust invested in a UK Income Fund and £6,000 in a PEP invested in the same fund.

It was recorded that Mr and Mrs W could then switch £6,000 from the Unit Trust to the PEP each tax year which would make their investment tax efficient.

At the same time Mr and Mrs W were recommended to place a total of £330,000 in Stepped Rate Bonds. Although they actually placed £365,000 in a combination of joint and individual bonds.

Mr and Mrs W had recently won a significant sum of money and had given up work. They had no previous investment experience. So, I take into account what the CMC has said about this being a life-changing amount of money and I think the adviser had to take these factors into account when making any recommendations.

<u>Unit Trusts and PEPs</u>

I consider Mr and Mrs W were able to take some risk with a small proportion of their savings in the hope of achieving a better return on their capital as they owned their residential property, had few liabilities and a significant level of savings.

The recommendation to invest in the Unit Trusts and PEPs meant their money would be invested at risk of capital loss, but I agree with the investigator that it was a relatively small *proportion of their savings. They still retained a significant proportion of their capital in savings or deposit-based products with no risk of losing their capital.*

As Mr and Mrs W held a significant amount in savings and had no work income (other than the proposed rental income from their old property), I don't think it was unreasonable to look for ways to improve the return on some of their capital. In this way Mr and Mrs W could try to achieve growth on their capital which they could use to supplement any income they received from their savings.

As I have said, Mr and Mrs W didn't have a mortgage on their residential property, so they had limited liabilities. In addition, they would still have a large proportion of their savings left on deposit or in deposit-based products, after taking out the Unit Trusts , PEPs and Growth Bonds. So, I think they had capacity to take some risk with this capital.

There is limited information available from the point of sale about the fund they invested in. However, it appears that the UK Income Fund the recommended products were invested in was primarily made up of UK equities with some fixed interest assets and overseas equities. It was described as medium risk. I don't consider it was unsuitable for Mr and Mrs W to invest a relatively small proportion of their savings at this level of risk with the objective of trying to produce a return. I also note it was envisaged that this would be a tax-efficient way of achieving a return via their PEPs which I think was also a relevant consideration given the amount of capital they held.

I also note that despite their lack of prior investment experience, it appears that Mr and Mrs W were engaged in the advice process rather than just accepting the recommendations made by the adviser. It is recorded at the second interview that having discussed the investment priorities they had " revised the amount they are prepared to invest in a risk area. This figure is now £60,000. " So, it seems they didn't accept all of the original recommendation which also included a recommendation to take out an investment bond.

<u>Growth Bonds</u>

As I have said, I am satisfied that Mr and Mrs W were looking to achieve capital growth as they had a significant amount held in savings. There is limited information available about the Growth Bonds they took out and neither party has been able to provide much in the way of documentation. Which is not that surprising given they were taken out more than 20 years ago and surrendered five years after that. However, we do know the five-year Growth Bonds recommended to Mr and Mrs W had a guarantee on the capital and the potential to make a return. The return was linked to the performance of the FTSE over the term.

Although Mr and Mrs W had to tie up their money for five years, this represented a small proportion of their available capital, so I am satisfied they were able to do so. I also consider this recommendation met one of their objectives for capital growth with a relatively low level of risk as their capital was secure.

Overall, I'm not persuaded on balance that the Unit Trusts, PEPs, and Growth Bonds recommended in 1997 were unsuitable for Mr and Mrs W taking into account their circumstances and objectives.

<u>Stepped Rate Bonds</u>

I have also considered the recommendation for the Stepped Rate Bonds. Mr and Mrs W placed £365,000 in the bonds which was a sizeable proportion of their available capital.

These bonds were deposit-based products that were held for a fixed term with a fixed rate of return. The interest rate increased each year and the bonds provided income on an annual basis. Mr and Mrs W's capital was not at risk and the level of return was also guaranteed provided they kept their capital invested for that term.

As Mr and Mrs W weren't working at that time, I am satisfied they had a need for additional income to supplement the rental income they would receive from their former home. I note it was recorded on the fact find that they were looking for an income of £20,000 per year.

I am satisfied the Stepped Rate Bonds were a reasonable way of providing a guaranteed income without risking their capital. The risk was that they had to be able to tie up their capital for the relevant period in order to receive that fixed rate return.

Lloyds has said the rate of interest for the first year was six percent which, when applied to the £365,000 invested, would have provided Mr and Mrs W with the annual income they required.

The total investments taken out left them with about £59,000 in savings. And I can see from the point of sale documentation that Mr and Mrs W could access their savings from a 60-day notice account without penalty, providing they left £5,000 there.

So, I don't think these bonds were unsuitable in principle. I consider they helped to diversify their investments and they provided Mr and Mrs W with an income.

I note if they had placed a smaller amount, such as the £330,000 recommended, in the bonds, that would have given Mr and Mrs W more available capital for unplanned expenditure. But having said that, if they had made a smaller deposit, leaving more in their ordinary savings account, it is likely on balance to have resulted in a lower level of return and therefore a lower level of income.

Lloyds has said the requests for an overdraft facility during the three years the Stepped Rate Bonds were in place, suggested that Mr and Mrs W were advised to place too much capital into the bonds, and it has offered compensation of £250.

There is limited information available, but Lloyds has said the requests were for an overdraft of £3,000 in April 1998 which was granted and then deleted about three months later and an overdraft of £1,000 which was granted in November 1999 and then closed in December 2000.

Neither party is able to say what, if any, costs were incurred as a result of going overdrawn because of the time that has passed. Lloyds has explained Mr and Mrs W's bank accounts were not computerised at the relevant time. So, it doesn't have a record of any costs that may have been incurred

It seems from those requests for overdraft facilities that Mr and Mrs W required more income. But I also note Mr and Mrs W had other accessible funds in the form of savings which they could have accessed. As the overdraft amounts were fairly small compared to the savings they held, I think that would have been a reasonable course of action to take in the circumstances.

As their money was invested in the Stepped Rate Bonds and made a fixed return, I think it is unlikely on balance that there is any investment loss here. And as there is no evidence of any costs incurred as a result of being overdrawn, I consider the amount of £250 offered by Lloyds in compensation to be fair and reasonable in the circumstances.

<u>Significance of withdrawals</u>

Mr and Mrs W started making withdrawals from their Unit Trusts investments in 1998 and continued doing so, with the investments being surrendered in 2001. They also made a withdrawal from a PEP in 2000.

It is not entirely clear why Mr and Mrs W made withdrawals from these investments so early on in the investment term as they had other accessible savings and other sources of income.

As I have said, Mr and Mrs W had placed £365,000 in Stepped Rate Bonds in 1997. But that still left them with about £59,000 in savings that was accessible. In addition, the Stepped Rate Bonds provided them with an income and the capital in those bonds was relatively *accessible as the penalty for withdrawal was a loss of interest. So, they could have made a partial encashment from one of those bonds. And, as I have said, those bonds matured in 2000 so, at that point, that capital was readily available.*

Mr and Mrs W have indicated that as these investments were made many years ago, they quite understandably, don't remember the purpose of those withdrawals. Mr and Mrs W have said they believe the withdrawals were made for additional income and to buy a property.

However, Mr W indicated in his phone call to Lloyds that they didn't inform the adviser that they were intending to buy property. It may be that they didn't have a firm intention at that time. But, in any event I am satisfied it wasn't an issue that was put before the adviser. So, without being aware of any planned large expenditure and with the income from the bonds, rental income, and remaining savings, I think the adviser could have reasonably concluded they would have sufficient accessible savings. In addition, the money in the Stepped Rate Bonds could be accessed in an emergency without a loss to their capital.

I also note the 2000 fact find indicated they had £125,000 in instant access savings, together with £220,000 in fixed term deposits.

So, I am not persuaded on balance that the withdrawals demonstrate that the products taken out by Mr and Mrs W were not suitable because they were unable to invest that amount of capital. One of their objectives was to produce a return on their capital so it is not entirely surprising that they would wish to withdraw money at some stage.

It may be however that Mr and Mrs W didn't really appreciate the impact of the size and timing of the withdrawals on the investment. Withdrawals in the early days of the investment are likely to impact on its performance if those withdrawals are greater than any return made to that date because the original capital invested will be reduced.

However, I am satisfied on balance that it was made clear to Mr and Mrs W that these investments were made for the medium term, but they decided of their own accord to surrender them earlier.

Summary

I have looked at the totality of the investment to consider whether Mr and Mrs W invested too much of their capital overall. I don't think the amounts invested in the Unit Trusts, PEPS and Growth Bonds were unreasonable in the circumstances given their total capital and Mr and Mrs W's circumstances and objectives.

I note a fairly large proportion was placed in the Stepped Rate Bonds but that still left Mr and Mrs W with an emergency fund for unplanned expenditure.

I think less could have been invested in the Stepped Rate Bonds to allow for any unplanned expenditure, but as I have said, I am not persuaded on balance that the adviser was aware of any additional planned expenditure as it wasn't recorded at the time. And, ultimately, Mr and Mrs W were looking to earn an income from their capital.

Mr and Mrs W had limited liabilities as they had paid for their property outright and they were intending to earn rental income from their former property. In addition, there were still some accessible savings. So, overall, I think the compensation offered by Lloyds in respect of the Stepped Rate Bonds is fair and reasonable.

2000 recommendation

In 2000 Mr and Mrs W met with a Lloyds adviser again and were recommended an investment into a Unit Trust Maxi ISA invested in the UK Growth Fund. They invested £7,000 each. They also were recommended a With-Profits bond and they invested £69,000.

Their circumstances had changed as they were both working by that time and they had a lower level of savings. However, I don't think that difference in circumstances was particularly significant and the amount of savings they held was still substantial compared to *the amount they had invested. I also note their Stepped Rate Bonds were maturing so that capital would become easily accessible, and overall they held a significant amount in deposit -based products without risk of losing their capital.*

I also note that Mr and Mrs W were working and had repaid the mortgage on their residential property. They still retained a significant amount of capital and there were no large amounts of planned future expenditure recorded . So, I don't think it was unsuitable to make a further investment to try to achieve growth on some of that capital. The fact find also records that they were looking to achieve capital growth.

The ISA was tax efficient and invested in the UK Growth Fund. It appears that fund was largely made up of UK equities. It is described in the literature as aiming to provide long-term capital growth and the level of risk is described as medium risk. I don't think on balance that it posed more risk than Mr and Mrs W were willing to take with £7,000 each. Particularly as the investment still left them with a considerable proportion of their assets on deposit and therefore capital secure.

I can see the summary and recommendations document issued at the time set out that the product was medium risk and intended to be taken over the medium term. Mr and Mrs W signed this document and agreed there that they had received the key features document for the product and the guide to the Scottish Widows Funds. So, I am satisfied on balance that the nature of the product and how it worked was explained to them.

Mr and Mrs W also took out a With-Profits Bond at the same time. At that time, these types of bonds were generally considered to be low risk because they used smoothing to even out the returns and try to prevent large fluctuations in value. Unfortunately, historically the returns on those products have been lower than predicted.

But I don't think placing £69,000 at that level of risk was unsuitable for Mr and Mrs W and I consider that it helped to diversify their portfolio. I also note that Mr and Mrs W held their With-Profits Bond for five years, so I am satisfied they were able to maintain it for a medium term.

<u>Protection</u>

The CMC says protection should have been prioritised by the adviser when making recommendations to Mr and Mrs W. However, I can see that they did have some life assurance including some life cover on their endowment mortgage.

It was also recorded that they felt the family would have had sufficient capital for their requirements in the event of their death. So, I think some consideration was given to protection, but Mr and Mrs W decided they didn't want to take out any further protection at that time.

<u>Repaying their mortgage</u>

The CMC also says that Mr and Mrs W should have been advised to repay their mortgage instead. I can see they had recently bought a new home with no mortgage. Their existing mortgage was on their old property which they wished to rent out. It was recorded they didn't wish to pay off that mortgage. So, I think consideration was given to this course of action, but Mr and Mrs W weren't interested in repaying that mortgage.

<u>Estate planning and provision for their children</u>

The CMC also says that no provision was made for Mr and Mrs W's children and that the adviser should have concentrated on estate planning. I note that Mr and Mrs W were still relatively young. It was recorded in the 1997 financial appraisal document that they had gifted some money to relatives and had spoken to their solicitor about inheritance tax planning. There had been some discussion about specialist wills. So, I think that Mr and Mrs W were exploring this issue with their solicitor

I also note there was some discussion about inheritance tax and a recommendation was made by the adviser in 1997 for a whole of life policy which was to be placed in trust with their children as the beneficiaries. So that the proceeds of that policy would be outside of the estate for inheritance tax purposes. It isn't clear whether Mr and Mrs W followed that recommendation, but I think it is fair to say that some consideration was therefore given to estate planning. But in any event, I don't think an intention to explore options for estate planning options further, precluded Mr and Mrs W from making investments to provide income and in order to try to achieve a return on their capital.

In addition, I consider it feasible that as Mr and Mrs W had received this money fairly recently and they were relatively young with young children, that they were exploring the idea of estate planning but without any sense of urgency. I also note that they expressed the wish to be in control of their investments. So, it wouldn't be surprising if they wanted to take some time to consider whether they wished to place any of their capital in trust for the benefit of their children.

Putting things right

Lloyds should pay Mr and Mrs W £250 compensation.

My final decision

My final decision is that I uphold Mr and Mrs W's complaint against Lloyds Bank Plc in part, in that I consider the offer made of £250 in respect of the Stepped Rate Bonds is fair. I do not make any other award.

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

Julia Chittenden
Ombudsman