

## The complaint

Mrs W complains that Lloyds Bank PLC gave her unsuitable investment advice.

This complaint is brought on behalf of Mrs W by a claims management company but to keep things simple, I'll refer to Mrs W throughout, as the complainant.

## What happened

Mrs W was provided with investment advice from a representative from Lloyds in November 2005 and then again in May 2006. The adviser conducted an interview on both occasions and recorded down with Mrs W different aspects of her financial circumstances. Lloyds noted that Mrs W was looking at ways to make a better return on her savings.

In 2005, acting on the adviser's recommendation, Mrs W agreed to invest £20,000 into a plan where the proceeds would be invested. This was called a '*Guaranteed Investment Bond (GIB)*'.

In 2006, Mrs W met with Lloyds again and this time following the adviser's recommendation, she invested £4,000 in a '*Managed Income Portfolio Fund*' within an ISA.

The adviser had noted down on both occasions that Mrs W wanted to take a cautious approach to taking on risk with her money. He recommended the GIB in 2005 and managed fund through an ISA in 2006. Lloyds has told our service that these recommendations met Mrs W's identified need and her cautious approach.

Mrs W through her representative, said the advice was not suitable for her as she had only recently lost her husband and had been diagnosed with cancer herself. She said the advice was not suitable as she wasn't looking to invest in the medium or long term at that time due to her health condition. Lloyds replied to Mrs W and reiterated that it had provided advice that was suitable for her and met her need.

I issued a provisional decision on this complaint in April 2023. Both parties have received a copy of that provisional decision, but for completeness I include an extract from the decision below. I said;

*"Mrs W's complaint is that she was given advice that was unsuitable by Lloyds. Mrs W has said she had recently been diagnosed with cancer when she first met with an adviser from Lloyds in November 2005.*

*Lloyds though had recorded on its fact find document from the meeting that Mrs W was in good health. So, I need to consider first what happened here when the two parties met and what, on the balance of probabilities was said or not said about Mrs W's health condition.*

*Mrs W has recently said that she cannot recall being asked about her health in the meeting, but that if she had been asked, she would have told the adviser from Lloyds that she had only recently been diagnosed with cancer and was due to receive treatment for it. Mrs W has*

*been detailed in the way she recalls the dates that she received her diagnosis, the treatment she received and when she latterly was told she was in remission. I can see that all this happened many years ago now, but I also consider that what Mrs W would have gone through during this period of her life would have been something she more likely than not would have remembered.*

*I am persuaded by Mrs W's account of what happened. So, on balance, the likely explanation as to why it was recorded on the form that Mrs W was in good health, is that the adviser either didn't ask Mrs W about her health or didn't ask enough about this, and this resulted in an assessment that Mrs W was in 'good health' when in all likelihood she was not.*

*Mrs W has been clear in stating she would have informed Lloyds of her medical condition if she had been asked. And if she had, I think it's more likely than not the adviser from Lloyds wouldn't have recommended the GIB to her. This is due to the uncertainty that Mrs W would have felt with dealing with her medical condition. It would not have been suitable advice from Lloyds to recommend an investment that would have had a medium- or long-term maturity date to someone who was receiving treatment for a potentially life-threatening illness. So, I don't think the advice Lloyds gave to Mrs W was suitable for this reason.*

*Around six months later, Mrs W met with Lloyds again and she was still receiving treatment for cancer. Again, I can see that the adviser had recorded down that she was in good health. I am minded to draw the same conclusion for this second meeting too. Mrs W again says she cannot recall being asked about her health in the meeting but would have said to the adviser that she was being treated for cancer, if she was asked. I am again persuaded by what Mrs W has said here. Lloyds, I don't think on balance, would have advised her to invest in a managed income portfolio fund via the ISA if it had been aware of Mrs W's medical condition or that she was being treated for it at that time. Again, this is because the ISA was a medium to long term investment. So, I don't think its advice on this second occasion was suitable for Mrs W either.*

*On balance, based on what I've seen and been told, I don't currently think the advice provided to Mrs W in 2005 and 2006 was suitable for her needs at the time. I think this has more likely than not come about because Lloyds didn't carry out a thorough enough fact find on either occasion. So, because of this, I currently uphold Mrs W's complaint and Lloyds now needs to put things right".*

I asked both parties to let me have any comments, or additional evidence, in response to my provisional decision. Both parties said they agreed with the findings in my provisional 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.

Neither party has anything further to add that I feel I need to comment on or that will change the outcome of this complaint. So, because of this, I don't see any reason to depart from my findings within my provisional decision. With that being the case, I uphold Mrs W's complaint.

### **Putting things right**

In assessing what would be fair compensation, I consider that my aim should be to put Mrs W as close to the position she would probably now be in if she had not been given

unsuitable advice.

I think Mrs W would have invested differently. It is not possible to say *precisely* what she would have done, but I am satisfied that what I have set out below is fair and reasonable given Mrs W's circumstances and objectives when she invested.

### What should Lloyds do?

To compensate Mrs W fairly, Lloyds must:

- Compare the performance of each of Mrs W's investments 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.
- A separate calculation should be carried out for each investment.
- Lloyds should also add any interest set out below to the compensation payable.

Income tax may be payable on any interest awarded.

Investment name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
Guaranteed Investment Bond	No longer exists	Average rate from fixed rate bonds	Date of investment	Date ceased to be held	8% simple per year on any loss from the end date to the date of settlement
Managed Income Portfolio Fund	No longer exists	Average rate from fixed rate bonds	Date of investment	Date ceased to be held	8% simple per year on any loss from the end date to the date of settlement

### For each investment:

#### **Actual value**

This means the actual amount paid or payable 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, Lloyds 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. Those rates should be applied to the investment on an annually compounded basis.

Any withdrawal, income or other distributions paid out of the investments should be

deducted from the fair value calculation at the point it was actually paid so it ceases to accrue any return in the calculation from that point on. If there is a large number of regular payments, to keep calculations simpler, I'll accept if Lloyds totals all those payments and deducts that figure at the end to determine the fair value instead of deducting periodically. If any distributions or income were automatically paid out into a portfolio and left uninvested, they must be deducted at the end to determine the fair value, and not periodically.

### **Why is this remedy suitable?**

I have chosen this method of compensation because:

- Mrs W wanted to achieve a reasonable return without risking any of her capital.
- The average rate for the fixed rate bonds would be a fair measure given Mrs W's circumstances and objectives. It does not mean that Mrs W 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 additional interest is for being deprived of the use of any compensation money since the end date.

### **My final decision**

My final decision is that I uphold Mrs W's complaint about Lloyds Bank PLC. I direct Lloyds Bank PLC to put things right as I have described above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 26 May 2023.

Mark Richardson  
**Ombudsman**