

The complaint

Mr A and the estate of Mrs A complain that they received unsuitable financial advice from Nationwide Building Society. In particular they say their attitude to investment risk was not properly assessed and they did not fully understand the risks involved in the products that were recommended.

Mr A and the estate of Mrs A are represented in this matter by a third party.

What happened

I understand that in mid-2000, Nationwide advised Mr A and his late wife, Mrs A to invest £5,000 each into a structured product called a 'Guaranteed Equity Bond' (GEB) and £7,000 each into a stocks and shares ISA. It appears the ISA was invested in a FTSE tracker fund. Later that year they were also advised to invest £2,000 in joint names into a UK Growth Fund.

All the investments were surrendered a number of years ago and the records Nationwide holds in respect of these investments is incomplete.

Nationwide has been able to provide a fact find that was completed at the time the advice was given in 2000, as well as the suitability report and some key features information that would have been provided to Mr A and the late Mrs A at the time the advice was given.

The fact find information shows that at the time the advice was given Mr A was 62 years old and was still working and Mrs A was 63 years old and worked part time. They had a monthly surplus of income over expenditure of over £900, held shares worth around £1,500 and had £56,500 in deposit based savings. Their attitude to investment risk was assessed as 'balanced'. The adviser recorded that Mr and Mrs A were '*...looking to maximise capital growth over the medium to long term.*'

Very sadly Mrs A passed away in early 2005. It appears that the investments Mrs A held were encashed later in 2005. I understand that Mr A held his GEB to maturity when he received a return of his initial investment. Nationwide has said the ISA investment and the unit trust were both encashed more than six years ago, and it no longer holds the records that would confirm exactly when these investments were encashed.

In 2022, the representative for Mr A and the estate of Mrs A complained to Nationwide. He said he felt the advice they had received was unsuitable.

Nationwide did not uphold the complaint. It said it was satisfied that the advice was suitable, based on the information that had been recorded about Mr A and the late Mrs A at the time the advice was given.

The representative was not satisfied with Nationwide's response and referred the matter to this service.

(Initially Nationwide said it felt the complaint had been brought too late for this service to be able to consider it. But having received a view from our investigator, setting out why he felt the complaint had not been brought too late, Nationwide consented to this service considering the complaint.)

Having considered the information available on the merits of this complaint, our investigator said he was satisfied that Nationwide had assessed Mr and Mrs A's attitude to investment risk. He noted that the fact find set out what a 'balanced' attitude to investment risk meant and Mr and Mrs A had signed to confirm that the information in the fact find was accurate. He said he was of the view that the investments recommended had not been unsuitable and were in-line with Mr A and the late Mrs A's stated attitude to investment risk

He also said he was satisfied that the illustration for the GEB explained that there was no guarantee that an investor would get back more than they had invested.

Mr A and the late Mrs A's representative did not accept our investigator's view. He said, in summary:

- he didn't think the assessment of Mr A and the late Mrs A's attitude to investment risk had established '*their true attitude to risk*';
- he felt the information Mr A and the late Mrs A received at the point of sale was '*exceptionally unclear*' and he said he didn't think Mr A and the late Mrs A '*...could have reached any meaningful understanding of the investment regardless of whether they signed the paperwork at the end or not*';
- he felt the GEB '*was exceptionally complex for inexperienced investors*' and he said he didn't think a structured product with capped growth was suitable for inexperienced investors; and
- he said, '*... taking risk with their capital and the guaranteed return available from risk free products was not suitable*' for Mr A and the late Mrs A's circumstances.

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.

Having done so, I don't think the advice Mr A and the late Mrs A received from Nationwide was unsuitable based on the information that was recorded at the time about their personal and financial circumstances. I'll explain why.

Attitude to investment risk

The representative says he doesn't think the assessment Nationwide carried out of Mr A and the late Mrs A's attitude to investment risk established '*their true attitude to risk*'.

I have carefully considered the points their representative has made and what he considers to be failings in the descriptions Nationwide used to describe different attitudes to investment risk. However, I must take into account that the adviser provided further explanations of the risks involved in equity based investments. I note he also set out that Mr A and the late Mrs A understood the risks involved in the '*additional information*' section of the fact find. It said:

We discussed equity based/linked investments and you indicated your understanding of these. You felt these have greater potential to outperform inflation and provide higher returns than would be expected from traditional deposit based investments, such as the Building Society.'

It also set out that Mr A and the late Mrs A understood the advantages of retaining deposit based savings:

You wish the balance to remain in deposit based savings as these provide you with security of capital and a known rate of return and can be used to meet unexpected emergencies.

In view of this I can't reasonably accept the representative's view that Nationwide failed to properly establish Mr A and the late Mrs A's attitude to investment risk. I am satisfied, based on the information available, that they understood the risks involved in equity based investments.

GEB

The representative says he feels the GEB '*was exceptionally complex for inexperienced investors*' and he says he doesn't think a structured product with capped growth was suitable for inexperienced investors.

I appreciate the points the representative has raised, but I am satisfied that the risks involved were explained to Mr A and the late Mrs A. In particular, I note that in the recommendation the adviser set out:

I am recommending the Guaranteed Equity Bond as it offers investment growth potential without risk to your capital. Any maturity value stated [above] is a projected amount only... The actual return you will receive is linked to a collection of stock market indices... Do not forget that inflation would reduce what you can buy in the future with the amount shown.

These risk warnings were also set out in the key features illustrations that were provided to Mr A and the late Mrs A.

It is not in dispute that structured products can be difficult for consumers to fully understand. But I am satisfied the risk that Mr A and the late Mrs A might only receive a return of the capital they had invested was made clear to them in the information they received at the time they took out the GEBs.

As I set out above, I am also satisfied that Mr A and the late Mrs A understood the advantages and disadvantages of both deposit based savings and equity based investing and were willing to '*...accept a moderate degree of risk with the money they were investing*'.

Having carefully considered this aspect of their complaint, I don't think the advice to invest a total of £10,000, less than 20% of Mr A and the late Mrs A's deposit based savings, in the GEB was unsuitable.

I appreciate that, with the benefit of hindsight, Mr A and the late Mrs A would have been better off if they had left this money on deposit and had not invested it. Although this is disappointing, it does not in itself mean the advice to invest in the GEB was unsuitable.

Point of sale information provided

The representative for Mr A and the late Mrs A says he feels the point of sale information that was provided was '*exceptionally unclear*' and he doesn't think Mr A and the late Mrs A '*...could have reached any meaningful understanding of the investment regardless of whether they signed the paperwork at the end or not*'.

As the representative will be aware the industry regulator, the Financial Conduct Authority (FCA) is responsible for setting the rules and guidance in relation to key features

documentation provided to consumers. If the representative wishes to pursue any concerns he has about the clarity of the point of sale information, he may wish to raise this with the FCA.

If Mr A or the late Mrs A did not understand the information they received when they took out the GEB, they would have been free to raise this with their adviser. However, I can't reasonably agree that any concerns their representative might now have about the point of sale information means the advice they received was unsuitable.

Summary

The representative has said, '*... taking risk with their capital and the guaranteed return available from risk free products was not suitable*' for Mr A and the late Mrs A's circumstances.

Having reviewed the information available from 2000, when the advice was given, I cannot reasonably find that Mr A and the late Mrs A did not understand the risks involved in equity based investments. I am satisfied that they wanted to '*...achieve potentially higher returns over the medium to longer term*,' but understood that there was no guarantee that the investments would outperform deposit based savings. I must also consider that even after the investments had been made Mr A and the late Mrs A had around £30,000 in deposit based savings and a monthly surplus of over £900 of income over expenditure, so were able to increase their deposit based savings, at least until they stopped working.

I am also mindful that it appears from the records made at the time the investment advice was given, that Mr A and the late Mrs A were actively involved in deciding how much to invest in both the GEB and the stocks and shares ISAs.

Having carefully considered all the information available, I cannot reasonably find that the advice Nationwide provided was unsuitable.

My final decision

My decision is that, for the reasons I have set out above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A and the estate of Mrs A to accept or reject my decision before 10 November 2023.

Suzannah Stuart
Ombudsman