

The complaint

The estate of Mrs O complain that she was mis-sold a personal equity plan (PEP, now referred to as an ISA) by Lloyds Bank PLC (Lloyds).

The estate is being represented with this complaint by a claims management company (CMC).

What happened

Following advice from a Lloyds representative to Mr O and the late Mrs O in 1996, she invested £6,000 into one fund within a PEP wrapper. She also invested jointly into a bond, which has been considered separately.

The investment remained in place for approximately ten years. Lloyds say that in that time, it paid out a regular income totalling just under £3,500. They also say it was surrendered for just over £7,500.

In October 2018, the CMC brought a complaint on behalf of the estate. They said the PEP had been mis-sold as it wasn't suitable for Mrs O's needs or circumstances at the time.

Lloyds responded to say that they are satisfied the recommended fund matched the late Mrs O's needs and risk profile and she was left with enough emergency funds.

The case was brought to us for an independent review. Our investigator was initially concerned that the fund hadn't historically provided the level of income required, but was later satisfied regarding this and the risk the fund posed. She didn't uphold the complaint.

The CMC responded on behalf of the estate to say they didn't agree with the outcome reached. Amongst their points in reply, they said that the fund brought too much equity exposure and carried more risk than the late Mrs O was willing or able to take. They said it was clear from the point-of-sale documentation that security was a preference over income, with higher yielding funds having been rejected.

As no agreement was reached, the case has been passed to me to decide.

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 agree with the investigator and am satisfied that the recommendation given was a suitable one. I'll explain why.

Due to the amount of time that has passed, Lloyds understandably haven't been able to provide me with much point-of-sale documentation. However, I do have the suitability letter and fact find from the sale.

From that I can see that the late Mrs O at the time of the sale was approaching her mid-60's, retired and in receipt of state pension. She was recorded as jointly owning her own home and having no personal or joint liabilities. She was recorded as having a low/medium attitude to risk. At the time of the advice, she was also said to jointly have £10,000 invested in a tax-exempt special savings account (TESSA), £15,000 in an investment bond and £2,000 in a building's society account. Following this advice and the separate bond advice, they had £60,000 (£30,000 each) left on deposit with the bank.

Whilst I haven't been provided with fund information from the time of sale, Lloyds have given me a fund factsheet from 1999, approximately three years after the sale. Both this, and the evidence provided by the CMC, suggests the fund was invested approximately 40% in bonds and cash and 60% in equities.

I understand the CMC's concern that the late Mrs O's full £6,000 investment wasn't diversified and went into only one fund. And that the fund was quite heavily exposed to equities. However, I am satisfied that it was a risk she was willing and able to take and that the fund matched her risk profile at the time.

I say this because she had existing joint TESSA and investment bond arrangements. She also had sufficient savings in place (£60,000 jointly) to absorb any losses she might have made. Whilst I note the equity exposure of the fund, the factsheet from three years later, suggests the majority of this was in more stable and secure FTSE 100 companies. A large part (40%) was also in bonds and cash. The late Mrs O signed to agree with her low/medium risk rating and to acknowledge the fund income and capital could fluctuate. I note also that the original investment amount of £6,000 returned a total of about £11,000 in the approximately ten years it was invested, meaning it's unlikely that if the complaint was upheld there would be any loss.

In summary, I'm satisfied the recommended investment was a suitable one. The late Mrs O's circumstances meant she could afford to take the risk posed by the fund. Which in doing so, meant she was investing to meet her goal of a gross income yield of 6.82%.

My final decision

My final decision, for the reasons set out above, is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs O to accept or reject my decision before 13 December 2024.

Yoni Smith
Ombudsman