DRN-5249001

The complaint

The estate of the late Mr N is represented by a claims management company (CMC). It complains on their behalf about the advice they received from Lloyds Bank PLC (Lloyds) in 2006. It says that the advice was unsuitable for his circumstances at the time.

What happened

Mr N met with Lloyds in 2006 to discuss how to invest the proceeds from the sale of a property in Spain. He invested £126,000 into a Lloyds Discovery Bond with the objective of receiving an income to be received quarterly. The investment was surrendered in 2010 for approximately £100,000.

In July 2023 the CMC complained that the advice Mr N received was unsuitable for his circumstances due to his health which started to deteriorate in early 2007. He had limited investment experience and should not have been placed into equity heavy funds as he had already retired in 2005.

Lloyds responded to the complaint explaining that there was insufficient information available to conduct an investigation due to the time passed since the advice was given. The CMC then referred the complaint to our service.

Our investigator considered the complaint but didn't think it should be upheld. She was not convinced that the investment was unsuitable for Mr N. She felt that level of risk the investment carried was appropriate and that the proportion of equities was not unsuitable for the agreed level of risk. She also noted that the investment matched the objectives Mr N had and that there was no mention of his poor health at the time the advice was given.

The CMC disagreed and remained of the opinion that the consumers health concerns, use of equities, overall risk and capacity for loss made the advice unsuitable.

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 think it's important to state that due to the passage of time not all the paperwork has been available for me to review. As the advice was provided in 2006 I do not consider this unreasonable. Where the information is limited or incomplete I've therefore had to make my decision based on the balance of probabilities. In other words what I think is more likely than not to have happened.

I have been able to review the Fact Find that was completed in 2006 to determine what Mr N's circumstances and objectives were at the time. According to the Fact Find the purpose of the advice was to review the cash holdings and monies from the sale of a property and to improve returns. It also states that Mr N was looking for a combination of income and growth with the income coming from the natural yield of the investment. It is noted that Mr N's income is sufficient, but any surplus income would be used to spend on his family and luxury items.

I can see that Mr N was recorded as having given up smoking in 1984 and was fit and healthy.

The CMC has argued the advice was unsuitable in part due to Mr N's poor health at the time of the advice. But I've not seen any evidence that shows Mr N's health was other than recorded in the fact find. I therefore think it is reasonable for Lloyds to advise Mr N on the basis that his health was as it was recorded at the time.

As well as the money they invested, it was recorded that Mr N and his wife between them had £110k in cash and a further £13k in other investments. Mr N owned his home worth £680,000 with no outstanding mortgage. The only liability listed was a lifetime mortgage or equity release valued at £130,000. Mr N was receiving pension income of £18,816 per year and it is recorded that he was satisfied that he would be receiving a sufficient income during his retirement to meet his needs, that he did not have any dependants and had sufficient assets to repay any outstand debts.

Although Mr N was retired at the time of the advice, I'm satisfied that he had access to savings that he could utilise. In the circumstances I feel Mr N was in a good position to invest and take a risk with a portion of his money. There is nothing noted in the fact find that Mr N was struggling financially, and as the investment amount came from the sale of a property, he could invest a portion of those funds without impacting his lifestyle.

Mr N's attitude to risk was assessed and was determined to be balanced. Which was described as being willing to take the risk of loss to capital value but with the potential for capital growth and/or income over the medium to long term.

I have reviewed the answers Mr N gave to the questions within the attitude to risk questionnaire. Based on what Mr N said I'm satisfied that he was willing to take risks with his investment if it meant beating inflation and making returns in the long term. I'm satisfied that being recorded as having a balanced attitude to risk was fair and appropriate.

The Key Features document I have been provided with shows the asset allocation of the investment as follows:

- 65% - Bonds
- 25% - UK Equities
- 5% - Overseas Equities
- 5% - Property

There was also an explanation confirming the asset allocation could vary from it neutral position by 5%.

From reviewing the asset allocation of the investment I'm not persuaded that the amount of equities, being 30%, was inappropriate for the level of risk Mr N was willing or able to take in order to achieve his objectives. I also agree with the investigator that an equity weighting would have been required to try to increase the value of the assets to achieve Mr N's objectives.

I've noted that the funds were withdrawn a relatively short time after being invested but I'm mindful this was around the time that the wider markets were performing poorly. I have not seen any evidence that the investment was withdrawn due to affordability. And as I've said I'm satisfied that based on the information provided to Lloyds at the point of sale, this investment was affordable for Mr N.

I think that the recommendation to invest £126,000 in this particular bond did meet Mr N's investment objectives whilst reflecting his balanced risk approach. I say this because he held a further £110,310 in cash reserves and had no significant planned expenditure that Lloyds was aware of.

The CMC has referenced Mr N's health and financial situation being worse than what is recorded on the documentation I have seen. However, I have not seen any evidence to suggest what was recorded is inaccurate and I would expect someone receiving advice to give an accurate reflection of their circumstances at the time or challenge the inaccuracies that were recorded on the documentation.

Taking everything into account, I think Mr N knew he was agreeing to a level of risk for this particular investment in order to obtain the growth and income he hoped for and had the capacity to take on this risk. The investment seemed affordable for him too. I have not seen enough to make me conclude that the advice Mr N received was unsuitable for him.

My final decision

My decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr N to accept or reject my decision before 10 April 2025.

Rob Croucher
Ombudsman