

The complaint

Mrs O complains that Midlands Investment Agency Limited (Midlands) mis-sold her an investment bond when her preference was to invest through an ISA.

What happened

Mrs O met with Midlands in April 2017 to seek its advice on existing investments she held elsewhere. Following this meeting, Midlands recommended she consolidate two existing investment bonds into a new one held with another provider.

Later Mrs O thought her money would be best invested through a stocks and shares ISA instead of an investment bond. She approached her adviser about doing so however her assets continued to be held in the bond. Feeling she should've been advised from the start to invest through an ISA and that Midlands took no action to allow her to later do so, Mrs O complained to the firm. In summary in making her complaint she said:

- Her preference was to invest in ISAs, which the firm ought to have known, which she kept asking the firm to advise on.
- Care needs weren't an objective or priority for her, which Midlands told her the bond was useful for.
- She frequently asked to change her investment bond to an ISA but Midlands took no action.
- She was offered once offered a transfer in March 2022 but due to health issues she missed the communication, which wasn't offered again.
- Midlands had been discriminatory in how it dealt with her.

As Mrs O didn't agree with Midlands' response to her complaint she referred it to our service where one of our Investigators looked into what happened. In reviewing the matter he didn't think the complaint should be upheld, and explained to the parties this was because:

- Midlands' advice was suitable, and it's considerations around care were fair.
- No information about any other future plans had been provided to Midlands.
- There was no evidence Mrs O told Midlands she only wanted to invest through ISAs when it initially advised the bond.
- The tax implications had been clearly explained.
- He hadn't seen Mrs O had lost out financially.

Responding to our Investigator, Mrs O said:

- Midlands' recording in the suitability letter and its handwritten notes from the April 2017 meeting contained inaccuracies.
- Our Investigator hadn't given weight to certain submissions she had made including:
 - Matters around her age
 - Tax administration
 - What Mrs O was told about the equivalence of investment bonds and ISAs.
 - Her requests to convert the bond to an ISA and Midlands' 'project' to do so.
- She had explained her losses in her submissions to our service.

As an agreement wasn't reached Mrs O's complaint was 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.

Mrs O has provided our service with detailed recollections and submissions. And while I have heavily summarised those above and may not refer to every point raised, given the information nature of our service I've chosen to concentrate my explanations around what I consider to be key in this complaint. I'd like to assure Mrs O I've carefully read and considered everything she's said in making and submitting her complaint. I know from reading those that this matter is of particular concern to Mrs O and I understand her strength of feeling about how she feels Midlands acted towards her. But, I have to consider the evidence before me and what I think from that is most likely in the circumstances. And like our Investigator, I've not seen to uphold it, and I'll now explain why.

When Midlands gave Mrs O investment advice it needed to take enough information from her to understand her objectives, knowledge, experience and her circumstances. It would then need to use that information to make an investment recommendation that was suitable for her. There can be many different ways of investing that could be suitable for someone and as the rules in place at the time specifically state that Midlands needs to make a suitable recommendation. I'm not then looking to see if Midlands advised the most suitable course of investment. The crux of the matter here is whether what Midlands did advise was suitable for Mrs O, or not.

Midlands has provided the evidence it says that remains available when it gave advice to Mrs O in April 2017. This includes the adviser's handwritten notes, the risk assessment and the suitability letter it sent to Mrs O afterwards explaining its recommendation.

The handwritten notes appear to be the fact-find Midlands used to gather information about her. This, along with the risk assessment, records the answers Mrs O gave to Midlands' questions, which the key parts can be summarised as follows:

- She was divorced and living with a friend who paid lodgings to Mrs O.
- She had some health conditions, none severe, which were being managed.
- She had a monthly income of around £1,600 to £1,800 – from pensions and lodgings – and had no debt.
- Had existing investments of around £120,000, including £56,000 in investment bonds, as well as cash savings and premium bonds. And a home worth £450,000 with no outstanding mortgage.
- She was deciding between whether to sell her property to downsize or to carry out

home improvements.

- Was looking to invest for the medium to long term to grow enough money above inflation to live comfortably in a tax-efficient manner.
- She had a 'moderate aggressive' outlook to investment risk – later by 2019 that reduced to 'moderate'.

Midlands' recommendation following its discussions with Mrs O was that her existing investment bonds lacked sufficient diversification and the provider those were held with didn't offer enough fund options for her to select from. It advised she consolidate these into a new investment bond with a different provider and invest that against a 'moderate aggressive' level of risk, and explained the tax implications of holding an investment through the bond.

I've considered Mrs O's comments that there are inaccuracies in the meeting notes and suitability. Even if so, I'm not persuaded that would've led to a different course of advice as it would in my view be suitable in either event.

Regardless of whether Mrs O invested in an ISA or an investment bond, I think it's likely she would've invested in the same assets. This is because ISAs and investment bonds are 'wrappers' which hold the underlying investment assets, each with its own tax advantages with the assets being held in effect within the wrapper. The performance and risk exposure of those assets themselves isn't in dispute and so my findings will concentrate on the suitability of the investment bond wrapper rather than the assets within it. But for completeness I have considered those and am satisfied those were suitable for her given they met her objectives, her risk tolerance – as that changed – her circumstances and experience, as were the subsequent recommendations to rebalance her holdings.

There is a lack of detail in the documents provided around the discussion of the choice of wrapper, in particular why ISAs were discounted. The recollections about this are conflicting, on one hand Midlands has said Mrs O had used ISA allowance by the time it advised her while Mrs O herself says that utilisation took place just in time for the prior tax year and so had a full ISA allowance at the time. Neither party has provided any evidence on this point, so it is unclear to me whether Mrs O had an ISA allowance to use when Midlands advised her. But overall, I don't think the use of either wrapper would affect the suitability of Midlands' recommendation.

I say this because investment bonds offer a number of advantages which would be useful to Mrs O, whether they were stated objectives of hers or not, that ISAs don't offer. Both are tax advantageous, although investment bonds slightly less so, but two important benefits of investment bonds are the life policy benefits they have and that the value of assets in an investment bond typically aren't considered when calculating future care entitlements, usually so long as that isn't the driving reason for investing in the bond. Given Mrs O wasn't a higher-rate taxpayer, and wasn't likely to be in the future as she was retired, she wouldn't have to pay tax on withdrawals from her bond so long as she stayed within the withdrawal limits – including any unused allowances from previous years.

Given Mrs O's age, health and financial circumstances, it wasn't unreasonable Midlands gave consideration to her potential future care needs whether Mrs O specifically mentioned them or not. While I've not seen Midlands was as clear as it could've been around this subject at the time of the advice, in my view that doesn't render the advice unsuitable. It was a reasonable need of Mrs O's and a fair consideration for Midlands to have. While I recognise Mrs O's views on residential care and her plans to avoid it, that isn't always possible and there was a risk should she invest in an ISA instead – presuming she had the allowances to do so – it could reduce her entitlements to state care contributions, whereas with investment bonds that usually isn't the case. I've also not seen evidence Mrs O told

Midlands that the use of ISAs was a particular focus of hers it needed to consider in more detail. I note she had previous ISA experience and so would have some awareness of the benefits of them, and if she set out her requirements to invest in an ISA to the firm I would've expected to see some evidence of that in my review. I've not seen evidence either than Mrs O challenged this part of the advice when she received Midlands' suitability letter or the recommendation generally.

It follows then that in my view the investment bond offered useful benefits to Mrs O and, along with the underlying investment strategy and assets, was in its own right suitable for her. It may be the case investing the available ISA allowance, if there was one, could also have been suitable that doesn't mean the advice received to invest through an investment bond wasn't. I'm also satisfied Midlands set out the tax implications of holding investments in an investment bond in a clear, fair and not misleading manner where the explanations provide enough information for those to be understood by someone with the investment experience levels Mrs O had.

I've also considered what Mrs O has said about repeatedly requesting for her investments to be moved from the bond to the ISA in the years following the advice. I do note that she had asked about this on many occasions but there would be risks in doing that. Such as incurring a tax liability from surrendering the bond before being able to utilise enough annual withdrawal limits, charges for doing so and the impact that could have when surrendering in the early years of the bond, and the loss of the benefits investment bonds carries, such as those I've mentioned above.

It isn't unreasonable then that Midlands dissuaded Mrs O from encashing her investment to reinvest into an ISA given in its view a suitable strategy was already in place following the advice it gave her in April 2017. Neither am I persuaded that Midlands for a short while thought to advise large scale transfers before changing its mind meant that either it needed to offer that to Mrs O when she at first didn't see those communications, which were sent to her, or that implied an inherent failing in the advice Midlands gave her in April 2017.

I've also reviewed the available communications between Midlands and Mrs O, and I've not seen evidence it treated her unfairly in how it communicated with or in the manner it did.

I understand the matters in this complaint have had a negative impact on Mrs O and led her to experience difficult feelings. I don't mean to diminish those as I do understand why she feels the way she does. But having considered all of the evidence available, I'm satisfied on balance that the advice Midlands gave her was suitable and I've not seen its actions or communications afterward caused it to fall below its obligations to her.

My final decision

For the reasons given above I don't uphold Mrs O's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O to accept or reject my decision before 26 September 2025.

Ken Roberts

Ombudsman