

complaint

Mr and Mrs M complain that the advice they received from Lloyds Bank Private Banking Limited to liquidate their investment portfolio was unsuitable. The complaint is brought on their behalf by their daughter.

background

During a meeting in 2012, Mr and Mrs M's attitude to risk, which had previously been assessed as "*cautious*", was agreed to be "*secure*". As a result, Lloyds recommended that their portfolio should be liquidated and the proceeds placed on cash deposit accounts. Mr and Mrs M, who were both over 80 years of age, were telephoned the next day to check if they wanted to go ahead, and they agreed. When Mr and Mrs M's family became aware of what had happened they complained that the advice was unsuitable – Mr and Mrs M had lost the growth potential of their investments and the tax advantages of their ISA wrappers.

our adjudicator's view

The adjudicator recommended the complaint should be upheld. He concluded that, as vulnerable consumers, Mr and Mrs M should have been treated with appropriate care and attention. In the adjudicator's opinion, Lloyds did not.

my provisional decision

I was not minded to uphold the complaint for the following reasons.

During the meeting, Mr and Mrs M were asked a series of questions to establish their attitude to risk. As a result of their answers, and a general discussion, it was agreed that Mr and Mrs M's attitude to risk had changed from "*cautious*" to "*secure*". *Secure* was the lowest risk category available. They made it clear they no longer wanted to take any risk at all with their investments. I considered that the recommendation to liquidate the portfolio and place the proceeds on a cash deposit account was suitable for Mr and Mrs M's agreed attitude to risk.

Lloyds needed to ensure it gave Mr and Mrs M enough information for them to decide whether they agreed with the recommendation. Also, because of the vulnerabilities of Mr and Mrs M, it needed to take additional care to ensure they understood the decision they were making. Having carefully considered the circumstances, I thought Lloyds could have taken more care than it did. I said this because:

1. Mr and Mrs M's appointment with the bank was confirmed in writing more than five weeks before the date of the meeting. Yet they were only advised to have someone present on the day of the meeting, presumably once it had started. So, whilst Lloyds rightly recommended third party attendance, it did so in a way that did not realistically give Mr and Mrs M a huge amount of choice.
2. As for the meeting itself, once their '*secure*' attitude to risk was established, Mr and Mrs M were advised to surrender their investment portfolio and were asked to sign an authority to allow this. This authority was acted upon after they had confirmed their agreement on the phone the following day. In the circumstances, I thought it was unreasonable to ask Mr and Mrs M for their agreement without being given the opportunity to consider the recommendation in writing.

Whilst I concluded there were some shortcomings, I was persuaded that, if Lloyds had done more, Mr and Mrs M – and their representatives had they been present at the meeting - would still have agreed with its recommendation to liquidate the portfolio.

There were some disadvantages to liquidating the portfolio. Firstly, the loss of potential growth from their investments. But Mr and Mrs M had made it clear they did not want to take any risks with their investments at their time of life and that they wanted their capital to be available to them. Although their existing portfolio was low risk, or cautious, it was still exposed to market fluctuations and volatility. For example, although in the six months to July 2012, their portfolio had increased in value, it had fallen in value around £9,800, in the previous six months. I didn't think this level of volatility would have been acceptable to Mr and Mrs M in the future because of their change in attitude to risk – and specifically their requirement not to expose their investments to any risk at all.

When the portfolio was liquidated, this included around £196,000 of investments held in ISA wrappers. Mr and Mrs M therefore lost their ISA tax benefits. But I was satisfied that this was explained to them during the meeting. And they signed a letter, written for them, to confirm that they understood "*we will lose the ISA wrappers*".

By agreeing to liquidate the portfolio, Mr and Mrs M lost the tax benefit of their ISA wrappers. However, given the current very low level of interest rates, the ability to reclaim tax on interest payments received within the ISA wrappers would only be of a very modest benefit to Mr and Mrs M.

I considered this modest benefit secondary to the need to eliminate the risk from their investments. The potential risk to the capital value of the investments was far greater than the tax savings enjoyed in the ISA wrapper.

So, overall, I thought the cost of liquidating the portfolio – the loss of the ISA tax benefit and the loss of future potential growth - would not have deterred Mr and Mrs M from eliminating the significant risk to the value of their investments. And I thought they, and their representatives had they been at the meeting, would have reasonably come to the same conclusion.

Mr and Mrs M's daughter, on their behalf, did not agree. She set out again the circumstances of the complaint, emphasising that both she and her son had asked that meetings did not take place without another family member present. She also said that when the portfolio was liquidated the proceeds were credited to Mr and Mrs M's current account which meant they were not earning any interest and were left open to fraud.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr and Mrs M's daughter replied to my provisional decision in some detail, but did not raise any new points which would lead me to alter my earlier decision. Lloyds did not have an instruction to accept instructions from anyone other than Mr and Mrs M and they had confirmed they did not want a family member present at the meeting. I am satisfied that Lloyds reasonably concluded that Mr and Mrs M were capable of making their own investment decisions. In any event, as I earlier concluded, even if a family member had been present I don't think a different decision would have been reached – the portfolio would still have been liquidated.

I did not address Mr and Mrs M's complaint that the portfolio proceeds were credited to their current account in my provisional decision. Lloyds recommended a fixed term deposit, but Mr and Mrs M did not agree, which is why the money was credited to their current account. Lloyds sent Mr and Mrs M investment account opening forms at the beginning of December 2012, but these were not completed and signed until the end of January 2013. I consider Lloyds took appropriate action to try to transfer the money out of the current account, but it needed Mr and Mrs M's authority and signature on the account opening forms to do so.

my final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs M to accept or reject my decision before 18 January 2016.

Elizabeth Dawes
ombudsman