

## **complaint**

Mr and Mrs G are being represented by a claims management company. They're complaining about Premier Financial Ltd because they say they were wrongly advised to cash in an existing investment to fund a new investment bond.

## **background**

Following discussions with an adviser in 2007, Mr and Mrs G put £73,000 into a Sterling investment bond. Their money was invested a fund including an element of capital protection.

Mr and Mrs G funded this investment by cashing an existing investment bond with Friends Provident. Because they hadn't held the bond very long, they paid a penalty of around £4,600 to cash it in.

Our adjudicator recommended the complaint be upheld. He didn't think it was in Mr and Mrs G's best interests to cash in one bond to fund another in view of the early surrender penalty and new set-up charges they had to pay.

Premier Financial disagreed, saying Mr and Mrs G wanted to reduce the risk to their money and the original investment didn't offer capital protection. Given there was a recession shortly after Mr and Mrs G invested, it thinks they would have been worse off if they'd left their money where it was.

## **my findings**

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 adjudicator's conclusions for much the same reasons. I'm upholding this complaint.

Mr and Mrs G received advice and the adviser had a responsibility to make sure any recommendation was suitable for their circumstances and needs. As the advice involved Mr and Mrs G cashing in one investment to fund another, the adviser also had a responsibility to make sure they fully understood the advantages and disadvantages of what they were doing so they could make an informed decision.

The action Mr and Mrs G took doesn't appear to have been in their best interests and I can't see there was a compelling reason for doing it. In simple terms, they cashed in one investment bond to put their money into another. To do this, they paid a large penalty as well as set-up charges for the new investment. And there was no guarantee the new investment would perform better than the original, and certainly not by enough to recoup the costs involved.

Taking these points into account, I think the adviser should probably have advised Mr and Mrs G against this course of action. But I've seen nothing to suggest he did that or that they insisted on acting contrary to the advice they got. Instead, Premier Financial's comments about the impending recession seem to suggest the adviser thought the switch was a good idea. I don't really accept that because the severity of the financial problems that followed came as a surprise to most people and I think it's unlikely the adviser genuinely thought things would turn out as they did. If he did, he certainly didn't mention it in his suitability letter when setting out the reasons for the advice.

Premier Financial has provided a tick-box form saying some of the key issues that need to be considered when switching investments were discussed and also a letter they signed, but don't appear to have written themselves. But these don't set out how these issues were explained to demonstrate that an informed decision was made. And the adviser's suitability letter, which was intended to be a record of what was discussed, doesn't mention the disadvantages of switching investments at all.

I appreciate Mr and Mrs G may have read some negative press about Friends Provident. But if the advantages and disadvantages of what they were doing had been fully explained, I still don't think it's likely they would have gone ahead. I don't dispute that reducing the risk profile of their investments might have been attractive, but the Sterling bond only guaranteed a part of their capital and still offered the potential for a significant loss after charges are taken into account. They could also have reduced the risk to their capital by switching to alternative funds in the Friends Provident bond without incurring any cost.

On balance, I don't think the evidence shows Mr and Mrs G received suitable advice and that's why I'm upholding their complaint.

### **putting things right**

My aim is to put Mr and Mrs G in the financial position they'd now be in but for the unsuitable advice they received. It's difficult to know exactly what they'd have done instead. But in my view, the most likely outcome is that they would have left their money where it was. To put things right, I therefore think Premier Financial should pay compensation of  $A - B$ , where:

- $A$  = the current surrender value that would have been achieved by the sum they invested in the Sterling bond if it had been left invested with Friends Provident in the same funds. The bond provider should be able to calculate this figure.
- $B$  = the current surrender value of the Sterling bond.

In completing this calculation, it should be assumed that any withdrawals from the Sterling bond would have been replicated (that is the same amounts taken out on the same dates) if their money had stayed in the Friends Provident bond.

If  $B$  is greater than  $A$ , Mr and Mrs G have benefitted from the advice they received and no compensation would be payable. I'm not proposing any changes to the Sterling bond. It will be for Mr and Mrs G to decide whether to continue with it or cash it in. They may wish to seek advice to help them make this decision.

If the Sterling has already been cashed in, the above calculation should be used to identify the extent of any investment loss at the date of surrender. Simple interest at the rate of 8% per year should then be added to the investment loss from the date of surrender to the date compensation is paid. Income tax may be payable on this interest.

Mr and Mrs G invested a significant amount and I think the realisation they received unsuitable advice would have caused them some trouble and upset. How much to award for this is difficult to assess. But I think a modest award is appropriate in this case and that the £250 previously suggested by the adjudicator is fair. Premier Financial need to pay this amount irrespective of whether the above calculation shows they've suffered a loss.

**my final decision**

My final decision is that I uphold this complaint.

If they accept my decision, Premier Financial Ltd must pay Mr and Mrs G compensation calculated using the method set out above and a further £250 for their trouble and upset.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs G to accept or reject my decision before 5 February 2016.

Jim Biles  
**ombudsman**