

complaint

Mrs T has complained that advice she received from Lloyds Bank PLC ("Lloyds") in August 1991 to invest £200.00 per month in an endowment savings plan was unsuitable for her. She is represented in her complaint by a third party adviser, who has said that:

- Mrs T did not require the life cover the plan provided, the cost of which would have compromised the return she received as a savings plan;
- no alternatives were discussed with her;
- the adviser did not establish her attitude to investment risk and the plan invested in a risk-based fund;
- there is no rationale for the term of the plan being ten years;
- she was guaranteed a return at maturity of £75,000 and she surrendered the plan after eight years when it became clear to her that this return would not be achieved.

background

Mrs T's complaint was investigated by one of our adjudicators who concluded that it should not be upheld.

Specifically, she said that Mrs T's objective was to save £200 per month over the longer term and the choice of the Managed fund - a 'low-to-medium' risk-rated fund - was appropriate for her. The inclusion of life cover provided protection for her two dependent children and ensured that the proceeds would be paid free of tax.

Mrs T paid total premiums of £19,200 and received a surrender value in August 1999 of £25,728.

At the point of sale, Mrs T held an existing endowment policy with her husband which would have given her some insight of investment products that were intended to be held for growth over the longer term. That she was disappointed with the return provided by the plan in first eight years would indicate that she was prepared to take some degree of risk for the potential to obtain higher returns.

Given Mrs T's age, the capital she held on deposit which funded the monthly premiums and her willingness to take some risk, the plan was suitable for her. While the policy documentation stated that returns were not guaranteed, Mrs T had made a reasonable return on her premiums before she surrendered the plan.

In response, Mrs T's representative disagreed with the adjudicator's assessment and said that:

- the choice of the Managed fund was not suitable for a 'low-to-medium' risk investor;
- even more surprising is that she justified the inclusion of life cover in a savings plan that was not required just to ensure that it qualified for tax exemption;
- the high charges associated with this plan outweighed any benefit provided by the inclusion of life cover for 'qualifying' purposes;
- it was not sufficient to rely on the documentation to justify the advice given to a novice investor. The advisor's role goes beyond simply handing over documentation stating returns are not guaranteed – he has a duty to ensure that what has been recommended is actually suitable for the person who is agreeing to the plan;
- this is not a performance complaint and the advice should be considered on its merit;

As an agreement could not be reached, the complaint has been passed to me for review.

findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

My understanding of Mrs T's personal and financial circumstances at the point of sale is that she was in her early 40s and married with two children, the younger of which was 11. She owned three shops with her husband and held capital of approximately £80,000 on deposit, the interest on which she was prepared to invest in a savings plan with the potential to provide a return that could exceed the interest she was receiving on deposit. This necessarily required her premiums to be exposed to a degree of risk she was prepared to take. The choice of the Managed fund, which was categorised as 'low-to-medium' risk at the time, was not inappropriate for this objective.

While Mrs T has said that she was guaranteed by the adviser a maturity value after ten years of £75,000, there is no evidence to substantiate this claim. The illustration she was provided at the time quotes final maturity values after ten years of £30,700 and £36,600, assuming an annual rate of return of 7% and 10.5% respectively. It also quotes final values of £88,200 and £129,000 at the same assumed rates of return but only if Mrs T decided to extend the maturity date by a further ten years.

While I cannot be certain whether or not Mrs T was promised a maturity value after ten years of £75,000, this would have required an exceptionally optimistic rate of return to be achieved of around 33% per annum. Given the maturity values the adviser did provide Mrs T were based on annual rates of return prescribed by the industry regulator at the time, on balance, I am not persuaded that he would have guaranteed her a final value that went far beyond the figures he was obliged to quote. Also, given Mrs T was provided the "official" figures in writing, it would be reasonable to suppose that she would have questioned the claims she says were made by the adviser for the performance of the plan.

As it was, Mrs T cancelled the plan after eight years and received a surrender value of £25,728 (including an early surrender charge of £276), which still gave her a rate of return of more than 7.2% per annum, tax-free. This return compares favourably with the *gross* rates of interest typically available from deposit accounts while Mrs T held this plan. In addition to this tax advantage, the inclusion of life cover enabled the plan to pay the greater of £18,000 and its ongoing value if Mrs T died at any time while she held it. Given Mrs T had two dependent children, the adviser rightly considered this additional benefit was valuable to her.

While Mrs T's representative has referred to the charges applied by the plan and how they outweighed this tax advantage it provided, he has offered no evidence to substantiate this statement.

Likewise, he has suggested that more suitable, alternative products were available to Mrs T that ought to have been discussed, without stating what these alternatives were or why they would have been more suitable for her.

Accordingly, given Mrs T's personal and financial circumstances in August 1991, and her objectives at the time, for the reasons set out above, I am satisfied that the advice she received was not unsuitable for her.

decision

My final decision is that I do not uphold Mrs T's complaint.

Under the rules of the Financial Ombudsman Service, I am required to ask Mrs T to accept or reject my decision before 11 May 2015.

Kim Davenport
ombudsman