complaint

Mr and Mrs H have complained about investment bonds recommended by Liverpool Victoria Financial Advice Services Limited (LV) in 2004. Mr and Mrs H's representative has stated that the bonds were too risky for them as first-time investors. It says they had a limited income after Mr H had retired and were not offered any alternative products.

background

I issued a provisional decision on 16 January 2018. A copy is attached and forms part of this final decision. In the provisional decision I set out that I was minded to uphold the complaint and suggested a redress calculation to work out if Mr and Mrs H had suffered a loss.

Mr and Mrs H's representative had no further comments to make in response to the provisional decision. I have not received any further submissions from LV

my findings

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

Bearing in mind I have not received any further submissions from the parties to the complaint, my decision remains the same as set out in the provisional decision.

my final decision

I uphold the complaint. I order that Liverpool Victoria Financial Advice Services Limited to carry out the redress calculation as set out in the attached provisional decision and pay any loss calculated to Mr and Mrs H.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs H to accept or reject my decision before 26 February 2018.

David Bird
ombudsman

copy provisional decision

complaint

Mr and Mrs H have complained about investment bonds recommended by Liverpool Victoria Financial Advice Services Limited (LV) in 2004. Mr and Mrs H's representative has stated that the bonds were too risky for them as first-time investors. It says they had a limited income after Mr H had retired and were not offered any alternative products.

background

One of our adjudicators considered the complaint and felt that it should succeed. He was of the view that the investment bonds recommended for Mr and Mrs H in 2004 were not entirely suitable. He recommended redress accordingly.

LV did not agree. It made the following points:

- The investments recommended were suitable for the established attitude to risk and it disagrees that the clients did not have much appetite for taking risks with their capital.
- The clients had an interest only mortgage and had sufficient funds to pay this off but did not wish to - plus they held endowments (the endowments would also be considered an investment albeit a regular premium but would help shape investment experience).
- It accepts the investments are at the higher end of the cautious spectrum – but they are still cautious.
- Given that the clients wanted higher risk than deposit accounts, investment bonds are the next consideration.
- The clients did not have to go to these bonds for income – they had £16,000 in deposit / savings and in addition if they were struggling to make "ends-meet" then they had the ability to pay off their £11,000 mortgage.
- The risks of the investment bonds would be in the Key Features document that would have been issued.
- It could also be argued that keeping the bulk of the funds on deposit would be bad advice as this would introduce other risks.

Mr and Mrs H's representative responded that it disagreed holding an endowment policy would constitute investment experience.

my provisional findings

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

It is recorded at the time the advice was given that Mr H had recently been made redundant by his employer. Mrs H did not work. Mr H was doing some part-time 'casual work' which generated a variable amount (estimated as £100 a week). In addition they received about £400 per month income from a pension and a loan repayment. It is clear therefore that Mr and Mrs H did not have a great deal of income and it seems the income was just about covering their outgoings.

In terms of their financial situation they had an outstanding mortgage of about £11,000 which was due to be repaid (hopefully) by an existing endowment policy in 2006. It is mentioned that there are some other endowments, maturing in 2005, which could produce £10,500 – but this was not certain.

There were bank savings of £34,000 and an LV savings account of £12,000. This appears to be the accessible cash as the only other investment was a with profits investment with LV for about £4,000.

In terms of Mr and Mrs H's recorded objectives, it was set out in the advisers' recommendation letter that they wished to invest £30,000 in the hope of achieving a better return than cash deposit accounts. They were happy to retain £10,000 for emergencies. It is also recorded that in terms of the risk they wished to take, they were 'cautious'. This was described as:

"You want a high proportion of your funds to be in cash or other guaranteed investments. However, you are prepared for some of your investments to be in funds where there may be a limited degree of fluctuation in values, in return for the prospect of modest long-term growth."

I can appreciate that Mr and Mrs H would wish to obtain a return on their money – preferably in excess of deposit account. They did not have a great deal of income. However, conversely, that would have to be within their risk tolerance – which was cautious. I think it likely that Mr and Mrs H would not wish to take much risk, especially with a large amount of their money, because it does not appear they had any means by which to replace it.

Consequently I do have some concerns about the advice that was given:

- The size of the investment, all being placed in risk based funds.

  It appears that, after the advice, about two thirds of their money was being put at risk (ignoring the endowment policies – which are themselves risk-based). This also does not seem to match the description of having *"a high proportion of your funds in cash or other guaranteed investments".* Given their income, there was very little chance of Mr and Mrs H ever being able to replace a significant fall in value or loss. It does not seem to me that they could afford to take such a risk with so much of their money.

- The fund choices.

  Only two types of fund were chosen. Of most concern is the reliance on property. About £25,000 of the £30,000 was invested in property funds. This in my view clearly created too much of a reliance on one asset class. I assume this was chosen because LV classed it as a cautious investment – but that approach merely concentrates all the risk in one area. There was little diversification of the risk
  Mr and Mrs H were taking. Property funds can fall in value, sometimes significantly. They can also be subject to 'embargoes' – limiting access in times of stress (which does not seem to have been mentioned in the recommendation).

On balance I do not believe it was suitable advice to place so much of Mr and Mrs H's savings into risk-based funds – their situation was such that they couldn't afford to take the risk with so much of their money. I would also explain that, in any event, I believe the advice to invest so much of the money in property was not suitable. As I say, it placed too much of the money in risk based assets of the same type.

I believe that Mr and Mrs H were willing to invest some money in a cautious environment, just not of the amount recommended. It is difficult to arrive at an exact figure as to how much would otherwise have been invested but I will have to arrive at a reasonable percentage on which to base redress. I believe that it would be fair and reasonable in the circumstances of this case to decide that only 50% of the sum invested in risk based assets would have been made, with the remainder invested in a risk free investment or account. Of the 50% deemed invested I also need to address the issue of the concertation in two types of fund, and particularly property. I will suggest redress which I believe addresses these two issues.

fair compensation

In assessing what would be fair compensation, I consider that my aim should be to put Mr and Mrs H as close to the position they would probably now be in if they had not been given unsuitable advice.

I think Mr and Mrs H would have invested differently. It is not possible to say *precisely* what they would have done, but I am satisfied that what I have set out below is fair and reasonable given Mr and Mrs H's circumstances and objectives when they invested.

what should LV do – 50% of the money invested?

Firstly, with respect to *50%* of the £30,000 investment, to compensate Mr and Mrs H fairly, LV must:

- Compare the performance of *50%* of Mr and Mrs H's investments with that of the benchmark shown below and pay the difference between the *fair value* and the *actual value* of the investments. If the *actual value* is greater than the *fair value*, no compensation is payable.

  A separate calculation should be carried out for each investment. The resultant figures should then be added up. If the calculation still shows a loss, that would be the amount payable to Mr and Mrs H.

  LV should also pay interest as set out below.

Income tax may be payable on any interest awarded.

investment name	status	benchmark	from ("start date")	to ("end date")	additional interest
AXA Investment Bond	surrendered	for half the investment: FTSE UK Private Investors Income Total Return Index; for the other half: average rate from fixed rate bonds	date of investment	date surrendered	8% simple per year on any loss from the end date to the date of settlement
Legal & General Investment Bond	still exists	for half the investment: FTSE UK Private Investors Income Total Return Index; for the other half: average rate from fixed rate bonds	date of investment	date of my decision	8% simple per year from date of decision to date of settlement (if compensation is not paid within 28 days of the business being notified of acceptance)
Prudential Investment Bond	surrendered	for half the investment: FTSE UK Private Investors Income Total Return Index; for the other half: average rate from fixed rate bonds	date of investment	date surrendered	8% simple per year on any loss from the end date to the date of settlement

for each investment:

actual value

This means the actual amount paid or payable from the investment at the end date.

fair value

This is what the investment would have been worth at the end date had it produced a return using the benchmark.

To arrive at the *fair value* when using the fixed rate bonds as the benchmark, LV should use the monthly average rate for the fixed rate bonds with 12 to 17 months maturity as published by the Bank of England. The rate for each month is that shown as at the end of the previous month. Those rates should be applied to the investment on an annually compounded basis.

Any withdrawal, income or other payment out of the investment should be deducted from the *fair value* calculation at the point it was actually paid so it ceases to accrue any return in the calculation from that point on.

If there are a large number of regular payments, to keep calculations simpler, I will accept if LV totals all those payments and deducts that figure at the end instead of deducting periodically.

why is this remedy suitable?

I have chosen this method of compensation because:

- Mr and Mrs H wanted capital growth with a small risk to 50% their capital.
- The average rate for the fixed rate bonds would be a fair measure for someone who wanted to achieve a reasonable return without risk to their capital.
- The FTSE UK Private Investors Income total return index (prior to 1 March 2017, the FTSE WMA Stock Market Income total return index) is a mix of diversified indices representing different asset classes, mainly UK equities and government bonds. It would be a fair measure for someone who was prepared to take some risk to get a higher return.
- I consider that for 50% of the investment Mr and Mrs H's risk profile was in between, in the sense that they were prepared to take a small level of risk to attain their investment objectives. So, the 50/50 combination would reasonably put Mr and Mrs H into that position. It does not mean that Mr and Mrs H would have invested 50% of their money in a fixed rate bond and 50% in some kind of index tracker fund. Rather, I consider this a reasonable compromise that broadly reflects the sort of return Mr and Mrs H could have obtained from investments suited to their objective and risk attitude.
- The additional interest is for being deprived of the use of any compensation money since the end date.

what should LV do – remaining 50% of the money invested?

With respect to the remaining 50% of the £30,000 placed into the investments, the same calculation should be performed but this time the benchmark should be only the monthly average rate for the fixed rate bonds with 12 to 17 months maturity as published by the Bank of England.

my provisional decision

I uphold the complaint. My provisional decision is that Liverpool Victoria Financial Advice Services Limited should pay the sum of the two amounts calculated as set out above.

David Bird
ombudsman