

complaint

Mrs J asked Intrinsic Wealth Limited for the surrender value of her policy and was told that she would receive in the region of £59,515. However, when the investment was surrendered she only received £50,000. She would like the difference between the amount quoted and the surrender value received.

background

In December 2011 Mrs J met with an advisor from Intrinsic as she was seeking advice on where to invest £100,000. She was retired and was seeking capital growth over the medium term. She put £50,000 in a Barclays Wealth Moneybuilder and the remaining £50,000 was invested with another provider. In June 2013 she contacted Intrinsic asking for the current values of both investments as she was about to purchase a property and wished to release some of her funds. The advisor called Barclays and was told it would take three to five working days to provide this information as it had to be calculated manually. He called again on 18 June and was told the current value of her plan was £59,915. He was also informed that in order for the money to be available for the end of June Barclays required a written request by 27 June.

The advisor also established that there would be a penalty of £2,500 for an early withdrawal from the other investment. Armed with this information he then called Mrs J. He explained that there might be a slight variation in the Barclays redemption sum as he had not received confirmation in writing. On 23 June Mrs J gave written instructions to encash the Barclays plan. When she received the cheque from Barclays it was for only £50,000.

Mrs J complained to both Barclays and Intrinsic. She said that had she known the correct surrender value, she wouldn't have surrendered the policy and would therefore like Intrinsic or Barclays to pay the difference between the amount quoted and the amount received.

Barclays apologised and acknowledged that incorrect information was provided to the advisor and offered Mrs J £50 for the distress and inconvenience caused. Intrinsic however rejected her complaint and said the advisor had relied on the information provided by Barclays and as such had not done anything wrong. It thought the amount offered by Barclays was insufficient.

Mrs J brought her complaint to this service and our adjudicator didn't recommend that it be upheld. She said that Mrs J had received what she was entitled to from the plan as she had cashed it in early and therefore had made no loss. However, she asked the business if it was willing to give Mrs J compensation. It declined to do so as it considered that may be regarded as an admission of guilt.

Mrs J didn't agree with the adjudicator and said she had relied on the advisor who had failed to check the terms and conditions of the plan. She added that she was paying him a monthly tracking fee and had expected him to check things out and give her informed advice. If she had taken her money from the other provider she would have received around £56,000 after the early cash in charge.

I issued provision decision in which I said:

After the matter was referred to me I asked the Intrinsic why the advisor was unaware of the terms and conditions of the plan. He responded to say it was "*due to the complexity of the*

product". He added: "I thought it appropriate and correct that I contact Barclays Wealth directly to establish the exact encashment value. This is my normal practice as under normal circumstances encashment values change on a daily basis. I would expect any product provider to inform me of the correct encashment value when asked to provide this information".

I also asked Mrs J if she could explain what she would have done if she had been told she would only get her original investment back. She explained she been contemplating buying a holiday lodge and so it was not a full property transaction and had no time limit for completion. She said she would either have used her other plan which was worth in the region of £56,000 or she may have decided not to purchase the lodge. She said she would definitely not have encashed the Barclays' plan.

I regarded Mrs J's whole approach to this as quite reasonable. She was thinking of buying a lodge and asked her advisor, whom she was paying for advice, about the relative state of her investments. She explained she was looking to encash one of them and needed to understand her options. She was given incorrect information and as a result made a decision which turned out to be disadvantageous.

The advisor rang Barclays and relied on the figure he was given. He said the product was complex and I agreed that may be so, but the terms and conditions for early encashment were straightforward. They were set out quite clearly in his 2011 advice to Mrs J when she took out the plan.

In his written advice from 2011 the advisor mentioned the early cash in charge of the other investment. For the Barclays plan his advice said: *"If you were to cash in your investment early, you may receive back less than the amount you originally invested"*. The Key Facts booklet provided to Mrs J states: *"A full Early Withdrawal from your Account (including in the event of death) is permissible but will result in the payment of an Early Withdrawal Amount only and this is likely to be less than your initial Deposit"*.

The terms and conditions also say: *Early Withdrawal Amount means the amount you will receive if you effect an Early Withdrawal from your Account before the Maturity Date and is:*
(a) *your Deposit; minus*
(b) *an amount (if any), known as the Early Withdrawal Adjustment, calculated by the Deposit Taker acting in good faith..."*.

I didn't consider it fair or reasonable for the advisor to absolve himself of responsibility by saying he relied on Barclays. I felt he should have known that Mrs J would only get back her original investment, or possibly less, and as such didn't need to contact Barclays, save for clarification. He could simply have read the terms and conditions he had given to Mrs J in 2011 and quickly realised that it wouldn't have been sensible to encash the plan.

However, I noted that he chose not to do that and relied wholly on Barclays. I accepted he was given misleading information. I was also satisfied that Barclays knew that Mrs J wasn't just seeking to check the value of her investments. The advisor and the call handler discussed how to encash the plan and the timescales involved. He should have been told not just the value of the plan, but the encashment value given it was made clear that was what Mrs J was contemplating. Nonetheless I believed the advisor should have queried the amount he was told as it ran counter to the terms and conditions of the policy.

I appreciated the adjudicator's view that, as Mrs J received what the plan was worth, she has not lost out, but I didn't agree. I was satisfied she wouldn't have encashed the plan if she had been made aware she would only receive £50,000. If she had left it alone it would be worth much more and she would have benefited from that at the end of the five year term. In the circumstances I considered she had lost out.

I considered that both the advisor and Barclays contributed to the mistaken information being given to Mrs J, but ultimately the responsibility lies with the advisor. As such I considered that Intrinsic should make good the loss. As for quantifying the loss I believed that in the absence of any other criteria the figure should be the difference between what Mrs J was expecting and what she received. This is £9,515 and I said this amount should be paid to Mrs J by Intrinsic.

my findings

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

Mrs J accepted the provisional decision, but Intrinsic didn't. It said that the bond had been recommended two year previously and so the advisor had checked the surrender figure with Barclays. He then "*...merely relayed this information back to the client*". It argued that it could be said that the advisor could have thought all the redemption charges had been taken into account in the figure provided by Barclays. It also argued that it would set a dangerous precedent that would allow all providers to disown responsibility for the information they provided. Finally, it agreed that Mrs J should be recompensed, but by Barclays.

I am not persuaded by the arguments put forward by Intrinsic and they have not caused me to change my decision. I find it odd to consider the advisor, who was being paid by Mrs J, felt it was sufficient to merely relay the information he had been given back to her. He had a duty of care to his client and should have done more than just relay the figure. As I pointed out in my provisional decision the figure given was clearly wrong as the bond carried an early redemption penalty. It was clear that Mrs J was only going to get her original investment back, if that. The advisor didn't need to ask Barclays to have appreciated that.

I appreciate that the business feels that Barclays should carry some of the responsibility and I agree. However, I have addressed that in a separate decision and I don't consider I have set a precedent that would allow providers to avoid responsibility for their errors. I consider that prime responsibility in this case lies with the advisor.

my final decision

My final decision is that I uphold this complaint and I direct Intrinsic Wealth Limited to pay Mrs J £9,515. Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 15 February 2016.

Ivor Graham
ombudsman