

complaint

Mr L complains that The Prudential Assurance Company Limited mis-sold him a with-profits investment bond.

Mr L's complaint has been brought by a representative.

background

An advisor of Prudential met with Mr L in 1995 and recommended he make a £6,000 lump sum investment in to a with-profits investment bond. A financial review took place in 1998 and Mr L was advised to make further regular contributions of £40 per month. The bond was surrendered in 2006.

Mr L's representative complained to Prudential about the advice he received to set up the bond. Prudential responded saying they didn't think that they'd done anything wrong.

The representative disagreed and so brought Mr L's complaint to our service. The representative argued the advice to invest a significant amount of Mr L's available cash at the time, about two thirds, was inappropriate as he'd recently become unemployed and he therefore had no certainty of his future income.

Our adjudicator didn't uphold the complaint. He said the with-profits investment recommended by the advisor was considered suitable for consumers that required low levels of risk. And although Mr L may have been unemployed it was recorded in the factsheet that he was hoping to have a full time job within two months and that he was in the process of commencing casual work with his father. So the adjudicator was of the view that a discussion took place between the adviser and Mr L about his employment intentions. And he didn't think it wasn't unreasonable for the adviser to rely upon the information Mr L provided. The adjudicator also noted that Mr L was prepared to invest for five to ten years and that it doesn't seem he was reliant on the funds. This is because he would've expected him to partially or fully surrender the bond soon after taking it out had this been the case, and this didn't happen.

Mr L's representative did not agree and asked for the matter to be looked at by an ombudsman. In summary, they said:

- The fact find says Mr L hoped to have a job within two months. But any unemployed person seeking work would respond in this way. And so the advisor ought to have adjourned the meeting and reviewed Mr L's circumstances once he'd started a new job.
- The casual work with his father isn't enough to support the suitability of the advice. Most parents would help their son in this way if they were in a position to do so.
- Although Mr L did find employment the benefit of hindsight cannot be used when judging the suitability of the advice. Rather, foresight would've been necessary at the time of sale. And even if Mr L was confident of receiving a job offer, it isn't uncommon for start dates to be extended.
- Investing about two thirds of available capital is too high a figure for a novice investor who is in work. And so to recommend this to someone who is unemployed and with no certainty of permanent employment is at best poor advice, at worst it's reckless.

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've come to the same conclusions as the adjudicator and for similar reasons.

The fact find identified Mr L as a low risk investor. And with-profit investments are typically considered appropriate for cautious investors. So I don't think the advice to take out this bond was inappropriate based on the amount of risk that Mr L was recorded as willing to take.

The main dispute about the suitability of the advice however is in relation to Mr L's employment status. His representative argues that the advice was unsuitable as Mr L had no certainty of future income and so he may have required access to the money. They consider it would've been appropriate for the adviser to have waited until Mr L had obtained employment before investing, and that investing two thirds of his available capital was too much.

I've carefully considered these points. But I don't think Mr L being unemployed necessarily means the advice was unsuitable or that it was inappropriate for him to invest the amount he did. I'll explain why.

Mr L was recorded as living with his parents and that he had no monthly outgoings or any financial dependants. It was also recorded that his commitments were not going to change in the next twelve months. He was however expecting to receive about £4,000 to £5,000 in the next few months from his previous employer's share scheme. This meant that the amount he was investing was a much lower proportion of his available capital, less than half, when taking this money in to account. And so because of this, it seems the amount of cash available to Mr L was due to increase significantly and that it was unlikely he would require access to the investment bond in the near future. I also think it's important to note the investment bond gave Mr L the flexibility of making partial withdrawals, although this was subject to a possible market value adjustment. I therefore don't think the amount invested was inappropriate.

The fact find shows there was a clear intention for Mr L to obtain permanent employment and that this could *possibly* happen within the next two months. I can't be sure how likely this was but I'm satisfied there was a discussion between Mr L and the adviser about his future income. So although I've noted the representative's point that any unemployed person would say they'll likely find work soon, I don't think it is unreasonable for an adviser to rely on the information given by their client. And while I appreciate it's also unclear as to the amount Mr L would earn from the casual work he'd arranged with his father, there's nothing to suggest he'd need to access the money in the near future. Particularly when taking in to account his circumstances at the time which were recorded as him not having any monthly outgoings.

So while I accept Mr L's unemployment ought to have been a key consideration, I've also taken in to account the amount of excess funds available to him (including the share scheme money) along with having no monthly outgoings and the intention to start work soon. And so on balance, I don't think it was wrong for the Prudential advisor to recommend the investment bond at that time.

When Mr L started making regular contributions in 1998 he was back in full time permanent employment and he had sufficient disposable income to afford the payments. And I don't think the with-profits investment bond was unsuitable for his needs at that time as it remained in line with his attitude to risk and it still met his aim of wanting to build up capital over the long term.

It follows that I don't think Mr L was mis-sold the investment bond.

my final decision

My final decision is I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr L to accept or reject my decision before 23 September 2018.

Daniel O'Dell
ombudsman