

complaint

Mr P is represented by a claims management company (CMC). It says Mr P was given unsuitable advice by The Prudential Assurance Company Limited in 2000. It says Mr P should have been advised to invest in a tax efficient product instead of an investment bond.

background

Mr P met with an adviser in 2000. His endowment savings plan was about to mature. The business recommended he invest a lump sum of £5,000 in a with-profits investment bond and set up a regular monthly payment into the same bond. Mr P took out the investment bond and made regular monthly payments for many years. He withdrew £16,000 from the bond in 2011. In 2017 the CMC made a complaint to the business on his behalf. It said that the investment posed too much risk for Mr P, there was a lack of diversification as all his money was invested in the same fund and no alternatives were discussed.

The business did not uphold his complaint. It said that Mr P had been looking to reinvest a lump sum from his maturing investment and the investment bond recommended matched his attitude to risk. The business said the investment was affordable taking into account Mr P's circumstances at the time. It also said he already held a Personal Equity Plan (PEP) so his investments were sufficiently diversified.

The CMC disagreed. It said the business should have advised Mr P to invest £7,000 in a stocks and shares ISA and £3,000 in a cash ISA rather than the investment bond. It said there was no evidence that tax efficient products had been discussed with Mr P.

The business pointed out that the maturing investment was a with-profits endowment and Mr P had reinvested his money in a with-profits investment. It also said the recommendations letter talked about the taxation of the investment.

The CMC referred Mr P's complaint to our service. Our adjudicator considered the complaint and didn't think it should be upheld. She felt that the risk posed by the investment recommended was in line with Mr P's attitude to risk. She noted the recommendation letter sent to Mr P made reference to the tax status of the investment. The adjudicator felt it was likely that there had been some discussion about taxation but that this wasn't a priority for Mr P.

The CMC did not agree. It reiterated that there was no evidence that a discussion had taken place around the benefits of ISAs and there was no documented reason why a taxable investment had been chosen instead. It also said that a fund within an ISA would have offered diversity but had the added advantage of being tax free. The CMC asked for the complaint to be referred to an ombudsman for review.

my findings

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

At the time of the advice Mr P was employed with some disposable income. He already held £15,000 in a PEP and he had an endowment savings plan with nearly £10,000 which was about to mature. He was advised to reinvest £5,000 into a with-profits investment bond and set up a monthly payment of £150 into the bond. His financial goals were recorded as capital growth in the medium to long term and building up capital for future use.

It seems that Mr P could afford to invest a lump sum as the funds were coming from an existing investment and he did not invest the full amount he had available. In fact the CMC is saying he should have been advised to invest a larger lump sum of £7,000.

Mr P had a little investment experience from having existing investments but I consider he only wanted to take a low risk with these monies. With-profits funds were generally considered to be low risk at the time because they use smoothing to try to reduce large fluctuations in value. In addition once bonuses are added to the investment they cannot be removed. So, overall I am satisfied that the investment recommended didn't pose too much risk for Mr P taking into account his circumstances and objectives.

I also take into account that the monthly payments would have been paid using his disposable income. It seems that Mr P was used to saving regularly through his endowment plan. Mr P would also have been able to stop the payments if he felt he was investing too much. It seems Mr P was able to afford the monthly contributions as he has paid them for many years.

The CMC has said that Mr P should have been advised to invest in a tax efficient product. I note that Mr P already had a reasonable amount invested in a tax efficient product. So it seems likely that he would have had some awareness of the benefits of doing so.

I am also satisfied that Mr P was provided with a letter summarising the recommendations made by the adviser and the reasons for those recommendations. They are clear references to the taxation of the investment recommended. The letter sets out that tax paid within the fund cannot be reclaimed, that this will affect the overall return Mr P receives and that there are a number of tax efficient products available in the market place. So I consider it likely on balance that taxation was discussed and I tend to agree with the adjudicator that tax efficiency was not a priority for Mr P.

I am not convinced that the with-profits investment bond recommended was unsuitable for Mr P taking into account his circumstances and objectives. I don't think it posed too much risk for him and it met his objectives of capital growth and building capital for the future. Overall I am not persuaded that the fact it wasn't a tax efficient product made it unsuitable for Mr P.

my final decision

My final decision is that I don't uphold Mr P's complaint against The Prudential Assurance Company Limited for the reasons outlined in my decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 29 May 2018.

Julia Chittenden
ombudsman