DRN-4088072

The complaint

Mr L complains, through a claims management company (CMC), that Lloyds Bank PLC provided unsuitable investment advice, in particular when it recommended him to invest in a fund that was too risky for him as an inexperienced investor - especially given his personal circumstances following a recent and sudden bereavement.

To put things right, Mr L would like financial compensation to put him into the position he would be in had he been given suitable investment advice.

What happened

In 1999, Mr L invested £70,000, split between the following investments:

 £7,000 into a stocks and shares Individual Savings Account ('ISA'), invested in the medium risk ‘UK Growth Fund’.
 £43,000.00 into an Open-ended Investment Company (OEIC) investment, invested in the medium risk ‘UK Growth Fund’.
 £20,000.00 into the low risk Guaranteed Stock Market Bond.

Lloyds didn’t uphold Mr L’s complaint that its investment recommendation had been unsuitable. Lloyds said it was satisfied that Mr L had capacity to invest this amount of money and his overall risk exposure had been appropriate. Based on the information it had available in its records, Lloyds said:

- its advisor completed a full discussion of Mr L’s financial and personal circumstances prior to making the recommendation
- the assessment took into account Mr L’s personal situation and his investment aims
- the funds Lloyds recommended Mr L to invest in were suitable for his personal situation and outlook and gave a spread of risk
- Mr L’s personal circumstances at the time didn’t stop him from investing for potentially better returns than savings
- Mr L had a cooling-off period after investing so he could have changed his mind if he’d decided the investments were not right for him
- Mr L kept the OEIC for around 14 years and the ISA for around 23 years, so they appear to have been affordable and sustainable for him.

Mr L wasn’t happy with this response so he brought his complaint to us.

When complaints concern events that happened more than six years ago, as here, the Financial Ombudsman Service can’t always look into what happened. In this instance, Lloyds consented to us investigating Mr L’s complaint and our investigator looked into the circumstances of this sale.

The investigator didn't feel this was a complaint she could recommend upholding. After carefully considering Mr L's circumstances and financial situation, and his investment objective, she was satisfied that Lloyds had fairly and reasonably concluded that the medium risk UK Growth Fund and the low risk Guaranteed Stock Market Bond were suitable investments for Mr L. This led the investigator to conclude that the recommendations were suitable and she didn't recommend that Lloyds should take any further action.

Mr L didn't agree with the investigator. On his behalf, the CMC said, in brief summary:

- the ISA and OEIC totalling £50,000 were invested into the UK Growth Fund which contained too much risk for Mr L as a first time investor, particularly taking into account his personal circumstances, and
- the £20,000 Guaranteed Stock Market Bond was low in risk and more suitable – but the money had come from an inheritance following the unexpected death of a close family member and Mr L was grieving and emotionally vulnerable at this time and he was advised to invest too soon after his bereavement.

As the complaint hasn't been resolved, it comes to me to decide.

What I've decided – and why

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

I've looked at the complaint afresh and I've independently reached the same conclusions as our investigator. I'll explain my reasons.

I've had the benefit of seeing some of the point of sale paperwork, including the information prepared by the advisor in the record of the 'Financial Interview' (the 'fact find'), which Mr L signed to confirm that the information recorded was accurate and that the risks and characteristics of the recommended investments had been explained to him. So, I think it is reasonable for me to rely on the information the point of sale paperwork shows about Mr L's risk approach at the time.

The following information is recorded in the fact find:

- Mr L had received an inheritance of £150,000 earlier that year and he currently held £144,000 in cash
- he had recently graduated and had several outstanding job applications he was waiting to hear back about
- he was at the start of a professional career with the potential to be able to work for many years before retirement
- he lived mortgage free in an inherited property (worth approximately £130,000) in which he had a half share
- he had no significant household or any other liabilities recorded
- his total financial commitments were around £650 each month
- Mr L thought he might spend around £5,000 on a car and that tax and insurance would cost him about £700, but otherwise, he had no big spending plans
- he was looking to invest £70,000 in order to obtain capital growth over the long term and willing to invest for at least five years.

I haven't seen anything to make me think that Mr L's situation affected his ability to make financial decisions or that it was unfair and unreasonable for Lloyds to have provided investment advice to Mr L. It seems clear that there was a discussion about the circumstances in which Mr L had come into his money and that Mr L was keen to invest as he felt this reflected what his late parent would have wanted him to do. And Mr L told the advisor he was keen to grow his money and not waste the opportunity his inheritance presented. So whilst I appreciate that this was a sad time for Mr L, I don't think that alone is a good enough reason for me to uphold this complaint.

And looking at his overall circumstances, I find that Mr L had capacity to absorb investment loss and he was in a strong enough financial situation to be able to invest £70,000 – which the CMC has said it accepts.

Mr L said he wanted to use some of the capital from his inheritance to provide long term capital growth for the future. As far as I can see, his monthly financial needs appeared to be comfortably covered by the accessible cash savings he would still have available to draw upon if needed. I am not aware of any unaddressed spending requirements and his outgoings were likely to be modest as long as he was living mortgage free. There is mention of the possibility that the house might be sold, which could mean that Mr L might have had to face paying either a mortgage or rent in future. But set against this, Mr L expected to be starting paid employment in the foreseeable future, so boosting his finances. All in all, I don't think it's likely that Mr L would've required any income from the investment and Mr L's circumstances and financial situation show that he was in a position to be able to invest up to £70,000 for the medium to long term. I am supported in saying this by the fact that he has been able to keep the bulk of his investments for many years without ever needing to draw upon the capital.

Lloyds doesn't have a record of any detailed discussion about the risk Mr L was prepared to take with his investment. But this isn't enough of a reason for me to conclude that a medium risk investment was not suitable for him.

I've looked carefully at the information Lloyds has provided about its process and the service it provided to customers seeking investment advice, along with the information recorded in the fact find. I think it's likely risk would've been discussed as this was part of the advisor's normal process and information recorded in the fact find suggests that consideration was given to the question of Mr L's attitude to risk. He appears to have made a considered decision about investing some of his money at a lower level of risk – had Mr L wanted to take a more cautious approach, I think he would've understood that investing more, or all, of his money at low risk was an option.

I accept that Mr L was new to investing. But I don't agree that a medium risk investment couldn't ever be suitable for an inexperienced investor. This would effectively deprive Mr L of the opportunity to make bigger investment gains than he could otherwise achieve, which seems unfair to me as Mr L needed to take some investment risk in pursuit of the capital growth he said he wanted.

Whilst I've been mindful not to make an assessment with the benefit of hindsight, overall, having considered everything, I don't find that Mr L was exposed to more risk than he wanted to take.

In coming to my decision, I've taken carefully into account everything Mr L has said, including comments the CMC mentioned in response to the investigator's opinion and its view that Mr L was advised to expose too much of his money to too much risk.

I've thought carefully about how Mr L's investment in the Lloyds' UK Growth Fund fitted his overall investment position – and whether it tipped the balance towards too much exposure to risk or meant that his overall risk exposure didn't properly reflect a level of risk that felt comfortable for Mr L.

But, for all the reasons I have explained more fully above, I don't consider the fact that the £50,000 invested into the UK Growth Fund which comprised almost 100% UK equities, was inappropriate for Mr L and that the whole of the investment recommended should have been at a low level of risk. Lloyds discussed the bond with Mr L making him aware of that investment option and whilst Mr L chose to invest only some of his money at that lower level of risk, in this way he widened the spread of his overall risk.

Further, the diversity of funds in the UK Growth Fund further spread his risk. It is not disputed that the fund was significantly reliant on UK equities, which can tend towards volatility. But Mr L was looking to grow his capital and I think he understood that risk was commensurate with growth potential and, in choosing to invest as he did in the UK Growth fund, he was balancing his investment objectives against the risk he felt comfortable taking with his money.

I am satisfied that the investment recommendations overall did reasonably reflect Mr L's risk approach.

In order to uphold this complaint I have to fairly be able to say that Lloyds did something wrong or acted in a way that wasn't fair and reasonable. For the reasons I have set out above, I haven't seen enough to show that the recommended investments were too risky for Mr L or otherwise unsuitable.

Based on all the information I've seen and been told, so far as I can see, the advice broadly met Mr L's needs and investment objectives and was suitable.

I appreciate that what I've said here will come as a disappointment to Mr L but I hope that setting things out as I’ve done helps explain why I've come to this overall conclusion.

My final decision

I don’t uphold this complaint for the reasons I have set out above.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr L to accept or reject my decision before 1 November 2023.

Susan Webb
Ombudsman