

The complaint

The Trustees complaint that Skipton Building Society gave them unsuitable investment advice in 2009. In particular they say it did not make them aware that higher rate tax might be payable on the investment growth. They also complain that when they wanted to surrender the investment, they received very poor service from Skipton and the value of the investment fell by nearly £4,000 in the time it took to surrender the bond.

To put matters right, the Trustees want Skipton to compensate them for the worry and distress this matter has caused them and pay the amount the investment fell in value between the date they initially discussed encashing the investment and the amount actually received.

What happened

In late 2009, the Trustees received advice from Skipton on investing a £50,000 lump sum for the benefit of two minors. The money was an inheritance and I understand that the will stipulated that the beneficiaries should have access to the money when they reached 21 years old.

Skipton advised the Trustees to invest in an investment bond held in trust for the two minors.

In 2016 the first of the beneficiaries reached age 21. The Trustees contacted Skipton to request that half the current value of the bond should be paid to them. I understand that this money was then passed to the beneficiary. The Trustees did not seek advice from Skipton before making this withdrawal.

In late 2021, the Trustees say Skipton contacted them about the investment. Having been made aware that the second beneficiary would shortly turn 21 years old, Skipton suggested that the Trustees could use a deed of transfer to assign the bond to the remaining beneficiary as he was a non-taxpayer and would therefore not incur a tax charge on the investment growth if the bond was encashed before he became a taxpayer. It appears that the Trustees instructed a solicitor in January 2022, to arrange the deed of transfer.

Unfortunately, there were a number of delays during the assignment and surrender of the bond and the money was not paid to the beneficiary until mid-October 2022.

The Trustees complained to Skipton. They said the value of the bond had fallen by nearly £4,000 between the valuation they received in early 2022, and the amount received when the bond was encashed.

Skipton accepted that the service it had provided had fallen below the standard the Trustees could reasonably have expected. In particular it said it should have pre-populated the surrender form correctly before it provided it to the Trustees.

But it said it could not be held responsible for delays caused by the solicitor or the product provider. It offered to pay the Trustees £75 for its part in the poor service they had received.

It also said it was satisfied that the advice it had provided in 2009 to the Trustees was suitable. And it said that the 'potential of tax liability' was explained in the report it had provided to the Trustees at the time the bond was arranged.

The Trustees did not accept Skipton's decision and referred the complaint to this service.

Having considered the complaint our investigator said she felt the offer Skipton had made was fair in the circumstances of this complaint.

The Trustees did not accept our investigator's view and asked for their complaint to be determined by an ombudsman

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 appreciate the Trustees strength of feeling, but having carefully considered this complaint I think the offer Skipton has made is fair and reasonable for its part in the delays the Trustees experienced. I don't think it needs to do any more to resolve this complaint. I'll explain why.

advice in 2009

The Trustees have said they don't think the advice they received in 2009 was suitable. In particular they say:

It was never explained to us at any time that tax would have to be paid based on our tax allowances and not that of the boys who were not paying tax on their 21st birthdays.

I have reviewed the report that was issued to the Trustees in 2009, when the bond was arranged. The report set out:

*Withdrawals from the Bond will not incur any additional basic rate Income Tax liability as this is deducted at source. This tax cannot be reclaimed and therefore bond investments may not be suitable for non-taxpayers. **Depending on personal circumstances withdrawals from the Bond may result in a higher rate Income Tax liability.** Also, withdrawals from the Bond may affect entitlement to Age Allowance. However, up to 5% of the original investment in the Bond may be withdrawn each policy year with any potential tax liability being deferred until the eventual full surrender of the policy, or when 100% of the original investment has been withdrawn in this manner.*

(bold is my emphasis)

In view of this I can't reasonably find that it was not explained to the Trustees that, as the owners of the bond, they might incur a tax charge on withdrawals.

I note that the Trustees have also queried whether an investment bond was a suitable way of investing the money from the estate until the minors reached age 21, particularly as basic rate tax is deducted at source. Having considered this aspect of the complaint I don't think that the advice to put the money in an investment bond, held within a trust, was unsuitable. I note the Will specified that the money should be held in trust until the beneficiaries reached 21 years old. As this was the case it wouldn't have been possible to invest in, for example, an ISA as an ISA cannot be held in trust.

withdrawal in 2016

In 2016, the older of the two beneficiaries reached age 21. The records show that the Trustees contacted Skipton and instructed it to arrange for half the value of the investment bond to be encashed. There is nothing to show or suggest that the Trustees asked for advice on making the withdrawal and they have confirmed that Skipton did not provide any advice on this withdrawal.

It is unfortunate that the Trustees did not request advice. I note that the report they received in 2009, when the bond was arranged, set out:

*As the Bond is a medium to long term investment early surrender could result in poor returns. Capital may be withdrawn from the Bond by either full or partial surrender. **The tax treatment of these two methods of surrender is different and therefore we would suggest you seek advice from your Skipton Financial Services Financial Adviser before making withdrawals from the Bond. This will ensure the most tax efficient method is selected.***

(bold is my emphasis)

The Trustees have said that when they became aware in 2022, that they might unintentionally have incurred a tax charge when they made the withdrawal in 2016, they contacted HMRC. The Trustees say HMRC has told them that no tax is payable on the 2016 withdrawal.

I appreciate that it caused the Trustees worry and upset to find out that they might have incurred a tax charge, but I can't reasonably hold Skipton responsible for the distress this issue caused the Trustees as they did not request its advice before making the 2016 withdrawal, despite having been advised to do so, at the time the bond was arranged. I do understand that, with the passage of time, the Trustees may have forgotten that Skipton had recommended that they should seek advice before making withdrawals, but I can't reasonably hold Skipton responsible for this.

surrender of bond in 2022

The records I have seen show that in late 2021, the Trustees received advice from Skipton on the most tax efficient way of encashing the bond. As the remaining beneficiary was a non-taxpayer, Skipton advised the Trustees to arrange for the bond to be assigned to the beneficiary before the bond was surrendered. This advice was set out in a report dated 17 January 2022.

The Trustees have complained about the length of time it took before the bond was encashed. I have carefully considered Skipton's involvement in this process.

I understand that the deed of assignment was sent to Skipton, by the solicitor the Trustees had instructed, in early May 2022. The Trustees then sent the surrender form for the bond in early June 2022. It appears that on 22 June 2022, Skipton contacted the Trustees as the deed of assignment did not include the policy numbers (as the bond was made up of 100 policies) and needed to be amended. I do understand that this would have been frustrating for the Trustees and the beneficiary, as it meant the surrender process was delayed. But I can't reasonably hold Skipton responsible for this oversight on the part of the solicitor acting for the Trustees. It appears that an amended deed of assignment was sent to Skipton in early July 2022 and Skipton promptly passed this, together with the surrender form, to the product provider.

The product provider then requested documentation to verify the identity of the beneficiary and Skipton passed this request on to the Trustees and the beneficiary. It appears the

beneficiary provided some of the requested documentation and this was sent to the product provider by Skipton in late July 2022.

In early August 2022, the Trustees then chased Skipton as the beneficiary had still not received the money from the product provider. Skipton contacted the product provider on their behalf. It then came to light that the product provider still required proof of address for the beneficiary before it would proceed with the surrender request. I have listened to the calls one of the Trustees had with Skipton about this matter in early August 2022.

I appreciate that the Trustee was finding the process very frustrating and that there were difficulties providing proof of address for the beneficiary, but I am mindful that Skipton suggested requesting a printed bank statement to use as proof of address and explained that this could be requested from the beneficiary's bank. I appreciate this added further delays, but Skipton couldn't override the product provider's anti-money laundering requirements and having reviewed this aspect of the complaint, I think Skipton did try to help by suggesting a possible solution.

I understand that the product provider then said the release form needed to be amended to reflect the deed of assignment. The Trustees say a revised form was provided in late September 2022 and the product provider released the funds to the beneficiary in mid-October 2022.

I appreciate that it took around nine months from the date of the report recommending assigning the bond to the beneficiary, to the date he received the money from the bond.

However, I can't reasonably find that Skipton was responsible for most of the delays. As the Trustees decided to assign the bond to the beneficiary this needed to be completed before the surrender process could begin. A corrected deed of assignment was provided in early July 2022, around five and a half months after Skipton had provided its advice to the Trustees. As I set out above, Skipton made the Trustees aware that the original deed of assignment wouldn't be accepted by the product provider and advised the Trustees to amend it to include the relevant policy numbers for the bond. I think this action by Skipton prevented further delays that would have been caused if the product provider hadn't accepted the deed of assignment.

I can see that there were further delays when the product provider required proof of address for the beneficiary but, as I explained above, this wasn't something Skipton could override. I am also mindful that Skipton tried to assist and suggested getting a copy of a bank statement from the beneficiary's bank to use as proof of address. I'm satisfied that Skipton wasn't responsible for the delay in meeting the product providers anti-money laundering requirements.

Having carefully considered this aspect of the complaint, I think the £75 Skipton has offered to pay the Trustees for its part in the delay in the surrender of the bond is fair in the circumstances of this complaint.

fall in the value of the bond

The Trustees have said that they feel Skipton should pay the beneficiary the difference between the valuation they received for the bond in January 2022, and the surrender value the beneficiary received in October 2022. They say they feel he '*...lost almost £4,000 due to the poor service from Skipton*'.

As I set out above, I am satisfied that a significant part of the delays experienced were with the solicitor the Trustees had appointed to assign the bond, and the product provider. I

cannot reasonably hold Skipton responsible for any delays caused by third parties it had no control over. And I cannot require it to pay compensation for delays it was not responsible for.

Likewise, as the Trustees have acknowledged, they '*...understand that all investments can go up and down and that Skipton have no control over this...*'. It is very unfortunate that the value of the bond fell, but I cannot require Skipton to make up the fall in value. I have not seen anything that shows or suggests that Skipton gave any commitment that the valuation in its January 2022 report was the amount the beneficiary would receive.

Putting things right

I do understand that the Trustees have found the steps they needed to take to encash the bond, including arranging for it to be assigned to the remaining beneficiary, worrying and stressful. But, as I have set out above, I can't reasonably require Skipton to compensate the Trustees for delays and poor service that it wasn't responsible for.

Having carefully considered this complaint I think the offer Skipton has made, to pay the Trustees £75, for its part in the poor service they received, is fair and reasonable and I can't reasonably require it to pay more.

My final decision

My decision is that the offer Skipton Building Society has made, to pay the Trustees £75, is fair in the circumstances of this complaint. I simply leave it to the Trustees to decide if they now wish to accept this offer.

Under the rules of the Financial Ombudsman Service, I'm required to ask Trustees to accept or reject my decision before 1 January 2024.

Suzannah Stuart
Ombudsman