DRN-4517761

Financial Ombudsman Service

The complaint

Mr B complains that ReAssure Limited mis-sold him a maximum investment plan ("MIP"). He says the plan wasn't affordable, was too risky for him, and that he didn't require life cover.

The investment advice was provided by a financial business trading under a different name. But ReAssure is now responsible for dealing with the complaint and, to keep things simple, I'll refer to ReAssure as the financial business that provided the advice and sold the investment complained about.

The complaint is brought on Mr B's behalf by a claims management company ("CMC").

What happened

Mr B and his wife sought financial advice in October 1999 following the maturity of their existing MIP. They wanted to add to an existing investment and to take out another monthly savings plan.

ReAssure recommended Mr B invest £150 each month in another 10 year MIP and that he and Mrs B invest £10,000 in their existing joint investment portfolio. This complaint is only about the recommendation to invest in the MIP.

Mr B surrendered the MIP early in December 2002 because he needed the money for house repairs. In 2023 he thought he might have cause for complaint that he'd been mis-sold the MIP when he saw the CMC's advert.

The CMC complained on Mr B's behalf and said that the MIP wasn't affordable, that too much of his assets were exposed to a significant level of risk, and that he didn't require life cover. It thought alternative savings options should have been considered.

ReAssure investigated and said it was satisfied that the MIP was suitable for Mr B's circumstances at the time.

Our investigator didn't recommend that the complaint should be upheld. She thought Mr B was looking to replace the MIP that had matured with a similar plan and that the advice was suitable.

Mr B didn't agree. His representative said, on his behalf and in summary, that:

- The fact find recorded that there was no need for life cover. There were other options available which would have avoided the cost of the life cover.

- In the fact find, the advisor has tried to justify the inclusion of life cover, but the comments are contradictory and seem to have been added afterwards to justify the recommendation.

- ReAssure recommended too much of Mr and Mrs B's available assets were invested and the £150 a month would have been needed to replenish their capital reserve.

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.

Although this service doesn't always have the power to investigate complaints about events that happened more than six years ago, ReAssure has agreed to us looking into Mr B's complaint about what happened in 1999 when it recommended the MIP. So I'm satisfied that I can consider the complaint.

But ReAssure isn't required to keep records indefinitely and there's limited evidence due to the passage of time. In cases like this, where the evidence is incomplete, inconclusive, or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

Having carefully considered everything, I find I have come to the same conclusion as our investigator. I don't think the MIP was unsuitable for Mr B for the following reasons:

- Whilst I've not seen a detailed breakdown of Mr B's monthly expenditure, the fact find completed at the time recorded that he and his wife had a monthly income surplus of £465. And his existing MIP had just matured – he'd paid £150 a month for 10 years and didn't report any difficulties with making that payment. This suggests to me that Mr B had enough disposable income to afford the £150 a month he signed up to save.

- Mr B's priority was to replace his matured MIP with another regular savings plan. He wanted to regularly save a proportion of his income to build up his capital for the future. It's noted that the advisor discussed alternatives, such as regular unit trust investment, but it seems Mr B was keen to have a like for like replacement for his matured MIP and that he wanted the discipline of investing a set amount each month and to tie his investment up for 10 years. This meant the new MIP would mature a couple of years before his planned retirement date. Overall, I don't find the MIP was unsuitable for his needs.

- Mr B needed to be comfortable with the level of risk associated with the MIP. It's not clear what discussion took place around his attitude to risk and reward, but the fact find records that the contents of a "Guide to investment risk" brochure would have formed part of the discussion. The fact find records that Mr B had a medium risk attitude. There's nothing to suggest that Mr B raised any objection to his risk approach being categorised in this way and I think, because of his existing investments, he would have reasonably understood he would be taking some risk with this investment, in order to try to increase his capital return.

- Due to the time that's passed since the investment took place, ReAssure hasn't been able to provide evidence of the underlying funds. But I've not seen anything to suggest that the underlying investment involved more risk than Mr B was prepared to take.

- The discussion included protection planning – so consideration of the need for death and critical illness cover. And the fact find records that "*both clients feel life cover is not required*". I'm satisfied that this referred to a stand-alone life policy. Whilst the MIP included a life assurance policy, this was required for the MIP to be a "qualifying" policy. It's not clear how much the life policy element of the investment cost, but I've not seen anything to show that the cost meant Mr B would have received less than he invested if he held the plan until maturity. And the qualifying policy meant the maturity proceeds would be free from any additional tax.

- The CMC says notes have been added to the fact find after the event, to justify the recommendation, and it refers to different handwriting. It refers in particular to the comment “*extra life cover on [Mr B] is also attraction for clients*”. I’m not a handwriting expert, but I think it unlikely that notes were added at a later stage with the specific intention of passing an audit as the CMC suggests. In any event, as noted above, I don’t think this necessarily contradicts what was recorded earlier in the fact find about life cover not being required, as this was in reference to a stand-alone policy.

- The CMC says too much of Mr and Mrs B’s investment was exposed to risk. This complaint is only about the advice to invest in the MIP in Mr B’s sole name, and I can’t comment on the investments in the joint names of Mr B and his wife.

- For the reasons I’ve explained, I’m satisfied that the MIP met Mr B’s needs and investment objective and wasn’t too risky for him, based on his circumstances at the time. And whilst he chose to encash the MIP early, I’m not persuaded that this was reasonably foreseeable when the recommendation was made.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr B to accept or reject my decision before 28 March 2024.

Elizabeth Dawes
Ombudsman