

The complaint

Mr B complains about Countrywide Assured Plc ('Countrywide'). He says that the two savings plans that he was advised to start were not suitable for him. And he should have been advised to start an alternative plan that the business offered at the same time.

What happened

Our Investigator thought the complaint should be upheld. Countrywide disagreed with the Investigator's opinion. The complaint was then passed to me.

I issued my provisional decision saying that Mr B's complaint should not be upheld. A copy of the background to the complaint and my provisional findings are below in italics and form part of this final decision.

What I said in my provisional decision

Mr B had two savings plans taken out with a business I'll call Firm M. Countrywide is now responsible for these plans.

Mr B met with Firm M in 1989 and a fact find was completed. This showed that he was aged 28 and he lived with his parents. He was employed full time. He had savings of £5,000 and a risk-based investment with a value of £1,000.

Mr B was advised to start policy one in February 1989. He paid £50 a month into this, and it invested in four UK based managed funds.

In December 1989, Mr B was advised to start policy two. He paid £40 per month into this. This plan also invested in four funds, one of which was the same as in policy one. The remainder were investment funds based in European, International and Far Eastern Markets.

These policies were surrendered in March 2018.

Both of these policies were Firm M's 'savings programme'. This was a type of savings policy which didn't have a fixed term. It was designed to be held for between 15 to 20 years and could invest in a range of funds.

Mr B, via his representative, has complained about these plans. He said that he should have been advised to start Firm M's 'investment programme'. This is a ten-year plan that had a charge free extension after ten years. This policy had significantly lower charges than the savings programme and he says this would have best met his needs. The second policy was sold a short time later and so the best advice would have been to combine all the premiums into one policy. He complained that he has paid significantly higher charges than he would have done if he had been given the correct advice by Firm M.

Countrywide has considered Mr B's complaint and has partially upheld it. It agrees that for policy one Mr B should have been advised to invest in the investment programme. He could have used the same funds, and he could have invested over the same length of time. There were no disadvantages to him doing this and he would have paid lower charges. It has calculated and paid compensation for this policy.

It didn't uphold Mr B's complaint about policy two. This was because the minimum premium for an investment programme was £50 and so he could not have started another 'stand-alone' plan. And it said that it didn't advise on fund choice, they were chosen by Mr B himself. And the maximum number of funds that a single investment (of either type) could use was five, but Mr B invested in seven funds overall (one was duplicated). He couldn't invest in the same range of funds in an investment programme.

So, it said that even if Mr B had started an investment programme for policy one then he would still have invested his further premium of £40 in the savings programme and paid the higher charges. If he wanted to invest in the same way.

Mr B didn't agree, and he brought his complaint to the Financial Ombudsman Service. One of our Investigator's considered the complaint and upheld it. He thought that policy two was also unsuitable for Mr B. Our Investigator thought it was clear that Mr B didn't want to invest for less than ten years and the funds in the second policy had more risk than it was likely he wanted to take. He thought the second policy should have been cancelled and both Mr B's premiums should have been invested in the one investment policy using the same funds as he used in policy one.

Countrywide didn't agree. It maintained that it did not give investment advice to consumers, and it had no role in deciding how Mr B's policy was invested. Mr B shouldn't have been advised to cancel policy one and his second premium wasn't high enough to have placed his premiums in the investment programme.

There was some further correspondence, but I think it's reasonable to say that no new issues were raised. As no agreement has been reached the complaint has been passed to me to issue a Final Decision.

What I've provisionally decided – and why

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

It's been established that policy one wasn't suitable for Mr B. This was because Firm M had an alternative product that it could have advised Mr B to start that was more suitable for him, due to the reduced charges it had. I agree this was the case. And from the information I've seen, which includes the loss calculation on policy one, this reduction in charges is very significant.

So, I have to consider what Mr B should have been advised to do for policy two, if he had been advised to start a different product for policy one.

It's not clear why Mr B started two separate plans a short time after each other. So, I've thought about whether he should have been advised to do this or combine all the premiums he wanted to pay into one plan.

Countrywide has said that Firm B wouldn't have advised Mr B about which funds to start. But it did have a duty to recommend a suitable product for him. And it's difficult to say an investment product is suitable when the actual investments haven't been determined. I don't think it's necessarily reasonable to assume that Firm B didn't advise or comment on the funds selected, in this case. That said there is also no evidence that shows that Mr B didn't chose the funds himself. So, there is some uncertainty about this.

Our Investigator said that the funds were not suitable for Mr B. Mr B invested in a range of funds in both policy one and policy two. The ones in policy one were managed funds that would usually be considered suitable, at the time, for a 'medium' risk investor. The funds in policy two (other than the duplicated fund) look to have a higher risk as they are overseas investments.

But the amounts Mr B invested in these funds was modest and so there was really very little risk of a material loss to him, particularly at the early stages of plan two. And spreading the investments over a wider range of funds could be a good idea and may have been what Mr B preferred. So, I don't think that the fund choice in policy two was necessarily unsuitable for him.

Mr B wanted to pay a smaller premium into policy two and so he wouldn't have been able start another investment programme. And if he wanted to combine all of his premiums into one policy he would have needed to alter how the funds were invested. I'm not persuaded he would have wanted to do this.

So, given the smaller premium Mr B wanted to pay, and the fund choice being suitable for him, I don't think I can reasonably say that policy two was unsuitable for Mr B. It follows that I don't think he should have been advised to cancel policy two (and policy one) to have enabled him to invest all of his money into one investment programme.

So, I currently think the compensation that Countrywide has already paid is reasonable to resolve this complaint.

Developments

Countrywide, and Mr B, confirmed that they had received my provisional decision. Countrywide didn't have anything to add after they'd seen it.

Mr B didn't agree with my provisional decision. His representative, on his behalf, said that:

- The funds were chosen by the adviser, he didn't request a change in them for policy two.
- The fund choice wouldn't have been an issue itself. The same funds would have been available to Mr B as it was the same business for both policies.

As no agreement has been reached, I've gone on to issue my final decision.

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.

As I said in my provisional decision, there is some uncertainty about whether Mr B chose the investment funds himself or whether he was advised to start them by Firm B. I have noted that Mr B said in response to my provisional decision that he didn't choose the funds.

But, I also have to bear in mind that Countrywide says that Firm B would not have advised Mr B about which funds to invest in. And I've not seen a record from the time of sale that Firm B recommended Mr B should invest in any funds. Given this, I still think it's unclear how the funds were chosen.

The crux of the complaint is whether policy two was suitable for Mr B. I talked in my provisional decision about whether the funds in policy two had more risk than it was likely that Mr B wanted to take, or was suitable to recommend that he take. I still don't think this is the case. This is particularly given that the amount of monthly premiums would mean that Mr B would be less likely to lose significant amounts, especially in the early life of the plan. There was a reasonable investment spread. And Mr B hasn't said that the fund choice itself was unsuitable for him.

This means that I think the underlying investments in policy two were likely to be right for him - when considered alongside the funds in policy one. So even though he could have restructured his investments and started just one policy, he would also have needed to change the funds he used. I don't think it's reasonable to say he would have done this.

And it is relevant that Mr B's premium for policy two wasn't high enough to start an investment programme. So, he couldn't start two investment programmes and use the same funds.

So even though policy two, using the savings programme, has a higher charging structure than the investment programme, I don't think it's unsuitable for Mr B. Because of this I don't think his complaint about this policy should be upheld.

So, my decision remains as in my provisional decision and largely for the same reasons. I'm not upholding Mr B's complaint.

My final decision

For the reasons set out above, I don't uphold Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 19 June 2024.

Andy Burlinson
Ombudsman