complaint

Mr D complains about the advice he received from Royal London (CIS) Limited in 1998 to start a ten-year endowment savings plan. Mr D says he was misled about the amount he would receive when the policy matured and believes the policy was mis-sold.

background

The adjudicator upheld the complaint for three reasons:

- As an inexperienced investor, Mr D would not have appreciated the risks associated with the investment. This was more suitable for a balanced investor.
- There was no recorded need for the life cover included in the policy. This could have had an adverse effect on the performance of the investment given Mr D's age.
- Based on the product literature, the policy would not have provided a worthwhile return unless a high level of growth was achieved. This involved a higher risk than Mr D was prepared to accept.

CIS did not accept the adjudicator's assessment. It said that:

- The policy invested in the with-profits fund, which was specifically designed for working people to save over the long term. This was suitable for any type of investor.
- The complaint was about investment performance.
- Mr D was not an inexperienced investor as he had three whole of life policies. He had also contracted out of SERPS through a personal pension.

The adjudicator reviewed the complaint in light of these comments. But was he not persuaded to alter his opinion.

As the matter remains unresolved, it has been referred to me for a final decision.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint.

The evidence indicates that in 1998 Mr D wished to save over a period of ten years. It is not recorded if this was with a particular need in mind.

The endowment policy Mr D was recommended could be seen as a reasonable way of saving regularly. Mr D was recorded as being willing to take a balanced degree of risk. But like the adjudicator, I do not think it is likely this was an accurate reflection of his wishes.

But I am also aware the policy invested in the with-profits fund. This would have been considered at the time to represent a low level of risk.

However, while this was the case, the policy also should have offered a reasonable prospect of giving a worthwhile return on the premiums paid.

I have not seen a copy of the illustration that would have been produced at the time. But CIS has provided figures from its actuaries that set out what such an illustration would have shown. This indicates that the costs involved in providing the policy would have the effect of reducing the projected return from 7.5% a year to 2.4% a year. This is a significant "reduction in yield". It meant the policy would have to achieve a much higher rate of growth so as to provide a worthwhile return.

In addition, these figures did not take account of the cost of life cover. The policy had a basic sum assured. This is the minimum sum payable at maturity. It was also the sum to which bonuses would be added.

The fact that there was a sum assured also meant it was treated as a "qualifying" policy. As such, the maturity proceeds could be paid without any liability for personal taxation for Mr D.

But the inclusion of life cover came at a cost. Because Mr D was in his late fifties, this is likely to have been significant. Mr D did not have a need for further life cover. It was simply included as this was part of the way such policies operated.

Overall, I do not think the policy was a suitable recommendation for Mr D. The chance of it providing a reasonable return over the ten-year term was fairly low. It would have required quite a high level of investment growth to have done so. This is a risk I think it is unlikely Mr D was prepared to take.

fair compensation

In assessing what would be fair compensation, I consider that my aim should be to put Mr D as close to the position he would probably now be in if he had not been given unsuitable advice.

I take the view that Mr D would have invested differently. It is not possible to say *precisely* what he would have done differently. But I am satisfied that what I have set out below is fair and reasonable given Mr D's circumstances and objectives when he invested.

what should CIS do?

To compensate Mr D fairly, CIS must:

- Compare the performance of Mr D's investment with that of the benchmark shown below and pay the difference between the *fair value* and the *actual value* of the investment. If the *actual value* is greater than the *fair value*, no compensation is payable.

  CIS should also pay interest as set out below.

Income tax may be payable on any interest awarded.

investment name	status	benchmark	from ("start date")	to ("end date")	additional interest
endowment savings plan	matured	for half the investment: FTSE WMA Stock Market Income Total Return Index; for the other half: average rate from fixed rate bonds	date of investment	date of maturity	8% simple per year on any loss from the end date to the date of settlement

actual value

This means the actual amount paid from the investment at the end date.

fair value

This is what the investment would have been worth at the end date had it produced a return using the benchmark.

To arrive at the *fair value* when using the fixed rate bonds as the benchmark, CIS should use the monthly average rate for the fixed rate bonds with 12 to 17 months maturity as published by the Bank of England. The rate for each month is that shown as at the end of the previous month. Those rates should be applied to the investment on an annually compounded basis.

Any additional sum paid into the investment should be added to the *fair value* calculation from the point in time when it was actually paid in. Where regular contributions were made, the calculation should be for each monthly payment.

why is this remedy suitable?

I have decided on this method of compensation because:

- Mr D wanted capital growth with a small risk to his capital.

- The average rate for the fixed rate bonds would be a fair measure for someone who wanted to achieve a reasonable return without risk to his capital.

- The WMA index is a mix of diversified indices representing different asset classes, mainly UK equities and government bonds. It would be a fair measure for someone who was prepared to take some risk to get a higher return.

- I consider that Mr D's risk profile was in between, in the sense that he was prepared to take a small level of risk to attain his investment objectives. So, the 50/50 combination would reasonably put Mr D into that position. It does not mean that Mr D would have invested 50% of his money in a fixed rate bond and 50% in some kind of index tracker fund. Rather, I consider this a reasonable compromise that broadly reflects the sort of return Mr D could have obtained from investments suited to his objective and risk attitude.

- The additional interest is for being deprived of the use of any compensation money since the end date.

my final decision

I uphold the complaint. My decision is that Royal London (CIS) Limited should pay the amount calculated as set out above.

Royal London (CIS) Limited should provide details of its calculation to Mr D in a clear, simple format.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr D either to accept or reject my decision before 9 July 2015.

Doug Mansell
ombudsman