DRN-3539160

The complaint

Mrs P has complained about the advice she was given to invest by Bank of Scotland plc, trading as Halifax ('Halifax').

Mrs P is represented by a third party but for ease of reference I shall refer to 'Mrs P' in my decision.

What happened

Mrs P inherited some funds from her late mother and in 2006 approached Halifax to discuss her savings and investment options.

Upon the advice she received, Mrs P invested £4,000 on 29 March 2006 into several funds within an ISA wrapper. Mrs P says she was advised to invest at the wrong time – too soon after the death of her mother. It was a difficult period for her, and she should have been given more time to become accustomed to her new financial situation and the loss of her mother.

Mrs P has said she was an inexperienced investor and was recommended to invest into funds of medium/adventurous risk profiles which she believes too high a risk for her. She would like to be put in the financial position she would have been had she not been given inappropriate advice.

Mrs P complained to Halifax about the advice she had been given. In its final response to Mrs P's complaint it said;

- Mrs P was in the position to invest and the advice and level of risk she was exposed to was appropriate for her.
- The adviser had collected all Mrs P's personal and financial circumstances at the meeting prior to making the recommendation.
- The medium/adventurous risk funds recommended to invest into provided a greater choice of diversity within her portfolio. They offered a wide spread of investments with the potential for long term growth.
- The key features document Mrs P was given highlighted the aims and risks of the plan and was followed by Financial Report after the meeting.
- Mrs P was provided further documentation from the fund manager plus a cooling off period.
- Mrs P surrendered her investment in 2008 which was a shorter time frame than was intended. The adviser couldn't have been able to predict that decision.

Remaining unhappy with the outcome Mrs P brought her complaint to the Financial Ombudsman.

Our investigator who considered Mrs P's complaint didn't think it should be upheld. She said;

- Mrs P's husbands' circumstances weren't relevant when considering the suitability of the investment for Mrs P.
- Mrs P's mother had died 15 years prior to the advice so this point wasn't relevant to establish suitability.
- She didn't think Mrs P was an inexperienced investor. Mrs P had held a stocks and shares ISA for four years and had £6,000 invested.
- It was recorded that Mrs P wanted capital growth from this investment and to get the best from her capital.
- The spread of investments posed more risk, but they were suitable as they provided a greater diversity and more potential for growth in the longer term.
- It was recorded that Mrs P wanted a riskier investment at the time of the advice. So, the investigator didn't agree the investment was too risky or exposed Mrs P's capital more than necessary. And Halifax had double checked the recommendation was suitable for Mrs P.
- Mrs P had surrendered her investment in April 2008 for £4,061.66 so she hadn't suffered a financial loss.

Mrs P didn't agree. Whilst it was accepted that Mrs P had some experience of investing, the International Growth Fund and the UK Growth Fund exposed her to too much risk for someone with her relative inexperience. Mrs P could still have achieved capital growth but with less risk.

As the complaint couldn't be resolved, it has been passed to me for a 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.

Mrs P's circumstances

Halifax has given us a copy of Mrs P's 'Customer Information' which provides details of her circumstances as recorded by Halifax's representative at the time of the sale.
Mrs P was 52 years of age, married and was employed as a teacher. Mrs P had an employee pension scheme and didn't want any investment advice about that. She intended to retire at 65 years. Her disposable monthly income after normal monthly outgoings was £150.

Mrs P jointly owned her home with her husband, and which was valued at around £150,000 with an outstanding mortgage of £41,730.89. Mrs P had held an ISA with Halifax for four years valued at £6,000 but no other investments were recorded. She had cash available on deposit of £12,118.65 which was partly made up of £9,289.57 recorded as being 'Matured Funds'. And jointly with her husband Mrs P had a deposit account valued at £7,146.99.

Mrs P's attitude to risk

Under the 'attitudes' section of the Customer Information document it was recorded that Mrs P's 'aspiration' was 'You want to make your money work harder for you for your future' and her 'need area' was recorded as being for capital investment.

Under the attitude to risk section it was recorded that Mrs P's investment experience was 'pooled &/or single co shares', the 'Risk to capital' was 'medium/high risk' and she was looking to invest for a term of five years or more with potential access to her investment. Her attitude to risk 'Summary Statement' was recorded as 'Medium/Adventurous'.

I have considered carefully how this risk level came about and how Halifax made Mrs P aware of the varying levels of risk implicit in different investments. Halifax needs to demonstrate that it gave suitable advice taking into account Mrs P's circumstances, understanding and knowledge as well as ascertaining her attitude to risk.

Clearly I can't know for sure what was discussed at the meeting Mrs P had with Halifax's representative but from the documentary evidence that is available, I'm reasonably satisfied that Halifax has been able to show us how it came to the conclusion that Mrs P was a 'Medium/Adventurous' risk investor.

Halifax has been able to give us documentation from the time of the sale which includes copies of the fund brochure and key features document for the funds. The Financial Report which came about as a result of the meeting does lay out the four levels of risk Halifax recognised – from cautious to adventurous. And its highlighted in the Report at what level Mrs P was willing to expose her capital. On the balance of probabilities, I think it more likely than not that these documents and various levels of risk were discussed as well as what funds would be appropriate for an investor willing to take that level of risk.

Having reviewed the Financial Report I think it gives a good record of what was discussed at the meeting. Amongst other points its recorded that Mrs P was an experienced investor and she wanted to proceed with the investment recommendation as soon as possible rather than have a second meeting.

The repayment of Mrs P's mortgage was to run its natural course (rather than Mrs P repay it using some of the funds she held) with an endowment policy to repay the mortgage in full and if there was a shortfall to use her remaining capital. Rather she wanted 'to make your money work harder for you for your future.'

Mrs P's attitude to risk was assessed after discussion about several factors including Mrs P's experience – 'You have previously invested in pooled investments and/or single company shares. You now want to invest further into stock market-based investments, which is consistent with your general approach'. Her risk to capital where its recorded Mrs P 'would consider stock market investments with a greater degree of movement up and down or the potential of higher returns'. And with regard to her risk to return its recorded Mr P 'would accept changes in value both up and down to any investments return'.

A medium/adventurous investor was recorded by Halifax as being;

> 'You are looking for a greater potential return from investments in stocks and shares and are will to accept a proportion of your funds being allocated to areas with a correspondingly higher degree of risk. This means that the value of the investment is more likely to move up and down and by greater amounts. You understand and accept on final encashment you may get back less than you invested.'

The investments recommended were recorded as being suitable for Mrs P because they offered 'higher potential returns than deposit based alternatives, which is important to you as you want to make your money work harder for you for the future.'

I have very carefully considered whether the risk rating of medium/adventurous was right for Mrs P. She had a relatively modest monthly disposable income of £150 so I've looked to see if she had the capacity for loss that would be implicit in that risk rating. Mrs P was advised to keep some funds back, of which £3,000 was to be based in a deposit account of an ISA

Saver Fixed. Plus £4,500 was to be retained for financial emergencies and short term planned expenses for which I understand Mr had no identified need.

I've also taken into account that Mrs P did have some investment experience as she held an ISA valued at £6,000 and which had been invested for four years. And as mentioned above £9,289.57 of Mrs P's available funds were recorded as being from 'Matured Funds' but no other detail was given. So, it could have been the case that Mrs P did have some other investment experience but clearly, I can't know that. After discussion about the potential for regular savings it was recorded that Mrs P 'preferred to focus on capital investment at this point. We may review this matter for you at your next review appointment.'

Overall, I'm satisfied Mrs P's attitude to risk was reasonably discussed and established. It's not necessarily the case that just because Mrs P might not have taken that level or risk before, then she shouldn't take that level of risk with her new investment – which only represented £4,000 of the cash she had on deposit – provided she was appropriately informed and advised. And I think it's clear Mrs P was sufficiently informed so that she was capable of making an informed investment decision.

The advice – was it suitable

While I'm satisfied it was most likely the case that Mrs P's attitude to risk was assessed by the adviser, I've considered whether what was recommended to her was right for her recorded circumstances and financial objectives.

Mrs P has said that as a novice investor a medium/adventurous risk investment was too high a risk for her. But I've seen nothing to conclude this was the case. As mentioned above Mrs P did have some investment experience and its recorded that Mrs P's investment objective was for the potential of capital growth so it seems likely that Mrs P did want to explore the opportunity to make her money grow more than it would do in her bank account or other lower risk alternatives.

The £4,000 was invested with an illustrative term of five years split as follows;

Name of fund	% invested	Halifax's risk rating
International Growth Fund	30%	Above average risk
UK FTSE All Share Index Tracking Fund	30%	Below average risk
UK Growth Fund	20%	Below average risk
Fund of Investment Trusts	10%	Above average risk
UK Equity Income Fund	10%	Below average risk

40% of Mrs P's cash was to be invested in above average risk as defined by Halifax and 60% in below average risk.

As examples of the funds and their risk ratings, I've reviewed the specific fund information as given by Halifax for the largest of the above average risk investment – the International Growth Fund – and the largest below average risk investment – UK FTSE All Index Tracking Fund. For the International Growth Fund, it says the following;

> 'Investment Objective
>
> This fund aims to achieve capital growth over the long-term by investing in a diversified global portfolio.
>
> Investment Policy

> The fund will concentrate the core of the portfolio on large companies while maintaining a reasonable presence in medium and small sized company with above-average potential for growth.
>
> Risk/Return Relationship
>
> The International Growth Fund is an above-average risk fund. This is a widely diversified portfolio that is subject to the currency risk associated with the areas of investment.'

I think this makes clear that the portfolio was widely diversified, and the underlying investments held within the fund and its investment policy seems to reasonably reflect the risk Mrs P was willing to take. Mrs P wanted capital growth and this fund – amongst the others – offered her that opportunity.

And for the UK FTSE All-Share Index Tracking Fund it said;

> 'Investment Objective
>
> This fund aims to match, as closely as possible…the capital performance and net income yield of the FTSE All-Share Index.
>
> Investment Policy
>
> The policy is to invest primarily in companies comprising the FTSE All-Share Index….
>
> Risk/Return Relationship
>
> The UK All-share Index Tracking Fund is a below-average risk fund. It benefits from the significant diversification of investing in a representative selection of the stocks comprising the FTSE All-Share index….'

Again, this fund is widely diversified – tracked in line with the FTSE All-Share Index, and I don't find it to be mismatched to the risk Mrs P was willing to take. And the larger proportion of Mrs P's cash was invested into below average risk funds as rated by Halifax. So, I don't find the investments made are out of balance with how a medium/adventurous investor could be invested.

I also note under the 'validation' section of the customer information record – where the adviser's review and recommendation were checked – two areas were highlighted for review. One was that the investments recommended didn't accord with Mrs P's then current assets. And the second was Mrs P's outstanding mortgage and questioned whether the funds should be used to repay that rather than invested. However, as evidenced by what was recorded in the resulting Financial Report, I think it most likely both of these points were discussed and covered off at the point of the advice being given.

As I've said above, I've concluded I think it's more likely Mrs P was given sufficient information for her to be aware of the varying levels of risk and potential rewards implicit in different types of stock market investments. So, I'm satisfied she was reasonably experienced and was made aware of the alternatives that were available to her.

However, I do appreciate that there were probably lower than medium/adventurous risk options available to Mrs P at the time that could have potentially offered her better capital growth returns than savings. But my role isn't to re-visit the advice that she was given and what other options were potentially available to her. Rather it's to consider whether the advice that was given to Mrs P was suitable for her at the time and as identified prior to the investment and whether it was sufficiently explained to her. And I am satisfied that it was.

When Mrs P brought her complaint to the Financial Ombudsman, she said she had been given the advice to invest too soon after her mother's death. The investigator didn't think her mother's death 15 years prior to the investment recommendation would have any impact on Mrs P's ability to make an investment. Mrs P accepted that point, so I make no further comment.

Taking all of the above into consideration, and in the individual circumstances of this complaint, I don't have anything to conclude that the advice given to Mrs P was unsuitable for her bearing in mind her personal circumstances, her identified attitude to risk and her investment requirements. I follows that I don't uphold Mrs P's complaint.

No doubt Mrs P will be disappointed with my findings, but I hope I have been able to explain how and why I have reached

My final decision

For the reasons I have given above, I do not uphold Mrs P's complaint and make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 5 January 2023.

Catherine Langley
Ombudsman