DRN-3565428

The complaint

Mr C has complained about the advice he received from Bank of Scotland plc, trading as Halifax Life ('Halifax'). He thinks the investments recommended were too high risk for him.

Mr C is represented by a third party in bringing his complaint but for ease of reference I shall refer to 'Mr C' in my decision.

What happened

In May 1996 Mr C was advised to invest £15,000 into an Investment Bond. He didn't think the level of risk was appropriate for a novice investor who had recently retired so complained to Halifax.

Halifax responded to Mr C's complaint. It said;

- When Mr C met with the adviser he had wanted to discuss investing a portfolio of his savings for the potential of greater returns and the ability to take a monthly income if needed. He was asked about his personal and financial details before the recommendation was made.
- Mr C was advised to invest into the Investment Bond with his money invested in the default Halifax Investment Mandate portfolio made up of three life bonds – Balanced, Opportunity and Foundation. Each fund carried its own level of risk, some potentially higher than low/medium but overall, the risk was appropriate when the portfolio was taken as a whole as the funds balanced each other out.
- When the investment was made it was low/medium risk and this could have been changed and he would have been advised of this if he had seen an adviser. Halifax later confirmed the overall risk was medium rather than low/medium.
- Mr C was given all the documentation and signed to go ahead with the plans. There was no reason to think he didn't understand the information given to him.

Dissatisfied with the outcome, Mr C brought his complaint to the Financial Ombudsman. Our investigator who considered Mr C's complaint, didn't think it should be upheld. She said;

- When Mr C received the advice his investment objective was for capital growth and income and had a low/medium attitude to risk.
- Halifax had said the funds within the Investment Bond had their own levels of risk but overall, the funds were balanced.
- Its recorded that Mr C wanted capital growth and income from his investment. Mr C didn't take any income from the bond until 2010 – 14 years later. And as at January 2020 Mr C had withdrawn a total of £28,150 and the value of the portfolio in May 2022 was £9,152. So, Mr C's objective of capital growth was also achieved.
- The investigator thought Mr C was willing and able to take the level of risk he was exposed to and it matched his objectives. And even though Mr C was a first-time investor that wasn't enough to say the investment was too high risk for him.

Mr C didn't agree with the investigator. He said;

- There wasn't any significant evidence that he was willing to taking such a level of risk. Mr C could have been sold low-risk investments that contained some equities, but the majority invested in less volatile fixed interest securities. The Investment Bond was over 80% exposed to equities.
- While the investment might have been affordable, Mr C was on a low income and had no surplus income to earn back any losses. He should have been advised to invest in a cautious investment.
- The growth the investigator had referred to took 26 years to achieve so the fund's performance was poor. Mr C should have been sold a cautious investment.

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.

Mr C's circumstances

Halifax has given us a copy of the 'Personal Financial Questionnaire' that was completed at the time of Mr C's meeting with Halifax's adviser.

It records that Mr C was 56 years of age, married and recently retired. Mr C's annual income was £7,181 earning a monthly income of £598 per month which after regular outgoings, left him with £248 per month.

He jointly owned his home with his wife, and which was valued at around £45,000. Mr C had cash of £59,875 at the time which he told us came about as a result of a pension lump sum payment and accumulated savings. No other investments were recorded.

Under the 'Capital Investment' section of the form it refers to income and Mr C needing to draw on his capital to provide long term income and that he was prepared to use some or all of his capital to maximise his income. At that time, he hadn't expressed his attitude to capital investment but wanted to retain access to his capital although he had no plans to withdraw funds for at least five years.

Mr C's priority for his personal objectives was for 'Capital Investment Growth/Income'. Under the notes section the adviser recorded that Mr C was recently retired and was looking for advice on how best to arrange his funds in order to raise additional income of around £200 per month to supplement his pension. Mr C could take a medium-term view and there was currently no actual shortfall in income, but Mr C wanted to know the funds were available should he wish to call on them.

As part of the overall advice given to Mr C it was recommended that he keep back £38,875 in various building society/bank deposit accounts, invest £6,000 into a PEP and £15,000 into a Halifax Life Investment Bond unit trust growth fund for the main purpose of capital investment.

Mr C's attitude to risk

There’s no record that Mr C’s attitude to risk was established or recorded. So, I have gone onto consider whether Halifax collected sufficient information about Mr C’s circumstances and objectives to enable it to assess his attitude to risk.

And I’ve also borne in mind that Mr C was a novice investor who was seeking advice because he didn’t have the knowledge or experience to make such an investment decision unaided and that taking early retirement was a significant change in lifestyle. So, Halifax needs to demonstrate that it gave suitable advice taking into account Mr C’s circumstances, understanding and knowledge after ascertaining his attitude to risk.

Clearly I can’t know for sure what was discussed at the meeting Mr C had with Halifax’s representative but from the documentary evidence that is available, I’m not convinced that Halifax has been able to show us how it established Mr C’s attitude to risk.

However, in the absence of documentation to evidence how the risk assessment for Mr C was carried out I have taken into account his circumstances as recorded in the Personal Financial Questionnaire to see whether the level of risk the investment exposed him to was right for him.

Mr C was recently retired, relatively young, had a modest pension and he wasn’t eligible for the state pension at that time. He had a lump sum available that he could use to finance his retirement.

Its recorded that Mr C wanted access to his capital and to take income from the investment if necessary but had no plans to do so at the time. So, it doesn’t seem unreasonable for Mr C invest a proportion of his funds for capital growth from which he could access income and capital in the future. And its recorded that Mr C had no plans to withdraw any funds for at least the next five years so again medium to long term investment for capital growth for some of his funds doesn’t seem unreasonable.

Overall, I’m satisfied that taking into account Mr C’s circumstances and investment objectives I don’t think it was unsuitable for him to take some risk with his money. But I have gone on to consider whether what he was advised to invest into was right for him.

<u>The advice – was it suitable</u>

Of the £59,875 Mr C had available he was advised to keep cash of around £39,000 in various accounts. £6,000 was to be invested into a PEP and Mr C was advised to invested £15,000 – 25% of his capital – into the Halifax Life Investment Bond which included a death benefit.

Mr C’s representative has said the funds within the Investment Bond ‘were medium-high risk investments that our client had no detailed understanding of…indeed to get an understanding of our client’s exposure they would have needed to look at the constituents of 3 different investment funds with significant overlaps. This was far too high risk and complex.’

The Investment Bond was split equally between the Foundation, Balanced and Opportunity Funds. I’ve seen and reviewed the fund factsheets – although I do appreciate they are dated April 2003, several years after the investment was made – for each of the funds to see if they matched Mr C’s investment objectives and requirements.

Each of the funds’ aim was to produce growth over the medium to long term. And this was to be achieved by investing in conjunction with each of the other funds and ‘…by using a balanced investment approach, gaining exposure to a number of different asset types including shares and bonds across a broad range of key international markets.' The UK equity exposure for the three funds ranged between 53% and 69%. And there was also UK gilt exposure of 12% and 20% in two of the funds.

I appreciate the three funds invested in were largely made up of equities. Although as noted the proportion did vary according to the fund. I've looked at the three funds altogether which I don't think is unreasonable as they were to be invested into in conjunction with each other. The largest exposure was to UK equities at 58.4%, UK fixed interest securities at 10.6%, European equities at 10.2% and North American equities at 8.3%.

So, there was a significant proportion of international equities in the three funds although UK equities was the largest asset class. But taking into account the proportion of Mr C's available assets invested – 25% - and the medium to long term nature of the investment I am not persuaded the recommended investment posed more risk than Mr C was willing to take. Mr C has said he wasn't in the position to recoup any losses to his capital but while the investment exposed him to that it also provided him with the opportunity to grow capital for the future which was one of his objectives.

Halifax has said overall the Investment Bond exposed Mr C to a medium level of risk, and I don't find that to be an unreasonable reflection of the risk he was willing to take and which matched his objectives. I am satisfied that Mr C was looking to invest some of his capital to try and obtain a better return than it was earning on deposit and that is what the investment gave him the opportunity to do.

It's also recorded he was thinking about the potential for income now that he was retired, and I note Mr C did take income some 14 years after the investment.

I've taken into account that there's no record that Mr C had any investment experience. And as I've said above, without any investment experience Mr C would have been totally reliant upon the advice given to him. And I've borne in mind what he'd done previously with his money – by keeping it in a risk-free environment in his bank and that without any earnings income Mr C wasn't in the position to recoup capital losses.

Mr C has said that as a novice investor the risk he was exposed to was too high for him. But I've seen nothing to conclude that this was the case. As mentioned above, I don't think it was unreasonable for Mr C to have invested for the potential for capital growth – in order to take income in the future – so it seems likely that Mr C did want to explore the opportunity to make his money growth more than it would do in his bank account. I consider Mr C was willing to take some risk over the medium to long term.

I am not persuaded on balance that the Investment Bond recommended by the Halifax in 1996 was unsuitable for Mr C taking into account his objectives and circumstances.

However, I do appreciate that there were probably lower risk options available to Mr C at the time that could have potentially offered him better returns than savings. But my role isn't to re-visit the advice that he was given and what other options were potentially available to him. Rather it's to consider whether the advice that was given to Mr C was suitable for him at the time and as identified prior to the investment and I am satisfied that it was.

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 Mr C was unsuitable for him bearing in mind his personal and financial circumstances, and his investment requirements. It follows that I don't intend to uphold Mr C's complaint.

No doubt Mr C will be disappointed with my decision, but I hope I have been able to explain how and why I have reached it.

My final decision

For the reasons give, I don’t uphold Mr C’s complaint and make no award.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr C to accept or reject my decision before 10 January 2023.

Catherine Langley
Ombudsman