

## **The complaint**

Mrs H on her own behalf and the Estate of the late Mr H has complained about the advice received from the Bank of Scotland plc, trading as Halifax ('Halifax').

Mrs H and the late Mr H are represented by a third party, but for ease of reference I shall refer to Mrs H and/or the late Mr H in my final decision as appropriate. I don't mean any disrespect by this.

## **What happened**

In February/March 2007 Mrs H and the late Mr H were advised to invest a total £20,000 plus £250 a month. The funds were invested £6,000 via a Personal Investment Plan ('PIP'), £6,000 via a Guaranteed Investment Plan ('GIP') and £4,000 each into ISAs plus a monthly investment of £125 each. They both made a top up of £2,000 in April 2007 in their ISAs.

The PIP and the ISAs were invested into the Cautious Managed Fund. Mrs H made a complaint in November 2020 as she believed that they would have been better off putting their capital into a high interest savings account which would have shielded them from stock market volatility.

Mrs H made a separate complaint about the GIP in 2018, so I won't be considering it in this decision.

In its response to the complaint Halifax concluded that the £6,000 invested in the PIP would have been better left in deposit accounts as Mrs and the late Mr H were advised to invest too much of their money. It said;

- It concluded, considering Mr and Mrs H's circumstances at the time, they were in a good position to invest.
- All funds were invested into the Cautious Managed Fund.
- Mr and Mrs H had regular financial reviews.
- It offered £79.48 to put the matter right for the PIP investment measuring the performance against the published Bank of England Bond Rate for the period of investment.

Mrs H wasn't happy with the outcome as she thought all of the money invested into the Cautious Managed Fund should be compensated so brought the complaint to the Financial Ombudsman. Our investigator who considered the complaint didn't think it should be upheld.

She said;

- Halifax had already agreed the PIP investment wasn't right for Mr and Mrs H and had offered to put that right.
- After considering Mr and Mrs H's circumstances she thought the recommendation for the ISAs was in line with their goals and objectives.

- The investment into the GIP reduced the overall risk of the portfolio.
- She felt they were willing to take a low level of risk which was affordable for them as well as Mr and Mrs H being left with sufficient funds in cash if they needed to access them.

Mrs H didn't agree with the outcome;

- She didn't agree that the Cautious Managed Fund was a low risk investment. Around half of the bonds held were subject to currency fluctuations.
- At the time Mr and Mrs H didn't have significant wealth that could have allowed them to take higher risks. T
- Mrs H didn't agree that the GIP reduced the overall risk.
- She asked that the case be passed to an ombudsman.

Our investigator forwarded the fund factsheet onto Mrs H, who responded that despite Halifax's classification of the fund as being Cautious Managed it might not have been invested as such.

As the complaint remains unresolved, 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.

As I've mentioned above, Mrs and the late Mr H made a separate complaint about the GIP investment, so I won't be considering this in my decision. Halifax also upheld the complaint about the PIP, so again, as it has offered to put the matter right, I won't be deciding on that investment. But I will be taking both investments into account when considering Mr and Mrs H's circumstances for the advice to invest in the ISAs.

### **Mr and Mrs H's circumstances and investments made**

In February/March 2007 Mr and Mrs H met with a Halifax adviser three times.

Mr H was 69 and Mrs H was 66 and were both retired. They owned their home valued at £190,000. Mr H had £90,000 on deposit. And in non-HBoS deposit accounts Mrs H had £1,800 and joint funds of £8,200 so in total combined cash of £100,000. Mr and Mrs H didn't hold any investments and didn't have any investment experience. They had no liabilities and a joint net monthly income of £2,245.83 with an excess of income after expenditure of £695.83 per month.

After taking account of planned expenditure and emergency funds of £16,350 Mr and Mrs H's 'customer aspirations' were recorded as being for £47,750 to be invested for five to ten years for capital growth, leaving them with £35,900 and were advised to save £250 per month for five years to build up a large sum in regular savings within their ISA accounts. They were recorded as have an overall attitude to risk of 'cautious/medium'.

The above recommendations were made in February but were amended in March as Mr and Mrs H had forgotten about an equity release mortgage debt of £42,000 which they wanted to repay so the recommendations were reduced for each to £4,000 as a lump sum payment and £125 as a monthly regular investment in ISAs, and jointly £6,000 into a PIP and £6,000 into a GIP. The latter was to be written on the lives of Mr and Mrs H on a joint life second death basis.

And in April 2007 following a further meeting Mr and Mrs H where the remaining non-HBoS funds of £10,000 were discussed Mr and Mrs H were each recommended to add a further £2,000 in a mini ISA to be invested in the Cautious Managed Fund.

So, for this complaint I will be considering the £6,000 each invested into the ISAs plus the £125 monthly regular savings into the same. The £125 monthly payments were made for 16 months and were both transferred out to another provider in October 2012.

#### Attitude to risk

Mr and Mrs H's attitude to risk was recorded as being 'cautious/medium'. I have considered how this came about and how Halifax made them aware of the varying levels of risk implicit in different investments, particularly bearing in mind they were novice investors. Mr and Mrs H were seeking advice because they didn't have the knowledge or experience to make such an investment decision unaided. So, Halifax needs to demonstrate that it gave suitable advice taking in account Mr and Mrs H's circumstances, understanding and knowledge after ascertaining their attitude to risk.

From the information given to us by Halifax, I'm not convinced that it has been able to show us how it came to the conclusion that Mr and Mrs H were 'cautious/medium' investors, but overall, I think this was most likely explained to Mr and Mrs H – after taking into account their abilities to understand investment risk and clarification of their experience or knowledge to understand the risk investment – I think they reasonably understood the risk of the investments.

Although clearly I can't know what was said at the meetings but the discussions that would have been needed for the Fact Find(s), the resulting Financial Report(s) plus the presentation of the Key Features Document I've seen, suggests to me its most likely the Halifax adviser discussed the risks involved in investments with Mr and Mrs H.

And I note from the February 2007 Financial Report that it was confirmed there had been discussion about the advantages and disadvantages of providing growth from their deposit account and that it was recommended they consider alternatives for some of their capital because of the effect of inflation on the power of their savings over the next five to ten years. It also went on to say that it had been agreed that Mr and Mrs H would accept changes in value both up and down to any investment return.

So taking all of this into account, I think it's more likely Mr and Mrs H were made aware about the level of risk and they were content to expose their funds to a 'cautious/medium' level of risk for a portion of their available assets/regular savings in order to achieve the potential for capital growth over the medium to long term.

#### The advice

While I'm satisfied it was most likely the case that Mr and Mrs H's attitude to risk was assessed by the adviser – even though it was only as far as was recorded in the Fact Find/Financial report and there's no evidence of how Mr and Mrs H's attitude to risk was actually assessed – I've considered whether what was recommended to them was right for their circumstances and financial objectives.

As I've said above, without any investment experience Mr and Mrs H would have been totally reliant upon the advice given to them. And I've borne in mind what they'd done previously with their money – by putting it in a risk-free environment of a savings/bank accounts.

And Mrs H has argued that as first-time investors the fund invested into was too high a risk for them. But I've seen nothing to conclude this was the case. As mentioned above its recorded that Mr and Mrs H's investment objective was for the potential for capital growth so it seems likely that Mr and Mrs H did want to explore the opportunity to make their money grow more than it would do in their bank accounts. Taking everything into consideration I'm persuaded it was more likely that Mr and Mrs H were willing to take some risk with this money.

I've also thought about Mr and Mrs H's personal circumstances as they were retired and weren't in the position to make up any substantial losses to capital if that occurred. And I note that £90,000 of the funds had come about as a compensation payment for Mr H and I've not seen any evidence that Mr and Mrs H had experience of handling such an amount before. But I don't think it was an unreasonable conclusion that Mr and Mrs H did want to invest some of their recently received payout for the potential for capital growth in the future.

The ISA and PIP were invested into the Cautious Managed Fund. I've seen a copy of the factsheet for the fund from 30 April 2007. I note the Fund's aim at the time was;

"The investment objective of the fund is to achieve long term growth by investing in a managed portfolio of equities investing mainly in the UK and fixed interest investments such as corporate bonds."

At that time the fund breakdown was 50.3% of the fund was invested in fixed interest securities with the balance in equities for growth and some cash. Halifax has also provided us with a 28-page Key Features and Plan Conditions for the ISA, and which included details about the Cautious Managed Fund.

Mrs H has said that the fund might not necessarily have been a cautious fund despite its classification as such by Halifax. And Mrs H has referred to the exposure to currency fluctuations from non-UK assets.

I have reviewed the investment objective of the fund and the investment policy with reference to the fixed interest assets. It says;

"...The fixed interest assets will be invested primarily in a wide range of sterling and euro dominated investment grade interest-bearing securities of varying durations."

And it went onto say;

"The Cautious Managed Fund is a below-average risk fund. It benefits from the diversification from investing in both equities and fixed interest investments..."

While I accept Mrs H's comments that it's inevitable that non-UK assets will have some exposure to currency fluctuations but overall, looking at the diversification in the Fund, I think it matched the level of risk Mr and Mrs H were willing to take to achieve some level of growth.

Halifax has already concluded that the investment into the PIP represented too much of Mr and Mrs H's capital, but I still need to consider whether the £6,000 each (plus the £125 monthly regular savings) invested into the ISA accounts and £6,000 invested into the GIP was excessive. This represented £18,000 of Mr and Mrs H's remaining capital of £58,000 – £100,000 less the repayment of the mortgage of £42,000 – and I understand £16,350 was earmarked for emergencies and planned spending.

Taking this into account I don't think this recommendation was excessive. Mr and Mrs H retained sufficient of their capital for the identified emergency funds and planned expenditure and still had a good portion of their capital funds remaining in cash-based investments.

As I've said I think it's more likely Mr and Mrs H were given sufficient information for them to be aware of the level of risk they were taking. And Mr and Mrs H had at least three meetings with Halifax's adviser so had the additional opportunity prior to investing to discuss any concerns they may have had.

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

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 and Mrs H to invest capital and savings into their ISAs was unsuitable for them bearing in mind their personal and financial circumstances, attitude to risk and investment requirements. It follows that I don't uphold Mrs and the late Mr H's complaint.

No doubt Mrs H will be disappointed with my conclusion, but I hope I have been able to explain how and why I have reached it.

### **My final decision**

For the reasons give above, I do not uphold Mrs H and the Estate of the late Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 4 November 2022.

Catherine Langley  
**Ombudsman**