The complaint

Ms F complained about HSBC UK Bank Plc (HSBC). She said HSBC gave her unsuitable advice on three occasions when she met it to discuss her finances. She said because of this, she was incurred losses and so would like it to pay her compensation.

Ms F has been represented by a claims management company in her complaint. I have referred to it as Ms F's representative throughout my decision.

What happened

Ms F met with HSBC on three occasions in October 1996 and October 2003 with her then husband, and then in November 2010 on her own. She said she was given unsuitable advice from it on all three occasions.

She met an adviser from HSBC in October 1996 with her husband and a joint review was conducted. She was recommended to invest £500 a month into a selected investments PEP and through this invested in a HSBC FTSE 100 fund.

Ms F paid her monthly contributions up to October 2003, when a second meeting happened, and another joint review took place. An adviser from HSBC recommended she increase her monthly contribution to £583.33 to maximise her ISA allowance for each year. Their objective recorded down was to maximise their investment return. Ms F stayed invested in the same fund. In June 2006, Ms F withdrew all of the funds from her ISA.

In November 2010, Ms F met with an adviser from HSBC and this time had a review on her own. The adviser recommended she invest around £20,000 in a stock market savings account and an investment funds ISA. Her attitude to risk was more cautious on this occasion.

Ms F's representative said the advice given by HSBC on all three occasions was unsuitable for her. It said Ms F was advised to invest in a series of investments that it doesn't believe were suitable for her circumstances at the various times.

Ms F's representative said the initial investment advice provided in 1996 and 2003 was about medium or higher risk funds which were heavily invested in equities. It said Ms F had no investment experience herself and was fully dependant on the advisers recommendations. It said Ms F had a range of vocations around the time of the first two meetings, she had dependent children and a variable income. It said the funds she was placed into exposed the bulk of her savings into equity markets. It said the level of risk was not appropriate for Ms F and exposed her capital to high levels of risk.

Ms F's representative said at the time of the last meeting in 2010, Ms F was 54, worked part time and had income of £750 a month. It said she had just moved into her own home, had a lump sum in the bank but before a divorce settlement, held no savings and had limited spare monthly income. It said there were other risk-free alternatives that should have been recommended to Ms F at this time based on her circumstances.

Ms F's representative pointed to the stock market account recommended to Ms F and said that HSBC's claim that it had potential to produce a good return of 17% gross on maturity, was mis-leading as a similar return could be achieved risk free. It said potentially Ms F would only receive her capital back. It said in addition, the recommendation for Ms F to invest in a world selection cautious fund through her ISA, placed her capital at risk and exposed her to additional risks such as currency fluctuations. It said HSBC recommended investments that were unsuitable for her. It complained on Ms F's behalf to HSBC about all this.

HSBC said in response that it had reviewed the three meetings and that it would have provided key features documents to Ms F about the investments it recommended. It said at each meeting Ms F would have been given the opportunity to recognise fluctuations in value are inevitable and that after each meeting she had the right to cancel if she wanted to.

HSBC said the investments recommended at each of the three meetings, were in line with Ms F's attitude to risk that she wished to take with investing. It didn't think any of its advice was unsuitable based on Ms F's circumstances at the time of each meeting.

Ms F's representative was not happy with HSBC's response and referred Ms F's complaint to our service.

An investigator looked into Ms F's complaint. He said he didn't think HSBC needed to take any action. He said he was satisfied Ms F was recommended investments that were suitable for her circumstances at the time of each meeting and that it matched her attitude to risk.

Ms F's representative was not in agreement with the investigator's view. It said in 2010 Ms F considered herself to have very little investment experience. She also said in the same meeting that she would worry about any bad financial news from shares-based investments.

Ms F's representative repeated the point that the structured product offered by the adviser as having a good return was grossly misleading, as she was risking a 16.9% risk free return from alternative savings accounts. It did not agree with the investigator's findings.

Because the parties are not in agreement, Ms F's complaint has been passed to me, an ombudsman, to look into.

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.

I have independently reviewed Ms F's complaint and have arrived at the same outcome as the investigator, for broadly the same reasons. I will explain why.

It has been difficult to ascertain what happened in all the circumstances of Ms F's complaint. In particular, HSBC said it could not locate any documentation from the meeting that was held in 1996. This is because the meeting was from around 28 years ago. It is unsurprising that this is the case, considering how long ago it was that the meeting happened.

HSBC has located a financial planning review document regarding the second meeting that took place in 2003, and there are a set of documents for the 2010 meeting between Ms F and an adviser from HSBC.

When the evidence or testimony surrounding a complaint is lacking, incomplete or contradictory, I have to make my decision on the balance of probabilities – which, in other words, means I base my decision on what I think is most likely to have happened given the evidence I do have and the wider circumstances. So, I have proceeded to do this, especially with the two earlier meetings in 1996 and 2003 where there are documents lacking.

Advice given to Ms F by HSBC in 1996 and 2003

I have had very little to look at regarding the 1996 sale, as I have already said. I have though been able to read the financial planning document from 2003 and some of Ms F's circumstances then, would also most likely have applied in 1996 as well. I have also considered what has been said by the parties about what was agreed in 1996.

The meeting in 1996 took place between an adviser from HSBC, Ms F, and her then husband Mr F. They told HSBC at the later meeting that they had been self-employed working in their own business for 22 years, so I think its most likely that they were working in that business in 1996 as well.

The adviser recommended they invest £500 a month into their respective Personal Equity Plans (PEPs) and through them invest their contributions into a FTSE 100 index fund. This was a passive fund that tracked the FTSE 100 index. Again, it has been difficult to assess whether this recommended investment was suitable for Ms F at that time with such little information from either party.

I haven't been able to see any record of what was discussed, and I also haven't been able to see key information about the FTSE 100 index fund either. That said, HSBC has provided an ISA document from 1999 that described at this stage what a FTSE 100 index fund invested in and what its objective was. This was that it was a tracker fund designed to track all of the 100 largest UK companies that made up the FTSE 100 with an aim of capital growth. I think this fund broadly would have held similar objectives in 1996 too. HSBC said it would have provided Ms F and Mr F with the key features of this investment and that it would have been a recommendation in line with their identified needs and attitude to risk.

I have thought about this. It has been difficult to ascertain what happened as I have so little in front of me. But on balance I don't think I can say the recommended investment was unsuitable for Ms F.

I have drawn that conclusion, as I've seen or read nothing that has suggested to me that Ms F's circumstances or objective with her investing had changed greatly between 1996 and 2003. I can see that based on the fact find in the later meeting, Ms F would most likely have been self-employed in 1996 and would have most likely had a regular income coming in through this. It stands to reason, without anything to say otherwise that Ms F and her husband would have had a similar investment objective too: to maximise their investment return and look for capital growth. This is also what HSBC has said in this regard, that it would have matched the fund to their objectives.

In the absence of anything else, including any recollections or specific points from Ms F or her representative, I don't think I can conclude anything, other than HSBC recommended an investment that was suitable for Ms F initially in 1996, when she first started investing in her PEP through it. The FTSE 100 index fund matched what I think, on balance, would have been Ms F and her husband's objective back then, to achieve some capital growth. I haven't seen anything else that would make me think otherwise.

In 2003, again the documentation is fairly limited, but on this occasion, I have been able to look through a financial planning review document completed by HSBC, where it has summarised what Ms F's circumstances were at the time of the meeting. It has also recorded down Mr S's objective at that time as noted by the adviser. It is this document that has given me some insight into Mr F's circumstances along with what her objectives were when she signed up to increase her contributions to, what was now her stocks and shares ISA, albeit investing in the same FTSE 100 index fund.

I can see that Ms F's circumstances were recorded down. She was still at this stage self-employed and working with her then husband. She was earning around £940 a month, had joint savings and around a £50,000 mortgage. The adviser calculated that they had negative disposable income, but it was recorded down that Ms F and her husband said the mortgage payment came out of their business rather than personal expenditure. With this amount taken out, they then had a healthy disposable income, after their original £500 each monthly contribution to their ISAs. They said they had no other debt. They had dependents although their 3 children were all teenagers by this stage.

I can see that Ms F and her husband at this stage could afford to contribute a bit more into their ISAs and had the capacity to do so with the declared savings that they held at that time and the surplus disposable income that they held between them.

The adviser recommended that Ms F and her husband contribute a bit more to maximise their yearly allowances. The adviser suggested diversifying, but I can see that HSBC noted down that Ms F and her husband wanted to continue investing in the FTSE 100 index fund. Again, this was essentially a tracker fund and so although they were investing all their funds into equities and one fund, they would have received broad exposure of the largest 100 companies in the UK: this being investment in the wider FTSE 100 index.

Considering what Ms F and her husband were looking to achieve in the meeting, with maximising an investment return being their number 1 financial priority, it doesn't seem to me unsuitable or unreasonable for them to take on the risks associated with investing their money into this one fund based on what I said about the diversity of the investment with it being a tracker fund, something they had been doing for around 7 years up to this point. This is because the fund, by investing in the top 100 companies in the UK, aimed to achieve capital growth, something that Ms F was looking for at that time. I can see the adviser did mention that they should look to diversify into other investment products perhaps such as bonds and property. But Ms F decided to invest in the same fund. I don't think HSBC did anything wrong by carrying out her instructions seen as it met with her needs and was not unsuitable. I also can see that Ms F would have wanted to contribute a bit more to invest in their ISAs and the FTSE 100 fund and maximise her allowances for the year.

At this stage, I don't think the advice given by HSBC was unsuitable for Ms F. The fund she was invested in matched her attitude to risk and to her circumstances. She wanted to maximise her investment return at this stage, and the advice provided that she took gave her the opportunity to do that.

Advice given to Ms F by HSBC in 2010

Ms F's circumstances had changed by the time she met with HSBC again in 2010. She had just finalised a divorce from her husband and met to obtain advice about her finances. The adviser put together a financial planning report and gave advice to Ms F about the cash deposit that she had accrued.

Ms F was at the time working part time and had an income of around £760 a month, with outgoings of around £640. She had little disposable income each month. That said she owned her own property and had around £93,000 in cash on account. She told the adviser she was looking to spend £13,000 and it was agreed she would have £10,000 as an emergency fund. Ms F told the adviser she had just started paying into a pension scheme. It was recorded down that she, at this point had no dependents, as her children were adults.

The adviser recommended that Ms F invest around £50,000 in cash to try and obtain a better return for it. Ms F was clear with the adviser that she was comfortable investing around £20,000 instead and so it was this amount that the adviser made recommendations about.

I can see that although Ms F had very little in disposable income, she did have a large sum on deposit and so I think she had the capacity to invest some of this to meet her investment objectives. She told the adviser she had a cautious attitude to risk and so although I can see that it would have been difficult for Ms F to replenish any incurred losses, I can also see though that she was looking to invest cautiously and in safer investments, to mitigate against this happening and from the answers she gave to the adviser to some of the questions asked, I think this was important to her, due to her circumstances at that time.

The adviser recommended Ms F invest £10,000 in a structured stock market account. This would give a return after a fixed term, if the FTSE 100 stayed the same or went up. Or Ms F would, if the index fell, have her money returned.

Ms F's representative made a few points about this investment not being suitable and has given examples where Ms F could have found risk free alternatives to make a similar return over a similar term. I have looked at what he has said here.

I acknowledge the points Ms F's representative has made here, however the adviser was restricted in the advice that they gave. What I mean by this is, they had a range of investments and products that they could advice on, that HSBC were offering at that time, and they were not able to access the wider investment market. I don't think the adviser did anything wrong by not doing as the representative has suggested, they were just acting within their remit that their advice was restricted to HSBC products. The documentation HSBC provided would have most likely explained this and she would have had the choice to accept HSBC's recommendations or go elsewhere such as an independent adviser.

When I look through the documentation for the stock market account, I don't think on balance, it is an unsuitable product for Ms F, based on her attitude to risk and her circumstances at that time. She wasn't risking incurring any losses, which as I have already said was most likely important to her and potentially, she would have received a reasonable return in line with what she was looking to achieve.

HSBC also recommended she invest £10,000 in a stocks and shares ISA through a World selection cautious portfolio fund. I have looked through the key features document for this fund and can see that a high percentage of its investments were in bonds. Again, I can see that this was a cautious low risk fund and met Ms F's investment objectives at that time, based on her circumstances and what I have already described.

In summary, I haven't seen anything that persuades me the investments recommended by HSBC to Ms F in the three meetings were unsuitable for her. I think initially Ms F and her then husband were looking to maximise their investment returns and take some risk, and the FTSE 100 index fund met their need. Ms F then later on in 2010, had completely different circumstances and was looking to cautiously invest a proportion of her funds. I think, on balance the adviser that day, made suitable recommendations that matched her objectives and circumstances. So, it follows that I don't uphold Ms F's complaint.

I appreciate that my decision will be disappointing for Ms F, and her representative. But based on everything I have read and the findings I have given, I don't uphold Ms F's complaint.

My final decision

My final decision is that I do not uphold Ms F's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms F to accept or reject my decision before 5 November 2024.

Mark Richardson
Ombudsman