

The complaint

Ms M and Miss S are represented (by 'R').

The complaint relates to advice received by Miss S in 2006 and 2007 to invest in an Investment Bond ('IB'), in her Bank of Scotland plc trading as Halifax Personal Investment Plan ('PIP'), and to her partial surrender of the IB in 2007. The complainants question suitability of Halifax's advice in both years – in particular the advice to invest further in the IB in 2007 followed, around two weeks later, by the partial surrender, and the chargeable event and tax liability consequences of the partial surrender. They say Halifax is responsible for the tax liability and must compensate for it (at its current value, plus compound performance from 2007 to date, plus R's costs).

Halifax disputes the complaint. It says – its investment recommendations were suitable; there is no record it advised the partial surrender so it is not responsible for that; Miss S was given information on her options in the partial surrender and on its implications (including tax implications), so she was fully informed; the Chargeable Event Certificate was issued to her on 6 September 2007 and she never complained about it.

What happened

Miss S initially invested £150,000 in the IB in August 2006, then in August 2007 she made an additional contribution of £7,000. Also in August 2007, around two weeks later, she made a withdrawal/partial surrender of £150,000.

R calculates that the net tax liability resulting from the 2007 partial surrender/chargeable event is £22,202, and it asserts that this should have been avoided with suitable advice from Halifax recommending a full surrender of the IB. It argues that either the Halifax adviser knowingly misled Miss S into incurring the tax liability, by withholding advice on the tax implications of the partial surrender, or the adviser recklessly did so without knowledge of the tax implications of the partial surrender; and that advice to make the £7,000 contribution two weeks before the withdrawal was particularly poor as it resulted in the chargeable event.

One of our investigators looked into the complaint and concluded it should not be upheld.

She considered each of the events relevant to the complaint – the 2006 investment, the 2007 investment and the 2007 partial surrender.

The investigator noted the following –

- Evidence from the time of the 2006 advice shows that Miss S was in her late 50s, she had around £870 in monthly disposable income, a total of around £285,000 in deposit accounts and around £25,000 in investments; the £150,000 she invested in the IB was just over half of her cash holdings, leaving a substantial remainder, so there is no issue about her investing too much of her cash; she was assessed as having a medium risk profile but she elected to use a cautious risk profile for the investment; the underlying fund in the IB was a cautious managed fund that matched that profile; overall, it does not appear that the 2006 advice was unsuitable.

- Evidence from 2007 shows that Miss S' PIP, deposit accounts, and investments had all increased in value by the time of the August advice; but her income had reduced, as did her disposable monthly income (to £472); she wanted to invest further in the PIP, and this time she used her medium risk profile and retained the same capital growth objective she previously had; the use of this risk profile would not have been unsuitable; she was making a smaller investment and the medium risk approach provided a form of diversification, for her growth objective, to the risk averse approach she previously took for the IB; the wider recommendation included an investment in her Individual Savings Account ('ISA') which maximised her ISA allowance, so the wider advice was tax efficient; overall, it does not appear that the 2007 advice was unsuitable.
- The August 2007 advice from Halifax shows no indication that a withdrawal was discussed or advised, instead available evidence is consistent with the partial withdrawal having been decided by Miss S. The suitability report confirms that the £7,000 contribution advice was based on consideration of her needs over the next five years and on the understanding that she did not require access to the capital over that period. There is nothing to show that Halifax advised the withdrawal.
- At the time of the withdrawal, Miss S would have been given Halifax's guide for making withdrawals from the PIP, which provided sufficient information to help her consider the withdrawal decision and information on her options (including her option to consider taking advice). Furthermore, the partial surrender form she completed shows that the reasons she stated for it were 'loss of confidence in the markets' and 'performance', which suggests the withdrawal was self-led.

R disagreed with the outcome and asked for an Ombudsman's decision. It criticised the investigator's presumption that the withdrawal guidance document had been given to Miss S despite the absence of evidence that she was given and/or received it, or, if she received it, that she read and understood it, or that she understood the implications of the withdrawal. R said that at the very least Halifax should have evidence that, in response to the withdrawal request, it advised Miss S about the potential tax liability and about making a full surrender in order to avoid it – but there is no such evidence.

The matter was referred to an Ombudsman.

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.

Having done so, I have reached the same conclusions as the investigator. I do not uphold the complaint because I do not find that the 2006 and 2007 investment recommendations were unsuitable, and there is a significant lack of evidence to support the allegation that Halifax is responsible for the partial surrender and the tax liability resulting from it.

The submissions made by R focus mainly on the partial surrender and the tax liability resulting from it. This is understandable, given that the tax liability is the matter the complainants mainly seek to redress.

The complaint also alleges unsuitability of the 2006 and 2007 investment recommendations. Even though it does not appear to be the main issue, I will address it first because it provides helpful context for my treatment of the partial surrender issue.

The 2006 advice appears to have happened within a financial planning review, for Miss S, at the time of advice (in August). The report from the review, which was sent to her, confirms that she wanted to invest capital from her cash holdings for growth, and that she wanted to do so for *the long term*. Allowance was given in the report for its contents to be discussed at a meeting after its issue, and there is evidence that this is what happened – a 31 August letter to Miss S followed the 23 August report, and it refers to a 29 August meeting in which both sides reviewed the report. I mention all of these to give reason why I am satisfied that Miss S was fully informed of and in agreement with the recommendation.

Of course, Halifax was the expert in the relationship, obliged to give suitable advice, so I neither say nor suggest that her agreement with its advice automatically made/makes it suitable. Instead, the points I wish to make are that where the advice refers to her circumstances and goals, they are reliable, because she was aware of and agreed to the advice being based on those circumstances and goals; and where the terms of the advice are concerned, she was aware of those too. Relevance of this will become clearer in my findings.

The investigator's summary of Miss S' financial profile is supported by evidence from the time of advice. The advice covered a range of subjects. With regards to the capital investment, the report says she sought to invest £154,000 for "... *a minimum term of 5 years with no restrictions*". This was essentially the same basis for the recommendation Halifax made, albeit with the recognition that she also wanted flexible access to the capital, which the recommendation also met. As the investigator said, a medium risk approach was first advised. This appears to have been revised to a cautious approach in the 29 August meeting, as confirmed in the 31 August letter.

The advice was the £150,000 PIP investment, placed in Halifax's Cautious Managed Fund. A September 2006 version of this fund's factsheet shows that it broadly matched the cautious approach Miss S wanted, with enough scope for the chance of some capital growth (which she also wanted). In summary terms, this is illustrated by the just over 50% allocation to fixed interest securities and just over 4% allocation to cash – both of which provided a notable cautious effect (and balance) to the remainder equities component (which would have served the growth objective). Overall, I do not consider the fund was unsuitable.

I also do not consider that the PIP/IB recommendation was unsuitable. It met her objective to make a capital investment, the risk profile approach was adjusted as she requested, the investment amount was broadly what she planned (and did not exceed what she planned) and she had over £100,000 leftover in her cash holdings thereafter, so she had capacity for the investment and, as the investigator said, there is no issue about her investing too much of her capital.

The 14 August 2007 report confirms a long-term capital growth objective. This too was sent to Miss S, so the implications I mentioned above with regards to the 2006 report (and in relation to her awareness and agreement) apply to this report too.

She wanted to invest £11,000, which was split between her ISA (£4,000) and the PIP (£7,000). Like the investigator said, her income (and disposal income) had fallen but the values of her assets appear to have grown (from 2006) by the time of advice.

This time the medium risk profile was used. Fact find information broadly supports this risk profile assessment and, despite her use of a lower profile in 2006, it is not unusual for investors to apply different approaches to capital investments depending on the circumstances relevant to each. In the case of the 2007 investment, it involved a substantially lower amount than what she invested in 2006, so, in the absence of a request

for a different approach (like the request she raised in 2006), it was not unreasonable to use the medium risk profile for the £7,000 contribution. It also injected some diversification into the PIP/IB, given the use of new/different underlying funds for this contribution.

The funds (and allocations) recommended were – Gilt and Fixed Interest (28%), Pelican (29%), High Income (28%) and International Growth (15%). Unfortunately, Halifax says due to the passage of time it has been able to find the 2007 factsheets for only the Gilt and Fixed Interest fund and the International Growth fund – which it has shared with us. The former had 95% of its investments in Gilts and the rest in Euro Sterling Bonds, so this created a cautious and risk averse element in its 28% allocation; the latter was essentially a global equities fund, quite clearly geared towards the pursuit of growth; publicly available information about the Pelican fund suggests that it was an equities led fund with a similar growth objective; and, based on the same type of information, that seems to have also been the case for the High Income fund.

Overall and on balance, I do not consider that the majority exposure of the £7,000 IB contribution to equities balanced with a 28% exposure to Gilts mismatched the medium risk profile approach that was taken for the contribution. Having around 70% of it dedicated to the pursuit of growth in equities, added some diversification to the IB as a whole, after the £150,000 that had been invested in the Cautious Managed Fund and, as far as the £7,000 contribution was concerned, there was a balancing effect created by the almost 30% Gilts content.

I also do not consider the contribution recommendation to have been unsuitable, for reasons broadly similar to those I noted for the 2006 advice.

Miss S' partial withdrawal application form is signed and dated 20 August, just six days after the 14 August advice on the £7,000 contribution. In the form – she confirms she wants to withdraw £150,000 from the PIP/IB; in handwriting, the purpose of withdrawal is stated as "LOSS OF CONFIDENCE IN THE MARKETS"; "Performance" is selected as the *reason for withdrawal*; and she selects the withdrawal option of taking an equal amount from all existing segments of the IB.

I understand R's argument that we have not seen the 2007 version of the withdrawal guide, but Halifax has provided a document addressing guidance that applied for PIPs opened before May 2010. Furthermore, given the passage of time it can be understood why the 2007 version is no longer available. Overall and on balance, I consider the substitute to be reliable and to be reflective of the guidance that would have existed in the 2007 version. I also find it more likely (than not) that there would have been withdrawal guidance in 2007. The form signed by Miss S repeatedly refers to 'attached notes', and I consider it probable that information and guidance for the application were contained in those attached notes. Indeed, the section of the form concerning withdrawal options refers to the attached notes for each option – more likely (than not) for information and/or guidance on each option, which is precisely what exists in the document Halifax has shared with us.

The document Halifax has shared with us provides guidance on a range of aspects related to a withdrawal from the PIP/IB, including considerations about the withdrawal itself, information about the structure of the IB and its relevance to a withdrawal, chargeable events and tax implications of a withdrawal.

Overall and on balance, I am satisfied that Miss S would probably have been properly informed – from the guidance she probably received at the time – about the relevant aspects of her withdrawal request, including the above. Especially as information about the PIP/IB would have been fresh in her mind – she had received the £7,000 contribution advice only six days before making the partial withdrawal application.

The report for that advice has no content that refers to, suggests or indicates an intention to make a partial withdrawal from the IB (at the time or in the foreseeable future). The 2006 report referred to what could be viewed as a medium-term investment horizon (at least five years) and the 2007 report confirmed a long-term horizon. For the reasons I gave earlier I consider both to be reliable, and evidence of what Miss S knew and agreed. There is no evidence of any advice between 14 August and 20 August, no evidence of a plan with or an indication to Halifax during this period that the £150,000 she invested 12 months earlier would be withdrawn (12 months later), and no evidence that Halifax had any role in recommending the partial withdrawal.

In the above circumstances, I find no grounds to uphold the claim that Halifax is responsible for the tax liability resulting from the partial withdrawal. The minimum evidence of advice that R has argued for does not apply, because there is no evidence that Halifax had a role in advising it. Available evidence supports the conclusion that the withdrawal was initiated and pursued by Miss S. I also consider that the guidance she would have received at the time would have forewarned her about the chargeable event and tax implications, so she would have taken an informed step in making the partial withdrawal application.

It follows from the above findings that there is no ground for the compensation package sought in the complaint.

My final decision

For all the reasons given above, I do not uphold the complaint from Ms M and Miss S.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M and Miss S to accept or reject my decision before 27 October 2025.

Roy Kuku
Ombudsman