DRN-5368920

The complaint

The estate of Mrs O ("the estate") complains a fund ("the new fund") HSBC UK Bank Plc ("HSBC") advised Mrs O to invest her stocks and shares ISA in was inappropriate.

The estate says it seeks redress for losses caused by abysmal fund performance.

What happened

The estate's complaint focussed in particular on poor performance in the years immediately prior to the complaint. It has since noted that HSBC had offered customers like Mrs O the chance to have the initial advice reviewed in 2014 – due to concerns raised by the regulator - so the estate says HSBC has admitted there were issues and should review the advice.

Our investigator's assessment set out the circumstances of the complaint. In brief summary:

- Mrs O met HSBC in August 2010 with her husband. She was aged 70 and lived in her own home. Her pension income of £1,700 a month covered her outgoings leaving some disposable income. She also had investment income of £1,562 a year.

- HSBC's Financial Planning Report assessed her as wanting better returns than her existing HSBC risk investments and her cash ISA were giving her.

- Her investments and savings totalled £106,569. Of these £62,570 were in cash and National Savings (£43,812 was in a cash ISA). The other £43,998 was in HSBC funds. There was £8222 in a mixed asset income fund, £4381 in a high yield bond fund and £31,392 in a corporate bond fund. The investment funds were mostly held in a stocks and shares ISA (£37,313) with a little (£6684) outside in an OEIC.

- HSBC assessed her risk attitude as lower risk defined as: *"You are defined as someone who is a cautious investor, or in other words someone who is willing to accept some risk with their money but prefers to leave it predominantly in low lower risk investments and cash. The overall portfolio may include some equities (balanced) to enhance the overall long-term returns."*

- HSBC advised Mrs O to transfer her stocks and shares ISA and add £5100 from the OEIC - a total of £42,413 - into a stocks and shares ISA invested in the new fund. The new fund itself was risk rated as '3'.

- HSBC also advised Mrs O to transfer her cash ISA, worth £43,812, into a structured deposit whose interest rate would depend on future investment returns.

- HSBC also advised Mrs O to keep cash deposits which totalled £13,758, including around £1000 in extra cash raised from cashing in the OEIC.

- Mrs O invested into the new fund, but she didn't invest in the structured deposit - keeping those funds as cash instead. So, cash made up 58% of her investible wealth.

- Mrs O's situation wasn't reviewed by HSBC after 2010 but she wasn't paying a fee for regular reviews or advice.

- In 2017 Mrs O invested more into the fund. (I infer this extra investment was somewhere in the region of £15500 to £16600 in broad terms).

- The fund when cashed in produced £90,811.

Our investigator didn't think the complaint ought to be upheld. In summary she thought:

- There wasn't anything to suggest the fund itself was poorly managed (and HSBC wasn't the manager) but returns in recent years were negatively affected by events that impacted both higher and lower risk assets to varying degrees.

- Mrs O had some investment experience as she had been invested with HSBC in funds since 1997 and would have experienced some volatility there given the funds she had. The evidence didn't suggest she wanted to take less risk in 2010 than before but she was wanting better performance. Overall her circumstances suggest she was able to make an informed decision on the investment approach or degree of risk she wanted.

- In 2014 Mrs O was offered a review of her ISA by HSBC, citing potential concerns about the use of ISA allowances and the investment term customers were prepared to commit to. But none of these issues seem to be of concern here.

- The investment advice didn't add materially to what Mrs O had invested and she had a very substantial proportion of her investible wealth held in cash.

The estate didn't agree and has said it is very unhappy with the conclusion that HSBC was not at fault in terms of its advice and fund selection. The estate made further points. These have included, in brief summary:

- There was inflation of around 58% over the 13 years the investment ran, so with a return of 70%, considering initial charges and commission, the new fund barely maintained its value in real terms – which is very disappointing for an investment of this nature.

- The £350,000 valuation of the residence in the 2010 report is probably wrong as a similar property sold for £215,000 in June 2012. This throws doubt on the factual accuracy underlying the advice in the report.

- The estate rejects the assertion that HSBC offered Mrs O a review in 2014 as the files she meticulously kept have nothing about this. Also anything financial would've been discussed with the representative of her estate (a finance professional). The estate can't prove the correspondence from HSBC wasn't received, but if there is doubt surely HSBC should carry out a review now? HSBC obviously had concerns in 2014 about its advice, so it should be compelled to carry out a review to justify its advice.

As the complaint couldn't be resolved informally, it was passed to me to decide.

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've arrived at the same conclusion as our investigator and for broadly the same reasons.

My colleague decided there was nothing in the performance of the fund that ought to have prompted Mrs O to think that the fund might be inappropriate for her more than three years before the estate brought the complaint. I agree with that conclusion, so this complaint is one brought in time for me to consider.

From what I've seen, it seems the complaint arose primarily due to what the estate perceives as poor performance in the years immediately prior to the complaint. The new fund itself was managed by a third party, so if its performance was due to poor investment management (although I've no reason to suppose that it was) this isn't something for which I could find HSBC at fault.

On the other hand, if the performance reflected the performance of the relevant investment markets over that period, then I could only award redress if HSBC was at fault for Mrs O being exposed to those markets during the relevant period. But I've seen no evidence to suggest that Mrs O asked HSBC for advice on the new fund in the years immediately prior to the complaint – and I've nothing to suggest HSBC was under any other obligation to provide her with advice or an assessment of the suitability of the new fund for her in the years leading up to this complaint being made.

So I identify no grounds for finding HSBC ought to have intervened in the years immediately prior to the complaint, to change Mrs O's investments so that she might have avoided the negative performance that the estate complains the new fund suffered during that period.

But I've also considered whether HSBC gave inappropriate advice in 2010 when it advised Mrs O to invest in the new fund and, if not, whether she has lost out otherwise as a result of some other shortcoming or failing on HSBC's part.

I note that in 2014 HSBC claims it invited Mrs O to have a review that would focus on certain aspects of its initial advice. I share our investigator's view that it is more likely than not that Mrs O was invited to participate in that review along with everyone else. It isn't entirely clear to me how that review would've worked and what exactly it would have looked at, but I don't see any grounds for me to direct HSBC to try to reconstruct that review process and carry out such a review now. In saying this I note in passing that such a review would only have resulted in redress if a fault or failing were identified in the original advice, which is broadly what our service has considered, and what I've reviewed here, in any event.

Mrs O's exposure to shares through her existing HSBC funds was limited to her holdings in the HSBC mixed asset income fund (the 'HSBC income fund of funds'). This made up 19% of her fund holdings or around 8.5% of her total investible capital (meaning all her savings and investments less a £10,000 allowance for an emergency fund). This fund invested up to 60% in shares, so her share exposure was something like 11% of her invested funds or 5% of her total investible capital. The rest of her fund holdings were in corporate bonds (71%) or high yield corporate bonds (10%), which made up 33% and 5% respectively of her total investible funds. The rest of her investible assets were held in cash.

HSBC's advice was to move about £42,413 into the new fund. The new fund's aim was *"to achieve a high and rising income with some potential for capital growth".* The fund at the time, as currently, could invest 20% to 60% in shares, which was like Mrs O's existing mixed asset fund. Its holdings were highly diversified as it invested by investing in other mixed funds rather than having its own direct holdings of shares or bonds.

Roughly half of the investments HSBC recommended were to be invested in the new fund. As such Mrs O's potential exposure to shares would be up to 30% of this total recommended investment (as the new fund itself could invest up to 60% in shares with the rest largely in bonds or cash).

The other part of the recommendation was to put £43,812 into a structured deposit where the returns could be negatively affected by market movements, but the capital itself wouldn't be at risk from those movements if the product were kept for its three-year term. Mrs O did not take this product and chose to keep those funds in cash instead. But had she accepted the advice, it would've still been the case that those funds weren't invested in shares or bonds or at risk of loss from negative price moves in such assets.

The advice overall increased Mrs O's exposure to shares, so it increased the risk within her investments. On balance I don't find that this made HSBC's recommendation (in particular the part involving the new fund) unsuitable for Mrs O's circumstances at the time.

In reaching this view I note HSBC assessed Mrs O's risk attitude as low risk or cautious. In my view exposure to shares of no more than 30% of the invested funds on which HSBC was advising, is relatively conservative and not unsuitable given this risk attitude in Mrs O's circumstances overall.

In saying this I note that the risk attitude description said Mrs O was willing to have some investment in shares but wanted most of her funds to be in lower risk investments or cash. It seems to me this was the result following the advice.

Also I note Mrs O's existing fund investments were mainly corporate bonds, but she was dissatisfied with the results and looking for something with better returns. The estate says Mrs O was highly educated and financially literate, so it seems to me she was able reach a view on whether she was happy with how her existing investments were going and HSBC was entitled to take that into account. I don't see that increasing the risk being taken by increasing Mrs O's exposure to shares in the way HSBC did, was wrong if higher returns were wanted. The increase in the exposure to shares within the investment funds held by Mrs O in my view was reasonable given her stated objective.

Also I bear in mind that the performance of the new fund didn't prompt Mrs O to raise concerns with HSBC about it. This of course doesn't in itself show that the new fund was suitable for Mrs O, but I do think it tends to support to the idea that the fund fluctuations were of a kind Mrs O was given to expect or willing to accept, rather than adding weight to the notion that the fund might have been too risky or volatile for Mrs O.

I'd add that I don't see that having a lower exposure to shares would've improved Mrs O's chances of getting growth that exceeded inflation. In this regard I note the concern raised by the estate that the positive returns made by the new fund are not good given inflation over that period. Given Mrs O's risk attitude I don't see that the new fund or HSBC's advice as a whole was faulty on account of allowing too little exposure to shares or other risk assets. In my view adding significantly more shares or risk assets than were already contained within the fund, would've run the risk of exposing Mrs O's investments to more risk of loss than was suitable given her risk attitude as assessed by HSBC at the outset.

I note that in charts showing possible positive and negative investment annual returns from prospective investments, Mrs O chose the chart for an investment whose returns included the possibility of a fall one year of more than 20%. So it seems to me she was willing to take some risk of loss with her investment and most likely was aware the investment carried risk in that regard. So on balance, with all I've said above in mind, I'm not persuaded HSBC's advice to invest in the new fund was unsuitable.

I note that the estate was very disappointed with the performance of the fund in more recent years, but in my view this performance was a function of moves in financial markets during the period. It is not in itself a reason I could give for upholding the complaint or making a financial award here. So, in light of this and all I've said, I do not uphold this complaint.

I acknowledge my conclusion will disappoint the estate. I'm grateful to the estate's representative for the prompt and courteous responses he has given us throughout our consideration of this matter, which has greatly assisted us in our work on this complaint.

My final decision

For the reasons I've given and in light of all I've said above, I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs O to accept or reject my decision before 24 May 2025.

Richard Sheridan
Ombudsman