

complaint

Mrs H complains about investments which were sold to her in 2010 by The Royal Bank of Scotland Plc ("RBS").

background

In 2010 Mrs H was in a vulnerable position following the recent loss of her husband. She's said that RBS repeatedly contacted her around this time and sold her an investment bond and ISA which weren't suitable for her.

RBS reviewed the complaint and upheld Mrs H's concerns about the investments. It agreed they were too risky as Mrs H wouldn't have been able to make up any losses. It also noted the medium to long term nature of the investments would've been inappropriate in the circumstances.

To put things right RBS compared the return Mrs H had received on her investments against what she would've received from an equivalent more suitable investment. The calculation shows that the more suitable investment would've returned around £9,000 less – and so there's been no financial loss.

Our investigator reviewed the complaint and felt RBS' conclusion was reasonable and so didn't recommend the complaint be upheld. He also noted Mrs H had other concerns about how RBS had acted but he didn't think RBS needed to take any further action.

Mrs H disagreed and made a number of points in detail. But in summary she said:

- All parties agree that the investments RBS sold to her were unsuitable.
- If she hadn't taken the investments, she wouldn't have necessarily taken another investment.
- The mis-sale complaint is not about the investment performance, but that it stopped other possible investment (such as a buy-to-let property) being taken.
- A buy-to-let property would have been a realistic alternative which would've provided an income from rental.
- Although it's difficult to evidence, she did feel pressured into meeting with RBS.
- She had no knowledge of, and had never wanted to invest in bonds.
- When she realised the term of the bond she did query it with RBS, but wasn't told about a cooling off period or how to complain.
- RBS should've had systems in place to prevent one of its former employees retaining her information. As he contacted her after leaving the employ of RBS.
- She was not treated by RBS as required under the FCA rules in a way that was 'fair, clear and not misleading'.

The investigator reviewed Mrs H's comments and wasn't persuaded to change his mind. So I've now been asked to review the complaint afresh and make a decision.

my findings

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 reached the same outcome as the investigator and for broadly the same reasons.

As RBS has accepted the investments sold to Mrs H in 2010 were unsuitable, I've not had to reach a decision on this point. Instead, I've focussed on what I think the likely impact of that advice was – and what RBS should do to put things right.

I note Mrs H's comments that were it not for the mis-sale of the bond, it's possible she wouldn't have invested with RBS at all. In fact, she's said that the likely alternative would've been to invest in a buy-to-let property. But at the time RBS sold her the bond and ISA, there was no suggestion of a buy-to-let recorded and she seemed willing to invest – which ultimately she did. Whilst I understand Mrs H says she felt pressured to take an investment, had the adviser offered something more appropriate for her circumstances, I feel that would've been suitable.

As Mrs H did invest in the unsuitable investments, I consider she would have likely invested in an alternative investment (which would've been more suitable). In situations where we don't know exactly what investment would have been taken, our Service would recommend a comparison against a benchmark investment. This is a 'typical' type of investment return for the level of risk a consumer would have likely been willing to take.

When considering what a suitable investment might've been, RBS used the rates from Bank of England fixed rate bonds. This is the benchmark our Service would suggest for an investor with a low appetite for risk who didn't want to tie up their funds long term. So I don't think it's unreasonable for RBS to have used that as a comparison for a suitable investment. The comparison resulted in the actual investments Mrs H was sold having performed better than the benchmark – and so there was no financial loss.

I've thought about Mrs H's comments about the possibility she may have invested in a buy-to-let as an alternative. Although I understand why that would be a plausible option, I'm not able to say with any certainty whether that would have happened or not. In any event, potential losses relating to that would be speculative and so I feel the approach taken by RBS is fair.

Mrs H has said that when she received the investment documentation at the time, she queried the term her money would be tied up. She says RBS said she couldn't cancel the investment and didn't give her any details to complain. If Mrs H felt strongly about the term and that it would stop her having access to the funds, I feel she could've complained. It's not necessary for a business to prompt a complaint and she would've have details to enable her to do so from the documents.

As a separate issue, Mrs H has explained that an ex-employee of RBS continued to contact her having retained personal information to do so. She has expressed concerns at the data breach and said RBS should have systems in place to ensure this couldn't happen. I agree with Mrs H that RBS does have a responsibility to protect her data. However I've not seen anything to show me that RBS has not followed its correct procedures – and if the individual acquired her details fraudulently, it wouldn't be fair and reasonable to hold RBS to account for that.

Overall, I feel unable to uphold the complaint. Mrs H did have the right to be treated fairly, and the investments sold to her by RBS were unsuitable. But it has accepted that and carried out steps to put things right in line with what I'd consider fair and reasonable.

I realise Mrs H is likely to be disappointed with my decision, but I must assure her that I've reviewed everything afresh and taken account of all her comments. And whilst the

investment was unsuitable, I'm not satisfied she has suffered any loss – so it wouldn't be right for me to ask RBS to do anything further in this case.

my final decision

My final decision is that I don't uphold Mrs H's complaint against The Royal Bank of Scotland Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 29 January 2018.

Ross Hammond
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