DRN-4476880

The complaint

Mrs R complains that she was given unsuitable investment advice to invest in a Personal Investment Plan (PIP), by Bank of Scotland plc trading as Halifax (referred to as "Halifax").

In summary, she says the advice was unsuitable, for the following reasons:

- In 2022 the value of the PIP dropped significantly despite her being given the impression that it wouldn't fall.
- She was an inexperienced investor, and the risks weren't made clear to her.
- The sale was motivated by the higher commission.

She's also unhappy about the further drop in value since she asked Halifax to cash-in her investment.

What happened

In September 2005, Mrs R was advised to invest £80,000 into a PIP which was invested 50% in Gilt and Fixed Interest, and 50% in Index Linked Gilt.

At the time it was recorded that she was married, employed full time – earning £20,000 a year with a net monthly disposable income of £110 – and had two dependent children. She jointly owned her home, had £245,431 in cash deposits and £61,103 in other investments including shares, with profit bonds, and unit trusts.

It was noted that she'd recently received money from her mother, and was interested in investing for future potential growth, to help her children. Despite being married it was agreed that she'd invest the sum in her sole name. I'm mindful Mrs R says that she'd already separated at the time.

It was also noted that Mrs R agreed to having a cautious/medium attitude to risk (ATR) and was willing to invest for the medium term. It was also noted that she was aware that the value could go up as well as down.

The PIP was surrendered in October 2022 and returned a value of £102,160.36 which Mrs R was unhappy about.

Halifax didn't uphold the complaint. It said that the recommendation was suitable for reasons which it in due course set out in two Finals Response Letters (FRLs) dated October 2022 and November 2022. In summary, it said:

- It was normal for the PIP value to fluctuate in the short term given that it was invested in the stockmarket.
- Several factors can (and did) affect the stock market such as:
    - the global economy;
    - the price of goods and services;
    - the international political situation (including the wars);
    - the global pandemic.

- The situation was exacerbated by a sharp rise in inflation. All of which resulted in falls in the price of shares and bonds.
- The UK market also showed an extremely negative reaction to the UK mini-budget.
- Past performance isn't indicative of future performance. Market conditions are hard to predict, and at times of severe market stress investments can behave out of character.
- Future outlook worsened, mainly because of concerns around rising inflation. However, it's likely that the economic situation will shift more favourably for bonds over time. It was seeing signs of economic growth.
- Whilst performance hasn't been as expected, this was caused by the fluctuations of the market and not by the way the PIP was managed.
- Mrs R was recorded as an experienced investor – she held shares in an earlier investment.
- Her ATR was recorded as cautious/medium, and she didn't want share-based investments so was recommended what she wanted.
- She maintained the PIP for longer than the recommended investment term, demonstrating that it was affordable and sustainable for her.

Unhappy with Halifax's response, Mrs R referred her complaint to our service.

One of our investigators considered the complaint but didn't think it should be upheld. In summary, he said:

- Mrs R had some experience of investing.
- It was a reasonable time to invest £80,000 into a cautious/medium investment for the medium term. She still had over £150,000 in cash – she had invested less than 50% of her investable assets.
- Her investment was in a product that was traditionally seen as lower risk, as they didn't carry the risk and volatility associated with equities.
- In the circumstances he's unable to say that the advice was unsuitable.
- Mrs R wasn't advised to invest too much money, and the risk matched the risk she was willing to take.
- In terms of performance, the bond summary dated 25 September 2022 showed that the value of her PIP reduced from £152,814 to £110,546 – a loss of £42,267 – over the previous 12 months.
- Understandably she was concerned but based on what Halifax says this was down to reasons that were external and outside of its control. This included bond values that reduced more than equities which had a detrimental effect on the value of Mrs R's investment.
- He's seen nothing to suggest that the investment was mismanaged. Mrs R was also updated regularly.
- Despite what Mrs R says, he's seen no evidence that the surrender of her investment was delayed causing her to lose money. He's satisfied it was executed efficiently.

Mrs R disagreed with the investigator's view and asked for an ombudsman's decision. In short, she said:

- She wanted to sell her holdings but was told to wait before she sold – she was told *"you wouldn't sell a house at a loss"*. She felt like she was pressured to seek further advice/wait.
- Eventually she decided to sell, but this should've been done sooner. She shouldn't have had to wait for the forms to be sent out, she should've had them in her possession following the first time she spoke to Halifax instead of having to request them later and having to wait to receive them.

- The money in question was initially in a one-year fixed account. She had no intention of spending it as she was keeping it for her children. With the benefit of hindsight, she could've put it in for longer.
- Given all the things she was going through in her personal life, she was content for the money to be safe and earning interest.
- She clearly said to Halifax that she wanted "no risk". When she made her complaint, she was shocked to see she was classed as an "experienced investor". Her husband had previously invested jointly but she wasn't even aware.
- She had pay as you earn shares in a company worth £100,000 which fell to nothing. The shares were brought through his job. This experience totally put her off taking risk.
- She's continued to suffer loss. Even after she received the statement the value kept reducing. Prior to this recent episode she had no alarm bells ringing in her head.
- Her original assessment wasn't correct as she had told the business that she'd separated from her husband, but this wasn't recorded.

The investigator having considered the additional points, wasn't persuaded to change his mind. In summary, he said:

- Having listened to the four call recordings – two from 10 October 2022 and two from 11 October 2022 – he can't say that Mrs R was 'advised' to take a particular course of action as suggested by her.
- The first phone call clearly suggests that she was worried about the performance of the PIP. But the operative advised her that she could surrender it and file a complaint as per Mrs R's instructions. The operative also gave an up to date valuation which showed further deterioration.
- Soon after this, Mrs W spoke to the complaints department at length which included discussing performance and risk. She was advised to seek independent financial advice before she decided what to do, which confirmed that Halifax wasn't providing advice.
- The remaining two calls – the next day – were to ask for surrender forms to be emailed to Mrs R and confirm receipt of her form. There was nothing to suggest Halifax behaved unreasonably.
- It's unfortunate that the PIP was adversely affected by the economic factors suffered in 2022, but the investment was made up of traditionally lower risk investment vehicles – no advice was given since 2005.

As no agreement has been reached the matter has been passed to me for review.

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 agree with the investigator's conclusion for much the same reasons. I'm not going to uphold the complaint.

On the face of the evidence, and on balance, despite what Mrs R says, I'm not persuaded that she was given unsuitable investment advice just because the value of her investment went down.

Before I explain why this is the case, I think it's important for me to note I very much recognise Mr R's strength of feeling about this matter. She has provided detailed submissions to support the complaint, which I've read and considered carefully. However, I hope she won't take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy.

The purpose of my decision isn't to address every single point raised under a separate subject heading, it's not what I'm required to do in order to reach a decision in this case. In other words, I don't have to comment upon every single point made. My role is to consider the evidence presented by Mrs R and Halifax, and reach what I think is an independent, fair and reasonable decision based on the facts of the case. In the circumstances, I don't need any further evidence to make my decision.

I don't uphold this complaint, in summary for the following reasons:

- Whilst I'm aware of what Mrs R says about (initially) leaving her money in a fixed term investment for longer, I note that she chose not to do this – by investing in a PIP – which I don't think was unreasonable given her objective for growth. I'm mindful that she mentioned several times over her initial calls to Halifax that's she was happy with her investment until very recently when the value dropped quite considerably.
- Just because there were (other) options in terms of what she could do with her money doesn't mean that the advice to invest in the PIP in this case was unsuitable.
- I'm persuaded that she was at liberty to remain in a fixed-term investment – although it would have to be longer than for a period of a year – but chose of her own volition to invest her money differently and eventually upon advice decided to invest into a PIP.
- Investing in this way doesn't of itself suggest that she was prepared to lose the money, and that's not what Halifax is suggesting by way of an explanation, and neither am I. I'm mindful Mrs R had two dependent children and she was investing – and taking a small risk – with her family in mind.
- But despite what Mrs R now says, I'm not persuaded that she was risk averse, and that she was looking for a product with no risk at all. I think she was willing to take some risk with her money for better returns over the medium term – this was her recorded objective. Otherwise, I think it's likely that she would've invested in something else although it's not clear what. I note in the second phone call on 10 October 2022 – to the complaints department – Mrs R was told many times that low risk didn't mean no risk and she didn't argue with this.
- I note it was recorded that she had a cautious/medium ATR which is in between a cautious and medium ATR. I note it was recorded that it would be usual to include an element of equities within the recommended fund to enhance the potential for growth, however in this instance – in line with Mrs R's requirement not to invest in areas associated with shares or equity markets – this wasn't done. Instead the recommended 50/50 split referred to above was made, which I think is suitable given her circumstances and her ATR.
- I'm aware that the funds – which she wished to grow for the benefit of her family – came from her late mother and wasn't something that she wished to take a high risk with or waste. This might explain why she invested roughly 50% of her investable assets, rather than a greater amount, which I think is reasonable in the circumstances.
- Despite what Mrs R now says – about being told that the investment was like placing money in a savings account, but with slightly higher returns. A PIP obviously isn't a savings account, but a risk-based investment, with some risk. I note it was recorded that Mrs R was unhappy with the returns from her deposit-based account and was willing to accept risk to achieve higher returns than she was receiving from her existing accounts.
- On the face of the evidence, and on balance, I can't safely conclude that the PIP was sold on the basis that her investment would never go down in value.

- Despite what she says, I've seen nothing to suggest that she was told or led to believe that the investment was risk free or that her capital was guaranteed. I'm not persuaded that's what she wanted either.
- Although she might not have been an experienced investor, I'm satisfied that she wasn't without experience, and broadly appreciated the risks involved. I'm mindful that she wasn't a first-time investor.
- I should make clear that whilst being an experienced investor doesn't of itself (automatically) mean someone will be a high-risk investor by the same token being inexperienced also didn't mean that an investor couldn't take some risk with their money. So, in the circumstances Mrs R was entitled to take a risk with her money, even though she didn't have lots of investment experience.
- If there was any personal detail that was incorrectly recorded on the application form Mrs R ought to have raised this with the adviser at the time. An adviser can only advise based on the information available at the time. That said I don't think any of this – including her relationship status in respect of which it as noted she was married but separated – affected the suitability of the advice given. I'm mindful that she wanted the investment in her name only and that's what she got.
- Despite her other grievances, I'm not persuaded that she was advised to take more risk than was suitable for her. Given the asset makeup of the funds, I'm unable to say that the PIP was too risky for Mrs R.
- I'm satisfied that given her circumstances, the PIP was an affordable and sustainable investment which she kept for longer than was advised which doesn't suggest that she was unhappy with the recommendation. I'm mindful of Mrs R expressing her ongoing satisfaction with the PIP (and Halifax) until the recent drop in value.
- Without the benefit of hindsight, I'm unable to safely say that any suggestion that she consider waiting – possibly to get financial advice – before deciding what to do with her PIP was wrong.
- Given the volatile and unpredictable nature of the financial markets – affected by a number of factors referred to in the background – waiting as an option wasn't unreasonable. I note in the very first call to Halifax Mrs R even says she'd like to understand what was happening before deciding what to do. Unfortunately for her, Halifax wasn't in a position to advise her, having ceased giving advice.
- In the circumstances, I don't think a knee jerk reaction – surrendering the PIP and realising the loss – without seeking financial advice or thinking things through would've been helpful.
- I note in this instance Mrs R without advice or guidance from an adviser decided to surrender the PIP. This isn't something that I can blame Halifax for.
- I note she was advised to seek independent financial advice if that's what she wanted to do, but she didn't. At no time was she told that she couldn't surrender the PIP immediately if that's what she wanted to do.
- In any case, there was nothing to suggest that the markets wouldn't improve – as they subsequently did over time.
- I note Mrs R suggests that she was pressured into delaying the surrender of her PIP, in other words sleeping on the matter before deciding what to do, but on balance I'm not persuaded that she was. She didn't call Halifax with clear instructions to surrender, rather she wanted to find out what was going on before deciding what to do.
- Mrs R was always free to choose, and this was broadly made clear to her. Despite what she says about being able to progress matters sooner, for the reasons I've explained above, I can't say that any delay in surrender was the result of anything Halifax did wrong.
- I don't think the suggestion to seek independent financial advice – if that's what she wanted to do – was the wrong thing to do. I agree with the investigator that this confirmed that it was unable to provide financial advice.

- I appreciate that Mrs R is unhappy about the performance of her PIP but that isn't something I can blame Halifax for. The performance was down to several external factors that Halifax can't predict or control and therefore isn't responsible for. So, in the circumstances, I can't say that the recommendation is unsuitable just because it didn't provide better returns and/or was adversely affected by external market conditions. Based on what Mrs R says, she wasn't unhappy with the performance of her PIP until 2022, when the value dropped but that's not something I can blame Halifax for.
- I'm mindful Mrs R says that the commission was a factor in pushing her towards the PIP. But despite what she says, I unable to say that this was the case. A business is entitled to charge and be paid for its services. I don't think Mrs R would expect Halifax to offer advice for free. In any case, I'm unable to safely say that the sale was purely motivated by commission.

I appreciate that Mrs R will be thoroughly unhappy that I've reached the same conclusion as the investigator. Furthermore, I realise my decision isn't what she wants to hear. Whilst I appreciate her frustration, I can't safely say that Halifax behaved unreasonably such that this complaint should be upheld.

In other words, on the face of the available evidence, and on balance, I can't uphold this complaint and give Mrs R what she wants.

My final decision

For the reasons set out above, I don't uphold this complaint and make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs R to accept or reject my decision before 20 March 2024.

Dara Islam
Ombudsman