

The complaint

Mr H has complained that Bank of Scotland plc trading as Halifax mis-sold him a whole of life plan in 2007.

Mr H is represented by his sister and deputy, Mrs W. Mrs W has also raised a complaint in respect of Mr H's late wife, but I am not considering that issue in this decision.

What happened

The background to this complaint is well known to the parties so I won't repeat it in detail here. In summary Mr H purchased a whole of life plan in 2007. Mrs W has complained on his behalf, she says he wanted a funeral plan. She has complained that the policy was unsuitable for him and therefore mis-sold. The plan has now been surrendered.

Our investigator didn't conclude that the policy was mis-sold. Mrs W appealed on behalf of Mr H. She felt that Mr H was vulnerable and had been taken advantage of in 2007.

As no agreement has been reached the complaint has been passed to me to determine.

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'm aware I've summarised the background to this complaint and some sensitive medical history. No discourtesy is intended by this. Instead, I've focused on what I find are the key issues here. Our rules allow me to take this approach. It simply reflects the informal nature of our service as a free alternative to the courts. If there's something I haven't mentioned, it isn't because I've ignored it. I've fully reviewed the complete file and having done so I agree with the conclusion reached by our investigator. I'll explain why:

- Bank of Scotland gave Mr H advice in relation to the sale of his flexible protection plan so I've looked very carefully at the circumstances of the sale to see if suitable advice was given in accordance with Mr H's demands and needs.
- Mrs W has said that Mr C possibly did have the mental capacity to take out the plan in 2007, but she questions whether he would have understood that the plan was linked with 10 yearly reviews that could have resulted in increased premiums. I do understand Mrs W's concerns but I haven't seen anything to persuade me that in 2007 Mr H didn't have the necessary capacity to take out the plan. Further there is nothing in the documentation from the time that would have alerted Bank of Scotland to any issues that Mr H had or support that he required. In the personal details completed on the fact find at the time of sale the adviser was required to say whether he had classified the customer as vulnerable. He answered 'no'. This accords with the question in the personal details section: 'Any relevant health or disability issues?' this was answered 'No'. I do understand that Mr H was diagnosed with a condition in 2014 which would have impacted his cognitive ability. But in this decision, I'm

considering the sale made in 2007.

- The financial report produced at the time of the sale details that Mr H wanted a lump sum of £7500 for the rest of his life to cover funeral costs. Mr H felt that he didn't need to discuss cover over this amount. Accordingly, a flexible protection plan was recommended, with investment in a cautious/medium portfolio. The plan would provide the cash sum if Mr H died and was reviewable after 10 years. At 10 years in Mr H would have the option to take the accumulated fund or continue for a further 10 years. I appreciate that this could lead to an increased premium, and note that Mr H's income was limited, but this was clearly documented and for the reasons given I'm not persuaded that Mr H didn't understand what he was buying.
- It may be that Mr H's attitude to risk was closer to cautious rather than medium – but I don't find that the categorisation led to a mis-sale. The product covered his specified needs for funeral costs. It was affordable for Mr H and met his objectives. I don't find that the plan was unsuitable for Mr H or that the adviser should have suggested a lesser amount of cover.
- Mrs W says that Mr H wanted a funeral plan and therefore wasn't sold a suitable product. It may be that a funeral plan would have met some of Mr H's needs – but it doesn't follow that any other recommendation was unsuitable. Again I haven't disregarded Mrs W's representations about what Mr H wanted at the time or would have understood. But as the sale was in 2007 and Mr H himself is not in a position to give an account of the sale, I've focused on the contemporaneous documentation from the time. This leads me to conclude Mr H's demands and needs were explored and the policy recommended met those needs and was suitable for him.
- Mrs W has questioned whether the adviser contacted Mr H in the years following the sale and suggests that it breached a contract it had with Mr H in not doing so. However this point doesn't form part of the complaint I'm considering here regarding the sale of the policy in 2007. Additionally Mrs H says that the documentation didn't include an indication of commission, which may have raised a red flag for Mr H. This point hasn't previously been raised but I note that the illustration for the flexible protection plan does set out on page three how much the advice will cost and what the provider would pay the seller, Bank of Scotland, for its services.
- Mr H was provided with a Key Features document at the time which gave full details of the plan. However, he did have the opportunity to cancel it within the cooling off period if he felt it didn't meet his stated objective. He didn't do so, nor did he take up the offer of a second appointment with the adviser. Mrs W's representations regarding Mr H don't lead me to conclude that there was any error or omission on the part of Bank of Scotland.
- I have considered with care whether this product was right for Mr H when he purchased it. I'm not persuaded that it was unsuitable for Mr H or that he didn't have the capacity to understand what he was buying. It follows that I don't require Bank of Scotland plc trading as Halifax to do anything further.

My final decision

For the reasons explained, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 18 April 2024.

Lindsey Woloski
Ombudsman