DRN-4648388

The complaint

The estate of Ms H complains about Nationwide Building Society ('Nationwide'). It says that the funds Nationwide advised her to invest in had more risk than she wanted to take at the time and so were not suitable for her.

What happened

Ms H's estate is represented by a third party, for ease of reading I'll refer to all of the correspondence as being from the estate itself.

Ms H was a customer of Nationwide and this complaint concerns the advice she was given in 1999 and 2000 by Nationwide to make some investments.

Nationwide completed a fact find in 1999. This showed that Ms H was aged 67 and retired. She had an income of £680 per month. Her expenditure was £530 a month. She had the following savings and investments:

- A Personal Equity Plan with another business that had a value of £6,000. I understand this invested in an equity based fund.
- Two Nationwide Guaranteed Equity Bonds with a total value of £25,000.
- Various savings accounts that had a total value of around £90,000.
- Premium bonds with a value of £20,000.
- Shares with a value of £20,000 which I understand were the proceeds of demutualisation's.

Ms H's attitude to risk was recorded as being 'ambitious' in 1999 and 'balanced' in 2000, when another fact find was completed, for savings and investments.

The point-of-sale documentation in 1999 said that Ms H wanted to invest £14,000 over five years to provide a better return on some of the money she held in cash and savings. It was documented that Ms H would not need to access this money.

In 1999 Ms H was advised to invest £7,000 in a FTSE all share tracker fund and £7,000 in a balanced fund. Nationwide said the following about this advice:

> *'You are willing to accept a moderate degree of risk and to invest a reasonable proportion of assets in equities to achieve a potentially higher return over the medium to long term i.e 5 years or more. You prefer to have funds actively managed, leaving the day to day investment decisions to experts.'*

Nationwide has said that Ms H didn't accept the advice to invest in the FTSE tracker fund as she wanted a managed fund. And this was then substituted for a UK Growth Fund.

Nationwide reviewed Ms H's circumstances again in 2000 and there were no significant changes at this time. It was documented that Ms H wanted to invest a further £10,000. And she was advised to, and did, invest £7,000 in the FTSE tracker fund and £3,000 in the UK Growth Fund.

In 2023 Ms H's estate complained that the Guaranteed Equity Bonds were not suitable for Ms H. As part of this complaint, it was established that Nationwide didn't advise Ms H to start these investments, she had started them herself. And so, it wasn't responsible for whether or not they were suitable for her.

Ms H's estate went on to complain that the investments she started, that I've outlined above, were also not suitable for her. It said this was because they had a high equity content and were likely to have more risk than she wanted to take. Ms H's estate said her time of life, and her investment history, both indicated that she would want to protect the capital that she had.

Nationwide considered whether the sale of the equity-based ISA investments was suitable for Ms H. It said that she had agreed with the recommendations at the time. They represented a relatively small proportion of her portfolio, and they were easily affordable amounts. They gave Ms H the greater growth potential that she sought for some of her money.

One of our Investigators has considered Ms H's complaint but has not upheld it. He said Nationwide had fully considered her circumstances at two points and the advice provided after this was suitable for her. He didn't think that the funds used had more risk than Ms H wanted to take, he didn't think she wanted these investments to be capital secure. They formed a very small part of her overall portfolio.

Ms H's estate responded and didn't agree. They said that the evidence was inconclusive about her 'aversion' to tracker funds. They still considered that the investments were mis-sold.

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

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.

Ms H was advised by Nationwide to make some investments in equity-based funds. These were a balanced fund, a UK growth fund and a FTSE tracker fund. All of these have a relatively high equity content and so can be volatile at times. They are usually regarded as being suitable for medium, or balanced, risk investors. But they can form the higher risk elements to a lower risk portfolio.

The crux of this complaint is whether Ms H was prepared to take the risk of these funds. Her estate now says that the risk of them was too high and she should have been advised to start investments that gave her a degree of capital protection. I've looked to see if it was clear that this was the case from the time of sale.

It's probably worth noting now that the investigation is made more difficult as Ms H hasn't made this complaint herself. And there is no indication she was unhappy with the investments during her lifetime.

Ms H's attitude to risk was recorded as being at least balanced for her savings needs. It was clear that the advice was given to her on this basis, and she signed the point-of-sale documentation to confirm that she agreed with this.

But this is a relatively high attitude to risk, and I've thought about whether this was a reasonable fit for her, given what I know about her circumstances. And whether Nationwide should have assessed her attitude to risk as being lower than this as her estate now says.

When she met with Nationwide Ms H did hold a large proportion of her money in savings accounts. Which would indicate a lower tolerance for risk. But she also had some risk bearing investments. These were her guaranteed equity bonds, her demutualisation shares and her personal equity plan.

So, I don't think it's reasonable to say that Ms H didn't have any experience of risk bearing investments. She clearly did, and I understand Ms H had invested in some of them herself. I think it's reasonable to say that she would have been aware that equity-based investments would have some risk and could rise and fall in value.

It follows that I don't think it's established that Ms H wanted investments that were capital secure. The evidence from the time of sale doesn't show this and I don't think it's a reasonable assumption from her circumstances.

It still doesn't automatically mean that these investments were suitable for Ms H. She was retired and it's reasonable to assume that she wouldn't want to lose significant amounts of capital as she would be unable to substantively replace this with regular savings.

But after these investments she had a significant amount of cash-based savings. And she did invest what I think could be reasonably described as modest amounts, in relation to her overall portfolio. So, Ms H would have been able to use these cash savings in the short term to meet any needs she may have had. And this would make it less likely that she would need to access her risk bearing investments at a point where they had fluctuated in value negatively.

And so, whilst taken on their own the funds Nationwide advised Ms H to start did have a fair degree of risk. I don't think investing these modest amounts in the funds increased the overall risk of her portfolio above that which it was reasonable to assume she wanted to take.

I've thought about what both sides have said about whether or not Ms H wanted to invest in the FTSE tracker in 1999. As I've said above, I do think it's clear Ms H did have some knowledge and experience of investing, so she could well have preferred a more managed investment than a tracker fund. And this could have changed for this second investment period.

But I don't think there is any prospect now of fully determining why she didn't proceed with a tracker fund investment in 1999. And I don't think either version of events would fundamentally alter what I think about the suitability of the advice she received from Nationwide.

Overall, I don't uphold Ms H's complaint and I make no award.

My final decision

For the reasons set out above, I don't uphold the estate of Ms H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Ms H to accept or reject my decision before 11 April 2024.

Andy Burlinson
Ombudsman