complaint

Mr J's complaint against HSBC Bank Plc is about his income drawdown plan. In particular, Mr J says that he has received little by way of on-going support and advice following the transfer of his pension funds to HSBC. He was also disappointed with the performance of the funds that had been recommended to him.

background

Mr J transferred his existing pension funds to HSBC in August 2006 with a view to commencing taking benefits.

This comprised taking 'unsecured drawdown' and using the maximum tax free cash initially as income, and leaving the residual pension fund invested. Tax free cash sums were received during 2006-2008.

Mr J subsequently contacted HSBC to review his income requirements, and see whether it would be beneficial to take further funds from the tax free cash element still available to him. At this stage he also commented on what he felt was the poor performance on the funds being used.

Details of Mr J's request were forwarded by HSBC to the provider. There was some confusion over when he wanted the income to be available, and ultimately he received an illustration showing the availability of tax free cash and the maximum income available under drawdown. The letter also included comparisons with an annuity conversion at age 75.

Following on from this, Mr J made several attempts to speak with staff at HSBC regarding his pension requirements, but received no satisfactory feedback or advice. As a result he complained to HSBC in January 2013. This centred on the lack of communication he had received regarding his pension, and also fund performance.

In April 2013 HSBC responded as follows:-

- It acknowledged that its communications with Mr J had not met expectations.
- It provided a brief overview of how the funds had performed.
- It confirmed that four tranches of drawdown were available if income was urgently required.
- Explained there were expectations that a pension review centre would be available from it later in that year, to enable discussions on pension drawdown to take place.

The complaint was subsequently referred to this service. One of our adjudicators considered the complaint. In summary, he said:

- Having moved his funds to HSBC, Mr J felt that he had received no proper on-going service from it to review his drawdown needs on a regular basis.
- Due to the lack of contact, Mr J had tried to initiate enquires regarding his pension requirements, and rather than responding, HSBC had merely passed his concerns on to the provider.
- It was clear from internal memos seen that HSBC had withdrawn from providing advice on drawdown issues. This was further confirmed by the comments that a review centre was expected to be up and running later in 2013.

- The issues regarding performance of the funds within his plans was not an area that would usually be looked into by this service.

As a result of the findings, the adjudicator upheld the complaint and felt that no service had been provided when needed. As a result he recommended that HSBC should refund all the trail (on-going) commission charges taken, together with a payment for the distress and inconvenience caused.

In December 2013 HSBC responded with an offer. This was to refund the trail commission that had been taken, but only from 2009, (and not 2006 when the pension commenced), plus a payment for the distress and inconvenience caused.

Mr J did not accept the offer. He said that the offer was derisory and that he had been promised on-going advice for his pension facility, that it would be monitored and looked after in a professional manner from the start.

my findings

I have considered all the available evidence and arguments to decide what is fair and reasonable in the circumstances of this complaint. . Having done so, I have come to the same conclusion as the adjudicator, and for broadly the same reasons.

HSBC has acknowledged that it did not provide an appropriate level of service and that the 0.5% annual commission was generally payable to enable it to service the contract and provide on-going advice.

As noted by the adjudicator, the documentation provided at the time said *"…as you only wish to make partial withdrawals from your pension commencement lump sum in the early years, the illustration only shows the effect of taking the first year's income".* And this was followed by *"…if the plan proceeds, regular reviews will need to be undertaken to ensure that final vesting is arranged at the most appropriate time".*

I think it is reasonable to assume that the original charging structure would have reflected the levels of on-going service that would have been expected to have been provided at the time when the contract was arranged in 2006. However it appears that HSBC made the decision not to continue to offer advice regarding income drawdown in 2009 – my understanding is that the 'pension review centre' was not introduced until September 2013.

Mr J was clearly under the impression that in setting up his pension income requirements with HSBC he would receive an on-going service that would review his changing requirements on a regular basis. This level of service is particularly relevant to this type of income drawdown arrangement to ensure the most appropriate means of providing an income are considered. Like the adjudicator noted, having moved his not inconsiderable pension funds to HSBC to ensure an adequate income in retirement, he was effectively left to fend for himself. Attempts to gain a review at a time when it was most needed proved unsuccessful. So although I accept that the first two payments of tax free cash were paid, I agree with the adjudicator that largely, no further service was provided after the contract had been arranged. In the particular circumstances here, I therefore agree with the adjudicator that it is reasonable that HSBC refunds the 0.5% on-going commission paid from the outset to Mr J (with HSBC retaining the initial commission that was paid for the original advice in setting up the arrangement).

I note that Mr J has also expressed concerns about the choice of funds into which he was invested. Mr J was invested into a spread of funds with different investment managers. Although I appreciate that a client hopes that the funds they invest into will outperform (or at least perform in line with) other similar funds, this will clearly not always be the case – inevitably some will do better than others, and at different times. I have seen no persuasive evidence that the funds were inappropriately recommended.

Overall I do not consider that HSBC has provided Mr J with what would be considered to be an appropriate level of service, and I agree with the adjudicator that the commission taken for the provision of this service should be refunded to Mr J.

my final decision

I uphold Mr J's complaint and direct HSBC Bank Plc to pay compensation to Mr J calculated as follows:-

- Refund the adviser remuneration charges (trail commission) taken since inception on the pension.

- Interest is to be added to the above at 8% simple per annum from the date of calculation of redress to the date of payment.

Mr J should also be reimbursed for the stress and inconvenience suffered in trying to seek professional advice and assistance in relation to his retirement needs. HSBC should therefore also make a payment of £350 to Mr J.

A copy of the calculations should be provided to Mr J.

David Ashley
ombudsman