

The complaint

Mrs G has complained that Martin Aitken Financial Services Limited ('MAFS') recommended she transfer benefits held in an occupational defined-benefit ('DB') pension scheme and three defined-contribution ('DC') schemes to a self-invested personal pension ('SIPP'). The funds were subsequently invested in high-risk investments which Mrs G says weren't suitable for her.

What happened

Mrs G was introduced to MAFS through an unregulated introducer, 'Mr B', in 2016. Mrs G was interested in accessing her pensions so she could take the maximum tax-free cash ('TFC') to help fund a year abroad.

In April 2016, MAFS's adviser, Mr M, produced a pension transfer report in which he recommended Mrs G transfer the cash equivalent transfer value of all of her pensions to a SIPP with a business I'll refer to as 'L'. Mr M set out what he thought a suitable asset allocation for Mrs G would be, based on her 'medium' attitude to risk. He then recommended that the funds should be invested with a discretionary fund manager ('DFM') who I'll refer to as 'B', using their model portfolio service. Mr M said B would be responsible for recommending a suitable investment portfolio.

Mrs G accepted the recommendations. On 2 June 2016, £2,492.09 was transferred to the SIPP, followed by £10,937.19 on 22 August 2016. Mrs G took TFC of £3,357.32 on 30 August 2016. The transfer value of her DB scheme, £157,621.18 was paid into the SIPP on 26 October 2016. Mrs G took TFC of £39,405.30 on 1 November 2016. After a significant delay, the final pension, with a value of £8,588.80, was transferred to the SIPP on 8 June 2017. MAFS took a fee of 3% of the transfer values and would take 0.5% of the pension value in return for ongoing advice.

Although MAFS had recommended that Mrs G should invest her funds with B, an account with another DFM, which I'll refer to as 'S', was set up. On 31 October 2016, £117,449.52 was transferred to S and S started trading on 7 November 2016. On 1 December 2016, £60,000 was invested in Optima bonds, with the remainder invested in a conservative Undertakings for the Collective Investment in Transferable Securities ('UCITS') fund.

In late 2016 MAFS started looking into pension advice provided where Mr B had acted as the introducer. And Mr M was dismissed as a result of regulatory breaches MAFS uncovered through its investigation. Soon after, S went into administration, meaning Mrs G's investments were inaccessible and were potentially worthless.

A complaint was also submitted to L on the grounds that it had failed to carry out sufficient due diligence checks on S, which had led to unsuitable investments being made for Mrs G. L turned this complaint down so it has been referred to our service and is ongoing.

Mrs G lodged a claim with the Financial Services Compensation Scheme ('FSCS') about S but this claim was rejected on the grounds that her complaint against L hadn't yet been resolved and it was possible she could recover her losses from it instead.

Mrs G then complained to MAFS about the suitability of the advice to transfer her pensions and the investments made on her behalf. She didn't think MAFS had assessed her attitude to risk correctly, which she said was low.

MAFS didn't uphold the complaint. It said the pension advice was suitable and it could not have prevented the investments being made through S as it appeared Mrs G had authorised these, most likely at the direction of Mr B. Mrs G referred her complaint to our service.

Our investigator upheld the complaint. She didn't think MAFS's advice was suitable for Mrs G. She wasn't persuaded that Mrs G actually required access to her TFC to fund her year abroad as she already had access to at least £40,000, and there wasn't any evidence to support that she'd need more than this. The investigator also thought that MAFS could've prevented Mrs G's loss through S as it had been made aware an account had been opened with S, which was contrary to its recommendation. The investigator thought that with appropriate enquiries and oversight from MAFS the investments wouldn't have been made, so it was reasonable to hold MAFS fully responsible for Mrs G's loss. She recommended Mrs G should be put back into the position she would've been in if she hadn't been advised to transfer any of her pensions. She also awarded compensation of £300 for the upset caused.

Mrs G accepted the investigator's opinion but MAFS didn't agree and asked for a final decision. It said Mrs G had a clear need for TFC to fund her year abroad and maintained it couldn't have prevented the investments made through S.

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've taken into account relevant law and regulations, regulator's rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time. This includes the Principles for Business (PRIN) and the Conduct of Business Sourcebook ('COBS'). And where the evidence is incomplete, inconclusive or contradictory, I reach my conclusions on the balance of probabilities – that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances.

The applicable rules, regulations and requirements

The below is not a comprehensive list of the rules and regulations which applied at the time of the advice, but provides useful context for my assessment of MAFS's actions here.

PRIN 6: A firm must pay due regard to the interests of its customers and treat them fairly.

PRIN 7: A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.

COBS 2.1.1R: A firm must act honestly, fairly and professionally in accordance with the best interests of its client (the client's best interests rule).

The provisions in COBS 9 which deal with the obligations when giving a personal recommendation and assessing suitability. And the provisions in COBS 19 which specifically relate to a DB pension transfer.

Having considered all of these and the evidence in this case, I've decided to uphold the complaint for largely the same reasons given by the investigator.

The advice to transfer Mrs G's DB scheme

The regulator, the Financial Conduct Authority ('FCA'), states in COBS 19.1.16 that the starting assumption for a transfer from a DB scheme is that it is unsuitable. So, MAFS should have only considered a transfer if it could clearly demonstrate that the transfer was in Mrs G's best interests. And having looked at all the evidence available, I'm not satisfied it was in her best interests.

Financial viability of the transfer

The advice was given during the period when the Financial Ombudsman Service was publishing 'discount rates' on our website for use in loss assessments where a complaint about a past pension transfer was being upheld. Whilst businesses weren't required to refer to these rates when giving advice on pension transfers, I consider they provide a useful indication of what growth rates would have been considered reasonably achievable when the advice was provided.

Mrs G was 55 at the time the advice was given to her. Her DB scheme had a normal retirement age of 62. Mrs G had left her employment to embark on a year abroad. She then intended to return to look for employment - she told MAFS she wanted to retire between age 60 and 62.

Mrs G's DB scheme provided an annual pension of £7,011 at age 62. The investment return (critical yield) required to match the DB scheme at age 62 was 14.15% per year if she took a full pension. The critical yield required if Mrs G took TFC and a reduced pension wasn't provided. This compares with the discount rate of 3.7% per year for 6 years to retirement. For further comparison, the regulator's upper projection rate at the time was 8%, the middle projection rate 5%, and the lower projection rate 2% per year. No analysis was carried out based on Mrs G taking her benefits from the DB scheme at age 55.

I've taken this into account, along with the composition of assets in the discount rate, Mrs G's 'medium' attitude to risk – although I think her attitude to risk was actually lower than this – and also the term to retirement. There would be little point in Mrs G giving up the guarantees available to her through her DB scheme only to achieve, at best, the same level of benefits outside the scheme. But here, given the critical yield was 14.5%, which was substantially more than the discount rate and the regulator's upper projection rate, I think Mrs G was likely to receive benefits of a significantly lower overall value than her DB scheme provided at retirement, as a result of transferring her pension and investing in line with that attitude to risk. By transferring, Mrs G would've also been taking on significant investment risk, and as this pension formed the majority of her retirement provisions, I don't think she had any real capacity for loss.

The adviser seemed to acknowledge that the critical yield was too high, stating that MAFS wouldn't usually recommend a transfer where the critical yield was over 7%. However, he said that other considerations, such as TFC, death benefits or the funding position of the scheme, would outweigh the critical yield. The adviser set out the advantages and disadvantages of the DB scheme, noting Mrs G would be entitled to a higher TFC sum and a higher lump sum death benefit. However, at no point did he explain to Mrs G that she was very likely to be worse off in retirement if she transferred out of her DB scheme. All the adviser said was that Mrs G could potentially be giving up higher benefits by transferring. And I don't think Mrs G would've understood this to mean that she was very likely to receive a lower income at retirement by transferring out of her DB scheme.

For this reason alone, I don't think a transfer out of the DB scheme was in Mrs G's best interests. Of course financial viability isn't the only consideration when giving transfer advice, as MAFS has argued in this case. There might be other considerations which mean a transfer is suitable, despite providing overall lower benefits. I've considered these below.

Flexibility and TFC

MAFS said that Mrs G wanted to maximise her TFC and take this immediately to fund her year abroad. MAFS said Mrs G didn't want to take any income, so accessing benefits from her DB scheme didn't meet her needs.

I've considered this carefully, and while I appreciate that Mrs G approached MAFS with taking TFC for this purpose in mind, I don't think advising her to transfer her pension just to access TFC, was suitable advice or was in her best interest.

I say this because Mrs G already had substantial savings available to her following the sale of her home. MAFS recorded in the pension transfer report that Mrs G had sold her home and after redeeming her mortgage she would be left with around £39,000 before the deduction of expenses (Mrs G provided us with evidence showing she received just over £36,000 after fees). It also noted in the fact-find that she had £4,000 in savings. So, I think it is fair to say that at the point the advice was given, Mrs G had access to around £40,000. However, it doesn't appear that any consideration was given to whether this sum was sufficient to meet Mrs G's needs whilst she was living abroad. In fact, as far as the evidence provided shows, there was no discussion about the level of income Mrs G would need whilst abroad at all. And I think that ought to have been the starting point in determining whether Mrs G accessing her DB pension to fund her year abroad was in her best interest.

Mrs G was intending to spend the majority of her time in Thailand, where the cost of living was substantially lower. Mrs G has told us that she thought she'd need up to £20,000 to fund this. And in the absence of any analysis to demonstrate that Mrs G needed more than this, I think having £40,000 available to her – the equivalent of over £3,300 per month – was enough to meet her needs. By contrast, if Mrs G instead transferred her pension and took her TFC, she would've most likely had funds far in excess of what was needed, whilst simultaneously reducing the pension available to her at retirement. And given this was her main pension, and she intended to retire before her state pension age of 66, I think she would've been reliant on this pension to meet her needs in retirement.

Although I've seen no evidence to support this, if Mrs G did require funds in excess of what she already had, I think she could've also used the funds she had available to her in her three personal pensions. These had a combined value of around £22,000, meaning Mrs G could've taken around £5,000 as TFC. While I don't think there was an immediate need to do this, if whilst Mrs G was abroad she thought she needed further funds, I think MAFS ought to have advised her to consider accessing these pensions instead. I note however, that MAFS would've needed to arrange to switch these pensions to a product offering flexible drawdown, such as a stakeholder pension plan. And I note that if Mrs G needed more than £5,000 she would've needed to pay income tax. However, I still think this would've been preferable to her transferring her DB scheme, which meant giving up guaranteed retirement income that I think she was relying on. That said, I still don't think Mrs G had any need for funds above that which she already had following the sale of her home.

MAFS suggests that Mrs G may have needed her savings to fund a property purchase when she returned from her travels. However, if this were her plan, I would've expected MAFS to have established this at the time. It doesn't appear that this was a priority for Mrs G at the point of the advice. And I'm satisfied that if this was what Mrs G had planned to use her

savings for, she would've said so. Furthermore, Mrs G has told us she received a redundancy payment of £14,000 when she left her job and sold some shares for £3,000. So, in total, she had around £57,000 available to her at the time of the advice. If Mrs G spent £20,000 funding her year abroad, that would've still left a substantial fund to put towards purchasing another home if she so desired. But as I've said, there's no evidence to support this at the time of the advice, so I'm not persuaded Mrs G had any specific plans for her savings such that they couldn't have been used to fund her year abroad.

Overall, I'm satisfied that Mrs G didn't need to transfer her DB scheme in order to have sufficient money to fund her year abroad. And it follows that I don't think it was suitable advice to recommend Mrs G transfer her pension for this reason.

Death benefits

It appears that MAFS also argued that Mrs G would be entitled to higher death benefits by transferring, and that this meant her funds could be passed on to her non-dependent son. But I don't think that was a genuine objective for Mrs G as she completed a pension transfer questionnaire stating that a lump sum on her death wasn't important to her. And ultimately, a pension is primarily designed to provide income in retirement and the priority here was for MAFS to advise Mrs G about what was best for her retirement. Overall, I don't think different death benefits available by transferring the pension to a SIPP justified the likely decrease of retirement benefits for Mrs G.

Summary

I don't doubt that the flexibility and control a SIPP offered Mrs G if she transferred her DB scheme would have sounded attractive to her. But MAFS wasn't there to just transact what Mrs G might have thought she wanted. The adviser's role was to really understand what Mrs G needed and recommend what was in her best interests.

Ultimately, I don't think the advice given to Mrs G to transfer out of her DB scheme was suitable. She was giving up a guaranteed, risk-free and increasing income. By transferring, Mrs G was very likely to obtain lower retirement benefits. And in my view, there were no other particular reasons that would justify a transfer and outweigh this, particularly when Mrs G already had sufficient savings to fund her year living abroad, which was her only genuine objective at the time.

So, I think MAFS should've advised Mrs G to remain in her DB scheme. And I'm satisfied that Mrs G would have listened to that advice, despite the involvement of Mr B. I say this because Mrs G was not an experienced investor and she wasn't going to be earning a wage for at least a year – this pension formed the majority of her retirement provision. So, if MAFS had provided Mrs G with clear advice against transferring out of the DB scheme, explaining why it wasn't in her best interests, I think she would've accepted that advice.

The advice to transfer Mrs G's personal pensions

I think when Mrs G approached MAFS for advice, her main reason for doing so was to talk about the possibility of transferring out of her DB scheme. I say this because it was her largest pension, offering the most to her in terms of TFC. I haven't seen any evidence to persuade me that Mrs G had an interest otherwise in switching her personal pensions. The management charges were low, and Mrs G hadn't expressed any concerns with performance. So, I don't think Mrs G would've had any interest in switching these plans if she wasn't going to be transferring out of her DB scheme. And as I've said above, I don't think Mrs G should've been advised to transfer out of her DB scheme. So, it follows that

I don't think Mrs G would've switched these pensions to the SIPP if suitable advice had been given.

Investments made through S / Mr B

I'm upholding the complaint on the grounds that a transfer out of the DB scheme wasn't suitable for Mrs G and I've decided that she wouldn't have switched her personal pensions but for the unsuitable advice. So, it follows that I don't necessarily need to consider the suitability of the investments that went on to be made. This is because Mrs G should have been advised to remain in her DB scheme and I think she would've accepted that advice. So the unsuitable investments made through S would never have arisen if suitable advice had been given to her at the outset.

Nevertheless, MAFS has argued that Mrs G didn't suffer any loss until her funds were invested in an account with S, through which the Optima bonds were purchased. MAFS says its adviser had no involvement in this – it recommended Mrs G should invest her funds with B in its model portfolio service in line with her attitude to risk. MAFS says the investments made via S were instead arranged by Mr B, the unregulated introducer. And MAFS feels that it couldn't have prevented these investments or Mrs G's loss. So, it says it should not be held responsible for any of the loss associated with the investments through S.

However, I've seen clear evidence demonstrating that MAFS was aware that an account with S had been set up before any investments were made. I've seen two emails relating to the account with S being set up and money being transferred to it. The first email, dated 26 October 2016, was sent from L to MAFS's adviser, Mr M, confirming the DB scheme funds had been received and said:

"Would you please confirm if you wish for these funds to be sent to [S] once the account has been set up and benefits have been paid to the client."

An email dated 31 October 2016 was then sent from L to S, confirming the funds had been sent to the account with S – MAFS was copied into this exchange.

Although I haven't seen any correspondence from the parties between these emails, on balance, I think the account was opened and money sent to this account on MAFS's instruction. MAFS was the adviser responsible for servicing the SIPP and L required MAFS's confirmation to send Mrs G's funds to the account with S. Even if I could accept the instruction was given by another party, perhaps Mr B, MAFS was aware that the account with S had been set up and funds sent to it. This was a significant deviation from the advice given to Mrs G by MAFS, as per the suitability report, which recommended the entirety of the funds should be invested with B. However, MAFS's adviser didn't question this, which leads me to believe he was aware that Mrs G's funds were going to be invested with S, contrary to his original advice.

I know that letters were sent to S and L, signed by Mrs G, which gave instructions to purchase the Optima bonds and to open an account with S in May 2016 and September 2016, and that this was mostly likely orchestrated by Mr B. But the only way this could've actually happened was by MAFS facilitating it. It's evident that the letters purportedly sent by Mrs G were not acted upon, as L instead asked MAFS to confirm it should proceed with sending money to the account with S in late October 2016, after the letters had been sent.

Given the Optima bonds weren't purchased until December 2016, I think MAFS was in a position to have prevented the investment, and indeed it should have. It should have questioned why Mrs G was suddenly interested in investing through a different DFM and as

her ongoing adviser, it ought to have advised her on whether the intended investments through S were suitable for her. It seems MAFS already accepts that these investments weren't suitable for Mrs G and I agree. The Optima bonds were illiquid and highly speculative. Although I don't think Mrs G had a medium attitude to risk – I think she was a cautious investor given her investment experience, capacity for loss and term to retirement – I'm persuaded that MAFS should've advised her against investing in this way. I think this would've carried significant weight and would, I believe, have dissuaded Mrs G from proceeding with the investment despite the influence of Mr B.

In any event, as I've set out in detail above, MAFS should not have advised Mrs G to transfer her DB scheme to a SIPP, so but for that advice she wouldn't have been exposed to the unsuitable investment made through S on her behalf. However, I think it is fair to hold MAFS fully responsible for Mrs G's loss arising from this investment because I think it could have, and should have, prevented it.

I'm aware Mrs G has made a claim about S to the FSCS. But as a scheme of last resort, it's possible the FSCS won't pay out if a third party could also be held liable – and it appears that is the approach the FSCS has already taken here. So this means an apportionment of only part of the loss to MAFS could risk leaving Mrs G out of pocket. But I think it's important to point out that I'm not saying MAFS is wholly responsible for the losses simply because S is now in liquidation. My starting point as to causation is that MAFS gave unsuitable advice and it is responsible for the losses Mrs G suffered in transferring her DB scheme and personal pensions to the SIPP and investing as she did. That isn't, to my mind, wrong in law or irrational, but reflects the facts of the case and my view of the fair and reasonable position.

With this in mind – and recognising also that Mrs G wouldn't have lost out at all but for MAFS's failings and that MAFS benefitted financially from advising on this transaction – I think MAFS being responsible for the whole of the loss represents fair compensation in this case.

Putting things right

My aim in awarding redress is to put Mrs G as far as possible in the position she would be in now if MAFS had given her suitable advice. I think Mrs G would have remained in her DB scheme. I also think she would have retained her existing personal pension arrangements.

What should MAFS do?

To compensate Mrs G fairly, MAFS must determine the **combined fair value** of her transferred pension benefits as outlined in Step One and Step Two below. If the **actual value** is greater than the **combined fair value**, no compensation is payable.

fair value – step one

If Mrs G had been given suitable advice, I think she would have remained in the DB scheme. MAFS must therefore calculate the value of the benefits Mrs G lost as a result of transferring out of her DB scheme in line with the regulator's pension review guidance as updated by the FCA in its Finalised Guidance 17/9: Guidance for firms on how to calculate redress for unsuitable DB pension transfers.

On 2 August 2022, the FCA launched a consultation on new DB transfer redress guidance and has set out its proposals in a consultation document - [CP22/15-calculating redress for non-compliant pension transfer advice](#). The consultation closed on 27 September 2022 with any changes expected to be implemented in early 2023.

In this consultation, the FCA has said that it considers that the current redress methodology in Finalised Guidance (FG) 17/19 (Guidance for firms on how to calculate redress for unsuitable defined benefit pension transfers) remains appropriate and fundamental changes are not necessary. However, its review has identified some areas where the FCA considers it could improve or clarify the methodology to ensure it continues to provide appropriate redress.

The FCA has said that it expects firms to continue to calculate and offer compensation to their customers using the existing guidance in FG 17/9 whilst the consultation takes place. But until changes take effect firms should give customers the option of waiting for their compensation to be calculated in line with any new rules and guidance that may come into force after the consultation has concluded.

We've previously asked Mrs G whether she preferred any redress to be calculated now in line with current guidance or wait for the any new guidance /rules to be published. Mrs G has chosen not to wait for any new guidance to come into effect to settle her complaint.

I am satisfied that a calculation in line with FG17/9 remains appropriate and, if a loss is identified, will provide fair redress for Mrs G.

The calculation should be carried out as at the date of my final decision, using the most recent financial assumptions at the date of that decision. In accordance with the regulator's expectations, this should be undertaken or submitted to an appropriate provider promptly following receipt of notification of Mrs G's acceptance of the decision.

MAFS may wish to contact the Department for Work and Pensions ('DWP') to obtain Mrs G's contribution history to the State Earnings Related Pension Scheme ('SERPS or S2P'). These details should then be used to include a 'SERPS adjustment' in the calculation, which will take into account the impact of leaving the occupational scheme on Mrs G's SERPS/S2P entitlement.

If the complaint hasn't been settled in full and final settlement by the time any new guidance or rules come into effect, I'd expect MAFS to carry out the calculation in line with the updated rules and/or guidance in any event.

fair value – step two

MAFS must compare the value of Mrs G's personal pensions transferred to her SIPP with that of the notional values from the previous providers to determine the fair value of Mrs G's personal pensions if suitable advice had been given.

Investment name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
Value of the three personal pensions transferred to the SIPP	Still exists and liquid	Notional values from previous providers	Date of investment	Date of my final decision	8% simple per year from final decision to settlement (if not settled within 90 days of the business receiving the complainant's acceptance)

Notional Value

This is the value of Mrs G's pensions had they remained with the previous providers until the end date. MAFS should request that the previous providers calculate these values.

However, if any or all of the previous providers are unable to calculate a notional value, MAFS will need to determine a fair value for Mrs G's pensions instead, using this benchmark: For half the investment: FTSE UK Private Investors Income Total Return Index; for the other half: average rate from fixed rate bonds. The adjustments above also apply to the calculation of a fair value using the benchmark, which is then used instead of the notional value in the calculation of compensation.

Any additional sums paid into the SIPP should be added to the fair value calculation from the point in time when they were actually paid in. Any withdrawal, income or other payment out of the SIPP should be deducted from the fair value at the point it was actually paid so it ceases to accrue any return in the calculation from that point on. If there are a large number of regular payments, to keep calculations simpler, I will accept if MAFS totals all those payments and deducts that figure at the end instead of deducting periodically.

The combined value of the sums produced by the above two steps is the ***combined fair value***.

actual value

This means the actual amount payable from the SIPP at the date of the calculation. My aim is to return Mrs G to the position she would have been in but for the actions of MAFS. This is complicated where investments are illiquid (meaning they cannot be readily sold on the open market), as their value can't be determined. That appears to be the case here.

To calculate the compensation, MAFS should agree an amount with the SIPP provider as a commercial value, then pay the sum agreed to the SIPP plus any costs, and take ownership of the investments. If MAFS is unable to buy the investments, it should give them a nil value for the purposes of calculating compensation. The value of the SIPP used in the calculations should include anything MAFS has paid into the SIPP and any outstanding charges yet to be applied to the SIPP should be deducted.

In return for this, MAFS may ask Mrs G to provide an undertaking to account to it for the net amount of any payment she may receive from the illiquid investments. That undertaking should allow for the effect of any tax and charges on what she receives. MAFS will need to meet any costs in drawing up the undertaking. If MAFS asks Mrs G to provide an undertaking, payment of the compensation awarded may be dependent upon provision of

that undertaking.

If the redress calculation demonstrates a loss, the compensation should, if possible, be paid into Mrs G's pension plan. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension plan if it would conflict with any existing protection or allowance.

If a payment into the pension isn't possible or has protection or allowance implications, it should be paid directly to Mrs G as a lump sum after making a notional deduction to allow for income tax that would otherwise have been paid.

The payment resulting from all the steps above is the 'compensation amount'. The compensation amount must, where possible, be paid to Mrs G within 90 days of the date MAFS receives notification of her acceptance of my final decision. Further interest must be added to the compensation amount at the rate of 8% per year simple from the date of my final decision to the date of settlement for any time, in excess of 90 days, that it takes MAFS to pay Mrs G.

It's possible that data gathering for a SERPS adjustment may mean that the actual time taken to settle goes beyond the 90-day period allowed for settlement above – and so any period of time where the only outstanding item required to undertake the calculation is data from DWP may be added to the 90-day period in which interest won't apply.

MAFS should also pay Mrs G £300 for the trouble and upset caused by the unsuitable advice, which has impacted her retirement planning.

SIPP Fees

The wrapper only exists because of illiquid investments. In order for the wrapper to be closed and further fees that are charged to be prevented, those investments need to be removed. I've set out above how this might be achieved by MAFS taking over the investment, or this is something that Mrs G can discuss with the wrapper provider directly. But I don't know how long that will take.

Third parties are involved and we don't have the power to tell them what to do. If MAFS is unable to purchase the investment, to provide certainty to all parties I think it's fair that it pays Mrs G an upfront lump sum equivalent to five years' worth of wrapper fees (calculated using the fee in the previous year to date). This should provide a reasonable period for the parties to arrange for the wrapper to be closed.

Why is this remedy suitable?

I've decided on this method of compensation because:

- Mrs G wanted Capital growth with a small risk to her capital.
- If the previous providers are unable to calculate a notional value, then I consider the measure below is appropriate.
- The average rate for the fixed rate bonds would be a fair measure for someone who wanted to achieve a reasonable return without risk to his capital.
- The FTSE UK Private Investors Income total return index (prior to 1 March 2017, the FTSE WMA Stock Market Income total return index) is made up of a range of indices

with different asset classes, mainly UK equities and government bonds. It's a fair measure for someone who was prepared to take some risk to get a higher return.

- I consider that Mrs G's risk profile was in between, in the sense that she was prepared to take a small level of risk to attain her investment objectives. So, the 50/50 combination would reasonably put Mrs G into that position. It does not mean that Mrs G would have invested 50% of his money in a fixed rate bond and 50% in some kind of index tracker investment. Rather, I consider this a reasonable compromise that broadly reflects the sort of return Mrs G could have obtained from investments suited to her objective and risk attitude.

Where I uphold a complaint, I can make a money award requiring a financial business to pay compensation of up to £160,000, plus any interest and/or costs that I consider appropriate. If I consider that fair compensation exceeds £160,000, I may recommend that Martin Aitken Financial Services Limited pays the balance.

My final decision

Determination and award: I uphold the complaint. I consider that fair compensation should be calculated as set out above.

My decision is that Martin Aitken Financial Services Limited should pay Mrs G the amount produced by that calculation up to the maximum of £160,000 (including distress or inconvenience but excluding costs) plus any interest on that amount as set out above.

Recommendation: If the amount produced by the calculation of fair compensation exceeds £160,000, I recommend that Martin Aitken Financial Services Limited pays Mrs G the balance plus any interest on the balance as set out above.

If Martin Aitken Financial Services Limited does not pay the recommended amount, then any investment currently illiquid should be retained by Mrs G. This is until any future benefit that she may receive from the portfolio together with the compensation paid by Martin Aitken Financial Services Limited (excluding any interest) equates to the full fair compensation as set out above.

Martin Aitken Financial Services Limited may request an undertaking from Mrs G that either she repays to Martin Aitken Financial Services Limited any amount she may receive from the portfolio thereafter, or if possible transfers the investment to MAFS at that point.

Mrs G should be aware that any such amount would be paid into her pension plan so she may have to realise other assets in order to meet the undertaking.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 14 November 2022.

Hannah Wise
Ombudsman