

## The complaint

Mrs D complains that Kingsfleet Wealth Limited's poor service and advice from December 2019 onwards resulted in her pension suffering a significant financial loss.

## What happened

I issued my provisional decision on this complaint on 19 August 2022. The background and circumstances to the complaint, and the reasons why I was provisionally minded to uphold it were set out in that decision. I have re-produced the relevant part of that provisional decision below, and it forms part of this final decision.

### *Copy of provisional decision*

*Mrs D's complaint was considered by one of our investigators. She set out the background and circumstances to the complaint in her assessment, a copy of which she sent to both parties. In summary, Mrs D had first engaged the services of the firm in 2012 to provide advice about her pension. In December 2018 she signed up for its 'Foundation Service', which included the firm providing an annual review. Its cost was 0.75% of the plan value annually. Mrs D's attitude to risk and capacity for risk were agreed to be "Adventurous" at that time.*

*A review meeting was scheduled for December 2019. The firm sent Mrs D a copy of the fact find that had been completed in 2012, and asked her to update it where necessary and take it to the review meeting. At the meeting the adviser recommended that Mrs D switch from the "Adventurous" risk profile to "Balanced".*

*Mrs D telephoned the adviser on 2 March 2020. She was concerned about market volatility caused by the Covid pandemic and its impact on the value of her fund. The fund's value had been just over £260,000 at the time of her December review. Mrs D discussed reducing the fund's risk. The adviser discouraged it, and asked Mrs D to confirm to him in writing after the call if she wished to switch her funds into cash as she had suggested. Mrs D didn't contact him to do this, so the funds remained invested.*

*Mrs D then e-mailed and telephoned the adviser on 16 March 2020. She was worried about the market and the falling value of her fund. She asked the adviser to move all of her funds into cash. By this time the fund had dropped to just over £230,000.*

*Mrs D didn't speak with the adviser again until 30 April 2020. There were no further recommendations. In June 2020 Mrs D sent a letter of complaint to the firm and removed their agency. The firm didn't uphold the complaint, and Mrs D subsequently referred it to us.*

*Our investigator thought that Mrs D's complaint should be upheld. She said the service agreement in place provided for "...a review of the suitability of the investments recommended. This would be carried out at least annually." The December 2019 meeting was recorded. The investigator considered the recording of the meeting, subsequent telephone calls, and the documents available from the time. She said the fact find (that Mrs D says she updated) wasn't asked for or discussed during the meeting. She said there was*

*no record of an updated fact find being completed.*

*The investigator said that before a firm gave a personal recommendation it was required to take reasonable steps to find out and record enough detail about the customer relating to the service they were offering. And that even if Mrs D didn't produce the fact find, the responsibility, as per the service agreement, was with the adviser to obtain the relevant information needed to ensure its recommendation was suitable. The investigator said it was apparent from the evidence that this hadn't been the case.*

*The investigator said that before the recommendation was given and confirmed in writing, Mrs D had clearly confirmed she would use some or all of her tax-free cash in eight months' time. She said that her income was not enough, and her mortgage was around £45,000 at that point. She was considering paying half, if not all of it off with that money. She was also very clear she wanted to install a new kitchen, a new bathroom and take a holiday, and that these would all be funded by her tax-free cash allowance in eight months. She talked at length about this and repeated these objectives numerous times in the subsequent telephone conversations.*

*The investigator said the adviser was aware at the end of the review meeting of these facts, including an income shortfall and the eight-month timescale. The adviser sent a letter to Mrs D dated 9 December 2019 recommending to reduce the risk profile from Adventurous to Balanced. This was because "...it could have significant movements in valuation over the short term which would not sit well with the intention of drawing funds in the next 12 months." The same letter confirmed the funds would actually be drawn in eight months for the purpose of partial or whole repayment of the mortgage, so the timescale and needs were clear.*

*The investigator said the balanced portfolio had a 2% cash holding which was the only money in the portfolio not subject to any fluctuation. There was 11% in fixed interest, and the remaining 87% was invested in equities and commodities and so subject to significant changes in value. Only 2% of the money could be relied upon to meet the need arising in the short term which was significantly less than required.*

*The investigator said the risk profile questions which had been used to gather information on Mrs D's tolerance and capacity for risk, which were used in the original fact find to assess her as "Adventurous", were not discussed or asked again. Although Mrs D was asked before the meeting to reflect on this information, it wasn't discussed, and the adviser didn't seek confirmation that she had. The investigator said the questions were crucial to determining the correct level of risk for Mrs D.*

*Overall, the investigator didn't think the balanced portfolio recommended in December 2019 was suitable given Mrs D's objectives and her circumstances.*

*The investigator also considered the calls Mrs D made to the firm when the market was dropping in value and, by her own admission, Mrs D said she was panicking and considering moving all her money into cash. She confirmed in the first call with the adviser that she needed the money they had discussed in December 2019, and she did not have the time to depend on the value of her pension recovering. This was stressed increasingly as the calls progressed. The investigator said Mrs D summarised her position very clearly in the third call after she had moved all her money into cash by saying "If my birthday wasn't in [its month] I wouldn't feel as I do. If I was 45 or 50, I wouldn't feel as I do. Paying of bits of my mortgage is not going to happen. I can't afford to reduce the capital sum. I am gutted." When she was told she may have access to a reduced amount of tax-free cash of approximately £25,000 she said she had earmarked £40,000 to £50,000 for spending as she had detailed at the review. That objective had remained the same as she had stated in December 2019.*

*The investigator said the adviser discussed at length the danger of market timing when Mrs D had raised concerns about her investment after the review. He initially strongly recommended remaining invested for long term growth. The investigator said Mrs D had made it clear at the review that her circumstances had changed and that she needed a cash sum in the short term. The investigator said that although the business wasn't responsible for the market turbulence, it was responsible for taking steps to reduce the portfolio volatility when it became aware of Mrs D's plans*

*The investigator recommended that Mrs D's complaint should be upheld. She went onto outline how she thought Kingsfleet Wealth should calculate and pay compensation to Mrs D. In brief, she said it should compare Mrs D's current position with the position assuming she had switched £50,000 into cash in December 2019, and the remainder had been invested in line with a benchmark based on half the investment aligned to the FTSE Private Investors Income Total Return Index, and the other half the average rate for fixed rate bonds.*

*Mrs D asked some questions about the method for calculating compensation. She also asked if she would be reimbursed the fees she paid to the new adviser, as she thought this was fair in the circumstances.*

*Kingsfleet Wealth said that although it didn't agree with the investigator's findings, in the interests of bringing the matter to a close it would make an offer to Mrs D. It said, however, that in March 2020 the majority of funds had dropped in value including those reflected by the benchmark recommended by the investigator. And the compensation should reflect the fact that Mrs D chose to switch all of her funds into cash despite it recommending against doing so. It provided a copy of how it had calculated its offer of compensation.*

*Mrs D didn't accept the firm's offer. There were then a number of exchanges of correspondence between the investigator, Mrs D and Kingsfleet Wealth, largely about whether Kingsfleet Wealth had advised Mrs D to switch to cash and how this should be reflected in the compensation.*

*Mrs D said Kingsfleet Wealth had advised her to switch into cash as evidenced in the record of the telephone call. The investigator also thought that in the call where the firm had confirmed the funds had been switched it effectively said it agreed with her, and it was not its advice for Mrs D to remain invested at that point.*

*Kingsfleet Wealth said this was incorrect, and its advice was for Mrs D to remain invested.*

*As the parties couldn't reach an agreement the case has been passed to me to decide.*

### ***What I've provisionally 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've come to the same conclusions as the investigator on the merits of the complaint, and largely for the same reasons. However having carefully considered the matter, I think fair compensation should be slightly different.*

*Kingsfleet Wealth was required to comply with the Regulator's Principles for Business and its Conduct of Business Rules (COBS). The Principles required it to, amongst other things, conduct its business with due skill, care and diligence and take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who was entitled to rely upon its judgment.*

COBS 9 required it to, in summary, take reasonable steps to ensure that a personal recommendation or decision to trade was suitable for its client. In doing so, it needed to obtain such information as was necessary for it to understand the essential facts about Mrs D and have a reasonable basis for believing its recommendation was suitable to meet her investment objectives; ensure Mrs D was able financially to bear any related investment risks consistent with her investment objectives; and had the necessary experience and knowledge in order to understand the risks involved in the transaction.

For the same reasons as set out by the investigator, I'm not satisfied that it did obtain sufficient information about Mrs D's circumstances in December 2019 to understand the essential facts and have a reasonable basis for believing its recommendation was suitable. Again, for the same reasons as set out by the investigator, I don't think its recommendation to switch to the balanced fund was aligned to Mrs D's objectives at that time. And from the information that was available, it doesn't appear that Mrs D was able to financially bear the risk its presented. In my view the recommendation presented a greater degree of risk than Mrs D should have been recommended to take, and wasn't suitable in all the circumstances.

I've listened to the telephone calls that Mrs D had with the adviser in March 2020. I accept in the first call the adviser was recommending that Mrs D remain invested. He talked about the difficulties of timing the market – both disinvesting and then re-investing. In a wider context, I don't think this was unreasonable. But Mrs D was invested in a portfolio that presented a greater degree of risk than she should have been recommended to take. Its volatility and the impact on Mrs D was greater than it would otherwise have been had Mrs D already been invested in a portfolio presenting lesser risk (and some money set aside to meet her objectives).

In any event, in the call with Mrs D on 16 March 2020 when the adviser confirmed that Mrs D's funds had been moved to cash, he said that this is what he was going to advise her anyway – that he now thought it was the right time to make that switch. The adviser had previously talked in general terms about how markets could have significant falls but recovered over time, and he thought this was no different. But he said in the 16 March 2020 he now thought this time it did feel different.

Whilst I accept that Mrs D had already instructed the firm to switch her to cash before this call, in my view Mrs D would have left the call understanding the firm had endorsed that decision; she wouldn't have gone away with the understanding that the firm's view was to remain invested.

However, whether the firm had endorsed the decision or not, in my view it wasn't an unreasonable decision in the circumstances. Given the reason behind the market volatility at that time there was a lot of uncertainty. The evidence clearly shows that Mrs D was very worried about her pension. But as I've said, the volatility was, in large part, because she was invested at a greater degree of risk than was suitable for her and would otherwise have been exposed to. I accept that more cautiously invested funds also suffered volatility in this period. But not to the same degree. And Mrs D would have had £50,000 in cash if suitable advice had been given in December 2019. The funds that the firm were recommending Mrs D stay in were unsuitable. So I don't think it would be reasonable for the firm to say as the fund recovered (and more) that it shows Mrs D should have remained invested – the funds were unsuitable and could have suffered further losses.

My understanding is that the value of the funds had fallen to approximately £233,000 by the time that Mrs D switched to cash (albeit the fund had fallen further by the time the switch had been completed). This was from a value of around £260,000 in early December 2019, and Mrs D has said its value on 20 February 2020 was approximately £285,000. Mrs D has confirmed that she switched back into funds on 12 June 2020 following advice from her new adviser. So there was a considerable fall in the value of her fund before she actually made the decision to switch to cash.

Taking all the above into account, like the investigator, I think the firm should have recommended

*that Mrs D switch £50,000 into cash and invest the remainder at a lower risk in December 2019. Given the £50,000 would have met her shorter term needs, and that investing in line with the degree of risk that is a proxy for the benchmark recommended by the investigator, I don't think she would likely have switched the remainder into cash in March 2020 if she'd been suitably invested. As I said, she didn't switch into cash until her actual fund had fallen in value significantly. I don't think she would have experienced the same level of falls if she had been invested appropriately in December 2019.*

*At the same time, if she had been in suitable funds in December 2019 and with the £50,000 in cash, she would also unlikely have seen the same increases in value that she saw with her balanced portfolio during the period up to March 2020. So the extent of the subsequent falls during that period would unlikely be the same using that benchmark index.*

*For the reason I have outlined above, I don't think the firm met its regulatory obligations as I have outlined above in the Principles or COBs. I don't think the advice given to Mrs D was suitable.*

Accordingly, I said my provisional decision was to uphold Mrs D's complaint.

I went on to outline how I thought Kingsfleet Wealth should calculate and pay fair compensation.

I said that in calculating fair compensation, my aim was to put Mrs D as close as possible to the position she would probably now be in if she had been given suitable advice. I said I thought Mrs D would have invested differently. And it wasn't possible to say *precisely* what she would have done. But I recommended a comparison against a benchmark that I thought was reasonable given Mrs D's circumstances and objectives in December 2019. I said I also thought that Mrs D would have allocated £50,000 to cash after her annual review, and before investing in a different risk profile, to cover her planned expenditure and debt repayment. And that this should be taken into account in the calculation.

I asked Mrs D and Kingsfleet Wealth to let me have any further evidence or arguments that they wanted me to consider before I made my final decision.

Kingsfleet Wealth responded to say that the key issue was Mrs D's clarity of objective in the review meeting held in December 2019, rather than in the subsequent phone calls. It said, in summary, that Mrs D hadn't made up her mind about the level of tax-free cash she wanted to take at the December 2019 review meeting. It said it was apparent that the amount that Mrs D was looking to draw and the date or dates when this would happen were unknown, but the amount was significantly less than £50,000. And it had left the matter for Mrs D to think about and let it know her decision. Therefore the assumption that Mrs D should have been advised to switch £50,000 into cash following that meeting wasn't appropriate.

Kingsfleet Wealth said the rapid reduction in the value of global markets impacted all risk portfolios, and so only moving to 100% cash would have preserved the tax-free cash available at the time. But it would have been irresponsible for it to have moved 100% of Mrs D's pension fund to cash in December 2019 – this would have assumed some foreknowledge of the subsequent events.

Kingsfleet Wealth said Mrs D called it on 16 March 2020 to say she wanted to switch to cash. This was 14 days after it had told her that in order to move to cash it would simply need e-mail verification from her. It said by the time it had spoken to Mrs D on the 16 March it had already carried out Mrs D's instructions to move her whole fund into cash. It said it appeared Mrs D was under pressure from her ex-husband (a stockbroker) to move into cash and that Kingsfleet Wealth weren't the sole advisers.

So it said if it had known of Mrs D's plans in the December 2009 meeting it would have instigated a move into cash at an earlier stage. However given the market falls in March 2020 the level of tax-free cash would still have been lower. Mrs D delayed making her decision to move into cash for a two-week period in which time the market had fallen. This was to Mrs D's detriment.

I responded to Kingsfleet Wealth Limited on 6 October 2022. A copy was sent to Mrs D. I said that I'd reviewed the matter in light of Kingsfleet Wealth's submission that Mrs D hadn't made up her mind about the level of tax-free cash she wanted to take at the December 2019 review meeting.

I said, in summary, that I thought Mrs D's intention to take some of her tax-free cash in 2020 was clear in the December 2019 meeting. And Mrs D had been advised to lower the level of risk she was taking by switching from an adventurous risk profile to balanced. The letter sent to Mrs D dated 9 December 2019 recommending to reduce the risk profile said "*...it could have significant movements in valuation over the short term which would not sit well with the intention of drawing funds in the next 12 months.*" The same letter confirmed the funds would be drawn in August 2020 for the purpose of partial or whole repayment of the mortgage.

I said I thought the balanced portfolio still presented significant risks given its asset make up. And for the reasons I explained in my provisional decision, I didn't think the balanced portfolio was suitable given Mrs D's circumstances – it would still "*...not sit well*" with her intentions, and in my view Mrs D should have been advised to switch into a more cautious risk portfolio.

Kingsfleet Wealth had said as Mrs D was always going to be looking at drawdown, moving to a cautious portfolio for her long term objectives would also have been inappropriate. However I thought even if she was going into drawdown longer term (if that was suitable for her circumstances), the fact she'd identified she wanted to take tax-free cash within a few months meant a cautious portfolio was appropriate for the shorter term. I said the make-up of the balanced portfolio meant it presented significant investment risk and could impact on the tax-free cash required if markets fell. I said the degree of risk for the portfolio could then be reviewed after Mrs D had taken the tax-free cash she required to ensure it was suitable for her longer-term objectives.

However I said I thought if Mrs D had been switched into a cautious portfolio in December 2019, and her position had been less exposed to market risk, there would have been no urgent need at that time (December 2019) to move a proportion of her funds to cash. The investment markets weren't seeing the high volatility subsequently seen in 2020. So on reflection, I said I agreed that Mrs D hadn't made up her mind about the level of tax-free cash she wanted in the December 2019 meeting. And in the context that, with suitable advice, Mrs D would have been invested in funds presenting less risk, I said I agreed that Kingsfleet Wealth wasn't obliged to advise Mrs D to switch £50,000 into cash at that time.

I said I'd gone onto consider whether Mrs D, if she had been invested more cautiously from December 2019, would have then gone onto switch her pension into cash in February/March 2020. The firm had previously said that even if Mrs D had been in a cautious portfolio it would have been subject to market volatility in early 2020. And I agreed that was the case.

However I said a portfolio reflecting the 50/50 index I recommended as a proxy for the degree of risk that Mrs D should have been recommended to take was subject to materially less volatility as the balanced portfolio that Mrs D had been recommended.

I didn't think it was likely that Mrs D would have switched any of her pension to cash if she had been suitably invested from December 2019 in line with the degree of risk represented by the 50/50 benchmark. I said I didn't think its value would have fallen to the same value it actually did at the time Mrs D decided to switch (16 March 2020).

However, I went on to say that if I was wrong about that, and its value (if invested in line with the 50/50 benchmark) would have fallen to the same value sometime prior to Mrs D transferred to the new pension, I thought it was reasonable to assume that Mrs D would have made the same decision to switch her entire pension to cash and on the date it fell to that same value. So I said if that was the case, Kingsfleet Wealth should assume Mrs D decided to switch 100% to cash on the date its value fell to the same amount as when she actually instructed it to make that switch. And that Kingsfleet Wealth should also assume the time taken to complete the switch mirrored the time taken on the actual switch.

So I said Kingsfleet Wealth should calculate and pay compensation to Mrs D as I set out in my provisional decision, but without assuming that she would have allocated £50,000 into cash in December 2019. And assuming she didn't subsequently switch into cash unless the conditions I'd described were met.

I asked both parties to let me have any further evidence or arguments before I made my final decision.

Mrs D said, in summary, that she agreed that she hadn't made up her mind about the sum of money she wanted to draw in the December 2019 meeting. However she said if the adviser had asked her to decide how much tax-free cash she would require and explained the reasons for it, she would have given Kingsfleet the exact sum. So the necessary steps to reduce risks could have been taken.

Mrs D strongly disagreed with some of the firm's comments. In particular she was unhappy with Kingsfleet Wealth's references to her ex-husband and his role in the matter; she said she hadn't spoken to him about her pension. She said the adviser was her only financial adviser at the time.

Kingsfleet Wealth Limited said it still didn't agree that its advice for Mrs D to reduce her risk profile from adventurous to balanced was unsuitable. It said it had also reviewed the performance of the balanced portfolio with a cautious portfolio. And both fell near enough by the same amount. It thought due to market conditions at the time Mrs D would always have switched to cash and crystallised her loss. So Mrs D's position, whichever portfolio she was in, would have been the same. It said any loss calculation should be based on a comparison of the cautious portfolio, and it was unclear why I had suggested redress be based against the benchmark I had recommended.

### **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've seen no reason to depart from my provisional findings that Mrs D's complaint should be upheld.

I've only summarised the responses to my provisional decision and 6 October 2022 letter, but I have taken all what was said and provided into account.

For the reasons set out in my provisional decision, I'm not persuaded that the balanced fund recommended for Mrs D was suitable in the circumstances. In my view its asset content provided a greater degree of risk than Mrs D was able to financially bear, and wasn't suitable

for her circumstances. I also don't think a balanced degree of risk was suitable in any event given Mrs D's objectives and overall circumstances – I think she had limited capacity to financially bear such risk.

For the reasons given, I think Kingsfleet Wealth should have advised Mrs D to switch into a portfolio presenting a more cautious level of risk in December 2019. In doing so she would have had less exposure to riskier assets. But for the reasons I explained in my letter dated 6 October 2022, I don't think Kingsfleet was obliged to advise Mrs D to switch £50,000 of her portfolio into cash at that time (December 2019).

I think whether or not Mrs D would have subsequently switched her pension into cash is dependent on how her fund would have performed if it had been suitably invested in line with the 50/50 benchmark I'd recommended. Whilst the asset make-up of this benchmark had less exposure to risk, as I said, it was nevertheless subject to market volatility given the extreme volatility seen during early 2020. But although Mrs D was considering switching due to the volatility, she didn't decide to do so until the value of her pension had fallen significantly. And I think it's reasonable to conclude that Mrs D would have decided to make the same decision to switch if the fund she had been suitably invested in also fell to the same value.

Kingsfleet Wealth has questioned the use of the 50/50 benchmark for redress calculation purposes. The degree of risk presented by the cautious portfolio it referred to will depend on the particular asset content of that portfolio. Like the 'balanced' portfolio it recommended which I think presented significant risks, there can be differences of opinion between different investment managers about what mix of assets represents different levels of risk. Kingsfleet Wealth has previously also referred to the "IA Mixed Investment 20-60%" shares benchmark as an appropriate comparator for a cautious portfolio. I accept choosing an appropriate comparator is a matter of judgement. But in my view the 50/50 benchmark provides an objective comparator and is an appropriate proxy for the limited level of risk I think was suitable for Mrs D in the particular circumstances.

## **Putting things right**

### **Fair compensation**

In assessing what would be fair compensation, my aim is to put Mrs D as close as possible to the position she would probably now be in if she had been given suitable advice.

I think Mrs D would have invested differently. It is not possible to say *precisely* what she would have done, but I am satisfied that what I have set out below is fair and reasonable given Mrs D's circumstances and objectives in December 2019.

### **What should Kingsfleet Wealth Limited do?**

To compensate Mrs D fairly Kingsfleet Wealth Limited should:

- Compare the performance of Mrs D's investment with that of the benchmark shown below. If the *fair value* is greater than the *actual value*, there is a loss and compensation is payable. If the *actual value* is greater than the *fair value*, no compensation is payable.
- It should also pay any interest set out below.
- If there is a loss, Kingsfleet Wealth Limited should pay into Mrs D's pension plan, to increase its value by the amount of the compensation and any interest. Its payment

should allow for the effect of charges and any available tax relief. Kingsfleet Wealth Limited shouldn't pay the compensation into the pension plan if it would conflict with any existing protection or allowance.

- If Kingsfleet Wealth Limited is unable to pay the compensation into Mrs D's pension plan it should pay that amount direct to her. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore, the compensation should be reduced to *notionally* allow for any income tax that would otherwise have been paid.
- The *notional* allowance should be calculated using Mrs D's actual or expected marginal rate of tax at her selected retirement age. I think Mrs D is likely to be a basic rate taxpayer in retirement, so the reduction should equal the current basic rate of tax. However, if Mrs D would have been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation. i.e. which is equivalent to 15% on the full amount.

investment name	Benchmark	from ("start date")	to ("end date")	additional return
Pension portfolio	for half the investment: FTSE UK Private Investors Income Total Return Index; for the other half: average rate from fixed rate bonds	18 December 2019 (to allow for reflection on and implementation of recommendation as per letter of 9 December 2019)	Date transferred to new pension	The loss calculated as at the "end date" should be revalued in line with the same benchmark up until the date of this final decision.

In addition:

- Kingsfleet Wealth Limited should pay Mrs D £500 for the distress and inconvenience caused by the worry and disruption to Mrs D's plans that resulted from the unsuitable advice. Mrs D has suggested a higher figure, but in my view £500 is appropriate in the circumstances.
- Mrs D incurred charges from her new adviser. I don't think Mrs D should be charged twice to have her funds suitably invested. The fee she paid to her new adviser was a matter between Mrs D and the adviser. However she had also paid a fee to Kingsfleet Wealth Limited for ongoing services, including the annual review. I understand this was 0.75%. So I think Kingsfleet Wealth Limited should also pay Mrs D 0.75% of the value that was transferred to the new pension provider as a proxy to reimburse fees she paid for having to put things right.
- Interest at the rate of 8% simple per year should be added to the loss calculated at final decision date to the date of settlement if settlement isn't made within 28 days of Kingsfleet Wealth Limited being notified of Mrs D's acceptance of a final decision.

- Kingsfleet Wealth Limited should provide details of the calculation to Mrs D in a clear, simple format. Income tax may be payable on any interest paid. If Kingsfleet Wealth Limited considers that it's required by HM Revenue & Customs to deduct income tax from the interest, it should tell Mrs D how much it's taken off. It should also give Mrs D a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

### ***Actual value***

This means the actual amount payable from the pension at the 'end date'.

### ***Fair value***

This is what the pension would have been worth at the 'end date' had it produced a return using the benchmark.

To arrive at the *fair value* when using the fixed rate bonds as the benchmark, Kingsfleet Wealth Limited should use the monthly average rate for one-year fixed-rate bonds as published by the Bank of England. The rate for each month is that shown as at the end of the previous month. Kingsfleet Wealth Limited should apply those rates to the investment on an annually compounded basis.

Any withdrawal, income or other distribution out of the investment 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 is a large number of regular payments, to keep calculations simpler, I'll accept if you total all those payments and deduct that figure at the end instead of deducting periodically.

If, sometime prior to Mrs D transferring to the new pension the value of her fund (if invested in line with the 50/50 benchmark) would have fallen to the same value as Mrs D's actual pension when she decided to switch, Kingsfleet Wealth should assume Mrs D would have made the same decision to switch her entire pension to cash and on the date it fell to that same value in its calculation. It should assume the time taken to complete the switch mirrored the time taken on the actual switch.

### **Why is this remedy suitable?**

I've chosen this method of compensation because:

- 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 her 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 D'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 D into that position. It does not mean that Mrs D would have invested 50% of her 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 D could have obtained from investments suited to her objective and risk attitude.

**My final decision**

My final decision is that I uphold Mrs D's complaint.

Kingsfleet Wealth Limited should calculate and pay compensation to Mrs D on the basis I have outlined above under "Putting things right".

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs D to accept or reject my decision before 22 November 2022.

David Ashley  
**Ombudsman**