DRN-3842647

The complaint

The complaint is about advice from Wealthmasters Financial Management Ltd (WFM). The advice was to invest in unregulated investments. The trustees of the Small Self Administered Scheme (SSAS) thought that the recommended investments were too high risk.

Mr and Mr C are the trustees of the SSAS and have both consented to our service looking into this complaint. The trustees are being represented. All references to the trustees and/ or Mrs C will include submissions made by the representative.

What happened

I issued a second provisional decision on 15 November 2022. Only the trustees via their representative provided any further response. They said:

"If Wealthmasters Financial Management Ltd does not pay the recommended amount, then any investment currently illiquid should be retained by the trustees…' this is seemingly at odds with the fact that she [the Ombudsman] *has upheld the complaint and made a decision that Wealthmasters must compensate our clients for their losses.*

To avoid any issues regarding interpretation we would respectfully request that the decision is amended so that it is unequivocal that Wealthmasters must compensate my clients up to £160,000. Wealthmasters must pay the compensation. My clients would be happy to provide an undertaking that, on the basis that Wealthmasters pays them their compensation in full, they will hold any proceeds from their investment on account for Wealthmasters but that is on the strict understanding that they are compensated for their losses."

I set out the background to this complaint in my provisional decision. This remains unchanged as follows:

The SSAS was set up on 29 April 2013. At this point Mr C and a professional trustee were the only 'trustees'. Mrs C was appointed trustee of the SSAS on 31 December 2013. And in or around February 2014, WFM recommended to Mrs C that she transfer £100,000 into the SSAS which she did through her employer.

On 28 July 2014, a suitability letter was prepared for Mrs C but related only to the £100,000 held in the SSAS. WFM recommended that the £100,000 held in the SSAS be invested into two separate investments.

Before setting out his recommendations under the heading "Introduction to Alternative Investments," the adviser said:

"Investors and savers who only allocate their money to mainstream investments will have their entire worth linked to the economic cycle, and therefore may be concerned that when they seek to crystallise their investments they run the risk of this coinciding with a low point in the cyclical nature of markets and derivatives. Alternative Investments work in isolation from such cycles, allowing investors to mitigate this risk by accessing non-correlated, niche asset classes - providing diversification."

The adviser went on to recommend that £50,000 should be invested in Dolphin Capital Loan Notes (Dolphin) and a further £50,000 in Greyfriars Asset Management LLP Portfolio Six (P6 or Greyfriars P6) via a Novia General Investment Account (GIA).

In terms of the Dolphin investment the suitability report set out the main characteristics as follows:

- *Dolphin Capital loans money from qualifying individuals in return for a fixed interest payment which would be encapsulated in a legally binding loan contract.*
- *All investment contracts and other associated documentation had been carefully created by lawyers in the UK and Germany.*
- *Dolphin had a five year trading history and had completed over 200 units.*
- *Interest rates of up to 14% per year were achievable when the longer term options were chosen which were 3 and 5 year term options.*
- *The investment was secured with a first legal charge on the underlying asset class, which was noted to be German Listed Buildings.*

Under 'risk factors' the suitability report said:

- *This was an unregulated investment.*
- *In the event of Dolphin Capital experiencing unforeseen prolonged adverse markets this could result in having an adverse effect on the interest payable and the return of investor's capital. In the very worst case scenario, this could result in all or some of the investment being lost.*
- *There were various development risks associated with the construction industry.*
- *There was an exchange rate risk.*
- *The interest was fixed for the term chosen but could not be considered guaranteed.*
- *Return of capital could not be guaranteed.*

The suitability report noted the risk factors were mitigated by:

- *Careful planning of its development and construction programme and ensuring agreements were in place to purchase the completed properties prior to committing investor's funds (i.e. 'sold off plan').*
- *Strong demand for completed Listed Buildings and high demand for New Homes.*
- *The contrarian view that any break-up of the Euro and the Eurozone reverts to national currencies was likely to lead to a rise in the re-adopted Deutschmark as a strong currency.*
- *Investor's funds were to be held in a separate client account with a law firm until required and then only released in stages as the work progressed.*
- *The SPV (Special Purpose Vehicle) held the first legal charge which secured the investors capital and interest.*
- *An independent trustee represents the interests of all investors.*
- *Dolphin maintains a contingency reserve to cover any exchange rate movements.*
- *It had a good credit rating.*

In terms of the P6 investment the adviser described this investment opportunity as: "P'6 is a portfolio of investments specifically designed to allow investors to gain exposure to both noncorrelated and niche investments under one professionally managed umbrella. The types of Investments within P'6 are not necessarily all accessible to the general investor and therefore P'6 allows for greater accessibility. Each investment is carefully selected on its own merit to perform independently of major markets, with management focusing on key opportunities in a variety of sectors as opposed to market trends."

The adviser said the benefits of the P6 investment included, buying power and economies of scale; spread of investments to create diversification; income return available six-monthly and exit at any time at no additional fee; based on back-tested data from 2011, steady income returns of around 6% per year with low volatility; and potential for capital growth.

Amongst other things, under risk factors for the P6 the adviser said: "The nature of the investments is such that they will be illiquid as they are not quoted on any stockmarket or bourse, disposal may not be possible at any price and, if the fund manager can make a sale, the price cannot be guaranteed. The fund manager does provide some liquidity through a warehousing facility but, in extremis, this may not function."

In conclusion, the adviser noted under 'Unique Product Warning' that (bold adviser's emphasis): ***"I confirm that Dolphin Capital and Greyfriars Portfolio 6 are unique products. They cannot be directly compared to any other product offered by other companies in the marketplace. Taking into account your current circumstances and stated objectives, I would advise that these plans are suitable for you and are in line with your attitude to risk for these investments."***

In its application form, Greyfriars described its service as a Discretionary Fund Management (DFM) service. And that its P6 portfolio was described as: "[it] may wholly consist of non-pooled investments such as Exchange Traded Funds, simple deposits and asset backed securities and our discretion extends to investments in unregulated investments such as direct investments into commercial property or unquoted corporate bonds, but will never include 'Unregulated Collective Investment Schemes' (UCIS) or 'Non Mainstream Pooled Investments' (NMPI)."

The trustees agreed to both recommendations and signed applications for both the Dolphin loan notes and Greyfriars P6.

The application form was completed by the trustees for the P6 investments in August 2014. Under the heading 'Application Form – Adviser as Client', the intermediary declaration signed by the WFM adviser confirmed the following:

- *Greyfriars DFM service, and it's fee of 0.5% (plus VAT) was suitable for the underlying investor.*
- *The 'Appropriateness Flowchart for Portfolio Six' has been accurately and fully completed and the result confirms the appropriateness of this portfolio and the underlying investments for the underlying investor.*
- *The objectives and mandate against which P6 will be managed was suitable for the risk profile and financial circumstances of the underlying investor.*
- *The investment in unregulated investments to the proportions of potentially up to 100% is suitable for the risk profile, financial circumstances, knowledge and experience of the underlying investor.*

The 'underlying investor' in this context was stated to be the SSAS trustees. On 12 August 2014, an application for a Novia GIA was completed by the trustees. The WFM adviser's details were given under the adviser section.

The GIA valuation statement dated 3 September 2015 showed the SSAS funds were invested as follows:

- *Cash: £3,172*
- *ABC Bond IV: £12,182*

- *Enviroparks Bond: £12,182*
- *Lateral Eco Parks CB: £12,419*
- *Olmsted Bond SII: £12,182*

On 20 August 2014, the trustees became the registered holders of £50,000 in Dolphin Capital 'Secured Loan Notes'.

In October 2018 Greyfriars went into administration. And in 2020 Dolphin Capital and other associated companies entered into preliminary bankruptcy proceedings in Germany. Mr and Mrs C started to raise concerns with WFM in 2019 and in 2020, they raised a formal complaint about the investments that had been made via the SSAS.

The professional trustee ceased to be a trustee of the SSAS as of 25 February 2021 following a 'deed of removal' completed by Mr and Mrs C who remained the only trustees of the SSAS.

In brief, our investigator recommended upholding the complaint based on the advice being given to Mrs C as the eligible complainant. She said based on Mrs C's circumstances she didn't think she (Mrs C) was a 'sophisticated investor' or a 'high net worth individual' as WFM had claimed. Our investigator didn't think the Dolphin or Greyfriars P6 investments were suitable for Mrs C.

WFM disagreed. It said the SSAS was the eligible complainant and that Mr and Mrs C should be seen as both complainants rather than Mrs C on her own. It said on this basis, the investments were suitable as together they were high net worth individuals and sophisticated investors.

Both parties have now provided further submissions to my [first] *provisional decision in which I said I intended to uphold the complaint.*

Mrs C, through her representatives, has said she wanted the cost covered of the SSAS. She has provided evidence of the costs associated with the Greyfriars P6 investments which is held in a separate GIA account. She said if it wasn't for the advice of WFM she would not continue to incur the cost of this account which remains open and the illiquid assets cannot be removed at present.

WFM responded saying that Mr C, who is also a trustee, is a sophisticated investor and therefore, this knowledge and experience extends to all the trustees. It said any decision made by one trustee, is made for all trustees so Mr C's knowledge as a sophisticated investor is relevant to whether or not the recommendation was suitable for Mrs C. It pointed to various investments Mr C had in unregulated investments and says his knowledge alone means the recommendation was suitable for the trustees.

Following these representations, I said my decision to uphold the complaint remained unchanged. However, I agreed with the trustees of the SSAS that the fees of the GIA should be covered for a period of time. But I did not agree that this applied to the Dolphin investment – the reasons for this are set out below. So, I issued a second provisional decision and amended the redress accordingly.

Now that both parties have had an opportunity to respond to both the first and second provisional decision, the matter has been passed back to me for a final decision.

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 set out my reasoning for my decision in my first provisional decision as follows – this reasoning now forms part of my final decision:

Who is the eligible complainant in this case

When our investigator looked into this complaint, she said that Mrs C was the eligible complainant. But WFM disagreed with this saying that Mr and Mrs C were the trustees of the SSAS so should be treated as 'one client' rather than two. I agree with this. I think that because the advice was being given about how to use funds held in the SSAS this could only be actioned by a trustee. So, in this case the correct eligible complainants are the trustees of the SSAS.

The jurisdiction of the Financial Ombudsman Service is set out in the Dispute Resolution: Complaints Sourcebook (DISP) section of the regulator's handbook. At the point of the complaint to WFM in August 2020, DISP 2.7.3R provided:

"An eligible complainant must be a person that is:

(1) a consumer;
[…]
(4) a trustee of a trust which has a net asset value of less than £5 million at the time the complainant refers the complaint to the respondent."

It is agreed that the complainants were trustees. This fact is not disputed by WFM from its submissions to this service. And it's clear from the contemporaneous documents from the time of the advice to Mrs C in July 2014, that WFM were acting as advisers to her and that she was a trustee of the SSAS. It's also not in dispute that this advice led to both the Dolphin and Greyfriars P6 investments being made. This is made clear in various documents including the GIA application form where WFM were listed as advisers. WFM also had to confirm in the application form for the Greyfriars P6 application that it had assessed the suitability of the underlying client who in this case, was listed as the trustees of the SSAS.

Was the advice suitable

The advice that is being complained about is the advice dated 28 July 2014 that was addressed to Mrs C. In the suitability letter the adviser said that she should invest £100,000 in the Dolphin and Greyfriars P6 investments via the SSAS.

Dolphin loan notes was an unregulated investment. The promotion of such schemes was restricted by the Conduct of Business Sourcebook (COBS) 4.12.3R. But as WFM has alluded to, whilst Mrs C on her own may not have qualified for such promotions, it was the SSAS that the Dolphin investments was being promoted to. The SSAS had net assets of £250,000 which is what is required to meet the high net worth individual test as set out in COBS 4.12.6R. So, on this basis, I think the promotion of the Dolphin investment didn't breach the regulatory rules in terms of promoting this type of investment.

Regardless of whether the adviser should've promoted the investment to the trustees it still had to be suitable, and I am not satisfied it was. WFM had to obtain the information necessary for it to have a reasonable basis for believing that what it recommended: met the clients investment objectives; is such that the client can bear the investment risk; is such that the client has the necessary experience and knowledge to understand the risks (COBS 9.2.2).

From what I can see the only information gathered about the trustees related to Mr and

Mrs C. There is no information as to what experience and knowledge the professional trustee had. However, from the professional trustee's members guide, its primary purpose was to provide SSAS administration services and to govern the SSAS in line with the legal requirements set out by HMRC.

The SSAS members guide, which was provided to this service by WFM, said: "We [the professional trustees] recommend that member trustees take appropriate advice from an independent financial adviser…".

So, there is nothing to suggest they (the professional trustees) had any experience in financial matters beyond that of the member trustees, Mr and Mrs C. The members guide goes on to say: "The member trustees control the funds in the SSAS, subject to the Trust Deed and Rules of the scheme, and are free to appoint the investment adviser of their choice to help take advantage of the wide range of investment opportunities open to them." In this case, the members trustees who were Mr and Mrs C, chose WFM as their advisers in respect of choosing investments to be held via the SSAS.

From the information that is available, I don't accept any of the member trustees were sophisticated investors. Mr and Mrs C ran their own business, but I haven't seen any evidence to show that they had experience in investing in anything outside of mainstream investments.

That said, Mr C was advised to invest in an Enterprise Investment Scheme (EIS) via the SSAS in December 2013 and did have some mainstream investments via a Stocks and Shares Individual Savings Account. An EIS is a government scheme to help encourage investors to invest in unquoted, small trading companies. This was an unregulated product. And Mr C was recommended by WFM to invest £250,000 in an EIS in or around December 2013 via the SSAS.

But I don't think this meant any of the trustees were experienced or sophisticated investors due to this one investment, which was a recommendation made by WFM only a few months before the Dolphin and Greyfriars investments. Given this, I don't think the fact the SSAS was already holding an unregulated investment meant that the trustees had sufficient experience and/ or knowledge to fully appreciate the risks involved in the Dolphin loan notes.

Despite this lack of experience, both Mr and Mrs C were categorised as either 'moderately adventurous' or 'adventurous' meaning they were willing to accept high risks and a chance of loss in order to achieve higher returns on his or her investments. But there is no record of either of them having any extensive investment knowledge or experience apart from what I've set out above. Mrs C herself had no investment experience according to the fact find that was completed in February 2013.

Given what I've said, it isn't clear how the attitude to risk for the trustees was assessed as adventurous. This was defined as someone willing to take a higher level of risk in return for the potential for higher returns in the longer term. I'm not satisfied that this definition reflects the risks that the trustees were prepared to take. It doesn't match their previous experience of investing.

Given the clear lack of experience of either trustee, I think that WFM had to make it clear what the risks were in investing in the type of unregulated investment the Dolphin loan notes were. I've set out above what was said about this investment in the suitability report. The Dolphin loan notes were extremely complex and carried significant risks. I think the suitability report downplayed these risks. For example, whilst highlighting some of the risks, it also went on to discuss the mitigation of these risks. Further, I can't see that at any point the suitability report said the Dolphin investment was a 'high' risk investment or gave the impression that it was.

All in all, I don't think the trustees were given clear, fair and not misleading information such that they could make an informed choice about whether the Dolphin investment was a suitable investment to make on Mrs C's behalf. I also think that recommending such a high proportion of the available funds to be invested in one single fund, was unsuitable.

The other investment recommended by WFM on 28 July 2014, was in the Greyfriars DFM service. Despite already recommending Dolphin loan notes, which itself was an unregulated investment, WFM went on to recommend investing in Greyfriars Portfolio Six (P6). When looking at the composition of the P6, it was made up of a range of bonds which are connected to niche investment markets such as:

- *Investing in a business that ran serviced offices.*
- *Investing in the development of a waste treatment and energy recovery facility.*
- *Investing in a commercial property development in the United States of America.*
- *Investing in a renewable energy development.*

I think that individually these investments would, on balance, be considered suitable for more experienced investors who have the capacity to take higher risk. Further, the P6 was only set up in April 2014, so had no track record by the time the investment was recommended in July 2014. WFM was providing advice to the trustees about how to invest Mrs C's pension funds. And I think it should have properly explained the risks involved with a portfolio that had no track record and would almost exclusively be investing in unregulated investments. Again, I can't see how recommending such a high proportion of the available funds to be invested in unregulated, high risk, illiquid funds, was a reasonable recommendation to make.

The application form for the P6 was signed by the adviser to confirm he was aware the investments that were part of the P6 composition, were likely to be in unregulated investments up to potentially 100% of the portfolio. The form asked the adviser to confirm the chosen portfolio was suitable for the risk profile, financial circumstances, knowledge and experience of the underlying investor, who in this case were the trustees of the SSAS. But as I've already said, the assessments that were carried out on at least two of the trustees, showed they had little or no investment experience of such investments.

The main objective for the trustees was to provide Mrs C with sufficient income for her retirement. And the fact find completed for Mr and Mrs C showed this was one of their primary objectives. Whilst Mrs C had a significant amount of time before her likely retirement date, so could afford to take some level of risk, I don't think the trustees would have put her pension funds at the level of risk that they did if they'd been properly advised.

Based on the above, my first provisional decision recommended upholding the complaint. I set out the redress to be paid but did not order that WFM pay the fees for the SSAS or the GIA. The trustees of the SSAS challenged this. They also corrected the investment in the SSAS that was referred to as an 'EIS'. WFM also provided responses similar to those it had provided previously. So, I issued a second provisional decision which also now forms part of my final decision and added the following reasoning for my decision:

In terms of what WFM has said [in response to my first provisional decision]*, I can't see that it has added anything substantially new to its previous submissions to this service. So, I'm not persuaded that anything it says has changed my mind.*

I took into account in the first provisional decision the knowledge and experience of the other trustees including Mr C. I note the EIS it refers to was in fact unquoted shares rather than an EIS. Nonetheless, it was still an unregulated investment and I did take this and other factors

of Mr C's knowledge and experience into account. And as I said even if Mrs C or Mr C were correctly classified as 'sophisticated investors' so that the investments could be promoted to them, the recommended investments still needed to be suitable. For all the reasons set out above, I do not think either the Dolphin investment or the Greyfriars P6 were suitable recommendations to make.

In terms of the trustees further submissions, they have argued that the fees for the SSAS should be covered for five years which is our usual approach. But this is only something our service would normally award where the pension wrapper itself was considered unsuitable. And therefore the SSAS only existed because of the unsuitable advice. In this case, the SSAS was already in existence when Mrs C paid her funds into the SSAS. And I don't think the recommendation to invest her pension funds into the SSAS was, in itself, unsuitable. It is the investments that were unsuitable based on the reasons I've set out above.

However, I can see that the Novia GIA account was only set up to hold the Greyfriars P6 investments which are now illiquid. So, I consider WFM should cover the fees for the GIA if the account cannot be closed and is still incurring fees as the statements sent to our service indicate it is. So, I've amended the redress accordingly.

I will now deal with the submissions made by the trustees' representatives in response to my second provisional decision.

Mrs C and the other trustee of the SSAS should note that the 'recommendation' is the amount over and above the amount WFM are required to pay in redress according to our award limits. In this case, the award limit is £160,000. So, WFM are required to pay up to this amount in compensation. But I have also recommended that if the loss calculations come to more than the award limits that apply, it could also pay this to Mrs C via the SSAS. So, there should be no *"…issues regarding interpretation…",* in terms of what WFM must pay in compensation.

Putting things right

My aim is to put Mrs C, via her SSAS as close to the position she would probably be in if suitable advice had been given. I think the trustees of the SSAS acting on her behalf, would've invested differently. It's not possible to say precisely what they would have done, but I'm satisfied that what I've set out below is fair and reasonable.

What must Wealthmasters Financial Management Ltd do?

To compensate Mrs C fairly, Wealthmasters Financial Management Ltd must:

- Compare the performance of Mrs C's investments with the benchmark shown below. If the actual value is greater than the fair value, no compensation is payable. If the fair value is greater than the actual value, there is a loss and compensation is payable.
- A separate calculation should be carried out for each investment. The losses should be combined and the total is the amount of compensation payable.
- Wealthmasters Financial Management Ltd should pay into Mrs C's pension plan to increase its value by the total amount of the compensation and any interest. The amount paid should allow for the effect of charges and any available tax relief. Compensation should not be paid into the pension plan if it would conflict with any existing protection or allowance.
- If Wealthmasters Financial Management Ltd is unable to pay the total amount into the SSAS (pension plan), as the beneficiary of the pension, it should pay Mrs C that

amount direct to her. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore the total amount should be reduced to *notionally* allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount – it isn't a payment of tax to HMRC, so Mrs C won't be able to reclaim any of the reduction after compensation is paid.

- The notional allowance should be calculated using Mrs C's actual or expected marginal rate of tax at her selected retirement age. It's reasonable to assume that Mrs C is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would be equal to the basic taxpayer rate. However, if she would have been able to take a tax free lump sum, the *notional allowance* should be applied to 75% of the compensation.
- Wealthmasters Financial Management should pay Mrs C £300 for the distress and inconvenience caused by the total loss of the investments.
- Wealthmasters Financial Management Ltd should add interest as set out below. Income tax may be payable on any interest paid.

Investment name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
Dolphin Capital Loan Notes	Still exists but illiquid	FTSE UK Private Investors Income Total Return Index	Date of investment	Date of my final decision	8% simple per year from final decision to settlement (if not settled within 28 days of the business receiving the complainant's acceptance)
Greyfriars Asset Management LLP Portfolio Six	Still exists but illiquid	FTSE UK Private Investors Income Total Return Index	Date of investment	Date of my final decision	8% simple per year from final decision to settlement (if not settled within 28 days of the business receiving the complainant's acceptance)

For each investment:

Actual value

This means the actual amount paid or payable from the investment at the end date.

It may be difficult to find the actual value of the investments. This is complicated where investments are illiquid (meaning they could not be readily sold on the open market) as in this case. Wealthmasters Financial Management Ltd should take ownership of the illiquid investments by paying a commercial value acceptable to the pension provider. The amount Wealthmasters Financial Management Ltd pays should be included in the actual value before compensation is calculated.

If Wealthmasters Financial Management Ltd is unable to purchase the investment the actual value should be assumed to be nil for the purpose of calculation. Wealthmasters Financial Management Ltd may require that the trustees provide an undertaking to pay Wealthmasters Financial Management Ltd any amount they may receive from the investment in the future.

That undertaking must allow for any tax and charges that would be incurred on drawing the receipt from the pension plan. Wealthmasters Financial Management Ltd will need to meet any costs in drawing up the undertaking.

Fair value

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

As I said above, I do think the SSAS would exist even if unsuitable advice had not been given to the trustees about the investments. However, the General Investment Account holding the Greyfriars Portfolio Six investments only exists because of illiquid investments. And this wrapper only exists because of the unsuitable advice provided by Wealthmasters Financial Management Ltd.

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 Wealthmasters Financial Management Ltd taking over the investments, or this is something that the trustees 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 Wealthmasters Financial Management Ltd is unable to purchase the investments held in the General Investment Account related to the Greyfriars Portfolio Six, to provide certainty to all parties, I think it's fair that it pays the trustees 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 GIA to be closed.

Why is this remedy suitable?

I've chosen this method of compensation because:

- The trustees, on behalf of Mrs C, wanted Capital growth and was willing to accept some investment risk.
- 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.
- Although it is called income index, the mix and diversification provided within the index is close enough to allow me to use it as a reasonable measure of comparison given Mrs C's circumstances and risk attitude.

My final decision

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 the fair compensation may exceed £160,000, I can *recommend* that Wealthmasters Financial Management Ltd pays the balance.

Determination and award: I uphold the complaint. I consider that fair compensation should be calculated as set out above. My final decision is that Wealthmasters Financial Management Ltd are ***required*** to pay 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 Wealthmasters Financial Management Ltd pays the trustees the balance plus any interest on the balance as set out above.

If Wealthmasters Financial Management Ltd does not pay the **recommended** amount, then any investment currently illiquid should be retained by the trustees. This is until any future benefit that Mrs C may receive from the investment together with the compensation paid by Wealthmasters Financial Management Ltd (excluding any interest) equates to the full fair compensation as set out above.

Wealthmasters Financial Management Ltd may request an undertaking from the trustees that either they repay to Wealthmasters Financial Management Ltd any amount the trustees may receive from the investment thereafter, or if possible transfers the investment to Wealthmasters Financial Management Ltd at that point.

The trustees should be aware that any such amount would be paid into Mrs C's pension plan so they may have to realise other assets from the SSAS in order to meet the undertaking.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C and Mr C as trustees of the SSAS to accept or reject my decision before 5 January 2023.

Yolande Mcleod
Ombudsman