DRN-3967309

The complaint

In summary, Mrs S complains about the advice provided to her by Warde Graham Consulting Limited (WG). She believes the advice to take her late husband's pension as a lump sum was unsuitable. She thinks the advice has resulted in her losing the favourable tax status it would have had if it had been left in a pension, and that she has lost income.

What happened

In 2016 WG wrote to the late Mr S with advice in respect of estate planning. In June 2017 the late Mr S passed away. He was survived by Mrs S and his daughter from his previous marriage, (referred to as E).

Prior to his death, meetings had been held with WG about putting the late Mr S' pensions into a trust. The reason for doing so was to ensure that Mrs S received an income for life. Any residual funds were intended to pass to E on the death of Mrs S. Trust arrangements weren't in place prior to the late Mr S' death, and the executors of the late Mr S' estate made a different complaint about that, which I'm not considering here.

Because no nominations had been made in respect of the late Mr S' pensions, one of the providers (who I will refer to as H) paid out the proceeds from the pension as a cash lump sum. The other pension provider (who I will refer to as B), decided that Mrs S was the beneficiary entitled to receive the proceeds of the late Mr S' SIPP. She was given some options as to how she could take the money held in the SIPP.

Mrs S and the executors sought the advice of WG as to what to do with the SIPP monies. In November 2018, WG said that B had confirmed the proceeds from the SIPP couldn't be paid directly into a trust, as no trust had been nominated in the late Mr S' lifetime. The death benefits would be paid at B's discretion.

On 5 December 2018 B wrote and explained that the SIPP funds would be paid to Mrs S. It set out the options open to her.

On 7 December 2018 at 12.42 – Mrs S sent an e-mail to the solicitor administering the estate and WG's adviser. Regarding the SIPP she said the late Mr S' wish was that it went into a trust for her and E. She said she thought it best to leave the SIPP as it is was for the moment and monitor it, with WG, Mrs S and the executor meeting to decide which of the four options would be best for the trust fund.

WG's adviser responded at 12.47 the same day and said:

"*I would agree that (The late Mr S') wishes were for the pension pot to go into a trust as previously discussed, this along with the various other assets could be managed very effectively to produce a lifetime income for (Mrs S) at approximately 5% of the value and the remaining funds passed onto E later.*"

In February 2019, Mrs S wrote to B and said that she would take the proceeds from the SIPP as a cash lump sum.

On 13 February 2019 B wrote in response and said:

"You have provided us with your bank payment details to make the payment to your bank account, however we discussed the option of you taking out a dependants drawdown plan. I can confirm that we can transfer the benefits to a dependants plan set up in your name, where you can take payments from this whenever you like, for any amount. You would be able to take a lump sum from this to pay to your husband's daughter and continue to take a regular monthly income. These payments would be tax free, if we are able to settle the claim by 26 June 2019.

If you choose the drawdown option, you can complete a nomination form, so that when you die, any remaining monies can be passed onto your named beneficiaries.

I mentioned that the monies in your husband's plan were still invested in funds, and these would need to be sold in order for us to proceed with whichever decision you reach. We will not disinvest these monies until we are advised to do so, or until you have decided which option you would like to proceed with. …(WG's adviser), I have copied you into this email as per Mrs S' wishes as she would like to discuss the options more before a final decision is made."

On 13 February 2019 – Mrs S wrote to B having discussed options with WG and the executors, and decided to cash in the SIPP and transfer it to her bank account.

On 28 February 2019, B confirmed the death benefits (£312,425.70) had been paid into Mrs S bank account.

On 15 March 2019 WG sent Mrs S its report advising her to invest the proceeds from the SIPP into a wealth preservation plan to provide income for Mrs S for life, with E as the beneficiary on the death of Mrs S. A gift inter vivos policy was recommended to cover the Inheritance tax (IHT) liability for 7 years. WG said Mrs S could have changed the beneficiaries and the late Mr S wishes couldn't be fulfilled by keeping the funds in the pension with B. It went on to say that B may have made the decision when paying the funds on her death that they should be paid to her own children who were the beneficiaries of her will.

On 24 May 2019, Mrs S wrote to WG's adviser and explained she had spoken to a solicitor who said there was no need to use a trust for the SIPP money or the other estate monies. She also said her solicitor had said it was unlikely she would have an IHT liability. So, she didn't want to go ahead with the insurance policy medical.

Mrs S complained about the advice she had been given. WG responded to the complaint. In summary, it said:

- Mrs S' objectives had been to ensure the wishes of her late husband set out in his will were carried out. He didn't nominate a beneficiary under his plan with B.
- He wanted the pension invested to provide an income for Mrs S with the capital passing on her death to E.
- The pensions were encashed. The recommendation was then to set up a trust and invest the proceeds from the SIPP.
- The argument was that if Mrs S had kept the funds in the pension with B and taken the income, she could have changed the beneficiaries at any time. Leaving the possibility that E wouldn't inherit the pension funds as per the late Mr S' wishes.
- Mrs S changed to a new financial adviser shortly after receiving the recommendation

report in March 2019. It didn't think it could be held responsible for the non-investment of the funds taken from the SIPP.
- The late Mr S wanted E to inherit the remainder of his estate once Mrs S passed away. It said that if Mrs S had kept the funds in the SIPP and taken an income, she could have changed the beneficiaries at any time, therefore leaving the possibility that E would not inherit the pension funds on Mrs S' death.
- WG's adviser told Mrs S to take the tax-free lump sum pension benefit from the SIPP, as it was needed to fulfil the late Mr S' wishes.
- An email in the information provided by this service showed that executors confirmed the lump sum option should be taken as the late Mr S' wishes were that the proceeds from the policy be lodged in a trust.
- By keeping the funds in the pension, the late Mr S' wishes could not be fulfilled.
- Mrs S would have been able to change the beneficiaries to remove E. In addition, B may have made the decision when paying out the funds on Mrs S' death that the funds should be paid to Mrs S' children as they are the main beneficiaries of her will.
- It did not believe it was appropriate to reinstate the funds into the pension plan, if this could be done for the reasons provided above.

In July 2022, our investigator wrote to Mrs S explaining why he wasn't upholding the complaint. Mrs S' representative didn't agree. They explained why they thought the investigators response was wrong and set out again their concerns regarding the advice provided by WG.

As no agreement could be reached the case was passed to me to review. I asked the investigator to request the full business file from WG. And I asked him to ask Mrs S what had happened to the cash from the SIPP. WG provided its file and Mrs S explained that the monies from the SIPP had been invested in a Wrap account. And that she was taking income from that. The arrangement had been set up in August 2019 after she had taken advice from another financial adviser.

I issued a provisional decision on 27 January 2023, explaining why I was intending to uphold Mrs S' complaint. Her representative responded on her behalf. In summary they said:

- They thought Mrs S was entitled to inflation increases so an increasing annuity would be more appropriate.
- Mrs S had lost the ability to pass the pension pot down the generations outside of the estate and their estates thereafter. Having the pension pots out of trust meant her estate was worth more than it would have been from an IHT point of view which would prove costly.
- It agreed with the arguments regarding investment growth.
- Regardless of whether the investments were held in a bond or a general investment account (GIA), Mrs S was having to pay tax on investment growth that reduced the value of funds to her over time. So, they argued that Mrs S should be getting compensation for any investments made outside of the pension wrapper, that would now be taxable.
- The representative thought that £500 was a paltry amount to pay for the time and effort Mrs S had spent on the complaint. The situation would continue to cost her, and they felt £5,000 would be fairer compensation.

WG also replied. In summary it said:

- It appreciated other options were open to Mrs S, but didn't think enough consideration had been given as to why those options had been discounted.
- If treating the advice given to Mrs S in isolation, it could be persuaded by the

alternative suggested. But this was a continuation of the late Mr S' wishes and the option I had proposed failed in its opinion, to satisfactorily take this into account.
- At the time of the advice the estate was being dealt with by Mrs S' solicitor and the executor was her brother in law. So, Mrs S wasn't alone in making any decisions and all parties had the interests of Mrs S, the late Mr S and E to consider.
- The objectives at that time were to provide Mrs S with an income but to ensure E would receive any residual funds on Mrs S' death. The advice provided met these objectives and the alternatives were discounted because they might not fully meet those objectives.
- If the flexible drawdown arrangement had been selected, this would rely on a beneficiary being named. If no beneficiary was named, the same situation would be repeated with the provider making a decision and this would likely cut E out. If E was named as the beneficiary, there was nothing to stop Mrs S changing this at a later date. To rely on the fact that Mrs S would comply with these wishes several years later were by no means guaranteed (and naive). And at the time of the advice WG was seeking to secure the wishes of both Mrs S and the late Mr S. Taking the cash sum and placing it in trust achieved these whilst leaving it in the SIPP would not.

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 and having considered the responses to my provisional decision, I remain of the opinion that Mrs S' complaint should be upheld. I'll explain why.

The executors of the late Mr S' estate have made a separate complaint on behalf of the estate, about the administration and service provided by WG in relation to the late Mr S' pensions before his death. For the avoidance of any doubt I am only considering the advice provided to Mrs S in respect of the late Mr S' SIPP, and the proposed investment of the surrender proceeds from that pension.

On 26 November 2018, WG wrote to Mrs S. It explained that no nomination had been completed in relation to the SIPP. And it also said that B had confirmed that the SIPP monies couldn't be paid into a trust as a trust wasn't nominated during the late Mr S' lifetime. The e-mail concluded by saying:

"My guess is that B will pay a lump sum to you but it's up to them."

B exercised its discretion to decide who the pension benefits should be paid to. In December 2018 it said they would be paid to Mrs S. She was provided with four options as to how she could receive the pension benefits.

These were:

- A one-off lump sum cash payment.
- A guaranteed income for life (annuity)
- Flexible income drawdown
- Transfer the benefits from the pension to another provider to purchase an annuity or drawdown plan.

In its response to Mrs S' complaint, WG accepts that its representative told her to take the tax-free lump sum from the late Mr S' SIPP. And this is confirmed by the e-mail from WG's adviser on 7 December 2018, where he advised Mrs S to take option 1 from the options offered by B. The first option was to take the death benefit as a lump sum payment.

Prior to the decision to take the SIPP as a cash lump-sum, there were discussions between Mrs S, the executors of the late Mr S' estate and WG as the most appropriate way for the funds to be taken. The objectives were to utilise the pension funds and other assets, to provide Mrs S with an income for life and for the residuary estate (plus what was left in the SIPP) to be passed to E on Mrs S' death. And the discussions revolved around the monies from the late Mr S' estate being held in some form of trust.

In relation to the SIPP, Mrs S sought the advice of WG as to which was the most appropriate option for her to take. And its opinion was that the only way the late Mr S' wishes could be achieved, was through a lump-sum payment being taken from the SIPP. This was because if the funds had remained in a pension, Mrs S could have changed the beneficiaries. And it has repeated those arguments in its response to my provisional decision.

Notwithstanding the arguments WG has made, I have concerns about the advice provided by WG in relation to the SIPP. I say this because it seems to me the benefits of the flexible income drawdown option, were too readily discounted. And the advice from WG appears to have been predicated on the basis that the late Mr S' wishes as set out in his will, could only safely be achieved by the pension monies being taken as a cash lump sum; and invested within some form of trust.

But this advice appears to me to be at odds with the estate planning advice provided to the late Mr S by WG back in 2016. In terms of options the report said:

"The simplest and most common way of passing on death benefits is to nominate beneficiaries. In this instance, upon death prior to age 75 the monies would be paid to the beneficiary free of tax whether it is:

- Taken as a lump sum
- Accessed via drawdown
- Paid to a dependent or not

The nominated person can take benefits as they choose, either as a lump sum or regular/flexible income. All withdrawals would be free of tax.

This enables the nominated beneficiary to pass on any unused drawdown funds on their death to their own nominated beneficiaries. The same tax treatment applies, and is based on the relevant age of the beneficiary, rather than the original member.

The benefit of this option is that it offers the potential to pass pension funds down through generations without it ever falling into anyone's estate for IHT purposes.

In addition, the funds can remain in a tax advantaged environment and have the potential to provide a tax-free income where the member or beneficiary dies before age 75."

Other options were set out including setting up a bypass trust to receive the pension death benefits and completing an expression of wish. The tax implications of a bypass trust to receive the pension death benefits were also summarised.

It seems to me that the position Mrs S found herself in after B had nominated her to receive the pension benefits in 2018, was the same as the late Mr S when estate planning advice was provided to him in 2016. Both had the opportunity to nominate beneficiaries for their pension benefits in the event of their deaths.

B had told Mrs S that as well as taking benefits from the SIPP as a cash lump sum, she also had the option to take an income from the capital by way of flexible drawdown. And as set out by WG in 2016, there were clear advantages in her doing so. In my opinion these were:

- The capital could continue to be invested within the tax advantageous environment provided by a pension wrapper.
- All withdrawals would be tax free.
- Mrs S could have nominated a beneficiary or beneficiaries to pass on any unused funds to, in the event of her death.

As the benefits of a flexible drawdown arrangement had been considered an appropriate option prior to the late Mr S' death, it's not clear to me why it wasn't considered an appropriate option by WG when it was advising Mrs S. The rationale given by WG and repeated in its response to my provisional decision, is that if Mrs S had kept the funds in a drawdown arrangement and taken the income, she could have changed the beneficiaries at any time. This left the possibility that E wouldn't inherit the pension funds as per his wishes.

I don't find that to be a persuasive argument. I say this because I've not seen any evidence that indicates Mrs S had any intention of not providing for E in respect of the pension proceeds. And she was now WG's customer, not her late husband. WG should not in my opinion have prioritised something that her late husband had not enacted in his lifetime, over what was the suitable advice for her circumstances, bearing in mind the tax efficiency of ongoing investment, cost, and preserving an ability for Mrs S to still express a wish for who the death benefits should go to, that was in line with the late Mr S' wishes.

The evidence I've seen indicates that Mrs S was keen to ensure that the terms of her late husbands will were met. The late Mr S' will also set out that his estate should be used to provide an income for Mrs S for life. But as explained by B, the pension didn't form part of the late Mr S' estate and wasn't subject to inheritance tax. And the advice provided by WG to take a cash lump sum meant that there would be tax implications for Mrs S in generating an income for herself moving forward.

I think provision for E could easily have been made by Mrs S nominating her as a beneficiary in any flexible drawdown plan that she took out. And having made that nomination, I think it's highly unlikely that B or any other provider would have ignored that nomination. And the rationale for nominating E rather than one in favour of Mrs S' own children, could easily have been explained to a pension provider, in a letter from Mrs S explaining her reasoning; and by providing a copy of the late Mr S' will. And I've not seen any evidence that suggests Mrs S wouldn't have made such arrangements if they had been suggested to her.

Mrs S has told our service that she has made a codicil to her will to provide for E. And taking into account the correspondence I've seen that shows her concern to ensure E was provided for in line with the late Mr S' wishes, I think it's more likely than not that she would have agreed to make such an amendment if this had been suggested to her.

Advice was subsequently provided by WG in March 2019 as to how to reinvest the proceeds from the SIPP, which were paid directly to Mrs S in February 2019. And the recommendation whilst it was designed to provide Mrs S with a regular income, meant that there was a potential IHT liability in the first seven years after the plan was set up. The recommendation also meant there would be an additional cost for setting up the inter vivos insurance to cover this liability.

The recommendation also explained that income would be generated by withdrawals of up to 5% of the initial funds invested every year. This would generate an income for the first 20 years. The withdrawals would equate to an income of £14,871.29 a year. And to achieve the £15,000 gross withdrawal a year that Mrs S needed, WG calculated there would be tax payable of £25.74 a year on £128.71 at a rate of 20%.

Taking into account what I've said above, I don't think the advice to take the cash lump sum and invest it in a bond was suitable, as Mrs S' objectives could have been met in a more tax efficient way through the flexible drawdown plan. This is because as the late Mr S died before the age of 75, a flexible drawdown meant that income could be taken from it utilising the proceeds from the SIPP, without Mrs S having to pay any income tax. And the flexible drawdown plan would have benefitted from the beneficial pension tax environment.

Mrs S has submitted that as a result of the advice provided by WG she has lost out on two years of capital growth, which she holds WG responsible for. In May 2019, Mrs S contacted WG and explained that having taken advice, she had decided not to go ahead with the recommendations and that she needed to appoint a financial adviser nearer to home. She has said that an investment plan was set up in August 2019 to provide her with an income.

Although Mrs S thinks she has lost out on capital growth from when her late husband passed away until the time the new investment plan was set up in August 2019, I haven't seen sufficient evidence to persuade me that any delays were primarily down to WG. The evidence I've seen indicates there were discussions from the late Mr S' death in June 2017 between Mrs S, the other executors of the late Mr S' will and the solicitors administering the late Mr S' estate, as to an appropriate course of action in respect of the SIPP. The relevant information to enable B to make a decision on who the SIPP monies should be paid to, wasn't provided to B until late 2018.

I can also see that B informed Mrs S that the funds in the late Mr S' SIPP were still invested before her instruction to take the cash lump sum. So, notwithstanding the arguments made on behalf of Mrs S by her representative, I don't have sufficient evidence that persuades me that WG were responsible for any investment losses or delays up until the death benefits were paid to Mrs S.

I do believe that the advice provided to Mrs S by WG has caused her other financial losses. Her SIPP monies no longer have the benefit of a tax advantageous environment that a pension wrapper could provide. And she will now have to pay tax on income that she draws from her investments above 5% a year, assuming it is invested in a bond.

In response to my provisional decision, Mrs S' representative has argued that she is entitled to inflation increases, and they have set out figures they think should be taken into account in the methodology I set out for calculating compensation in the provisional decision. It's not clear to me on what basis the representative thinks Mrs S is entitled to inflation increases on income she now takes.

An escalating income is something that can be desirable with an income stream. But if it is generated by way of an annuity from a capital sum, those increases will often come at the cost of a lower starting income; than might otherwise be generated from an annuity that doesn't increase in payment. One of the advantages of taking an income from a flexible drawdown arrangement is that any monies taken would be tax free. If an annuity was used to generate an income from the proceeds of the SIPP, then those payments to Mrs S would be subject to income tax. So, I think it's unlikely given the advantages of the flexible drawdown that I've already summarised, and taking into account that the representative has argued it should have been recommended to Mrs S, together with the objective to provide E with capital on Mrs S' death; that Mrs S would have chosen the annuity option if it had been presented to her.

If Mrs S had wanted to take an increasing income from a flexible drawdown arrangement, I'm not persuaded that this would necessarily be a viable option for her. I say this because an increasing income taken from the proceeds of the SIPP by way of a flexible drawdown arrangement, could run the risk that the capital would be eroded over time. In the short term that might not be such a problem for Mrs S, but again given her objective of also ensuring there was capital from the pension available to E on her death, I don't think she would on balance, have taken that route; or that it would be appropriate for her to do so. Also, I've not seen sufficient evidence that Mrs S has taken an increasing income from the proceeds of the monies that came from the SIPP, or that she needed an increasing income. Without evidence to support this argument, it's difficult for me to safely conclude that an increasing income was something she needed or has implemented.

It also seems to me from the information I have been provided with, that Mrs S had other assets outside of the proceeds she received from the SIPP, such as the proceeds from the late Mr S' pension with H. And those assets could be used to generate any additional income that she might need on an ongoing basis. So, for these reasons, I'm not persuaded that an increasing annuity is appropriate to use in the redress methodology that I proposed in my provisional decision; or that the income figures provided by the representative are appropriate.

The representative has also argued that Mrs S is having to pay tax on investment growth regardless of whether the investments are held in a bond or a GIA. In my provisional decision I acknowledged that the proceeds from the SIPP are now in a less beneficial investment environment. And I've made an allowance for that and explained my thinking at step two of the redress methodology that I set out in my provisional decision. Nothing that the representative has said persuades me that what I proposed, isn't still an appropriate way of making an allowance for the tax advantages that could have been had if the monies had remained in a pension environment.

The representative has also said that the proposed award of £500 for the distress and inconvenience suffered by Mrs S wasn't sufficient. They have suggested that an award of £5,000 would be more appropriate. I've acknowledged that Mrs S has suffered distress and inconvenience as a result of the unsuitable advice provided to her by WG. But the figure suggested by the representative suggests to me that they are looking for me to make a punitive award against WG. But the rules under which I operate simply don't allow me to make such an award, and it wouldn't be appropriate for me to do so.

Deciding on the amount an award for distress and inconvenience should be, isn't an exact science. And I need to consider the impact on Mrs S of the unsuitable advice provided by WG. I've explained that I don't have sufficient evidence that persuades me that WG were responsible for any investment losses or delays up until the death benefits were paid to Mrs S. And I've taken that into account in assessing what is an appropriate compensation figure for the distress and inconvenience Mrs S has been caused.

I'm satisfied that the unsuitable advice provided by WG has had a significant impact on Mrs S. She has had the stress and worry of having to invest the proceeds from the SIPP and thinking she needed to set up a trust when that wasn't necessary and has had to seek alternative investment advice. And I'm satisfied from the information I've seen that this has caused her distress and inconvenience.

So, for the reasons I've explained, I'm satisfied that the methodology I proposed in my provisional decision remains appropriate to compensate Mrs S for her losses.

Although WG recommended an inter vivos policy to cover any IHT liability, Mrs S' representative has said that advice provided to her by another solicitor confirmed she doesn't have an IHT issue. And taking into account that Mrs S would have inherited the late Mr S' IHT nil rate bands in respect of property and his own personal allowance in conjunction with her own IHT allowances, I think it's plausible based on the information that I have that she hasn't incurred an IHT liability as a result of the unsuitable advice provided by WG.

Mrs S' representative has suggested that any future beneficiaries would be impacted by the position Mrs S is now in. But my focus is on her complaint and losses, not the situation of any potential beneficiaries in the future. So, for the reasons I've explained, I remain of the opinion that the compensation I proposed in my provisional decision remains an appropriate way to compensate Mrs S for her losses resulting from WG's unsuitable advice.

Putting things right

It's not possible for the pension funds to be reinstated into a pension environment as Mrs S and her representative would like to happen. So, WG will need to as far as is practicably possible, compensate Mrs S for the less advantageous tax environment the capital from the SIPP will now be invested in, and also take into account that some of her income will be subject to income tax. Mrs S requires an income of £20,000 a year. That could have been taken without payment of any tax from a pension drawdown plan. A proportion of her income is now subject to income tax because of the unsuitable advice provided to her by WG. And the methodology I have set out below takes account of that.

As a result of the unsuitable advice provided by WG, Mrs S took the proceeds from the SIPP as a cash lump sum. And because of WG's unsuitable advice, it wasn't invested for a period of time. If Mrs S had been provided with suitable advice the SIPP wouldn't have been taken as a cash lump sum and should have remained invested within the SIPP. So, Mrs S has potentially lost out on investment growth because of WG's unsuitable advice.

In her e-mail to WG of 24 May 2019, Mrs S explained that she had been in discussions with her solicitor and was advised that she didn't need a trust arrangement. And she explained that as a result, she wasn't going to go ahead with WG's recommendation and needed to appoint an IFA nearer to her home. She has also told our service that a new investment plan to provide her with income was set up in August 2019.

I don't think it is unreasonable that after the unsuitable recommendation was made by WG, Mrs S lost confidence in it and needed to seek alternative advice. It may therefore have taken a few months for Mrs S to identify that the advice from WG was unsuitable. And it seems from what she has said, that at the time she wrote to WG in May 2019, she had started to explore alternative investment advice. But it wasn't until August 2019 that the new investment had been set up. And considering that the original advice had been provided in March 2019, I think the point at which Mrs S contacted WG on 24 May 2019 is an appropriate point from when she could have mitigated her position. So, I think that is the point at which WG's liability for any investment losses resulting from the SIPP funds being disinvested should end.

1) I think a fair and reasonable method to quantify any investment loss resulting from the SIPP funds being disinvested and taken as a cash lump sum, is for WG to obtain the value of the SIPP from B as at 24 May 2019, on the basis that it had remained invested in the same funds it had been invested in, up to the date the death benefits were paid to Mrs S in February 2019. If that figure is greater than the death benefits paid to Mrs S, then the amount of the investment gain should be paid to Mrs S as a

cash lump sum. No deduction for income tax should be made as this sum could have been taken by Mrs S tax free.

2) I think a fair and reasonable method to quantify any investment loss resulting from the SIPP funds now being in the less beneficial investment environment Mrs S now finds herself in, is to compare the rates of growth prescribed by the regulator for pension and non-pension product illustrations. Growth rates are slightly higher for pension illustrations because they enjoy tax advantages on the invested funds. The difference in the assumed growth rates for non-pension investment illustrations is 0.5% a year less than for pension illustrations. So, the annual difference in investment growth of 0.5% on the capital sum taken from the SIPP surrender proceeds of £312,425.70, equates to £1,562.
3) Mrs S would have been able to draw income and capital from a pension drawdown plan without having to pay income tax. She now finds herself in a position where some of her income will be taxed. I think Mrs S should mitigate her income tax position as far as possible. And taking into account the amount of capital she would have to invest from the surrender proceeds for the SIPP; this could have been achieved by utilizing an investment bond and drawing income from it. 5% a year could be withdrawn from a bond, which would be deemed as a return of capital and incur no income tax charge. Mrs S has said that her income needs were £20,000 a year. And one of her concerns was that WG's recommendation didn't meet her income requirements. So, she would require additional income of £4,400 over and above the 5% withdrawal (equivalent to £15,600 a year) that she could withdraw without paying income tax.
4) Taking into account the information I have about Mrs S' financial circumstances, I'm satisfied that she is, and is likely to continue to be, a basic rate taxpayer. The additional £4,400 income would be subject to income tax at a rate of 20%. So, Mrs S would incur an income tax charge of £880 a year.
5) In order to capitalize the annual losses calculated in steps (2) and (4), WG should pay Mrs S a lump sum equivalent to the cost of buying her a purchased life annuity for an income of £2,442 a year. The annuity should be on a single life level basis.
6) In addition to the compensation I've set out above, I think WG also needs to pay Mrs S £500 for the distress and inconvenience caused to her as a result of its unsuitable advice.

My final decision

For the reasons I've set out above, I've decided to uphold Mrs S' complaint about Warde Graham Consulting Limited. If Mrs S accepts my decision, it needs to compensate her by doing what I've set out in the "Putting things right" section above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 21 March 2023.

Simon Dibble
Ombudsman