

## The complaint

Mr M complains that Advance Wealth Limited (Advance Wealth) didn't provide suitable advice in connection with his pension fund and which caused financial loss.

## What happened

I issued a provisional decision on 31 August 2023. I've recapped here what I said about what had led to the complaint and what I'd provisionally decided.

*'Advance Wealth have been Mr M's advisers for some time. I understand that Mr M's concerns centre on recommendations made by Advance Wealth from November 2021 onwards and losses incurred since then. Advance Wealth's recommendation letter dated 3 December 2021 recorded the then value of Mr M's pension (held with Aviva) was £107,334.06. His attitude to risk (ATR) remained at 2 (out of 10). The following asset allocation was recommended:*

| Asset Class     | Previous Fund                            | New Fund                     | Previous 2/10 | New 2/10 |
|-----------------|--|------------------------------|---------------|----------|
| UK Equity       | LF Lindsell Train UK Equity              | Jupiter UK Smaller Companies | 9%            | 11%      |
| US Equity       | Vanguard US Equity Index                 | Vanguard US Equity           | 6%            | 15%      |
| Fixed Interest  | Vanguard UK Government Bond Index        | Invesco Corporate Bond       | 66%           | 52%      |
| Property        | First Sentier Global Property Securities | N/A                          | 3%            | 0%       |
| European Equity | Jupiter European                         | Barings Europe Select Trust  | 3%            | 8%       |
| Cash            | ASI Sterling Money Market                | Royal London Cash Plus       | 13%           | 14%      |

*Mr M emailed the adviser in June 2022 expressing concern about a fall in value of some £10,000, a loss which, as his ATR was only 2, Mr M hadn't anticipated could arise.*

*In his email in response dated 22 June 2022, the adviser said the funds were reviewed regularly to ensure they were still suitable for Mr M's ATR. Unfortunately, there'd been no 'safe haven' to run to since the beginning of the year. Bonds, although less volatile, were also being affected by rising inflation and interest rates. The alternative was moving to cash where there'd be no movement up or down, but there'd be the issue of when to buy back in to the market, and the initial 'bounce' would likely be missed. Trying to time the market was a very difficult game to profit from.*

*Mr M emailed again in August 2022, concerned about a further drop in fund value. And again on 14 October 2022, having received a valuation which showed his fund value had gone down from £108,284.29 in December 2021 to £88,675.44 as of 6 October 2022. Mr M said he was making a formal complaint that he'd been let down by Advance Wealth which had cost him £20,000 to date and his needs and requirements hadn't been met.*

*Advance Wealth responded to Mr M's complaint by letter dated 15 December 2022. In*

rejecting the complaint Advance Wealth said, in summary, that Mr M's fund had fallen in value but had remained invested in line with his ATR profile completed on 30 November 2021. The fund had since recovered somewhat and as at 1 December 2022 the value was £93,635.26. Inflation, increased government borrowing and rising interest rates had had an adverse effect on normally safe investments such as bonds and fixed interest funds which made up 66% of Mr A's portfolio. Advance Wealth referred to what the adviser had said in his email of 22 June 2022 about moving to cash. Mr M had confirmed to the adviser on 12 March 2020 that he was pleased with performance and didn't wish to make any changes. At the annual review in November 2021 changes had been recommended to ensure the funds remained suitable and in line with Mr M's ATR.

Advance Wealth had noted that Mr M had an ongoing service agreement. But he hadn't had any reviews during 2018 and 2019. Advance Wealth apologised and said it would be refunding the fees of £966.19, plus a goodwill payment of £200 would be made.

Advance Wealth made new recommendations in January 2023 for Mr M's pension. At about the same time, Mr M referred his complaint to us. He said he'd lost about £15,000 through poor advice and failure to carry out his instructions. From the outset he'd emphasised he didn't want and couldn't afford to take any high risks and when, in view of his age (he was by then approaching his 70th birthday), there'd be no time for losses to be recovered. He added he'd found out he'd been paying for reviews which hadn't happened. The charges had been refunded but the damage done hadn't been rectified. He'd been advised to leave his pension fund as it would continue to grow tax free. He now wanted to take 25% tax free but he couldn't do that until the fund recovered which might take years if indeed it ever did.

One of our investigators considered Mr M's complaint. She referred to very difficult investment conditions in 2022. She highlighted the losses which investments usually thought to be very low risk, such as bonds and gilts, had incurred. She thought Mr M's portfolio was in line with his objectives and low ATR and that there was sufficient diversification. She considered Advance Wealth's recommendations had been suitable throughout and she didn't uphold the complaint.

Mr M didn't accept the investigator's view. He said he didn't see how a 14% loss was reasonable or acceptable. He said that Aviva had told him that his funds were all more or less high risk. He queried why he was paying fees to Advance Wealth if he was losing money. When he'd seen things weren't going well he'd switched his wife's small pension fund to cash so protecting the fund value. Mr M suggested Advance Wealth should've done that with many of their funds and then bought them back at the appropriate time. The stock market had seen record highs but he was still losing money. He'd been advised to leave his pension fund to grow tax free and use other money. He should've been advised to take his 25% tax free cash when the fund was at its highest and move it into a cash based fund where it would've been growing at, say, 4% pa.

The investigator considered Mr M's comments but she didn't change her view. She referred to Mr M's losses as not being reasonable or acceptable but she maintained the cause was unpredictable market conditions. She didn't agree Mr M should've been advised to take his portfolio out of the market (switch to cash). She said that strategy came with its own risks, including inflation and missing out on future growth and recovery. It was very difficult to time the markets. Leaving Mr M's funds invested was reasonable. Although Mr M had been invested in equities, the percentages were low and there was sufficient diversification.

In response Mr M said, if it was accepted that his losses weren't reasonable or acceptable, Advance Wealth must be held responsible. He said he was paying for Advance Wealth's skill and expertise. If they hadn't done their job properly then they should pay compensation. He didn't think financial advisers could simply say they didn't see what was coming or refer to

*hindsight.*

*As agreement couldn't be reached the complaint was referred to me to decide. After I'd considered the complaint on a preliminary basis we asked Advance Wealth for some further information. I've referred to that further below.*

### ***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.*

*The investigator referred to Mr M's losses as not being reasonable or acceptable. But I think she was expressing empathy with Mr M and that she recognised the impact of the fall in the value of his pension fund on him and why he might not consider that to be within reasonable parameters. But, as the investigator explained, our approach centres on whether the advice given was suitable. If it was then we won't usually say an adviser should be responsible for any investment losses if the funds don't perform as expected.*

*I don't agree with Mr M's comments about expecting an adviser to be able to see what's coming and advise accordingly. Financial markets can be very volatile and unpredictable. We expect advisers to use reasonable skill and care but I don't think that extends to predicting how the markets or certain asset classes might perform in the future. And trying to time the markets – that is, picking the right time to move into cash and when to reinvest – is very difficult territory and not a strategy that most advisers would endorse. Although switching to cash may lock in a higher fund value, it can also crystallise a loss and mean that any opportunity of recovery is lost.*

*Sometimes an adviser or investor may make the right call – it seems Mr M's action in respect of his wife's pension fund may have protected a higher fund value and avoided losses such as those Mr M's fund has incurred. But equally that strategy often won't work out. And over time it may be that the switch to cash has cost rather than saved money. Remaining investing, rather than switching to cash in reaction to market events or losses, is generally regarded as the better course.*

*In my view, the key issue is whether the recommendations Advance Wealth made for Mr M's pension fund were suitable, taking into account his financial and personal circumstances, needs and objectives and his ATR. If the funds were suitable then I don't think Advance Wealth can be responsible if the portfolio fell in value and taking into account what I've said above about an adviser not being expected to predict market movements or the effect of certain economic or political factors on particular asset classes.*

*From what I've seen Mr M was a very low risk investor – 2 out of 10. The (unsigned) risk profile report dated 30 November 2021 said that any falls in the value of a portfolio that matches that risk profile should be very small. Mr M has pointed to losses of about 20% (although I think his portfolio has since recovered somewhat). I wouldn't describe that sort of fall in value as small and I can see it would've concerned a very cautious investor such as Mr M and I can understand why he queried things in mid June 2022. It seems that up until then he'd been happy with how his fund was performing. So, like the investigator, I've focused on whether the recommendations made in December 2021 were suitable.*

*The following asset allocation was recommended:*

*52% Fixed Interest  
14% Cash  
15% US Equity*

11% UK Equity  
8% European Equity

Over half of Mr M's portfolio was invested in Fixed Interest assets. These are debt instruments – government or corporate bonds – which pay a fixed rate of interest. The risk will depend on, amongst other things, the issuer. If that's a government with a stable economy the risk will be low, as there's little risk the paying government will default on the interest due or the obligation to repay the capital. But corporate bonds may carry a higher risk, depending on the company's financial stability and credit rating.

The risk profile report dated 30 November 2021 recognised that. It said, about a Risk Profile 2 of 10 – Very low:

'For example, investments such as cash deposits and bonds issued by the UK Government (known as gilts) are considered low risk. Property, corporate bonds issued by UK companies as well as other types of global bonds issued by overseas governments and companies are considered medium risk. In the case of global bonds, generally those which pay a higher income are riskier than those which pay a lower income level. Shares in companies in the UK and other developed markets are considered high risk, while shares from companies in emerging markets are considered very high risk. You can reduce the overall risk in a portfolio by using 'diversification' – in other words, spreading your money across different investments. By doing this, you can match your overall portfolio to the level of risk that is right for you.

It's important that your investment portfolio matches your willingness and ability to take investment risk. A 'very low' risk profile shows that your willingness and ability to accept investment risk is well below average. Any falls in the value of a portfolio that matches this risk profile should be very small. However, potential returns are also likely to be modest. So if inflation (the rate at which the prices of goods and services rise) is higher than the rate earned on the investment, the spending power of your money will be reduced.

A portfolio for this risk profile is most likely to contain mainly low-risk investments, including money market investments and government bonds. It will also be expected to contain some other medium- and high-risk investments, such as property, sterling corporate bonds, global bonds as well as shares held usually in the UK. As a result, you should always check that you are comfortable with what's included.'

The Fixed Interest element of Mr M's portfolio was the Invesco Perpetual Corporate Bond Fund. By Advance Wealth's own description, that would appear to be a medium risk investment. And although I'm uncertain as to exactly what series of the Fund Mr M was invested in, the various fund fact sheets all indicate a risk category of 4 (out of 7) which is consistent with a medium risk investment.

The risk profile report also included a target asset allocation as follows:

|                               |     |
|-------------------------------|-----|
| Cash (Money Markets)          | 51% |
| UK Gilts                      | 10% |
| UK Index Linked Gilts         | 4%  |
| Sterling Corporate Bonds      | 7%  |
| Global Investment Grade Bonds | 11% |
| UK Equity                     | 8%  |
| North American Equity         | 4%  |
| Property                      | 5%  |

The portfolio Advance Wealth recommended for Mr M's pension wasn't in line with that. We

*asked Advance Wealth why that was. We also said the asset allocation actually recommended included a higher equity element (UK and European) which, coupled with the Invesco Perpetual Corporate Bond Fund which could be regarded as a medium risk investment, appeared to be too much risk for an investor with an ATR of 2 out of 10.*

*In reply, Advance Wealth said it used a Dynamic Planner to establish a risk profile but asset allocation was based on Standard Life Elevate suggested allocations. A sample risk profile for risk level 2 was provided. The suggested asset allocation was cash 14%; Fixed Interest 52%; Property 0%; UK Equities 11%; Developed Markets 23%; Emerging Markets 0%. The asset allocation and preferred funds were selected from Advance Wealth's research in March 2021. Funds are selected initially from Morningstar Gold rated funds within each sector. At the time the Invesco Perpetual Corporate Bond Fund was the third best performing fund within the sector with the lowest volatility which Advance Wealth considered made it suitable at the time to form part of the asset allocation for risk level 2. Advance Wealth said systemic market falls had affected volatility since the recommendation.*

*The adviser also commented. He said Mr M had always maintained that 1 out of 10 would've been too low risk and holding too much cash and 3 out of 10 would've offered too much volatility. The adviser said Mr M had specifically requested the opportunity for investment growth. The portfolio had 14% allocated to cash which wouldn't provide a growth opportunity and would lose value with inflation. The use of corporate bonds was to provide some stability within the portfolio whilst providing a yield. It was only with the benefit of hindsight that it became clear that 2021 was a very bad year for the full spectrum of bonds with long dated government bonds, usually regarded as very low risk, dropping the most in value. The investment in global developed markets equities was again to give the opportunity for growth, which Mr M had specified.*

*The asset allocation Advance Wealth recommended was in line with the Standard Life Elevate target allocation. But I still think the Invesco Perpetual Corporate Bond Fund is of concern, given what I've said above and that it represented 52% of Mr M's fund. I also note that the UK equity element was in a smaller companies fund. Smaller companies tend to be higher risk than larger, usually more well known and financially established companies. Further, I'm not persuaded that Mr M wanted the opportunity for growth. In bringing his complaint Mr M has made it clear that he didn't want to take any real risk with his pension portfolio. And that's consistent with an ATR of 2 out of 10 – very low risk. There's nothing in the fact find, risk profile report or suitability letter which records that Mr M was seeking growth. The risk profile report says, given his ATR, potential returns are likely to be modest and that inflation could reduce the spending power. Mr M appears to have accepted that.*

*All in all I'm not persuaded that the portfolio that Advance Wealth recommended in December 2021 for Mr M's pension portfolio was suitable. I think it represented more risk than Mr M was prepared to accept.*

*I've set out below what Advance Wealth needs to do to see if Mr M has suffered any financial loss. I should emphasise, as a calculation is required, I don't know if Mr M has actually incurred a financial loss. It may be that his portfolio has performed better than the benchmark I've suggested in which case the only payment due will be the £200 I've awarded for distress and inconvenience.'*

*I went on to set out what Advance Wealth needed to do to put things right for Mr M. Essentially I said Mr M's actual fund value should be compared to what it would've been worth using a benchmark: Bank of England average return from fixed rate bonds.*

## **Responses to my provisional decision**

Mr M accepted my provisional decision. He said he assumed he wouldn't know the amount of compensation until we'd heard from Advance Wealth with their calculations and that any compensation would be tax free. We explained that Advance Wealth would need to carry out the calculations and provide details to Mr M. Any redress would be paid into the pension fund tax free but tax would be deducted if a direct cash sum was paid. Mr M said he hoped we'd be able to check the calculations as he wasn't sure he'd understand them.

Advance Wealth didn't agree with my provisional decision. Advance Wealth made a number of initial comments which I've summarised:

- The risk rating for the Invesco Perpetual Corporate Bond (as part of the portfolio) was commensurate with Mr M's ATR in December 2021 and only started to increase towards the end of 2022.
- The benchmark I'd suggested wouldn't normally form part of a portfolio where the client requires ongoing service from an adviser.
- The asset allocation tools Advance Wealth used suggested, for a cautious (2 out of 10 ATR) portfolio, a fixed interest/equities mix. Advance Wealth asked if we could point them towards an asset allocation tool which suggested fixed rate bonds would be more suitable. They'd generally point a 1 out of 10 ATR client to a guaranteed product but 2 out of 10 ATR suggests a little more risk, hence the allocation tools gave that output. Advance Wealth said it was open to suggestions as to whatever tool we'd suggest and which showed the appropriate small amount of equities – that is avoiding corporate bonds but still true to the asset allocation for a fair comparison.
- At Mr M's next annual review in January 2023 Advance Wealth recommended that he come out of the Invesco Perpetual Corporate Bond. Advance Wealth queried if the redress calculation should be from December 2021 to January 2023.
- Although a provider's fund fact sheet will show a risk rating, risk can also be measured via the FE Risk Score. Advance Wealth preferred that methodology and chose funds based on Morningstar ratings and the FE Risk Scores.
- At the time of the advice, the risk scores for both the Vanguard and the Invesco Corporate Bond Funds were suitable. A timeline was produced. There'd been high levels of volatility in the fixed interest sector (only seen twice before in the last 100 years). Snapshotting the risk rating now tells a different story to when the funds were recommended. The outcome wasn't as planned but not because the choice was wrong.
- When taking into account volatility the Invesco Corporate Bond Fund comes out lower risk than gilts. The FE Risk Score (focusing on gold rated funds) shows they've generally gone up in risk following the 2022 collapse.

I considered Advance Wealth's comments and responded to them. I made the following points:

- As to the benchmark I'd suggested, that didn't mean Mr M would only have invested in that way (Bank of England fixed rate bonds). Rather it's the sort of return we think a consumer with that risk profile – 2 out of 10 very low – could've obtained. That's our approach to benchmarks generally – that they are indicative of likely return, rather than directly representative of the investments that would've been made instead. We recognise that, to some extent, it's a broad brush approach. But if we think a recommended portfolio isn't suitable it isn't for us to suggest, after the event, an alternative portfolio – and in respect of which there could be unending debate – but to award redress that's broadly fair and reasonable in all the circumstances of the particular case.
- Advance Wealth had also referred to its use of preferred model asset allocations and analytical tools. I recognised there was a very wide range of information and tools

available to financial businesses and advisers to help with, amongst other things, risk profiling, fund research and portfolio construction. Different businesses and advisers will have different ways of working, including preferred information sources and tried and tested tools. For example, different businesses use different risk assessment tools in order to try and understand a client's appetite for risk, if any. Different numbering systems, definitions and differing classification systems will apply. The same is true of any tool that a firm uses to assess the risk level of a particular fund at any particular time. But any tool, whatever its purpose, can only offer a partial insight and needs to be considered alongside the particular client's needs, objectives and objective capacity for loss. It isn't for this service to assess any tool available on the market and if, how or when it should be used. In determining a complaint we consider the overall evidence, including what the client says about their situation, their ATR and what, if anything, they could afford to lose.

- In this particular case, for the reasons I set out, I considered the portfolio represented more risk than Mr M was prepared to accept. I'd looked again at that and it remained my view. I'd looked in particular at the risk questionnaire that was completed on 30 November 2021. I noted that some of Mr M's answers are noted as inconsistent and that there was some further discussion. So there was perhaps some room for movement. But overall my view remained that Mr M didn't want to take any real risk with his capital at the particular time.
- The capacity for risk section of the questionnaire indicated that Mr M could afford a small loss. And his circumstances appear to support that. He hadn't taken his pension at 70 so it seems he had other resources on which he was relying. But, even if his position was such that he could afford a small loss, that didn't mean he wanted to invest on that basis.
- I also noted that the description of the selected risk profile refers to any falls in value as being anticipated as being very small. And returns likely being modest too with high inflation reducing spending power. And the fact that the consumer very quickly became anxious when losses were indicated would tend to support that he didn't want any real risk to his capital.
- I noted in my provisional decision that the actual asset allocation in this case wasn't in accordance with the target asset allocation set out in the risk profile report. I accepted (and leaving aside issues about what Mr M was given to understand he'd be investing in and in what proportions) that, just because a different asset allocation may have prevailed, that doesn't mean it wasn't suitable. But, looking at the Elevate target allocation, the risk profile seemed to start from the premise that some degree of investment risk is accepted (even for a 2 out of 10 ATR investor which is conflated with a 3 out of 10 ATR investor). So there was, in my view, potential for a mismatch between the consumer's ATR and the recommended asset allocation.

Advance Wealth commented further. Amongst other things, Advance Wealth reiterated that the fixed interest market risk/volatility rating had changed between the advice and the complaint, due to the 2022 market crash when fixed interest and equities simultaneously saw a double digit collapse which wasn't foreseeable. While the outcome had been bad for a low risk investor that didn't mean the advice was wrong.

Again I considered Advance Wealth's further comments before responding and saying:

- I understood how strongly Advance Wealth felt about this matter. I noted, and didn't doubt, what Advance Wealth had said about working hard to give clients optimal advice. But sometimes a consumer will feel the advice given hasn't been in their best interests and will complain. Where a complaint is referred to us it's likely that one party will be disappointed with the outcome.
- Advance Wealth had pointed to unprecedented and unforeseen volatility in the fixed

interest market and falls in value which had delivered bad outcomes for low risk investors. I was of course aware that rises in interest rates since about December 2021, coupled with inflation, had meant that fixed income securities, particularly bonds, had fallen in price. Some investors have seen very significant falls in value on investments which may have been regarded by many as virtually risk free. Whether that could've been predicted was perhaps debatable. On the one hand, as base rates were at an historic low, fixed interest asset values in the longer term could only have gone down, once interest rates began to rise. But I didn't see the foreseeability or otherwise of that was the issue here. Or could properly be said to be the cause of any losses Mr M had sustained.

- No liability will lie where suitable advice has been given, even if losses result. That would be an investment performance complaint which (absent other considerations such as suitability, misinformation etc) we wouldn't usually uphold. Here, although Advance Wealth maintained that the advice was suitable, I didn't agree. I'd explained in my provisional decision (and my further comments) why I considered what was recommended was too high risk for Mr M. In my view, any losses he'd incurred didn't flow from market movements but from the fact that the portfolio recommended didn't match his very low attitude to risk.
- Advance Wealth had said that dealing with a consumer who is prepared to accept a very small risk as opposed to no risk might be difficult, especially if any loss might be assessed against a no risk benchmark. But my view in this particular case, taking into account the risk questionnaire that was completed on 30 November 2021, was that Mr M didn't want to take any real risk with his capital at the particular time. So the benchmark I'd suggested was appropriate.
- I noted that, prior to the advice complained of, Mr M had been invested (66%) in a government bond based fund. The move to the corporate bond and the increased equities element may have been an attempt in good faith to diversify and to try to beat rising inflation. But the risk profile report recognised, for a 2 out of 10 investor, there was a risk that inflation would reduce the fund's spending power. So, recommending investments aimed at beating inflation wouldn't be consistent with that risk profile and when the consumer was prepared to accept the inflation risk. Again I felt that supported the benchmark I'd specified.
- Advance Wealth had said that since September 2022 Mr M's fund had recovered somewhat. That will be reflected in the redress which I'd said in my provisional decision should be calculated as at the date of the final decision. Advance Wealth had earlier suggested, having recommended at Mr M's next annual review in January 2023 that he came out of the Invesco Corporate Bond Fund, redress should be calculated for the period December 2021 to January 2023. But, on the basis the complaint relates to the advice as a whole, I didn't agree.
- And, although I'd highlighted the Invesco Corporate Bond Fund as a reason why the recommended portfolio was unsuitable, I didn't see that Fund was the only issue. Advance Wealth maintained that Fund was suitable at the time of the advice and that its risk profile only started to increase towards the end of 2022 and had referred to the FE Risk Score Chart in support. But I understood that was based largely on volatility, relative to the UK leading 100 shares. Volatility isn't necessarily the same as risk although high volatility tends to indicate high risk and vice versa.

In response, Advance Wealth referred to, amongst other things, Mr M's email of 31 October 2022. Advance Wealth said Mr M was asking to be restored to the peak of his investment rather than make up for losses sustained. The value of his plan had peaked on 9 December 2021 at around £108,000. Its trough was around £86,000 from mid October 2021. If I was saying the loss was inappropriate then it would be fair to say the gain was too. He'd started with £71,000 in 2006 and he now had about £93,000.



Advance Wealth asked me to expand on what I'd said with reference to the underlying landscape of fixed interest funds in general and in particular my reference as to it being debatable as to whether what happened could've been predicted. Advance Wealth said the industry believed at the time that fixed interest funds were a low risk investment. And much of the financial commentary was that rapid inflation wouldn't be triggered. Or that any inflation would be what's been termed '*transitory*'.

Advance Wealth referred again to the asset allocation tools and information sources it uses. And queried how it might in future deal with clients who wanted a low risk approach. There was also reference to large losses suffered by investors whose pensions were invested with large providers in '*lifestyling*' programmes which typically involve switching funds into gilts or bonds as retirement approaches.

### **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.

As I've set out above, I've had some further exchanges with Advance Wealth since I issued my provisional decision which haven't been shared with Mr M. No discourtesy to Mr M was intended. As what Advance Wealth said didn't change my conclusions, I didn't seek Mr M's comments.

As to the further points Advance Wealth has raised, I don't have much to add. Although I understand Advance Wealth's position, I don't think further debate, especially about the wider financial economy and, in particular what's happened with fixed interest assets, is going to take matters much further forward.

But to be clear, I'm not saying that what happened to the market and fixed interest funds was predictable. I said, largely in passing, that the issue was debatable. I take Advance Wealth's point that, even if it could be foreseen that interest rates would rise to some degree at some point, the extent of the inflationary pressures and the speed at which rates rose impacted too. My decision isn't based on any suggestion that Advance Wealth should've foreseen that the climate pertaining to fixed interest funds would change and very rapidly and mean that such funds should no longer be regarded as invariably safe, low risk investments.

I also note here what Advance Wealth has said about the position of some major providers who've moved investors into bonds as part of lifestyling programmes. But I don't see that's directly relevant here in a complaint about the suitability of advice given. Advance Wealth has also referred again to the tools and information sources which it uses. I've already commented on that and I don't have anything further to add. Nor is it for me to suggest how, going forwards, Advance Wealth might advise particular clients. I would however point out that my conclusions here, including any findings of fact, are specific to the particular circumstances of this case and taking the complaint as a whole.

I don't agree with Advance Wealth's suggestion that the overall gains Mr M has made since 2016 should be taken into account. That approach would mean, in any complaint that unsuitable advice had been given and losses had resulted, no redress would be payable if, during the period of investment under the particular firm's stewardship, there'd been an overall gain. I don't think that approach would be practical or indeed fair. A consumer may have a long and prosperous relationship with a firm but there may come a time when the consumer considers that the advice given hasn't been suitable. If we agree and consider that losses have arisen in consequence of that particular advice, we'll award redress based on the advice complained of.

As I've said, if Mr M had been invested in suitable funds, even if he suffered losses, Advance Wealth wouldn't be responsible. But, for the reasons I've explained, I don't think the portfolio was suitable. Some 34% was invested in equities. And 52% in the Invesco Corporate Bond Fund. I've explained why I consider that was a medium risk fund. Corporate bonds are generally riskier than government bonds. In my view, that Fund, coupled with the equity element, meant the bulk of Mr M's pension was invested in what could broadly be regarded as medium risk funds. I think that exposed Mr M's portfolio to more risk than an investor with a 2 out of 10 ATR would be prepared to accept. As the portfolio was in my view unsuitable then I need to consider how things should be put right for Mr M.

Our usual approach if we think an investment or portfolio is unsuitable but where we don't know exactly how the investor would've invested had suitable advice been given, is to say that redress should be calculated by reference to a benchmark. Sometimes the choice of benchmark may be relatively obvious. But in other cases it may be more nuanced and finely balanced. It will depend on the facts and circumstances of the particular case. And, as I've said earlier, using a benchmark is to some extent a broad brush approach. Here I maintain the benchmark I've suggested is broadly suitable and represents fair and reasonable redress for an investor who wanted to take very little risk with their money. I've explained why, based on the evidence I've seen, including the risk questionnaire and Mr M's own evidence, my view is that Mr M didn't want to take any real degree of risk with this pension fund.

I know Advance Wealth will remain unhappy but I maintain the views I set out in my provisional decision. I've recapped what I said above and it forms part of this decision along with the further reasoning I provided in response to Advance Wealth's comments and which I've also included above. I'm upholding the complaint and awarding redress as below. It will be up to Advance Wealth, assuming Mr M accepts my decision, to carry out the calculations and liaise direct with Mr M. We don't routinely check a business' calculations. I've said Advance Wealth should provide details to Mr M in a clear and simple format so he should be able to satisfy himself that the calculation is correct.

### **Putting things right**

My aim is to put Mr M as closely as possible in the position he'd probably be in now if he'd been given suitable advice. I think Mr M would've invested differently. But I can't say exactly what he'd have done instead. I'm satisfied what I've set out below is fair and reasonable, given Mr M's circumstances and objectives when he invested.

### **What must Advance Wealth Limited do?**

- Compare the performance of Mr M's investment with that of 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's a loss and compensation is payable.
- Add any interest as set out below.
- Make a payment into Mr M'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 shouldn't be paid into the pension plan if it would conflict with any existing protection or allowance.
- If Advance Wealth Limited is unable to pay the total amount into Mr M's pension plan, it should pay that amount direct to him. But had it been possible to pay into the plan, it would've 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 Mr M won't be able to reclaim any of the reduction after compensation is

paid.

- The notional allowance should be calculated using Mr M's actual or expected marginal rate of tax at his selected retirement age. It's reasonable to assume Mr M is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if he would've been able to take a tax free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.
- Pay Mr M £200 for the upset and inconvenience this matter will have caused.
- Income tax may be payable on any interest paid. If Advance Wealth Limited deducts income tax from the interest it should tell Mr M how much has been taken off and give Mr M a tax deduction certificate in respect of interest if he asks for one, so he can reclaim the tax on interest from HM Revenue & Customs if appropriate.
- Provide details of the calculation to Mr M in a clear and simple format.

| Portfolio name | Status       | Benchmark  | From ("start date")  | To ("end date")           | Additional interest   |
|----------------|--------------|--|--|---------------------------|---|
| Pension fund   | Still exists | Bank of England average return from fixed rate bonds | Date of investment (when asset allocation recommended on 3 December 2021 put in place) | Date of my final decision | 8% simple pa from the date of my final decision to date of settlement (if not settled within 28 days of Advance Wealth received notification of Mr M's acceptance of the final decision). |

### **actual value**

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

### **fair value**

This is what the investment would've been worth at the end date had it produced a return using the benchmark. To arrive at the fair value, Advance 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. Those rates should be applied to the investment on an annually compounded basis.

Any withdrawal should be deducted from the fair value calculation 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 those payments are totalled and that figure deducted at the end to determine the fair value instead of deducting periodically.

**My final decision**

I uphold the complaint. Advance Wealth Limited must redress Mr M as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 28 December 2023.

Lesley Stead  
**Ombudsman**