DRN-5038077

The complaint

MWA FINANCIAL ADVICE LTD ('MWA') previously advised, and serviced, the following accounts for Mrs H and Mr H ('the complainants') –

- Their individual Self-Invested Personal Pensions ('SIPPs').
- Their jointly held General Investment Account ('GIA'), which had a holding of units/shares in the M&G Feeder of Property Portfolio (the 'M&G fund') and which also had the function of being a feeder to the SIPPs – parts of the SIPPs' values are in this overall holding. This decision addresses the overall M&G fund holding.

The complaint is about liquidation of the M&G fund holding.

The complainants say they instructed MWA to execute this in April 2021 (to be done at the first opportunity to do so), then discovered, in October 2023, that it had not carried out their instruction despite opportunities to do so since April 2021. At the time of this discovery, they say they wanted to encash their SIPPs and the GIA (including a transfer of the remaining value in the GIA to Mrs H's SIPP) then use their SIPPs to purchase a 12 years fixed term annuity (each) – the 'retirement plans'; that the M&G fund had become suspended, illiquid and was to be closed; that they have been unable, since then and to date, to carry out the retirement plans; and that the timing and value of liquidating their holding has since been uncertain, with the ongoing closure of the M&G fund likely to take up to three years and with no guarantee that they will recover fair value (or value that could have been achieved had their April 2021 instruction been executed in time) for their holding at the end of the process.

Their wider case includes claims about the effects of the M&G fund holding problem on their respective SIPPs. However, we have separated those claims into individual complaints for each of the SIPPs. The present complaint, and this decision, is only about the M&G fund holding problem.

What happened

On 17 October 2024 I issued a Provisional Decision ('PD') for the complaint. The PD was sent to both parties and they were invited to submit their comments and responses, which they did. Each party expressed disagreements with the PD, which I will summarise further below.

First, I quote the following main provisional findings set out in the PD –

"… *this complaint is only about the M&G fund holding problem.*

Merit in the complaint hinges on whether (or not) MWA was instructed in April 2021 to liquidate the M&G fund holding at the next available opportunity to do so, and, if it was instructed to do that, whether (or not) there has been an opportunity (or opportunities) to liquidate the holding after the instruction. If it was given the instruction, the facts show that it did not carry it out, and if there was opportunity to carry it out it should have done so.

There is publicly accessible information, from M&G, which answers the second enquiry

(about opportunity to liquidate the holding). Press releases about the M&G fund, from its website and from 2021 to date, includes the following –

In a press release on 20 April 2021

"M&G Investments announces that it will reopen the M&G Property Portfolio and its feeder fund, the M&G Feeder of Property Portfolio (the Funds) for dealing as of midday on 10 May 2021. The decision to lift the suspension has been taken by the Fund's Authorised Corporate Director (ACD) and its Depositary, who are now satisfied the Fund has a suitable liquidity position for customers who wish to sell their investment and for those who wish to remain invested. The Financial Conduct Authority has also been notified."

In a press release on 6 October 2022

***"LONDON, 6 October 2022** – M&G announces that … will be appointed manager of the M&G Property Portfolio (the Fund) and M&G Feeder of Property Portfolio, subject to final regulatory processes."*

"The M&G Property Portfolio invests in commercial property on behalf of UK investors. The Fund's assets under management are £824 million as of end of September 2022 and has 21.1% cash."

In a press release on 19 October 2023

*"**London: 19 October 2023** – M&G Investments today announces its intention to close the M&G Property Portfolio (the Fund) due to declining interest in open-ended daily dealing property strategies from UK retail investors. The decision has been made in the best interests of all investors and is subject to regulatory approval. The Fund – and its feeder fund – has suspended dealing in shares and M&G is writing to clients on next steps."*

"Upon regulatory approval, an orderly sales programme of the Fund's assets will commence, with the objective of ensuring that fair market prices are achieved. In the current market conditions, M&G expects it will take approximately 18 months for the majority of the portfolio to be sold and money will be returned to clients when cash becomes available throughout this period."

"Orders placed after midday or after 11am on MyM&G on 19 October will not be accepted. M&G will keep clients regularly informed of progress on the M&G website and through other channels."

The above is evidence on which to conclude that the M&G fund was reopened for dealing on 10 May 2021 and remained open for dealing until 19 October 2023. Therefore, if MWA was instructed, in April 2021, to liquidate the complainants' M&G fund holding it had the opportunity to do so at any time between 10 May 2021 and 19 October 2023.

From what I have seen in its complaint responses, it appears that MWA neither concedes nor denies that it received an instruction from the complainants (or from either one of them) in 2021 to liquidate the holding at the next available opportunity. Instead, it has concentrated on describing its efforts to meet with them between June 2022 and May 2023. I have seen some evidence to support MWA's attempts to arrange reviews with the complainants during this period. However, this does not address the issue of the instruction to liquidate. The complainants say the instruction was given in April 2021. As illustrated above, opportunity to liquidate the holding was available from the following month (May 2021) onwards (until October 2023). Any communication from MWA to them in June 2022 happened more than a year after any instruction in April 2021 and more than a year after there was opportunity to

execute it.

This shows that MWA's actions in 2022 are not relevant to its position in relation to any 2021 instruction. Regardless of its efforts in 2022 to meet with the complainants, if it received the liquidation instruction in April 2021 – and based on investment transactions being inherently time sensitive, based on its regulatory obligation to uphold the complainants' best interests and based on the expectation of best and timely execution associated with such an instruction – MWA ought to have executed the instruction in May 2021, at the earliest opportunity after 10 May (when dealing in the M&G fund reopened).

Overall and on balance, I am persuaded that MWA was instructed to liquidate the M&G fund holding in April 2021, as the complainants have said. There is evidence from MWA's records to support this conclusion. One of its meeting agenda/notes documents has the following statement – "Clients would like to retire when [Mr H] is around 66 (c. March 2021)". There are cashflow analysis documents for the complainants with forecasts based on them entering retirement around 2020, one of which includes the following statement about their plan for retirement income – "Purchase of an annuity, with all available funds". This is broadly consistent with the complainants' retirement plans summarised at the outset of this decision.

The above give support to the notion that by 2021 the complainants planned for liquidation of their assets in preparation for their retirement plans. Hence my conclusion that they probably instructed the M&G fund liquidation in 2021. For the reason I address next, I also consider that, on balance, they gave this instruction in April 2021, as they say they did. I am mindful that they do not appear to have proceeded with any purchase of an annuity in 2021, and that they did not attempt to do so until 2023. It is not quite clear why this part of the retirement plans appears to have been delayed. However, I do not consider that it makes a meaningful difference to the effect of evidence supporting the part of their retirement plans about liquidating assets by 2021.

I have noted the complainants' explanation about the context in which the instruction was given. They refer to a complaint they had made in 2021 about service issues (associated with loss of value in some of their holdings) that MWA settled by waiving its ongoing fees for 12 months. MWA has referred to the same set of circumstances in 2021, so this is not in dispute.

MWA conducted a review as part of the complaint's resolution. Around the same time, in April, the complainants say they instructed it to liquidate the M&G fund holding – in the aftermath of the review and because they sought to stem losses they were facing in some holdings (including this holding). It would appear that their plan to liquidate assets in preparation for retirement found itself coupled by an objective to stem losses.

MWA has confirmed that the M&G fund was still suspended at the point of the 2021 complaint resolution, so this is consistent with the complainant's claim that their liquidation instruction was to be executed at the next available opportunity after the suspension was lifted. As stated above, the suspension was lifted in May 2021, so the resolution and review must have happened before that event.

An email that MWA has referred to as evidence of its effort to arrange a review in 2022 is dated 8 June 2022 and it states that the complainants' annual review was due at the time. That would suggest the preceding 'annual' review happened around a year earlier, but, for the reason given above, it would have happened before 10 May 2021.

Overall and on balance, I consider that the sum of this evidence supports the complainants' claim that their liquidation instruction was given to MWA in April 2021. The parties agree that

the M&G fund was still suspended at the time they engaged with each other, for the aforementioned reasons, in 2021, so a timestamp, so to speak, later than April (and/or later than 10 May) will be inconsistent with that. It would fall into the period in which the suspension had been lifted. A timestamp earlier than April is possible, but the fact that the following year's annual review was due in June would suggest the previous annual review happened at least 12 months earlier but, for the aforementioned reasons, before June and before 10 May, which makes April more likely.

MWA had the opportunity to execute the instruction in May 2021 (from 10 May 2021 onwards), but it wrongly failed to do so. Its failure and omission continued until the M&G fund was suspended again in October 2023, hence the reason why the complainants remain locked into the holding to date.

For the above reasons, I uphold the complainants' complaint about the M&G fund holding. They should not be in the position they are presently in, because their holding could and should have been sold in May 2021. It is also true to say that, having failed to execute the instruction in May 2021 as it should have, the holding could still have been sold at any time in between May 2021 and October 2023, so MWA could have mitigated the effect of its failure during this period, but did not.

My provisional conclusion is that the complaint is upheld. This gives rise to the consideration of redress for any financial loss caused to the complainants and compensation for the trouble and inconvenience the matter has caused them.

The trouble, distress and inconvenience that the matter has caused them is not difficult to see. The liquidation proceeds they expected to have and relied upon to support their annuity purchase plans has not been available, problems between them and MWA (with their root cause in MWA's wrongdoing in the liquidation instruction matter) resulted in MWA withdrawing its service, they have faced the trouble and inconvenience of having to secure a new adviser to assist in addressing their somewhat complex predicament and strategy for their SIPPs, they appear to have faced difficulties in exploring and pursuing a compromise/alternative to their fixed term annuity purchase plan and they remain without a solution to their problem.

These effects upon them are traceable to MWA's failure to liquidate the M&G fund holding as and when it should have. But for that, they would have had the proceeds from the liquidated M&G fund holding at their disposal in late 2023 and available for the annuity purchase plan they had at the time, and it is more likely (than not) that none of the above effects would have happened. Having said this, our awards for trouble and inconvenience are not punitive, so I have discounted MWA's inaction (with regards to executing the instruction) between 2021 and 2023. Firstly, because it is not my aim, and it is not in my power, to punish it for that inaction. Secondly, because the complainants were unaware, during this period, that their instruction had not been carried out, so they could not have been troubled or distressed by something they did not know at the time.

However, I am satisfied that the trouble, distress and inconvenience they have faced since late 2023 and to date – arising from knowledge of the unexecuted instruction and the effects summarised above – is enough to justify the £900 that MWA has offered. I commend MWA for making this offer. It signifies its recognition of the adverse impact upon the complainants. I endorse this offer and, if my finding on this matter remains the same in my final decision, I will make an order directing MWA to pay them this amount in compensation for the trouble, distress and inconvenience they have faced.

In addition to the reasons I have given, I have also reached this conclusion with support from our service's guidance on how we approach these awards. The parties can find this on our

website, at the following link – https://www.financial-ombudsman.org.uk/businesses/resolving-complaint/understanding-compensation/compensation-for-distress-or-inconvenience. Under this guidance awards between £750 and £1,500 can be considered where a firm's wrongdoing has caused substantial distress, upset and worry, and where it has caused serious disruption and an impact felt over many months or even over a year. For the above reasons I consider that the impact upon the complainant fits this description. The £900 offer also fits into the range for the award and is a fair amount for the circumstances of the present case.

With regards to redress for financial loss, I intend to make the following findings in my final decision –

- *The root cause of the M&G fund holding problem exists within the M&G fund holding itself. It should have been sold by MWA in May 2021, it was not sold at the time, and it remained unsold until late 2023 when the complainants learnt that MWA had not followed their instruction. Unfortunately, by then the M&G fund had become suspended again and was/is facing closure.*

- *Therefore, the complainants are presently unfairly stuck with an illiquid holding, and MWA has caused that.*

- *As of October 2023 (when they sought to use value from the holding), they should have had the liquidated cash value for the holding (that is, its value in May 2021 when it should have been sold) plus interest on that value at the rate applied in the cash account(s) of their portfolio(s) where the liquidated proceeds would have been held – the 'redress interest rate' – from May 2021 to October 2023. [the '2023 fair position']*

- *As of the time of this decision, and given that the problem remains ongoing, the updated version of what they should have is – the liquidated cash value for their M&G holding (based on its value in May 2021 when it should have been sold) plus interest on that value at the redress interest rate from May 2021 to date, and minus any part values they have recovered, for the holding, from the M&G fund since it was suspended and subject to closure in October 2023. [the 'current fair position']*

- *I acknowledge that the parties have explored a resolution related to the annuity purchase plan. I can understand why, but I also consider that it has complicated the matter unduly. It has created the scenario that MWA has objected to, whereby it offers settlement for the annuity purchase matter but is expected to also redress potential loss of value in the holding itself. It has also created the scenario that the complainants object to, whereby MWA's settlement offer only has a temporary effect over two and a half years, and they are thereafter left, without recourse to redress, to face a potential loss of value in their holding that could have gone towards funding an annuity plan longer than two and a half years (or up to the 12 years they intended).*

- *Fair and reasonable redress will be to put the complainants, as close as possible and with focus on their M&G holding, in the position they would be in had their holding been sold in May 2021, as it should have. That will require MWA's application of the current fair position summarised above, because it is responsible for redressing the complainants' financial loss. Events have gone past the 2023 fair position, so that can no longer be fairly applied.*

- *Redress to the complainants will also include, if possible, provision for their M&G fund holding to pass away from them – to reflect the finding that it should have been*

sold in May 2021. The immediate option will be for MWA to take ownership of the holding, given that it is responsible for redressing the matter. Alternatively, it could draw up an undertaking for the complainants to remit all future cash value received from or for the holding.

- *An additional layer of redress to the complainants relates to any platform fees they have incurred as a result of retaining the M&G fund holding since May 2021. MWA would need to calculate those fees from June 2021 (by which time the holding should have been sold) up to the date it takes ownership of the holding or, if it does not do that, up to a reasonable point in the future to allow for the time over which the holding will continue to remain on the platform(s), attracting platform fees, pending conclusion of the M&G fund's closure.*

- *Upon completion of redress, the complainants should have the net monetary value of the current fair position (based on where they would be if their M&G holding had been sold in May 2021 as it should have, minus any part values they have recovered for the holding since October 2023); the detriments (mainly the illiquidity of the M&G fund and the uncertainty associated with the M&G fund/the M&G fund holding/the value of the holding) caused to them by MWA's failure to sell the holding in May 2021 would be resolved; any platform costs, for the M&G fund holding, they have incurred between June 2021 and the point MWA takes ownership of it (if it does that) will be compensated for; or, if MWA does not take ownership of the holding, they will be compensated for any such platform costs from June 2021 and up to when the M&G fund is likely to be closed*."

The complainants made general comments and comments in response to parts of the PD.

With regards to the former, they expressed dissatisfaction that the PD did not address the issues and problems related to their SIPPs, drawing income from their SIPPs, the problems they have faced (and continue to face) in relation to their annuity plans and MWA's responsibilities to rectify all these issues. They also said the redress provisions I shared in the PD are too complex, that they omit redress for these additional issues and that, for reasons they expressed, the £900 award for trouble and inconvenience is unfairly insufficient to compensate for the trouble and inconvenience they have faced in the overall matter.

In response to parts of the PD's conclusions, the complainants mainly recapped on the circumstances surrounding their instruction to MWA in 2021 and they explained that they faced an expense of £3,675 in appointing a new adviser (which they consider to be a loss) because of MWA's termination of service.

They also said the redress provisions in the PD are broadly the same as what they invited MWA to use in settlement of the matter earlier in the year, that it rejected their invitation and that events have moved on since, which now makes that type of redress insufficient, so a more complete form of redress (covering all the adverse effects on, and associated with, their SIPPs and annuity plans) should be applied. They are unhappy that the PD does not provide for this.

I responded mainly as follows –

"*The Provisional Decision ('PD') in this joint complaint has been approached on the basis that it relates only to your complaint about your jointly held M&G fund, and that your complaints about your respective SIPPs have been separated and are being treated as such. It is for this reason that the PD only upholds your claim against MWA for not liquidating the M&G fund holding as it was instructed to and only sets out redress for that failing. The aim in the redress provisions is to resolve this specific issue only, whereby the value you*

would have realised from the liquidation you instructed is brought up to date and given to you as compensation. I have not considered the parts of your overall case against MWA related to your respective SIPPs and any annuity plans connected to them, because I believe those parts are under different complaints.

The redress provisions in the PD are somewhat extended because the value that would have been realised if MWA liquidated your holding in 2021 needs to be brought up to date. That is why I have included the cash account interest that the liquidation proceeds would have earned (to date) and discounted any capital recoveries you have had from the M&G fund (any such capital amounts recovered need to be deducted from the compensation, and should not attract interest after recovery, because you have received those amounts)."

The complainants insisted that they expected the entirety of their case, inclusive of the SIPP and annuity related matters, to be addressed as one. In response, the investigator reminded them about setting up the existing and separated cases for their individual SIPPs (and the matters related to their SIPPs), distinct from the present case about their jointly held M&G fund holding.

They then returned with submissions about the inadequacy, as they view it, of the trouble and inconvenience award, and with an enquiry about how MWA's redress calculation will be verified. They consider it unfair that the £900 award should be expected to cater for the three entities involved in their case – Mrs H, Mr H and the complainants jointly – and they set out reasons why each entity should be awarded £1,000. Their enquiry about verifying MWA's redress calculation was made because they have lost trust in MWA.

I responded to confirm that these submissions will be addressed in my decision, and I said –

"*If my final decision retains the findings and conclusions in the provisional decision, MWA will be ordered to apply the approach to calculating redress that I set out in the provisional decision and, as stated in the provisional decision, it will be ordered to "Provide the calculation for this redress payment to the complainants in a clear and simple format". This should allow for verification of the calculation*."

In response to the PD, MWA mainly said –

- It does not have evidence of the complainants' alleged liquidation instruction of April 2021. Without their instruction it could not have liquidated the M&G fund holding.

- The complainants refer to their retirement plans, but it cannot reasonably be expected to have helped them in organising those plans when they were not responding to any of its attempts to contact them over time.

- Notes from its meeting with the complainants/Mr H in 2021 show that his plan at the time was to draw down retirement income from his SIPP. It appears that his plan changed, to purchasing an annuity instead, between then and November 2023 when he contacted MWA. The M&G fund suspension caused no impact upon the plan for the SIPP draw down.

- In terms of the PD's redress findings, based on its enquiries it does not appear that ownership of the M&G fund holding can be passed on to MWA; the findings omitted the complainants' capital recovery in May this year; and a more practical approach to redress would be –

  "*Value of funds at May 2021 + 8% interest to now (A)*

Value of recovery in Feb 2025 + 8% interest to now (B)
Value of recovery in May 2024 + 8% interest to now (C)
Loss Calculation A-B-C"

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 have reviewed the complaint, especially in light of the parties' comments on the PD. Having done so, I have not been persuaded to alter the findings and conclusions in the PD. I retain those findings and conclusions, and I incorporate them into this decision.

I address MWA's comments first.

I note its observation that the draft redress orders I shared in the PD omitted reference to any capital recovered by the complainants in May this year. I have used the same draft as the basis for the redress orders I give below, and I have corrected this omission. As stated in the PD redress to the complainants must include the following deduction – "… *minus any part values they have recovered, for the holding, from the M&G fund since it was suspended and subject to closure in October 2023*" – so any capital recovery in May this year will fall into this category.

I have also noted MWA's comment about the possibility, or otherwise, of ownership in the M&G fund holding passing to it. The orders below will provide for either event, with or without ownership passing to MWA.

With regards to the redress calculation, both parties appear to share the view that the draft I referred to is too complex. I have based my orders below on the same draft because I wish to give reasons for each step of the calculation. What MWA has proposed is indeed simpler, but it is also without the sort of reasoning that I used in my draft and that I consider could be of benefit to the complainants – to inform them of the purpose for each step of the calculation. MWA's proposed calculation might also be slightly different, given that it has used the interest rate of 8% and given that it is not clear to me that the *redress interest rate*, as I defined in the PD (and in the PD findings quoted above), was 8%.

I will use the draft redress provisions to inform the orders below. However, if both parties wilfully and expressly choose and agree to use MWA's proposed alternative, they are free to do so and to apply that in settlement of redress.

I do not accept MWA's arguments about the April 2021 instruction, its attempts to contact the complainants (between 2022 and 2023) and its reference to Mr H's retirement plan in 2021 being based on drawing down from the SIPP.

I gave reasonably detailed reasons in the PD for my finding that the April 2021 instruction was probably given by the complainants. Those reasons noted that MWA neither conceded nor disputed this. Its response to the PD states (or at least strongly suggests) that it disputes this. Nevertheless, it has said nothing that calls the PD's finding – which was reached on the balance of probabilities and for the reasons given – into question. As I said in the PD – "*Overall and on balance, I consider that the sum of this evidence supports the complainants' claim that their liquidation instruction was given to MWA in April 2021*" [my emphasis].

The PD also explained why MWA's efforts to contact the complainants are irrelevant to the fund liquidation issue. Essentially, that liquidation instruction was given in April 2021 and should have been executed in May 2021, before MWA's contact efforts began in 2022.

A similar analysis applies to MWA's argument about Mr H having a different retirement plan in 2021, to which the M&G fund suspension made no difference and/or had no impact. The timings and circumstances were different.

The complainants' retirement plans in late 2023 are as they have described (in relation to buying an annuity); the plans required the liquidated capital from the M&G fund holding; MWA's failure to liquidate that holding in May 2021 (and its ongoing failure to do so from then and thereafter) meant there was no such capital available to them; and by the time they wanted to implement their plans the fund was suspended again, so their holding could not be sold and, to date, still cannot be sold. Therefore, in 2023, the fund's suspension made a difference to their case.

With regards to the complainants' comments on the PD, I addressed some of them in the communications I quoted above so I do not need to do that again. For the others –

- I repeat what I said in the PD about my decision – it is only about the complainants' joint complaint as described at the outset (above). As such, my finding on the £900 award for the trouble and inconvenience they have faced is also directed at their joint complaint. Their views about the trouble and inconvenience award that should apply to their individual and respective SIPP related cases is beyond the scope of my decision, so I do not comment on that. For the reasons given in the PD, I am satisfied that £900 is a fair and reasonable award to the complainants for the trouble and inconvenience they have faced in the present case.

- I understand their point about the cost of appointing a new adviser after MWA terminated its service. The trouble and inconvenience arising from this event and its effect on them (in the context of MWA's wrongdoing leading to the circumstances in which the service was terminated) is, in my view, also covered by the aforementioned award. Beyond that, both parties were contractually entitled to terminate the service. MWA elected to do so, therefore it did what it was entitled to do. In addition, I mindful that the alternative service the complainants secured appears to have been mainly related to their SIPPs and retirement plans, which are beyond the remit of my decision. Overall, on balance and for these reasons, I do not find grounds for a separate award for their cost in appointing a new adviser.

- An additional point to note on verification of MWA's redress calculations is that our service can sometimes give some assistance, if needed, to help parties conclude the calculation and payment of redress, but this has a limited scope because we do not have enforcement powers. In the present case, MWA will be required to calculate and pay any resulting redress as I set out below. If the calculation and/or redress amount is disputed and cannot be resolved amicably between the parties, the complainants can consider action in the courts to enforce this decision (and any part of its redress orders that they might consider has been unmet or miscalculated). The same consideration for them applies in the event of delayed payment or non-payment of redress.

Putting things right

Fair compensation

My aim is to put the complainants as close as possible into the position they would probably now be in if MWA had sold their overall M&G fund holding in May 2021 as it should have done, and as summarised in the current fair position mentioned in the PD (and quoted above).

MWA should have sold the holding in May 2021, from 10 May onwards. As far as I understand, the M&G fund was/is an open-ended fund, so the main market for its shares/units would have been the fund itself (as opposed to a secondary market or exchange). The sale would have happened in this way, so the fund's prices are relevant.

Historical prices for the M&G fund, available from M&G's website, show that between 10 May 2021 and 28 May 2021 the price per share/unit for the fund ranged between 92.39 and 95.37 – GBX (or pence). I cannot be certain or specific about the date on which the holding would have been sold, if MWA had executed the liquidation instruction, but I have given reasons why it probably would have been sold in the month of May 2021.

In these circumstances and with regards to the price that MWA must use in calculating redress, I consider it fair to use the median price per share/unit for the M&G fund between 10 and 28 May 2021, based on the historical prices obtainable from M&G's website. This will be 'the redress price'. I note that these historical prices appear to be mid prices or single Net Asset Value related prices, as opposed to the two-way prices (or bid/offer prices) that would have applied to purchases and sales of shares/units. However, in the circumstances, I consider it simpler and fair to use the single historical prices as they have been presented.

According to information from the M&G fund, partial capital repayments were or could have been made to investors in February and in May this year. This would suggest that the complainants have recovered some part values for their M&G fund holding. Hence my provision for the deduction of any such recovery in the current fair position. The complainants are ordered to cooperate with MWA and disclose to it all and any relevant information it requires in this respect and for the purpose of calculating redress.

Redress is based on the complainants realising, on the basis set out below, what they are entitled to from their M&G fund holding. This should lead, if possible, to the holding passing away from them and passing to MWA. MWA's says its enquiries thus far suggest this will not be possible. If it turns out to be possible, MWA should take ownership of the overall M&G fund holding and it should make arrangements, at its expense, to do so. If MWA is unable to take ownership of the holding it may require that the complainants provide an undertaking to pay it any amount they may receive from the holding in the future. That undertaking must allow for any tax and charges that could be incurred by the complainants on withdrawing such payments, they should not bear such costs. MWA will also need to meet any costs in drawing up the undertaking.

What must MWA do?

To compensate the complainants fairly, MWA must do the following –

For the overall M&G fund holding –

- Calculate the total liquidation value that would have been achieved if the complainants' overall M&G fund holding had been sold in May 2021 at the redress price. The result is 'A'.
- Calculate interest on A at the redress interest rate (as defined in the PD and as quoted above) from 28 May 2021 up to the point of any capital recovered by the complainants from the M&G fund in or around February 2024. The result is 'B'.
- Calculate A plus B. The result is 'C'.
- Calculate C minus any capital recovered by the complainants from the M&G fund in or around February 2024. The result is 'D'.

- Calculate interest on D at the redress interest rate from the point the complainants recovered any capital from the M&G fund in or around February 2024 to the point they recovered any capital from the M&G fund in or around May 2024. The result is 'E'.
- Calculate D plus E. The result is 'F'.
- Calculate F minus any capital recovered by the complainants from the M&G fund in or around May 2024. The result is 'G'.
- Calculate interest on G at the redress interest rate from the point the complainants recovered any capital from the M&G fund in or around May 2024 to the date of this decision. The result is 'H'.
- Calculate G plus H. The result is the redress for investment loss that is due from MWA and must be paid to the complainants.
- Provide the calculation for this payment to the complainants in a clear and simple format.

For the platform costs –

- If MWA can take ownership of the complainants' M&G fund holding, it must calculate all and any platform fees and charges associated with the holding, and incurred by the complainants, from June 2021 to the date MWA takes ownership of the holding. The total/result must be paid by MWA to the complainants as compensation for the platform costs they have incurred as a direct result of MWA's failure to liquidate the holding in May 2021.
- If MWA cannot take ownership of the complainants' M&G fund holding, available evidence and information suggests that closure of the M&G fund could take a further two years to complete. If so, the complainants will continue to have the holding and to be responsible for any associated platform fees/charges. For this reason, and because such an ongoing responsibility will be unfair to them (given the findings in this decision), MWA must calculate all and any platform fees and charges associated with the holding, and incurred (and to be incurred) by the complainants, from June 2021 up to the date two years after the date of this decision. The total/result must be paid by MWA to the complainants as compensation for the platform costs they have incurred and will continue to incur as a direct result of MWAs failure to liquidate the holding in May 2021.
- Provide the calculation for this payment to the complainants in a clear and simple format.

For trouble, distress and inconvenience, pay the complainants £900.

MWA must also pay the complainants interest at the rate of 8% simple per year on the total redress payable if it does not settle redress (pay them all resulting redress amounts) within 28 days of being informed that the complainants have accepted this decision.

Compensation Limit

Where I uphold a complaint, I can make a money award requiring a financial business to pay compensation of up to £150,000, £160,000, £170,000, £190,000, £195,000, £350,000, £355,000, £375,000, £415,000 or £430,000 (depending on when the complaint event occurred and when the complaint was referred to us) plus any interest that I consider appropriate. If fair compensation exceeds the compensation limit the respondent firm may be asked to pay the balance. Payment of such balance is not part of my determination or award. It is not binding on the respondent firm and it is unlikely that a complainant can accept my decision and go to court to ask for such balance. A complainant may therefore want to consider getting independent legal advice in this respect before deciding whether to

accept the decision.

In the complainants' case, the complaint event happened after 1 April 2019 and the complaint was referred to us after 1 April 2023 but before 1 April 2024, so the applicable compensation limit would be £415,000.

Decision and Award

I uphold the complainants' complaint on the grounds stated above and in the PD. Fair compensation should be calculated as I have also stated above. My decision is that MWA must pay the amount produced by that calculation, up to the relevant maximum.

Recommendation

If the amount produced by the calculation of fair compensation is more than the relevant maximum, I recommend that MWA pays the complainants the balance. This recommendation is not part of my determination or award. MWA does not have to do what I recommend.

My final decision

For the reasons given above, I uphold Mrs H's and Mr H's complaint, and I order MWA FINANCIAL ADVICE LTD to carry out redress as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr H to accept or reject my decision before 7 December 2024.

Roy Kuku
Ombudsman