

## The complaint

Mrs P complains that Grange Financial Planning Ltd (“GFP”) gave her unsuitable investment advice. She says she was recommended to invest too much in an investment which was too risky for her.

She wants GFP to put her back in the financial position she was in before the investment went ahead.

## What happened

I set out the background to this complaint in my provisional decision, a copy of which is reproduced below and forms part of this final decision.

In my provisional decision I explained why I thought the complaint should be upheld. In summary, I didn’t think GFP’s recommendations to invest in a peer-to-peer lending scheme and an AIM IHT ISA (“O”) were suitable for Mrs P, given her likely attitude to risk and her circumstances and objectives.

And I set out what I thought GFP needed to do to put things right. In summary, I thought it should compensate Mrs P using the notional value from her previous ISA providers as a benchmark for the AIM IHT ISA. And using the deposit account opened in April 2018 as the benchmark for the peer-to-peer lending scheme. And I thought GFP should pay Mrs P £500 for the distress and inconvenience caused.

I invited both parties to provide any additional information and evidence.

Mrs P confirmed she was still holding both investments. She said she would seek advice once her complaint was settled, and she’d received the compensation. She said she would like to receive the compensation in cash, and she would fund her ISA accounts in future years.

GFP replied in some detail to say, in summary, that:

- The notes taken at the time and the suitability reports completed at the time evidence that Mrs P wanted to mitigate IHT and that this formed a major focus of her objectives. The conclusion that this wasn’t a key driver for Mrs P doesn’t reflect the evidence.
- Mrs P remains invested in the AIM IHT ISA (and a second AIM IHT ISA which was taken out at a later date). This suggests she does value the IHT benefits of this product, otherwise she would have liquidated them.
- GFP always ensured its investment recommendations left Mrs P with enough income to fund her lifestyle.
- Mrs P’s attitude to risk was discussed with her at every review *before* any advice was given. The increase in her attitude to risk reflected her growing confidence in her investments. And the above average risk of the AIM IHT ISA was balanced out by the

secure income Mrs P received from her guaranteed pensions.

- Mrs P didn't suffer any loss when the peer-to-peer provider closed the product, and she received the expected returns whilst it was open.
- The suggested calculation for putting things right isn't fair. Mrs P remains invested in the AIM IHT ISA, so she will receive the benefit of the IHT mitigation as well as the compensation.
- GFP does not agree that the investments were mis-sold. But it said it would be willing to compensate Mrs P on the basis that 50% of the AIM IHT ISA investment was suitable but the remaining 50% should have been invested elsewhere.

And GFP provided further information from its records, mainly consisting of email exchanges, which it hadn't provided previously.

### **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've carefully reconsidered my conclusions in the light of GFP's comments and the additional information it's provided. And, whilst I acknowledge its offer to compensate Mrs P on the basis that only 50% of the AIM IHT ISA was suitable, I am not persuaded to depart from my earlier conclusion. Let me explain why.

As I set out in my provisional decision, I wouldn't expect GFP to have recommended an investment solely to reduce potential IHT, at the expense of meeting Mrs P's current needs. Or if the reduction in IHT came at the expense of exposing her to more risk than she was willing or able to bear. Whilst Mrs P agreed to the increased risk profile, I'm not persuaded she fully understood the consequences of that higher profile, or the risks of investing in O. The additional information provided by GFP shows Mrs P was worried about the value of her investments because of her increased expenditure and her likely need to liquidate some investments to supplement her income. And, when O fell in value, she expressed concern and said "*I probably should not have gone for high risk*". This suggests to me that she'd agreed to take more risk than she was comfortable with, or was suitable for her.

GFP has emphasised that Mrs P "*was and remains an intelligent and capable individual*". And that she was therefore fully capable of making her own decisions and that her age alone wouldn't make her low risk. I had already considered this when I arrived at my earlier conclusion. Despite her intelligence and active lifestyle, Mrs P hadn't invested before, was of advanced years, had reduced income, and was likely to need to rely on her investments to supplement her income in the future. I'm not satisfied that the investment knowledge Mrs P may have gained through the investments recommended by GFP explains the increase in her attitude to risk from five to seven in less than three years. And, whilst Mrs P may have been fully capable of making her own decisions she relied on GFP to give her suitable advice.

For the reasons I set out in my provisional decision, I find the advice to invest in O was unsuitable for Mrs P. She should be put back in the position she'd most likely be in if she hadn't been given unsuitable advice. I don't find the 50% compensation offered by GFP in response to my provisional decision would achieve this aim. I can't say precisely what suitable advice would have been, but I don't think it's fair and reasonable to cherry pick parts of the advice and compensate for others. In line with our service's long-standing approach I think it's fair to consider broadly the position Mrs P would have been in but for the

unsuitable advice, which I set out below

GFP says Mrs P didn't make a loss as a result of the peer-to-peer lending scheme. But that doesn't change my conclusion that the recommendation to invest in that scheme wasn't suitable for her. As set out in my provisional decision, and in the "putting things right" section below, the calculations for both investments should be netted off.

GFP also raised concerns about the fairness of Mrs P receiving compensation when she remains invested in the AIM IHT ISA. I will address those concerns in the next section.

## Putting things right

### *Fair compensation*

In assessing what would be fair compensation, I consider that my aim should be to put Mrs P as close to the position she would probably now be in if she had not been given unsuitable advice.

I think Mrs P would have remained invested in the existing three ISAs and a deposit account. However, I can't be certain that a value will be obtainable for what those previous ISA's would have been worth. I am satisfied what I have set out below is fair and reasonable, taking this into account and given Mrs P's circumstances and objectives when she invested.

### *What should GFP do?*

To compensate Mrs P fairly, GFP must:

- Compare the performance of each of Mrs P's investments with the notional value if it had remained with the previous providers.
- A separate calculation should be carried out for each investment. The resultant figures should then be added up. If the calculation still shows a loss, that will be the amount payable to Mrs P.
- GFP should also add any interest set out below to the compensation payable.
- Pay Mrs P £500 for the distress caused by the loss made on the AIM IHT ISA.

Income tax may be payable on any interest awarded.

Investment name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
AIM IHT ISA	Still exists and liquid	Notional value from previous ISA providers	Date of investment	Date of my final decision	8% simple per year from final decision to settlement (if not settled within 28 days of the business receiving the complainant's acceptance)

Peer-to-peer lending scheme	No longer in force	Deposit account opened in April 2018	Date of investment	Date ceased to be held	8% simple per year on any loss from the end date to the date of settlement.
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*For each investment:*

#### *Actual value*

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

#### *Notional value*

This is the value of Mrs P's investment had it remained with the previous providers until the end date. GFP should request that the previous providers calculate this value.

Any additional sum that Mrs P paid into the AIM IHT ISA and peer-to-peer lending scheme should be added to the *notional value* calculation at the point it was actually paid in.

Any withdrawals from the AIM IHT ISA and peer-to-peer lending scheme should be deducted from the notional 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 GFP totals all those payments and deducts that figure at the end to determine the notional value instead of deducting periodically.

If the previous ISA providers are unable to calculate a notional value, GFP will need to determine a fair value for Mrs P's AIM IHT ISA instead, using this benchmark: FTSE UK Private Investors Income Total Return Index. The adjustments above also apply to the calculation of a fair value using the benchmark, which is then used instead of the notional value in the calculation of compensation.

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

I have chosen this method of compensation because:

- Mrs P wanted Capital growth and was willing to accept some investment risk.
- If the previous providers are unable to calculate a notional value, then I consider the measure below is appropriate.
- The FTSE UK Private Investors Income *Total Return* index is a mix of diversified indices representing different asset classes, mainly UK equities and government bonds. It would be a fair measure for someone who was prepared to take some risk to get a higher return.
- Although it is called income index, the mix and diversification provided within the index is close enough to allow me to use it as a reasonable measure of comparison given Mrs P's circumstances and risk attitude.
- The benchmark is only applicable for the calculation in relation to the AIM IHT ISA.

For the avoidance of doubt, the peer-to-peer lending scheme should be compared to the deposit account which GFP recommended Mrs P opened in April 2018.

### *ISA tax implications*

I explained in my provisional decision that, if GFP pays the compensation to Mrs P directly, the compensation sum will not benefit from the tax treatment of an ISA, when it should have done. But in response to my provisional decision, Mrs P told us she would like the compensation paid directly to her and she will fund ISAs over the coming years. I also explained in my provisional decision why I didn't think this was likely to cause Mrs P any further losses for which she should be compensated.

### *The investment in the AIM IHT ISA*

Mrs P told us she is still invested in the AIM IHT ISA and plans to take advice once her complaint has been settled. As set out above, my aim is to put her back in the financial position she'd be in if she hadn't received unsuitable advice. I don't find it would be fair and reasonable for her to be put in a better position as a result of my decision. If she retains the AIM IHT ISA she will benefit from the IHT mitigation, plus any growth in the investment, plus the compensation, which would put her in a better position. For that reason, GFP should calculate and pay compensation in line with one of these alternative approaches, dependent upon how Mrs P wants to proceed:

1. Pay the compensation, calculated as set out above, within 28 days of Mrs P providing it with evidence that she has liquidated the AIM IHT ISA. GFP can then use the liquidation value for the purposes of the compensation calculation; or
2. GFP should calculate the current IHT benefit the AIM IHT ISA is currently providing Mrs P. It should then pay any compensation, calculated as set out above, which is over the amount of the current IHT benefit, and pay the rest on evidence that Mrs P has liquidated the AIM IHT ISA. So, for example, if the current IHT benefit is £10,000 and the compensation is calculated to be £30,000, GFP would pay Mrs P £20,000 now; and the remainder if and when she provides evidence that she's liquidated the AIM IHT ISA.

## **My final decision**

My final decision is that I uphold this complaint. Grange Financial Planning Limited should pay the amount calculated as set out above and up to a maximum of £190,000 (plus interest).

Grange Financial Planning Limited should provide details of its calculation to Mrs P in a clear, simple format.

### *Recommendation*

If the amount produced by the calculation of fair compensation is more than £190,000, I recommend that Grange Financial Planning Limited pays Mrs P the balance.

This recommendation is not part of my determination or award. Grange Financial Planning Limited doesn't have to do what I recommend. It's unlikely that Mrs P can accept my decision and go to court to ask for the balance. Mrs P may want to get independent legal advice before deciding whether to accept this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 23 January 2025.

### *Copy of my provisional decision dated 29 October 2024*

#### **The complaint**

Mrs P complains that Grange Financial Planning Ltd ("GFP") gave her unsuitable investment advice. She says she was recommended to invest too much in an investment which was too risky for her.

She wants GFP to put her back in the financial position she was in before the investment went ahead.

#### **What happened**

GFP offered independent financial advice. Mrs P was recommended to GFP by a solicitor in 2015 following the death of her husband. The solicitor suggested she could obtain better returns from her savings by investing them in the stock market, and that she should get some advice about inheritance tax ("IHT").

Mrs P was an inexperienced investor. Before she sought advice, aside from her pension, her money was in bank deposit accounts, cash ISA's and a National Savings bond, which her late husband had arranged for her.

She completed a risk profile questionnaire and was assessed as having a risk attitude of five out of 10.

In January 2017, GFP recommended Mrs P opened an ethical cash ISA, a secure capital ISA and a stocks and shares ISA. These were to be funded from her existing ISA's and savings accounts.

In 2018, Mrs P completed the annual risk profile questionnaire and was assessed as having a risk attitude of seven out of ten.

In April 2018, GFP advised Mrs P to transfer her existing ISAs, and invest an additional £20,000 cash, into an AIM IHT ISA provided by a business I'll refer to as "O". GFP also recommended she consolidated her various savings accounts in to one new account and

transferred around £18,800 into a peer-to-peer lending scheme, also provided by O.

In October 2023, Mrs P received a letter from O to tell her that the value of her AIM IHT ISA had fallen by more than 10%. She complained to GFP that the advice to invest in the AIM IHT ISA had been unsuitable for her. She said she didn't realise it was riskier and more volatile than other, more traditional investments.

GFP said it had reassured Mrs P, on an annual basis, that she had enough resources to cover her income requirements from her capital assets and ongoing pension income and that the risks of the AIM investment were fully disclosed. Whilst the return on the investment wasn't guaranteed, GFP remained hopeful that it would show an overall positive return and that the investment had successfully reduced her estate's potential IHT liability as intended.

Our investigator recommended that the complaint should be upheld. He didn't think it was suitable for Mrs P to commit so much of her capital to a high-risk investment. He thought Mrs P was prepared to take *some* risk, and so it would be suitable to compare the performance of the AIM IHT ISA with an appropriate index and pay Mrs P the difference. And he thought Mrs P had suffered distress seeing her investment fall in value by a considerable amount, so he recommended GFP pay her £500 compensation for that distress.

GFP didn't agree. It said, in summary, that:

- Mrs P didn't lack the capacity to make informed financial decisions.
- GFP thoroughly discussed Mrs P's attitude to risk and capacity for loss and the risks of the AIM investment were clearly set out.
- Around a year after the AIM ISA investment, Mrs P decided to invest in another AIM ISA which has produced a positive return and Mrs P hasn't complained about this investment, even though it has similar qualities.
- Mrs P's estate had a potentially significant liability to IHT, and this was why such a large sum was put into the AIM investment.
- Mrs P took greater risk before she engaged with GFP because she'd chosen to keep all her capital in cash products, so she missed out on investment returns.
- GFP's advice to mitigate IHT included lifetime gifts, trusts, life cover, and downsizing her home in the future. It said the recommendation to invest in the AIM IHT ISA was a "*last resort*" having already advised the other options. There was no other suitable option which met Mrs P's needs – to reduce IHT liability and to provide funds in retirement – although she hasn't needed to draw on the AIM investment yet.
- Mrs P's risk level in 2016 was seven (out of 10) and this increased to eight. Mrs P had every opportunity to consider her attitude to risk and every year she confirmed that the risk score was appropriate.
- The value of the AIM ISA dropped by 20.04% (as at April 2024), compared to an average drop of 26.01% in this asset class. And the loss in value is within the expected range for an investor with Mrs P's attitude to risk (of eight out of 10).
- Mrs P is still invested in both AIM ISAs.

Mrs P also provided further comments. She said, in summary, that:

- She was entirely dependent on GFP's advice and had no idea that the AIM ISA was high risk.
- Her main objective was to ensure her savings kept pace with inflation; the idea of

reducing IHT was promoted to her by GFP and isn't a priority for her.

- To date, she hasn't had to draw on her investments to support her lifestyle but that's because she's been careful with her income. Her self-employment is due to end and her cash accounts have been depleted, so she will be entirely dependent on her pension income and her investments to support her retirement and any future care needs.

### **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.

Firstly, Mrs P has also complained about the trusts which GFP recommended she set up for her grandchildren. This is the subject of a separate complaint, and I won't be commenting on it in this decision. As far as this complaint is concerned, Mrs P has complained that the AIM IHT ISA was mis-sold to her. But this only formed part of GFP's investment advice in April 2018. For me to make a decision about whether the advice was suitable, I can't look at the AIM IHT ISA in isolation. So I will consider *all* the advice GFP gave Mrs P in April 2018. Our inquisitorial role allows me to do this.

Secondly, I'm aware that I've summarised this complaint in far less detail than the parties and in my own words. There is a considerable amount of information here but I'm not going to respond to every single point made. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

Thirdly, where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

### ***Were Mrs P's investment objectives correctly assessed?***

I think it's clear that one of Mrs P's key priorities was to improve the return on her savings. In 2015, apart from her pension and a National Savings bond arranged for her by her husband, Mrs P only held interest bearing accounts and didn't have any investment experience. She was also of advancing years, although still working and with no health concerns. I don't think it was unsuitable for Mrs P to invest a proportion of her money to try to achieve a better capital return which, in turn, could be used to supplement her income, particularly as she naturally anticipated working less and, eventually, retiring.

GFP says Mrs P also wanted to reduce the potential IHT liability on her estate. But Mrs P told us she wasn't concerned about IHT. I can see that the solicitor who referred her to GFP said that she might benefit from some advice about mitigating IHT. And I think it was appropriate for GFP to draw Mrs P's attention to the potential IHT liability on her estate. Whilst this may not have been something that concerned Mrs P, she seemed happy to follow some of GFP's advice to reduce that liability – for example by setting up trusts. But I can also see she didn't go ahead with the whole of life policy which GFP recommended in 2016. This may suggest she wasn't as concerned about IHT as GFP says. I'll take this into account when thinking about the suitability of GFP's recommendations.

### ***Was Mrs P's attitude to risk correctly assessed?***

Mrs P completed a risk profile questionnaire in October 2015 at her first meeting with GFP, and annually thereafter. Contrary to what GFP said in response to our investigator, these questionnaires show that she was assessed as:

- In 2015 - five out of 10, with one being low risk and 10 being high risk.



- In 2017 – six out of 10 (although the suitability letter said Mrs P had agreed a score of five was suitable for her needs and advice was provided on this basis).
- In 2018 (when the advice to invest in the AIM ISA was given) – seven out of 10.
- In 2019 - eight out of 10.

Other than Mrs P getting older, and most likely becoming more reliant on her investments for income as her work reduced, I can't see there was any other change in her circumstances which would suggest her attitude to risk would change, or her capacity for loss had increased.

There is an explanation for one of the increases in the risk score in the review notes for January 2018 where it's noted that:

*"Risk profile has increased from 6 to 7 because once ISA transferred only bond remains and that is intended for [son] many years from now. This increase also makes [O] more in line with her wishes. She is aware and accepting of the change in the investment type from existing ISAs to new one."*

The way this is written suggests to me that the risk score was decided upon to show the risk profile Mrs P's investments would have after the recommendation was implemented. Rather than reflecting Mrs P's actual attitude to risk.

I also think the risk questionnaire may not have been completed accurately. I say that because the risk score will have been impacted by the answer to the first question – *"When do you need this money, or how long do you want to hold this investment for?"* With no disrespect to Mrs P, in view of her age, it doesn't seem right that she was, presumably guided, to answer 30 years in 2015, 20 years in 2018 and 10 years in 2019. I note that the term was discussed in 2015 and GFP noted that, *"We also discussed the term of the investment because she may well benefit from it long term as well as the children!"* This suggests to me that the term was primarily set for the investments she was making for her children and grandchildren. But I think the term chosen was too long for the investments in her own name. It should have more accurately reflected her age, her reducing income from employment, and her likely increased reliance on her investment capital to supplement her income and possibly to provide for care in the future.

In view of Mrs P's circumstances, including her age and capacity for loss, and her lack of experience of investment, I find five was most likely an appropriate risk score for her in 2015. This was described by GFP as:

*"A risk level 5 investor should be prepared to accept annual returns somewhere within the range of a 14.54% loss and a 27.46% gain – returns within this range would be expected 95% of the time. It should be remembered that there is a 5% chance that a risk level 5 portfolio will experience an annual return outside this range – this means an investor may experience losses greater than 14.54% or gains greater than 27.46% at some point(s) during their investment."*

There's nothing to explain why Mrs P's attitude to risk increased in a relatively short space of time – to seven in 2018 (and eight the following year). And this isn't generally consistent with usual behaviour as someone gets older.

Regardless of Mrs P's risk score, GFP's responsibility was to give her suitable advice. I've gone on to consider that in light of my understanding of her circumstances, her objectives, her likely attitude to risk and her capacity for loss.

*Was the recommendation for Mrs P's cash deposits suitable?*

Mrs P had around £59,000 in a number of bank accounts and she told GFP she wanted to transfer them to one account paying a better rate of interest. GFP recommended Mrs P:

Retained her current account balance	£5,600
Opened a deposit account offering 1.32%	£9,250
Made gifts to her grandchildren	£6,000
Invested in a peer-to-peer lending scheme	£18,812
Invested in an AIM IHT ISA	£20,000
<b>Total</b>	<b>£59,662</b>

I'll consider the peer-to-peer lending scheme and the AIM IHT ISA later. But I'm satisfied that the recommendation to consolidate a number of existing savings accounts into one instant access account was suitable. And Mrs P wanted to continue making the gifts she regularly made to her grandchildren, so I can't say this was inappropriate.

*Was investment in the peer-to-peer lending scheme suitable?*

Whilst not explicitly stated in the suitability letter, this scheme seems to have been recommended as an alternative to a bank deposit account. I say this because GFP told Mrs P that the rate of return would be "*significantly more attractive than rates on cash deposits*" and that she could withdraw money "*at any time*". It was also described in her regular portfolio reports as an "*account*".

But the peer-to-peer lending scheme was more risky than a cash deposit and she may have got back less than the amount she invested. And her investment wasn't covered by the Financial Services Compensation Scheme ("FSCS"). If Mrs P had been advised to keep the £18,812 in an interest-bearing account or invest in a fixed term bond, her money would have been protected if the bank or building society failed. But she lost that protection when she moved the money to the peer-to-peer lending scheme. Even given the potential for greater returns, I don't think this was suitable for Mrs P in her circumstances.

These risks were set out in the suitability letter. But I'm not persuaded Mrs P would have fully understood the risks of the peer-to-peer lending investment compared to an interest-bearing account, or the protection she lost. I say this because, as noted earlier, she was an inexperienced investor. She was somewhat worried about her future income in retirement and how much she would need to withdraw from her accounts to supplement her income to meet her day-to-day expenses in the years ahead. Had she fully understood the risks she was taking with the peer-to-peer lending scheme, I don't think she would have agreed to have gone ahead.

*Was investment in the AIM IHT ISA suitable?*

One of the key benefits of the AIM IHT ISA, and the reason GFP said it recommended it, was that it qualified for business property relief which can be left to beneficiaries free from IHT, provided they've been owned for at least two years at the time of death.

As noted earlier, Mrs P now says she wasn't worried about her estate's potential IHT liability. But, even if she was, GFP was still required to ensure its investment recommendations were suitable for Mrs P's circumstances, including her agreed risk profile. And I wouldn't expect GFP to have recommended an investment solely to reduce potential IHT, at the expense of meeting Mrs P's current needs. Or if the reduction in IHT came at the expense of exposing her to more risk that she was willing or able to bear.

Having already decided that the level of risk Mrs P was prepared to take was lower than that recorded by GFP, I've considered the risks of the AIM IHT ISA that was recommended.

Those risks were set out in O's brochure and also in GFP's suitability letter. I consider the key risks in this case were that:

*“Companies listed on AIM normally involve more risk than those on the main market of the London Stock Exchange. Their performance tends to be more volatile, which means their value can rise or fall by greater amounts on a day-to-day basis.”*

And,

*“The shares of AIM companies tend to be harder to sell than the shares of large companies.... This means that if you decide to make a withdrawal or transfer from your ISA, you may not be able to sell the shares immediately.”*

It may often be suitable for someone who wants to only take a small or medium risk with their investments for their portfolio to include some high-risk shares, provided the risk of the portfolio overall is suited to their risk profile. But in Mrs P's case, the value of her investment in the AIM IHT ISA represented around 65% of her total investment and savings. I don't think Mrs P had the ability to replace significant losses on this much of her wealth, and I'm not persuaded that exposing so much of her money to such a risk was compatible with her overall objectives and circumstances. In other words, I don't think the benefit of her investment being outside her estate in two years was enough of a priority for her to make this investment suitable.

I also note that to fund the AIM IHT ISA, GFP recommended that three of Mrs P's existing ISAs were closed. But those ISAs – a cash ISA, a stocks and shares ISA, and a secure capital ISA – had only been recommended by GFP in January 2017, a little over a year before. When that recommendation was made, GFP recommended that the stocks and shares ISA should be held for a minimum of five years. And the secure capital ISA was set up with a ten-year term, meaning it had to be held for 10 years to guarantee return of the capital. During the period January 2017 to April 2018, I can only see one change in Mrs P's circumstances - her cash reserves had reduced (she said she had around one year's salary in her emergency fund, as opposed to two). GFP hasn't highlighted any concerns with the three ISAs that it had recommended in January 2017, so it would appear these remained suitable for Mrs P's needs. I don't think it was suitable to switch the investments so soon.

I acknowledge one of GFP's key concerns is that this is a complaint about performance. In other words, Mrs P was happy with the advice she received and only complained once the investment lost money. And that the risks of the AIM IHT ISA were set out in GFP's suitability letter, and in the brochure provided by O, and that Mrs P had sufficient capacity to understand those risks.

But Mrs P was still relatively new to investment and the risks formed a small part of two relatively long documents. I find she was reliant on GFP to give her suitable advice and that, as the expert, it was for GFP to decide if the risks of the investment were appropriate for Mrs P. Having assumed GFP had given her suitable advice, it wasn't until the value of her investment had fallen that Mrs P reasonably realised it may not have been a suitable investment for her.

I can't comment on the recommendations made in the years after 2018 because these don't form part of Mrs P's complaint.

### **Putting things right**

#### *Fair compensation*

In assessing what would be fair compensation, I consider that my aim should be to put Mrs P as close to the position she would probably now be in if she had not been given unsuitable advice.

I think Mrs P would have remained invested in the existing three ISAs and a deposit account. However, I can't be certain that a value will be obtainable for what those previous ISA's would have been worth. I am satisfied what I have set out below is fair and reasonable, taking this into account and given Mrs P's circumstances and objectives when

she invested.

*What should GFP do?*

To compensate Mrs P fairly, GFP must:

- Compare the performance of each of Mrs P's investments with the notional value if it had remained with the previous providers.
- A separate calculation should be carried out for each investment. The resultant figures should then be added up. If the calculation still shows a loss, that will be the amount payable to Mrs P.
- GFP should also add any interest set out below to the compensation payable.
- Pay Mrs P £500 for the distress caused by the loss made on the AIM IHT ISA.

Income tax may be payable on any interest awarded.

Investment name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
AIM IHT ISA	Still exists and liquid	Notional value from previous ISA providers	Date of investment	Date of my final decision	8% simple per year from final decision to settlement (if not settled within 28 days of the business receiving the complainant's acceptance)
Peer-to-peer lending scheme	Still exists and liquid	Deposit account opened in April 2018	Date of investment	Date of my final decision	8% simple per year from final decision to settlement (if not settled within 28 days of the business receiving the complainant's acceptance)

*For each investment:*

*Actual value*

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

*Notional value*

This is the value of Mrs P's investment had it remained with the previous providers until the end date. GFP should request that the previous providers calculate this value.

Any additional sum that Mrs P paid into the AIM IHT ISA and peer-to-peer lending scheme should be added to the *notional value* calculation at the point it was actually paid in.

Any withdrawals from the AIM IHT ISA and peer-to-peer lending scheme should be deducted from the notional 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 GFP totals all those payments and deducts that figure at the end to determine the notional value instead of deducting periodically.

If the previous ISA providers are unable to calculate a notional value, GFP will need to determine a fair value for Mrs P's AIM IHT ISA instead, using this benchmark: FTSE UK Private Investors Income Total Return Index. The adjustments above also apply to the calculation of a fair value using the benchmark, which is then used instead of the notional value in the calculation of compensation.

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

I have chosen this method of compensation because:

- Mrs P wanted Capital growth and was willing to accept some investment risk.
- If the previous providers are unable to calculate a notional value, then I consider the measure below is appropriate.
- The FTSE UK Private Investors Income *Total Return* index is a mix of diversified indices representing different asset classes, mainly UK equities and government bonds. It would be a fair measure for someone who was prepared to take some risk to get a higher return.
- Although it is called income index, the mix and diversification provided within the index is close enough to allow me to use it as a reasonable measure of comparison given Mrs P's circumstances and risk attitude.
- The benchmark is only applicable for the calculation in relation to the AIM IHT ISA. For the avoidance of doubt, the peer-to-peer lending scheme should be compared to the deposit account which GFP recommended Mrs P opened in April 2018.

### *ISA tax implications*

To put Mrs P back in the position she would have been in but for unsuitable advice, GFP may have to arrange to reopen the three closed ISAs and transfer any residual amount in the AIM IHT ISA to them. For that balance and any compensation payable above it should do so in the same proportions as she held in the three ISAs before they were closed. In other words, if at the time they were closed in 2018 40% of Mrs P's ISA holdings were in the stocks and shares ISA, it should move 40% of her AIM IHT ISA and pay 40% of the compensation payable into that ISA.

If the compensation can't be paid into these three ISAs (for example because of Mrs P's annual subscription allowance) then B should pay it to her directly. However, in that event the compensation sum will not benefit from the tax treatment of an ISA, when it should have done.

I've thought about this carefully but am not currently persuaded this is likely to cause Mrs P any further losses for which she should be compensated. I say this because Mrs P will be able to transfer £20,000 each year back into the ISA shelters. I also currently think it's more likely than not that any income or capital growth on the compensation sum is likely to remain within Mrs P's annual interest and capital gains allowances.

In response to this provisional decision, I would ask GFP to provide a calculation of the compensation figure, and for Mrs P to provide any relevant evidence to contradict my assumptions above if she doesn't think that will be the case.

Finally, I'm aware Mrs P is now receiving investment advice from a different business and it's possible it may recommend the value of the mis-sold investments, plus the compensation, is

paid elsewhere. It would be helpful if Mrs P could let me know in response to this provisional decision whether she still holds both investments and provide a recent value, and whether she is likely to want the three ISAs re-opened or not.

**My provisional decision**

My provisional decision is that I uphold this complaint. Grange Financial Planning Limited should pay the amount calculated as set out above.

Grange Financial Planning Limited should provide details of its calculation to Mrs P in a clear, simple format.

Elizabeth Dawes  
**Ombudsman**