

## The complaint

Dr D has complained that after she transferred her pension benefits into a self-invested personal pension (SIPP), mistakes by AFH Independent Financial Services trading as AFH Wealth Management (AFH) led to a substantial portion of her benefits not being invested as they should have been. This has caused her a significant financial loss.

Dr D would like to be compensated for this loss as well as the distress and inconvenience she has suffered as a result.

## What happened

I have reviewed all the evidence provided by both parties. I have not reproduced all of this in this decision but concentrated on what I believe to be the most relevant parts.

In May 2022, Dr D received advice from her Independent Financial Adviser (IFA) to consolidate her existing pension benefits into a new SIPP. As part of this advice, the IFA undertook a risk profile and, on 16 May 2022, recommended a portfolio of investments for Dr D to invest her benefits within the SIPP. This portfolio recommendation included holding c5% of her benefits in cash. Dr D accepted the recommendations and instructed the IFA to undertake the transfer accordingly.

Later in May 2022, the business of Dr D's IFA was acquired by AFH, which was confirmed in a letter on 27 May 2022. This letter said:

*.....with AFH, you will continue to receive the same high level of service that you have enjoyed with [IFA]*

*You are currently on a service proposition provided by [IFA] which will continue as a legacy service proposition by AFH.*

Dr D's pension benefits were transferred into the SIPP from three separate existing pensions on 1 June 2022, 15 July 2022 and 9 September 2022. Dr D was sent links to the online portal, but she has stated that the links she was sent did not work and she was unable access her pension information online.

The first of these transfers was invested in line with the portfolio recommendations. The second and third transfers, however, were not invested and remained as a cash balance on Dr D's SIPP account. The total value of the latter two transfers was substantial, making up over 50% of Dr D's total pension benefits.

In early January 2024, Dr D's pension benefits were moved to a new platform. As part of this process, Dr D gained access to her online pension information and became aware that the majority of her assets were not invested in the way her IFA had recommended but were instead held as cash on her account.

Dr D complained to AFH on 6 January 2024. There were two elements to her complaint, that the amount of cash held on her account was significantly higher than it should have been

and that the links sent to her previously had not worked, meaning she had not been able to access her pension information online until early January 2024.

AFH subsequently invested the excess cash amounts in accordance with the recommendations on 30 January 2024.

AFH responded to Dr D's complaint on 25 March 2024. It said that its investigations had shown that the provider had failed to process the second and third transfers correctly, and so the fault for the excess cash position lay with the provider rather than AFH. It did, however, uphold her complaint as it said:

*As part of the service commitment to you, we emailed you copies of your investment valuation reports on 28 September 2022 and 13 July 2023. The reports were provided as a pdf attachment. Your investment reports confirmed the high cash holding in your pension investment. The reports had been reviewed by [AFH IFA] before they were sent to you. However, as [AFH IFA] had not instructed or been involved in the pension transfer requests. [AFH IFA] could not reasonably have been expected to know that the high cash holding was incorrect, but as it was approximately 50% of the portfolio holdings I would have expected [AFH IFA] to have questioned the high cash holding. Similarly, you had an opportunity to raise a concern with [AFH IFA] about the high cash holding in your pension investment.*

It went on to say:

*Whilst my investigation has confirmed that AFH are not the at fault party in relation to investing your pension transfer funds, I believe that AFH should have identified and questioned the high cash holding in your pension account long before this complaint was lodged, and as a consequence of this you will have been disappointed by the service provided.*

It offered her £200 in respect of the poor service she had received from AFH.

The provider also acknowledged that it had failed to invest the excess cash correctly and it also offered Dr D £200 for its mistakes. It also undertook a loss calculation and concluded that the value of Dr D's pension benefits was higher as a result of its failure to complete the investments correctly. This was because the value of the investments had fallen, rather than risen over the period between when it failed to invest the funds correctly and the date it felt the issue should have been identified.

The date the provider used for the end of the loss calculation was 24 October 2022, as it said it had provided information to AFH by way of a statement of account on 5 October 2022 that clearly showed the excess cash holdings. It contended that it was not responsible for any loss after that date as either Dr D or AFH had been provided with information that would have allowed them to identify the error.

Unhappy with AFH's response, Dr D brought her complaint to this service.

Our investigator reviewed all the evidence provided and formed the view that Dr D's complaint should be upheld and AFH should carry out a loss assessment and compensate Dr D for any financial loss she had suffered.

AFH did not respond to our investigator's view, and so the complaint has been passed to me to make a final decision. Before I did, I wrote to AFH to ask for some further information in relation to this complaint. AFH did not reply and so I will now issue my final decision.

## **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I have reached the same conclusion as our Investigator and uphold Dr D's complaint.

I will explain now how I have reached my conclusions.

Firstly, I think it's important to reflect upon the role of this Service. Our role is to impartially review the circumstances of a complaint and make a decision on whether a business has made errors or treated a customer unfairly. Where it has, we expect a business to fairly compensate a customer for any financial loss and distress and inconvenience they have suffered as a result.

In the circumstances of this complaint, I need to decide whether AFH was responsible for the excess cash holdings in Dr D's account, and, on balance, I find that it is.

Dr D had an ongoing service agreement with AFH, which meant that she paid annual fees based upon the value of her investments. In return, she was entitled to an annual review of her financial position and objectives, to check whether the investments she held were still appropriate for her. She was also entitled to expect that AFH would monitor the performance of her investments, to check that they remained appropriate to her assessed level of financial risk and capacity for loss.

I can see that AFH contacted Dr D in June 2022 to conduct an introductory meeting to discuss her financial objectives and other advice requirements. This meeting eventually took place in October 2022. I also note that a further annual meeting took place in 2023, so I can't see that AFH failed to provide regular reviews to Dr D.

Where I can see that AFH made a mistake was in the content of these meetings. At no time did AFH draw Dr D's attention to the fact that over 50% of her benefits remained uninvested in cash.

In its response to Dr D's complaint, AFH said that its IFA could not have been expected to know that the large cash holding was incorrect, as they had not been involved in the producing the original recommendations or the pension transfers.

I've considered this argument but, on balance, I find that it is fair and reasonable for Dr D to expect that the IFA assigned to look after her investments by AFH should be familiar with the advice she had previously received, and that AFH was now responsible for managing. Consequently, I believe AFH should have identified the error made by the provider in not investing the second and third pension transfers appropriately.

I've also carefully considered that Dr D was sent at least two statements that also illustrated that a large amount of her benefits were held in cash. AFH made the point in its response to Dr D's complaint that with this information she could have asked AFH to explain the excess cash balance and rectify the issue from October 2022 onwards. While this is true, on balance I still find that this does not exonerate AFH from responsibility for allowing the investment error to continue for so long. With Dr D paying for an ongoing service charge, I would expect that AFH should have checked that the original investments had been made in line with the recommendations that had been made to Dr D and accepted by her. I would also expect that this large cash balance should have been queried and discussed during one of Dr D's annual reviews with AFH.

In upholding Dr D's complaint, AFH said:

*I believe that AFH should have identified and questioned the high cash holding in your pension account long before this complaint was lodged, and as a consequence of this you will have been disappointed by the service provided.*

I agree with this statement but find that the redress that AFH offered Dr D of £200 in respect of its service failures was insufficient in the circumstances of this complaint.

Looking now at the issue of any potential financial loss that Dr D suffered, I can see that the pension provider accepted responsibility for the failure to invest in line with the instructions it had been given and undertook a financial loss calculation. It did not, however, accept responsibility for any financial loss Dr D suffered after it provided information to AFH in early October 2022 that it believed that should have enabled AFH to identify the mistake.

As I have found that AFH was responsible for the error continuing for so long, I believe that it would be appropriate for AFH to carry out a similar financial loss calculation. I agree with our investigator that it would be appropriate to allow that five working days should have been long enough for AFH to review the information sent by the provider and highlight the error.

I therefore consider AFH to be responsible for any financial loss Dr D suffered by her pension benefits being not invested in the way they should have been between 24 October 2022 and 30 January 2024.

### **Putting things right**

In assessing what would be fair compensation, my aim is to put Dr D as close as possible to the position she would now be in if AFH had not made the mistakes it did.

To compensate Dr D fairly, AFH should:

- Compare the notional number of units Dr D's second and third pension transfers would have bought if correctly invested according to the recommendations report on 24 October 2022 with the amount actually purchased following the transfer of funds on 30 January 2024.

To calculate the notional number of units that could have been purchased, AFH should seek pricing information from the provider, if necessary.

For the purposes of this calculation, the notional investments must be in line with those the pension provider actually invested her benefits into on completion of the first pension transfer.

If the notional number of units is greater than the actual value, there is a loss and compensation is payable.

- If there is a loss, AFH should transfer an amount into Dr D's pension to purchase the number of additional units required. The amount paid should allow for the effect of charges and any available tax relief. Compensation should not be paid into the pension plan if it would conflict with any existing protection or allowance.

If AFH is unable to obtain the necessary pricing information, it should use the FTSE UK Private Investors Income **Total Return** index (prior to 1 March 2017, the FTSE WMA Stock Market Income total return index) to calculate any financial loss. This index is made

up of a range of indices with 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 Dr D's circumstances and risk attitude.

- If AFH is unable to pay the compensation into Dr D's pension plan, it should pay that amount direct to her. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore the compensation 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 Dr D won't be able to reclaim any of the reduction after compensation is paid.
- The notional allowance should be calculated using Dr D's actual or expected marginal rate of tax at her selected retirement age.
- It's reasonable to assume that Dr D is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Dr D would have 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 Dr D a total of £400 in respect of the distress and inconvenience she has been caused, to include any sums already paid.
- Provide details of all calculations to Dr D in a simple, easy to understand format.

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

I've chosen this method of compensation because:

As an alternative, the FTSE UK Private Investors Income Total Return index is made up of a range of indices with different asset classes, mainly UK equities and government bonds. It's a fair measure for someone who was prepared to take some risk to get a higher return.

Although it is called an 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 Dr D's circumstances.

I think this is a reasonable way to ensure Dr D is appropriately compensated in the event that AFH is unable to get the required information on unit pricing.

### **My final decision**

For the reasons given above, I uphold Dr D's complaint.

AFH Independent Financial Services Limited trading as AFH Wealth Management should pay Dr D the sums calculated above to resolve this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms D to accept or reject my decision before 23 September 2025.

Bill Catchpole  
**Ombudsman**