

The complaint

The estate of Mr R complains, in summary, that Compass Financial Associates Limited failed to act and advise the late Mr R appropriately when he was completing a nominated beneficiary form for his pension. The estate doesn't think Mr R had the mental capacity to make a decision about his nominated beneficiary at the time. And the estate also believes Mr R was under undue influence from his partner.

What happened

I issued my provisional decision on this complaint on 2 July 2025. The background and circumstances to the complaint and the reasons for my provisional findings were set out in that decision. I've copied the relevant parts of it below and it forms part of this final decision.

Copy from provisional decision

The estate of Mr R's complaint was considered by one of our investigators. He issued his final assessment of it to both parties on 6 August 2024. The background and circumstances to the complaint were set out in that assessment. However to recap, records show that in December 2016 Mr R had visited his doctor complaining of memory problems. He scored poorly in a cognitive assessment. His medical records from October 2019 show he had been having difficulties with mental tasks for one or two years.

Compass sent Mr R a pension planning report dated 14 May 2018. And Mr R had a meeting with the adviser from Compass on 27 May 2018 where advice was given to Mr R about his pension. During this meeting Mr R signed a form to nominate his partner at the time as the beneficiary for the pension.

I think it's worth adding here that Mr R was given two options about how his pension would be distributed on his death. Option 1 enabled him to nominate a beneficiary(s). However the decision who benefits would be paid to was made at the discretion of the scheme administrators who weren't bound to follow the nomination. Under Option 2 the administrators were legally bound to pay the benefits to the person(s) named.

Mr R selected Option 2 and named his partner as the beneficiary. His partner predeceased Mr R. And in those circumstances, when Mr R subsequently passed away the benefits were passed onto the estate of Mr R's late partner.

Mr R had further meetings about his pension with the adviser in September and October 2018. In December 2018 Compass provided Mr R with a letter of introduction to a firm of Independent Financial Advisers (who I will refer to as Firm A). This was to enable Firm A to provide advice relating to Mr R's defined benefit pension.

Firm A provided advice to Mr R regarding his defined benefit scheme in January 2019.

Mr R had further meetings with his adviser to withdraw funds on 5 March 2019, 16 July 2019 and on 22 May 2020.

In June 2020, Mr R was admitted to hospital for a week. He was diagnosed with a form of Alzheimer's.

Compass wrote to Mr R in May 2021 and May 2022 offering him the opportunity to meet and review his finances. It followed up in August 2021 and August 2022. However it didn't receive a response.

Mr R passed away in February 2023. On 19 May 2023, solicitors on behalf of Mr R's estate wrote to Compass asking questions as they had concerns over the validity of the nominated beneficiary form. Following further correspondence exchanged between the parties, the estate of Mr R referred a complaint to Our Service.

Our investigator didn't recommend that the complaint should be upheld. To summarise, he said he hadn't seen anything to show that Compass' adviser was aware of Mr R's medical history, and there was no evidence Mr R or his partner had told Compass about Mr R's health issues. He noted that in a supplementary retirement questionnaire that had been completed, Mr R had said his health was good. The investigator didn't think there was a reason for the adviser to have been alerted that Mr R lacked the capacity to make his own decisions.

The investigator noted the medical records and evidence that the estate had provided in support of its claim that Mr R hadn't got capacity to make a decision. However he said what was relevant was whether it was obvious to the adviser that Mr R hadn't got capacity. The investigator said he hadn't seen anything in the medical records/reports to suggest that Mr R's mental health would have been obvious to his financial adviser during their meetings. The investigator said he found the testimony of the professional adviser who was actually present at the meetings more persuasive than a third-party expert who wasn't. And he said the third-party expert hadn't said it would have been clear and obvious to the adviser in the meetings in any event.

The investigator noted Compass had said the options for completing the beneficiary form had been explained to Mr R on 27 May 2018. He said there wasn't an obligation for Mr R to justify his choice of nominated beneficiary or for this to be put in writing. He said it wasn't unusual for a partner to be nominated. He also noted that Firm A's report dated 8 January 2019 said Mr R nominated his partner.

The estate had raised concerns that there were numerous errors in the information recorded by the adviser about Mr R's circumstances. The investigator said it was reasonable for the adviser to take the information Mr R provided at face value unless there was a clear and obvious reason not to. And he said that he didn't think the inaccurate information was going to have an impact on who Mr R nominated as his beneficiary.

The investigator noted the estate had said Mr R had been the victim of financial abuse by his partner. However the investigator said there was no evidence to suggest that Compass had been aware of this, and it hadn't been required to review Mr R's bank statements or check the information that Mr R had provided about his circumstances.

Overall therefore, the investigator said he wasn't persuaded Compass had done anything substantially wrong, in the context that he didn't think it was aware of Mr R's mental health difficulties. And he said he hadn't seen evidence to suggest Mr R was being put under undue influence. So the investigator didn't think Compass had to take any further action.

The estate of Mr R didn't agree with the investigator's assessment. The complaint was therefore passed to me to decide.

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.

I've only summarised what the investigator said in his assessment above. The estate of Mr R has made detailed submissions about why it doesn't agree with the investigator's assessment. Some of the reasons for my provisional decision below differ from the reasoning set out by the investigator. So whilst I've taken the submissions that the estate of Mr R has provided into account and addressed them where I consider appropriate, the relevance of some submissions might change in light of my provisional findings below. The estate of Mr R (and Compass) have the opportunity to provide further evidence and arguments in response to this provisional decision, which I will take into account before making my final decision.

The Financial Conduct Authority's Handbook sets out the rules by which firms authorised and regulated by it have to operate. I think of particular relevance here are Principles:

2 - A firm must conduct its business with due skill, care and diligence

6 - A firm must pay due regard to the interests of its customers and treat them fairly

7 – A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.

COBS (Conduct of Business Sourcebook) Rule 2.1.1 also provides.

A Firm must act honestly, fairly and professionally in accordance with the best interests of its clients (the client's best interest rule).

The Personal Financial Review Form recorded that Mr R's marital status was 'co-habiting'. The form didn't record that Mr R was still legally married or that he had four children. The 14 May 2018 pension planning report said that Mr R had no financial dependents, and his finances were separate to his partner's.

Compass was required to obtain such information from Mr R as was necessary for it to understand the essential facts about him – in effect know its customer. On the one hand, the main reason behind the advice appears to have been so that Mr R could access some funds from his pension. I understand Mr R had been separated from his wife for some time. So I accept the fact that Mr R was still legally married and had four children wasn't necessarily relevant to achieving Mr R's main objective. And as the investigator explained, the adviser was generally entitled to take the information that Mr R provided to him at face value. COBS 9.2.5 provided:

A firm is entitled to rely on the information provided by its client unless it is aware that the information is manifestly out of date, inaccurate or incomplete.

However on the other, in responding to the complaint the adviser has said that he was aware of Mr R's family background – that he was aware Mr R had children and wasn't divorced. So in effect he wasn't entitled/or he wasn't relying on the information recorded in the documentation. Yet under 'Other Matters' in the May 2018 planning report the adviser wrote:

As you are single, your estate would be passed first to surviving parents, then if there are no surviving parents to surviving brothers and sisters and so on through various relatives.

This was incorrect given Mr R was still married and had children. Given the lack of information recorded about Mr R's family circumstances in the contemporaneous documentation, and the adviser's incorrect explanation of where Mr R's pension would be passed to on his death, it's not surprising that the estate for Mr R thinks it's likely that Mr R was given misleading information. And therefore that he wasn't in a position to make an informed decision (irrespective of his mental capacity to do so).

Part 7 of the pension Application Form was headed Payment of benefits on death. It provided a brief description of how the provider could pay out the benefits on the member's death saying:

"Option 1 – At our discretion (as the scheme administrator)

If you choose this option, you need to tell us who you want us to consider paying the benefits to. In most circumstances we'll follow your wishes. However its important to understand that under this option we are not bound to follow your wishes. We may decide to pay your benefits to a different person or persons if your personal circumstances at the time of your death make this an appropriate course of action. If you choose this option, any benefits we pay will not be subject to any inheritance tax.

Option 2 – At my direction

If you choose this option, were legally obliged to carry out your wishes and pay your benefits to whoever you have directed us to pay these to. If you choose this option, any benefits we pay may be subject to inheritance tax so you may wish to discuss this with a financial adviser first."

My understanding is the Application form was completed by the adviser. The adviser has said he provided a full explanation about the implications of selecting Option 2 in the context of Mr R's actual position – that he was still married and had children. However there is no written record of such an explanation being given.

We asked Compass why the adviser recorded and provided incorrect information in the report if he was aware of Mr R's family situation? Compass responded:

"The Retirement Planning Report ("the Report") is a template document which was prepared from information recorded in the Personal Financial Review ("the Review") after the initial meeting with [Mr R] but in preparation for further discussions and sometime before the business was concluded.

The adviser recalls his conversation with [Mr R] regarding his children when completing the Review and [Mr R] confirmed that they were not financially dependent on him. [Mr R] told the adviser that he wanted to restrict the financial review to his pension planning and did not want to discuss any other aspect of his financial affairs.

The Review does not have a section to record non-dependent children resulting in the Report stating in error that his estate would pass to his parents. The adviser did however subsequently meet with [Mr R], as is normal practice, to go through the Report line by line to ensure their understanding and identify any errors requiring clarification.

The reference to his estate passing to his parents is contained within the template section of the Report dealing with IHT/Estate Planning which [Mr R] did not request advice on. In the absence of confirmation from [Mr R] regarding a Will, the Report correctly referred to the intestacy rules and difficulties which could arise. The section recommended that [Mr R] should put a Will in place, together with a Lasting Power of Attorney, and made it clear that

he would need to contact a solicitor about those.”

Whilst I don't think the explanation is entirely clear, and I appreciate the estate's concerns about the vague responses it has been given, I think it is saying that it wasn't in the Personal Financial Review form because Mr R wanted to focus on pension planning (as I've said above, I think the main focus was accessing benefits). I don't know if the information in the review form was automatically pulled through to the report (and so was based on Mr R being single). Or the template wording was a result of Mr R not requesting advice and non confirmation of there being a will. My understanding is that Compass is saying the information was an oversight/error, however it can confirm when responding to this provisional decision.

Clearly, it's difficult for me to determine with any reasonable degree of certainty exactly what was and wasn't discussed at the time that the nomination form was completed, and the extent to which Mr R read the information on the form. Whilst the adviser has said that he explained the correct position, this isn't consistent with the written documentation. I think it's appropriate to give more weight to the written documentation from the time. In my view the written information about where the pension would be passed to on Mr R's death was clearly misleading, and not consistent with the FCA's Principle 7. And if the adviser was aware of Mr R's family circumstances, then not consistent with Principle 2 given the lack of skill, care and diligence.

The estate of Mr R has said Mr R didn't have mental capacity at the time he made the decision about his pension. As I've said above, firms are required to act in the best interests of their clients. However I'm not aware of any formal process that the adviser was required to go through to establish that Mr R had capacity. Firms/advisers are expected to be alert to and recognise the possibility that its customer might be vulnerable. However as the investigator said, it was reasonable for the adviser to take what Mr R said at face value about his health unless there were any indications in Mr R's behaviour that ought to have alerted the adviser that Mr R didn't have capacity. The starting position was that it was reasonable for the adviser to assume Mr R had capacity.

The estate has referred to Mr R's medical records and expert reports which it considers shows Mr R didn't have capacity to make a decision about his pension. And also to examples of where Mr R was struggling with his employment. I note in the expert's report dated 23 March 2024 the expert said he thought, on the balance of probabilities, Mr R's dementia impaired his mental capacity to the extent that he didn't fully understand the implications of what he was doing. And that because of his mental health problems he thought Mr R would have been susceptible to influence.

The report went onto say, amongst other things:

“On a casual interaction, [Mr R] would have appeared orientated with good language skills and good attention. It would only be when he was, for example, in the work environment where things needed planning, judgement and organisation, that his cognitive problems would be more apparent....

...The picture painted of [Mr R] at the key times...was someone with memory difficulties but who had problems with apraxia and calculation.

...I think [Mr R] would have been able to have understood the general nature of the transaction involved but I think he would have had difficulty making a judgement as to the specific effects of that transaction in relation to his wife...

It is difficult to see how at a time that [Mr R] had moderate cognitive impairment he would

have been able to have retained information to weigh up a complex judgement.

...I think most people would agree that [Mr R] had dementia and that he had significant cognitive impairments. Some clinicians may say that because of a lack of medical evidence at the material times when [Mr R] completed the transactions, there is insufficient evidence to come to a definite conclusion (even on the balance of probabilities) about his capacity."

As I've said above, the adviser was entitled to assume that Mr R had capacity to make decisions unless Mr R's behaviour suggested there were reasons not to. I don't know how long the meetings the adviser had with Mr R and the partner were. I'm aware Compass has referred to them being lengthy, but I think that is a relative term. In my experience they might last two or so hours – sometimes more sometimes less. But I think that is a fairly short period which would largely have involved the adviser asking Mr R about his objectives and circumstances, and then the adviser explaining the reasons for his recommendation.

Clearly I don't know whether Mr R displayed any obvious signs of difficulties in his meetings. The adviser says not. Whilst I recognise that the expert's remit was to evaluate Mr R's mental capacity to make the decision he did (rather than say whether his difficulties would have been obvious in his meetings with the adviser), given the evidence, I don't think the meetings appear to be the type of situation where Mr R's difficulties would always likely to have been obviously apparent.

Mr R was also subsequently advised by a separate Firm - Firm A. Firm A's recommendation letter also said that Mr R was in good health – it didn't mention Mr R's health issues or any difficulties with mental capacity. So this again suggests that Mr R's health issues weren't obvious in these advisory type situations.

The estate of Mr R has said it thinks Mr R was subject to undue influence from his partner. And that it considers the partner shouldn't have been in the meetings the adviser had with Mr R when discussing his pension. We asked Compass the extent to which Mr R's partner was involved in the adviser's discussions with Mr R in the meetings in March and May 2018. The adviser said the partner was present, but made no contributions and didn't have any input.

Similar to the position with Mr R's mental capacity, advisers should be alert to the possibility that their client may be vulnerable. But unless there are indicators of potential vulnerability, they wouldn't automatically actively obtain information to establish that a client was/wasn't vulnerable. I'm not aware of any requirements for the adviser to have excluded the partner from the meetings – that was for Mr R to decide – again, unless there were any 'red flags'.

I note the estate considers there were some indicators here – for example that Mr R didn't use the money from the pension transfer to pay off the credit card debt which was the objective of the transfer. And the estate said the adviser didn't examine Mr R's bank statements which showed both economic abuse on a large scale, and also didn't reconcile with the monthly budget figures Mr R had provided.

As I've said, an adviser is generally able to rely on the information provided by its client – unless there is good reason not to do so. In my experience an adviser advising on pension matters wouldn't necessarily need to, or have an obligation to, check bank statements. Or, as a matter of course, check that previous sums withdrawn from a pension were spent in line with the client's objectives at the time. The adviser wasn't, effectively, managing Mr R's money/spending or monitoring it – he was providing advice about pensions. How Mr R spent his money was a matter for him.

As I've said, I don't know how long the meetings the adviser had with Mr R were, but would

likely only have been for a relatively short period. So there would only have been limited opportunity for the adviser to spot signs of controlling behaviour. I accept there might be circumstances where an adviser is given information that 'doesn't add up' or sets off alarm bells. And as I've said, advisers should be alert to recognise a client's potential vulnerability. However I've seen no persuasive evidence that there were clear indicators here.

Having said all the above, and I recognise there are multiple issues to consider here, I think what's key is that, ultimately, I have to decide what Mr R would likely have done but for any failings by Compass. I recognise this is a sensitive matter, and obviously Mr R's family know the relationship they had with Mr R, whereas I am relying on the evidence available to me. However having carefully considered the matter and on the balance of the evidence, it seems to me that even if Mr R had been alerted/understood that his pension would pass to his partner's estate under Option 2 if she predeceased him, it doesn't necessarily follow that Mr R would more likely than not have made a different decision.

If Mr R had selected Option 1, the decision as to where the benefits would be paid rested with the scheme's administrators. Whilst I accept that the administrators would have to take the nomination into account, and in my experience usually follow such a nomination, they wouldn't be bound by it. Given Mr R was still married and had children, there was the possibility that they would make a claim against the pension and that the administrators would give weight to that claim. So there was a risk that the benefits/or part of the benefits, might not get paid to Mr R's partner if he chose Option 1. The administrators were legally bound to pay the partner by selecting Option 2.

There were disadvantages in Mr R selecting Option 2. There was the risk the benefits would pass to the partner's estate if the partner pre-deceased him. And there may also have been inheritance tax implications (albeit from the information provided it doesn't appear that would have been a problem given the value of the estate at that time). However although there were disadvantages, Mr R had certainty of knowledge that if his partner was still living on his passing she would benefit from the pension.

The nomination was originally made in 2018. Whilst I accept that Mr R had shown signs of dementia back then, and appreciate that people with dementia generally have a reduced life expectancy compared to those without the condition, I'm not aware that Mr R thought his life expectancy was limited at the time he made the nomination. I'm not aware whether the partner had a limited life expectancy at that point. But it's difficult to know what weight Mr R would have put on the risk that his partner would predecease him and, in particular, if that was something that he thought was a long way off.

It would have been for Mr R to weigh up the advantages and disadvantages of his decision. And that would also involve an assessment of his relationship with his partner, her family (whoever benefitted from her estate, albeit I'm aware the estate has said he had never met/had any involvement with them), his wife and sons. Clearly that is a very personal decision. The estate has said Mr R was on good terms with his family (wife and sons), and so I appreciate in their view it is a clear-cut decision. However, ultimately, opting for Option 2 meant the benefits would definitely pass on to Mr R's partner in the event he died before her. So if that was Mr R's main objective, which in my experience wouldn't be unusual or unreasonable, Mr R may have opted for Option 2 despite knowing of its disadvantages.

When the adviser was providing advice about the pension transfer in 2018 he completed a Supplemental Pension Retirement Questionnaire. This included a question:

When you make decisions regarding the availability of death benefits for your spouse/partner/beneficiary (nominees), it is important that you take account of health and family history. Which of the following best describes your spouse/partner/beneficiary's

circumstances?

The “Yes” boxes were ticked to the questions do you have a spouse/partner? And do you want to pass any remaining pension to your spouse/partner when you die?

However the “No” box was ticked to the question:

Do you want to pass any remaining pension fund to your family when you (and your spouse spouse/partner) die?

I understand that the estate has reservations about the lack of diligence on the part of the adviser given other incorrect information being recorded. However I’m not aware of any reason or motive for the adviser to have deliberately incorrectly recorded Mr R’s response. We asked Compass to confirm that the adviser didn’t know the partner prior to the March/May 2018 meetings. Compass said the adviser confirmed he had not met and didn’t know the partner before his initial meeting in March 2018.

As I’ve said, Mr R was also advised by Firm A – a different firm and different adviser. This was about his defined benefit schemes. Firm A’s Recommendation to Transfer your Defined Benefit Scheme report dated 9 January 2019 included that Mr R:

“...is currently separated from his wife and has no plans for reconciliation. He is currently in a relationship with his girlfriend...and wishes to ensure that all his assets pass to his girlfriend in the event of his death. This poses an issue with the current pension arrangements as [Mr R’s two] final salary schemes would automatically provide benefits to his legal spouse in the event of his death.”

Under “Agreed Objectives and Priorities” which included reviewing his existing occupational pension benefits it went onto say:

“This objective is important to you as you wish to access adequate tax-free cash to purchase a mobile home and also to ensure that your pension assets benefit your girlfriend ...rather than spouse in the event of your death.” and

“Transferring to a personal pension arrangement would also achieve your priority of naming your girlfriend...as the sole beneficiary of your funds. In the current arrangements your spouse (sic) (whom you are separated from) would be the beneficiary via a spouse pension.”

Under death benefits it said:

“As stated previously in this report – a spouse pension is not important to you as you are separated from your spouse. You strongly wish for any death benefits available to be received by your current girlfriend.”

So on the face of it, it appears that Mr R was actively considering the death benefits payable from his defined benefit schemes at this time. And had decided he wanted to ensure they were paid to his partner. So I think this was consistent with Mr R choosing Option 2 to ensure the benefits went to his partner.

I recognise this then brings us back to the arguments about whether Mr R had mental capacity at this time, and therefore what weight should be put on the above information.

For the reasons I’ve given above, I’ve not been persuaded the evidence suggests that the adviser should have been alerted to Mr R’s difficulties. And this is also consistent with there being no evidence that Firm A spotted issues. So I don’t think there were failings by the

adviser in that respect. And as I've said, although I have identified there were failings, I don't think they likely caused Mr R to have otherwise made a different decision – on the balance of the evidence that is available.

However even if the estate of Mr R were to persuade me that Mr R didn't have mental capacity, I would still then need to decide what would likely otherwise have happened. And I think that would mean deciding whether someone other than Mr R would have made or been involved in the decision, who that person would likely have been, and what that decision would likely have been.

The ombudsman service was established to provide an informal alternative to the courts. We don't have the same powers as a court, and we can't take evidence on oath, or compel third parties to provide evidence. Two of the key parties here are deceased, and so obviously can't now provide testimony. And as I have said, there is limited contemporaneous evidence other than the written evidence as I set out above.

My understanding is that the estate is currently or intending on taking legal action. There are a number of parties involved in the wider matter, the estate of Mr R, the pension provider, the late partner's estate, and the complaint here is against the advising firm. In the particular circumstances, I think if the estate considers Mr R didn't have mental capacity, and therefore the difficulties associated with the contemporaneous evidence; the difficulties to deciding what decision would otherwise have been made, and within the limits of our powers, I think that legal action and the court might be the appropriate forum to consider that matter.

As I've said, in my opinion, on the balance of the evidence *that is* available, whilst I do think the adviser provided misleading information, I'm not persuaded that Mr R would more likely than not have made a different decision.

My provisional decision

For the reasons set out above, my provisional decision is that I don't uphold the estate of Mr R's complaint.

Responses to provisional decision

The estate of Mr R didn't agree with my provisional findings. I've taken all what it said into account, however I've only summarised it here.

The estate referred back to the Supplementary Pension Retirement/ Decumulation Questionnaire dated 27 May 2018. It said this was dated the same day that the 48-page application form was completed and was meant to have been read by Mr R. It said the answer to 'Marital Status' was 'co-habiting' – suggesting Mr R was unmarried. It said there was no reference to Mr R's actual marital status. And if Mr R had discussed his four sons on that day it would follow that there would have been a reference on the application to his wife. In addition, the Personal Financial Review provided a whole range of options next to marital status, however the options 'married' and 'separated' were deleted and 'co-habiting' was inserted. It said there were no details of Mr R's four children in the relevant section.

The estate said the above was important given in my provisional decision I'd placed weight to the Questionnaire and answers provided on that day. It said it was highly likely that, given the misleading information provided in Compass' Report, the 'family' were treated as comprising Mr R's siblings and parents. So it said when the questionnaire asked if Mr R would like to pass any remaining pension to his 'family', given the answer in the application form, it was consistent with confirming he wouldn't like to pass any pension to his siblings or parents. It said it therefore struggled to understand why any weight was applied to the

Questionnaire, when the contemporaneous documents on that day confirmed that Mr R's family was not his wife and four sons.

The estate said it didn't understand Compass' explanation of the why the adviser recorded and provided incorrect information in the report if he was aware of Mr R's family situation. It said it thought Compass were 'telling falsehoods' and didn't discuss Mr R's four children with him at any time prior to the application form being signed.

The estate said there had been a suggestion from Compass that Mr R only wanted advice on pension planning and not a broader review of his finances. It said COBS 9.2.1R required advisers to obtain sufficient information about its client's financial situation and objectives to ensure suitability. It said Compass couldn't advise on the binding death benefit form without knowing whether Mr R was married, had sons, and whether he had other liabilities like a mortgage.

The estate referred to my provisional decision where I'd said the adviser ought to have been alert to any red flags to indicate Mr R's partner had undue influence on Mr R or of evidence of controlling behaviour. It said there was a lot of misinformation and inconsistencies in the information recorded by Compass and it provided a number of examples.

The estate said that if it could show that Mr R would have provided even just 1% (percentages could be allocated, it wasn't one person or nothing) of his only assets to his wife or one or more of his four sons, it thought that the complaint should be upheld.

The estate said Mr R had had very strong and loving relationship with his four sons and was dedicated to their welfare. It provided several pieces of correspondence from Mr R to show the strength of the relationship. It said Mr R's siblings could provide written and signed statements confirming the strength of the relationship between Mr R and his sons, and that he would have wanted to pass some or all of his pension to them; at the least to support them. The estate said two of Mr R's four sons are disabled and reliant upon the mortgaged marital home. It said there was absolutely no way that Mr R would not have made some provision, if not all, to cover this. And that at the very least, even in the context of 'Option 2', Mr R would have at least provided a certain percentage of his pension to his sons and in particular to cover the joint mortgage on the marital home.

The estate provided further details about Mr R's medical history relating to his dementia from 2016 onwards. It said against this background and on the basis of a two-hour meeting with the adviser, it was not conceivable that Mr R's difficulties would go unnoticed, and it would have been apparent to the adviser that Mr R would have had cognitive difficulties.

Compass responded to say, in summary, that the adviser was fully aware of Mr R's personal circumstances, and there was no misunderstanding in the adviser's mind. It said the incorrect template wording was included in the client report as it was generated by paraplanners by reference to the review form which indicated Mr R was co-habiting. Compass said the content of the template paragraph was however corrected face to face with the client during the meeting on 27 May 2018 when the report was considered on a line-by-line basis.

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.

Whilst I understand that Mr R's answer to the question about leaving pension benefits to his 'family' *may* have been in the context that he understood family to mean his parents and

siblings, I'm not sure he would have had what was recorded in the documentation in mind when responding to that question. Ordinarily I think a client will automatically think about children in particular when talking about family in this context– albeit I accept it will depend on the content of the conversation he had with the adviser, which as I've said, I obviously can't determine with any reasonable degree of certainty.

However as I explained in my provisional decision, when Firm A subsequently gave advice to Mr R which was only a few months later, I think what was recorded in the documentation showed that Mr R had specifically thought about his family circumstances in deciding where that pension should be paid to on his death. The advice was given by a different adviser and different firm. And Mr R's decision was consistent with the decision he made whilst being advised by Compass – to leave all the pension benefits to his partner.

In my provisional decision I'd said Mr R wanted to focus on pension planning, albeit the main focus was accessing benefits. Deciding on where benefits would be payable on death is all part and parcel of pension planning, and I agree with the estate that Mr R's wider circumstances would have needed to be taken into account and which the adviser needed to be aware of and discussed with Mr R when providing advice; albeit where Mr R wanted the benefits on death to go was ultimately his own personal decision.

The estate referred to a number of inconsistencies in the information recorded for Mr R that it thought was striking and ought to have raised 'red flags', and in particular over a series of meetings. However as I said in my provisional decision, the adviser wasn't effectively, managing Mr R's money/spending or monitoring it. He may have picked up on some of the issues, but in my opinion they weren't 'red flags' as such, in as far as they ought to have alerted an adviser, acting reasonably, that Mr R was likely under undue influence from his partner or had problems with mental capacity. I think that is only seen with the benefit of hindsight and looking at the inconsistencies/information in the context of having actual knowledge of Mr R's circumstances.

I've carefully considered the estate's argument that Mr R would likely have provided at least a proportion of his pension to benefit his sons given their particular circumstances – two being disabled and living in the mortgaged family home – and having a good relationship with them, under Option 2 on the application form. I agree that this is a persuasive argument. When considered in isolation, in these circumstances, I think it would be reasonable to conclude Mr R would more likely than not have made at least some provision for his sons or for their benefit.

However I have to consider the matter in the context of all the circumstances. And this is only looking at the matter through the estate's lens. Mr R's late partner's estate isn't party to this complaint, and I haven't got their side of the story. There may be a number of reasons why Mr R wanted all of his pension to go to his partner – even given the strong relationship with his sons and their circumstances. For example if he thought, relatively speaking, his partner's circumstances were such that she had more need of those funds compared to his sons. I don't know the relative circumstances, and in particular those of Mr R's late partner. I am not saying that was the reason – clearly I cannot say. But the point is there could be a number of valid reasons why Mr R wanted all of his pension to go to his partner – it's not a decision that couldn't reasonably be made.

Ultimately, even given Compass' failings and therefore the doubts about what was meant by 'family' in the Questionnaire, the records from Firm A's advice show Mr R was thinking about the issue more widely just a few months later. I think this evidence carries significant weight, it provides a written record of Mr R's thinking at around that time and is from a different firm and adviser; that Mr R wanted all of his pension to go to his partner. So I think it follows that, on the evidence, Mr R would more likely than not have made the same decision when being advised by Compass, irrespective of any failings in its advice process.

The estate provided further details about Mr R's medical history relating to his dementia from 2016 onwards. It said against this background and on the basis of a two-hour meeting with the adviser, it was not conceivable that Mr R's difficulties would go unnoticed, and it would have been apparent to the adviser that Mr R would have had cognitive difficulties. However as I said, the starting position was that it was reasonable for the adviser to assume Mr R had capacity to make decisions. And for the reasons outlined in my provisional decision, I don't think it would have been obvious to the adviser that Mr R had difficulties with mental capacity or was under undue influence. This is also consistent with there being no evidence that Firm A spotted such issues.

Taking all the above into account and for the reasons given, on the balance of the evidence *that is* available, whilst I do think the adviser provided misleading information, I'm not persuaded its more likely than not that this caused Mr R to have made a different decision. And if the estate considers Mr R didn't have mental capacity, I think given the difficulties and circumstances of the case as I outlined in my provisional decision and given our powers, the appropriate forum to consider that matter is through the court/legal action currently being taken by the estate.

I appreciate that the estate will be very disappointed with my findings, and I do understand its position. However having carefully considered the matter, I'm not persuaded that the complaint should be upheld on the basis of the evidence presented.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr R to accept or reject my decision before 21 October 2025.

David Ashley
Ombudsman