

The complaint

Mr C complains that an advisor from IC Wealth Financial Planning Limited (ICWFP) sold him an investment that resulted in the loss of all his capital. He says he wanted advice on the investment money he had received as part of an inheritance, and contacted ICWFP, as it had arranged mortgages for him, and it recommended he invest the £20,000 in a German property fund. He considers this advice was unsuitable and would like ICWFP to compensate him for his loss.

What happened

Mr C's complaint is focussed on the actions of an advisor I will call Mr A. Mr C says Mr A advised him to make an investment in Dolphin Trust, also known as the German Property Group (GPG), in early 2019. At this time, Mr A worked for ICWFP and Mr C had dealt previously with Mr A; Mr A had given him mortgage advice on previous occasions, whilst working for ICWFP.

The timeline of the key events is as follows:

- January 2019 (exact date unknown) – Mr C meets with Mr A, to discuss investment of a sum of inheritance he had received.
- 19 January 2019 – Mr C signs a “Dolphin Trust Expression Of Interest Form”.
- 23 January 2019 – a transfer of £20,000 is made to Dolphin Trust/GPG by Mr C.

ICWFP's submissions

ICWFP did not respond to Mr C's complaint. So, he referred it to us. After the referral was made ICWFP got in touch with us to say the complaint was not one we could consider, as it did not sell the investment to Mr C (and did not have investment permissions from the Financial Conduct Authority (FCA)) and the investment was, in any event, “unregulated” and therefore not something we could consider. In further submissions, ICWFP said commission for the investment was paid to Mr A personally (it said a copy bank statement would be provided in support of this, but this was never submitted).

In a similar complaint ICWFP appointed a law firm to make submissions on its behalf. I am including a summary of the general points made in those submissions here, as those points are relevant to this complaint. In summary:

- Mr A is a mortgage adviser and insurance adviser and has signed declarations he is in compliance with all FCA regulatory requirements.
- ICWFP has been authorised since 21 November 2012. The history of Mr A's employment by ICWFP is a matter of public record.
- Prior to exercising permissions on behalf of ICWFP Mr A held a Controlled Function role with Start Mortgages Limited (also trading as Start Financial Planning) between

2005 and 2011. Start Mortgages Limited was authorised by the Financial Services Authority (FSA) in relation to mortgages, general insurance and investments.

- From 2011 a company set up by Mr A's former business partner, a Mr R, called IC Wealth Management Limited, was referred all regulated investment business.
- IC Wealth Management Limited was set up in January 2011, and was an Appointed Representative of a principal business.
- ICWFP (also t/a IC Wealth as of July 2013) was authorised by the FSA. It was a mortgage and general insurance business.
- ICWFP and IC Wealth Management Limited shared premises for a number of years, and there was a consolidation of back-office services including email under a brand "IC Wealth".
- Commission payments made to Start for introducing clients to Dolphin Trust were paid into Mr A's personal account.

After Start Mortgages Limited ceased to be authorised in March 2011 it changed its name to Start Investment Management Limited. It therefore appears that the law firm's references to "Start" in relation to the Dolphin Trust investment refer to Start Investment Management Limited. That business was never authorised by the FSA or FCA.

ICWFP submitted a copy of a letter it said was sent to Mr C from Start Investment Management about the investment on 21 January 2019.

Mr C's submissions

Mr C told us, in summary:

- He went to see Mr A to discuss his small private pension, which Mr A took on to investigate whether it was worth carrying on with.
- At the same meeting they talked about his recent inheritance, and he asked about possible investments, as he thought Mr A, as a financial advisor, would be an obvious choice to give him advice.
- At that point Mr A produced the brochure from Dolphin investments which showed a prospective investment in Germany, where there was a chance to get in on the rebuilding and renovation of historic buildings in the country. The returns predicted over a 5 year period looked very good and Mr A advised him it would be an excellent investment, and a lot of people had already signed up.
- He was unsure about investing and how much. He relied on Mr A to reassure him, and they agreed on the figure of £20,000.
- Mr C said he had not seen the 21 January 2018 letter before, and had been careful to keep all correspondence at the time. He added that the company Start was never mentioned in the meeting with Mr A and, as far as he was concerned, all the investment information was from Mr A, who was associated with ICWFP. He said the letter could have been produced at any time subsequently.

Our investigator's view

Our investigator concluded the complaint was one we could consider and should be upheld. He said, in summary:

- He was satisfied Dolphin was an investment under the relevant rules.
- Mr A arranged this investment for Mr C. He was therefore satisfied there was a regulated activity of arranging deals in an investment.
- He thought it more likely than not that Mr A was acting on ICWFP's behalf when dealing with the investment.
- The investment was arranged in January 2019, and he was satisfied that during this period Mr A was working at ICWFP. He did not believe there was any dispute that the person who was involved in the transaction was Mr A.
- He was satisfied ICWFP was responsible for Mr A's actions in relation to the Dolphin investment.
- Under the relevant FCA rules, the Dolphin investment should not have been promoted to Mr C.
- Also, had ICWFP carried out some due diligence into the investment, it would likely have identified issues with it; which offers further reason why it was not fair and reasonable to promote it to Mr C.
- It is therefore fair to ask ICWFP to compensate Mr C for the loss he has suffered through making the investment.

Responses to the investigator's view

ICWFP did not accept the view. It said, in summary.

- The FCA's publication on the Dolphin Trust investments clearly states the only customers who may be eligible for a claim would have invested into a SIPP or a SASS. Mr C did not invest into a SIPP or SASS.
- The current owner of ICWFP was not the owner and authorised person with the FCA at the time of the investment.
- The investment documents and correspondence make no reference to ICWFP.
- ICWFP does not have investment permissions nor has it in the past.
- This was a non-regulated product and hence was advised via a non-regulated company Start Investment Management Ltd.
- ICWFP has never advised Mr C about any investment in the past, due to its permissions.

Mr C accepted the investigator's view.

Further submissions from Mr C

We recently asked Mr C for any further recollections he had of his interactions with Mr A,

and details of his financial circumstances and investment experience. In response, Mr C said, in summary:

- His first interaction with Mr A was through a friend of his who had just got a mortgage through Mr A. At that time, he was looking to buy a house and needed a mortgage. He was introduced to Mr A, who worked miracles to get him a mortgage on his self-employed income.
- At the time of the investment, his house was worth £200,000, but with a £125,000 mortgage outstanding. His only other assets were a van worth around £5,000 and around £3,000 in the bank.
- He received an inheritance of £180,000, £125,000 of which was used to repay his mortgage, £20,000 was used for the investment with ICWFP, with the rest held in reserve.
- He had never had a risk-based investment of any kind before, that is the reason he sought advice.
- He instigated the meeting with ICWFP in 2019 because it was his only connection to financial advisers; it had arranged his mortgage originally.
- He did not have any further meetings with ICWFP after the initial one in which he was advised to invest in Dolphin, and there were no follow up contacts from Mr A, even when things had obviously gone wrong.
- He was naïve as investments were a subject he knew nothing about, and he therefore put his trust in someone who was supposedly qualified and experienced.

My provisional decision

I recently issued a provisional decision. My decision, in summary, was that Mr C's complaint related to a regulated activity carried out by ICWFP. I concluded that ICWFP had given Mr C advice to make the investment, and that the advice was unsuitable; and it was therefore fair and reasonable to ask ICWFP to compensate Mr C for the loss he suffered through making the investment.

Responses to my provisional decision

Mr C accepted my decision. He said he had no further submissions to make.

ICWFP did not respond directly to the decision. Mr A sent further submissions from his Start Investment Management Limited email address, which were a copy of submissions he had made in another complaint. In that other complaint we asked ICWFP to confirm whether the submissions sent from Mr A were sent on its behalf, but it has not done so. However, it seems ICWFP is aware of the submissions.

The response sent by Mr A said (insofar as the copied response could relate to this complaint), in summary:

- Mr A was not acting on behalf of ICWFP in this case. The whole decision is based on one email sent from ICWFP asking for money laundering documents.
- No commissions were ever paid to ICWFP.

- None of the documents Mrs B signed make any reference to ICWFP as the advising business.
- All the Dolphin sales aids clearly stated this was a product not regulated by FCA and this was a non regulated sale at the time.
- ICWFP does not have investment permissions. It cannot advise on investments.

What I've decided – and why

The complaint is against ICWFP and ICWFP has not authorised any other parties to act for it. So, strictly speaking, ICWFP has made no response to my provisional decision. It seems ICWFP is however aware of the submissions Mr A has made and Mr A also holds a Significant Management Controlled Function at ICWFP. So, I have considered the submissions made by Mr A. Although, in any event, they are only partly irrelevant, as they are a copy of a submission made on another complaint and some of the points made relate only to the facts of that other complaint. And they only repeat submissions which have been previously made by or for ICWFP otherwise; they do not raise any new points or provide any new evidence.

Having reconsidered all the available evidence and arguments, I have not been persuaded to depart from my provisional decision. And, as neither party have provided any further evidence or made any further substantive submissions, I see no reason to depart from my provisional findings. I have therefore largely repeated my provisional findings below, as my final findings.

Jurisdiction

The first step I need to take is to establish whether this complaint is one I can consider. ICWFP says:

- The investment was unregulated, and this was therefore unregulated business which was not covered by the FCA.
- It did not sell the investment to Mr C – Start Investment Management did.

I am satisfied this complaint is one I can consider against ICWFP. The first point ICWFP has made is, in my view, based on a misunderstanding of the rules under which it operates. And the second point is not supported by the available evidence. I will set my findings out in more detail below.

Regulated activities and ICWFP's responsibility

We can consider a complaint under our compulsory jurisdiction if it relates to an act or omission by a firm (business) in the carrying on of one or more listed activities, (including regulated activities), or any ancillary activities carried on by the firm in connection with those activities, (DISP2.3.1R).

Complaints about acts or omissions by a business include complaints about acts or omissions in respect of activities for which the business is responsible. So there are two questions to be considered before I can decide whether this complaint falls within the compulsory jurisdiction of this service:

1. Were the acts about which Mr C complains done in the carrying on of a regulated activity, or an ancillary activity carried on in connection with a regulated activity?

2. Were those acts the acts of ICWFP?

I have considered these questions in turn.

Regulated activity

The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (the RAO) sets out what activities require FCA authorisation i.e. are regulated activities. It essentially sets out that specified activities, carried on in relation to specified investments, are regulated activities.

In terms of a specified activity, Article 53 (3) of the RAO provides the following:

“Advising a person is a specified kind of activity if the advice is—

(a) given to the person in his capacity as an investor or potential investor, or in his capacity as agent for an investor or a potential investor; and

(b) advice on the merits of his doing any of the following (whether as principal or agent)—

(i) buying, selling, subscribing for, exchanging, redeeming, holding or underwriting a particular investment which is a security, structured deposit or a relevant investment, or

(ii) exercising or not exercising any right conferred by such an investment to buy, sell, subscribe for, exchange or redeem such an investment.”

It does not appear to be disputed Mr A advised Mr C to make the investment in the Dolphin Trust. And I am satisfied that he did.

On this point, I find Mr C’s testimony plausible and persuasive. It seems to me to be an honest account of events to Mr C’s recollection and the most likely explanation for how he ended up making the Dolphin Trust investment. I think it very unlikely he would have made the investment without a positive recommendation from someone he trusted i.e. Mr A. And it appears ICWFP and Mr A himself do not dispute that Mr A advised Mr C to make the investment (setting aside the dispute about who Mr A was acting for when he gave the advice).

Having considered Mr C’s testimony alongside the other available evidence I am satisfied of the following:

- Mr C did not find the investment of his own volition; he only became aware of it after contacting Mr A.
- Mr C only decided to make the investment following a sales process conducted by Mr A.
- The sales process involved Mr A explaining why an investment in Dolphin Trust was suitable for Mr C. Mr A explained it was a very good investment, and provided reassurances in relation to it.
- Mr C did not independently determine the investment amount – he discussed this with Mr A, and agreed with him how much he should invest.
- Mr C agreed to make the investment because he trusted Mr A, as he had acted as his advisor previously (in relation to a mortgage) and achieved a positive result.

- Mr A was involved with the Dolphin Trust investment. He sold it to others (we have at least one other complaint against ICWFP in which similar testimony has been made by a consumer with no connection to Mr C).

I am therefore satisfied Mr A gave Mr C advice on the merits of buying the Dolphin Trust investment. So, Mr A carried out a specified activity. The next point to consider therefore is whether he did so in relation to a specified investment.

Mr C's investment was in loan notes issued by a Special Purpose Vehicle (SPV). The objective of the investment was to fund a specific development of a German listed building. Investors were to put up money to fund a development and to receive a fixed return over a fixed period for doing so. The investments involved a SPV being set up for each development, which would issue loan notes, and the investors purportedly receiving a share of a charge on the relevant property as security.

In my view, this amounts to a form of arrangement intended to pool investors' money to fund a development and to provide them with the right, through securities issued (i.e. the loan notes), to a share of the returns generated by that development (in the form of an offered fixed return, in this instance). And to give investors a right to a portion of the property in question (through the charge). It therefore appears to be an Unregulated Collective Investment Scheme (UCIS). So, it was a specified investment - units of a collective investment scheme (Art 81 of the RAO).

If that analysis is incorrect, the alternative is that the investment was an instrument creating or acknowledging indebtedness, which is defined as follows (Art 77 of the RAO):

“Any of the following—

(a) debentures;

(b) debenture stock;

(c) loan stock;

(d) bonds;

(e) certificates of deposit;

(f) any other instruments creating or acknowledging a present or future indebtedness.”

If the investment was not a UCIS it, in my view, falls within this definition, and was therefore a specified investment on that basis.

So, I am satisfied the Dolphin Trust investment was a specified investment. Mr A therefore carried on the regulated activity of advising on investments.

Pausing there, I note ICWFP has referred to publication from the FCA, following the failure of Dolphin Trust/GPG. This focusses on those who invested through pensions, and says that investors may have recourse to a regulated advisor through the regulated complaints process; and, if they invested through one, should complain to the advisor in these circumstances. But it does not say those who did not invest through pensions do *not* have access to the regulated complaints process. So, although it focusses on those who invested through pensions, it does not amount to evidence that advice was unregulated; they are consistent with the findings I have set out above. The relevant considerations to determine

this point are, in any event, set out the legislation I have quoted above.

In a similar vein, I do not think the Dolphin “sales aids” referred to in the submissions made by Mr A amount to evidence that advice was unregulated.

I will now turn to the question of whether the advice was the act of ICWFP which, in my view, in this case means whether Mr A acting in his capacity of employee of ICWFP when giving the advice.

Acts of ICWFP

The submissions from ICWFP and its legal representative refer to a number of businesses:

- IC Wealth Management Limited
- ICWFP
- Start Mortgages/ Start Financial Planning
- Start Investment Management

There is also reference to “IC Wealth”, which is described as a trading name of both ICWFP and IC Wealth Management Limited.

The FCA Register and Companies House confirm the following:

- Start Mortgages (which had a trading name of Start Financial Planning registered on the FCA Register) ceased to be authorised in 2011.
- IC Wealth Management Limited (which appears in the FCA Register as “*i C Wealth Management*”) was an appointed representative of a principal business from 2011 to 2020. It had no registered trading names on the Register.
- ICWFP was authorised from 2013 and has the trading name “*i C Wealth*” listed on the FCA Register, effective from July 2013 to date.
- Start Mortgages/ Start Financial Planning changed its name to Start Investment Management in 2011 (which, as mentioned, was never FCA authorised).

So, it seems Start Mortgages/Start Financial Planning was replaced in 2011 by IC Wealth Management Limited and then in 2013 by IC Wealth Management Limited and ICWFP. And that only the latter had the trading name IC Wealth registered, albeit, it seems, with typographical errors.

The evidence suggests Mr C had a relationship with ICWFP, in relation to his mortgage. And it seems that Mr C dealt exclusively with Mr A in relation to the Dolphin Trust investment.

Mr A was associated with ICWFP at the time of the Dolphin Trust investment. And he has been the director of Start Investment Management (or its predecessor, Start Mortgages/ Start Financial Planning) since 2005. There is no evidence to show he was associated with any other business at the time, including IC Wealth Management Limited.

Pulling all this together there are, in my view, two possibilities – that the advice in relation to the Dolphin Trust investment was given by Mr A acting for ICWFP or acting for Start Investment Management. And that any reference to “IC Wealth” in this context means ICWFP (which is consistent with the FCA Register entries).

There is the following available evidence relative to the question of who Mr A was acting for:

- The history of Mr C's relationship with Mr A.
- A 7 November 2013 email from "I C Wealth" to Mr C, which includes the following:

Thank you for your on-going relationship with i C Wealth.

As your Investment Plans, Insurance Policies and Mortgage are up for review would you please either e-mail us or contact the office, so we may arrange a meeting to conduct a review for you

- Mr C's recollections of the events leading up to the investment.
- The Dolphin Trust Expression Of Interest Form signed by Mr C on 18 January 2019.
- The copy letter dated 21 January 2019 provided by ICWFP, which is described as being from Start Investment Management.
- A 6 March 2019 email from Mr C to the Dolphin Trust investment administrators, chasing investment documents:

"Thanks for the email, and it just occurred to me whether you had the right postal address as it changed last year and I'm unsure if IC wealth had passed it on."

So, the evidence in this case is limited. But it does not follow that I must find ICWFP is not responsible. Ultimately, I need to make a reasonable finding of fact based on the balance of probabilities, by determining what weight I should attach to the available evidence, and considering what is likely to have happened, in the circumstances.

In my view, having carefully considered the available evidence, it is reasonable to find that Mr A was acting for ICWFP rather than Start Investment Management when giving the advice which is the subject of this complaint. I have set out my finding in more detail below.

It does not appear to be disputed Mr A was employed by ICWFP at the time of the investment – the law firm confirmed this when making submissions on ICWFP's behalf on the other complaint.

Pausing there, I note Mr A is not listed on the FCA Register as having a Controlled Function at ICWFP at this time (his only entry is for a Significant Management function from December 2019). However, that is not consistent with the evidence I have seen in the other complaint, which clearly shows Mr A was carrying out activities associated with a Controlled Function at ICWFP before December 2019, such as advising on and arranging life assurance policies. I do not know whether the absence of a Controlled Function before 2019 is an error in the Register or whether Mr A was carrying out a Controlled Function without permission from the FCA; but it is not, in my view, evidence that Mr A was not working for ICWFP at the time, given the evidence available otherwise.

I also note that, in correspondence I have seen in the other complaint, dating from 2018, Mr A signs an email, sent from a ICWFP email address, off in the capacity of a director of ICWFP (although in fact he was not a registered director at the business). So, he was clearly acting for ICWFP at that time.

At the outset of the relevant events, it appears Mr C only had a relationship with one of the two businesses for which Mr A could have been acting – ICWFP. And I am satisfied he contacted Mr A in the first instance in his capacity as ICWFP's advisor – the capacity in which he had previously dealt with him. He did not contact Start Investment Management –

there is no evidence he knew of that business's existence.

Mr C also does not appear to have had a relationship with Mr A personally; the relationship was one of advisor and client.

So, at the point of arriving to meet Mr C, Mr A was acting in his capacity as an advisor for ICWFP. There is no record of the meeting – only Mr C's recollections. And, as mentioned, I find Mr C's recollections plausible and persuasive.

Ordinarily, if a new business is being engaged, some sort of contract would be entered into, setting out the services the business was to offer, the terms under which those services were to be offered, and the costs associated with them. Here, there is no such documentation. And Mr C's recollection is that Start Investment Management was never mentioned. On the other hand, it seems Mr C had an established relationship with ICWFP.

The only reference to Start Investment Management is the letter dated 21 January 2019. In respect of this, I think the first point to consider is that it post-dates the advice. So, even if I accept it shows Mr A was acting for Start Investment Management when it came to arranging the investment, it is not evidence he was acting in the same capacity when giving advice to Mr C. I do not find it persuasive evidence of Start Investment Management's involvement, in any event.

The letter lacks basic professional standards. It is just a blank piece of paper with "Start Investment Management" typed out above the sender's address (which is the same as ICWFP's address). Mr C says he kept all correspondence and has never seen the letter. I am not therefore persuaded this letter was sent at the time of events, even if it was created then.

ICWFP says the Dolphin Trust Expression Of Interest Form makes no reference to ICWFP, and this is evidence it was not involved (and the submissions from Mr A following my provisional decision repeat this point). I am not persuaded by this.

The copy Expression Of Interest Form we have been provided with is only partly completed. It has a section to record the "*Accredited Introducer Name*", but that section is blank.

There are two pages attached to the Expression Of Interest Form which carry the title "*Appropriateness and Client Categorisation Questionnaire*". It is not clear whether they are part of the form, or a separate form. But they are also only partly completed. The agent introducing the application is required to complete tables setting out what category of client the applicant falls into and providing confirmation an appropriateness test has been carried out. But this section has been left entirely blank.

So, I do not think this form is evidence Start Investment Management gave the advice to Mr C. It makes no reference to ICWFP but it makes no reference to Start Investment Management either. It is incomplete; and therefore makes no reference to any introducing or advising business.

Mr A has said on a number of occasions he is going to submit a copy of his bank statement, showing that commission was paid directly to him, but no copy statement has been submitted. In any event, if commission was paid to Mr A directly that is not necessarily evidence he was acting for Start Investment Management rather than ICWFP when giving advice. And I note there is no suggestion that commission was paid to Start Investment Management.

The final point I think it is important to have in mind is that, in my view, it is unlikely Mr A

would have wanted to introduce Start Investment Management to Mr C at the point of giving his advice. He would have been motivated to sell the investment – which I understand offered significant commission payments – and therefore keen to leverage his existing relationship with Mr C, which formed the basis of his trust in him. So, I think it likely he continued in the role in which Mr C knew him i.e. as an advisor for ICWFP.

For completion, I also acknowledge ICWFP's submission (repeated by Mr A following my provisional decision) that it did not have permission to give investment advice. But the rules (DISP 2.3.1R) only require the business to meet the definition of a "firm", which is an "authorised person", not for the acts in question to fall within the permissions granted to the business by the FCA. So, the scope of ICWFP's permissions is not a relevant consideration to establishing whether the complaint is one I can consider. ICWFP was an authorised person and, for the reasons I have set out, I am satisfied it carried out a regulated activity.

Overall, I am satisfied that Mr A was acting for ICWFP, not Start Investment Management, when giving Mr C advice to make the Dolphin Trust investment. And this complaint is therefore about a regulated activity carried on by ICWFP. So, it is one I can consider against ICWFP.

What is fair and reasonable in the circumstances?

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

As the authorised business, ICWFP, was giving advice to Mr C its regulatory obligations required it to take reasonable steps to ensure the recommendation of the Dolphin Trust investment was suitable for Mr C. The relevant rules are set out at COBS 9.2.1 R:

"(1) A firm must take reasonable steps to ensure that a personal recommendation, or a decision to trade, is suitable for its client.

(2) When making the personal recommendation or managing his investments, the firm must obtain the necessary information regarding the client's:

(a) knowledge and experience in the investment field relevant to the specific type of designated investment or service;

(b) financial situation; and

(c) investment objectives;

so as to enable the firm to make the recommendation, or take the decision, which is suitable for him."

Dolphin Trust was an unregulated investment (i.e. its operation/management was not subject to any regulation) and based on a single overseas property development. The risks associated with it were complex and multi-factorial, and Dolphin Trust had a limited track record. So, ICWFP ought to have recognised it was a high risk investment, which was unlikely to be suitable for the vast majority of retail clients and, if it was suitable for any such clients, only as a small percentage of an overall diversified portfolio.

Mr C was an investor with no experience. The money he invested was around 30% of his total assets, other than his home. He was a self-employed gardener with a limited pension provision, and approaching retirement age. So, it is clear he did not want to (nor could afford to) take significant risks when investing.

ICWFP advised Mr C to invest £20,000 in the Dolphin Trust. In the circumstances, that was clearly unsuitable advice. I do not think ICWFP should have advised Mr C to invest in Dolphin Trust *at all*, and definitely not to the extent that it advised him to invest.

I note Mr C signed a High Net Worth statement – and that it appears the statement was not consistent with his circumstances. But ICWFP did know Mr C's circumstances (or at least, ought to have done, had it met its regulatory obligations when giving advice). So, I do not think the statement, in itself, gave ICWFP a reasonable basis to conclude that a £20,000 investment in the Dolphin Trust was suitable for Mr C. And I would draw the same conclusion even if the statement was accurate; even if Mr C did meet the High Net Worth investor criteria it did not automatically follow that a £20,000 investment in the Dolphin Trust was suitable for him.

I remain of the view that Mr A exploited his existing relationship with Mr C as his advisor at ICWFP to recommend the investment to him. And, in doing so, put his interests above Mr C's, by advising him to make a clearly unsuitable investment. And I am satisfied it is therefore fair and reasonable to ask ICWFP to compensate Mr C for the loss he has suffered through making the investment.

Fair compensation

In assessing what would be fair compensation, I consider that my aim should be to put Mr C as close to the position he would probably now be in if he had not been given unsuitable advice. Were it not for the unsuitable advice, Mr C would not have invested in the Dolphin Trust investment. I think Mr C would have acted differently.

I think it likely Mr C would have made an alternative, suitable, investment. It is not possible to say *precisely* what he would have done, but I am satisfied that what I have set out below is fair and reasonable given Mr C's circumstances and objectives when he invested.

What should ICWFP do?

To compensate Mr C fairly, ICWFP must:

- Compare the performance of Mr C's investment with that of the benchmark shown below and pay the difference between the fair value and the actual value of the investment. If the actual value is greater than the fair value, no compensation is payable.
- ICWFP should also add any interest set out below to the compensation payable.
- Pay Mr C £300 for the upset caused by the loss of his investment.

Income tax may be payable on any interest awarded.

Portfolio name	Benchmark	From ("start date")	To ("end date")	Additional interest
Dolphin Trust Investment	For half the investment: FTSE UK Private Investors Income Total Return Index; for the other half: average rate from	Date of investment	Date of my decision	8% simple per year from final decision to settlement (if not settled within 28 days of the business receiving the complainant's acceptance)

	fixed rate bonds			
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Actual value

This means the actual amount paid from the investment at the end date. I am aware the German Property Group companies have entered a bankruptcy process. In this case, I think it fair to simply run this calculation to date, rather than attempt to establish a date at which the investment ended. I think this is the fairest way to establish the loss Mr C has suffered to date.

Fair value

This is what the investment would have been worth at the end date had it produced a return using the benchmark.

To arrive at the *fair value* when using the fixed rate bonds as the benchmark, ICWFP should use the monthly average rate for one-year fixed-rate bonds as published by the Bank of England. The rate for each month is that shown as at the end of the previous month. Those rates should be applied to the investment on an annually compounded basis.

Any income paid by the Dolphin Trust Investment should be deducted from the fair value calculation at the point it was actually paid so it ceases to accrue any return in the calculation from that point on. If there is a large number of regular payments, to keep calculations simpler, I'll accept if ICWFP totals all those payments and deducts that figure at the end to determine the fair value instead of deducting periodically.

Why is this remedy suitable?

I have chosen this method of compensation because:

- Mr C wanted to invest some of his money for capital growth, and likely would have done so with some risk to his capital.
- The FTSE UK Private Investors Income Total Return index (prior to 1 March 2017, the FTSE WMA Stock Market 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.
- The average rate for the fixed rate bonds would be a fair measure for money kept on deposit.
- This does not mean I think that Mr C would have invested 50% of his money in a fixed rate bond and 50% in some kind of index tracker fund. Rather, I consider this a reasonable compromise that broadly reflects the loss Mr C has likely suffered.

My final decision

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 14 October 2025.

John Pattinson
Ombudsman