complaint

Mr W complains about a number of recommendations made to him by an advisor at Regent Wealth Management. The complaint I am considering here is about some pension switches, which he thinks were unnecessary, and some of the investments made in the pensions involved, which he thinks carried too much risk. At the time of these switches and investments Regent Wealth Management was a registered individual and trading style of Positive Solutions (Financial Services) Limited ("Positive Solutions").

background

Regent Wealth Management ("Regent") was a registered individual and trading style of Positive Solutions from 20 September 2004 to 22 May 2011 and, during much of this time, acted as Mr W's financial advisor. As Positive Solutions' registered individual, Regent was a self-employed agent. I understand Regent became registered as an independent regulated business in its own right (i.e. not as a registered individual and trading style of Positive Solutions) from 1 April 2011.

Mr W sent a complaint letter to Regent on 2 October 2014, and a copy of the same letter to Regent on 13 October 2014 by recorded delivery. The 13 October 2014 recorded delivery letter was signed for by someone with the same second name as Regent's advisor the following day. This letter was not acknowledged or otherwise responded to.

In my provisional decision I explained that, in my view, Mr W had made a number of complaints, and it was appropriate to consider some of these separately. Neither party made any comment on this so I see no reason to further consider that point. We will now consider separate complaints, as set out in my provisional decision. The complaint I am considering here relates to what I have set out below. The rest of Mr W's complaints will be looked at separately, as set out in my provisional decision. An investigator will get in touch with Mr W and Positive Solutions about those complaints in due course.

a switch from a Skandia personal pension to a Hartford personal pension

On 20 October 2008 Regent wrote to Mr W detailing advice to switch the cash value of his existing personal pension with Skandia to a personal pension with Hartford, and invest in a Guaranteed Retirement Income Plan ("GRIP"). This involved investing in a growth portfolio, and a guaranteed minimum level of income being offered at a selected retirement age.

The fact-find completed at the time of the switch to the Hartford scheme records Mr W was a company director, and drawing £65,000 a year income. The fact-find included the following notes:

"[Mr W] *informed me that the* [Skandia pension] *funds were valued at circa £293,220.00 in May 2006 and had fallen to £252,037.00 by October 2008. He is very concerned by this fall in the value of your pension funds and are aggrieved that action has not been taken sooner to protect the value of your funds, especially over the past 12 months or so.*

We have discussed the various options open to him at this time with regards to protecting the value of his funds whilst seeking to gain exposure to equities and any possible positive fund growth this exposure may have.

[Mr W's] *main objective is to protect the accumulated pension assets whilst looking to maximise capital growth.* [Mr W] *plans to retire aged 75, which is in 13 years time.*

ATTITUDE TO RISK

The client's risk profile overall is medium. An example of a "medium" risk investment would be pooled investments in stocks and shares such as those in a managed fund, UK Growth/European Growth or commercial property funds, but would exclude specialist areas such as Smaller Companies/Technology etc.

Regent set out the advantages and disadvantages of the switch as follows:

The advantages of this are as follows:

GUARANTEED FUND VALUE
FUND GROWTH LOCK IN UP TO 10% PA
GUARANTEED INCOME IN RETIREMENT
GUARANTEED DEATH BENEFITS
DEPENDENT CONTINUATION OPTION

Disadvantages include the following:

NEW PAPERWORK TO COMPLETE
FUND VALUE MAY REDUCE DURING TRANSFER.

Hartford has confirmed £252,777 was paid into the pension by Skandia in November 2008, and invested in the Hartford Platinum Growth Portfolio. This investment was sold on 16 April 2010 and £349,373.22 was paid into a Hawthorn Life cash fund. Shortly after this the money was switched to another personal pension (I've set the details of this out below).

Hartford has also confirmed that Regent was recorded as the advisor when the pension was opened, and that commission of £7,583.30 was paid by it to Positive Solutions with 0.5% trail commission paid monthly thereafter.

a switch from the Hartford personal pension to a IPM SIPP and the investments made in the IPM SIPP following that switch

An IPM SIPP was opened in Mr W's name on 13 April 2010. £341,906.79 (the entire transfer value of the Hartford pension, after a commission charge had been deducted by Hartford) was switched from the Hartford pension to the SIPP on 29 April 2010.

On 11 May 2010 £320,000 of the cash held in the SIPP was invested in Metlife. The advice to make this investment was detailed in a suitability letter from Regent dated 4 June 2010, which describes the advice as being to switch to a "Metlife SIPP". Positive Solutions has confirmed it received £9,600 commission from Metlife for this investment.

The comments in the fact-find document completed at the time of the switch from Hartford to the IPM SIPP, to make the Metlife investment, include the following:

"You are currently working and expect to be doing so for the foreseeable future, you would like to begin taking income benefits from your pensions at age 75 although you would like the flexibility to begin drawing an income earlier if you so wished. You wished to diversify your investments, with the major proportion being invested into a suitable "Third Way" guaranteed product. You wished to have any investment gains locked-in every two and a half years on an uncapped basis. Your main objective is to protect your accumulated pension assets whilst looking to maximise capital growth."

£320,000 of Mr W's pension was invested in the MetLife Cautious Index portfolio, with a "secure income option". This was described in the illustration produced for Mr W as follows:

"The Secure Income Option provides a guaranteed minimum income for life in the future.

Your initial Secure Income Base is £320,000. For each year that you defer the commencement of income your Secure Income Base will increase by 3.00% of your initial investment. When you take an income at age 75 your Secure Income Base will be no less than £416,000.00. Based on this age, the Secure Income Base will be multiplied by 4.75% to give you a guaranteed yearly minimum income for life of £19,760.00.

If your investments grow at 7.0% a year, at age 75 your guaranteed minimum income would be £22,000.00, taking into account lock-ins from fund value reviews."

On 16 June 2010 £20,000 was paid from the SIPP to a stockbroker called Lewis Charles Securities (also known as Hartmann Capital). £15,000 was paid back into the SIPP by Lewis Charles on 12 January 2011, and a further £750 was paid back on 14 January 2011. IPM has provided us with statements for the account Mr W's SIPP held with Lewis Charles. These show the money sent to Lewis Charles was used by it to trade options in oil, currency, and UK shares. The account continued to operate until at least April 2013, when it had a value of around £21,000. The evidence provided by IPM shows that Regent instructed this account to be opened on 16 April 2010.

£15,762.50 was paid from the SIPP to a stockbroker called Saxo on 10 March 2011. This money was used to fund an investment in a company called Alexander David Investments (also known as Regen Therapeutics) on 21 March 2011. The Saxo application form recorded Mr W's advisor as Alexander David Securities, and the FSA reference number of 469150 was quoted.

In 2013 the cash and investments in this SIPP were switched to another SIPP. I understand this was done on the advice of Regent, which was acting independently of Positive Solutions by this time.

our investigations

One of our adjudicators looked at the switch from the Skandia pension, and concluded it was not suitable. She thought it fair to ask Positive Solutions to compare the performance of the pension to a benchmark, and pay compensation if this demonstrated a loss.

Positive Solutions did not accept this view. It said, in summary:

- It thought the Hartford personal pension was suitable – the evidence shows Mr W was concerned about the fall in the value of his pension and wanted some protection for his benefits.

- The adjudicator was expecting it to compensate Mr W for investment decisions it did not make. Its liability is only to the point Mr W chose to enter into investments it did not advise on.

- The complaint has only been made as a result of some unregulated investments Mr W made, which it did not advise on. Were it not for those, no complaint would have been made.

- Regent made it clear that it could only act as an introducer where a type of investment was involved that Positive Solutions did not deal with.

- The advice given to switch to the Hartford pension featured a detailed discussion of risk, and took full account of Mr W's circumstances and wishes.

Positive Solutions later said it thought Mr W had referred his complaints to us too late. In support of this it referred to problems with a Romanian fund Mr W held in another pension Regent had advised on, and said this fund had been suspended in 2011. It thought Mr W ought to have been aware of a problem with the advice he had received then.

Another adjudicator looked at the time-bar point and said he thought the events subject to complaint had all happened within six years of Mr W making his complaints. So, on the basis of the relevant rules, he did not think Mr W had referred his complaints to us too late.

Later, an investigator considered the submissions Positive Solutions had made about its responsibility for some of the things Mr W had referred to when making his complaints. She said she did not think Positive Solutions was responsible for everything Mr W had complained about. Mr W did not accept this view.

my provisional findings

I recently issued a provisional decision. My provisional findings were, in summary:

- The complaint had been brought within the six year time limit required by our rules. I thought it likely the 13 October 2014 complaint letter, at least, was received and the record of the recorded delivery was a *written acknowledgement or some other record of the complaint having been received* within the required timeframe, which the relevant rule required.

- The advice to switch to the Hartford pension was set out in a letter dated 20 October 2008, and the switch completed after that. The switch to the IPM SIPP took place in April 2010, and the investments were made in the SIPP after that. So the events complained of all took place less than six years before the complaint was referred to the respondent (Regent, the trading style of Positive Solutions) and a written acknowledgement or some other record of the complaint had been received. The complaint had not therefore been made too late.

- The acts this complaint relates to were:

  - Advice by Regent to switch from the Skandia pension to the Hartford pension, and make the associated investment in the Hartford scheme.

  - Advice by Regent to switch from the Hartford scheme to the IPM SIPP, and make the associated investment in Metlife.

  - An investment in the shares of Regen Therapeutics/Alexander David Investments, made in a Saxo stockbroking account, which Mr W says was made on the advice of Regent.

  - A transfer of money to and from Lewis Charles Securities, which is no longer trading, and the investments I understood had been made using that money.

- I was satisfied that Regent carried out the first two acts, and was acting as Positive Solutions' agent when doing so. I was also satisfied Positive Solutions accepted responsibility for these acts.

- I thought the other two acts had been carried out by other regulated businesses. In both cases the available evidence showed Mr W gave another regulated business (Lewis Charles or Alexander David Securities) the authority to make investments on his behalf and it seems it was those businesses, rather than Regent, which made the investments in question.

- So I was only going to consider:

  - The advice by Regent to switch from the Skandia pension to the Hartford pension, and make the associated investment in the Hartford scheme.

  - The advice by Regent to switch from the Hartford scheme to the IPM SIPP, and make the associated investment in Metlife.

- I considered this advice was unsuitable. I thought there was insufficient justification for either the switch to the Hartford pension and the associated Hartford investment or the switch to the IPM pension, and the associated investment in Metlife.

- The Hartford Platinum Growth portfolio, according to the illustration produced for Mr W at the time, was invested 74% in equities, 20% in fixed interest, and 6% in property. Mr W's Skandia pension had been invested in a range of fund which gave him exposure to the same asset classes, albeit with a larger exposure to property, it seems. So I did not think moving to the Hartford product did much to protect Mr W from the volatility that was concerning him.

- The Hartford product did provide guarantees, but I didn't think they were sufficient to address Mr W's concern. It didn't protect the value of the invested funds, as such. It instead guaranteed an income based on at least the initial amount invested. And it would increase that guarantee (subject to a 10% cap) if the value on the annual anniversary was higher than it had been at any previous anniversary. But it did not offer any capital protection from market volatility – Mr W's money was still exposed to that volatility.

- So the product didn't completely reconcile with Mr W's recorded objectives – it didn't protect the value of his funds. It only guaranteed that he'd be paid a certain level of income at his retirement date in 13 years' time, if he kept the Hartford pension and took income from it at his retirement date. In the meantime if the market fell the value of his fund would fall too, and if Mr W wanted to transfer elsewhere he'd receive the prevailing fund value not any guaranteed amount.

- I didn't think a guarantee on income, in itself, was particularly important for Mr W. The fact-finds completed by Regent record that he was being paid enough income from his business to more than meet his needs, and there is no suggestion that would not continue – his business was long established. Hence he was delaying taking his income until the latest date allowed – when he turned 75. It seemed Mr W's concern was with the capital value of his pension investments, and specifically with falling fund values in a time of significant market volatility.

- I also didn't think the listed advantages and disadvantages of the switch, as set out by Regent, were a fair reflection of things. As mentioned, there was no guaranteed fund value, as such – only a guaranteed income, derived from the fund value either at the time of transfer or a later date, if sufficient growth was achieved between anniversary dates. And dependant continuation and death benefits are things that could have been achieved though Mr W's existing pension when he took benefits from it, or may already have been features of it. There was also no reference to the set up costs associated with the Hartford scheme, the fact that Mr W would only receive the prevailing fund value (which might be lower than the transfer amount) if he did not take income from Hartford, and that he may have to pay an exit penalty if he decided to move away from Hartford.

- The switch to the Hartford scheme also involved a significant increase in ongoing costs, and the initial commission would be recovered through the penalty charge mentioned above if Mr W moved his pension away from Hartford within a certain timescale. I was not persuaded that the overall difference in costs was made sufficiently clear to Mr W by a balanced comparison between the Skandia and Hartford schemes.

- Overall, I was not satisfied this advice was suitable. I was not persuaded that, in the circumstances, it was suitable advice to say this was a better option than the Skandia pension. The Skandia pension likely had a very wide range of investment fund options available which could have been accessed with less overall costs, and used to meet Mr W's objective of reducing his vulnerability to the market volatility being experienced at that time. I'd not seen sufficient evidence to show that significant consideration was given to this option, or that it was offered to Mr W alongside a balanced explanation of the advantages and disadvantages of keeping the Skandia pension and changing the investment funds or moving to the Hartford scheme.

- At the time of the switch away from the Hartford scheme Mr W's main objective was again to preserve the value of his pension fund. And he was again recommended a product that guarantees *income* to achieve this. In any event, I was not persuaded that there was sufficient difference between this product and the Hartford scheme (which, in itself, I did not think was suitable), to justify the recommendation. In making the switch Mr W incurred a charge to move away from Hartford, an initial charge for entering the Metlife product and a further increase (from the Hartford scheme, and therefore the Skandia scheme earlier) in ongoing costs.

- The suitability letter Regent issued in relation to this switch was more comprehensive than the one issued in relation to the switch to the Hartford scheme (although I note it does not appear to mention the charge Mr W would incur for transferring away from the Hartford scheme). It goes into more detail about the advantages and disadvantages of the switch, and I think offers more balanced view of things than the earlier suitability letter for the Hartford switch. But the advice was nonetheless unsuitable – in my view it repeated the initial unsuitable advice and compounded things by exposing Mr W to yet more charges and a further increase in costs.

- In both instances I thought Regent put its interests ahead of Mr W's by recommending an option which would generate a large amount of commission and incurred him unnecessary initial and ongoing costs by doing so. And the recommendations made do not appear to have addressed Mr W's core objective – which was to reduce his vulnerability to volatility in the capital value of his pension investments.

Both Positive Solutions and Mr W made some comments on my provisional findings.

Positive Solutions said, in summary:

- It does not agree that the advice to transfer into the Hartford Platinum Growth Portfolio was unsuitable. It met Mr W's objective to protect his funds. Those funds were ultimately going to be used to buy an income and the safest way of protecting those funds was to purchase a product that not only provided a fund guarantee but also guaranteed a level of income when the Mr W decided to draw on those funds at his intended retirement age.

- The fact that those funds were still exposed to volatility meant nothing as the product guaranteed a level of income based on the initial amount invested.

- In addition, if the funds increased in value then it is clear Mr W would enjoy the benefits of that growth in terms of a fund increase and an associated increase in the guaranteed income amount. Given these facts there would be no downside risk to Mr W remaining in the product until his intended retirement age.

- When considering what benchmark to use to calculate compensation I say Mr W wanted capital growth with a small risk to his capital. Clearly this isn't correct as I say earlier in my provisional decision that he wanted to protect his funds against losses, and the only way to be certain to achieve this would be to place the money in a deposit account.

- So if compensation were appropriate any notional value should be based on fixed rate bonds only.

Positive Solutions made no comment on any other aspect of my findings.

Mr W said, in summary:

- The benchmark proposed to calculate compensation is inconsistent with his attitude to investment risk. It should be based 100% on the FTSE UK Private Investors Income Total Return Index. He was medium risk and he was prepared to accept some risk to capital. To say that 50% of the fund would be invested in 12 -17 month fixed rate bonds (with effectively cash-like risk and returns), would be inconsistent with this. The FTSE UK Private Investor Balanced Index could also be considered appropriate as 100% of the benchmark.
- Lewis Charles and Alexander David were in fact anything but a simple introduction. In the case of the Lewis Charles Account, on the recommendation of Regent, a signed and witnessed Power of Attorney authority was provided to Regent to enable it to operate the account on a daily basis. The advice from Regent was that he would not be sufficiently knowledgeable to do this himself. He never placed any investments with Lewis Charles/Hartmann.

my findings

I've reconsidered all the available evidence and arguments to decide whether this complaint is one we can look at. Neither party has made any comments on my provisional findings on this point. Having reconsidered this, I see no reason to depart from those provisional findings. I remain satisfied this complaint is one I can look at, for the reasons set out in my provisional decision, which are summarised above. So I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I remain of the view that the advice given to switch from the Skandia pension to the Hartford one, and switch from the Hartford pension to the IPM pension, was unsuitable. But I also remain of the view that Positive Solutions is not responsible for all the investments associated with those switches, as some of them were made by other businesses.

Turning first to the investments I do not think Positive Solutions is responsible for – those made through Lewis Charles and Alexander David (in a Saxo account) - I acknowledge the points Mr W has made about the extent of Regent's involvement. But I have not seen any evidence to show that the investments made in the Lewis Charles or Saxo accounts were made on the advice of Regent. The available evidence shows Mr W became a customer of Lewis Charles in respect of the former and of Alexander David in respect of the latter. It was Alexander David that was the advisor on the Saxo account and gave the investment instructions. And the money paid to Lewis Charles was held on an account with it and it used that money to place trades in options in oil, currency, and UK shares. So, even if I were to accept that Regent did more than merely introduce Mr W to those businesses – for example, that Regent recommended their services or gave the "green light" to recommendations they made – I don't think it would be fair (setting aside any issues associated with the agency arrangement between Positive Solutions and its trading style, Regent) to say that Regent, and therefore Positive Solutions, is responsible for the investments made. The investments were made by Lewis Charles and Alexander David and those businesses are therefore ultimately responsible for them. If Mr W is unhappy with the investments, he ought to consider making a complaint against those businesses, or a claim to the Financial Service Compensation Scheme (FSCS) if they are no longer trading.

Turing to the remainder of the complaint, I note Positive Solutions has only commented on the first switch – the switch from the Skandia pension to the Hartford one – and the investment associated with that. In respect of that switch, I accept that it is arguable that the characteristics of the GRIP associated with the Hartford Platinum Growth Portfolio go some way to meeting Mr W's objective of "*protecting the value of his funds".* But the overall switch needs to be considered i.e. the "pros and cons", and the exact nature of the "guarantee" offered by the Hartford Platinum Growth Portfolio. For the reasons given in my provisional decision I remain of the view that the advice to switch was unsuitable, when everything is taken into account. I also think, setting aside the suitability of the advice, Mr W would have been unlikely to accept it, had things been fully explained to him.

As mentioned in my provisional decision, the Hartford Platinum Growth Portfolio was similar to Mr W's existing investments, held in the Skandia scheme. The only significant difference was the income guarantee or GRIP offered by the Hartford investment. So did that match Mr W's objectives - and was it therefore enough to justify the extra costs that were incurred by the switch, considering the alternative of simply changing the funds held in the Skandia scheme? I don't think it did match Mr W's objectives and I think the switch was not therefore justifiable. Mr W's objective was to protect the value of his capital, not the income that was paid from it. The fact the money invested with Hartford was exposed to volatility did not mean nothing, as Positive Solutions says in its reply to my provisional decision. The safety net of the income guarantee would only apply if Mr W did not move his pension again, did not take income elsewhere, and survived to his intended retirement date. I do not think those conditions reconcile with Mr W's overall objectives, or his circumstances. Taking income was not a priority for Mr W and there was a relatively long time (around 13 years) until he would have to take income.

I note that Mr W was assessed as holding a medium attitude to risk. That contradicts the objective of protecting the value of his funds, to an extent. And it seems likely to me that Mr W, in common with many other investors at the time, was seeking some shelter from market volatility, rather than outright capital protection. And I think that could have been achieved by switching the funds held by his existing pension with Skandia.

Had a full and balanced explanation of the "pros and cons" been given to Mr W, alongside a full comparison between the Skandia and Hartford pensions, I think it unlikely Mr W would have accepted the advice to switch. I think the extent of the cost he was to incur would have been clear to him, and that it would also have been clear to him that the Hartford investment did not guarantee the fund value, as Regent had suggested.

Neither party has made any comments on my provisional findings in relation to the switch from the Hartford pension to the IPM one. So I see no reason to depart from my provisional findings on this. It seems the switch was made primarily to facilitate the Metlife investment, which had very similar characteristics to the Hartford one. So it compounded the earlier unsuitable advice, and incurred additional costs when doing so. However, for the reasons given, I do not think it would be fair to say Positive Solutions is responsible for the investments later made using the money left in the IPM pension (i.e. those made in the Lewis Charles and Saxo accounts).

In summary, for the reasons given here and in my provisional decision, summarised above, my decision is that Regent gave Mr W unsuitable advice to switch from the Skandia to the Hartford and later IPM pensions, and Positive Solutions is responsible for that to the extent I have described. I have therefore reconsidered the question of fair compensation.

fair compensation

Regent made further changes to Mr W's pension after it became an independent business. So I think it is fair to say Positive Solutions is only responsible for the period from the date of the first unsuitable switch to the point where the pension was switched again, under the advice of Regent acting independently of Positive Solutions. A comparison should therefore be made between the return Mr W received between the date of the first switch and the date when a further switch was made away from the IPM pension, and the return he would likely have received had these switches not been made. That comparison should however exclude the investments I have concluded Positive Solutions was not responsible for.

As mentioned, I think a suitable option for Mr W could likely have been found through his existing Skandia pension. And I think he'd likely have moved to a lower risk investment, to get the lower exposure to volatility that he wanted. I don't know exactly what Mr W would have invested in, so I think it fair to ask Positive Solutions to use a benchmark with the qualities of an investment of the type Mr W would likely have made.

I think Mr W would have invested differently. It's not possible to say *precisely* what he would have done, but I'm satisfied that what I've set out below is fair and reasonable given Mr W's circumstances and objectives when he invested.

what should Positive Solutions do?

Both parties disagree with the approach to compensation I set out in my provisional decision. In short, Mr W thinks I should use a higher risk benchmark against which to assess loss, and Positive Solutions thinks I should use a lower risk one.

As I mention above, I think it likely Mr W wanted to reduce his exposure to risk. So I don't think a benchmark which reflects the risk he was then exposed to is appropriate. But I also don't think he did not want to take any risk at all. So I don't think a benchmark with no associated risk is appropriate either. Clearly, I don't know exactly what Mr W would have done, had he been suitably advised. But having carefully reconsidered things I remain of the view that the approach to compensation I suggested in my provisional decision is fair, given the overall circumstances.

So, to compensate Mr W fairly, Positive Solutions must:

- Compare the performance of Mr W's pensions over the period mentioned with that of the benchmark shown. If the *fair value* is greater than the *actual value*, there is a loss and compensation is payable. If the *actual value* is greater than the *fair value*, no compensation is payable.

  Positive Solutions should add interest as set out below.

  If there is a loss, Positive Solutions should pay into Mr W's pension plan to increase its value by the amount of the compensation and any interest. 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 Positive Solutions is unable to pay the compensation into Mr W's pension plan, it should pay that amount direct to him. 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.
>
> The *notional* allowance should be calculated using Mr W's actual or expected marginal rate of tax at his selected retirement age.
>
> For example, if Mr W is likely to be a basic rate taxpayer at the selected retirement age, the reduction would equal the current basic rate of tax. However, if Mr W would have been able to take a tax free lump sum, the reduction should be applied to 75% of the compensation.

Income tax may be payable on any interest paid. If Positive Solutions deducts income tax from the interest, it should tell Mr W how much has been taken off. Positive Solutions should give Mr W a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

investment name	status	benchmark	from ("start date")	to ("end date")	additional interest
Mr W's Hartford and IPM pensions	transferred	for half the investment: FTSE UK Private Investors Income Total Return Index; for the other half: average rate from fixed rate bonds	date of the switch to the Hartford pension	date of the switch out of the IPM pension	8% simple per year on any loss from the end date to the date of settlement

actual value

This means the actual amount paid from the investment at the end 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, Positive Solutions should use the monthly average rate for the fixed rate bonds with 12 to 17 months maturity 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.

The amounts paid out the IPM SIPP to Lewis Charles and Saxo should be treated as a withdrawal out and deducted from the *fair value* calculation at the point they were actually paid so they cease to accrue any return in the calculation from that point on. Allowance will need to be made for the amount returned from Lewis Charles before the money was paid out to Saxo. This can be done by either treating the amount returned by Lewis Charles as an addition to the pension or by simply reducing the amount paid out to Saxo accordingly when carrying out the calculation.

why is this remedy suitable?

I've chosen this method of compensation because:

- Mr W wanted capital growth with a small risk to his capital.
- The average rate for the fixed rate bonds would be a fair measure for someone who wanted to achieve a reasonable return without 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 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.

- I consider that Mr W's risk profile was in between, in the sense that he was prepared to take a small level of risk to attain his investment objectives. So, the 50/50 combination would reasonably put Mr W into that position. It does not mean that Mr W would have invested 50% of his money in a fixed rate bond and 50% in some kind of index tracker investment. Rather, I consider this a reasonable compromise that broadly reflects the sort of return Mr W could have obtained from investments suited to his objective and risk attitude.

- The additional interest is for being deprived of the use of any compensation money since the end date.

my final decision

For the reasons given, my decision the advice to switch from Skandia to the Hartford scheme and from that scheme to the IPM SIPP was unsuitable. It is therefore fair and reasonable to uphold Mr W's complaint, to the extent I have described. Positive Solutions (Financial Services) Limited should calculate compensation as I have set out above, and pay Mr W any amount due.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 25 October 2019.

John Pattinson
ombudsman