

complaint

Mr K has complained about investments recommended by Chandler King (City) Ltd (Chandler King) for his pension.

Mr K says £50,000 was invested in a high risk fund of which the adviser was a director. Mr K also says his pension portfolio wasn't balanced and its value went down by about £100,000.

During our investigation Chandler King appointed solicitors to represent it. I've just referred below to Chandler King which should be taken to mean its legal representative where appropriate.

background

Chandler King advised Mr K in 2010. He was already a client of Chandler King. He had a phased retirement plan set up on advice from Chandler King in 2008. The funds in that plan included a number of UCIS (unregulated collective investment schemes).

At the time of the advice in 2010 Mr K was 61, married and earning about £160,000 pa. He wanted to retire at age 65. His existing plan was valued at about £211,000 and he also had a personal pension plan with another provider worth about £22,000.

At a meeting on 30 March 2010 Mr K completed forms to transfer his pension plans to a new self invested personal pension (SIPP). Some funds (£50,000) would be placed with a discretionary fund manager (DFM). Mr K also completed documents to invest £50,000 of his SIPP fund in LMG1, an Enterprise Investment Scheme (EIS).

Chandler King sent a suitability letter to Mr K on 30 April 2010 confirming the advice given at the meeting. The letter recorded that Mr K had a balanced attitude to risk and described a balanced investor as:

' looking for a balance of risk and reward, and whilst seeking higher returns than might be obtained from a deposit account, recognises that this brings with it a higher level of risk and that the value of their investment may fluctuate in the short term. They would feel uncomfortable if the overall value of their investments were to fall significantly over a short period and would not be happy to see their capital eroded.'

The letter said Mr K was aware that market conditions weren't normal and the fund recommendations and asset allocation reflected that. The letter talked about asset allocation and said that usually a model asset allocation was recommended, adjusted as required. But in Mr K's case the adviser was going to *'deviate away from the norm'* and allocate a large proportion to cash and to funds that had performed well in all market conditions.

The letter included a section headed *'Fund Selection'*. The adviser said he *'would recommend the following investments'* and a list was set out. It included an investment of £50,000 to be made via the DFM agreement, £50,000 to be invested in LMG1 plus the following in specie transfers.

Matrix Asset Based 2 (MAB2)

Matrix Ascension

Brandeaux Sterling (the Brandeaux Dual Asset Sterling Fund – which I've referred to below as the Brandeaux Sterling Fund)

Thames River Warrior

The adviser added:

'You have holdings in the Brandeaux Sterling, [MAB2], Matrix Ascension and Thames River Warrior funds that I recommend you retain. Therefore these funds will not be sold, but transferred in specie...'

Mr K complained to Chandler King in February 2015. Amongst other things he said the investments recommended for his SIPP weren't suitable for a balanced risk investor. Chandler King didn't uphold the complaint – which it treated as being confined to the LMG1 investment.

Mr K referred his complaint to us. Our adjudicator partly upheld the complaint. She didn't think it was just about the LMG1 investment. She said the SIPP portfolio represented a higher risk than Mr K was willing to take. She agreed that the connection between the adviser and LMG1 was mentioned but she thought it would have been difficult to distinguish between advice and non-advice (in respect of LMG1) and when the SIPP had been set up to allow that investment. The adjudicator said the £50,000 under the DFM agreement shouldn't be included in the redress calculations as Chandler King wasn't responsible for how that money had been invested

Chandler King maintained that the complaint was just about LMG1. The adjudicator didn't agree. Her view was that it was about the SIPP portfolio overall (and which included the LMG1 investment).

As agreement wasn't reached the complaint was referred to me. I've issued a number of decisions which I've summarised below.

my provisional decision dated 2 March 2017

I considered a number of issues. In summary my conclusions were:

- About the scope of the complaint I referred to what Mr K had said in his complaint form and his letter of complaint to Chandler King. I said it was clear his complaint wasn't just about the LMG1 investment.
- I went on to consider that investment. But I didn't uphold the complaint about it. I considered in detail the documents Mr K had signed. On balance I accepted that Chandler King's role was limited to promoting the investment. Chandler King didn't recommend that Mr K invest so I didn't think he could look to Chandler King to meet his losses.
- Chandler King wasn't responsible for the funds under the DFM.
- As to the other investments, when it recommended the transfer to the new SIPP, Chandler King should have reviewed Mr K's existing investments and ensured they remained suitable for him. And Chandler King had done that. But the funds, which in the main were UCIS, didn't match Mr K's balanced attitude to risk. The portfolio wasn't suitable. Especially as Mr K was also investing in LMG1. Although I'd said Chandler King didn't recommend that investment it knew about it and should have taken it into account in looking at the overall risk level of the SIPP portfolio.
- Mr K had changed advisers in 2012. Chandler King wasn't responsible for investment decisions after that and allowing for a reasonable time for the new advisers to review Mr K's investments and recommend any changes.

- There were also some loan notes or shares in the SIPP provider. But the position and whether Chandler King had arranged that investment wasn't clear.
- I set out how Chandler King should redress Mr K.

In response, Chandler King said the complaint had been made too late and we couldn't consider it.

my provisional jurisdiction decision dated 20 October 2017 and my jurisdiction decision dated 2 May 2018

I don't repeat here all the arguments and my conclusions. But my view was that Mr K had complained within six years of the 2010 advice, which included a recommendation to retain funds that had originally been selected in 2008. His complaint, about the make up of his SIPP portfolio, encompassed the original, 2008, advice. He wasn't too late to complain about that. His complaint had been made within three years of when he became aware – in April 2012 when he consulted new advisers – he had cause for complaint. I didn't think he ought reasonably to have become aware earlier that he had cause for complaint.

There was further correspondence about jurisdiction and, in particular, the 2008 advice. Mr K didn't confirm that he was complaining about the 2008 advice. So, in the end, I've only considered the 2010 advice.

my letter of 26 June 2019

I set out where we were with Mr K's complaint under the following headings. In summary:

scope of Mr K's complaint

As he hadn't made a specific complaint about the 2008 advice, I'd now only be looking at the 2010 advice.

can we consider a complaint about the 2010 advice?

My view remained that the 2010 advice was in jurisdiction and included the recommendation to transfer existing funds in specie to a new SIPP. Chandler King had made a definite recommendation to retain the funds. Mr K's complaint had been made within six years of the event and so was in time.

merits

The complaint should be upheld in part. The advice to maintain the large number of unregulated funds was unsuitable for the reasons I'd set out in my provisional decision of 2 March 2017. In brief, the funds and the SIPP portfolio didn't meet Mr K's objectives as a balanced investor, especially taking into account that he was also investing in LMG1. But I still didn't think his complaint so far as it related to that investment should be upheld. My view remained that Mr K knew or should have known that Chandler King wasn't recommending the investment and wouldn't be responsible for any losses he might incur.

redress

- I wasn't including the money placed with the DFM or the shares/loan notes in the SIPP provider in the redress.

- I acknowledged that working out how Mr K should be redressed wasn't straightforward. But my starting point was that Chandler King should put him, as far as possible, in the position he'd be in if Chandler King had given him suitable advice.
- Chandler King should have recognised the SIPP portfolio was too high risk and advised Mr K to sell the unregulated holdings and reinvest in funds that were suitable for a medium risk or balanced investor. If some of the funds were suspended and couldn't be sold in 2010, Chandler King should have advised Mr K that consideration needed to be given to selling if and when that became possible.
- But if an investment was illiquid in 2010 and had remained so since that might mean that no redress would be due – any failure to advise to disinvest hadn't caused any loss as the investment couldn't have been sold in any event. But the position would be different if the investment could have been sold in 2010. Or if it couldn't have been sold then but it later became possible to do so.
- I recognised that ascertaining the position for each of the investments wasn't easy. I said that we'd made enquiries of the new advisers Mr K had appointed in 2012 to see what steps it might have been open to Mr K to take and when to rebalance his SIPP portfolio. We'd also got a transaction history and annual statements from the SIPP provider.
- I set out the dates of the in specie transfers, the values attributed and, if the investment had since been sold, the date and the price.
- I made a number of points. First it seemed that MAB2 was the only investment that couldn't have been sold in 2010 or since. So no redress was due: even if Mr K had been told in 2010 it was too high risk and should be sold he couldn't have done that then or since.
- It looks like the Thames Warrior S Class and Thames Warrior H Class investments may have been illiquid in 2010 but later became saleable. So redemption requests should have been sent as soon as the funds could have been sold.
- Matrix Ascension wasn't suspended in 2010. So if Mr K had been advised to redeem his holding he could have done so.
- Mr K's new advisers had told us that the Brandeaux Sterling holding could have been sold if a redemption request was received before 1 October 2010.

redress calculations

- I included some redress calculations. I explained that where the position wasn't clear I'd made some assumptions. I asked Mr K and Chandler King, if they disagreed with the calculations and/or the assumptions, to let us know and provide evidence in support.
- We'd used the in specie transfer values and the dates the funds were transferred to the new SIPP provider.
- As I'd explained, no redress was due in respect of MAB2.
- For the Thames Warrior Funds we used the actual dates of sale and the prices achieved on the assumption those Funds were sold as soon as possible.
- We'd compared what they were sold for with a benchmark that broadly represents the sort of return a medium risk investor could expect on the value transferred. I said the FTSE UK Private Investors Income Total Return Index was an appropriate comparator.
- If there was a loss that had been brought up to date using the same benchmark.
- I said that Matrix Ascension was sold in March 2013 for £52,881.33. But on the basis it could have been sold in 2010 Mr K's loss was the difference between that figure

and what £49,590.91 would have been worth in March 2013 using the benchmark. Again that loss has been brought up to date.

- For the Brandeaux Sterling investment I said, if Mr K had made a redemption request in 2010, he could have sold his holding before the Fund was finally suspended on 1 July 2013. But there may have been a waiting period. So I'd assumed he'd have been able to sell by, say, the end of 2010 and at the same price as the in specie transfer value. Again that loss had been updated.
- I attached the supporting data for our calculations together with extracts from the SIPP statements.

further correspondence and comments

Chandler King said it had found it difficult to locate accurate information about the relevant funds and periods of suspension/illiquidity. It asked us to share what evidence we'd had from Mr K's new advisers about being able to liquidate the funds at the relevant times.

It also said, if the Thames Warrior investments were illiquid when they were transferred in specie in 2010 and only became saleable later, redress shouldn't be calculated from the date of the 2010 transfers.

It also said responsibility for advising on the investments passed to Mr K's new advisers in 2012. The new advisers should have told Mr K to liquidate the investments. Had they done so the investments could and should have been disinvested in 2012 or early 2013. Chandler King could only be responsible for any loss caused by the failure to disinvest between 2010 (or later depending on liquidity) and the point in 2012 (or early 2013) that the investments could have been liquidated.

In response we explained that I'd recognised the difficulty in finding accurate information. I said the position regarding the Brandeaux Sterling Fund wasn't straightforward and we'd try and get some more information about that. We'd make some further enquiries with Mr K's new advisers and we'd share any further information that we got.

I'd also thought again about redress for the Thames Warrior investments. If those funds were illiquid in 2010 then suitable advice would have been to sell them as soon as that became possible. Unless there was any evidence to demonstrate otherwise, I'd assume the dates on which they were actually sold were the earliest dates they could have been sold. On that basis there was no loss flowing from the 2010 advice: the advice should have been to sell as soon as possible and that was in fact done. So my view was now that no redress was due in respect of those investments.

I identified an error in what I'd said about Mr K's Matrix Ascension holding. I'd referred in my letter to it having been sold on 8 March 2013 but the correct date of sale was 26 September 2012 (as I'd said elsewhere in my letter). The holding had been sold within three months or so of the new adviser's appointment. So, even if they had a responsibility to review the SIPP portfolio and take whatever steps might be necessary to rebalance it (including selling, where possible, any unsuitable investments), that was done.

Chandler King asked us to check the calculation for Matrix Ascension. We did that. Unfortunately we identified an error. The loss figure was correct but we'd updated it from too early a date. We revised our calculation and shared it.

We also made further enquiries with the new adviser that Mr K had appointed in 2012. The adviser had since changed firms and hadn't been able to take any of Mr K's files with her. So she was only able to let us know what she recalled. She said she'd carried out research on the investments and she thought she'd suggested that there was a standing instruction to the SIPP provider to sell at the first opportunity – although it seemed the Brandeaux Sterling Fund had been suspended before that could happen.

We also contacted the firm and asked if it retained any files for Mr K and, if so, if it had any evidence which might assist. It provided some information which we've shared with Chandler King. It included various updates from Brandeaux which had been sent to the SIPP provider and forwarded to Mr K, fund fact sheets and correspondence about some redemptions. And there was an email from the firm's internal research department sent on 6 August 2012 to the adviser which said, about the Brandeaux Sterling Fund:

'50/50 split between two of Brandeaux's flagship funds, the Student Accommodation fund and the Ground Rent fund. Monthly dealing, but 6 month notice period required (and in reality, redemptions take far longer than that to fulfil due to high levels of redemptions mismatched against the illiquidity of the portfolio's assets). Friends Provident in their July 2012 update to investors, said that it had received money from Brandeaux that would allow it to pay redemption requests received on or before October 2010. Valuations should not be depended upon, and redemptions, even if submitted now, are likely to take years to execute.'

We also accessed Friends Provident's news archive and sent the link to Chandler King.

Chandler King asked for details of all the distributions paid from the Brandeaux Sterling Fund. We provided a SIPP transaction history showing those.

Chandler King accepted the redress for Matrix Ascension. But it didn't agree with using an index to calculate redress. It said the FTSE Private Investor indices produced artificial results that were well above the likely returns an investor would have made and certainly a lower risk investor such as Mr K. It said we increasingly used a 50/50 mix of the of the FTSE UK Private Investors Income total return index and the Bank of England average return from fixed rate bonds with 12 – 17 months maturity. It suggested that would be more appropriate in Mr K's case for any redress ruled due.

And, given the uncertainty about whether or not any redemption of the Brandeaux Sterling Fund would have been possible, either in 2011 or 2012/2013 (after Mr K had moved to new advisers), it wasn't safe to conclude that Chandler King should be liable. There was some information about some underlying funds but not others. What the redemption position would have been in respect of the overarching Brandeaux Sterling Fund was *'anyone's guess'*.

Chandler King said liability would have attached to the original 2008 advice if that had been found unsuitable but that wasn't part of the complaint. We shouldn't, because Mr K had left the 2008 advice out of his complaint, just give him (or his new advisers) the *'benefit of the doubt'* about what could have been redeemed and when in 2011 or 2012/2013.

We've kept Mr K up to date with developments. He hasn't added anything other than to say that, given the length of time the matter has been ongoing, he'd (understandably) like it resolved now.

my findings

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

I apologise to both parties for the length of time we've had this complaint. I've set out above how our investigation has developed. To summarise where we've ended up:

- First, in so far as jurisdiction is concerned, I'm not looking at the 2008 advice. I remain satisfied that we can consider a complaint about the 2010 advice, which included a recommendation to retain investments.
- For the reasons I've set out elsewhere I don't uphold the complaint about the LMG1 investment. Or the money placed with the DFM. Or the loan notes/shares in the SIPP provider.
- I do uphold the complaint about the other investments – that is MAB2, Matrix Ascension, Thames River Warrior and Brandeaux Sterling.

I've considered redress in respect of each of those investments separately.

No redress is due in respect of MAB2. It seems it couldn't have been sold in 2010 or since. Even if Chandler King should have told Mr K in 2010 that it was too high risk and he should disinvest he couldn't have done that then or since.

I also agree that no redress is due in respect of the Thames Warrior Funds. That's on the basis I've outlined above – that those funds were illiquid in 2010 but subsequently became liquid and were sold as soon that became possible.

Redress for the Matrix Ascension Fund is agreed (but the amount will need updating) and subject to the point about the benchmark I've selected. I've thought about that but I don't agree that the FTSE UK Private Investors Income total return index is inappropriate as a comparator.

Where we say an investment isn't suitable and we're satisfied that, with suitable advice, the consumer would have invested differently, we often won't know exactly what the consumer would have done. Where it's not possible to say precisely what the consumer would have done instead, we use a return based on a benchmark to reflect what the consumer might reasonably have made (or lost) if things hadn't gone wrong. The investment the consumer would have made if things hadn't gone wrong might have done better or worse than this benchmark return. But the benchmark is a broad brush measure that we think is fair in the circumstances.

Chandler King is right when it says we often use a combination of the FTSE UK Private Investors Income total return index and the Bank of England average return from fixed rate bonds with 12 – 17 months maturity as a comparator. But it will depend on the particular circumstances, including the investor's risk profile.

The average rate for fixed rate bonds would be a fair measure for someone who wanted to achieve a reasonable return without risk to his capital. But we wouldn't usually use that for an investor who was prepared to take some risk in order to get a higher return. The FTSE UK Private Investors Income total return index is made up of a range of indices with different asset classes, mainly UK equities and government bonds. It's a fair measure for someone who was prepared to take some risk – so for an investor with a balanced attitude to risk.

We might use a 50/50 combination of that index and the monthly average rate for fixed rate bonds if we thought the investor's risk profile was somewhere in between, in the sense that he was prepared to take a small degree of risk. But I don't see that was Mr K's position. There's no dispute he was a balanced or medium risk investor. He was someone who was prepared to take some risk (that is more than just a small degree) in order to get a higher return. The index I've suggested is the one we'd usually use for that sort of investor profile..

The main remaining area of contention is the Brandeaux Sterling Fund. It hasn't been possible to agree what, if any, redress is due. The recommendation to retain that Fund was unsuitable. Mr K should have been told to sell his holding. But the issues are, if Mr K had been told to sell his holding in March 2010 and a redemption request had been logged then, whether it would have been met and, if so, when and what price would have been realised.

I've thought carefully about that. I've recognise there's considerable uncertainty. And that it's particularly difficult where, as here, a fund has had periods of suspensions and illiquidity and notice periods for redemptions, to find evidence, some years after the event, which shows what would have happened, had a redemption request been made at a particular given time. I'm mindful of the fact, that given the time that's elapsed, evidence which it might have been able to locate earlier is no longer available.

But it won't necessarily be right to say that simply because the position is difficult I should assume the holding couldn't have been sold. What I need to do is look at such evidence as there is and see if I can reach a decision on the balance of probabilities – that is what I think is likely to have happened. I've done that with the Thames Warrior Funds. I've said, and in the absence of evidence to show otherwise, that they were sold as soon it became possible to do so (and which means that there's no loss attributable to Chandler King and the unsuitable advice it gave in 2010).

I'd emphasise that I'm only looking at what loss, if any, flowed from Chandler King's 2010 advice. As I've said, I'm not considering the earlier 2008 advice. So, it isn't the case that, in considering redress for unsuitable advice in 2010, I'm trying to put right any unsuitable advice in 2008. I've approached the question of what, if any, redress is due just from the perspective of what happened in 2010 – that is Chandler King's failure to identify that Mr K's SIPP portfolio was too risky and its failure to advise him to sell his holding in the Brandeaux Sterling Fund (and other higher risk investments) to rebalance the portfolio.

In deciding what is likely to have happened in 2010 with the Brandeaux Sterling Fund I've borne in mind that it (along with the other Brandeaux Funds) wasn't finally suspended until July 2013, over three years later. So, on the face of it at least, there was a reasonable window to redeem before then.

I've also taken into account that redemptions were subject to a notice or a waiting period. If Mr K had been advised in March 2010 to try to sell his holding, his redemption request would have been made at around the time the Brandeaux Sterling Fund (and other Brandeaux Funds) was being relaunched. Fund updates issued in March/April 2010 report the re-opening of the Brandeaux Funds (including the Dual Asset Funds). Existing (suspended) shares in the Funds were to be converted to 'A' shares. And the seven day redemption notice period was to be replaced with a six month redemption notice period.

I'd assume that considerable resource, attention and planning had gone into the restructuring and relaunch of the Funds. And that the introduction of a six month redemption notice period (which there was discretion to advance) was a realistic assessment of how

long it should take to redeem an investor's holding, the previous seven day period having proved unworkable.

Against that background I don't think it's unreasonable to say (and in the absence of any real contemporaneous evidence to the contrary) that a redemption request made in March 2010 or thereabouts would have been met by, say, the beginning of January 2011. That's a nine month or so window and allows some slippage on the six month notice period.

I think there's some evidence to support a finding that a redemption request made in 2010 would have been met. The research undertaken by Mr K's new advisers in August 2012 indicates that redemption requests received before October 2010 were being met. I don't ignore what the email said about the Fund's position generally. But I don't see that can be taken as indicative of the position in March/April 2010, over two years earlier and when, in the interim, the Fund's position had deteriorated.

The Friends Life news archive contains some information about the Brandeaux Ground Rent Income Fund and the Brandeaux Student Accommodation Fund and Friends Life's 'mirror' funds – its own funds which invest in the relevant underlying Brandeaux Fund. There's nothing about the Brandeaux Sterling Fund as such. But I recognise, as that Fund invested exclusively in the Student Funds and the Ground Rent Funds, it would have relied on liquidity created by those Funds to create liquidity for its own shareholders and investors. So the liquidity of the Brandeaux Sterling Fund is likely to reflect that of the underlying Student and Ground Rent Funds.

There are several redemption request updates. During 2012 Friends Life reported the receipt of several payments from Brandeaux which would enable Friends Life to progress redemption requests received in 2010. The January 2012 update refers to progressing requests logged in August 2010. So I think that supports a finding that a redemption request made in, say, March/April 2010 would have been met.

It seems there might have been a delay. But I can't see anything about redemption requests logged earlier than August 2010. So the timing isn't quite right. A redemption request made in March 2010 or soon thereafter may have fared differently. I say that particularly taking into account the Fund's reported position in the early part of 2010 and what I've said about the introduction of a new six month waiting period aimed at addressing redemption issues. So I maintain the timing I've suggested isn't unreasonable.

That still leaves the question as to what value would have been realised. I've used the May 2010 in specie transfer values. Again I don't think that's unreasonable. The SIPP provider undertook due diligence on the assets that were transferred in specie. It's told us that it wouldn't normally accept in specie transfers of assets that were impaired. In the absence of any direct evidence as to what might have been realised on redemption at the beginning of 2011 I don't think it's unfair to use the May 2010 values.

Lastly, I've considered whether Mr K's new advisers could have done anything when they were appointed which might have mitigated Mr K's position and his losses. I've already referred to the research those advisers undertook and as recorded in the email dated 6 August 2012. It provides contemporaneous evidence as to the position of the Fund at the time the new advisers were appointed. It seems any redemption request made then would have been subject to a long delay – the email refers to redemptions being '*likely to take years to execute*'. I'm satisfied that any redemption request made by the new advisers would have been too late and couldn't have been met before the Fund was finally suspended on 1

July 2013 and later entered into winding up.

And it looks like attempts to sell were made. The adviser recalls that the SIPP provider was instructed to sell. And the SIPP provider's file includes a letter signed by Mr K on 30 August 2012 headed '*disposal instructions*'. He asked the SIPP provider to accept the letter as his instruction to dispose of the holdings he goes on to list as soon as possible, with partial disposal if necessary. The list includes the Brandeaux Sterling Fund. So that supports what the adviser recalls about a standing instruction to sell having been given. There's also an order confirmation sent by Brandeaux to the SIPP provider. It's marked cancelled but it looks like the SIPP provider lodged a request to process redemption in respect of 100% of Mr K's holding in the Brandeaux Sterling Fund on 7 September 2012.

So the new advisers did take what steps they could. But it was too late in any event and it wasn't possible to redeem Mr K's holding before the Fund was finally suspended and then wound up. I'm satisfied that no responsibility attaches to the new advisers.

For the reasons I've set out I uphold the complaint in part and in so far as it relates to the 2010 recommendation to retain Mr K's MAB2, Matrix Ascension, Thames Warrior and Brandeaux Sterling investments.

fair compensation

My aim is to put Mr K, as far as possible, in the position he'd be in now if Chandler King had given him suitable advice. I think Mr K would have invested differently. It's not possible to say *precisely* what he would have done differently. But I'm satisfied what I've set out below is fair and reasonable given Mr K's circumstances and objectives when he invested.

As I've said, I'm only awarding redress in respect of the Matrix Ascension and Brandeaux Sterling investments. To compensate Mr K fairly, Chandler King must:

- Compare the performance of the investment with that of the benchmark.
- Pay the difference between the amount the investment was actually (or assumed to have been) sold for and the notional value calculated by reference to what the amount invested would have been worth as at the date of sale assuming the investment had produced a return using the benchmark – the FTSE Private Investors Income total return index.
- Use the data set out in the table in my letter of 26 June 2019. So, for Matrix Ascension, the amount invested was £49,890.91 on 31 May 2010. The investment was sold on 26 September 2012 for £52,881.33. For Brandeaux Sterling the amount invested was £29,585.30 on 27 May 2010 and the (assumed) date of sale at the same price was 1 January 2011.
- Any additional sum paid into the investment should be added to the fair value calculation from the point in time when it was actually paid in. Any withdrawal, income or other payment out of the investment should be deducted from the fair value at the point it was actually paid so it ceases to accrue any return in the calculation from that point on. If there are a large number of regular payments, to keep calculations simpler, I will accept if Chandler King totals all those payments and deducts that figure at the end instead of deducting periodically.
- If there's a loss it should be brought up to date using the same index to the end date – the date the redress payment is made.
- If redress is due, this should be paid into Mr K's pension plan. The payment should allow for the effect of charges and any available tax relief. It shouldn't be paid into the

- pension plan if it would conflict with any existing protection or allowance.
- If the payment into the pension isn't possible or has protection or allowance implications, it should be paid directly to Mr K as a lump sum after making a deduction of 15%. The payment would otherwise have been used to provide pension benefits, 25% of which would be tax free and the rest would have been taxed according to his likely tax paying status in retirement – presumed to be 20%. And so the 15% deduction adequately reflects this.
 - Pay to Mr K £200 for distress and inconvenience.

I have decided on this method of compensation because:

- Mr K wanted capital growth and was willing to accept some investment risk.
- 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 diversified indices representing different asset classes, mainly UK equities and government bonds. It would be a fair measure for someone who was prepared to take some risk to get a higher return.
- Although it is called income index, the mix and diversification provided within the index is close enough to allow me to use it as a reasonable measure of comparison given Mr K's circumstances and risk attitude.
- Mr K hasn't yet used his pension plan to purchase an annuity.

my final decision

I uphold the complaint but only in part. Chandler King (City) Ltd should pay the amount calculated as set out above.

Chandler King (City) Ltd should provide details of its calculation to Mr K in a clear, simple format.

Under the rules of the Financial Ombudsman Service, I am required to ask Mr K either to accept or reject my decision before 30 January 2020.

Lesley Stead
ombudsman