DRN-3083787

The complaint

Mr W complains about the suitability of the advice provided to him by Harvest Associates Ltd (Harvest) to transfer the value of his defined benefit (DB) British Steel Pension Scheme (BSPS), to a personal pension plan.

What happened

The history leading up to this complaint is well known to the parties and therefore I have only summarised events below.

In March 2016, Mr W's employer announced that it would be examining options to restructure its business, including decoupling the BSPS from the company. The consultation with members referred to possible outcomes regarding their preserved benefits, one of which was a transfer to the Pension Protection Fund (PPF) – a statutory fund designed to provide compensation to members of DB schemes when their employers become insolvent.

On 31 March 2017, the BSPS was closed to further benefit accrual.

In May 2017, the PPF made the announcement that the terms of a Regulated Apportionment Arrangement (RAA) had been agreed. That announcement said that, if risk-related qualifying conditions relating to funding and size could be satisfied, a new pension scheme sponsored by Mr W's employer would be set up – the BSPS2. The RAA was subsequently approved by the Pensions Regulator in August 2017.

In October 2017, members of the BSPS were sent a "Time to Choose" letter which gave them the options to either stay in the BSPS and move with it to the PPF, move to the BSPS2 or transfer their BSPS benefits to a private arrangement (such as a personal pension plan). A deadline was set for members to notify scheme administrators of their choice in December 2017.

Mr W met with an adviser from Harvest in October 2017. A transfer analysis and fact-find were prepared, which recorded the following, among other things:

- He was 51 years old, married with two adult children.
- He was employed earning around £45,000 per annum.
- He had approximately 33 years of service within the BSPS. At retirement, this would provide an income of £31,910 each year from age 65 with the option to take tax-free cash and a reduced income of £22,092 each year. Spousal benefits were also available.
- His home was valued at roughly £250,000, jointly owned with no mortgage.
- He and his wife had savings and ISAs; no further details were provided.
- He was planning to retire at 60, or earlier, if possible, with an income of £18,000 per annum, levelling with state pension from age 67. His normal retirement age under the DB scheme was 65.
- He was a member of his employer's defined contribution (DC) scheme making contributions of £300 per month (net); this was matched by his employer.

Mr W's attitude to risk (ATR) was also assessed. After a risk profiling exercise and further discussions it was agreed his ATR was 'lowest medium.'

It was also recorded that Mr W's reasons for looking at transferring were because he wished "to have control over [his] funds, access [his] pension in a flexible, tax efficient manner and achieve increased death benefits. "

Two TVAS reports were completed based on a retirement age of 65 and a cash equivalent transfer value (CETV) of around £574,000, one with fees and charges included and the other excluding these figures. These showed that with the fees and charges included investment growth, or critical yield, of 7.1% was required to replace the benefits of the DB scheme at retirement. When fees and charges weren't included, the critical yield needed was calculated to be 6.4%.

A third TVAS report was later produced using a CETV of £592,899.99. This showed the critical yield needed to match benefits if Mr W were to take a tax-free cash lump sum and a reduced pension was 6.8%. Cashflow analysis showed that if Mr W were to take an annual income of £31,910 (equal to the final salary pension from age 65 without a cash lump sum) this fund would exhaust at age 88. Additional cashflow analysis showed if he were to take an income of only £12,000 from age 60 (levelling off with the stage pension from age 67) this fund would last until age 120.

Following advice from Harvest to transfer to a personal pension plan, on 15 November 2017 Mr W completed an application for a flexi-access personal pension arrangement. The transfer completed in May 2018.

Mr W complained to this Service in August 2020 following a letter from the Financial Conduct Authority (FCA) informing him that he may have been badly advised to transfer out of the BSPS. He said he felt that his financial security had been affected and wanted compensation to match his previous pension.

We let Harvest know of Mr W's concerns and it looked into his complaint. Harvest responded setting out the reasons for Mr W wanting to transfer and concluded that the transfer had been suitable because it was the only way that met all of those objectives. It also said the actual growth rate of the funds he's invested in has been higher than the assumptions used at the time of advice, so Mr W is now in a better financial position than originally envisaged.

Dissatisfied with this response, Mr W pursued his complaint with the Financial Ombudsman. An investigator upheld the complaint and thought Harvest should pay compensation in line with the FCA's redress methodology for unsuitable DB transfer advice as well as £350 for the distress caused.

In summary, the investigator felt Mr W was always likely to be worse off as a result of transferring as the growth required to simply match the benefits available under the DB scheme were unlikely to be achieved based on his circumstances and attitude to risk. But he also didn't think the TVAS had been properly conducted as it didn't consider retirement at age 60, which is what Mr W was planning. And he noted that the fact find recorded Mr W needed an income of £18,000 per annum in retirement, but the analysis was based on a yearly income of £12,000. The investigator wasn't persuaded this sum accurately reflected Mr W's income needs in retirement given that this was substantially less than what he currently earned. He also didn't consider that Mr W had a genuine need to transfer at that time and that the objectives of flexibility and control weren't controlling given Mr W's age and time remaining to retirement when the advice was given. He wasn't persuaded the transfer had to happen when it did since Mr W was at least nine years from retiring. And he didn't understand why Harvest discounted the BSPS2 as an option in its suitability report. As a result, the investigator felt that the advice wasn't in Mr W's best interests and if suitable advice had been provided, he thought Mr W would have ultimately moved his benefits to the BSPS2.

Harvest didn't agree. It said the investigator had placed too much weight on the critical yields and the guaranteed nature of the DB pension. Harvest also said all client specific objectives, including:

- retire at age 60
- income of 12k net per annum
- to take pension benefits in a tax-efficient manner
- to have flexibility in how pension benefits are taken
- to have increased death benefits and a pension pot that can be inheritable

could be met by a transfer and not be met by the BSPS2 or PPF.

And Harvest said Mr W "would not have been happy with a level of risk as demonstrated in his risk profile, to accept a large proportion of his pension assets in one single company shares via the BSPS2" (the suitability report said BSAPS2 would be given a 33% equity stake in Tata Steel UK Limited). And that by advising a transfer when they did "all of the client specific objectives could be met on a sustainable basis without jeopardising future financial security." It also referred to emails from Mr W which Harvest says expresses his concerns over "securing the transfer within the timescales set out by BSPS."

The investigator responded but wasn't persuaded to change his opinion. He noted that the justification regarding the 33% equity stake was not a reason provided for the advice at the time it was given.

Harvest subsequently responded that if the complaint were to be upheld, redress should be based on a comparison to the PPF and not the BSPS2 as it did not yet exist at the time of advice.

As no agreement could be reached, the complaint was referred to me to make a final decision.

What I've decided – and why

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

Both parties have provided detailed arguments and a lot of documentation to consider. And I'd like to reassure them that I've carefully considered all the evidence provided. If I don't comment on or refer to everything I've been sent or that either party has said this isn't meant as a discourtesy or because I haven't thought about it. Rather, it is because my decision will address what I consider to be the key issues in deciding what is fair and reasonable. This reflects the informal nature of this Service as an alternative to the courts.

In reaching my decision, I've taken into account relevant law and regulations, regulator's rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time. This includes the Principles for Business ('PRIN') and the Conduct of Business Sourcebook ('COBS'). And where the evidence is incomplete, inconclusive, or contradictory, I reach my conclusions on the balance of probabilities – that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances.

<u>The applicable rules, regulations and requirements</u>

The below is not a comprehensive list of the rules and regulations which applied at the time of the advice but provides useful context for my assessment of Harvest's actions here.

- PRIN 6: *A firm must pay due regard to the interests of its customers and treat them fairly.*
- PRIN 7: *A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.*
- COBS 2.1.1R: *A firm must act honestly, fairly and professionally in accordance with the best interests of its client (the client's best interests rule).*
- The provisions in COBS 9 which deal with the obligations when giving a personal recommendation and assessing suitability and the provisions in COBS 19 which specifically relate to a DB pension transfer.

I have further considered that the regulator, the FCA, states in COBS 19.1.6 that the starting assumption for a transfer from a DB scheme is that it is unsuitable. So, Harvest should have only considered a transfer if it could *clearly* demonstrate that the transfer was in Mr W's best interests.

Having considered all of this and the evidence in this case, I've decided to uphold the complaint for largely the same reasons given by the investigator - the advice to transfer to a personal pension plan wasn't in Mr W's best interests. Had he been suitably advised I think he would have transferred to the BSPS2.

Financial viability

The advice was given after the regulator gave instructions in Final Guidance FG17/9 as to how businesses could calculate future 'discount rates' in loss assessments where a complaint about a past pension transfer was being upheld. Prior to October 2017 similar rates were published by the Financial Ombudsman Service on our website. Whilst businesses weren't required to refer to these rates when giving advice on pension transfers, they provide a useful indication of what growth rates would have been considered reasonably achievable for a typical investor.

Mr W was 51 at the time of the advice and wanted to retire at 60. The critical yield required to match Mr W's benefits at age 65 was 7.1% if he took a full pension. The critical yield needed to match benefits at age 60 was not provided, but it would be greater than 7.1% as there would be less time for investment growth. And it's important to remember here that the effect of charges and fees associated with the initial and ongoing advice and the personal pension would further reduce the likely growth.

The relevant discount rate closest to when the advice was given which I can refer to was published by the Financial Ombudsman Service for the period before 1 October 2017 and was 4.1% per year for 13 years to retirement at age 65. I've kept in mind that the regulator's projection rates have also remained unchanged since 2014: the regulator's upper projection rate at the time was 8%, the middle projection rate 5%, and the lower projection rate 2%.

I've taken this into account, along with the composition of assets in the discount rate, Mr W's lowest medium attitude to risk and also the term to retirement. I agree with the investigator that there would be little point in Mr W giving up the guarantees available through his DB scheme only to achieve, at best, the same level of benefits outside the scheme. But here, given the lowest relevant critical yield was 7.1% (6.8% if a cash lump sum was taken), I think Mr W was likely to receive benefits of a substantially lower overall value than the DB scheme at retirement, as a result of investing in line with his attitude to risk.

And I'm not persuaded this was made sufficiently clear to Mr W as I note the suitability report recommending the transfer said:

> *The growth rate required to match the benefits payable under the existing scheme at age 65 are 6.8% per annum if a full pension is payable. You were happy to accept this in order to achieve your objectives, understanding that it is likely that the proposed plan will achieve this rate of growth and the pension payable is likely to be higher than the existing scheme.*

This isn't accurate. First, the analysis demonstrated a growth rate of 7.1% was required if a full pension was taken. But critically, it also showed that Mr W was likely to be financially worse off as a result of transferring to a personal pension and investing in line with his lowest medium ATR.

For this reason alone a transfer out of the DB scheme wasn't in Mr W's best interests. Of course financial viability isn't the only consideration when giving transfer advice, as Harvest has argued in this case. There might be other considerations which mean a transfer is suitable, despite providing overall lower benefits. Harvest is adamant that transferring to a personal pension arrangement was the only way to achieve all of Mr W's objectives which it lists as being:

- retire at age 60
- income of 12k net per annum
- to take pension benefits in a tax-efficient manner
- to have flexibility in how pension benefits are taken
- to have increased death benefits and a pension pot that can be inheritable

I've considered each of these below.

Early retirement and income needs

In its comments to this Service Harvest said the *"client's overwhelming objective was to retire at age 60 and did not want the prescriptive nature of an occupational pension scheme or a PPF pension."*

Whilst I don't doubt that Mr W might have genuinely hoped to retire early, I've seen nothing that shows this was anything more than something he aspired to do at that stage, as opposed to being part of a formulated plan. I say this because Mr W was only 51 years old at the time of advice and from what I've seen, he had no concrete plans for retirement at that point. I've also noted that Mr W could have retired early as a member of the BSPS2 and the PPF.

So, even if I were to consider that Mr W's retirement plans were more advanced than the mere aspirations set out by Harvest - and he really did want to retire early - I think Harvest should have more comprehensively assessed the possibility of achieving this goal whilst being a member of the BSPS2 or the PPF.

Harvest also said Mr W wanted to have an annual income of around £12,000 in his retirement. Though I note that £18,000 was recorded in the fact find. Regardless of which figure was used, both are substantially below the £45,000 he was earning per year working. So I don't know how realistic this income estimate really is. As I've explained above, retirement for Mr W, aged 51 at the time, was most likely still quite a few years away. In my view, what income he'd need as a retiree could only really be an estimate at this point. Nevertheless, I still don't see any evidence to support a recommendation for Mr W to transfer away from a DB scheme to a personal pension for this reason.

Even if I were to accept £12,000 was roughly what Mr W needed to fund a retirement, I've seen nothing that shows the BSPS2 wouldn't have helped meet these needs anyway. And Harvest hasn't disputed this.

Flexibility and control

Harvest said Mr W wanted control of his pension going forward and its investment strategy. However, there's no real evidence of what his personal involvement in money market type investing actually was. I've not seen enough evidence to persuade me that Mr W really had a capacity or desire to manage his pension if he transferred out to the extent that it was influential in his decision about what to do. There were certainly no advantages around cost in transferring out to a personal plan. In my view, Harvest's statements about control over the funds are generic, and they don't explain how Mr W's personal control would be in his best interests.

But I do accept that Mr W, like many employees of his company, was concerned about his pension. His employer had recently made the announcement about its plans for the scheme and Harvest said he lacked trust in the company. He'd heard negative things about the PPF and Harvest said he could have more control over his pension fund.

So, it's quite possible that Mr W was also leaning towards the decision to transfer because of the concerns he had about his employer and a negative perception of the PPF. However, it was Harvest's obligation to give Mr W an objective picture and recommend what was in his best interests.

By the point of the advice being delivered details of BSPS2 were known and it seemed likely it was going ahead. So when Harvest now says that not enough was known about the 'new' scheme, I don't think that's right. It's true the situation was dynamic in that changes were still being proposed at that very point, but we know a great deal about the timeline because we've seen many similar complaints to this one. It's possible this scheme may not have gone ahead, but I still think the benefits available to Mr W through the BSPS2 should have been factored in with this advice so that he was able to make an informed decision.

However, even if there was a chance the BSPS2 wouldn't go ahead, I think that Harvest should have reassured Mr W that the scheme moving to the PPF wasn't as concerning as he thought. The income available to Mr W through the PPF would have still provided a significant portion of the income he thought he needed at retirement, and he was still unlikely to be able to exceed this by transferring out, given his ATR. And although the increases in payment in the PPF were lower, the income was still guaranteed and was not subject to any investment risk. So, I don't think that these concerns should have led to Harvest's recommendation to Mr W to transfer out of the DB scheme altogether.

Harvest have also said that Mr W wanted the flexibility to take a variable income in retirement. However, I can't see that it was part of a formulated plan. I say this because Mr W was only 51 years old at the time of advice and from what I've seen, he had no concrete plans for retirement at that point. And moving to the BSPS2 wouldn't preclude a future decision to transfer to a flexible pension arrangement should it become clear closer to

Mr W's retirement that this was suitable. So I am not persuaded that to achieve all of Mr W's objectives the transfer had to happen when it did.

Furthermore, I don't think Harvest promoted the additional income and flexibility Mr W would enjoy at retirement as a result of joining his employer's new DC scheme. He had already accrued a significant sum in this pension and both he and his employer would be contributing to this for at least another 9 years, even if retiring early. In my view, Mr W would have been in a good position: the DB pension (BSPS2) was guaranteed, and index linked; and the DC pension had the added 'flexibility' were his circumstances to change. I think this fitted in very well with Mr W's likely financial needs going forward. Harvest failed to adequately account for this when advising him.

Death Benefits

Harvest says that death benefits were discussed at the time and the personal pension would better enable the retention of the value of the funds if Mr W died.

Death benefits are an emotive subject and of course when asked, most people would like their loved ones to be taken care of when they die. The lump sum death benefits on offer through a personal pension was probably made to look like an attractive feature to Mr W. But whilst I appreciate death benefits are important to consumers, and Mr W might have thought it was a good idea to transfer from the BSPS to a personal pension because of this, the priority here was to advise him about what was best for his retirement provision. A pension is primarily designed to provide income in retirement. And I don't think Harvest explored to what
extent Mr W was prepared to accept a lower retirement income in exchange for higher death benefits.

Mr W was married, so this made the death benefits in BSPS2 very relevant to their situation. In this context, I think the likely death benefits attached to the new DB scheme (BSPS2) were underplayed because the spouse's pension provided by the BSPS2 would have been useful to Mr W if he predeceased her. I don't think Harvest made the value of this benefit clear enough. This was guaranteed and it escalated – it was not dependent on investment performance, whereas the sum remaining on death in a personal pension was.

In any event, there may not have been a large sum left anyway in a personal pension upon Mr W's passing, particularly if he lived a long life. So I don't think the advice should have implied his wife / children would benefit more from a personal pension. Furthermore, it doesn't appear that Harvest took into account the fact that Mr W could have nominated someone as the beneficiary of any funds remaining in his DC scheme. So, to this end, Mr W had already ensured part of his pension wouldn't 'die with him'.

Therefore, I'm not persuaded that the different death benefits available through a transfer to a personal pension justified the likely decrease of the valuable retirement benefits Mr W would enjoy through the BSPS2.

Summary

I don't doubt that the early retirement, flexibility, control, and the potential for higher death benefits on offer through a personal pension would have sounded like attractive features to Mr W. But Harvest wasn't there to just transact what Mr W might have thought he wanted. The adviser's role was to really understand what Mr W needed and recommend what was in his best interests.

Ultimately, I don't think the advice given to Mr W was suitable. He was giving up a guaranteed, risk-free, and increasing income within the DB scheme. By transferring to a personal pension, the evidence shows Mr W was likely to obtain lower retirement benefits. And I don't think there were any other particular reasons which would justify the transfer and outweigh this. I think Harvest ought to have advised him against transferring out of his DB scheme for this reason, particularly as it meant he'd be worse off in retirement. This is especially true considering that all the reasons provided for the transfer were not particularly time sensitive in the sense that Mr W was in good health and still had at least 9 years before he hoped to retire.

So, I don't think it was in Mr W's best interests for him to transfer his DB scheme benefits to a personal pension when he had the opportunity of opting into the BSPS2.

I think it was clear to all parties at the time that the BSPS2 was most likely going ahead. Mr W still had several years before he intended to retire. So, I don't think that it would have been in his interest to accept the reduction in benefits he would have faced by the scheme entering the PPF. By opting into the BSPS2, Mr W would have retained the ability to transfer out of the scheme nearer to his retirement age if he needed to, something that doesn't appear to have been considered by Harvest.

Also, I think he would have wanted to consider a wife's pension and that it would be set at 50% of his pension at the date of death, and this would be calculated as if no lump sum was taken at retirement (if Mr W chose to do so). The annual indexation of his pension when in payment was also more advantageous under the BSPS2.

On this basis, I think Harvest should have advised Mr W to opt into the BSPS2.

I have considered whether Mr W would have transferred to a personal pension in any event. I accept that Harvest disclosed some of the risks of transferring to Mr W and provided him with a certain amount of information. But ultimately it advised Mr W to transfer out, and I think he relied on that advice.

I'm not persuaded that Mr W would have insisted on transferring out of the DB scheme, against Harvest's advice. I say this because Mr W asked Harvest for advice and this pension also accounted for most of his retirement provision at that time. So, if Harvest had provided him with clear advice against transferring out of the DB scheme, explaining why it wasn't in his best interests, I think he would have accepted that advice.

I'm also not persuaded that Mr W's concerns about the PPF were so great that he would have insisted on transferring his pension, knowing that a professional adviser, whose expertise he had sought out and was paying for, didn't think it was suitable for him or in his best interests. So if Harvest had explained Mr W was also unlikely to exceed the benefits available to him through the PPF if he transferred out, and that he could meet his income needs in retirement without risking his guaranteed pension, I think that would have carried significant weight.

In light of the above, I think Harvest should compensate Mr W for the unsuitable advice, using the regulator's defined benefits pension transfer redress methodology.

Putting things right

A fair and reasonable outcome would be for the business to put Mr W, as far as possible, into the position he would now be in but for Harvest's unsuitable advice. I consider Mr W would have most likely opted to join the BSPS2, rather than transfer to the personal pension if he'd been given suitable advice. So, Harvest should use the benefits offered by the BSPS2 for comparison purposes.

On 2 August 2022, the FCA launched a consultation on new DB transfer redress guidance and set out its proposals in a consultation document - CP22/15-calculating redress for non-compliant pension transfer advice.

In this consultation, the FCA said that it considers that the current redress methodology in Finalised Guidance (FG) 17/9 (Guidance for firms on how to calculate redress for unsuitable defined benefit pension transfers) remains appropriate and fundamental changes are not necessary. However, its review has identified some areas where the FCA considers it could improve or clarify the methodology to ensure it continues to provide appropriate redress.

A policy statement was published on 28 November 2022 which set out the new rules and guidance-https://www.fca.org.uk/publication/policy/ps22-13.pdf. The new rules will come into effect on 1 April 2023.

The FCA has said that it expects firms to continue to calculate and offer compensation to their customers using the existing guidance in FG 17/9 for the time being. But until changes take effect firms should give customers the option of waiting for their compensation to be calculated in line with the new rules and guidance.

We've previously asked Mr W whether he preferred any redress to be calculated now in line with current guidance or wait for the new guidance /rules to come into effect. He has not expressed a preference.

I am satisfied that a calculation in line with FG17/9 remains appropriate and, if a loss is identified, will provide fair redress for Mr W.

For clarity, Mr W has not retired. So, compensation should be based on his normal retirement age of 65, as per the usual assumptions in the FCA's guidance.

This calculation should be carried out as at the date of my final decision and using the most recent financial assumptions at the date of that decision. In accordance with the regulator's expectations, this should be undertaken or submitted to an appropriate provider promptly following receipt of notification of Mr W's acceptance of the decision.

Harvest may wish to contact the Department for Work and Pensions (DWP) to obtain Mr W's contribution history to the State Earnings Related Pension Scheme (SERPS or S2P). These details should then be used to include a 'SERPS adjustment' in the calculation, which will take into account the impact of leaving the occupational scheme on Mr W's SERPS/S2P entitlement.

If the redress calculation demonstrates a loss, the compensation should if possible be paid into Mr W's pension plan. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension plan if it would conflict with any existing protection or allowance.

If a payment into the pension isn't possible or has protection or allowance implications, it should be paid directly to Mr W as a lump sum after making a notional deduction to allow for income tax that would otherwise have been paid. Typically, 25% of the loss could have been taken as tax-free cash and 75% would have been taxed according to his likely income tax rate in retirement - presumed to be 20%. So making a notional deduction of 15% overall from the loss adequately reflects this.

The payment resulting from all the steps above is the 'compensation amount'. This amount must where possible be paid to Mr W within 90 days of the date Harvest receives notification of his acceptance of my final decision. Further interest must be added to the compensation amount at the rate of 8% per year simple from the date of my final decision to the date of settlement for any time, in excess of 90 days, that it takes Harvest to pay Mr W.

It's possible that data gathering for a SERPS adjustment may mean that the actual time taken to settle goes beyond the 90-day period allowed for settlement above - and so any period of time where the only outstanding item required to undertake the calculation is data from DWP may be added to the 90-day period in which interest won't apply.

If the complaint hasn't been settled in full and final settlement by the time any new guidance or rules come into effect, I'd expect Harvest to carry out a calculation in line with the updated rules and/or guidance in any event.

I have also considered the impact on Mr W of the unsuitable advice and transfer. Our investigator recommended that a sum of £350 should be paid to Mr W by Harvest for what he referred to as the distress and inconvenience caused by this unsuitable transfer. I've taken into consideration all of the circumstances of this complaint, and I agree that Harvest should also pay Mr W £350 for the trouble and upset caused by the unsuitable advice which has likely had an impact on his retirement planning.

Where I uphold a complaint, I can award fair compensation of up to £160,000, plus any interest and/or costs that I consider are appropriate. Where I consider that fair compensation requires payment of an amount that might exceed £160,000, I may recommend that the business pays the balance.

My final decision

Determination and money award: I uphold this complaint and I now direct Harvest Associates Ltd to pay Mr W the compensation amount as set out in the steps above, up to a maximum of £160,000.

Where the compensation amount does not exceed £160,000, I would additionally require Harvest Associates Ltd to pay Mr W any interest on that amount in full, as set out above.

Where the compensation amount already exceeds £160,000, I would only require Harvest Associates Ltd to pay Mr W any interest as set out above on the sum of £160,000.

Recommendation: If the compensation amount exceeds £160,000, I also recommend that Harvest Associates Ltd pays Mr W the balance. I would additionally recommend any interest calculated as set out above on this balance to be paid to Mr W.

If Mr W accepts my final decision, the money award becomes binding on Harvest Associates Ltd. My recommendation would not be binding. Further, it's unlikely that Mr W can accept my decision and go to court to ask for the balance. Mr W may want to consider getting independent legal advice before deciding whether to accept any final decision.

The loss assessment calculation should be provided to Mr W in an easy-to-understand format.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr W to accept or reject my decision before 14 March 2023.

Jennifer Wood
Ombudsman