DRN-3270689

The complaint

Mr G complained that he was given unsuitable advice to transfer his defined benefit (DB) British Steel Pension Scheme (BSPS), to a personal pension plan.

Vision Independent Financial Planning Limited is responsible for answering this complaint and so to keep things consistent, I'll refer mainly to "Vision".

What happened

In March 2016, Mr G'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, which included transferring the scheme to the Pension Protection Fund (PPF), or a new defined benefit scheme (BSPS2). Alternatively, members were informed they could transfer their benefits to a personal pension arrangement.

In May 2017, the Pension Protection Fund (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 G's employer would be set up – the BSPS2.

In October 2017, members of the BSPS were being sent a "Time to Choose" letter which gave them the options to either stay in BSPS and move with it to the PPF, move to BSPS2 or transfer their BSPS benefits elsewhere. The deadline to make their choices was 11 December 2017 (and was later extended to 22 December 2017).

Mr G was concerned about what the announcement by his employer meant for the security of his preserved benefits in the BSPS. He was unsure what to do and was referred to Vision which is responsible for providing the pension advice. Information gathered about his circumstances and objectives at the time were broadly as follows:

- Mr G was 43 years old and in good health. Although describing himself as single, he had a partner with whom he had two dependent children. Mr G and his partner planned to marry at some point in the future.

- Mr G owned a home valued at approximately £120,000, which had an outstanding mortgage of around £70,000. The mortgage had 14 years left to run.

- Mr G's income was £39,485 per year and he said he had a monthly disposable income of around £400 (net) after expenses. Mr G had savings of £13,000 comprising of mainly cash accounts, and some shares.

- The cash equivalent transfer value (CETV) of Mr G's BSPS was approximately £377,696 and the normal retirement age (NRA) was 65. Vision said Mr G wanted to retire early if possible, at around the age of 57.

Vision commissioned a transfer analysis and set out its advice in a suitability letter on 22 November 2017. It advised him to transfer out of the BSPS and invest the funds in a personal pension plan. Vision said this would allow Mr G to achieve his objectives.

Mr G accepted this advice and so transferred to a personal pension. In 2021 Mr G complained to Vision about its advice, saying he shouldn't have been advised to transfer out of the BSPS. In response, Vision said it hadn't done anything wrong and was acting on the financial objectives Mr G had at the time.

Mr G referred his complaint to our Service. One of our investigators looked into the complaint and said it should be upheld.

As the complaint couldn't be resolved informally, it's come to me for 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.

I've considered with great care, the final response from Vision. But whilst I've noted all the points made, I've rightly focussed on what I think to be the relevant aspects and points in this case.

I've also 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'). 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 Vision'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 Financial Conduct Authority ('FCA'), states in COBS 19.1.6 that the starting assumption for a transfer from a DB scheme is that it is unsuitable. So, Vision should have only considered a transfer if it could clearly demonstrate that the transfer was in Mr G's best interests.

I've used all the information we have to consider whether transferring away from the BSPS to a personal pension was in Mr G's best interests.

I don't think it was, so I'm upholding his complaint.

<u>Financial viability</u>

Vision referred in its transfer analysis and suitability report to 'critical yield' rates. The critical yield is essentially the average annual investment return that would be required on the transfer value - from the time of advice until retirement - to provide the same annuity benefits as the DB scheme. It is therefore part of a range of different things which help show how likely it is that a personal pension could achieve the necessary investment growth for a transfer-out to become financially viable. As well as considering the critical yield, I've looked at other financial projections too.

Vision initially focused on Mr G's apparent desire to retire at the age of 57 and so said the critical yield required to match the benefits of the proposed BSPS2 at this age was 6.96% if he took a full pension and 5.84% if he took tax-free cash and a reduced pension. And based on his desire to also take a tax-free cash element upon retiring the adviser said, *"I am happy to support the transfer based on your objectives and also your balanced attitude to risk".*

However, Vision caveated its advice by saying Mr G didn't necessarily wish to mirror his existing benefits in the DB scheme and that it had also produced 'cash flow modelling' which showed how Mr G would be able to meet his income requirements in retirement.

So, I first considered whether I thought the critical yield rates were as achievable as Vision thought, as this was a part of the basis for recommending the transfer-out to a personal pension.

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.

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 only 4.1% per year for 13 years to retirement (to age 57 – which is what Vision itself was basing its recommendation on). This 4.1% figure is well below the critical yields outlined by Vision. The discount rate for the age of 65 was 4.5%, still well below the critical yields above. And so, I don't think Vision's advice to Mr G suggesting the critical yields would be achievable was right, based on this. I've also kept in mind that the regulator's upper projection rate at the time was 8%, the middle projection rate was 5%, and the lower projection rate was 2%.

Vision said Mr G's attitude to risk (ATR) was 'balanced,' so again, I don't see any basis for Vision claiming that the critical yields that it itself was putting forward would be achievable. The regulator's middle projection rate was still below the critical yields. So, in my view, both the discount rate and the regulator's projections were implying here that Mr G was going to receive lower pension benefits as a result of following Vision's transfer advice.

Nevertheless, I went on to consider the critical yield rates for retiring later, at the scheme's NRA, even though Vision's advice didn't focus on this. The critical yields here were lower, at 4.57% (without a tax-free lump sum) and 3.84% (with a tax-free lump sum and reduced pension).

However, I think it's also important to note that the charges and fees associated with the personal pension plan Vision was recommending would have eroded the potential growth rates further; our investigator set out in their 'view' what these costs were likely to be. And because Mr G was still relatively young from a retirement perspective, I don't think it could really have been said at the time what he'd have done at retirement, the age at which he would retire (if early) and whether he'd take a lump sum. Taking all these other considerations into account, the discount rate and regulator's middle rate, I think this still suggests that exceeding the critical yields, even for the age of 65, was highly uncertain.

So, to be clear, in my view there was no case made out for the funds in a personal pension growing to an extent that made transferring out from a DB scheme worthwhile. And there would be little point in transferring out of a DB pension for these reasons to achieve, at best, growth of a similar nature to the DB scheme. Set against the added stance of the regulator, that such transfers are most likely not suitable, I don't think that the advice about potential growth was in Mr G's best interests.

Elsewhere in its transfer analysis, Vision also made mention of the PPF. It said the critical yields to match the benefits available ranged from 3.53% to 5.04%. But these were against the *reduced* benefits found in that scheme and Vision said Mr G didn't want to go into the PPF; its recommendation also didn't focus on this area.

As a further comparison, I can see that Vision's transfer analysis also showed that in order to purchase an annuity to provide benefits of equal value to the existing scheme at retirement at age 65, the funds required would be around £713,378 – far in excess of Mr G's 'current' CETV. Even in order to purchase an annuity to provide benefits of equal value to the estimated benefits of the existing scheme, assuming no spouse's pension, no increases in payment and no guarantee at retirement, the estimated fund required was £462,227, still much more than Mr G's CETV. In my view, these costs provide a revealing window into the real value Mr G would lose if he transferred out to a personal pension plan.

So, there was simply no reliable evidence from Vision here that Mr G's transferred funds could confidently exceed the critical yield rates to an extent that supported the advice to transfer away from a DB scheme. Even small differences in projected growth rates can have a substantial effect over time, so I think these figures show Mr G would most likely receive lower pension benefits in the longer-term by transferring to a personal pension. And with the effects of charges and fees, I think that would also be the case even if Mr G moved with his existing scheme to the PPF.

I've noted that Vision prepared a number of examples of how Mr G's transferred pension funds could last him into old age. These were contained in the transfer analysis and the suitability report. A large number of different scenarios were given and I've considered whether these make any difference to the financial viability of transferring to a personal plan. However, these were not like-for-like comparisons with the type of scheme Mr G was being advised to leave and so there was a loss of guarantees and benefits compared with the DB schemes, which I think were of value to Mr G. Many scenarios were also compared with buying a single life annuity (or similar) despite Mr G telling Vision that he was intending to marry. And whilst some of the scenarios show his transferred funds running out in his 80s, or even at much later ages beyond this, Mr G's benefits under the DB scheme lasted for life. As I also explain later, I don't think it was really possible at this point in Mr G's life to say what level of retirement income he would be likely to need.

Overall, I think Mr G would have found the many different examples of cash flow modelling confusing and I don't think fair comparisons were being made.

Of course, Vision's recommendation was evidently supported by other reasons to transfer away. I've therefore thought about all the other considerations which might have meant a transfer was suitable for him, despite providing the overall lower benefits mentioned above. I've considered these below.

Other reasons the transfer was based on

In its suitability report Vision recommended a transfer to a personal pension based on what it said were Mr G's objectives, which were listed. In addition to 'trust' issues with his employer, a priority for Mr G was retiring early. He also expressed a wish that his pension could be passed to his children in the event of him passing away. Vision then based its recommendation to transfer on the following areas which I've summarised:

- Mr G's option within BSPS lacked flexibility and he wanted to retire at 57. He also wanted the option to maximise his tax-free cash element from his pension.

- He wanted to select his own pension investment strategy to match his ATR and benefit from low charges. He could draw income whenever he wanted.

- He lacked trust in his employer's scheme(s).

So, it seems that Vision also recommended the transfer for the flexibility and control it offered to Mr G. I have therefore considered all of these issues in turn.

Flexibility

Vision said Mr G wanted to have an annual income of around £14,000 in his retirement. However, retirement for Mr G, aged 43 years old, was still a long time off. Whilst I'm sure he may well have had an aspiration to retire at 57, I've noted his two children were just three years and one year old respectively. I've also seen no real detail around his partner's earnings at the time.

So, I think Vision should have started from the position that early retirement - and what he might need to live on if retired - could be no more than an educated guess at that point in time. I think it's fair to point out that in reality Mr G was only in 'mid-career' and more than likely he had some years before him where his family situation would no doubt evolve and his priorities and challenges could change.

So, Vision's job here was to provide realistic advice with this in mind, which was in Mr G's best interests. And basing a recommendation to irreversibly leave his DB pension, on no more than retirement aspirations that were so far off was, in my view, a very poor start.

Vision referred to Mr G being able to access the maximum tax-free cash via a personal pension. It's usually the case that more tax-free cash can be accessed from a personal pension when compared against a DB scheme; this is because the values and benefits of the two schemes are calculated differently. But Vision should have been telling Mr G at the time that extra tax-free lump sums being removed from a personal pension, potentially from the age of 55, also came with consequences in that the amount left for his later retirement years would obviously decrease.

So, whilst I accept the notion of accessing more tax-free cash might have been appealing, this needed to be considered against the other options Mr G faced, including opting for the BSPS2. Again, I also come back to Mr G's age at the time and the fact that these assumptions about what Mr G would or wouldn't need when he retired, were effectively a 'best guess'.

Even if I were to accept £14,000 was roughly what Mr G needed to fund a retirement – which in all likelihood was probably many years away – I've seen nothing that shows the BSPS2 wouldn't have helped meet these needs anyway. For example, in its transfer analysis Vision said that Mr G's estimated annual pension upon his NRA was £22,953 per year under

BSPS2. If taking a tax-free lump sum it was estimated to be £15,805 with £105,371 cash. Even at the age of 57 the annual pension was £18,099 or £13,205 with £88,035 in cash. All these figures already met his supposed income requirements in retirement. But in addition to this, I don't think Vision promoted the additional income and flexibility Mr G would enjoy at retirement because he had also recently joined his employer's new defined contribution ('DC') scheme.

So, even if he did retire at the comparatively young age of 57, Mr G (and also his employer) would have been making contributions to this 'second' pension for around 14 years. This means he could have accessed this second pension as he saw fit or when he wanted to retire and it would have complemented his existing BSPS2 scheme. In my view, he 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 G's likely financial needs going forward.

I therefore think Mr G's circumstances were much more aligned to him retiring from a DB scheme in this case, such as BSPS2, and drawing this pension in the way it was originally intended. I think Vision's advice should have reflected this.

Death benefits

Vision 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 G 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 were probably made to look like an attractive feature to Mr G. But whilst I appreciate death benefits are important to consumers, and Mr G might have thought it was a good idea to transfer the BSPS to a personal pension because of this, the priority here was to advise him about what was best for his retirement provisions. A pension is primarily designed to provide income in retirement. And I don't think Vision explored to what extent Mr G was prepared to accept a lower retirement income in exchange for higher death benefits.

I've noted that at the time Mr G was unmarried. But there was clearly a discussion about this as it's referred to in documents I've seen from the advice session. I therefore think this is relevant to the way the significant death benefits in BSPS2 ought to have been viewed.

Whilst it could be alleged that this is using the benefit of hindsight, what was known at the time is that Mr G and his partner had two dependent children. The facts also strongly imply theirs was a long-term relationship and so I think marriage was something that ought to have been clarified more by the adviser. If married, 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. Mr G's children already qualified for certain benefits under the BSPS2 and as they were only very young, this benefit was relatively long lasting as at the point of the advice. But the spouse's pension provided by the BSPS2 would have been useful to his partner if she and Mr G married and he then predeceased her. I don't think Vision 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 G's passing, particularly if he lived a long life. So I don't think the advice should have implied his partner and / or their children would benefit more from a personal pension. Furthermore, it doesn't appear that Vision took into account the fact that Mr G could have nominated someone as the beneficiary of any funds remaining in his DC scheme. So, to this end, Mr G had already ensured part of his pension wouldn't 'die with him'.

It's likely the issue of life insurance was discussed in this case as it does look like some quotes were obtained. However, it looks like these quotes were based on insuring the full value of Mr G's CETV and at £377,696 this was expensive. 'Term' life insurance may have been a much more affordable product if he really did want to leave a legacy for his loved ones. I see this too was quoted, but again for the full value of the CETV. Insuring the full CETV amount wasn't Mr G's only life insurance option. At 43 years old and apparently healthy, term insurance for a lower insured sum could have been a good alternative to transferring to a personal pension just for the supposed death benefits. Mr G didn't need to insure the full amount, not least because he was building a significant DC pension where named beneficiaries could have been named.

I'm therefore clear that in this case I don't think different death benefits available through a transfer to a personal pension justified the likely decrease of the valuable retirement benefits Mr G would enjoy through the BSPS2.

Control or concerns over financial stability of the DB scheme

Vision said Mr G wanted control of his pension going forward and its investment strategy. Whilst I can see he did have some experience of owning shares and a short-lived endowment policy, there's no real evidence of what his personal involvement in money market type investing actually was.

If transferring to BSPS2, as a DB scheme this was already managed on his behalf by trustees. There were certainly no advantages around cost in transferring out to a personal plan. In any event, I've not seen enough evidence to persuade me that Mr G 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. In my view, Visions statements about control over the funds are somewhat vague and generic, and they don't explain how Mr G's personal control over the funds would be in his best interests.

However, I do accept that it's clear that Mr G, 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 Vision said he lacked trust in the company. He'd heard negative things about the PPF and Vision said he could have more control over his pension fund.

So, it's quite possible that Mr G 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 Vision's obligation to give Mr G 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, I think this should have alleviated Mr G's concerns about the scheme moving to the PPF.

However, even if there was a chance the BSPS2 wouldn't go ahead, I think that Vision should have reassured Mr G that the scheme moving to the PPF wasn't as concerning as he thought. The income available to Mr G 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 Vision's recommendation to Mr G to transfer out of the DB scheme altogether.

Summary

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

Ultimately, I don't think the advice given to Mr G was suitable. He was giving up a guaranteed, risk-free and increasing income within the BSPS. By transferring to a personal pension, the evidence shows Mr G 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 Vision 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.

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

I think it was clear to all parties in November 2017 that BSPS2 was most likely going ahead. Mr G 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, as it wouldn't be offset by the more favourable reduction for very early retirement. By opting into the BSPS2, Mr G would have retained the ability to transfer out of the scheme nearer to his retirement age if he needed to.

Also, although not yet married, I think he would have wanted to at least 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 G chose to do so). I say this because of the particular relationship Mr G was in at the time. That he and his partner also had children was another factor, as they may have been able to draw benefits from the scheme under certain circumstances. The annual indexation of his pension when in payment was also more advantageous under the BSPS2.

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

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

I'm not persuaded that Mr G would have insisted on transferring out of the DB scheme, against Vision's advice. I say this because Mr G asked Vision for advice and this pension also accounted for almost all of his retirement provision at that time. So, if Vision 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 G'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 Vision had explained Mr G 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 Vision should compensate Mr G 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 G, as far as possible, into the position he would now be in but for Vision's unsuitable advice. I consider Mr G would have most likely opted to join the BSPS2, rather than transfer to the personal pension if he'd been given suitable advice. So, Vision should use the benefits offered by 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 G whether he preferred any redress to be calculated now, in line with current guidance, or wait for any new guidance/rules to be published. He doesn't want to wait for the new guidance to come into effect.

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

For clarity, Mr G has no plans at present to retire any earlier than age 65. 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 G's acceptance of the decision.

Vision may wish to contact the Department for Work and Pensions (DWP) to obtain Mr G'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 G's SERPS/S2P entitlement.

If the redress calculation demonstrates a loss, the compensation should if possible be paid into Mr G'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 G 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 G within 90 days of the date Vision 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 Vision to pay Mr G.

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 Vision 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 G of the unsuitable advice and transfer. Our investigator recommended that a sum of £400 should be paid to Mr G by Vision for what he referred to the upset and worry caused by this unsuitable transfer. I've taken into consideration Mr G's age, family circumstances and the substantial amount he'd built up in his pension to that date; Mr G had built up his pension over a period of 25 years. Also, by retirement this DB pension would still have been a significant part of his overall pension entitlement so I think the thought of losing benefits would have negatively impacted Mr G. So, I agree that Vision should also pay Mr G 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

<u>Determination and money award</u>: I've decided to uphold this complaint and I now direct Vision Independent Financial Planning Limited to pay Mr G 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 Vision Independent Financial Planning Limited to pay Mr G any interest on that amount in full, as set out above.

Where the compensation amount already exceeds £160,000, I would only require Vision Independent Financial Planning Limited to pay Mr G any interest as set out above on the sum of £160,000.

<u>Recommendation:</u> If the compensation amount exceeds £160,000, I also recommend that Vision Independent Financial Planning Limited pays Mr G the balance. I would additionally recommend any interest calculated as set out above on this balance to be paid to Mr G.

If Mr G accepts my final decision, the money award becomes binding on Vision Independent Financial Planning Limited.

My recommendation would not be binding. Further, it's unlikely that Mr G can accept my decision and go to court to ask for the balance. Mr G may want to consider getting independent legal advice before deciding whether to accept any final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 6 January 2023.

Michael Campbell
Ombudsman