DRN-3353336

The complaint

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

Beacon IFA Limited is responsible for answering this complaint and so to keep things consistent, I'll refer mainly to "Beacon".

What happened

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, 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 W's employer would be set up – the BSPS2.

Mr W 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 Beacon which is responsible for providing the pension advice. Information gathered about his circumstances and objectives at the time of the recommendation were broadly as follows:

- Mr W was 54 years old, divorced, with adult children. He was described as being in good health and at the time of the advice he had accrued around 11 years of pension benefits with the BSPS.

- Mr W lived in a home valued at around £110,000 with no mention of a mortgage outstanding. He had another property also worth £110,000.

- Mr W earned around £32,000 per year. After expenses he had over £1,200 per month disposable income. Mr W had easy access savings of £44,000.

- The cash equivalent transfer value (CETV) of Mr W's BSPS was approximately £127,194 (this was later revalued and increased modestly). The normal retirement age (NRA) was 65.

Beacon set out its advice in a 'financial strategy report' on 28 September 2017. In this it advised Mr W to transfer out of the BSPS and invest the funds in a type of personal pension plan. Beacon said this would allow Mr W to achieve his objectives. Mr W accepted this advice and so transferred out. In 2021 Mr W complained to Beacon about its advice, saying he shouldn't have been advised to transfer out to a personal pension.

Mr W referred his complaint to our Service. One of our investigators looked into the complaint and said it should be upheld. In response, Beacon said it hadn't done anything wrong and was acting on the financial objectives Mr W had at the time.

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 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.

The applicable rules, regulations and requirements

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 Beacon'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, Beacon should have only considered a transfer if it could clearly demonstrate that the transfer was in Mr W'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 W's best interests.

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

Financial viability

Beacon referred in its transfer analysis and financial strategy 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. In this case, Beacon used the existing scheme (BSPS) for the critical yield comparisons, rather than the 'new' BSPS2.

However, before assessing the critical yields in Mr W's case, I think it's important to point out that Beacon should have waited a short time to compare the benefits of the BSPS2 with transferring out, rather than just using the current BSPS for comparisons.

I say this because a few weeks before this advice, which was dated 28 September 2017, BSPS members had been told that if the RAA was approved, they would have a choice – to move into a new scheme (BSPS2) or into the PPF with the old scheme. A newsletter was put on a microsite that had been set up to support BSPS members and I think Beacon would have been following these events closely.

It's true the situation was dynamic in that changes were 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. And although the advice was delivered to Mr W at the end of September 2017, most of Beacon's analysis referred to figures obtained at the start of August. So, I think it's reasonable to say that Beacon should have waited for these new details (BSPS2) to emerge as the existing scheme (BSPS) was clearly no longer an option. Using the existing scheme rather than the new one, to make comparisons with, wasn't giving Mr W the best opportunity to make an informed decision about what to do.

I've also noted Beacon's comments about us using an over reliance on critical yield rates when assessing the suitability of pension transfers and I understand the point being made. But as I'll show, the critical yield is only a part of a range of different things which help demonstrate how likely it is that a personal pension could achieve the necessary investment growth for a transfer-out to become financially viable. I think it's also fair to say that despite some uncertainty at the time, the BSPS2 critical yields were likely to be between the BSPS and PPF yields, but most likely much closer to the existing scheme.

Having said all that, Beacon said that the critical yield required to match the benefits at the age of 65 in the BSPS, was 11.6% if Mr W took a pension without a tax-free lump sum. If taking a tax-free lump sum, the critical yield was 9.44%. In my view, it should have been obvious to Beacon that these critical yield figures were high and probably not achievable.

However, Beacon also made several references to Mr W wanting to retire at 60. I'm not sure how accurate this was, as I've noted the 'fact-find' actually referred to an age range of between 60-65 as being when he might want to retire, rather than specifically at the age of 60. I mention this because the critical yields for an earlier retirement were much higher. At the age of 60, for example, the respective critical yields were 22.11% and 17.6%.

So, in my view, it was clear that growing a personal pension in excess of these critical yield rates was most unlikely - and there would be little point in Mr W transferring out to a personal pension plan only to receive lower overall benefits at retirement. Also, for the much higher critical yield figures relating to a retirement at 60 years old, Beacon conflated these very high rates with the much smaller 'hurdle rate' when it set out its recommendations to Mr W. The hurdle rate compared the growth required to buy a much inferior pension, with far less benefits. So, when Beacon told Mr W that the hurdle rate was much more achievable, I think this was somewhat misleading.

What Beacon should have been pointing out to Mr W here was that achieving any of these critical yield rates was unlikely. In my view, there's plenty of evidence to support this.

The advice was given during the period when the Financial Ombudsman Service was publishing 'discount rates' on our website for use in loss assessments where a complaint about a past pension transfer was being upheld. Whilst businesses weren't required to refer to these rates when giving advice on pension transfers, I consider they provide a useful indication of what growth rates would have been considered reasonably achievable when the advice was given in this case.

The relevant discount rate published by the Financial Ombudsman Service for the period before 1 October 2017 was only 3.8% per year for 10 years to retirement (calculated to age

65). And calculated against retiring at 60, the discount rate was just 3.1% per year. As these discount rates are well below the critical yields, I think they show Mr W was very unlikely to grow his pension by enough to make transferring worthwhile from a financial perspective.

I've also kept in mind that the regulator's upper projection rate was 8%, the middle projection rate was 5%, and the lower projection rate was 2%. At the time, Beacon assessed Mr W's attitude to risk (ATR) as "lowest medium", but I've also noticed it was referred to elsewhere as "cautious". In any event, everything I've seen shows Mr W wanted very little risk and he had absolutely no experience of these types of investments. So, I think a growth assumption at the lowest point of the regulator's projections was most relevant. Again, this was substantially below the critical yield figures for the BSPS, so I think this too showed that achieving the critical yield(s), year-on-year, upon transferring out just wasn't likely.

I've noted too, that Beacon said in its transfer analysis that in order to purchase an annuity to provide benefits of an equal value to the existing scheme at retirement at the age of 65, the funds required would be over £330,000 which is much higher than his CETV. This, in my view, provides a revealing window into the real value Mr W would lose if he transferred out to a personal pension.

Elsewhere in its transfer analysis, Beacon also made mention of the PPF, which it described as a compensation scheme providing a *"safety net"* for pension schemes when the sponsoring employer becomes insolvent. Beacon said the critical yields to match the benefits available through the PPF at age 65 were lower. But they were still 8.17% and 7.48% respectively. These yields also related to the *reduced* benefits available with the PPF and Beacon itself says Mr W wouldn't have wanted to transfer to this scheme. It's also important to remember here that the effect of charges and fees associated with a personal pension would have further reduced the likely growth.

So, I think it's fair to say that from a financial comparison perspective, Beacon's figures, shown in its financial strategy report and transfer analysis documents, showed that transferring to a personal pension plan would mean Mr W would likely receive lower pension benefits in the longer term, when compared against the BSPS. But as I've said, Beacon should have waited and recalculated the comparisons for Mr W when the situation with BSPS2 became clear – we know this was imminent.

Nevertheless, Beacon still said in its recommendation that, *"the transfer value analysis has confirmed that comparable pension benefits can be achieved on transfer to a money purchase scheme".* It also said that by taking the pension benefits at the scheme retirement age of 65, a personal pension could support the same level of pension income, within the BSPS, until Mr W reached the age of 96.

In my view, this was also misleading. Beacon was not comparing like-for-like benefits here and was also assuming a growth rate far higher than the regulator's growth assumptions for someone with Mr W's ATR.

Of course, according to Beacon, its recommendation that he should transfer out to a personal pension was not wholly based on the financial comparisons with his current scheme alone. Rather, Beacon said Mr W also had other reasons to transfer away, so I've thought about all the other considerations which might have meant a transfer was suitable for him, despite providing the overall lower benefits mentioned earlier.

I've considered these below.

Flexibility and other needs

Beacon recommended a transfer to a personal pension based on what it said were Mr W's wider objectives. I have summarised the following themes as supporting the recommendation to transfer away:

- It said he could capitalise on the high CETV and be able to access a higher tax-free amount as a lump sum.
- Beacon said he'd have complete control over the funds if he transferred out, and what these were invested in. He could access the funds flexibly to take the income he needed.
- There would be more flexible access to death benefits in a personal pension. He could nominate his adult children as beneficiaries.

So, it seems the supporting reasons that Beacon recommended the transfer out to a personal pension was for the flexibility and control it offered to Mr W. I have therefore considered all these issues in turn.

More tax-free cash

In the course of recommending that Mr W should transfer to a personal pension, Beacon promoted that Mr W could access more tax-free cash. 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 Beacon should have been telling Mr W at the time that extra tax-free lump sums being removed from a personal pension, also came with consequences in that the amount left for his later retirement years would obviously decrease.

I've also seen nothing that shows Mr W had the need to access large amounts of cash by withdrawing it from his pension. Beacon itself pointed out that he already had what were significant savings. And for a single man in his position, nothing I've seen points to Mr W needing more cash for a specific purpose, particularly at a time where interest rates were very low. In any event, he already had £44,000 in liquid assets and two properties which he evidently owned outright.

There's simply no evidence that Mr W therefore needed to access higher amounts of cash and I think his circumstances showed that his needs were much more aligned to him accessing a DB pension in the way it was originally intended.

Flexibility and control

I can't see that Mr W required flexibility in retirement in the way Beacon suggested, but in any event, 'flexibility' was poorly defined by Beacon. I therefore think this was no more than a 'stock' objective used to help justify the recommendation to transfer out to a personal plan.

Beacon also mentioned several times in documents from the time of the advice that Mr W had said he wanted to retire early. And it implied he'd need to access cash more flexibly because of this. But as I've pointed out, this all seemed very uncertain and no more than a general aspiration which many of us might have to retire early. It was actually recorded on the 'fact-find' that his potential retirement was in the age range of between 60-65. Mr W was still only 54 and whilst I don't doubt that he might have genuinely hoped to retire early, I've seen nothing that shows retirement was anything more than something he aspired to do at that stage, as opposed to being part of a formulated plan.

Even if I were to consider that Mr W's retirement plans were more fixed - and he really did want to retire early - I think Beacon should have better assessed the possibility of achieving this goal whilst being a member of the BSPS2, for example. Early retirement under the BSPS2, or indeed the PPF, would still have been an option for Mr W, although this would have meant Mr W's pension benefits would have been somewhat different due to him accessing the pension earlier and for longer.

The estimated benefits at the age of 65 in the BSPS were an annual pension of £7,741 or a tax-free lump sum of £34,202 and a reduced annual pension of £5,130. But I don't think this was realistically discussed with a view to assessing whether remaining in a DB scheme was more in Mr W's best interests. It was discounted by Beacon and the advice simply focussed on him transferring away completely.

I also don't think Beacon took enough account of Mr W's 'second' pension – his employer's new defined contribution (DC) scheme which he'd joined. Mr W and his employer were making significant contributions to this of 6% and 10% respectively. So, even a few more years' worth of being in this pension would have mattered - there could have been a reasonable amount in this DC pension to complement his deferred DB scheme (in BSPS2). I've noted he also had another DC pension with almost £40,000 invested.

The point I'm making here is that I've seen nothing that shows Mr W had a need for flexibility in his income going forward. Moreover, under the auspices of a DB scheme and Mr W's other financial resources, I think he could probably hope to enjoy a very satisfactory retirement from a financial perspective - whenever Mr W chose to draw his pension benefits, I think he was in a relatively good position. By retirement – whenever it came - on one hand Mr W could have had a long-standing DB pension in the BSPS2, with all the guarantees and benefits this type of scheme brought. And on the other hand, he'd have built up a reasonable DC pension pot over a few years, which, if he later found he *did* require any greater flexibility, this could have helped provide this, together with his other assets.

As far as desiring 'control' over his funds, again I think this was poorly defined and no more than a 'stock' objective used to help justify the transfer-out advice. Beacon provides no evidence whatsoever that Mr W had either the desire or capacity to exercise personal control over his pension. The evidence here is that Mr W's previous exposure to investing was extremely limited and he wanted no risk. So, I think he'd have been likely to need help with exercising any control over these funds. As a consequence of this, he'd incur fees and charges in the years ahead. Alternatively, whilst remaining in a DB scheme – such as the BSPS2 - run by trustees, was the much more suitable option for Mr W.

I therefore think Mr W's circumstances here were much more aligned to him transferring to BSPS2 and retiring from that when he felt he was ready to do so. Because he also had a smaller 'second' DC pension, this supported that strategy in my view.

Death benefits

Beacon says that death benefits were discussed at the time and a personal pension would better enable the retention of the value of his funds if Mr W died. It said these could be passed to his adult children if this happened, whereas in a DB pension this wasn't possible.

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 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 Beacon explored to what extent Mr W was prepared to accept a lower retirement income in exchange for higher death benefits.

I can understand that as a divorced man with no current intention to remarry, the spouse's pension benefits in a DB scheme such as BSPS2 may have seemed of no use to Mr W at the time. But although it's true Mr W could have nominated his adult children as beneficiaries of his pension if he transferred to a personal plan, the question here was whether this one restrictive aspect of the existing DB scheme options warranted him irreversibly transferring out to a personal plan. I don't think it did.

In my view, Beacon shouldn't have encouraged Mr W to prioritise the potential for higher death benefits through a personal pension over his security in retirement. Mr W was still only 54 years old and apparently in good health and 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 children would benefit more from a personal pension. Furthermore, it doesn't appear that Beacon took into account the fact that Mr W could have already nominated someone as the beneficiary of any funds remaining in his DC scheme.

I can't say much about the extent to which life insurance was discussed in this case although I note Mr W was provided with a 'whole' life quote which was expensive. But at 54 years old, a modest 'term' life insurance policy may have been an affordable product if Mr W really did want to leave an additional legacy for his adult children.

So, to this end, Mr W already had plenty of different options ensuring part of his pension wouldn't 'die with him'. Overall, I don't think different death benefits available through a transfer to a personal pension justified the likely decrease of retirement benefits for Mr W.

Control or concerns over financial stability of the DB scheme

It's clear 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 Beacon said he lacked trust in the company. He'd heard negative things about the PPF and Beacon 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 Beacon'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, I think this should have alleviated any concerns about the scheme moving to the PPF.

However, even if there was a chance the BSPS2 wouldn't go ahead, I think that Beacon 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 probably provided a significant portion of the income he would have needed at retirement, and he was still unlikely to be able to exceed this by transferring out, given his ATR and the effect of pension charges and fees. 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 Beacon's recommendation to Mr W to transfer out of the DB scheme altogether.

Summary

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 BSPS2. 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 Beacon 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 W’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 that the BSPS2 was likely to be going ahead. Mr W still had a few more 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 W would have retained the ability to transfer out of the scheme nearer to his retirement age if he needed to. The annual indexation of his pension when in payment was also more advantageous under the BSPS2.

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

I have considered, given the circumstances of the time, whether Mr W would have transferred to a personal pension in any event. I accept that Beacon 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 Mr W relied on that advice.

I’m not persuaded that Mr W would have insisted on transferring out of the DB scheme, against Beacon’s advice. I say this because Mr W was an inexperienced investor and this pension accounted for most of his retirement provision at the time. So, if Beacon 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 Beacon 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 Beacon 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 Beacon’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, Beacon 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 W several times whether he preferred any redress to be calculated now, in line with current guidance, or wait for any new guidance/rules to be published. His representative didn't make a choice when we asked, so as set out previously I've assumed in this case 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 W.

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.

Beacon 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 Beacon 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 Beacon 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 Beacon 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 £300 should be paid to Mr W by Beacon for what he referred to as the distress and inconvenience caused by this unsuitable transfer. I've taken into consideration Mr W's age, circumstances and the substantial amount he'd built up in his pension to that date. 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 W. So, I agree that Beacon should also pay Mr W £300 for the distress and inconvenience 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 am upholding this complaint and I now direct Beacon IFA Limited 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 Beacon IFA Limited 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 Beacon IFA Limited 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 Beacon IFA Limited 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 Beacon IFA Limited.

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.
Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 27 January 2023.

Michael Campbell

Ombudsman