DRN-3573471

The complaint

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

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

What happened

In March 2016, Mr B'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 B'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 B 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 a financial adviser. But during Mr B's relationship with that firm, it apparently withdrew from the DB transfer and advice market.

In the meantime, and ahead of the 11 December 2017 deadline, it seems Mr B opted into joining the new BSPS2 which was due to commence soon thereafter. This was a step we know was not uncommon among Mr B's colleagues at the time and I've seen evidence dated 10 January 2018 saying, as he'd 'opted in' to the new scheme Mr B didn't need to do anything; the BSPS2 was due to start on around the end of March 2018.

Mr B's guaranteed CETV estimate was due to expire on 26 January 2018. And so on 18 January 2018 he contacted DCFL which became responsible for providing him with pension advice. Information gathered about his circumstances and objectives at the time were broadly as follows:

- Mr B was 34 years old, unmarried but with a partner and a young dependent child. He was in good health and at that point he had accrued around eleven years of pension benefits with the BSPS.

- Mr B earned around £35,000 per year. He had around £900 in savings but didn't own any other significant assets. He was described as renting a home from a relative at the time.

- The cash equivalent transfer value (CETV) of Mr B's BSPS was approximately £132,829 and the normal retirement age (NRA) was 65. DCFL said Mr B wanted to retire early if possible, at the age of 60.

DCFL set out its advice in a suitability letter and report on 22 January 2018. It advised him to transfer out of the BSPS and invest the funds in a personal pension arrangement, rather than the BSPS2. DCFL said this would allow Mr B to achieve his objectives. Mr B accepted this advice and so transferred to a personal pension. In 2021 Mr B complained to DCFL about its advice, saying he shouldn't have been advised to transfer out to a personal pension.

Mr B referred his complaint to our Service. One of our investigators looked into the complaint and said it should be upheld. In response, DCFL said it hadn't done anything wrong and was acting on the financial objectives Mr B 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 DCFL'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've also comprehensively considered DCFL's responses to the complaint outlined in its undated letter we received in July 2022. This letter addresses many points, all of which I've thought carefully about. However, in this final decision I've rightly concentrated on the issues I believe affect the outcome of the complaint. DCFL made many somewhat 'general' points.

For example, it sent me information implying many of its other advice cases had been reviewed by a third party and not all had been found to be unsuitable for clients. However here, I've rightly focussed on the issues pertinent to Mr B's complaint and the circumstances of that time.

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

I don't think it was, and like our investigator, I think the suitable advice was to move to the BSPS2. This means I'm upholding Mr B's complaint.

Financial viability

DCFL referred in its BSPS2 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.

In the transfer analysis dated 22 January 2018, DCFL said the critical yields for retiring at the NRA of 65 were 5% if taking a full pension, without a tax-free lump sum. These related to comparisons with the BSPS2. And for early retirement, at the age of 60 the yield was 5.24%. DCFL also implied reaching these levels of growth would be difficult to achieve.

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 just before 1 October 2017 and was 4.7% per year for 30 years to retirement (age 65), which is below the critical yield figures I've referred to above. The discount rate for retiring at 60 was 4.6%. So, this infers that reaching the yields above would be more unlikely than likely.

I've also kept in mind that the regulator's upper projection rate at the time of the advice was 8%, the middle projection rate was 5%, and the lower projection rate was 2%. So, the middle rate was still not above any of the critical yields – and even small percentage points, year-on-year, can make meaningful differences to growth over time. I've also noted the personal pension provider's own mid-growth assumption was 4.37%, Again, this was below the critical yield rates.

I've noted too, the attitude to risk (ATR) categorisation, which DCFL applied to Mr B, was moderate. This was evidently based on some questions about investment risk Mr B had answered. But I think this categorisation was probably too high and I don't think it's likely Mr

B really understood what being placed in this category could mean for his pension if he transferred out.

For example, Mr B expressed no views on funds where any transferred monies might be invested. The evidence is also strongly suggestive of Mr B having absolutely no investment experience and he had no such investments at the time. So, whilst it's fair to use this type of ATR assessment as a basis for discussion, I don't think other obvious facts about the consumer can simply be ignored. And when asking about his ATR, DCFL should have been aware that he had no previous investment experience to call upon.

In fact, I think any reasonable assessment of Mr B's circumstances should have noted this pension was by far his biggest financial asset. He had no other assets, investments and only very modest savings. The evidence suggests strongly that Mr B required help with his property needs and he had literally become a father a few short weeks ago. So, I think the ATR applied to Mr B was somewhat unrealistic as it was probably based wholly on answers to general questions about investments. I do accept that his relatively young age did provide some scope for pension investments to grow in the future by ironing out peaks and troughs in the years ahead, but I think Mr B's ATR should have been moderated down even further as his circumstances simply didn't appear to support what was selected from an ATR matrix where the questions were most likely generalised and pre-formatted.

I should stress that none of this ATR 'debate' would affect the outcome of this complaint, but I do think it demonstrates DCFL's overall weaknesses in providing advice to Mr B. I think it failed to really understand Mr B's individual circumstances and the advice process was hurried due to the tight timescales involved. DCFL should have considered his obvious financial and family situation more comprehensively. So, I think an assumed growth figure of around the discount rate or around the lower to middle of regulator's projection was much more comparable to the rates of growth Mr B might realistically expect upon transferring out to a personal pension. And to be clear, this was below all the critical yield rates.

Elsewhere in its transfer analysis, DCFL 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. DCFL said the critical yield to match the benefits available through the PPF at age 65 was 4.66% per year and 5.19% per year at the age of 60. But these yields related to the *reduced* benefits available with the PPF and DCFL itself says Mr B 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 – our investigator set out what these charges were in their 'view'.

As a further comparison, I can also see that DCFL's transfer analysis 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 £381,589 – far in excess of Mr B'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 £263,383. In my view, these costs provide a revealing window into the real value Mr B would lose if he transferred out to a personal pension plan.

So, I don't think DCFL should have recommended that Mr B ought to transfer away from a DB scheme to a personal pension arrangement. Nothing I've seen shows he'd enjoy more financial pension benefits upon retirement by transferring. DCFL itself even said the critical yield would be hard to achieve.

However, to be clear, DCFL's recommendation that he should transfer out to a personal pension was not predicated on the financial comparisons with his current scheme alone. Rather, DCFL said Mr B had different 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 above.

I've considered these below.

Flexibility and other needs

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

- The ability to retire early. In a personal pension he could take more tax-free cash. He could then draw his desired retirement income more flexibly.
- He could access flexible income by transferring to a personal pension arrangement.
- There were *"better death benefits"* in a personal pension.
- The future of the BSPS was a concern and Mr B didn't want to enter the PPF.

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

- *Retiring early / taking tax-free cash*

DCFL mentioned in various documents from the time of the advice that Mr B had said he wanted to retire early. I don't doubt that Mr B might have genuinely hoped to retire as early as 60, which is what was recorded by DCFL. But 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 B was only 34 years old at the time and it's simply not credible that he had any concrete plans for retirement at that point.

DCFL also promoted to Mr B that he could access more tax-free cash if he transferred to a personal pension plan. It said he'd be able to access 25% of his pension as a lump-sum and then use the remaining funds more flexibly. 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 DCFL should have been telling Mr B at the time that extra tax-free lump sums being removed from a personal pension, potentially from his late fifties in his case, also came with consequences in that the amount left for his later retirement years would obviously decrease.

Even if I were to consider the highly unlikely scenario that Mr B's retirement plans were more fixed than the mere aspirations set out by DCFL - and he really did want to retire early - I think DCFL should have 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 B, although this would have meant Mr B's pension benefits would have been somewhat reduced due to him accessing the pension earlier and for longer. But I think this was discounted by DCFL as I've seen no evidence it was realistically discussed with a view to assessing whether it was more in Mr B's best interests. The advice simply focussed on him transferring away completely.

So, whilst I accept the notion of retiring early and / or accessing tax-free cash might have been appealing, this needed to be considered against the other options Mr B faced, including opting for the BSPS2. I can't see that Mr B required flexibility in retirement in the way DCFL suggested. DCFL said that Mr B's estimated annual pension upon his NRA was £11,353 per year or £8,431 at the age of 60**.** As a DB pension this was guaranteed and index linked (with certain restrictions).

However, as he was so young, it wasn't possible to say what Mr B's financial and income needs were likely to be in retirement. And I haven't seen anything to persuade me that Mr B wouldn't have been able to meet his *likely* retirement income needs by accessing his DB pension instead of transferring out to a personal pension plan. This is because, as well as retirement being a long time away, we know Mr B had already joined his employer's new defined contribution ('DC') scheme and could have been making contributions to it for up to thirty years more, until he retired. Mr B's contributions to this 'second' pension were being added to by his employer and I think there's every reason to say that by retirement – whenever it came – there would have been a substantial amount in this DC pension to complement his deferred DB scheme (in BSPS2).

I think therefore, that by retirement, Mr B could have been in a good position if he'd transferred to the BSPS2. On one hand he'd have had a long-standing DB pension, but one with all the guarantees and benefits this type of scheme brought. And on the other hand, he'd have built up a substantial DC pension over many years, which, if he later found he did require flexibility, this pension could have provided it.

I have therefore considered what DCFL said about retiring early and the potential flexibility brought about by transferring to a personal plan: it said this would include how funds were invested, the level of income he could withdraw from it and a greater ability to flexibly use the tax-free lump sum element.

However, I don't think recommending a transfer-out based on these reasons was suitable because so little was known about what his retirement would look like. I've also seen nothing which shows Mr B had either the desire or capacity to exercise personal control over his pension. As I've pointed out earlier, Mr B's previous exposure to investing was not really known and he had no such investments at the time. And to grow the transferred funds in the way DCFL implied he could, a higher degree of risk exposure would have been required.

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

I therefore think the much more suitable option was for Mr B to access his DB pension in the way it was originally intended.

- *Death benefits*

DCFL 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 B died. But I'm afraid I think this was no more than a 'stock' objective.

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 B. But whilst I appreciate death benefits are important to consumers, and Mr B 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.

I also think saying Mr B's death benefits would improve in a personal pension because he could pass over all his funds needed putting into context. Only in his thirties and in good health, he and his partner had already started a family and had a new-born child. In my view, the likely death benefits attached to the new DB scheme were therefore still relevant to Mr B. Even though he wasn't married, in his circumstances this benefit needed to be thoroughly explained and considered. From what I've seen, the death benefits were substantially underplayed.

If he did get married to his child's mother, the spouse's pension provided by the BSPS2 would have been useful to her if Mr B predeceased her and I don't think DCFL made the value of this benefit clear enough. As a recent father, I think the child specific benefits would also have been meaningful to Mr B. These were guaranteed and they escalated – they were 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 B's passing, particularly if he lived a long life. DCFL should therefore not have encouraged Mr B to prioritise the potential for higher death benefits through a personal pension over his security in retirement.

It also doesn't appear that DCFL took into account the fact that Mr B could have nominated someone else close to him as the beneficiary of any funds remaining in his DC scheme. So, to this end, Mr B had already ensured part of his pension wouldn't 'die with him'.

I can't see the extent to which life insurance was discussed in this case although it was evidently mentioned at some point in the discussions. But at 34 years old, this would have been a reasonably affordable product if Mr B really did want to leave a legacy for someone such as a partner, relative or his eventually his child.

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 B. I think this objective was no more than a generic comment and not meaningful to Mr B's situation.

Concerns over financial stability of the DB scheme

It's clear that Mr B, 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 DCFL said he lacked trust in the company. He'd heard negative things about the PPF and DCFL said he could have more control over his pension fund.

So, it's quite possible that Mr B 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 DCFL's obligation to give Mr B 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. Indeed, Mr B had signalled he was minded to opt into it. So, I think this should have alleviated Mr B's concerns about his scheme moving to the PPF, which I know he didn't want.

However, even if there was a chance the BSPS2 wouldn't go ahead, I think that DCFL should have reassured Mr B that the scheme moving to the PPF wasn't as concerning as he thought. The income available to Mr B through the PPF would have still have 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 I've mentioned. 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 DCFL's recommendation to Mr B 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 B. But DCFL wasn't there to just transact what Mr B might have thought he wanted. The adviser's role was to really understand what Mr B needed and recommend what was in his best interests.

Ultimately, I don't think the advice given to Mr B 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 B 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 DCFL 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 B'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 BSPS2 was likely to be going ahead. Mr B still had many 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 B would have retained the ability to transfer out of the scheme nearer to his retirement age if he needed to. Also, if Mr B did eventually get married, then his wife's pension 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 B 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 DCFL should have advised Mr B to continue to opt into the BSPS2.

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

I'm not persuaded that Mr B would have insisted on transferring out of the DB scheme, against DCFL's advice. I say this because Mr B was an inexperienced investor and this pension accounted for almost all of his retirement provision at the time. So, if DCFL 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 B'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 DCFL had explained Mr B 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 DCFL should compensate Mr B 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 B, as far as possible, into the position he would now be in but for DCFL's unsuitable advice. I consider Mr B would have most likely remain as opted into joining the BSPS2, rather than transfer to the personal pension if he'd been given suitable advice. So, DCFL 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 B 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 didn't want to wait, so 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 B.

For clarity, Mr B 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 B's acceptance of the decision.

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

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

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 DCFL to carry out a calculation in line with the updated rules and/or guidance in any event.

I've considered the impact on Mr B of the unsuitable advice and transfer. Our investigator recommended that a sum of £300 should be paid to Mr B by DCFL for what he referred to as the trouble and upset caused by this unsuitable transfer. I've taken into consideration Mr B's age and circumstances and also that 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 B. I therefore agree that DCFL should also pay Mr B £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

<u>Determination and money award</u>: I've decided to uphold this complaint.

I now direct DC Financial Limited to pay Mr B 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 DC Financial Limited to pay Mr B any interest on that amount in full, as set out above. Where the compensation amount already exceeds £160,000, I would only require DC Financial Limited to pay Mr B 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 DC Financial Limited pays Mr B the balance. I would additionally recommend any interest calculated as set out above on this balance to be paid to Mr B.

If Mr B accepts my final decision, the money award becomes binding on DC Financial Limited.

My recommendation would not be binding. Further, it’s unlikely that Mr B can accept my decision and go to court to ask for the balance. Mr B 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 B to accept or reject my decision before 8 March 2023.

Michael Campbell
Ombudsman