DRN-3835008

The complaint

Mr C complained that he was given unsuitable advice to transfer his defined benefit (DB) British Steel Pension Scheme (BSPS), to a type of personal pension plan, in 2017.

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

What happened

In March 2016, Mr C'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 C's employer would be set up – the BSPS2.

In October 2017, members of the BSPS were 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 C 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 IFM 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 C was 53 years old, married and with no dependent children. He was described as being in good health and at the time of the advice he had accrued over 35 years of pension benefits with the BSPS.
- Mr and Mrs C lived in a home with no mortgage outstanding.
- Mr and Mrs C earned around £36,000 and £5,000 per year respectively. After expenses they had some disposable income left over each month.
- The cash equivalent transfer value (CETV) of Mr C's BSPS was approximately £452,799. The normal retirement age (NRA) was 65.

IFM set out its advice in a suitability report on 14 September 2017. In this it advised Mr C to transfer out of the BSPS and invest the funds in a type of personal pension plan. IFM said this would allow Mr C to achieve his objectives. Mr C accepted this advice and so transferred out. In 2022 Mr C complained to IFM about its advice, saying he shouldn't have been advised to transfer out to a personal pension.

Mr C referred his complaint to our Service. One of our investigators looked into the complaint and said it should be upheld. In response, IFM said it hadn't done anything wrong and was acting on the financial objectives Mr C 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 IFM'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, IFM should have only considered a transfer if it could clearly demonstrate that the transfer was in Mr C'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 C's best interests.

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

Financial viability

Our investigator referred in his 'view' to the critical yield rate. 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 one of several factors that can help determine whether transferring form a DB pension was financially viable. I've considered some other factors too.

In this case, IFM used the existing scheme (BSPS) for the critical yield comparisons, rather than the 'new' BSPS2.

However, before assessing the critical yields in Mr C's case, I think it's important to point out that IFM could have taken time to compare the benefits of the BSPS2 with transferring out, rather than just using the current BSPS for comparisons.

I say this because several weeks before this advice, which was dated 14 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 had also been put on a microsite that had been set up to support BSPS members and more details of the BSPS2 were emerging at the time IFM produced its suitability report – mention is made of this in the report itself.

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 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 C the best opportunity to make an informed decision about what to do. 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 (BSPS).

I've also noticed that the suitability report, dated as it was on 14 September 2017 seems to have been issued – together with a recommendation to transfer to a personal pension plan – *before* the transfer analysis, which is dated 26 September 2017. So, I can't therefore say whether Mr C even had sight of the transfer analysis when he was reading through the suitability report and deciding what to do.

The transfer analysis report itself, commissioned by IFM, said that *"to replace the benefits provided by your former scheme, you would need an investment return, to retirement, of 8.5% per annum"*. This related to retiring at the NRA of 65. No other critical yield figures were set out in this analysis in relation to retiring early or taking / not taking a tax-free lump sum.

In my view, it should have been obvious to IFM that this critical yield figure was high and probably not achievable. And I've noted that in the suitability report, IFM does seem to acknowledge this by saying such growth is *"probably unrealistic"* (although I note IFM used the term 'around 8%', rather than the accurate figure of 8.5% as published in the transfer analysis).

In its suitability report, IFM did make brief mention of the PPF, a 'safety net' for pension schemes when the sponsoring employer becomes insolvent. IFM said the critical yield to match the benefits available through the PPF at age 65 was lower. But it said this was still *"around 4%"*. This yield related to the *reduced* benefits available with the PPF and IFM itself says Mr C 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.

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 3.9% per year for 11 years to retirement (age 65), which is well below the critical yield figure of 8.5% I've referred to above. 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, IFM assessed Mr C's attitude to risk (ATR) as "low cautious".

Taking all these things into account, I think a future growth assumption towards the lower end of the regulator's projections and also close to the discount rate was most relevant here. This would have been around 3 to 4%, which was substantially below the critical yield figure for the BSPS. So I think this showed that achieving the critical yield, year-on-year, upon transferring out just wasn't likely in Mr C's case. It was even lower than the PPF critical yield. And in my view, all these things, taken together, were clearly indicating that Mr C would likely receive lower pension benefits overall as a consequence of transferring away from the DB scheme.

Transferring away, from a financial viability perspective, was not suitable.

I've also considered some projections IFM used to help show that if he transferred out to a personal plan, the funds could last Mr C well into retirement. I think these were based on growth projections which were unrealistic given his ATR. It's also fair to say these were certainly not comparing like-with-like. What IFM was showing Mr C were comparisons with plans which lacked the guarantees and benefits of a DB scheme.

Of course, according to IFM, 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, IFM said Mr C 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.

Other needs and objectives

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

- IFM said Mr C required flexibility to control the frequency and amount of income he could take from his pension fund in retirement.
- It said he wanted to choose to retire when he wanted without the restrictions of the PPF or 'new' BSPS2.
- It said he was prepared to accept certain investment risks in return for greater flexibility.

Reference was also made to Mr C maximising the tax-free lump sum he could take in a personal pension plan and more flexible death benefits. So, it seems the supporting reasons that IFM recommended the transfer out to a personal pension was for the flexibility and control it offered to Mr C.

I have therefore considered all these issues in turn.

Flexibility and control

Overall, I can't see that Mr C required flexibility in retirement in the way suggested, but in any event, 'flexibility' was poorly defined by IFM.

IFM says that Mr C had wanted to retire at 55. As this was little more than a year away, I've considered this with great care. However, despite IFM saying now that this was Mr C's clear intention at the time, I've seen only informal references to retiring at this specific age. What the 'fact-find' in this case actually shows is that Mr C *"was keen to retire"* as soon as possible, whilst reference to a specific retirement age came only from the pre-populated part of the form. On this, Mr C was invited to select an aspirational retirement age from blocks of five years – 55, 60, 65 and so on.

So, I don't think the information at the time was clear enough that Mr C was adamant he wanted to retire at 55 at all costs. I completely accept that early retirement may have been something he was working towards, but I think if he'd been suitably advised, Mr C could have eventually achieved what he wanted to do whilst still remaining a member of a DB scheme such as BSPS2, and enjoying all the guarantees and benefits this would bring. This may well have involved working a little longer, beyond 55 for example, but there's no evidence this was realistically explored.

On the other hand, Mr C's NRA under the BSPS as it stood, was 65. And I don't think that it was reasonable for IFM's advice to have been predominantly based on specifically retiring at 55 instead, with no other options being considered. Indeed, what I've seen from the documentation is that early retirement was just a possibility Mr C was thinking about and that no concrete plans were in place.

There are some significant features from the documentation supporting this view. I've noted, for instance, that the critical yield analysis carried out in his case did not offer examples against retiring at the age of 55 - instead the comparison was against the NRA of 65. I've seen a great many similar cases to this, and my experience is that where early retirement is being seriously contemplated, the transfer analysis shows wider and more numerous comparisons with the planned early retirement age as well as the NRA under the relevant scheme. In short, I think that if retiring early, at the age of 55, really was part of an actual plan for Mr C, then I'd have expected IFM to be including the relevant information and data in its advice to him, so he could consider whether this was feasible.

In addition to this, I noted that IFM itself also implied at the time that any aspirations Mr C may have had to retire at 55 were probably premature, given the size of his pension 'pot' and what he had said his likely income requirements in retirement would be. It has since said the only way he could achieve early retirement was therefore to transfer out and take a risk that his funds would grow and that he'd eventually get to the age of 67 when his state pension would kick in.

But IFM's job here wasn't to simply transact what Mr C might have thought he wanted. Its job was to really understand his circumstances and make a recommendation that was in his best interests. And if this included telling Mr C he simply couldn't afford to meet his early retirement goals quite so early, then it could have advised of this. There's no persuasive evidence these alternatives were really discussed and I think IFM just took a 'hoped for' retirement age and made a recommendation focusing only on this, despite the many other disadvantages, such as the loss of guarantees and benefits.

So, I think it's more likely these were early and aspirational thoughts about retirement in his case, rather than reasons to base a recommendation to irreversibly transfer from his DB pension on. We also know anyway, that early retirement under the PPF was a possibility, and in all likelihood also possible with the emerging BSPS2 pension scheme. So I don't think portraying his 'existing scheme' as being so inflexible as to warrant an irreversible transfer-out to a personal pension plan, was fair. If Mr C, only 53 and in good health, had been prepared to work on a little longer, it may well have been his retirement income requirements could be met by the BSPS2 and any other resources he and Mrs C had.

For example, an estimated annual pension at the age of 65, under the 'existing scheme', was quoted at the time as being £25,265. This on its own met his estimated retirement income need of around £2,000 per month. So what Mr C needed to know was how close he could get to this figure by retiring earlier than 65, which would have incurred an actuarial reduction. We don't know much about Mrs C's pension or if she had one. But her earnings at the time were up to £5,000 per year. So I think this already showed Mr C's income requirements for £2,000 per month weren't that far away if he worked a little longer and incorporated his wife's income into his calculations.

However, I don't think IFM took enough account of Mr C's 'second' pension – his employer's new defined contribution (DC) scheme which he had joined. Mr C and his employer were making significant contributions to this. 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) if he'd been prepared to work a little longer and past the comparatively young age of 55. He would also continue to benefit from employer contributions whilst employed, whereas upon retirement these would cease.

The points I'm making here is that I've seen nothing that shows Mr C had unmoveable retirement plans. He was still only 53 years old and in good health. I've also seen no need for flexibility in his income going forward. In fact, in Mr C's case, I think the opposite was more likely true. Under the auspices of a DB scheme, I think he could probably hope to enjoy a satisfactory retirement from a financial perspective. Whenever he chose to draw his pension benefits, on one hand Mr C would have had a long-standing DB pension in the BSPS2 with all the guarantees and benefits this type of scheme brings. And on the other hand, if he was willing to work just a few more years, he'd have built up a reasonable DC pension pot, which, if he later found he *did* require any greater flexibility, this could have helped provide this. In my view, early retirement in his late-50s was realistic in his case.

I've also seen nothing showing Mr C had either the desire or capacity to exercise personal control over his pension. The evidence here is that Mr C's previous exposure to investing was limited and he didn't want 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, remaining in a DB scheme – such as the BSPS2 - run by trustees, was the much more suitable option for Mr C.

IFM says the 'fact-find' about all these things was completed on 12 September 2017. Given the amount of money Mr C was paying for the advice, I think his expectation would have been that it would be based on a comprehensive assessment of his circumstances. In my view the 'fact-find' doesn't reflect such an assessment; it captured only brief details about Mr C and omitted others – such as not including a detailed analysis of his assets or liabilities. I would have also expected to see more details about Mrs C's employment and pension (if any) as these issues could have affected any retirement plans they jointly held.

I don't think IFM adequately explained these things to Mr C as its advice simply discounted him transferring to the new scheme (BSPS2) to obtain flexibility which was both poorly defined and which he didn't need. I think Mr C'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.

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 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.

There’s no evidence recorded that Mr C needed to access higher amounts of cash. He had no mortgage, for example, nor apparently any debts to pay as far as I know. And IFM didn’t record any other reasons for Mr C needing large amounts of cash in what at the time was a low interest rate environment. Of course, the BSPS2 would have facilitated a tax-free lump sum too and a corresponding annual pension.

Death benefits

IFM 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 C died.

Death benefits are an emotive subject and of course when asked, most people would like their loved ones to be taken care of when they die. The lump sum death benefits on offer through a personal pension was probably made to look like an attractive feature to Mr C. But whilst I appreciate death benefits are important to consumers, and Mr C 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 IFM explored to what extent Mr C was prepared to accept a lower retirement income in exchange for higher death benefits.

Mr C was only 53 and was married. So, I think the likely death benefits attached to the DB scheme were substantially underplayed. The spouse’s pension provided by the BSPS2 would have been very useful to Mrs C if Mr C predeceased her. I don’t think IFM 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.

I also can’t see whether, or the extent to which, life insurance was discussed in this case. But at 53 years old, a modest ‘term’ life insurance policy may have still been a reasonably affordable product if Mr C really did want to leave a legacy for Mrs C or someone else such as a close relative over a shorter period. But more so, it doesn’t appear that IFM took into account the fact that Mr C could have nominated a beneficiary of any funds remaining in his other, DC scheme. So, to this end, Mr C already had options ensuring part of his pension wouldn’t ‘die with him’.

However, a more obvious drawback with a personal plan death benefits is that the amount left to pass on – to anyone – may be substantially reduced as the pensioner starts to withdraw his or her retirement income. To this end, if Mr C, a man currently said to be in good health, had lived a long life there could be nothing left at all in his personal pension plan.

Overall, in this case I don’t think different death benefits available through a transfer to a personal pension justified the likely decrease of retirement benefits for Mr C.

Control or concerns over financial stability of the DB scheme

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

So, it's quite possible that Mr C 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 IFM's obligation to give Mr C 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 IFM should have reassured Mr C that the scheme moving to the PPF wasn't as concerning as he thought. The income available to Mr C 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 IFM's recommendation to Mr C to transfer out of the DB scheme altogether.

Summary

I don't think the advice given to Mr C 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 C 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 IFM 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 C's best interests for him to transfer his DB scheme to a personal pension when he had the opportunity of opting into the BSPS2. On this basis, I think IFM should have advised Mr C to opt into the BSPS2.

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

I'm not persuaded that Mr C would have insisted on transferring out of the DB scheme, against IFM's advice. I say this because Mr C was an inexperienced investor and this pension accounted for most of his retirement provision at the time. So, if IFM 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 C'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 IFM had explained Mr C 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 am upholding this complaint.

IFM should compensate Mr C 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 C, as far as possible, into the position he would now be in but for IFM's unsuitable advice.

I consider Mr C would have most likely opted to join the BSPS2, rather than transfer to the personal pension if he'd been given suitable advice. To be clear, Mr C has not retired and has no current plans to stop working completely. Compensation should be based on his normal retirement age of 65, as per the usual assumptions in the FCA's guidance. IFM 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 has set out its proposals in a consultation document - CP22/15-calculating redress for non-compliant pension transfer advice**.**

In this consultation, the FCA has 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 C whether he preferred any redress to be calculated now in line with current guidance or wait for the new guidance/rules to come into effect. He would like the complaint to be settled in line with new guidance / rules. I consider it's fair that IFM calculates Mr C's redress in line with new guidance and rules when they come into effect.

IFM must undertake a redress calculation in line with the updated methodology as soon as any new rules and/or guidance come into effect (rather than to calculate and pay any due compensation now in line with FG17/9).

In accordance with the regulator's expectations, this should be undertaken or submitted to an appropriate provider promptly once any new guidance/rules come into effect.

If the redress calculation demonstrates a loss, the compensation should if possible be paid into Mr C'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 C 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 compensation amount must where possible be paid to Mr C within 90 days of the date any changes to DB transfer redress guidance or new rules come into effect and IFM has received notification of Mr C's acceptance of my decision. Further interest must be added to the compensation amount at the rate of 8% per year simple from the date any changes to DB transfer redress guidance or new rules come into effect to the date of settlement for any time, in excess of 90 days, that it takes IFM to pay Mr C.

Income tax may be payable on any interest paid. If IFM deducts income tax from the interest, it should tell Mr C how much has been taken off. IFM should give Mr C a tax deduction certificate in respect of interest if Mr C asks for one, so he can reclaim the tax on interest from HM Revenue & Customs if appropriate.

I have also considered the impact on Mr C of the unsuitable advice and transfer. Our investigator recommended that a sum of £300 should be paid to Mr C by IFM for what he referred to as the distress and inconvenience caused by this unsuitable transfer. I've taken into consideration Mr C'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 C. I therefore agree that IFM should also pay Mr C £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 Inspirational Financial Management Limited to pay Mr C 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 Inspirational Financial Management Limited to pay Mr C any interest on that amount in full, as set out above.

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

Recommendation: If the compensation amount exceeds £160,000, I also recommend that Inspirational Financial Management Limited pays Mr C the balance. I would additionally recommend any interest calculated as set out above on this balance to be paid to Mr C.

If Mr C accepts my final decision, the money award becomes binding on Inspirational Financial Management Limited.

My recommendation would not be binding. Further, it’s unlikely that Mr C can accept my decision and go to court to ask for the balance. Mr C 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 C to accept or reject my decision before 10 February 2023.

Michael Campbell
Ombudsman