DRN-3882589

The complaint

Mr B complains about the suitability of the advice provided by Inspirational Financial Management Ltd ("IFM") in June 2017 to transfer the value of his safeguarded benefits in the British Steel Pension Scheme ("BSPS") to a personal pension plan ("PPP").

Mr B is represented in this complaint by a law firm (the "Representative").

What happened

Mr B had built up safeguarded benefits in the BSPS while employed by Tata Steel UK Ltd ("Tata Steel"). The BSPS was a defined benefits ("DB") pension scheme that provided a guaranteed lifetime income to members.

In March 2016, Tata Steel 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 safeguarded benefits, one of which was a transfer to the Pension Protection Fund ("PPF") – the PPF is a statutory fund designed to provide compensation to members of DB pension schemes when their employer becomes insolvent. Tata Steel closed the BSPS to further benefit accrual from 31 March 2017. By that point, Mr B had built up 33 years and 11 months' pensionable service in the BSPS. His annual scheme pension as at the date of leaving the scheme in May 2016 was £22,443.96. This would be revalued over the term to retirement by a prescribed amount.

In May 2017, the PPF announced that the terms of a Regulated Apportionment Arrangement ("RAA") had been agreed (this was later approved by The Pensions Regulator on 11 August 2017). Under the announced plans, Tata Steel planned to set up and sponsor a new successor DB pension scheme (which later became the BSPS2) subject to certain conditions relating to funding and size being satisfied.

Mr B was concerned about what the announced changes meant for the security of his safeguarded benefits and wanted advice on his options. He contacted another business ("Firm A") to get advice. Since Firm A didn't have the necessary regulatory permissions to advise on pension transfers, it introduced Mr B to IFM. It recorded the following information about Mr B in June 2017:

- He was aged 53, married and in good health. His wife was aged 49 and in good health. They had one financially dependent child aged 23;

- He was employed full-time by Tata Steel and paid gross annual income of about £44,000. He didn't expect his employment status to change in the foreseeable future. His wife was employed by a national supermarket chain and paid gross annual income of about £15,000;

- Their assets comprised the family home they owned outright, the value of which wasn't recorded. They had cash savings of *"a few thousand"* pounds. They didn't have any other savings or investments;

- They didn't have any debts or liabilities;

- After paying for bills and essentials, they had surplus disposable income of about £1,200 available every month;

- In addition to the value of his safeguarded benefits in the BSPS, he had been a member of Tata Steel's defined contribution ("DC") pension scheme since June 2016. The total annual contribution paid into his DC plan was 12% of his gross annual salary. The value of his DC plan was then about £5,000. He was also on course to receive the full state pension at age 67;

- His wife had built up 17 years' pensionable service in her employer's workplace pension scheme (further details such as scheme type, fund value and projected income weren't recorded);

- He was an inexperienced investor with limited knowledge and experience of investments. On a scale of 1 to 6 where 1 (Risk Averse) was lowest risk and 6 (Aggressive) was highest risk, his risk profile was determined to be 3 or *'Conservative'* risk*;* and

- His primary objectives regarding his safeguarded benefits was to retire earlier than the BSPS normal retirement age of 65. He wanted to retire somewhere around age 60 if his financial situation allowed it. And he also wanted to maximise the death benefits available to his family;

Following the fact find meeting, IFM's adviser issued his suitability report in June 2017 in which he recommended that Mr B accept the transfer value of £569,973.51 offered by the BSPS and transfer to a PPP provided by Prudential for the following reasons:

- *"You require the flexibility to control and tailor the frequency and amount of income you receive from your pension fund in retirement to suit your circumstances, needs and tax position, as opposed to the pre-set (albeit guaranteed) income that your existing defined benefits pension would provide.*

- *You are not prepared to work until 65 and have grave concerns about the solvency of the scheme and that if it enters the PPF you will have to work until then.*

- *You are prepared to accept more risk in return for greater flexibility over when and how benefits are withdrawn from your pension fund.*

- *Maximising the amount of money available to your family after your death is very important to you."*

The costs associated with the recommendation were as follows:

<u>Initial advice charge</u>

- 0.87% (or £5,000) – initial adviser charge for recommendation and implementation

<u>Ongoing annual charges</u>

- 0.65% investment annual management charge deducted from the PPP fund value

- 0.30% product fee deducted from the PPP fund value

- The basis of the recommendation was that following the pension transfer, Firm A, who introduced Mr B to IFM, would provide ongoing advice regarding the management and investment of the recommended PPP. In connection with this, IFM's adviser stated in the suitability report, *"It is important that your funds and financial planning arrangements are reviewed at regular intervals to ensure that they remain suitable. I understand this service will be provided by* [Firm A]*. The cost of this provision can be paid directly by you or can be taken from your pension fund on an ongoing basis. This is something you and* [Firm A] *will need to discuss and agree on."* The cost of that ongoing advice wasn't stated in the suitability report.

The transfer value analysis ("TVAS") showed that Mr B's estimated revalued annual scheme pension at age 65 was £28,726.44 on the basis he took a full scheme pension only. It calculated the critical yield to match that benefit as 8.3%. The calculation assumed an ongoing annual adviser charge of 0.5% (presumably payable to Firm A). The critical yield at age 60 – to align with the age at which Mr B wanted to retire – wasn't calculated.

Mr B accepted the recommendation, following which the transfer to the PPP was completed. IFM recommended that the PPP fund value be invested in the following funds to align with Mr B's '*Conservative'* risk profile:

Fund	Allocation	Estimated annual growth rate before charges
Prufund Cautious	30%	5.50%
Prufund Growth	70%	6.20%
Weighted estimated annual growth rate before charges was 5.99%		

<u>*This complaint*</u>

During 2022, the Representative, on behalf of Mr B, complained about the suitability of IFM's pension transfer advice. It thought that the advice had caused him to suffer a financial loss. But IFM didn't issue a final response letter to Mr B either accepting or rejecting this complaint. So the matter was referred to this service.

In November 2022, one of our investigators considered this complaint and recommended it be upheld because, in his view, IFM failed to demonstrate at the time that transferring to the PPP was clearly in Mr B's best interests. To put things right, our investigator recommended that IFM carry out a redress calculation in line with the FCA's guidelines on the basis that Mr B transferred to the BSPS2, took benefits at age 65 and would be a 20% income taxpayer in retirement. In addition, he recommended that IFM pay Mr B £350 compensation for the trouble and upset caused by its unsuitable recommendation.

The Representative, on behalf of Mr B, accepted our investigator's assessment and made some comments about the proposed redress calculation. IFM didn't accept our investigator's assessment and provided additional comments in response. It requested that the matter be referred to an ombudsman for review and that its comments be taken into account when deciding this complaint.

This complaint has been referred to me to review and decide. This is the last stage of our process.

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 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. And where the evidence is incomplete, inconclusive or contradictory, I reach my conclusions on the balance of probabilities – that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances.

In deciding this complaint, I've carefully considered the additional comments the Representative and IFM provided in response to our investigator's assessment.

The FCA's applicable rules and guidance

The below isn't 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*
>
> PRIN 9: *A firm must take reasonable care to ensure the suitability of its advice and discretionary decisions for any customer who is entitled to rely upon its judgment*
>
> 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)*
>
> COBS 4.2.1R: *A firm must ensure that a communication or a financial promotion is fair, clear and not misleading*

The suitability rules and guidance that applied when IFM advised Mr B were set out in COBS 9.2. The requirements in COBS 19 which specifically relate to a DB pension transfer were as follows:

COBS 19.1.2R required the following:

> *"A firm must:*
>
> *(1) compare the benefits likely (on reasonable assumptions) to be paid under a defined benefits pension scheme or other pension scheme with safeguarded benefits with the benefits afforded by a personal pension scheme, stakeholder pension scheme or other pension scheme with flexible benefits, before it advises a retail client to transfer out of a defined benefits pension scheme or other pension scheme with safeguarded benefits;*
>
> *(2) ensure that that comparison includes enough information for the client to be able to make an informed decision;*
>
> *(3) give the client a copy of the comparison, drawing the client's attention to the factors that do and do not support the firm's advice, in good time, and in any case no later than when the key features document is provided; and*
>
> *(4) take reasonable steps to ensure that the client understands the firm's comparison and its advice."*

And COBS 19.1.3 G stated:

"In particular, the comparison should:

(1) take into account all of the retail client's relevant circumstances;

(2) have regard to the benefits and options available under the ceding scheme and the effect of replacing them with the benefits and options under the proposed scheme;

(3) explain the assumptions on which it is based and the rates of return that would have to be achieved to replicate the benefits being given up;

(4) be illustrated on rates of return which take into account the likely expected returns of the assets in which the retail client's funds will be invested; and

(5) where an immediate crystallisation of benefits is sought by the retail client prior to the ceding scheme's normal retirement age, compare the benefits available from crystallisation at normal retirement age under that scheme."

Under the heading "Suitability", the following was set out:

COBS 19.1.6G:

"When advising a retail client who is, or is eligible to be, a member of a defined benefits occupational pension scheme or other scheme with safeguarded benefits whether to transfer, convert or opt-out, a firm should start by assuming that a transfer, conversion or opt-out will not be suitable. A firm should only then consider a transfer, conversion or opt-out to be suitable if it can clearly demonstrate, on contemporary evidence, that the transfer, conversion or opt-out is in the client's best interests"

COBS 19.1.7G:

"When a firm advises a retail client on a pension transfer, pension conversion or pension opt-out, it should consider the client's attitude to risk including, where relevant, in relation to the rate of investment growth that would have to be achieved to replicate the benefits being given up."

COBS 19.1.7B:

"In considering whether to make a personal recommendation, a firm should not regard a rate of return which may replicate the benefits being given up from the defined benefits pension scheme or other scheme with safeguarded benefits as sufficient in itself.

COBS 19.1.8G:

"When a firm prepares a suitability report it should include:

(1) a summary of the advantages and disadvantages of its personal recommendation;

(2) an analysis of the financial implications (if the recommendation is to opt-out); and

(3) a summary of any other material information."

Businesses are required to follow these rules and consider the guidance because the FCA considers safeguarded benefits to be valuable. Based on the above regulatory rules and guidance, businesses advising on pension transfers should start by assuming that the existing DB pension scheme is suitable and to only recommend a transfer, which converts safeguarded benefits into flexible benefits, if it can *clearly* demonstrate it's in their client's best interests.

In assessing the suitability of IFM's advice to Mr B, it's necessary for me to have due regard to the FCA's rules and guidance stated above.

Mr B's situation

The situation for Mr B wasn't normal because the existing DB pension scheme, the BSPS, was closing. It's undeniable that it was a period of great uncertainty for BSPS members, many of whom had been largely passive pension savers and found themselves having to make major and irreversible choices about their financial futures. I think it's fair to say that many members were in a vulnerable position due to the uncertainty surrounding the future of the BSPS. As a result, I think it was essential for any regulated adviser making a recommendation to a BSPS member to have a detailed understanding of each of the options available and of their customer's personal circumstances.

In response to our investigator's assessment, IFM stated that when it advised Mr B in June 2017, the BSPS2 didn't exist and so wasn't a viable alternative option. In its view, the only viable options available to Mr B at that time were:

- maintain his safeguarded benefits in the BSPS (in the knowledge that there was a possibility they would ultimately be transferred to the PPF); or
- transfer to an alternative pension plan such as a PPP

I agree that by June 2017, there was insufficient information available about the BSPS2 to enable IFM to carry out a proper analysis of that option. But it's my view that by June 2017 there was no imminent threat of the BSPS entering the PPF – on the contrary, there had already been an update in May 2017 that the key commercial terms of the RAA had been agreed. Given that the whole purpose of the consultation was to prevent the BSPS entering the PPF, I think, by June 2017, it was more likely than not the BSPS would avoid entering the PPF by being restructured into a successor scheme – as it then did. And so I think it's strongly arguable that IFM should've delayed its recommendation until more information became available. But for the purposes of making a determination on this complaint, and on the basis that IFM advised Mr B before the outcome of the consultation was known, I'm going to proceed on the basis that it essentially had the two options set out above – beyond that of waiting to learn the results of the consultation – to consider when it advised Mr B.

I don't believe that the circumstances surrounding the BSPS altered the FCA's position or its expectations of firms. Given the FCA's view on safeguarded benefits and what was known at that time, it's my fair and reasonable opinion that IFM should've considered that the BSPS was likely to be the better option for Mr B based on his circumstances. And so it's my view that IFM should've only recommended a transfer to the PPP in favour of the BSPS if it could clearly demonstrate why it was in Mr B's best interests, as referenced in COBS 19.1.6G.

Having considered the evidence, I agree with the investigator's view that IFM's pension transfer advice to Mr B was unsuitable for largely the same reasons. My view can be summarised as follows:

- The primary purpose of a pension is to meet the income needs of an individual during retirement. Mr B's safeguarded benefits, accounting for 33 years and 11 months' pensionable service, represented his most valuable asset. He had limited other assets that could be used to support his retirement income needs. Given the lack of other assets, IFM ought to have recognised that Mr B was likely to be heavily reliant on the value of his safeguarded benefits to generate a minimum level of core income to support his standard of living in retirement until state pension age. Given Mr B's limited capacity for loss, I think it was important not to expose the value of his safeguarded benefits to unnecessary risk by treating flexibility, control and maximisation of death benefits as a high priority at the expense of the primary income purpose – unless there was a clearly suitable reason to do so;

- Mr B had limited knowledge and experience of investments. He had a *'Conservative'* risk profile indicating he was at the lower end of the investment risk spectrum. Transferring to the PPP led to the investment, inflation and longevity risks associated with his safeguarded benefits being transferred from the scheme to Mr B. Those risks would've been retained by the BSPS had he been advised not to transfer;

- The primary aim of the pension transfer was so that Mr B could retire early, from around age 60 if his financial situation allowed it and to maximise the death benefits available to his family. But he was then aged 53 (at the time of the advice) and so wasn't seeking to take benefits for at least several years. In my view, with such a time frame until he planned to take benefits, it made the case for a pension transfer at that time – for the sake of achieving possible early retirement – more difficult to justify;

- The basis of the advice wasn't to enable Mr B to retire immediately but at some indeterminate point, many years in the future. IFM failed to obtain the necessary information relating to Mr B's financial situation including his anticipated income and expenditure during retirement when assessing whether it was suitable for him to transfer out of the BSPS to achieve his early retirement objective. It may well have been the case that Mr B's retirement income need could've been met by the BSPS but IFM failed to establish this. Ultimately, however, there's insufficient evidence to demonstrate why it was in Mr B's best interests to transfer at that time to achieve his early retirement objective or whether he could in fact retire earlier than age 65;

- Had IFM advised Mr B not to transfer he would've preserved his safeguarded benefits in the BSPS and retained the option to transfer to a PPP at a later date, if then deemed suitable, when he was closer to retirement and could determine his retirement income and lump sum needs with far greater accuracy than at age 53. I can't see that any clearly defined advantage was obtained by transferring at that time;

- IFM recorded that Mr B placed, *"a higher value on having choice and control over your pension fund than having a guaranteed lifetime income".* I'm not sure what this was based on. He had received guaranteed income all his working life. So I think an element of guaranteed retirement income before state pension age would've been valuable for an inexperienced investor in Mr B's circumstances. It may well have been the case that once the state pension started, Mr B may have been in receipt of excess income. But any excess income from age 67 onwards could be reinvested for future use;

- IFM recorded that Mr B was *"prepared to accept more risk in return for greater flexibility over when and how benefits are withdrawn from your pension fund".* I'm not persuaded that it was appropriate for an inexperienced and *'Conservative'* risk investor to relinquish the guarantees attached to his main retirement provision in exchange for more risk so that he could access flexible benefits. There's no real evidence that Mr B required the flexibility of irregular lump sums or variable income during retirement. Flexibility and control might sound attractive, but I can't see that he had any concrete need for it. But if he did require flexibility, then any flexible needs could've been met by his DC workplace pension and tax-free cash available under the BSPS;

- Mr B had surplus disposable income of about £1,200 available every month. There's inadequate evidence that IFM considered saving some of these additional monies in either a pension, investment or savings account to provide flexible income or lump sums rather than transferring and losing benefit guarantees;

- IFM recorded that Mr B wanted *"choice and control"* over his pension. But he appears to have been a largely passive pension saver up until that point. There's no evidence he had experience of controlling, managing or investing large sums of money. So it's unclear to me why he suddenly had a desire to do so. In my view, Mr B had limited knowledge and experience to enable him to understand the risks involved in managing a large pension fund through retirement;

- It was noted that Mr B had *"grave concerns"* about a transfer to the PPF. While I understand that he may have been concerned about the security of his safeguarded benefits, I don't consider a transfer to the PPF was an outcome to avoid. Under the PPF, Mr B would've received a minimum of 90% of his scheme pension. This contrasted with the recommended PPP where there's no promise of a minimum level of benefits payable. If Mr B was concerned about his safeguarded benefits being transferred to the PPF which would result in him losing 10% of the scheme pension, then I question why, as an inexperienced and *'Conservative'* risk investor, he would accept the risk of transferring to a PPP which exposed his benefits to unlimited downside risks where the loss could be significantly greater than 10%. This doesn't make sense to me;

- I think the suitability report misled Mr B about the ability to take early retirement benefits under the PPF. It stated, *"A further consideration is the possibility of a Defined Benefit Scheme becoming insolvent and entering the government scheme – The Pension Protection Fund (PPF). In the event of this, future retirement benefits are likely to be reduced and early retirement would not be permitted".* It also stated, *"…you are extremely worried about the current situation of the British Steel scheme and the possibility of it entering the Pension Protection Fund. If it does, the option of early retirement will be lost".* This is simply incorrect since the PPF permits members to take benefits early from age 55 onwards subject to a reduction. The incorrect information likely fed into Mr B's fears about the PPF and wrongly reinforced his decision to transfer away so that he retained the option to retire early;

- Mr B wanted to maximise the death benefits payable to his family. The existing death benefits with the BSPS were not to be underestimated. Mr B's wife would've received a guaranteed spouse's pension which escalated each year for life which would've been valuable if Mr B predeceased her. While I understand that death benefits are important to consumers, the priority here, in my opinion, was to advise Mr B about what was best for his own retirement provision. Mr B was recorded as being in good health. So he could expect life expectancy into his 80s. There weren't any immediate health concerns that indicated a pension transfer was a suitable course of action at that time. Withdrawing money from the PPP to meet income and lump sum needs would likely mean that the size of the fund remaining in later years – when death is more likely – could be much smaller than expected. It's my view that Mr B had no health issues at the time IFM advised him which might reasonably have prompted him to relinquish the guarantees attached to his own retirement income for the sake of an enhanced safety net for his family. So I'm not convinced there was any real merit in him transferring to a PPP at that time to provide a lump sum death benefit.

- Notwithstanding the above, through his employment, Mr B had death in service life cover based on a multiple of six times' salary. In addition, the value of his DC pension plan would be payable as a tax-free lump sum. So it's clear his wife would receive a large (relative to what was recorded about their wider financial situation) lump sum death benefit from other sources in the event of his death. Lastly, it was recorded that his wife had built up 17 years' pensionable service in her employer's workplace pension scheme meaning she wasn't entirely reliant on Mr B;

- The TVAS calculation produced by Prudential showed that the critical yield to match the benefits under the BSPS at age 65 as 8.3%. This compared with a discount rate of 3.9% at age 65, as explained by our investigator in his assessment. For further comparison, the regulator's upper projection rate at the time was 8%, the middle projection rate 5%, and the lower projection rate 2% per year. It's my view that a required annual investment growth rate of 8.3% was incompatible with Mr B's *'Conservative'* risk profile, discount rate and the estimated annual growth rate of 5.99% (before charges) of the recommended investment strategy. I think these factors showed that it was likely Mr B would be financially worse off as a result of the pension transfer. It seems IFM agree because in its suitability report it stated, *"We consider the chances of consistently achieving an investment return of equivalent to 8.3% p.a. is unlikely between now and your 65th birthday";*

- The basis of the recommendation was that Mr B was seeking to take benefits at around age 60. If that was the case then I would've expected IFM to also calculate the critical yield figure at age 60 to enable Mr B to make an informed decision. But it didn't. I think this was a material oversight because the critical yield figure at age 60 would've been greater than 8.3% due to the shorter investment timeframe and impact of the initial advice charge on the required growth rate. This meant that Mr B wasn't provided accurate information about the level of investment growth required in the PPP to match the scheme pension if he took benefits earlier than age 65; and

- In my view, the suitability report failed to meet the fair, clear and not misleading requirements of COBS 4.2.1R. It was generic with templated wording to describe Mr B's objectives with the result that the recommendation wasn't sufficiently tailored to his individual circumstances. I think it lacked sufficient colour and detail. As noted above, it included misleading information regarding the ability to take benefits early under the PPF and lack of reference to the critical yield at age 60. I think these inadequacies in the suitability report led to him making an uninformed decision to proceed with a pension transfer when this was not in his best interests.

Conclusion

Overall, I don't think the contemporaneous evidence supports the position as to why Mr B's generic objectives would've been sufficiently compelling reasons for him to relinquish valuable benefit guarantees by transferring to a PPP at that time, especially in view of his level of reliance on these monies to provide retirement income. Based on what I've seen, I think IFM failed to give adequate consideration to the risk that Mr B couldn't financially bear the risks involved in the pension transfer. I haven't seen any evidence that persuades me the pension transfer was clearly in his best interests compared to the alternative option of retaining his safeguarded benefits in the BSPS. As a result, I think it's fair and reasonable to uphold this complaint.

Putting things right

A fair and reasonable outcome would be for IFM to put Mr B, as far as possible, into the position he would now be in but for the unsuitable advice he was given.

Our investigator concluded that, if properly advised, Mr B's safeguarded benefits would now be preserved in the BSPS2. But IFM challenged this point by stating that the BSPS2 didn't exist at the time it advised Mr B in June 2017. As noted above, I agree that by June 2017, there was insufficient information available about the BSPS2 to enable IFM to carry out a proper analysis of that option when it advised Mr B. However, had IFM advised Mr B to maintain his benefits in the BSPS, as I consider it ought to have done, he would've been contacted in October 2017 as part of the *'Time to Choose'* communication exercise and presented the opportunity to transfer to either the PPF or BSPS2.

Therefore, I've considered whether the comparator scheme for redress purposes should be the PPF or BSPS2. There were differences between these options for deferred members like Mr B. The PPF was designed to provide members with at least 90% of their starting pension value but the BSPS2 was designed to provide members with 100%. The PPF was likely the better option for unmarried members who expected to retire early or take the maximum tax-free cash available even allowing for the 10% reduction in the starting entitlement. But the BSPS2 was likely the better option for married members who expected to draw benefits at or close to the scheme normal retirement age of 65. The BSPS2 provided the potential for discretionary increases to the scheme pension, a higher level of spouse's pension and the option to transfer to a PPP at a later date, if then deemed suitable.

I acknowledge that Mr B had an aspiration to retire from around age 60. However, he was still about seven years away from that age when IFM advised him. I think it's fair to say that plans about retirement can change over such a long period of time. I'm not persuaded that there's sufficient contemporaneous evidence that supports the position Mr B would've started taking his safeguarded benefits which involved taking a regular income from age 60. And I'm not convinced it could be reasonably determined at the time that the PPF was the likely better option for Mr B. Therefore, I think, given his age and the lack of clarity surrounding when he would retire, the BSPS2 was likely the better option for him because at age 65 it would provide a higher level of benefits than the PPF. And so the comparator scheme for redress purposes should be the BSPS2.

IFM must therefore undertake a redress calculation in line with the rules for calculating redress for non-compliant pension transfer advice, as detailed in policy statement PS22/13 and set out in the regulator's handbook in DISP App 4: https://www.handbook.fca.org.uk/handbook/DISP/App/4/?view=chapter.

IFM should use the FCA's BSPS-specific redress calculator to calculate the redress. A copy of the BSPS calculator output should be sent to Mr B's Representative and our service upon completion of the calculation.

The calculation should be carried out using the most recent financial assumptions in line with DISP App 4. 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 this final decision.

If the redress calculation demonstrates a loss, as explained in policy statement PS22/13 and set out in DISP App 4, IFM should:

- calculate and offer Mr B redress as a cash lump sum payment,

- explain to Mr B before starting the redress calculation that:

  - its redress will be calculated on the basis that it will be invested prudently (in line with the cautious investment return assumption used in the calculation), and

  - a straightforward way to invest the redress prudently is to use it to augment his PPP

- offer to calculate how much of any redress Mr B receives could be augmented rather than receiving it all as a cash lump sum;

- if Mr B accepts IFM's offer to calculate how much of his redress could be augmented, request the necessary information and not charge him for the calculation, even if he ultimately decides not to have any of his redress augmented; and

- take a prudent approach when calculating how much redress could be augmented, given the inherent uncertainty around Mr B's end of year tax position.

Redress paid to Mr B as a cash lump sum will be treated as income for tax purposes. So, in line with DISP App 4, IFM may make a notional deduction to cash lump sum payments to take account of tax that consumers would otherwise pay on income from their pension. Typically, 25% of the loss could've been taken as tax-free cash and 75% would've been taxed according to Mr B's likely income tax rate in retirement – presumed to be 20%. So making a notional deduction of 15% overall from the loss adequately reflects this.

In addition, IFM should pay Mr B £350 compensation for the trouble and upset caused by its unsuitable recommendation, as recommended by our investigator.

My final decision

<u>Determination and money award:</u> I uphold this complaint and require Inspirational Financial Management Ltd to pay Mr B the compensation amount as set out in the steps above, up to a maximum of £170,000.

<u>Recommendation:</u> If the compensation amount exceeds £170,000, I also recommend that Inspirational Financial Management Ltd pays Mr B the balance.

If Mr B accepts this final decision, the money award becomes binding on Inspirational Financial Management Ltd. My recommendation wouldn't be binding. Further, it's unlikely that Mr B can accept this final 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 this final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 30 November 2023.
Clint Penfold
Ombudsman