DRN-4050748

The complaint

Mr H and Mrs W ('the complainants') say Fairstone Financial Management Limited ('FFML'), who serviced their joint General Investment Account ('GIA') and their Individual Savings Accounts ('ISAs'), did as follows:

- Failed to ensure funds were transferred from their joint GIA to their ISAs in order to use their ISA allowances for the 2016/2017 and 2017/2018 tax years. [issue 1]

- Overcharged them in ongoing fees since 2016, failed to meet their request for a reduction of those fees, failed to properly explain why the fees applied, deducted fees without their knowledge and failed to present full information about fees incurred in clear and monetary terms. [issue 2]

- Caused their loss of opportunity to invest in the markets during the fall in prices around the onset, and/or the time, of the pandemic in 2020. [issue 3]

- Failed to provide them with a full copy of their client file despite their request. [issue 4]

- Mishandled their complaint after terminating its service, and provided poor customer service. [issue 5]

Other than the matter of missed usage of the 2017/2018 ISA allowances, FFML disputes the complaint and the issues within it.

What happened

One of our investigators looked into the complaint and made the following main findings:

- FFML accepts responsibility for the complainants missing the use of their 2017/2018 ISA allowances but disputes responsibility for missed usage of the 2016/2017 allowances. However, evidence shows the opposite, that it was responsible in 2016/2017 but not in 2017/2018.

- Its June 2016 suitability letter to the complainants recommended the transfers of their Birmingham Midshires ('BM') cash ISAs to Standard

Life Wrap stocks and shares ISAs, but it omitted to advise them on using their ISA allowances in that year. It ought to have given such advice, hence its responsibility the 2016/2017 tax year.

- The complainants declined to have their annual review with FFML in 2017 (during the 2017/2018 tax year) and it did not have discretion to execute transactions on their behalf. Instead, it had to make recommendations for their consent, prior to execution.

- As such, without the review that the complainants declined it could not address and advise on their ISA allowances for the year and is therefore not responsible for them missing the use of those allowances.

- The complainants agreed FFML's 'ActivePlan+' service, based on an initial fee for invested new money (usually a fee rate of 3%, but reduced to 1.5% and 2% as a concession to them) and an ongoing advisory fee rate of 1%.

- FFML does not recall their alleged request to cancel the service in 2016 and to have it replaced by its lowest level of charges. The complainants have not been able to evidence the request. Therefore, it cannot be concluded that the request was made.

- Furthermore, the following support the conclusion that continuation of the ActivePlan+ service was needed and/or agreed –

    - from the outset, the complainants' personal circumstances were such that they could rarely monitor their accounts by themselves so they needed close monitoring by FFML, and that would not have come with its lowest service level;
    - there is no evidence that they objected to the suitability report they received and agreed in 2015, in which the ActivePlan+ service was recommended;
    - and the review suitability report they received in June 2016 reconfirmed the service and the 1% ongoing advisory fee, but again there is no evidence they objected to this at the time.

- FFML provided yearly updates and general market appraisals to the complainants, and it was proactive in arranging annual review meetings. Overall, between 2015 and 2022 (when its service ended), it appears to have provided the ongoing service it was paid to give.

- There is no evidence that it charged fees beyond what was agreed and no evidence of the *ad hoc* fees that the complainants have questioned. Instead, it was a matter of the reduced initial fee being applied to new money that was invested upon recommendation, and this was part of

the agreement between the parties.

- In terms of clarity of the information about fees, most of that information was produced by Standard Life (now Abrdn) and the information was not unclear. In response to the complainants' request for the information in monetary terms (as opposed to percentages) FFML sent them a spreadsheet of such information for the past year.

- They also have the option of asking Abrdn for more of such information. The spreadsheet showed that the fees deducted matched the 1% agreed ongoing service fee rate.

- Correspondence from 2020 shows that in May that year the complainants mentioned to FFML that they wished to discuss the possibility of using their savings in the market downturn, and that in June both parties met and held that discussion. In FFML's letter to them after the meeting it left the matter in their hands, for it to be picked up when they wished to do so, but there is no evidence that they thereafter returned to FFML on the matter.

- Therefore, it cannot be said that FFML is solely responsible for the alleged missed opportunity.

- It is not clear whether (or not) the complainants' request for their client file was made as a Subject Access Request ('SAR') under the Data Protection Act 1998, because a copy of their request has not been seen. If it amounted to a SAR, a complaint about non-compliance with a SAR should be addressed to the Information Commissioner's Office ('ICO'), rather than our service.

- FFML committed a failure of service with regards to the complainants missing the use of their 2016/2017 ISA allowances, but there is no evidence of any further service failure on its part.

- However, it is worth noting that it was forthcoming in accepting responsibility for the 2017/2018 ISA allowances issue and in offering redress for that.

- It probably frustrated the complainants that FFML did not respond to their complaint within eight weeks and did not address all their complaint issues, but it gave them notice on 14 April 2022 that it could not respond within eight weeks and that they could refer the complaint to us. This was what it would have been expected to do in the circumstances.

- In terms of FFML terminating its service in February 2022, prior to

resolving the complaint, that was reasonable given that the complainants had instructed (in March 2021) that the ongoing fee payment be stopped, and given that it was no longer receiving that fee at the point of termination.

- The termination was in line with the terms of the service agreement, and by giving notice in February 2022 it gave the complainants time to make alternative arrangements for their ISA allowances before the end of the tax year in April 2022.

- Overall, the complainants should receive redress only for financial loss arising from the missed usage of their ISA allowances in the 2016/2017 tax year, and should receive compensation of £300 each for the distress and inconvenience that caused them.

Both parties disputed different aspects of the investigator's findings.

FFML agreed with the findings in which the complainants' allegations were not upheld, but it considered that the investigator's conclusion on the missed ISA allowances usage issue was misguided. It maintained that it had no responsibility in the matter for the 2016/2017 year and that its responsibility is only for the 2017/2018 year.

It argued that –
- in 2016, and despite its best efforts, it was unable to get the complainants to confirm how much of their 2016/2017 ISA tax year allowance had been used, how much cash had been contributed, or what investments they had made;
- that, for this reason, it was unable to recommend any usage of their allowances;
- and that to have done so would have carried the risk of recommending something that made them breach their allowances.

The investigator rejected this argument. He retained the grounds for his finding on the matter and referred to the following –
- FFML's June 2016 advice to the complainants noted its awareness of their ISA allowances, but made no general recommendation about the need to use them within the tax year;
- the personal profile document they completed in the same month gave a detailed breakdown of their investments;
- the information they gave at the time also disclosed that other than the BM ISAs they had other ISAs, on three years and five years fixed rate deposit terms which were to mature that year, so the implication was that the other ISAs had been contributed into in earlier tax years;
- the events in June 2016 happened only two months into the 2016/2017 tax year so it is unlikely that the complainants would not have been able

to share information on whether (or not) their allowances had been used if asked;
- it is more likely that they were not asked;
- and this also meant FFML had around 10 months thereafter, within the same tax year, to revisit the matter and advise them (as part of the ongoing advice service), but it did not.

FFML took the view that the conclusion was nevertheless harsh. It said it should not be solely responsible for 2016/2017 because the complainants owned or at least shared that responsibility, and they could have been proactive in using their allowances or seeking its advice at the time, but they were not.

It also questioned the methodology for the redress proposed by the investigator.

The investigator highlighted that the complainants were paying FFML for its premium advice/ongoing advice service, so in this context it holds primary responsibility in the matter. He also explained the redress methodology a little further, and confirmed that it is the approach used by our service.

The complainants acknowledged that the investigator had upheld one of the issues in their complaint, but they took the view that he should have upheld all the issues in their complaint.

They said FFML knew of their unique personal circumstances and how that meant their financial matters were essentially left in its hands, so it is ultimately responsible for the complaint issues.

They referred to the distress the complaint matters have caused them, and they made a general point about our service having the duty to hold firms like FFML accountable in situations like theirs, and to protect the public from firms behaving in the ways they have alleged against FFML.

The investigator was not persuaded, by either party, to change his views and the case was referred to an Ombudsman.

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.

Issue 1

There is ample evidence, from the outset of FFML's engagement in 2015 and thereafter, that it held responsibility for ensuring funds were moved, annually, from the joint GIA to the complainants' respective ISAs, in order to use their

ISA allowances every year. The 2015 suitability report confirms this and correspondence from FFML to them in the years that followed repeated it.

To its credit, FFML appears to accept this responsibility. However, it has also made, or at least suggested, the argument that the complainants, at the relevant times, shared the responsibility, and/or were responsible for covering any omission on its part to ensure their allowances were used.

I do not accept such an argument. It is defeated by the same body of evidence on FFML's responsibility towards the ISAs, as expressed by FFML itself, in the relevant suitability reports and communications to the complainants from 2015 onwards. It undertook, as part of its ongoing service, primary responsibility for the task of ensuring the ISA allowances were used, and like the investigator noted it received remuneration for doing so as part of its ongoing fee.

As such, the question to address is whether (or not) it did as much as it reasonably ought to have done to discharge the responsibility in the tax years of 2016/2017 and 2017/2018.

Its main argument for the 2016/2017 year is essentially that it was hindered by a lack of cooperation from the complainants.

There was sufficient engagement between the parties early in this tax year. As the investigator said, this happened around June 2016, just two months into the tax year. FFML's suitability report of 17 June 2016 is signed by the adviser and by both complainants. It refers to a meeting having been held between them on 13 June 2016 and it confirms that the complainants' ISA transfers were the main subject matter. In other words, the ISAs were the focus of attention.

FFML addressed suitability and viability of the transfers, risks and risk profiles, charges and cost of advice, investment considerations and ISA provider selection, but it provided no analysis or advice on using the ISA allowances in that year. The letter also does not reflect any discussion on the matter.

I echo the investigator's observation that FFML had around 10 months (or nine months, excluding June) thereafter, within the tax year, to revisit the matter and correct its omission. It did not do that. Whether (or not) the complainants could have highlighted the omission is arguably irrelevant. First, FFML knows now and knew then that their unique circumstances made it unlikely that they were closely monitoring their finances, or their ISAs. Indeed, it knew that the opposite was probable, if not certain.

The second point to note is a repetition of what I said above – it was FFML's responsibility to lead in addressing this task, not the complainants. A letter it sent to the complainants in July 2019 referred to the basis for the ongoing

arrangement for this task and said – "*You previously confirmed you wanted me to arrange this for you, because you do not use your ISA allowances elsewhere. This process is where in each tax year we can transfer your annual allowance (up to £20,000 each) from your non-ISA Portfolio into each of your ISA's*".

In another communication (an email) around the same time FFML referred to this as the complainants' "standing instruction". As such, throughout its service, it appears to have even had grounds to safely assume that all of each allowance had to be used every year because the complainants did not use their allowances elsewhere.

The above analysis establishes FFML's opportunities in June 2016 (at the meeting it hosted and in its follow-up suitability letter) to consider and give advice on using the complainants' ISA tax allowances. It did not give such advice and I have not seen evidence that it was hindered from doing so, instead it appears to have overlooked the task. During the nine months that followed it could have sought and seized a further opportunity to correct this failing. I appreciate that the complainants' personal circumstances might have presented some difficulty in this respect, but it is noteworthy that there appears to be no evidence that FFML attempted to do so. This suggests that it continued to overlook the task throughout the rest of the tax year.

For the above reasons, I find that FFML is responsible for the complainants not using their 2016/2017 ISA allowances.

There is evidence that FFML wrote to the complainants in June 2017 and in July 2018 seeking to conduct annual financial reviews each time but being unable to do so because they had declined those reviews (each time).

I note and understand the investigator's finding that its responsibility to ensure usage of the ISA allowances in the 2017/2018 tax year was therefore hindered by an inability to conduct the review in 2017 (during which it would have been able to seek and obtain instructions to make the necessary transfers from the GIA into the ISAs). I agree that this presented a difficulty to FFML, but no more than that, so my conclusion on this specific issue differs from the investigator's. Ordinarily, I would have considered issuing a provisional decision for this reason, but I do not find that necessary in this case. My conclusion, below, is essentially supported by FFML's concession in the issue, it is not a controversial conclusion, it is not one that FFML would challenge and it is in the complainants' favour.

Despite the investigator's conclusion that FFML was not responsible for the 2017/2018 year, it continues to insist that it *was* responsible for the failure to use the ISA allowances in that year. I agree with FFML and I can see why it holds this position. I repeat, the arrangement made it primarily responsible for

this task. Even though its letter to the complainants in June 2017 addressed its inability to conduct the annual review, because they did not want one, it made no mention of the arrangement for the GIA to ISAs transfers (for the purpose of using their ISA allowances).

The arrangement and agreement in 2015 was essentially that it would routinely conduct these transactions, so as a minimum it ought reasonably to have sought instructions or approval for that in 2017/2018. It was not for the complainants to remind it. Indeed, the fact that their 2018/2019 allowances were used, as evidence shows, despite the 2018 annual review also being declined shows that the absence of the review was not an insurmountable obstacle to executing the task.

FFML did not do enough in the 2017/2018 tax year to accomplish usage of the complainants' ISA allowances for that year. This appears to be the main reason it accepts responsibility for this year and it is the main reason I find that it holds that responsibility.

On the grounds addressed above, I uphold issue 1. Further below, I give orders for the redress to be calculated and awarded to the complainants for this issue, and I also endorse the investigator's award to them of £300 each for the trouble and inconvenience the matter has caused them. I have noted the comments that have been made, by both parties, about the methodology that should be applied for redress. However, as the investigator explained and as I set out in the redress section below, our service's approach is defined, fair and reasoned.

Issue 2

I echo and endorse the investigator's findings and conclusions on this issue, and I incorporate those findings (as summarised in the background section above) into this decision.

There is reasonably clear and consistent evidence of FFML's fees (for initial (new money) advice/implementation and for the ongoing ActivePlan+ advice service) being transparent to and agreed by the complainants, and being repeatedly brought to their attention over the years (from 2015 onwards) in the different forms of correspondence they received (such as suitability letters and account statements). This body of evidence also covers the period past 2016, the year in which the complainants say they requested and expected the application of different and lower ongoing service fees.

I have not seen evidence that they ever objected to the fees prior to 2021, the year in which they asked FFML to suspend the ongoing service fees because they were unhappy with the fee rate. The same applies to their claim about a reduction of the fees in 2016, I have not seen evidence that this was

requested or agreed at the time – to the contrary, the originally agreed 1% fee rate was brought to their attention in correspondence during 2016 and in the years thereafter and they did not object to it.

FFML suspended its ongoing fee in March 2021, following the complainants' request. Commendably, it continued to provide service to the complainants for almost a year thereafter, until 28 February 2022, without receipt of a fee and whilst it sought to resolve matters with them. I address this further, in terms of its termination of service, in my findings for issue 5 below.

Like the investigator, I have considered comprehensive information about the fees received by FFML throughout its ongoing ActivePlan+ service and I have not found evidence that it received any more than both parties had agreed – that being the 1% fee rate. I also have not seen evidence of unauthorised fee deductions and it does not appear that the complainants have specified any particular deductions in this respect. As the investigator said, advice and implementation of advice for the investment of new money was a service from FFML that stood outside its ongoing service, and that triggered a separate initial fee. This was part of the agreed terms of service and it did/does not amount to unauthorised ongoing fee deductions.

It is not uncommon for financial services fees to be presented to clients on a percentage basis. I understand the complainants' dissatisfaction in this respect, and such dissatisfaction is also not uncommon amongst lay clients who consider the percentage based information unclear or difficult to understand. It was not unreasonable for them to ask for information on fees in monetary terms, but I also do not find grounds to say FFML did anything wrong by using the percentage based approach prior to their request. Furthermore, as the investigator noted, the relevant statements that used the same approach were from the account provider.

Overall, it appears that when requested, by the complainants, to present fee information in monetary terms FFML did so. On balance and for the above reasons, I do not find that it did anything wrong in this aspect of the case.

For the above reasons, and those cited by the investigator, I do not uphold issue 2.

Issues 3 and 4

I do not uphold these issues and, again, I echo, endorse and incorporate into this decision the investigator's findings on them (as summarised in the background section above). To briefly recap on the key findings –

- Whilst it is true that the complainants sought to explore opportunities in the market in 2020 and discussed this in general with FFML, there is a

lack of evidence that they reached the point of actively taking this step and requiring specific advice from FFML to do so. This needed to happen, but did not. FFML did not have a discretionary remit over their GIA and ISAs so it could not take such a step without their instruction to do so and it could not assume their role to decide when they were prepared with funds to take that step. On this basis, it would not be fair or reasonable to hold FFML responsible for issue 3.

- As the investigator said, any issues the complainants have with regards to FFML's provision of their client file, following their request for it, especially if the request amounted to a SAR, would fall within the remit of the ICO, not within our remit. I have seen the strength of feeling held by the complainants in this matter and I note that they consider the information/documents we received from FFML and shared with them to fall short of the full file disclosure they seek and expect. However, it is an issue they can consider addressing separately.

Issue 5

It was not ideal for FFML to terminate its service before all the complainants' complaint issues were addressed, but that does not mean it was unreasonable of it to do so.

On balance, I do not find that it was unreasonable in terminating its service.

As I said above, it had maintained that service for almost a year without pay. Having read the correspondence between the parties during this period, I am satisfied that it did this in good faith and with what appears to have been a sincere desire to hopefully resolve the complainants' concerns and recover circumstances in which they would agree to have fees reinstated and to continue with its service. The same body of correspondence also shows why, from around late 2021 and into early 2022, it probably took indications from the complainants and their submissions at the time that perhaps such an outcome was unlikely – leading to its termination of service decision.

Such an approach was not unreasonable and the terms of service between both parties allowed for it, and for FFML's termination of service in the manner that it did it. It could not continue, indefinitely, to maintain the service without payment for the service and it had already allowed that for a considerable period of time. As the investigator said, its notice was given with enough remaining time (around five weeks) for the complainants make alternative arrangements for their ISAs.

With regards to the service failure allegation, other than its failing in issue 1 – for which distinct redress and compensation for trouble and inconvenience are awarded below – I have not been persuaded by available evidence that FFML

committed any other service failings. My conclusions on issues 2 to 4 support this.

I acknowledge that the complainants have expressed dissatisfaction with FFML's complaint handling conduct. However, I make no finding on this because it is beyond my remit to do so.

I can determine complaints about regulated activities, but complaint handling, in isolation, is not a regulated activity. It is also not an ancillary activity connected to the conduct of a regulated activity. Sometimes a complaint to a firm and its alleged mishandling of it might form a part of the substantive case. If so, addressing the firm's complaint handling might then be a necessary part of determining the overall complaint.

The present complaint is not that type of case. The issues raised by the complainants to FFML were somewhat crystallised before they were raised, so its complaint handling did not exist *within* those issues, instead it was separate to them. In other words, its complaint handling did/does not form a part of the substantive case, so the complaint handling process is an isolated matter and is one outside my remit.

For the above reasons, I do not uphold issue 5.

Putting things right

I uphold the complainants' complaint only with regards to issue 1, the missed ISA subscriptions for the 2016/2017 and 2017/2018 tax years.

For redress, our service's approach is to ensure that they are put back into the position they would have been in if everything had occurred as it should have. Therefore, I have set out our service's methodology below, including the appropriate assumptions FFML must use when calculating redress.

To help ensure the assumptions used in FFML's calculation accurately reflect the complainants' circumstances, I have also used information they provided in response to the investigator's enquiries.

In cases where an ISA subscription has been missed, this service has a published approach to redress. It is always difficult to quantify future loss as there are many differentials that could apply. This service adopts an approach that seeks fairness to both parties.

The calculation methodology FFML applied in their redress calculation for the 2017/2018 year appears to be in line with our service's guidance. However, following from my findings above, it must now recalculate (and pay) the redress, based upon the assumptions outlined below, for the complainants' missed ISA subscriptions for both the tax years of 2016/2017 and 2017/2018.

FFML should take into consideration the information provided by the complainants, as well as the recent changes to the Capital Gains Tax ('CGT') annual exempt amount and dividend allowance in subsequent tax years. Given the information provided by the complainants, it is likely that some of the assumptions applied in FFML's previous calculation methodology will be amended. Otherwise, and aside from the length of time they would have held the investment for, I see no cause to depart from our published guidance.

To clarify, the main issue that the complainants face is that any growth on investment will now be subject to CGT, and dividends and interest received from investment will now be subject to dividend and income tax, especially because they are able to, and do, fully fund their ISA allowances each and every year. This means that there is no space to absorb the missed contribution amounts into their ongoing ISA subscriptions.

In cases like this, we make the following assumptions:

- Any charges on holding the investment outside the ISA will not be significantly different from those that would have applied if it had been held within an ISA.

- The consumer will pay tax on the investment at the highest rate applicable to them.

- The consumer's tax position will remain unchanged for as long as they hold the investment.

- The tax position of the investment will remain unchanged while they hold it.

- If the investment pays dividend distributions, it will return 7.5% each year (made up of 5% growth and 2.5% dividend).

- If the investment pays interest distributions, it will return 6% each year (made up of 1% growth and 5% interest).

- If the investment does not pay either interest or dividends, it will grow at 7.5% each year.

- The investment will be held for 10 years before it is sold.

The complainants' assets remain invested, but not within the ISA wrapper, so I am considering the impact of the potential tax liability only. I am persuaded by available information that they will more likely (than not) utilise their ISA allowances in full, and that they will not withdraw from their ISAs for at least

the next 15 years.

Redress is to ensure that the complainants do not lose out when they sell their investment. This is because if it was inside the ISA wrapper, they would not pay any CGT. Ordinarily we assume investments will be sold after 10 years. However, the complainants' evidence is that they have substantial alternative assets to rely upon for income for the next 25 to 30 years. Therefore, it is likely they will have no reason to cash in the investments for many years to come. However, 25 to 30 years is too long a time period to suggest.

I am persuaded that extending the assumed period to 15 years would be a reasonable compromise between our usual approach and what the complainants have proposed. It is of course impossible to say precisely when the capital would be withdrawn from the ISAs, but given the information the complainants have provided about their finances, I am satisfied that it is likely to remain in the ISAs for longer than 10 years.

FFML should use the assumption of 15 years when calculating what they have lost in not having their allowance amounts invested in their ISAs in and from the relevant tax years. It should use the following assumptions when calculating that potential loss:

- Any charges on holding the investment outside the ISA will not be significantly different from those that would have applied if it had been held within an ISA.

- The complainants will pay tax on the investment at the highest rate applicable to each of them. In this case an assumption of basic rate tax should be used for both of them.

- The tax position of the investment will remain unchanged. However, FFML should account for the already known changes to the CGT allowance (reducing to £6,000 in the tax year ending 5 April 2024, and to £3,000 in the tax year ending 5 April 2025). This is because the impact of the reducing CGT allowance means that the complainants will more likely (than not) fully utilise their CGT allowances from the tax year ending 5 April 2024 onwards, which is reflected in the assumptions below. To clarify, the CGT allowance should be assumed to remain unchanged at £3,000.

- The complainants' CGT allowances are available up until the tax year ending 5 April 2024, where the CGT allowance begins to reduce.

- The complainants' CGT allowances are fully utilised from the tax year ending 5 April 2024 and are not available.

- The complainants' savings allowances have been fully utilised and are not available.

- The complainants' dividend allowances have been fully utilised and are not available.

- The complainants' balanced portfolio consists of 50% interest paying investments, and 50% dividend paying investments.

  a. For the portion of the investment that pays dividend distributions, it will return 7.5% each compounded year (made up of 5% growth and 2.5% dividend).

  b. For the portion of the investment that pays interest distributions, it will return 6% each compounded year (made up of 1% growth and 5% interest).

- The investment will be held for 15 years before it is sold.

Separately, and to compensate the complainants for the distress and inconvenience caused by the missed ISA subscriptions, and for their time and effort in trying to resolve the matter, FFML must pay them £300 each. I consider this to be fair given the circumstances of their case and given my findings in this decision.

compensation limit

Where I uphold a complaint, I can make a money award requiring a financial business to pay compensation of up to £150,000, £160,000, £170,000, £190,000, £350,000, £355,000, £375,000 or £415,000 (depending on when the complaint event occurred and when the complaint was referred to us) plus any interest that I consider appropriate. If fair compensation exceeds the compensation limit the respondent firm may be asked to pay the balance. Payment of such balance is not part of my determination or award. It is not binding on the respondent firm and it is unlikely that a complainant can accept my decision and go to court to ask for such balance. A complainant may therefore want to consider getting independent legal advice in this respect before deciding whether to accept the decision.

In the complainants' case, the relevant complaint events occurred before 1 April 2019 and the complaint was referred to us after 1 April 2022, so the applicable compensation limit would be £170,000.

decision and award

I uphold the complainants' complaint on the basis stated above. Fair compensation should be calculated as I have also stated above. My decision is that FFML should pay them the amount produced by that calculation, up to the relevant maximum.

recommendation

If the amount produced by the calculation of fair compensation is more than the relevant maximum, I recommend that FFML pays them the balance. This recommendation is not part of my determination or award. FFML does not have to do what I recommend.

My final decision

For the reasons given above, I uphold the complaint from Mr H and Mrs W only with regards to issue 1.

I order Fairstone Financial Management Limited to calculate and pay them redress and compensation for trouble and inconvenience as set out above, and to provide them with a copy of the calculation in a clear and simple format.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H and Mrs W to accept or reject my decision before 29 January 2024.

Roy Kuku
Ombudsman