

## **The complaint**

Mr M complains about the advice given by Ideal Financial Management Limited ('Ideal') to transfer the benefits from his defined-benefit ('DB') occupational pension scheme with British Steel to a personal pension. He says the advice was unsuitable for him and believes this has caused a financial loss.

## **What happened**

I issued my provisional decision of July 2023 saying that I intended to uphold Mr M's complaint and direct Ideal to put things right by undertaking a redress calculation in line with the rules for calculating redress for non-compliant pension transfer advice. A copy of the background to the complaint, and my provisional findings, are below in italics and form part of this final decision.

## **What I said in my provisional decision**

### ***What happened***

*In March 2016, Mr M's employer announced that it would be examining options to restructure its business, including decoupling the BSPS (the employers' DB scheme) 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 private pension arrangement.*

*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 choice was 11 December 2017 (and was later extended to 22 December 2017).*

*Mr M chose to opt into the BSPS2 – but because he was concerned about what the recent announcements by his employer meant for the security of his DB scheme, he sought advice. Mr M met first with an adviser in December 2017, but because they didn't have the necessary permissions to provide advice on DB pension transfers, they referred Mr M to Ideal.*

*Mr M met with Ideal in January 2018. It completed a financial planning questionnaire with him to gather information about his circumstances and objectives.*

*Amongst other things this recorded that Mr M was aged 53; he was working full-time; he was living with his partner; his children weren't dependant; he owned his own home with an outstanding mortgage; and he had a small amount in savings. Ideal also carried out an assessment of Mr M's attitude to risk, which it deemed to be 'cautious to moderate' – a score of two on scale of one to five.*

*Mr M's main priority – as recorded on a Pension Transfer Attitude Questionnaire was to retire early and at age 55.*

*On 10 January 2018 Ideal produced a Pension Transfer Initial Assessment and Summary document. This summarised Mr M's circumstances and objectives and brought together Ideal's analysis of the features and benefits of the BPS2 versus a personal pension arrangement. Ideal concluded here that Mr M should transfer to a personal pension arrangement unless his priority was for a guaranteed growing income and he didn't want to take any investment risk.*

*On 14 January 2018 Ideal advised Mr M to transfer his pension benefits into a personal pension and invest the proceeds within a managed investment which it deemed matched Mr M's attitude to risk. In summary the suitability report said the reasons for this recommendation were: it reflected Mr M's investment objectives and access requirements; it allowed Mr M to utilise the recently introduced pension freedoms; and it provided Mr M with greater control over how death benefits could be paid allowing his children to benefit from any unspent funds.*

*Mr M accepted the recommendation and a short while after around £549,000 (a combined figure representing two tranches or periods of service) was transferred to his new personal pension.*

*Mr M complained to Ideal in 2020, using the services of a representative, about the suitability of the advice he received.*

*Ideal didn't uphold Mr M's complaint. In summary it said Mr M's objective could not be met by remaining in the DB scheme – he would not have been able to secure his main objective of early retirement on an income to meet his lifestyle. It said Mr M confirmed as much in a handwritten note explaining why he decided to proceed with the transfer.*

*Dissatisfied with its response Mr M referred his complaint to our service. An investigator upheld the complaint and required Ideal to pay compensation. In summary they said Ideal's transfer analysis showed that the growth rate required to match Mr M's existing scheme benefits at both 55 and 65 wasn't likely to be achievable, particularly given Mr M's recorded attitude to risk. And they said there were no other reasons to justify the transfer and worth giving up his guaranteed benefits for. They said there was no clear evidence that Mr M wanted to retire early at the time of the advice. They said it had to be a realistic and achievable option, which was something Mr M could've decided nearer the time – he didn't have to make an irreversible decision to transfer now. They said that death benefits wasn't a sufficient reason to support a transfer – a pension is designed to provide an income in retirement – when life assurance could've been explored to address this. They said Mr M should've been advised to transfer to the PPF, which he would've followed.*

*Ideal disagreed. It provided a substantive response commenting against many of the investigator's paragraphs. While I have read its submission in full, I've not repeated all of it here. In summary Ideal said that Mr M's main priority was to retire at 55 – this is what was recorded in the advice paperwork at the time – and this is what he went on to do. It said it doesn't understand why the investigator concluded there was no conclusive evidence when Mr M wanted to retire.*

*It said Mr M could not have met his objective by remaining in the DB scheme. It said even if Mr M used the tax-free cash to repay his mortgage it would only have just been enough to meet his need if he used his partner's income. It said Mr M separated from his partner shortly after the transfer, so if he'd stayed in the scheme he would've had to get another job. It believes the advice was suitable - it said the cash flow comparisons supported the transfer.*

*It said both it and Mr M considered it was worth taking the risk of transferring and it still stands by the recommendation. It said if Mr M had pursued the opinion of the investigator, he'd still be working; he wouldn't have met his objective for a higher income; he wouldn't have income flexibility; and he wouldn't have the potential to pass on his pension fund to his beneficiaries.*

*Ideal also said that separate to the suitability of advice, it believes any loss calculation should be made against the PPF and not the BSPS2. It said the BSPS2 was not certain to go ahead at the time – it was only a proposal. And while in hindsight it did go ahead, using it as a metric would be wrong.*

*In response to the investigator's opinion, Mr M's representative said that it believed it was appropriate and fair for Ideal to calculate losses both on the basis of the BSPS and the PPF (and at age 65) and Mr M should be compensated on whichever produced the higher loss.*

*The investigator wasn't persuaded to change their opinion. They said while they noted Ideal's comment that Mr M retired at 55 and started taking an income, they still thought he should've been advised to take benefits early from the scheme which would've given him a guaranteed income for life.*

*While Ideal maintained its view that the advice was suitable, it carried out a loss calculation based on the benefits available to Mr M through the PPF at age 60, which showed there was no redress due. But it offered £300, recognising the investigator's recommended distress and inconvenience award, to settle the matter.*

*Mr M rejected the offer. He said his needs weren't finalised at the time of the advice and there was a high possibility he'd continue working until 65. He said he relied on the negligent advice and started taking an income at 55 and he retired. Mr M said that he didn't realise the detrimental impact taking his benefits 10 years early would have. Mr M said that while he initially took an income of £24,000 a year from his pension, he's been advised to reduce it to £16,500 to avoid running out of funds. He said he should've been advised that it was in his best interests to be in the BSPS2 – so the offer should be based on the benefits available to him through the BSPS2 and at age 65.*

*Because things couldn't be resolved informally, the complaint has come to me for a decision.*

### ***What I've provisionally 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. This includes the Principles for Business ('PRIN') and the Conduct of Business Sourcebook ('COBS'). 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.*

#### ***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 Ideal'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.*

*Having considered all of this and the evidence in this case, while I've decided to uphold the complaint for largely the same reasons given by the investigator, I want to expand on my reasoning including clarifying the basis upon which I think the redress calculation should be carried out. My reasons are set out below.*

*The regulator, the Financial Conduct Authority ('FCA'), states in COBS 19.1.6G that the starting assumption for a transfer from a DB scheme is that it is unsuitable. So, Ideal should have only considered a transfer if it could clearly demonstrate that the transfer was in Mr M's best interests. And having looked at all the evidence available, I'm not satisfied it was in his best interests.*

#### *Financial viability*

*Ideal carried out a transfer value analysis report (as required by the regulator) showing how much Mr M's pension fund would need to grow by each year in order to provide the same benefits as his DB scheme (the critical yield). And because Mr M had chosen to opt-in to the BSPS2, this was based on the benefits available to him under the BSPS2.*

*The advice was given after the regulator gave instructions in Final Guidance FG17/9 as to how businesses could calculate future 'discount rates' in loss assessments where a complaint about a past pension transfer was being upheld. Prior to October 2017 similar rates were published by the Financial Ombudsman Service on our website. Whilst businesses weren't required to refer to these rates when giving advice on pension transfers, they provide a useful indication of what growth rates would have been considered reasonably achievable for a typical investor.*

*Mr M was 53 at the time of the advice and he wanted to retire at 55, if affordable. The critical yield required to match Mr M's benefits at age 55 was 44.97% if he took a full pension and 32.25% if he took a cash lump sum and a reduced pension. Ideal also produced figures at age 65 – these were 9.11% and 7.45% respectively. The critical yield to match the benefits available through the PPF at age 55 was quoted as 25.52% per year if Mr M took a full pension and 22.83% per year if he took a reduced pension.*

*The relevant discount rate closest to when the advice was given which I can refer to was published by the Financial Ombudsman Service for the period before 1 October 2017, and was 2.5% per year for one year to retirement. I've kept in mind that the regulator's projection rates had also remained unchanged since 2014: the regulator's upper projection rate at the time was 8%, the middle projection rate 5%, and the lower projection rate 2%.*

*I've taken this into account, along with the composition of assets in the discount rate, Mr M's 'cautious to moderate' attitude to risk and also the term to retirement. In my view there would be little point in Mr M giving up the guarantees available to him through his DB scheme only to achieve, at best, the same level of benefits outside the scheme. But here, the lowest*

critical yield was 7.45%. And this was based on a retirement age of 65. For Mr M's intended retirement age of 55, the lowest critical yield was in excess of 30%.

Given this rate was so far above both the discount rate and the regulator's upper projection rate, I think Mr M was most likely to receive benefits of a lower overall value than those provided by the BPS2 if he transferred to a personal pension and invested in line with a 'cautious to moderate' attitude to risk.

In my view, to have come close to achieving the level of growth required to exceed the benefits provided by the BPS2 if he transferred to a personal pension, would've required Mr M to take significant amount of risk and higher than he indicated he was prepared to take. And even then I think he'd still be no better off as a result of transferring. I'd add here that given the critical yields based on Mr M's normal retirement age of 65, I don't think the position was very different.

If the BPS2 hadn't gone ahead, albeit at this stage all of the indications were that it would go ahead, Mr M would've moved with the scheme to the PPF. And given the critical yields of 25.2% and 22.83% I referred to above, it seems likely to me that Mr M would also be worse off in retirement as a result of transferring even if the scheme moved to the PPF.

I can see that Ideal produced various cashflow analyses, which it says supports the transfer as being financially worthwhile or viable despite the high critical yields. I've considered these. Some of the analysis I will refer to below because it was produced to support the potential to build up a residual fund so Mr M could pass on monies to his beneficiaries upon his death.

The other analysis Ideal produced showed that to match Mr M's DB scheme income and to have a fund which lasted until he was 90 required an investment return of 3.54%. I believe the return quoted was before charges, so the gross return required was higher. In any event, as I said above, there would be little point in Mr M transferring only to match the benefits available to him through the DB scheme. But in this scenario, if Mr M did live a very long life and outlast his life expectancy, he would run out of money.

Ideal also produced analysis looking at Mr M's spending capacity – it said Mr M could spend an extra £8,300 a year should he transfer based on net growth of 4.5% a year on his pension. It also stress tested the analysis where it included periods of poor performance and assumed growth of 4.5% a year after charges for the remaining years. I think including stress testing was appropriate here - but nevertheless a net annual growth after charges equates to a gross annual return in excess of 6% a year (based on the annual charges Ideal quoted in the suitability report.) Given the regulator's standard projection rates (which I consider to be realistic as opposed to trying to project historic returns going forward) and taking account of Mr M's relatively low approach to investment risk, I'm not persuaded this required level of return would be considered reasonably achievable on a consistent annual basis. So I'm not persuaded this demonstrates the transfer was financially viable.

I'm also mindful that, if Ideal truly believed a transfer to a personal pension arrangement was financially viable for Mr M, it strikes me as somewhat odd in the way it worded the risk warning in the suitability letter. This said under disadvantages of transferring:

'If you take advantage of the flexible options within the plan, and draw an income in excess of that you could have received from your existing plan, there is a very real risk that you could deplete the pension fund. This would severely impact on your retirement income.' This appears to somewhat contradict Ideal's analysis conclusion that Mr M's spending capacity

was £8,300 a year greater by transferring.

*In any event, on the basis of financial viability alone a transfer out of the DB scheme wasn't in Mr M's best interests. But I accept financial viability isn't the only consideration when giving transfer advice, as Ideal has argued in this case. There might be other considerations which mean a transfer is suitable, despite providing overall lower benefits. I've considered this below.*

#### *Flexibility and income needs*

*Ideal's advice paperwork referred to the flexibility of a personal pension. Ideal said Mr M had: "the flexibility of taking the specific income required to meet your expenditure. You can also take the tax-free cash in many stages as opposed to just one payment."*

*But I don't think Mr M needed flexibility in retirement – I think this was simply a feature or a consequence of transferring to a personal pension arrangement. Mr M didn't for example have a need to access his tax-free cash early and defer taking income. And I can't see that he had a strong need for a variable income throughout retirement.*

*This was all about whether Mr M could afford to retire at 55. Because Mr M was 53 at the time of the advice, I think it's reasonable to assume that he'd given the matter some thought. That said, just because this was Mr M's main objective, which Ideal has repeatedly pointed out, this doesn't mean Ideal could simply facilitate what Mr M wanted. It's role was to really understand what Mr M needed and recommend what was in his best interests. And if that meant that it didn't think it was affordable for Mr M to retire at 55 or it wasn't in his best interests to transfer out of the BPS to achieve things then it should've said so.*

*Of course Mr M already had the early retirement option available to him – he didn't need to transfer out to achieve this. Ideal says that Mr M couldn't have achieved his objective by remaining in the scheme. But I think Ideal's analysis from the time shows that Mr M could've likely achieved things.*

*If Mr M took benefits from the BPS2 at 55, Ideal's analysis shows that he would be entitled to an annual income of £12,456 and a cash lump sum of around £83,000. Mr M's outstanding mortgage at 55 was due to be around £51,000, which he could repay using his cash lump sum. Without his mortgage, Mr M's household expenditure was around £23,000 a year. Mr M's partner was earning around £10,000 - it seems reasonable to include his partner's income given they were contributing to the overall household budget. So while their combined incomes would be just shy of their expenditure requirement, Mr M could use the remaining tax-free cash to supplement his income need until his state pension became payable. And while relatively small in value – likely around £10,000 at age 55 - Mr M also had his workplace DC pension he could access flexibly to supplement his need. By remaining in the DB scheme, Mr M's income was guaranteed and it escalated – he would not be reliant on investment performance to achieve things.*

*If the BPS2 didn't go ahead Mr M would've moved with the scheme to the PPF. And in this scenario Ideal's analysis shows both the income and tax-free cash Mr M would receive were higher - £15,423 a year and tax-free cash sum of just over £102,400 allowing Mr M greater opportunity to meet his needs. So there was nothing here which ought to have made a difference to the recommendation at this time.*

*Mr M said he'd retire early if it was affordable. But he didn't need to make this decision now – this was a decision he could make when he reached 55. But overall, I think Mr M could've likely met his income needs in retirement through the BPS2 or the PPF based on his indicated retirement age. So, I don't think it was in Mr M's best interests for him to transfer*

*his pension just to have flexibility, that I'm not persuaded he really needed.*

#### *Death benefits*

*I can see Ideal also recommended Mr M transfer his DB scheme benefits to provide him with more control over death benefits so he could allow his children to benefit from any unspent funds.*

*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 likely an attractive feature to Mr M. But whilst I appreciate death benefits are important to consumers, and Mr M might have thought it was a good idea to transfer his DB scheme to a personal pension because of this, the priority here was to advise Mr M about what was best for his retirement provisions. So while Ideal has made much of the analysis it produced to show the potential amount of liquid assets Mr M could build up in his pension and pass on to his beneficiaries, a pension is primarily designed to provide income in retirement – it is not primarily a legacy planning tool.*

*So I don't think Ideal should've encouraged Mr C to prioritise the potential for higher death benefits through a personal pension over his security in retirement.*

*If Mr M genuinely wanted to leave a legacy for his children, which didn't depend on investment returns or how much of his pension fund remained on his death, I think Ideal should've explored life insurance. It is my understanding that Mr M would've already had a significant death in service benefit through his employer. So he already had lump sum death benefits pre-retirement. But if he wanted an extra sum specifically for his children, he could've taken extra cover out and written it in trust for the benefit of his children. And the starting point for this needn't have been to base things on the full transfer value. Ideal should've asked Mr M how much he would ideally like to leave to his children, and this could've been explored on a whole of life or term assurance basis, which was likely to be a cheaper to provide.*

*Overall, I don't think different death benefits available through a transfer to a personal pension justified the likely decrease of retirement benefits for Mr M. And I don't think that insurance was properly explored as an alternative.*

#### *concerns over financial stability of the DB scheme*

*I think it's likely that Mr M, like many of his colleagues, was concerned about his pension. His employer had recently made the announcement about its plans for the scheme and he was worried his pension would end up in the PPF. There was lots of negative sentiment about the PPF. So it's quite possible that Mr M was also leaning towards the decision to transfer because of the concerns he had about his employer and what might happen.*

*But to a greater extent, these concerns were already alleviated because Mr M had decided to opt-into the BSPS2. And as I've already explained, at the time of the advice it seemed likely the BSPS2 would go ahead as envisaged – a position I think it was reasonable for Ideal to have adopted.*

*In any event, even if there was a chance the BSPS2 wouldn't go ahead and the scheme moved to the PPF, the position was not as concerning as he thought or was led to believe.*

*This is because if Mr M did follow through with his intention to retire at 55, Ideal's analysis showed that the income he'd receive would be higher at 55 than through the BSPS2 he'd chosen to opt-into - £18,564 a year as a full pension or £15,423 on a reduced pension basis.*

*Importantly Mr M was unlikely to be able to exceed this by transferring out. And although the increases in payment in the PPF were lower, the income was still guaranteed and was not subject to any investment risk. Mr M might not have been able to later transfer out of the PPF – but I'm not persuaded he had an apparent need to do so.*

*So I don't think that Mr M's concerns about the scheme was a compelling reason to transfer out of the DB scheme altogether.*

### *Summary*

*I don't doubt that the flexibility, control and potential for higher death benefits on offer through a personal pension would have sounded like attractive features to Mr M. But Ideal wasn't there to just transact what Mr M might have thought he wanted or seemed like a good idea. The adviser's role was to really understand what Mr M needed and recommend what was in his best interests.*

*Ultimately, I don't think the advice given to Mr M was suitable. He was giving up a guaranteed, risk-free and increasing income. By transferring, Mr M was very likely to obtain lower retirement benefits and in my view, there were no other particular reasons which would justify a transfer and outweigh this. Mr M shouldn't have been advised to transfer out of the scheme just to have flexibility, and the potential for higher death benefits wasn't worth giving up the guarantees associated with his DB scheme.*

*So, I think Ideal should've advised Mr M to remain in his DB scheme.*

*Of course, I have to consider whether Mr M would've gone ahead anyway, against Ideal's advice.*

*I've considered this carefully, but I'm not persuaded that Mr M would've insisted on transferring out of the DB scheme, against Ideal's advice. I say this because I don't think Mr M could reasonably be described as an experienced investor who possessed the necessary skill, knowledge or confidence to go against the advice they were given. In my view, Mr M had a fairly low-risk attitude to investing and this pension accounted for pretty much all of his private retirement provision. So, if Ideal 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've accepted that advice.*

*I'm not persuaded that Mr M's concerns about his death benefits and his employer were so great that he would've insisted on the transfer 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. If Ideal had explained that Mr M could likely meet all of his objectives without risking his guaranteed pension, I think that would've carried significant weight. So, I don't think Mr M would have insisted on transferring out of the DB scheme.*

*In light of the above, I think Ideal should compensate Mr M for the unsuitable advice, using the regulator's non-compliant pension transfer advice redress methodology.*

*I can see the investigator said that Ideal ought to have recommended Mr M move with the scheme to the PPF and it is on this basis the loss calculation should be carried out.*

*But importantly here, the advice happened after the time to choose exercise.*

*And Mr M had already chosen to opt-into the BSPS2 prior to receiving advice from Ideal – a decision that I understand from the scheme trustees could not be revoked.*



*So because at the time of the advice Ideal could not have recommended Mr M remain with the existing scheme and move with it to the PPF, as I will explain below, it is the benefits available to Mr M through the BPS2 that should be used in calculating the extent to which Mr M has lost out as a result of the unsuitable advice.*

*I can see the investigator also recommended an award of £300 for the distress and inconvenience the matter has caused Mr M. So I've also thought about whether it's fair to award compensation for distress and inconvenience - this isn't intended to fine or punish Ideal – which is the job of the regulator. But I think it's fair to recognise the emotional and practical impact this had on Mr M.*

*Taking everything into account, including Mr M's retirement status and that I consider he is now at the age when his retirement provision is of even greater importance, I think the unsuitable advice has caused him some distress. So I think an award of £300 is fair in all the circumstances.*

Ideal said it didn't intend to respond to my provisional decision and would wait for my final decision.

Mr M's representative replied and said they disagreed with my position that compensation should be based on Mr M taking benefits at age 55. In summary it said Ideal providing no analysis to show the value of the benefits at age 65. It says the early retirement discount factor was significant – something I did not refer to in my decision – which would've likely led Mr M to choose to continue working and delay taking his DB scheme benefits until age 65. It also commented on certain aspects of the advice – it said the only reason Mr M accepted the advice to transfer out and repay his mortgage was because this is a thought the adviser raised. Had he remained in the DB scheme it's unlikely this would've crossed his mind. It says Mr M feels he was misled about what he could expect by transferring both in terms of the income he could take from his pension and the size of his pension pot at age 86. It says this contributed to Mr M retiring early.

### **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.

Having done so and also thought carefully about what Mr M's representative has said in response to my provisional decision, I've decided to reach the same conclusion as I set out in my provisional decision and for the same reasons – I've not been persuaded to change my mind.

I've already given my reasons - in detail – why I think the advice Mr M received from Ideal to transfer out of his DB scheme into a personal pension arrangement was not suitable and was not in his best interests. So I won't repeat them again here.

I accept that Mr M's decision to retire was influenced by the advice he received by Ideal. But I'm also mindful that Mr M was 53 at the time of the advice and I think the recorded priority that he wanted to retire early was a reasonable one. As I said in my provisional decision, I think given Mr M's age and circumstances he would've given some thought to his retirement plans. And as I also set out, I think Mr M's objective of retiring at 55 on an income that could meet his needs could be met by remaining in his DB scheme and taking early retirement.

So if things had happened as they should have and Ideal had explained this clearly to Mr M, including explaining the early retirement reduction factors, and the fact that he couldn't expect to receive the same income he'd get at 65 10 years earlier, I still think he would've

followed that advice and, more likely than not, taken his DB scheme benefits at age 55.

In the circumstances, I'm not persuaded it is more likely that Mr M would've continued working until age 65 instead and delayed taking his DB scheme benefits. Furthermore, Mr M did retire and start taking benefits at age 55, so I also think it is fair to be led by what actually happened.

### **Putting things right**

A fair and reasonable outcome would be for the business to put Mr M as far as possible, into the position he would now be in but for the unsuitable advice. Because Mr M had already made his decision to opt into the BSPS2 (and this decision could not be revoked) I consider, if suitable advice had been given, Mr M would most likely have remained in the occupational pension scheme and then joined the BSPS2.

Ideal 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>.

Ideal should use the FCA's BSPS-specific redress calculator to calculate the redress. If Ideal does not yet have access to the calculator it should contact the supervision department of the FCA to seek access to it as soon as possible. A copy of the BSPS calculator output should be sent to Mr M and our Service upon completion of the calculation.

For the reasons I set out above, compensation should be based on Mr M taking benefits at age 55. And as I've also explained, because Mr M opted into the BSPS2, it is the benefits available to him under the BSPS2 that should be used for comparison purposes.

This 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 M's acceptance of my final decision.

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

- calculate and offer Mr M redress as a cash lump sum payment,
- explain to Mr M before starting the redress calculation that:
  - their 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 their redress prudently is to use it to augment their DC pension
- offer to calculate how much of any redress Mr M receives could be augmented rather than receiving it all as a cash lump sum,
- if Mr M accepts Ideal's offer to calculate how much of their redress could be augmented, request the necessary information and not charge Mr M for the

calculation, even if he ultimately decides not to have any of their redress augmented, and

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

Redress paid to Mr M as a cash lump sum includes compensation in respect of benefits that would otherwise have provided a taxable income.

So, in line with DISP App 4, Ideal 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 have been taken as tax-free cash and 75% would have been taxed according to Mr M'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.

Ideal should also pay Mr M £300 for the distress and inconvenience the matter has caused.

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 uphold this complaint and direct Ideal Financial Management Limited to pay Mr M the compensation amount as set out in the steps above, up to a maximum of £160,000.

Recommendation: If the compensation amount exceeds £160,000, I also recommend that Ideal Financial Management Limited pays Mr M the balance.

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

My recommendation would not be binding. Further, it's unlikely that Mr M can accept any final decision and go to court to ask for the balance. Mr M 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 M to accept or reject my decision before 17 August 2023.

Paul Featherstone

**Ombudsman**