DRN-4259603

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 ('BSPS') 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 the complaint and direct Ideal to pay Mr M compensation. 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 54; he was working full-time; he was single with no dependants; he had a few thousand pounds in savings; he had other assets of around £40,000 and no liabilities. Ideal also carried out an assessment of Mr M's attitude to risk, which it deemed to be 'moderate' – a score of three on scale of one to five.

Mr M's main priority – as recorded on a Pension Transfer Attitude Questionnaire was the ability 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 BSPS2 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 adopting a lower investment risk profile ('cautious') to Mr M's assessed 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 nominated beneficiaries to benefit from any unspent funds rather than the money returning back to the scheme.

Mr M accepted the recommendation and a short while after around £466,000 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 it carried out detailed cash flow forecasts including stress testing various scenarios to ensure Mr M's requirements could be met in a variety of situations. It said Mr M confirmed his requirements 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 this was a decision he could've made nearer the time - he didn't have to make an irreversible decision to transfer now. They said if it was Mr M's desire to retire at 55 they thought he would've benefitted from the higher starting level of income through the PPF, so he should've been advised to transfer to the PPF, which they believed he would've followed.

Ideal disagreed. In summary it 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 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.

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 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 particularly in relation to the assumptions that should be used to calculate redress. 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 54 at the time of the advice and he ideally wanted to retire at 55. The critical yield required to match Mr M's benefits at age 55 was in excess of 50% if he took either a full pension or if he took a cash lump sum and a reduced pension. Ideal also produced figures at age 65 – these were 8.79% and 6.75% respectively. The critical yields to match the benefits available through the PPF at age 55 were quoted as being in excess of 50% per year if Mr M took a full pension and 44.69% 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 2.3% based on a retirement age of 55. 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 '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 6.75%. But this was based on a retirement age of 65. For Mr M's intended retirement age of 55 and what the advice was predicated on, the critical yield was in excess of 50%.

Given this rate was so far above both the discount rate and the regulator's upper projection rate, I think Mr M was likely to receive benefits of a substantially lower overall value than those provided by the BSPS2 if he transferred to a personal pension and invested in line with a 'moderate' attitude to risk, notwithstanding the fact that he actually invested in a lower risk profile fund.

If the BSPS2 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 were also significant – the lowest was 44.69% as I referred to above - it seems likely to me that Mr M would also be worse of in retirement as a result of transferring even if the scheme moved to the PPF.

I'm mindful that Mr M was single and the critical yields above are based on providing the same benefits as Mr M's DB scheme, which included a spouse's pension. I can see Ideal also referred to the 'Hurdle' rate in its advice paperwork because of this – this is the estimated annual return needed to match the starting level of the DB pension but ignores *any spouse's pension or increases in payment. And this was significantly lower – minus 18.98% (full pension) and minus 20% (reduced pension and a cash lump sum.) But while I appreciate Mr M might not have been concerned about the spouse's pension at this time – albeit he might have married in the future in which case it would be of relevance – crucially the hurdle rate ignores increases in the pension payment. So I still think the critical yield is important and reflects the true value of the DB pension benefits Mr M was considering giving up.*

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. And I've considered these.

Firstly Ideal produced analysis to show the investment return needed to ensure Mr M's pension fund lasted until 90 assuming he took the same level of income from his pension as his DB scheme provided. And this showed it required an investment return of 3.15% a year. 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.

Ideal also produced analysis looking at Mr M's spending capacity. This said Mr M could spend an extra £5,264 a year compared to remaining in the DB scheme - a withdrawal of just over £24,400 - should he transfer based on net growth of 4.5% a year on his pension fund. 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 the cautious risk investment fund recommended, I'm not persuaded this required level of return would be considered reasonably achievable on a consistent annual basis. In any event, the analysis showed that in this scenario Mr M would run out of money at age 83. So I'm not persuaded this demonstrates the transfer was financially viable.

For this reason 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 a transfer would provide Mr M with the flexibility in how and when he chose to take funds as well as have access to a higher tax-free cash lump sum.

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 – his expenditure need appears to have been fixed. And because Mr M didn't have a mortgage or other liabilities to deal with, I can't see he had a specific need to have access to a higher tax-free cash lump sum available to him by transferring.

Mr M's main objective was to retire early and ideally at age 55. Because Mr M was 54 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 BSPS to achieve things then it should've said so.

Of course Mr M already had the option available to him to retire early – he didn't need to transfer out to achieve this. But Ideal says that Mr M couldn't have achieved his objective by remaining in the scheme.

According to Ideal's analysis, Mr M's basic expenditure need was around £16,000 a year and when 'leisure activities' were added, this took his annual expenditure need to around £21,700 a year. Ideal recorded that, according to Mr M's time to choose information, his expected annual pension income from the BSPS2 at age 55 was estimated to be £15,082. On the face of it, this would suggest there was an income shortfall.

But I'm mindful that the expenditure need Ideal recorded appears to be based on Mr M's current expenditure while he was working. I've not seen a breakdown of how the total expenditure figure was arrived at – Ideal's advice paperwork only shows the total figure and not amounts against individual categories, such as utilities, food, transport etc. But while I accept Mr M was renting, and so in retirement this cost would continue, in my view an expenditure figure of £21,700 a year appears quite high for a single person.

I can see Mr M indicated in the pension transfer questionnaire Ideal completed, that he was happy to accept a lower pension for retiring early. But Ideal's file doesn't suggest that it fully explored this and the extent to which Mr M might have been able to adjust his lifestyle to make things work by interrogating his expenditure. Had it done so, it's possible that a starting income of £15,082 knowing that it was guaranteed and would increase in value, might have worked for Mr M meaning that his needs could be met by remaining in the DB scheme. Furthermore Mr M had a small amount in savings, he had a small amount in his workplace DC pension scheme and he had assets of around £40,000. So Mr M could've used these to supplement his pension income until his state pension became payable.

But ultimately Mr M didn't need to make his decision now. Mr M could've taken the time to re-think his plans and expenditure need and decide, when the time came, to what extent he was prepared to accept a lower pension income by retiring early at 55.

So overall I don't think it was in Mr M's best interests for him to transfer his pension at this stage 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 how death benefits could be paid.

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 might have sounded like an attractive feature to Mr M –

Ideal recoded that Mr M was keen for his brother and his family to benefit from any residual funds.

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 provision.

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 M to prioritise the potential for higher or death benefits through a personal pension over his security in retirement – even more so because Mr M was single and he didn't have any dependants to take care of.

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.

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. I can see Mr M indicated in the pension transfer attitude questionnaire that he wanted to break all ties with his employer and move his pension to an arrangement under his control.

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.

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, his starting pension income was likely higher than the £15,082 a year Ideal recorded the BSPS2 would offer him at 55 based on Mr M's 'Time to Choose' information (the PPF offered a favourable reduction for very early retirement.) 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 a 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 or different 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. Mr M had a relatively low-risk attitude to investing and this pension was the primary source 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 his objective 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 which, 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 BSPS2 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 indicated that it wouldn't be responding to my final decision and it would wait for my final decision.

Mr M's representative replied. It said it disagreed that the compensation should be based on Mr M taking his benefits at age 55. In summary it asked me to consider the following:

- Mr M was advised he could retire at 55 – but his plans weren't set in stone and he says he would've continued working and allowed his pension time to grow if he was advised to do so. He says he didn't realise it would be detrimental to him retiring 10 years before the scheme's normal retirement age.

- Ideal didn't make the effects of early retirement apparent in either scenario of staying in the DB scheme or transferring out.

- Mr M has had to reduce his income withdrawal from his pension to avoid exhausting his pension fund. Given Mr M's limited investment experience, the Ombudsman must question the extent to which Mr M would've had confidence in unknown investment returns producing the required income for the rest of his life. Mr M says he would not have transferred his pension if he was advised that unsustainable levels of drawdown would affect his standard of living in retirement.

- Mr M may have been open to working outside of his industry in a reduced capacity to supplement the income from his pension.

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

Mr M's representative has made several points to highlight why the advice to transfer out of the BSPS was unsuitable for Mr M. I've already concluded it was unsuitable for the reasons I explained in detail in my provisional decision – so it's not necessary to repeat these here.

I'm still of the view that given Mr M was 54 at the time of the advice, had things happened as they should have and he'd been advised to stay in the DB scheme, he would've most likely still taken his DB scheme benefits early and retired at 55. As I said, I think the income from the DB scheme would've likely been sufficient to meet his needs, particularly given he indicated he was willing to accept a lower pension in return for the opportunity of retiring early. And as Mr M's representative has said, if the income from the DB scheme wasn't enough, he could've chosen to supplement it through part-time work.

For this reason, and because Mr M did retire at 55 and start taking his pension benefits, I think it is fair for Ideal to calculate compensation on the basis that Mr M would most likely have accessed his DB scheme benefits at the same age had suitable advice been given.

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. I consider that, if suitable advice had been given, Mr M would most likely have remained in the occupational pension scheme and because he'd already chosen to opt into the BSPS2, he would've 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. A copy of the BSPS calculator output should be sent to Mr M and our Service upon completion of the calculation.

For clarity, Mr M retired at 55 and started drawing his benefits. So, as I've explained above, compensation should be based on him taking benefits at this age.

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 will be treated as income for tax purposes. 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 in recognition of the distress and inconvenience this 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 a subsequent 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 18 August 2023.
Paul Featherstone
Ombudsman