DRN-4640810

The complaint

Mr D complains about the advice given by Succession Wealth Management Ltd trading as Succession Wealth ('SWM') to transfer the benefits from his defined-benefit ('DB') occupational pension scheme to a self-invested personal pension ('SIPP'). He says the advice was unsuitable for him and believes this has caused a financial loss.

What happened

Mr D was a deferred member of his former employer's DB scheme. In December 2016, after a former colleague made a recommendation, Mr D approached SWM to discuss his financial position and his pension and retirement needs.

SWM completed a fact-find to gather information about Mr D's circumstances and objectives. Amongst other things SWM recorded that:

- Mr D was married with four dependent children.
- He was employed in a senior position earning around £250,000 a year.
- He owned his home subject to a mortgage of around £330,000.
- He had an unsecured loan of £25,000.
- He was in the process of selling an investment property. He anticipated receiving around £100,000 gross – before a capital gains tax deduction – from the sale. He intended to use the proceeds to repay his unsecured loan and reduce his mortgage.
- He had savings of £30,000 but had no other realisable investments.
- He had a defined contribution ('DC') pension with his, then current, employer with a value of around £111,700, however, he had stopped contributing to that plan to avoid 'lifetime allowance' tax implications.
- He was the employer nominated trustee of a DB scheme.
- His DB scheme had a cash equivalent transfer value ('CETV') of around £957,200.
- At age 60 the DB scheme would pay Mr D a full pension of around £48,500 a year or a tax free cash ('TFC') lump sum of around £232,250 together with a reduced pension of £34,800.
- His DB scheme had a normal retirement age of 60.
- His attitude to risk was initially assessed as *adventurous* but after discussing this with Mr D SWM reduced it to *moderately adventurous*.

After receiving a transfer value analysis report ('TVAS') in May 2017 SWM gave Mr D a 'recommendation report' setting out its analysis and recommendations. Such reports are often referred to as suitability reports and that's the term I will use in this decision. SWM set out Mr D's objectives which included:

- Taking control of his DB pension fund.
- Taking a retirement income of at least £2,000 a month, but preferably £4,000 a month and supporting that income with work in non-executive rolls until the age of 70.
- Mr D wanted to protect the value of his pension fund for the benefit of his family in the event he didn't live to his life expectancy.
- To have flexible access to his pension funds.

SWM recommended that Mr D should transfer his DB funds and invest in specific investment vehicles held within a named SIPP. Mr D accepted SWM's recommendation and the transfer went ahead.

In 2021 Mr D divorced. His transferred pension funds were subject to divorce settlement negotiations. Mr D said the implications of the treatment of his transferred pension if he should divorce wasn't brought to his attention during the advice process. This caused him to think about the implications of the transfer. He subsequently asked SWM to review its advice. It instructed a third party reviewer to do so. Their conclusion was that the transfer was suitable for Mr D. Mr D then formally complained about the transfer. SWM didn't uphold his complaint.

Mr D brought his complaint to the Financial Ombudsman Service. One of our Investigators looked into it. He didn't think SWM had dealt with Mr D fairly. Briefly, he said the growth rate required to match the benefits from the DB scheme – the critical yield – was 7.3%. In comparison the discount rate (a projected growth rate the Financial Ombudsman Service published at the time of the advice) was 4.1% a year until Mr D's retirement at age 60. The regulator's projections were 2%, 5%, and 8% for low, mid and upper projected growth rates respectively. As such, our investigator felt that Mr D was likely to be worse off in retirement by transferring out of the scheme. He didn't think any of the other reasons SWM gave for recommending the transfer were good enough for Mr D to give up the guarantees of his DB scheme for.

As a result our Investigator recommended SWM should establish if Mr D has suffered a financial loss as a result of the transfer and if so pay appropriate compensation. The Investigator added that SWM should pay Mr D £200 to address his distress and inconvenience caused by the impact of the unsuitable advice.

SWM didn't agree with our Investigator's complaint assessment. As the matter wasn't resolved informally it's been referred to me to make a final decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In bringing this complaint and in responding to it both Mr D and SWM have made a number of points. I've carefully considered everything on file. But, in this decision I don't intend to address each and every issue raised. Instead I will focus on what I see as being the key matters at the heart of Mr D's complaint and the reasons for my decision.

When doing so 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 Businesses ('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 SWM'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, I've decided to uphold the complaint for largely the same reasons given by the investigator.

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, SWM should have only considered recommending a transfer if it could clearly demonstrate, on contemporary evidence, it was in Mr D's best interests. And having looked at all the evidence available, I'm not satisfied it was in his best interests.

Financial viability

When thinking about whether or not it's in a consumer's best interests to transfer out of a DB scheme, one of the key considerations is whether or not a consumer will be better or worse off in retirement by doing so. So that's the first point I intend to consider.

SWM has taken issue with our Investigator's reference to our published discount rates. It said that the discount rate didn't reflect the likely investment returns for someone with a moderately adventurous risk appetite like Mr D's. So it didn't think this was a fair comparison. In those circumstances, while I generally find discount rates a useful guide in assessing financial viability, given that firms weren't required to refer to them and it seems SWM didn't consider those, I don't intend to rely on them here. However, I don't think that means that the transfer was financially viable.

SWM said that a moderately adventurous investor could expect investment returns of around 6% to 8% over a rolling three year period. If that assumption was accurate, and SWM said these figures couldn't be guaranteed and could be higher or lower, then there was some potential for Mr D to improve on his benefits compared with the critical yield of 7.3%. But, if the returns were at the lower end of 6%, then there was equally potential for him to be worse off.

As I've said above there was some potential for Mr D to match or possibly exceed the returns he could expect from his DB scheme by transferring. But there would be little point in Mr D giving up the guarantees available to him through his DB scheme only to achieve a level of benefits outside the scheme that was broadly comparable to what he would receive from remaining in it. That's because, in order for the potential to improve slightly on the DB benefits, he would need to put his pension funds at significant risk. But here, given that SWM's predicted returns were broadly equivalent to the critical yield, then the scope for gains was small. And, if the investments consistently performed in the middle of that range, at 7%, then the fund would be unlikely to meet the required critical yield. Also, if the fund suffered from a prolonged period of poor performance or experienced a market crash leading to losses Mr D could find himself significantly worse off in retirement.

Further, by transferring out of the DB scheme Mr D would have to pay the fees and charges that are required in order to invest in a SIPP. And those would reduce any gains the funds made. Those are not charges he would have had to pay if his pension remained in the DB scheme.

SWM said that cash flow analysis was a more appropriate method of assessing suitability. While cash flow analysis can be a useful tool, like any other predictions for the future they require the assumptions used to be accurate and come to fruition. So I don't find them a better method of assessing financial viability than other comparators. And, at the time of SWM's advice, the regulator required a comparison based on reasonable assumptions and the critical yield was an accepted assumption to use at that time.

However, as I've already said, I accept that cash flow analysis can be a useful tool. And SWM said in its suitability report that a return at the regulator's mid-level projection rate would allow Mr D to meet his lifestyle requirement in retirement. That might be the case. But Mr D could have also met his minimum income requirements while remaining in the DB scheme. So he had no *need* to transfer out of it in order to meet his income needs in retirement. And, as I've already said, doing so meant putting his otherwise safeguarded benefits at risk.

In addition, Mr D was 46 years old at the time of the advice. He was still over 13 years away from the scheme's normal retirement age. A lot could happen in that time. And, he had no pressing need to transfer when he did. If he'd remained in the DB scheme, he could have considered transferring out of it nearer to his retirement date if that was what he wanted to do, when he knew a little more about what his retirement plans were likely to look like. So, I don't think he had any need to transfer when he did.

However, I've gone on to consider some of the other reasons SWM gave for recommending a transfer. When doing so, I've been mindful that SWM's role was to find out what Mr D's wants and needs were and why. Its role wasn't simply to do what Mr D wanted without appropriate analysis and challenge of his motives for doing so, in order to ensure its recommendation was in his best interests. Also while I've considered all the evidence in SWM's suitability report, I've focused here on its responses to our Investigator's complaint assessment.

Mr D's knowledge and experience

SWM said that Mr D has worked in financial services for a considerable period. And he has held – and continues to hold – senior positions within the financial services industry. Further, SWM pointed out that Mr D is a trustee of a former employer's DB scheme. SWM said that Mr D's knowledge and experience indicate that he would have an understanding of the benefits of a DB scheme and the risks that come with transferring out of one. Also that he would be well informed to present clearly articulated objectives, with the accompanying knowledge of how these would have an impact on him.

I accept that Mr D has spent the majority, if not all, of his career in the financial services industry, rising to hold senior positions. It's also evident Mr D is an intelligent man and no doubt the roles he's held have required him to develop and display keen analytical and critical thinking abilities. Those would certainly be of help to him when reviewing and thinking about SWM's pension advice.

But there are numerous roles within the financial services industry. And even those in positions of superiority won't necessary have an in-depth understanding, knowledge or experience of all the demands of the roles of their colleagues. Especially if those roles are not necessarily ones where an individual has required any hands-on experience of. And I've seen no evidence that Mr D has ever worked within the pensions sector, or, in fact, that he would have a detailed understanding of investing on an individual basis.

In fact Mr D told us that he was inexperienced in dealing with investments. He said the only shares he's ever held were those associated with his employment, which he acquired through a 'buy as you earn' scheme. So he doesn't have experience of share dealing or equities in general. And, while he may have a better understanding of the financial services industry than most I don't think that means he could rely on his own knowledge over a matter which requires specific knowledge and explicit qualifications, such as transferring out of a DB scheme.

Further, it's not in dispute that Mr D is a DB scheme trustee. And I agree with SWM that it's likely he would have an understanding, generally, of how DB scheme's work and what they offer. But that's not the same as appreciating the inherent value of their safeguarded benefits. Mr D's told us that he was attracted to the proposition of the transfer by the large CETV on offer. I can understand that sentiment, I think many people, even those in higher paid occupations like Mr D who didn't have huge sums saved or invested would see being offered a sum of over £950,000 as very attractive. But even if that wasn't the case for Mr D, the fact that he had some knowledge of the financial services industry didn't mean that SWM wasn't required to do a thorough analysis of his options and recommend what was in his best interests.

Also, Mr D's told us that his role as a DB scheme trustee involved managing risk, governance and the scheme administration as a whole. The trustees took advice from professional pension administrators. They also worked with a well-known accountancy and consultancy firm in terms of the funding of the scheme and investments. I accept Mr D's evidence here. I also accept that scheme trustees would not need pension qualification nor a detailed knowledge of the mechanics of how the scheme operated on an individual level for its members. Similarly, his involvement as a DB scheme trustee was unlikely to give him particular knowledge or experience of assessing individual pension needs.

Mr D may well have a far greater understanding of the financial service industry and indeed the inner workings of DB pension schemes than most. But he had little experience in investing. And SWM was tasked with giving him robust advice tailored to his needs and objectives, and, if it felt those objectives, which involved giving up his safeguarded benefits, weren't in his best interests it should have explained why.

SWM's role wasn't simply to facilitate what Mr M said he wanted without challenging his motives. I don't think it's demonstrated that it met those obligations. And as knowledgeable as Mr D might be about the financial sector in general that doesn't mean he was an experienced investor. He had owned shares from his former employer which he acquired while working for that employer. But I'll repeat that he had no experience in trading in shares or of dabbling in the wider equities markets. Mr D was not and still isn't a pension transfer specialist, nor was he approaching the matter from a dispassionate perspective. Instead he was paying SWM for its expertise in the matter and was looking to it for it to exercise its due care, skill and diligence in giving him advice. Its advice was that he should transfer his DB pension. But I think that there was a significant chance that could put his security in retirement at risk. I don't think that was in his best interests.

Control

SWM's said that Mr D had serious concerns about the ongoing viability of his former employer and was concerned that his DB pension might go into the pension protection fund ('PPF')[1]. So he wanted to take control of the DB pension funds.

I'm aware that at the time Mr D approached SWM for advice his former employer had received a worrying resilience assessment. As a result, amongst other things, it had been the subject of a number of media discussions about its ongoing viability. And I accept that Mr D told SWM that he had concerns about his former employer's future and its ability to be able to continue to fully fund the DB scheme. Mr D said he was concerned that if that happened his DB funds would be transferred to the PPF.

I can understand why this would have been a cause for concern for individuals like Mr D. But at that time, his former employer was largely government owned. And while that didn't preclude the prospect of it failing completely it did reduce that likelihood. So there was little evidence that any potential collapse would happen overnight.

I don't doubt that Mr D had some legitimate concerns about the security of the DB scheme. I also understand there will be instances where a client seeks financial advice with preconceived notions or concerns about the financial health of an employer or pension scheme. And the evidence indicates that Mr D was keen on transferring when he sought advice. But SWM was tasked with rationally addressing Mr D's concerns and providing an appropriately balanced view of all the available options. And in order to recommend that Mr D should transfer out of his DB scheme SWM needed to be able to clearly demonstrate that doing so was in his best interests. But I don't think the prospect of Mr D's DB scheme moving to the PPF was imminent. In fact, as far as I'm aware, this hadn't been indicated as a likely possibility by the employer itself or informed commentators at the time. And I note that SWM said in its suitability report that the government's stake in Mr D's former employer's business should give him some comfort. So, I don't think that, at the time of SWM's advice, the prospect of Mr D's DB funds moving to the PPF was a likely possibility. And as such, I think SWM should have made it clear to him that this alone wasn't a good reason to transfer his DB scheme funds at that time.

So, I'm not persuaded that the concerns Mr D had about the security of his DB scheme when he entered into the advice process was sufficient reason for SWM to recommend he should transfer his safeguarded benefits from the scheme. There was no imminent threat of his pension moving to the PPF. So there was no need to transfer in order to avoid something that most likely wouldn't happen. Doing so would unnecessarily expose Mr D's DB funds to the volatilities and risks of the investment markets. It follows that I don't think those concerns should have led to SWM recommending Mr D transfer out of the DB scheme.

Mr D's retirement plans and death benefits

SWM said that Mr D could take his DB pension at its normal retirement age of 60. But, it added that Mr D had said he would most likely take non-executive roles and continue to be employed until around age 70. It said that transferring would therefore allow Mr D the flexibility to access his pension funds as he wished and use those funds to help with his children's and (future) grandchildren's educations and other needs, which was important to him.

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[1] The PPF acts as a 'lifeboat' for insolvent DB pension schemes. It pays compensation to members of eligible schemes, for their lifetime. The compensation levels are, generally, around 90% for deferred pensions although PPF scheme rules and benefits may differ from the original scheme.

it's true to say that Mr D couldn't have had the same level of flexible access to his DB funds as he could from a SIPP. That's because the scheme would pay its benefits in a fairly rigid format. That is, if Mr D wanted to take a TFC lump sum then he would have had to take that at the same time as drawing a regular income from his pension, which would be payable for the rest of his life. Whereas the SIPP would allow him to draw down funds, taking ad hoc amounts – if that was what he wanted to do – as he saw fit. But while the option of drawing his income flexibly might seem like something that would be nice to have, I can't see Mr D had any genuine need for flexibility.

As I've said above, Mr D was still over 13 years away from retirement and so any plans he had were unlikely to be set in stone. His grandchildren were still something that he was – I imagine – hoping for, and his non-executive career, while likely, certainly wasn't guaranteed. And I'll repeat that a lot could happen between the date of advice and Mr D's actual retirement.

That said, assuming Mr D did take on non-executive roles that didn't mean his DB pension wouldn't be of use to him. The DB scheme would have paid him an estimated TFC lump sum of over £230,000. By that time Mr D planned to be mortgage free and he could have accessed those sums and used them in a flexible manner.

Similarly, Mr D had a DC pension worth around £111,700. I note that he was no longer contributing to that – or any other – pension. However, assuming modest growth of 2% (the regulator's low level projection rate at the time) then by his 60th birthday that could be worth in the region of £146,500. He could also access that fund flexibly if he wanted to. So he had no need to transfer out of his DB scheme just to have some flexible access to funds.

Further, if Mr D did secure non-executive roles then that gave him a number of further options. For example he could draw his DB funds, using the TFC as described above, while the regular pension income covered his essential living needs. He could then divert his earnings for luxuries or to help his family. Another option would have been to defer taking his pension. While the scheme's normal retirement age was 60 he could defer taking it as his pension would increase by what's known as late retirement factors. So, for example, at age 60 his full pension without taking TFC would be around £48,500, that would increase to around £63,700 if he deferred taking it until age 65. And he would still have the option of taking a similarly enhanced TFC lump sum and a reduced pension.

Also, while taking his DB pension at 60 might not have given Mr D the flexibility he could have in a SIPP, it did give him guarantees. And if, for any reason, he didn't take non-executive roles, he would have a safeguarded income for the rest of his life that wasn't subject to the volatilities of the investment markets.

SWM also said the death benefits available from a SIPP were more suited to Mr D's requirements. That's because on his death, whatever was remaining in his SIPP could be passed on to his beneficiaries. In contrast the DB would pay a percentage of his DB entitlement to his children, until the age of 23 if they remained in full time education or 50% of his entitlement to a spouse. So, given the size of Mr D's CETV, if Mr D died before his retirement or soon after, then there would likely be a significant sum to leave as a legacy.

But SWM's priority here was to advise Mr D about what was best for his retirement. A pension is primarily designed to provide an income for the pensioner in their retirement years, not to provide a legacy for beneficiaries on death. I have little doubt the CETV figure would have appeared attractive as a potential lump sum, but the amount remaining on death following a transfer was always likely to be different. As well as being dependent on investment performance, it would have also been reduced by any sums Mr D drew from it in his lifetime. So it may not have provided the legacy that Mr D might have thought it would.

And there may not have been as much left in his SIPP if he lived a long life, the investments performed poorly, or if he used large sums for the benefit of his family early in his retirement.

Further, if he wanted to leave a legacy for his family, which didn't depend on investment returns or how much of his pension fund remained on his death, then life insurance may have met his needs. So I think SWM ought to have asked Mr D how much he would ideally like to leave to his family, and this could've been explored on a whole of life or term assurance basis, which could have provided the legacy Mr D wished to leave without affecting the security of his retirement.

Overall I don't think the different death benefits on offer from a SIPP justified giving up safeguarded DB scheme benefits for.

Was Mr D insistent on a transfer.

SWM said it didn't agree with our Investigator that, if it had advised Mr D to remain in the DB scheme he would have accepted that advice. It says that doesn't sit well with Mr D's client profile or the evidence during the advice process.

There is evidence that Mr D was keen to transfer when he approached SWM. For example its meeting notes record that Mr D told it he wished to transfer whatever SWM advised. And he also stressed that he was a trustee of a DB scheme. Similarly, he apparently told SWM that he was shocked to find out that its recommendation for a colleague in comparable circumstances had been that the colleague should *not* go ahead with the transfer. And SWM noted Mr D was "adamant" that he wanted to transfer and asked if, in the event SWM advised not to transfer, it could refer him to someone who would make that recommendation.

So I can understand that from SWM's perspective, Mr D would have appeared a confident, knowledgeable and intelligent individual with a clear idea of what he wanted to achieve from the advice process. And when he engaged SWM he did so with a view to transferring out of his DB scheme. But, as I've said above, SWM's role wasn't to simply do what Mr D wanted without appropriate analysis and challenge of his motives for doing so, in order to ensure its recommendation was in his best interests.

In any event, SWM didn't recommend that Mr D should remain in his DB scheme. Its recommendation was that he should transfer. So, from Mr D's perspective the experts he was paying for to give him advice that was in his best interests had told him that a transfer was suitable for him. And I think there is a world of difference between that positive advice to transfer and a recommendation not to transfer.

Had SWM advised Mr D not to transfer, explaining that it was not in his best interests and that he could end up worse off as a result, I think that would have caused Mr D to pause and take stock of his situation. As I've said above, while knowledgeable about financial services he had very little in the way of investment knowledge. Indeed he told us that he hasn't ever received training or taken qualifications in the area of personal investments. And, if the experts in a field where he had little knowledge advised him that something was not in his best interests, I think he would listen to that advice. He was paying SWM for its expertise; he was aware of his own limitations within the sector, even if he had a better grounding than many. So, going against that advice would seem an illogical decision to make for someone with the clear wherewithal to understand the benefit of the expertise he was paying for.

It follows that I think that if SWM had provided Mr D with clear advice against transferring out of the DB scheme, explaining why it wasn't in his best interests, I think he most likely would have accepted that advice. Instead I think Mr D relied on SWM's advice and accepted its recommendation to transfer. Without that positive recommendation I don't think the transfer would have gone ahead.

Mr D's divorce settlement

Mr D told us that since transferring he and his former wife have divorced. And, as all of his DB scheme entitlement was for a period before his marriage then, if he'd remained in the scheme, his wife wouldn't have had any claim over the DB pension. But, as he transferred to the SIPP while married his wife had a claim on his SIPP fund as part of their divorce settlement. Mr D said that SWM should have made that clear to him at the time of its advice.

While I can understand Mr D's frustration, there's no evidence that a divorce in the future seemed likely at the time that SWM gave its advice. So it's not something I would have expected SWM to raise as a part of its advice process.

That said I understand that Mr D might well believe that, if he'd remained in the DB scheme then he would have preserved the full value of it and outstanding he's now worse off as a result.

I've thought about this carefully, but I don't think it would be fair to treat this as a consequential loss as it is too remote from the advice Mr D was originally given. And in any event, I don't think I can say with any certainty that the DB transfer adversely affected Mr D's divorce settlement. That's because divorce settlements are a matter for negotiation, while applying the relevant laws. And, as I understand it, when arriving at settlements the lawyers and courts involved will look at many varied factors. So I simply don't think it's possible to say what the outcome of the divorce settlement would have been and to what extent his pension provision would be taken into account in the settlement whether Mr D remained in the DB scheme or not.

It follows that I don't think any further award is merited because of the outcome of Mr D's divorce settlement.

Summary

Ultimately, I don't think the advice SWM gave to Mr D was suitable. He was giving up a pension he'd been contributing to for over 22 years and which made up the majority of his pension provision. It would have paid him a guaranteed, risk-free and increasing income. By transferring, Mr D 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.

So, I think SWM should've advised Mr D to remain in his DB scheme.

In light of the above, I think SWM should compensate Mr D for the unsuitable advice, in line with the regulator's rules for calculating redress for non-compliant pension transfer advice. Additionally, I think it's likely that learning he might have unnecessarily put his pension security at risk was a source of distress and inconvenience for him. To address that I think it's fair that SWM pays him £200.

Putting things right

A fair and reasonable outcome would be for SWM to put Mr D, as far as possible, into the position he would now be in but for the unsuitable advice. I consider Mr D would have most likely remained in the occupational pension scheme if suitable advice had been given.

SWM 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.

For clarity, Mr D has not yet retired, and he has no plans to do so at present. So, compensation should be based on the scheme's normal retirement age of 60, as per the usual assumptions in the FCA's guidance.

This calculation should be carried out using the most recent financial assumptions in line with PS22/13 and 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 D's acceptance of the decision.

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

- calculate and offer Mr D redress as a cash lump sum payment,
- explain to Mr D before starting the redress calculation that:
    - the redress will be calculated on the basis that it will be invested prudently (in line with the cautious investment return assumption used in the calculation), and
    - a straightforward way to invest the redress prudently is to use it to augment his DC pension
- offer to calculate how much of any redress Mr D receives could be augmented rather than receiving it all as a cash lump sum,
- if Mr D accepts SWM's offer to calculate how much of the redress could be augmented, request the necessary information and not charge Mr D for the calculation, even if he ultimately decides not to have any of the redress augmented, and
- take a prudent approach when calculating how much redress could be augmented, given the inherent uncertainty around Mr D's end of year tax position.

Redress paid to Mr D 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, SWM 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 D'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.

SWM should also pay Mr D £200 for his distress and inconvenience the unsuitable advice caused.

Where I uphold a complaint, I can award fair compensation of up to £190,000, 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 £190,000, I may recommend that the business pays the balance.

My final decision

Determination and money award: I uphold this complaint and require Succession Wealth Management Ltd to pay Mr D the compensation amount as set out in the steps above, up to a maximum of £190,000.

Recommendation: If the compensation amount exceeds £190,000, I also recommend that Succession Wealth Management Ltd pays Mr D the balance.

If Mr D accepts this decision, the money award becomes binding on Succession Wealth Management Ltd.

My recommendation would not be binding. Further, it's unlikely that Mr D can accept my decision and go to court to ask for the balance. Mr D 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 D to accept or reject my decision before 16 April 2024.

Joe Scott
Ombudsman