

The complaint

Mr M complains that the advice given to him by Fairstone Financial Management Limited to transfer out of his occupational pension scheme wasn't suitable for his needs.

What happened

Mr M's complaint was considered by one of our investigators. He sent his assessment of it to Mr M and Fairstone on 10 January 2025. The background and circumstances to the complaint were set out in his assessment and are known by both parties. But to summarise, Fairstone issued a recommendation report to Mr M on 13 March 2017. The report noted Mr M:

- Wanted to review his pension arrangement with his employer as he was being made redundant and wanted to semi-retire in April 2017.
- Earned £32,000 per annum at the time of advice.
- Had a capital and interest repayment mortgage of £38,000 and a loan totalling £12,000.
- His employer had offered him a redundancy package of £73,906. £30,000 would be tax free, and the remaining £43,906 was offered to augment the defined contribution (DC) portion of his employer's pension.
- Was also offered a reduced early retirement pension of £8,417 per annum from the defined benefit (DB) element of his pension, and the transfer value of it was £282,639. The value of the DC element was £94,484 before the proposed augmentation.
- Had a cautious balanced risk rating.
- Wanted to be able to access his pension funds in a flexible manner from April 2017.
- Wanted to have more choice over how his pension benefits would be passed on in the event of his death.
- Had a capacity for loss noted as 10%, as a loss of £42,102 would have had a significant impact on his future lifestyle.

Fairstone recommended Mr M transfer both the DB and DC elements of his employer's pension to a personal pension arrangement - approximately £421,029.

The adviser noted this was in Mr M's best interests as:

- It would allow him the flexible access he wanted for his pension benefits from April 2017.
- It would give him choice of how his pension benefits would be passed on in the event of his death.
- Taking benefits through his existing scheme would be a one-off decision which did not suit his main objectives of withdrawing a flexible income.
- He would have greater control over his pension funds.
- He would still have the choice of buying an income for life at a later date.

Mr M agreed to the recommendation. He subsequently transferred £282,639 in respect of

the DB scheme in May 2017, and £160,139 in respect of the DC element in June 2017. Mr M then took a tax-free lump sum of £57,000 to pay off his loans and to assist with some home renovations. He began taking £1,600 of income a month through drawdown from 2018.

Mr M subsequently made a complaint to Fairstone through his representative, about the advice it had given him to transfer. Fairstone didn't uphold Mr M's complaint, and Mr M referred it to us.

Our investigator thought that the complaint should be upheld. He referred to the regulator's Conduct of Business Sourcebook Rules and in particular COBS 9.2 and COBS 19.1.6. He noted the latter said:

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

The investigator said advice was given during the period when the Financial Ombudsman Service was publishing 'discount rates' on our website for use in loss assessments where a complaint about a past pension transfer was being upheld. He said whilst businesses weren't required to refer to these rates when giving advice on pension transfers, they provided a useful indication of what growth rates would have been considered reasonably achievable for a typical investor at the time.

The investigator said the investment return (critical yield) required to match the DB pension at retirement at age 65 was around 7.68% per year, based on Mr M taking a reduced pension plus tax-free lump sum. However, he said the critical yield required to match the DB pension at Mr M's desired retirement age of 59 was 39.85%. He said when the advice was given, the relevant discount rate was 3.3% per year for 6 years to retirement. And that for further comparison, the regulator's upper projection rate at the time was 8%, the middle projection 5%, and the lower projection rate 2% per year.

The investigator said as well as Mr M's attitude to risk, it was also important to consider his capacity for loss. He said Mr M was transferring 31 years' worth of service from the occupational pension scheme. The other assets that might have given Mr M capacity to absorb some losses on this pension transfer were:

- The DC part of his employer's pension scheme - funds of about £138,390.
- Other investments (net of liabilities) of about £5,000.

The investigator said in his view these other assets gave Mr M a low capacity to absorb potential investment losses on the transfer.

The investigator said he'd taken this into account, along with the composition of assets in the discount rate, Mr M's attitude to risk and also the term to retirement. He said he thought it was likely Mr M would receive benefits of a substantially lower overall value than the DB scheme at retirement as a result of investing in line with that attitude to risk.

The investigator said he noted the recommendation report set out the advantages of Mr M transferring his pension which were set out above. And he noted that in its final response letter to Mr M's representative Fairstone also said the cash equivalent value would provide a higher level of income than the occupational scheme could match at early retirement. He said he also understood that Mr M had around £50,000 in debt he wished to settle.

The investigator said looking over Mr M's financial situation at the time, and what was disclosed to Fairstone, he didn't think these advantages satisfied the requirement of COBS 19.1.6G, as they didn't show the transfer to be in Mr M's best interests.

The investigator said based on the evidence that had been provided, he didn't think Mr M required additional flexibility. He said whilst Mr M was being made redundant, his intention as set out in the recommendation report was to semi retire. Based on this, and based on information provided from his representative, he thought Mr M was looking for some additional employment following his redundancy. Whilst he understood the additional employment Mr M had lined up fell through, this was not until after the recommendation was made.

The investigator said no consideration had been made in the recommendation report for potential additional income or pension contributions from part-time work. And he said the cash flow analysis provided didn't appear to appropriately set out the income Mr M could receive, nor had he seen an analysis taking into consideration Mr M staying in the pension until the normal scheme retirement age. The investigator said he understood another consideration for Mr M was taking tax-free cash in order to pay off his outstanding debts. However he said he was satisfied this could have been achieved while remaining in the DC element of the pension.

The investigator said Mr M was to receive a payment of £30,000 tax-free as part of his redundancy package which could have been put towards the payment of these debts. Mr M was able to take, according to the early retirement option letter he received, a maximum of £76,686 from his DC element, and move the remaining amount to a flexi-access drawdown account. Therefore he said Mr M could have taken the amount he required from his tax-free cash and then moved the DC part into drawdown which would allow him flexibility with a portion of his income.

The investigator said the recommendation report also said Mr M wanted more control over his pension funds. However he thought this had been overstated. He said Mr M wasn't an experienced investor, and he hadn't seen anything to suggest he had the drive, or relevant knowledge to be able to appropriately manage his pension funds on his own. He also thought this was reflected in Mr M being rated as a cautious balanced investor which was described as *"They typically have limited or moderate experience of investments and do not find financial matters particularly easy to understand."* Based on this, the investigator wasn't persuaded this was a genuine objective for Mr M.

The investigator noted another of the reasons given for the transfer was it provided Mr M with a choice of how his pension benefits would be passed on in the event of his death. The investigator thought most people – when asked – would like their loved ones to be taken care of when they passed away. However he said a pension was primarily intended to provide an income throughout retirement, and an adviser's priority was to make a recommendation on what was best for Mr M, not his dependants, in his retirement. The investigator didn't think the different way death benefits would be available from the personal pension justified the likely lower benefits Mr M would be receiving during retirement.

The investigator said whilst all the recommendations and considerations in the report were for the transfer of Mr M's DB element, the DC element was included in the transfer amount in the recommendation report – albeit there was no reasoning given as to why the transfer of the DC element was suitable, or how it linked back to Mr M's priorities and personal and financial circumstances.

The investigator said he didn't think this was consistent with COBS 9.4.7 which said *"The*

suitability report must, at least (2) explain why the firm has concluded that the recommended transaction is suitable for the client having regard to the information provided by the client.”

The investigator noted that part of Mr M's objectives, as set out in the recommendation letter, was flexibility in drawing his pension. He said the DC element of the occupational scheme allowed for flexi-access drawdown.

Taking all this into consideration, the investigator didn't think Fairstone had met its obligations to Mr M under the COBS rules, and he thought the recommendation to transfer all elements of the occupational pension scheme was unsuitable.

Fairstone didn't agree with the investigator's findings. It provided further evidence and arguments that I have considered in making my decision below.

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 doing so I've taken into account relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

Fairstone has provided detailed evidence and arguments in response to the investigator's assessment. Whilst I've carefully considered everything it's said, I haven't addressed each and every issue or point raised in this decision. I've focused on what I consider are the key issues in deciding on the fair outcome of the complaint, and have responded to the issues raised by Fairstone where I think it's relevant and appropriate to do so.

As explained by the investigator, the regulator, the Financial Conduct Authority ('FCA'), states in its Conduct of Business Sourcebook ('COBS') that the starting assumption for a transfer from a DB scheme is that it is unsuitable. So Fairstone should have only considered a transfer if it could clearly demonstrate, on contemporary evidence, that the transfer was in Mr M's best interests (COBS 19.1.6).

I think in considering that starting assumption, it's also particularly relevant here to look at Mr M's starting position. He had the DB pension which would have provided a largely guaranteed income and rising through his retirement. He then also had the DC pension. This provided some flexibility in itself to the level of tax-free cash and income that Mr M could take from it. It seems to me that Mr M was already in a good position with this blended approach – a good level of basic guaranteed income (I understand starting around 8,500 and then rising), and then with the flexibility provided by the DC pension which could be invested appropriately. So I think there needed to be a good reason for Mr M to move away from this position for it to be in his best interests.

Like the investigator, I don't think the reasons as set out in the recommendation report were sufficient to conclude that the transfer was in Mr M's best interests when considering his original position – and justifying moving away from it. I recognise the personal pension did have some advantages. But then appropriate weight needs to be given to the advantages and considered against the disadvantages. In my opinion the disadvantages clearly outweighed the advantages in Mr M's particular circumstances.

Flexibility

Mr M was able to take his benefits from the occupational scheme at the time of the advice. I

accept transferring the DB scheme provided additional flexibility. But as I've said, Mr M had some flexibility with the DC pension which had flexible options. The additional flexibility may have been a benefit but, as I've said, all the benefits in the round had to be weighed up against the disadvantages of the transfer.

Control over pension funds

Fairstone noted the investigator had said he thought the objective that Mr M wanted greater control of his pension fund had been overstated. And that he'd said there was no evidence to support that Mr M had the ability to manage his pension on his own. Fairstone said Mr M had a professionally managed investment solution managed for him and not by him. And was provided with ongoing advice. It said Mr M wanted 'control' which was different to 'managing'. It said he didn't want his pension to remain with his ex-employer who had made him redundant, he wanted to have 'control' of it himself.

I accept what Fairstone has said about Mr M's pension being managed by a professional. However I note that the Pension Transfer Supplementary Profile included a Pension Transfer Questionnaire. In this Mr M ticked to say "*Whilst I was made redundant, I have no reason to question the financial probity of my ex-employer.*" So it doesn't appear he wanted to move away from it due to concerns about its financial viability going forward.

Again, I think appropriate weight needs to be given to the benefit Mr M would likely have put on 'control'. He was recorded as having limited investment experience, and that the adviser would treat him as an inexperienced investor. I think it's unlikely he wanted significant input in how the pension was managed. I accept a transfer meant he had greater control in the way benefits from the DB scheme would be paid. But as I say, he had flexibility/control over the DC plan. So again, appropriate weight needs to be given to the *additional* benefit of also having more control over the DB scheme. If ultimately, he would likely be better off by remaining in the DB scheme, I think it's likely this would have outweighed the ability to have 'control'.

Death benefits

The investigator didn't think the different way death benefits would be available from the personal pension justified the transfer.

Fairstone said it thought "*death benefits were incidental to the reasons for transferring, i.e. provision of death benefits was not an objective nor were they central to the transfer taking place.*" It also said lump sum death benefits were not the main reason for recommending the transfer.

The report did say that transferring would give Mr M a choice of how his pension benefits would be passed on in the event of his death. And given his circumstances (divorced with no financial dependents), I think the death benefits after transfer would likely have appeared more attractive to Mr M than those from his former scheme. However like the investigator and Fairstone, I don't think this was key objective for Mr M. Although it was a benefit, it wasn't a key reason for transferring.

Attitude to risk/ Capacity for loss

Fairstone noted the investigator had said Mr M had a low capacity to absorb losses. However it said by accessing the transfer value it increased his assets, and therefore his capacity for loss over and above what it was pre-transfer. It said Mr M was able to draw and had continued to draw an annual income every year, had access to his pension

commencement lump sum and retained a residual fund value that, based on a mid-rate of growth, would last at least until he was 92.

I think Mr M's assets both pre and post transfer should be considered in the round. I don't think a transfer 'increased' his assets – it changed them from (in terms of the DB scheme) a largely guaranteed future stream of income to a fund value which would provide future income/sums, but was dependent on investment returns. Mr M was exposed to risk and potential losses through his DC plan. Transferring the DB plan exposed him to greater risk/potential losses.

Mr M completed a questionnaire to help determine his capacity for loss. In answer to the question: How much of this investment could you stand to lose without having a significant impact on your future standard of living? Mr M ticked – *None of very limited losses*.

The adviser recorded a note saying: Capacity for loss — additional notes:

On completion of capacity to loss question [Mr M] selected none or very limited losses however after further reflection he felt that due to the size of his fund and the nature of investments he would be happy to tolerate losses of up to 10% without this impacting his standard of living. He understands the impact of volatility on his funds and is happy to accept 10% capacity for loss in conjunction with this investment.

I accept that questionnaires are only one tool to help identify a client's circumstances, and should then be used as part of a wider discussion. However I think it does indicate Mr M initially didn't consider he could suffer losses to his pension. And whilst Mr M may have subsequently indicated he was willing to tolerate some losses, they were limited.

I think this should also be considered alongside Mr M's attitude to risk. Mr M was recorded as a cautious balanced investor. The description of this risk profile said:

Cautious Balanced Investors tend to regard themselves as quite cautious people and are inclined to view risk negatively rather than as a source of opportunity. They typically have limited or moderate experience of investments and do not find financial matters particularly easy to understand. They can take some time to make investment decisions and can be somewhat anxious about investment decisions they have made. They may suffer from feelings of regret when their decisions turn out badly.

Cautious Balanced investors are inclined to look for safer investments rather than seeking higher returns, though they may be persuaded to take some risk in exchange for a return. They aim for some capital preservation above the rate of inflation. They tend to prefer bank deposits to riskier investments, are somewhat averse to volatility and are not particularly comfortable about investing more than a portion of their portfolio in the stock market.

I think the description is again consistent with someone who leans more towards a cautious approach and is only willing to accept limited risks. I think this is all consistent with Mr M having a limited capacity for loss and only willing to accept limited risk.

Financial Viability

The investigator said he thought, taking all the relevant factors into account and in particular Mr M's attitude to risk, that it was likely Mr M would receive benefits of a substantially lower overall value than the DB scheme at retirement.

In its Recommendation Report Fairstone said the critical yield was 7.68% to age 65, and 39.85% per annum until age 59 (taking the Pension Commencement Lump Sum with a

reduced pension). I think the 39.85% may appear exaggerated as it said 'per annum', and Mr M only had a few months to age 59. Mr M was taking some of his benefits immediately and wasn't intending to buy an annuity that mirrored the scheme benefits. So I accept the figures aren't exactly on a like for like basis. However I do think the figures provide a good indicator of the value of the guaranteed benefits been given up, and that overall Mr M would need to achieve a significant investment return to match the overall value of those benefits.

Fairstone didn't agree that Mr M was considering part-time work. It said it thought the investigator's assessment was unfair because semi-retirement could mean many things to different people. It said the original recommendation report said Mr M wanted to "fully enjoy his retirement". It thought this indicated Mr M was 'fully' retiring. It noted the report said if there were any inaccuracies in it Mr M should contact Fairstone immediately. And if Mr M had been actively looking for new employment it was essential he let Fairstone know so it could re-assess his situation needs and circumstances.

I don't think Mr M would have thought the report was inaccurate when stating he was looking to semi-retire. If he had thought about the possibility of taking a part-time job that could be what he understood semi-retire meant. And I don't think he'd likely have analysed what he thought Fairstone meant by "fully enjoy retirement" and whether that was inconsistent with semi-retirement. I think when someone is looking into their future retirement, particularly at Mr M's age, they consider it a possibility. I think this is consistent with the adviser's note which recorded:

You don't feel that you would like to go back to work but may take a part time job to keep yourself active. Any income from this would reduce what you need from your pension initially.

Fairstone said that its understanding at the time of the advice was that Mr M wanted to retire in April 2017 and required an income of £16,800 per annum (before tax) to meet his expenditure and access to funds to pay debts. It said the shape of the scheme benefits available to Mr M didn't achieve his objective, as taking benefits at early retirement offered by the scheme would not have provided his required income or provide the amount of capital he required.

As I said above, Mr M had a DB scheme and DC scheme. As the investigator said, Mr M had £30,000 tax-free cash from his redundancy, and the DC scheme provided significant tax-free cash which Mr M could access to make up any shortfall in his immediate need for capital. I accept that the DB scheme then provided an income below what Mr M required – around £8,500 at the time of the advice, albeit I think this was projected to be £9,300 by the time Mr M reached aged 59 shortly after and when he started taking an income.

I think it would have been difficult for Mr M to have followed the different cash flow analyses that were provided by the adviser. As noted by the investigator, the 'taking the pension now' model didn't appear to appropriately set out the income Mr M would have received. I understand this was from the DB scheme, but it didn't provide for the yearly increases that the DB scheme would have provided. Clearly that was a significant factor, and became more so over time. The effective capital cost of those increases in the transfer value were reflected in the analysis showing the position on transfer, and so accrued the investment return assumed in that analyses. So the analyses weren't on a like for like basis to allow Mr M to make an informed decision.

As the investigator said, Mr M could have stayed in the DB scheme and still had the amount of capital he required from the tax-free element of the redundancy payment and through the DC scheme. Fairstone said if Mr M had taken flexi-access drawdown via the DC pension benefits he would most likely have exhausted that part of his pension fund and without a

regular employed income to fall back on may have found himself in a far worse financial predicament than when he was made redundant

Mr M was due to receive his state pension in seven years' time. So at that point the pension from the DB scheme (with increases over the seven years) plus the state pension would have been around the level of essential income that Mr M said he required. The remaining value of the DC pension - after taking the tax-free cash required above the £30,000 from redundancy - would have been sufficient to provide for any shortfall in the seven-year period up to age 66. The shortfall would have decreased as the income from the DB pension increased over time. And as I've said above, Mr M may have also taken on some part time employment to help bridge any shortfall. I accept that would have meant a significant depletion of that DC fund. But it also meant Mr M had the level of income he required largely guaranteed throughout the rest of his lifetime from State pension age.

Taking all the above into account, I think what's key here is that Mr M had indicated he had a limited capacity for loss. This was consistent with his circumstances at the time – his pension was his major asset that he was going to rely on for income to maintain his standard of living throughout retirement. As he indicated, any significant fall in its value would have an impact on his retirement. And Mr M was recorded as wanting to accept a cautious to balanced risk.

The description of that risk and so what Mr M would have understood he was taking was indicative of leaning towards a more cautious approach – *they tend to regard themselves as quite cautious people and are inclined to view risk negatively.... They can ...be somewhat anxious about investment decisions they have made....are inclined to look for safer investments rather than seeking higher returns, though they may be persuaded to take some risk in exchange for a return. They aim for some capital preservation above the rate of inflation. They tend to prefer bank deposits to riskier investments, are somewhat averse to volatility and are not particularly comfortable about investing more than a portion of their portfolio in the stock market.*

As I said above, Fairstone should have only considered a transfer if it could clearly demonstrate, on contemporary evidence, that the transfer was in Mr M's best interests. Mr M appeared to be in a good starting position which was aligned to his attitude to risk and capacity for loss – some guaranteed pension and *a portion* invested at risk. He had the DB pension which would have provided a largely guaranteed income and rising through his lifetime. And the DC pension which provided some flexibility in itself, both with the level of tax-free cash and income that Mr M could take from it. And these could have provided *around* the level of income that Mr M required and whilst maintaining the guaranteed pension throughout Mr M's lifetime. So effectively with a lot less risk.

As I said above, the Financial Conduct Authority ('FCA'), states that the starting assumption for a transfer from a DB scheme is that it is unsuitable. And that a transfer should only be considered if it could be clearly demonstrated, on contemporary evidence, that the transfer was in the client's best interests.

Taking all the above into account and for the reasons I explained, I think Mr M was in a good starting position with the DB and DC schemes providing a blended approach and was suitable for his circumstances at the time. I'm not persuaded that the evidence clearly shows that the recommendation to transfer was in Mr M's best interests, and it was therefore inconsistent with the requirements of COBS 19.1.6.

In respect of the DC scheme, as the investigator said, no reasons were given in the recommendation report as to why the firm was recommending Mr M transfer these benefits, and why it was suitable for him to do so. As I've said, the existing DC scheme appeared to have been suitable for Mr M's circumstances at the time. I've seen no persuasive evidence

that the recommendation to transfer the DC scheme was suitable or was in Mr M's best interests.

Accordingly, for the reasons given above, I think Mr M's complaint should succeed.

Putting things right

A fair and reasonable outcome would be for Fairstone Financial Management Limited to put Mr M, as far as possible, into the position he would now be in but for the unsuitable advice. I consider he would have likely remained in the occupational scheme.

Defined Benefit element

Fairstone Financial Management Limited should 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.

For clarity, Mr M says he would have taken benefits from April 2017, and I'm satisfied from the evidence that this is what he would have done. So the calculation should assume Mr M took benefits from the DB scheme on that date, or the earliest point subsequently that he would have been permitted to.

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, the calculation should be undertaken or submitted to an appropriate provider promptly following receipt of notification of Mr M's acceptance.

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

- calculate and offer Mr M redress as a cash lump sum payment,
- explain to Mr M before starting the redress calculation that:
 - 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 the current DC pension
- offer to calculate how much of any redress Mr M receives could be used to augment the pension rather than receiving it all as a cash lump sum,
- if Mr M accepts Fairstone's offer to calculate how much of the 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 the 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 directly to Mr M as a cash lump sum in respect of a future loss includes compensation in respect of benefits that would otherwise have provided a taxable income. So, in line with DISP App 4.3.31G(3), Fairstone may make a notional deduction to

allow for income tax that would otherwise have been paid. Mr M's likely income tax rate in retirement is presumed to be 20%. In line with DISP App 4.3.31G(1) this notional reduction may not be applied to any element of lost tax-free cash.

Defined contribution element

To compensate Mr M fairly Fairstone Financial Management Limited should:

- Compare the actual value of Mr M's pension derived from the DC transfer value at the date of this final decision with the notional value at the same date if it had remained with the original scheme. If the actual value is greater than the notional value, no compensation is payable. If the notional value is greater than the actual value, there is a loss and compensation is payable.
- If there is a loss, Fairstone Financial Management Limited should pay into Mr M's pension plan, to increase its value by the amount of the compensation and any interest. The payment should allow for the effect of charges and any available tax relief. Fairstone shouldn't pay the compensation into the pension plan if it would conflict with any existing protection or allowance.
- If Fairstone Financial Management Limited is unable to pay the compensation into Mr M's pension plan it should pay that amount direct to him. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore the compensation should be reduced to notionally allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount - it isn't a payment of tax to HMRC, so Mr M won't be able to reclaim any of the reduction after compensation is paid. The notional allowance should be calculated using Mr M's actual or expected marginal rate of tax at his selected retirement age.
- It's reasonable to assume that Mr M is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Mr M would have been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.
- The investigator recommended that Fairstone repay the adviser's fees together with simple interest at 8% a year, from the date the fees were paid to the date of settlement. But that if the above comparison showed that no compensation was payable, the difference between the actual value and the notional value could be offset against the fees with interest. It is unclear from the evidence whether Mr M paid advice fees separately and outside of the pension, or whether they were taken/deducted from the transfer value/pension itself. As explained above, my aim in awarding fair compensation is to broadly put Mr M back into the position that he would otherwise have been in had he not transferred out of his occupational scheme. The calculations for compensation as set out above compare notional DB and DC schemes values with the actual value. So any charges taken from the pension itself are already taken into account in the loss calculations (if these charges were deducted from the pension itself they will be reflected in the lower actual values of the pension when compared to the notional values). So adviser fees should only be repaid to Mr M if he paid them separately direct to Fairstone, and outside of the pension (where they wouldn't be taken into account in the above comparative loss calculations).
- Fairstone Financial Management Limited should provide details of the calculations to

Mr M in a clear, simple format.

Actual value

This means the actual amount payable from the investment at the date of this decision.

Notional Value

This is the value of the DC element had it remained with the previous occupational pension scheme until the decision date. Fairstone Financial Management Limited should request that the previous provider calculate this value. Any withdrawal should be deducted from the notional value calculation at the point it was actually paid so it ceases to accrue any return in the calculation from that point on. If there are a large number of regular payments, to keep calculations simpler, I'll accept if Fairstone totals all those payments and deducts that figure at the end to determine the notional value instead of deducting periodically.

Interest at the rate of 8% simple per annum should be added to any loss calculated on the DC element from the date of this decision to date of settlement, but only if settlement isn't arranged within 90 days of us notifying Fairstone of Mr M's acceptance of the decision.

My final decision

Determination and money award: I uphold this complaint, and require Fairstone Financial Management Limited to pay Mr M the compensation amount as set out in the steps above, up to a maximum of £195,000.

Recommendation: **If** the compensation amount exceeds £195,000, I also recommend that Fairstone Financial Management Limited pays Mr M the balance.

If Mr M accepts this decision, the money award becomes binding on Fairstone Financial Management Limited.

My recommendation would not be binding. Further, it's unlikely that Mr M can accept my 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 27 August 2025.

David Ashley
Ombudsman