Financial Ombudsman Service

complaint

Mr D was advised to transfer his pensions into a SIPP by Easy Financial Planning (EFP), an appointed representative of WSW Financial Services Ltd. This was to invest in a Harlequin property. He has now lost his pension funds. He says that he was not made aware that he could lose his money or that this was a high risk investment.

background

I issued a provisional decision for this case on 26 April 2019, a copy of which is attached to and forms part of this final decision.

WSW has now been placed into liquidation. They received my provisional decision and did not have any further comments to make. They asked for a copy of the decision to be sent to the liquidator.

Mr D accepted the provisional decision.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. As there are no further substantive arguments, there is no reason to depart from my provisional decision. I therefore uphold the complaint for the reasons given in my provisional decision.

my final decision

I uphold the complaint. WSW Financial Services Ltd must calculate Mr D's loss and pay redress as set out in my provisional decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 7 June 2019.

Roy Milne
ombudsman

Copy of provisional decision

complaint

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background

Mr D was referred to EFP after he expressed an interest to invest in Harlequin property using a SIPP.

A personal document pack was completed. It included a fact find recording personal and financial details. This recorded that Mr D was married with three children. He was employed earning £22,360 a year with investment income of £10,200 a year. He had a personal pension and pension benefits from three different employers. This document was on EFP headed paper and sent to EFP.

The advice was set out in a report dated 28 June 2011. The report started by explaining Mr D had been referred to them by Spectrum after he expressed a desire to invest in Harlequin property. After summarising Mr D's circumstances the report explained that he wanted to invest in Harlequin to increase his retirement income.

The report discussed the details Mr D's pension benefits. Two of those were deferred benefits in final salary pension schemes with previous employers. Mr D had been in each of the pension schemes for just over two years. EFP provided figures showing that returns of over 13.2% a year were required to match the benefits in one scheme. And returns of over 11.43% were required to match the benefits in the other scheme. EFP's advice was that Mr D should not transfer his pension benefits.

Mr D also had an executive pension plan (EPP) and a personal pension plan (PPP). These were both money purchase schemes.

A recommendation was made that investing in Harlequin was a very high risk strategy. The report explained:

> *"With a UK Pension that comprises 'onshore investments', you do have some control, as you can:*
> - *direct where your investments are made*
> - *monitor your fund on a daily basis*
> - *make changes to the investment profile to reflect your changing attitude to risk and the time that you have before you retire.*
> - *Transfer the fund to 100% cash instantly*
>
> ***With a single commercial property asset situated offshore, you would lose this flexibility and control. Although you state that you have an 'ultra-speculative' attitude to risk, to place such a large percentage of your accrued retirement provision into one single high risk asset would seem unduly optimistic. Therefore I do not feel that it would be suitable for you.***
> ***My best advice to you at this time therefore is not to proceed.***
>
> *The FSA (Financial Services Authority) are the body who regulates advisors such as ourselves, and in the past they have been particularly critical when clients have been advised to leave existing pension schemes in favour of self-invested products which may be unsuitable.*

> ***Bearing in mind your present circumstances, and the increased risk involved in transferring the scheme into an offshore investment, I am strongly advising against proceeding with this transfer."***

The report finished with the following final conclusion:

> *"I recommend you <u>do not</u> transfer out of your occupational pension schemes because of their guaranteed benefits at retirement.*
>
> *Furthermore, I recommend that you do not invest any of your existing plans in the Harlequin Resorts Scheme for the reasons given above.*
>
> *I realise my advice may be a disappointment to you. However, retirement planning is by nature a long term plan. You wish a majority of your retirement income to be provided by your pension arrangements, and you therefore need to satisfy yourself that you are fully informed before exposing yourself to the level of risk associated with this type of investment."*

A letter signed by Mr D dated 28 June 2011 was sent to EFP. This had been typed with the following wording:

> *"I am in receipt of your pension report which you have prepared for me. Having read the report thoroughly and whilst I appreciate your advice, I would like to continue with my plans to establish a SIPP with my fund.*
>
> *If you would be kind enough to arrange this for me as soon as possible it would be much appreciated."*

EFP prepared a transfer options report addendum dated 11 July 2011. This seems to be in response to the above letter and starts off with these warnings:

> *'I wish to reiterate that you are going ahead with this SIPP property investment against my advice and the responsibility for the investment(s) chosen is entirely your own."*

The report also said:

> *"Bearing in mind your present circumstances and the increased risk involved in transferring the scheme into an offshore investment, **I am strongly advising against proceeding with this transfer.***

EFP then arranged the transfer. Harlequin has since run into difficulties. The property hasn't been built and it appears unlikely that Mr D will receive any of his investment back.

Mr D complained to EFP. WSW investigated the complaint, but did not uphold it. In summary, they said:

- EFP's advice to Mr D was not to transfer his pensions or invest in Harlequin.
- The recommendation report had clear warnings that this was a very high risk strategy. The report explained EFP had not been asked to provide an opinion about Harlequin and EFP accept no liability whatsoever on its use.
- Mr D complained that he was not aware he could lose his money or that it was a high risk investment. The evidence contradicted that statement. EFP's reports clearly explained this was a high risk investment.
- Mr D was introduced to EFP by an IFA firm as Spectrum did not operate in the pension transfer market.
- The concept of Harlequin had been presented to Mr D by another body. Mr D had committed to buy a unit in the Harlequin Resort before EFP's involvement.

- EFP received no payment for the investment in Harlequin. The fee was for carrying out Mr D's instructions to transfer funds to his nominated SIPP only. This transfer was on an insistent client basis.
- In August 2011 EFP consulted the Financial Services Authority about their stance on insistent clients. They were advised that they were only responsible for their advice and not whether clients take that advice. EFP were advised that they could transact this business without liability.
- There has since been clarification from the Financial Conduct Authority on the subject of Insistent Clients. They stated that "If the client does not accept the recommendation but – from an informed position - states that they want to do something different - i.e. they are insistent clients - the adviser can arrange this if they wish. This is fine so long as the adviser is genuine about providing their advice and the reasons for it and highlighting clearly the risks of the course of action the client is intent on taking. Hence the client has been put in the position of being able to make an informed decision." This goes to show that the stance of the two regulators has not altered despite the various alerts issued on unregulated products
- In EFP's follow up report they clearly repeated the warnings to Mr D transferring his pensions and investing in Harlequin. Indeed, they advised Mr D that in certain circumstances investing in these arrangements could result in a total loss of his investment. They were confident that Mr D was put into a position to make an informed decision.
- Ultimately, having selected the investment, Mr D completed an application form with the new SIPP provider. At the time of signing the application form Mr D confirmed that he was an Execution only client for the investment in Harlequin and had not sought financial advice on that investment.
- Spectrum and other third parties were involved in the sale of the investment in the SIPP. They suggested that Mr D should approach them directly.
- They had evidence that their advice process had been undermined by the activities of an outside agency. In certain cases an individual had been advising clients to ignore EFP's advice not to transfer their pensions into an unregulated product. That same individual arranged the unregulated product and received significant commission payments.

One of our adjudicators investigated the complaint. He thought the complaint should be upheld for the following reasons:

- It was rare for a consumer to go against advice they had received.
- He referred to alerts issued by the regulators about insistent clients. These referred to situations where an unauthorised introducer has an inappropriate influence over the business model.
- In Mr D's case, he wanted to invest in Harlequin. This appeared to be influenced by the introducer.
- There were a number of cases where the same investment was made. And the introducer benefited directly from the resulting investment.
- WSW had an inappropriate arrangement. If WSW did not have that arrangement Mr D would not have transferred his pensions or invested in Harlequin.

WSW did not agree. They explained that EFP was an appointed representative of WSW. Cases were introduced to them by authorised financial advisers. EFP was involved in advice around pensions. They had agreements with over 120 authorised financial advice firms. They dealt with over 1,100 clients and 1,577 pensions during their existence. Many clients were advised not to transfer and many took this advice. Less than 1% of cases received from financial advisers involved investment in unregulated or esoteric products.

WSW also said:

- Mr D was treated as an insistent client.
- The adjudicator had defined this is a 'papering exercise'. They didn't agree. Spectrum introduced the case. About 30% of clients introduced received their initial report decided not

to transfer. In other cases clients received advice not to transfer, but did not transfer all of their pensions. This shows that the advice is genuine and many clients accepted that advice.
- The adjudicator's view that the complaint should be upheld against WSW is inconsistent with the conclusion in other cases.
- Many clients had attended a presentation on Harlequin before approaching Spectrum. They saw this as a good investment opportunity and said at this point they were introduced to EFP. Spectrum arranged the investment in Harlequin. WSW did not arrange the investment in Harlequin and should therefore have no liability.
- Neither WSW nor EFP received any payment from Harlequin. If another regulated adviser had received payment they should have some liability.
- The SIPP provider should also have some liability for accepting the investment in Harlequin.
- The letter signed by Mr D is important. EFP did not tell him to sign the letter.
- Many clients have been paid part of the commission as an incentive to invest in Harlequin. That has not been investigated.
- They do not have the benefit of hindsight. And so did not know whether the investment would perform well.
- Mr D complains that he was told the investment was low risk and if EFP had explained he could lose all of his pension he would not have invested. This is all not true. EFP clearly advised this was a high risk transaction.
- They have become aware of an individual who was undermining EFP's advice given to their clients. This should be investigated.
- Mr D was one of the very first insistent client cases handled by EFP. The adjudication relies on an alleged conspiracy between Spectrum and EFP. It suggests prior knowledge and the potential financial gain from these actions. EFP did not benefit from the investments made in the Harlequin.

my provisional findings

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

When considering what is fair and reasonable, I am required to take into account relevant law and regulations, regulator's rules, guidance and standards, and codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

EFP is an appointed representative of WSW. The principal was responsible for the actions of its representative. The complaint has correctly been set up against WSW Financial Services Ltd.

The regulator's rules apply to firms carrying out regulated business. There are principles which set out a general statement of the fundamental obligations of firms. There are more detailed rules that firms have to comply with. One of these is COBS 2.1.1; '*the client's best interests rule'*. This says that a firm must act honestly, fairly and professionally in accordance with the best interests of its client.

COBS 9.2 required a firm to gather information about its client to enable it to give suitable advice. Any advice it gave had to be suitable for the client's circumstances. There is no dispute that EFP gave advice to Mr D. That advice was not to transfer his pension benefits or invest in Harlequin. I agree that was suitable advice for Mr D.

EFP recognised that the transfers and investments were not suitable. It said that the transfer could result in the loss of the entire pension, which would be disastrous for Mr D's retirement. It is apparent that EFP did not believe Mr D was a high net worth client; nor did it believe he was a sophisticated investor. He did not have experience of investing in unregulated funds. Mr D was recorded in the documentation as having an ultra-speculative attitude to investment risk. EFP noted that the transfers and subsequent investment was one which not even an ultra-speculative investor would entertain.

I agree with the advice that EFP gave to Mr D not to transfer his pensions; or invest in Harlequin The question is therefore whether EFP should have processed the transfer against their own advice.

The letter Mr D signed in June 2011 was addressed to EFP. It explains that Mr D had read the report advising him not to transfer. He went on to ask EFP to arrange the transfer anyway. In my view, this letter should have given some indication of the reasons why Mr D wanted to ignore the advice. I think as a minimum EFP should have checked whether Mr D understood the risks and why he wanted to transfer against their advice.

In this case, the pension benefits being transferred were a large part of Mr D's assets. It's clear he could not afford to take any risk with this. Suitable advice was not to transfer. I think they should have understood why Mr D was prepared to ignore the advice.

The documents passed to EFP recorded that Mr D was prepared to be ultra-speculative. That is not consistent with his existing investments. And I think more importantly he was not in a position to accept any risk with his pension. In my view, EFP should have made further enquiries to understand why Mr D wanted to invest in Harlequin.

Clearly, EFP was aware that accepting this type of business came with some risks. That appears to be the reason for calling the regulator to discuss the approach. The result of that conversation appears to be that the call handler at the regulator thought accepting the business would not be in breach of any rules. There was a moral dilemma about completing business that was not in the client's best interests.

I have carefully considered how I should approach this issue. The regulator issued guidance for the industrywide review of pensions in 1994. That guidance explained how firms should assess cases involving insistent clients. The guidance only applied to cases that fell within the review period which finished in June 1994. But, the approach set out in that guidance can be applied to this case.

The guidance specifically dealt with the review of "insistent clients". It explained that firms should be alert for any signals such as unusually high numbers of "insistent clients" or the use of technical or standard phrases by investors.

EFP told us that from 2010 they received 33 enquiries from clients who wanted to invest in Harlequin or a combination of investments. They gave advice to 30 clients; all of whom were advised not to transfer their pensions. Of these 18 insisted on acting against the advice. That appears to me to be a high number of cases.

The adviser at WSW clearly recognised that this was a risky transaction. He called the regulator to discuss the approach. The discussion with the regulator was about one case. It also involved transferring from a final salary pension scheme to a SIPP. I've listened to the call, which concluded by saying that the decision how to proceed was a moral one. I take it to mean the adviser thought transferring the pension was not suitable for the consumer involved. The question was whether EFP should arrange the transfer.

In my view the moral dilemma was about acting in the client's best interests. This is one of the conduct of business rules. EFP had already advised against the transfer. It is clear to me that the adviser realised the transfer was not in Mr D's best interests.

It is clear that a number of transfers were referred to EFP. We've been told this started in 2010. By the time Mr D transferred his pension, I think EFP should have had concerns about the process.

EFP told us it decided to stop taking business on an insistent client basis. This was after the regulator issued an alert about transferring monies to SIPPs to invest in unregulated products. They took the view this was a change to the position outlined to them in August 2011.

The regulator recently issued guidance about insistent clients. I have tried not to take this guidance into account in reaching my conclusion. But, I think this guidance reflects the principles and rules that were in place at the time Mr D transferred his pension to the SIPP.

The advice from EFP was not to transfer. I think it was clear that this was a high risk strategy. But, I am concerned about the high number of insistent client cases. This is something I would not have expected to see. It isn't clear exactly how many cases had been completed on this basis by the time Mr D transferred his benefits. I think it's likely that there had been more than one or two of these.

I accept that EFP advised against the transfer. But I think the crucial point is whether they acted in their client's best interests. EFP was only paid if the transfer completed. This is a conflict of interests and I cannot see how that was managed. This is a significant factor in my decision making.

EFP was aware that the transfer was unsuitable for Mr D. And that the transfer was likely to leave Mr D significantly worse off in retirement. In my view, EFP should have known that the adviser at Spectrum or the unregulated firm selling the investments was instrumental in the decision being made by Mr D. I think it should have refused to process the transfer. It clearly wasn't in the client's best interests. I consider EFP to be responsible for any losses Mr D has suffered.

It is possible that Spectrum could have some liability for the losses suffered. It is also possible that other parties could have some liability. But in my view, the investments could not have been made if WSW had treated Mr D fairly. If WSW wishes to take action against any other party to recover some of the losses it may ask Mr D to co-operate; that is if Mr D is compensated in full.

WSW referred to other cases investigated by this service. They say those cases have similar facts and so should reach similar outcomes. I have considered those cases. They were resolved at the first stage of our process after an adjudicator gave an initial view. There are some differing facts in the cases. One of the important things is that I am aware that there were a large number of similar cases. I think it's likely all of these cases were investigated without that knowledge. It is therefore possible that those cases could have been decided differently by an ombudsman. In any event, I am not bound by previous decisions that have been made.

fair compensation

My aim is to put Mr D as close to the position he would now be in if WSW had acted in his best interests. I think that he would have kept his final salary benefits.

what did WSW do to contribute to Mr D's loss?

EFP was paid commission of 3% for setting up the SIPP. It split this equally with Spectrum. EFP was also aware that an unregulated business was involved. It also dealt with all of the administration for setting up the SIPP and the investments.

WSW was required to act in the best interests of its client. This is the "moral dilemma" referred to when it spoke to the regulator. If WSW had acted in the best interests of its client, it should have refused to process the transfer.

The transactions would not have been made but for the involvement of WSW. Ultimately, I regard WSW as being responsible for the transactions which occurred.

did EFP's actions cause the loss?

WSW knew that the money transferred into the SIPP would be invested in Harlequin. WSW realised that the investments were unsuitable. It exposed Mr D's pension fund to significant risk.

the role of Spectrum

Spectrum was clearly involved in the advice to invest the pension funds. But, the transfers could not have been made unless WSW had been involved.

the role of the unregulated firm selling the investments

Investments were sold to Mr D by an unregulated firm. Any complaint about that firm cannot be dealt with by this service. One of the purposes of regulation was to provide consumer protection. I think it is appropriate that if losses are suffered the consumer should be compensated for the actions of the regulated firm. Being a regulated adviser comes with responsibilities. If WSW wants to take an assignment of any rights Mr D may be able to give against any third parties it may do so; if compensation is paid in full.

the role of the SIPP provider

It is possible that the SIPP provider could have prevented the investments being made. But, I think the primary reason for the loss was the actions of regulated firms giving advice to Mr D. Again if WSW wishes to take an assignment of any rights of action against the SIPP provider in may do so; if compensation is paid in full.

the role of Harlequin and those involved with Harlequin

I am aware that there is currently an investigation into the actions of those associated with Harlequin. WSW could argue that any losses were not its fault and that it cannot reasonably be held responsible for the loss. However, it does not necessarily follow that it would not be fair or reasonable to conclude that WSW is responsible for Mr D's loss.

The outcome of any proceedings that may arise is not yet known and may be some way off. I am not in a position to make any judgment about the conduct of those involved in the management of Harlequin. But I acknowledge that it may be relevant to how I determine fair compensation for Mr D. And I can understand why WSW considers that other parties are responsible, either wholly or in part, for Mr D's loss. I have considered that very carefully, along with more general issues of causation and foreseeability.

How a fund is managed is an inherent and foreseeable risk. But where there may have been fraud in connection with the running of a fund then this might mean there has been a break in the 'chain of causation'. This break might mean that it's not fair to say that all of the losses suffered by a consumer flow from the unsuitable advice.

In my view, there is no doubt that Mr D would not have made the investment if WSW had taken the appropriate action. There is enough evidence here for me to conclude that WSW was not acting in its client's best interests. I think that fair redress means that it should compensate Mr D for the loss of his pension fund. That includes the investment loss that could not have happened, but for its advice.

I think that the losses were foreseeable. These were high risk investments. They were unusual holdings, operating in a very specific way and without a track record. They were complex investments that were not easy to understand. They could suffer large losses, the nature of which would be difficult to predict or estimate at the outset.

I am satisfied that Mr D would not have invested, but for the actions of WSW. In my view, it is fair to assess compensation on our usual basis – aiming to put Mr D in the position he would have been in but for the unsuitable advice - despite any arguments around any fraud breaking the chain of causation.

what should WSW do?

My aim is to put Mr D in the position he would now be in if he had received suitable advice. I think that he would have: a.) kept his existing pensions; b.) wouldn't have invested in Harlequin and c.) as a result wouldn't have opened the SIPP (and now be subject to ongoing SIPP fees). In setting out how to calculate fair compensation my objective is to address these three issues. That is what I'm trying to achieve.

There are a number of possibilities and unknown factors in making an award. While I understand Harlequin could allow WSW to take over the investment from Mr D that is now unlikely.

All the variables are unknown and each may have an impact on the extent of any award I may make. The facts suggest it's unlikely that the property will be completed and unlikely that the contract and any future payments would be enforceable. While it's complicated to put Mr D back in the position he would have been in if WSW had acted in his interests, I think it's fair that Mr D is compensated now. I don't think I should wait and determine each and every possibility before making an award. What is set out below is a fair way of achieving this.

WSW should calculate fair compensation by comparing the value of Mr D's pensions, if he had not transferred, with the current value of his SIPP. In summary:

1. Calculate the current value of Mr D's PPP and EPP, as at the date of calculation, if they had not been transferred to the SIPP.

2. For the final salary schemes: review these transfers in line with the methodology issued by the Financial Conduct Authority in October 2017.

3. Pay a commercial value to buy Mr D's Harlequin Property investment.

4. Obtain the actual transfer value of Mr D's SIPP on the date of calculation, including any outstanding charges.

5. If there is a loss caused by any of the transfers redress should be paid.

In addition, WSW should:

6. Pay five years' worth of future fees owed by Mr D to the SIPP.

7. Pay Mr D £250 for the distress and inconvenience caused.

I have explained how WSW should carry this out in further detail below.

1. Calculate the current value of Mr D's PPP and EPP, as at the date of calculation, if they had not been transferred to the SIPP.

It should be assumed that the PPP and EPP would each have achieved a return equivalent to the change in the FTSE UK Private Investors Income total return index (formerly the FTSE WMA Stock Market Income Total Return Index). That is a reasonable proxy for the type of return that could have been achieved if suitable funds had been chosen.

WSW should assume that any contributions or withdrawals that have been made would still have been made, and on the same dates.

2. For the two final salary schemes: review each transfer in line with the methodology issued by the Financial Conduct Authority in October 2017.

The calculations should be carried out as at the date of my final decision; using the most recent financial assumptions published (at the date of that decision). This should be undertaken or submitted to an appropriate provider promptly following receipt of notification of Mr D's acceptance of the decision.

WSW may wish to contact the Department for Work and Pensions (DWP) to obtain Mr D's contribution history to the State Earnings Related Pension Scheme (SERPS or S2P). These details should then be used to include a 'SERPS adjustment' in the calculations, which will take into account the impact of leaving the occupational scheme on Mr D's SERPS/S2P entitlement.

3. Pay a commercial value to buy Mr D's Harlequin Property investment.

The SIPP only exists because of the investment in Harlequin. In order for the SIPP to be closed and further SIPP fees to be prevented, the Harlequin investment needs to be removed from the SIPP. I understand this can be done. However, I understand that is now unlikely.

The valuation of the Harlequin investment may prove difficult, as there is no market for it. To calculate the compensation, WSW should agree an amount with the SIPP provider as a commercial value, and then pay the sum agreed plus any costs and take ownership of the investment. If WSW is unable to buy the investment, WSW should give it a nil value for the purposes of calculating compensation (including in step 1 above).

4. Obtain the actual transfer value of Mr D's SIPP on the date of calculation, including any outstanding charges.

This should be confirmed by the SIPP provider. It should include the value of any money paid for the Harlequin investment if that can be sold. If the Harlequin investment cannot be removed from the SIPP it should be given a nil value to calculate the compensation.

5. If there is a loss caused by any of the transfers redress should be paid.

If any of the calculations demonstrates a loss, the compensation should, if possible, be paid into Mr D's pension plan. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension plan if it would conflict with any existing protection or allowance.

If payment into the pension isn't possible or has protection or allowance implications, it should be paid directly to Mr D as a lump sum. Had it been possible to pay the compensation into the plan, it would have provided a taxable income. Therefore the compensation may be reduced to notionally allow for any income tax that would otherwise have been paid.

The notional allowance should be calculated using Mr D's marginal rate of tax in retirement. Mr D is likely to be a basic rate taxpayer in retirement. The notional allowance should equate to a reduction in the total amount equivalent to the current basic rate of tax. However, as Mr D would have been able to take a tax free lump sum, the notional allowance should be applied to 75% of the total amount.

Simple interest should be added at the rate of 8% a year from the date of my decision until the date of payment. Income tax may be payable on this interest.

6. Pay five years' worth of future fees owed by Mr D to the SIPP.

Had WSW acted in Mr D's best interests I don't think there would be a SIPP. It's not fair that Mr D continues to pay the annual SIPP fees if it can't be closed.

I think WSW could buy the investments to allow the SIPP to be closed. This is the fairest way of putting Mr D back in the position he would have been in. But I don't know how long that will take. Third parties are involved and we don't have the power to tell them what to do. To provide certainty to all parties, I think it's fair that WSW pay Mr D an upfront lump sum equivalent to five years' worth of SIPP fees (calculated using the previous year's fees). This should provide a reasonable period for the parties to arrange for the SIPP to be closed. There are a number of ways they may want to seek to achieve that. It will also provide Mr D with some confidence that he will not be subject to further fees.

In return for that, WSW may ask Mr D to provide an undertaking to account to it for the net amount of any payment he may receive from the Harlequin investment. That undertaking should allow for the effect of any tax and charges on the amount he may receive from the investment. WSW will need to meet any costs in drawing up the undertaking. If WSW asks Mr D to provide an undertaking, payment of the compensation awarded may be dependent upon provision of that undertaking.

7. Pay Mr D £250 for the distress and inconvenience caused.

Mr D has been caused some distress by the loss of his pension benefits. I think that a payment of £250 is appropriate to compensate for that distress.

my provisional decision

Where I uphold a complaint, I can make a money award requiring a financial business to pay compensation of up to £150,000, plus any interest and/or costs that I consider appropriate. If I consider that fair compensation exceeds £150,000, I may recommend that WSW pays the balance.

I presently intend to uphold the complaint and to direct WSW Financial Services Ltd to pay fair compensation as set out above.

If the amount produced by the calculation exceeds £150,000 then, in addition to the £150,000 plus interest I intend to recommend that WSW pays Mr D the balance plus simple interest at a rate of 8% gross a year.

It's unlikely that Mr D can accept my determination and go to court to ask for the balance of the compensation owing to him after the money award has been paid. Mr D may want to consider getting independent legal advice before deciding whether to accept this decision.