DRN-2456197

Financial Ombudsman Service

The complaint

Mr D's representative has complained, on his behalf, about advice given to him by Argent Wealth Limited to transfer his benefits from a defined benefit occupational pension scheme (OPS) – the British Steel Pension Scheme (BSPS) – to a flexi-drawdown pension policy.

The representative has said that the advice was unsuitable, and that it failed to take into account the regulatory requirements in place when the advice was given. It's further said that the advice wasn't in Mr D's best interests and that he would therefore like to be placed in the same position as if suitable advice had been given.

What happened

Mr D sought financial advice from Argent Wealth in July 2016 regarding his options for his deferred pension benefits in the BSPS. In March 2016, the board of Mr D's employer had announced that it would looking at options for restructuring the business, one of which included separating the BSPS from the company.

Mr D has said that he was concerned that the BSPS would be moved into the Pension Protection Fund (PPF) at that time. My understanding is that any details for the possible alternative of the BSPS 2 were at this stage very much in their infancy and weren't common knowledge.

It wasn't until May 2017 that the PPF made the announcement that the terms of a Regulated Apportionment Arrangement (RAA) had been agreed. That announcement said that, if risk- related qualifying conditions relating to funding and size could be satisfied, a new pension scheme sponsored by Mr D's employer would be set up – the BSPS 2.

This was, however, intended to receive deferred benefits only. The main defined benefit OPS had been replaced by a new defined contribution scheme.

As at 4 July 2016, Mr D's circumstances were as follows, as recorded in a "pension transfer attitude" questionnaire:

- He was 56 years old, single, with no dependants.
- He was in good health, and had no reason to think he wouldn't reach normal life expectancy.
- He owned his home, valued at around £150,000, and encumbered by a £58,000 mortgage. He had others loans amounting to about £3,000.
- He had £2,500 in savings.
- He was earning £34,000 pa - a net monthly figure of around £2,000 - with expenditure of approximately £1,400 per month. He therefore had disposable

income of around £600 per month.

- His BSPS benefits were his only source of (non-state) pension income, having accrued just over 38 years of service at the time of the advice.
- He had a "cautious" attitude to risk.

Mr D also confirmed that the following attributes applied to him from a prescribed list:

- *"I have no dependants and therefore I do not feel that the provision of a lump sum death benefit on my death is important*
- *I am already aware that I will be able to retire early owing to my existing arrangements*
- *Whilst a higher lump sum would be nice it is not a priority for me*
- *I would like access to the widest possible range of funds, irrespective of the charges levied*
- *I am aware that my employer or ex-employer's arrangement is in deficit/is closed to new members and I would require my preserved benefits to be reviewed in order to protect them, be it in the current scheme or in a new contract*
- *I do not feel that the provision of a spouse's pension should have any bearing on my recommended course of action*
- *I wish to break all ties with my ex-employer and would prefer to move my funds to an individual plan which is under my control"*

In terms of Mr D's deferred benefit entitlement, he had a normal retirement age of 65, at which point Argent Wealth estimated that he could expect an annual income from the scheme of £24,592.

Mr D received a cash equivalent transfer value (CETV) from the BSPS for his deferred benefits of £251,530 on 8 July 2016.

The suitability report dated 2 September 2016 said that Mr D had expressed concerns about the BSPS and that its funding status was in deficit.

Mr D's priorities were described as follows:

- The potential to retire early and repay his mortgage with the maximum tax free cash
- Flexibility of accessing his pension funds through drawdown
- Improved lump sum benefits for the benefit of his sister

Argent Wealth recommended that Mr D transfer his BSPS benefits to a new arrangement for the following summarised reasons:

- Mr D was concerned about the financial future of the BSPS.

- He wanted to access flexible income drawdown and to benefit from the range of
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funds available from the recommended product, a collective retirement account.

- The BSPS benefits would cease upon his death. But transferred benefits could be passed to his sister.

The transfer value analysis indicated the amount of growth required by the transferred funds to match those being relinquished in the scheme. It concluded that the collective retirement account would need to grow by 14.3% pa to match the BSPS benefits at a retirement age of 65.

Argent Wealth said that this required yield would be regarded as high, and that the requirement to achieve this to match the OPS benefits would place too much stress on the pension funds. But it said that there were other drivers behind Mr D's willingness to transfer his deferred benefits. Mr D's objectives couldn't be met by remaining in the existing scheme, it said. Furthermore, the funds chosen by Mr D would provide him with the portfolio structure and diversification he required and which suited his investment risk profile.

The fee to complete the transfer value analysis was £7,546 if Mr D proceeded and this would be taken by way of a "product facilitated adviser charge", which would be paid by the receiving product provider. A further ongoing advice fee of 1% of the fund value would also be charged.

Mr D accepted the recommendation and transferred his BSPS benefits.

Mr D has since complained to Argent Wealth on the basis set out above. Argent Wealth's representative, on its behalf, didn't uphold Mr D's complaint, saying that, although it agreed that the value of the transferred benefits was unlikely to be able to match that of the benefits in the ceding scheme, Mr D was fully aware of this and there were other key drivers behind his decision to transfer.

In support of this position, it said that Mr D hadn't ever contemplated taking an annuity, but instead wanted to take his tax free lump sum immediately in order to repay his mortgage and other loans amounting to approximately £61,000, and then be able to access his income flexibly. This was a common driver behind decisions to transfer away from a defined benefits OPS, it said.

Had Mr D retired earlier than 65 within the BSPS, it said there would have been a "swingeing" income reduction, amounting to over 40% for retirement at age 56. And any income would then have been fixed for life.

As Mr D was single with no dependants, the spouse's/dependants' benefits from the scheme were irrelevant to him. Rather, Mr D wanted to be able to leave a lump sum benefit in the event of his death to his sister.

Mr D was also very concerned about the future of his employer and the BSPS, and although he was aware of the possibility of the PPF, he preferred the idea of having personal control of his pension funds.

Following the initial meeting, during which the advantages and disadvantages of transferring were discussed with Mr D, he had two months in which to reflect on the proposition. He wasn't rushed into making a decision, the representative said.

Summarising, the representative said that, although the BSPS offered a guaranteed income from age 65, given Mr D's other objectives and concerns about the future of the scheme, he wanted to be able to take control of his pension funds.

Dissatisfied with the response, Mr D's representative referred the matter to this service.

Our investigator considered the matter and recommended that the complaint be upheld. In summary she said the following:

- The regulator said that, when considering a transfer of defined benefits from an OPS, an advising business should assume that it was unsuitable and not in the client's best interests, unless it could be clearly demonstrated otherwise.
- She noted Mr D's cautious attitude to risk and the critical yield of 14.3%, and said that this was far higher than the discount rate – 3.7% pa for a further nine years to retirement - used for loss assessments where a complaint about a transfer of defined benefits had been upheld. This was also much higher than the regulator's mid band of expected growth - 5% pa - used in illustrations.
- Given Mr D's attitude to risk, the investigator was confident that he would attain a significantly lower value of benefits than had been available from the ceding scheme.
- The investigator also considered Mr D's capacity for financial loss. She noted that he was transferring just over 38 years of accrued benefits in the scheme and that he only had other assets of around £2,500 in savings. She therefore didn't think that Mr D had any capacity to absorb a financial loss on the transfer.
- On the basis of the small likelihood of the transfer to exceed, or even match, the transferred OPS benefits, along with Mr D's lack of capacity to absorb the associated loss, she didn't think the transfer was suitable.
- But she also considered whether there were other factors here which mitigated this. She noted the regulator's view that specific client objectives needed to be identified to justify, for example, accessing cash from a pension. Simply recording a desire to access the cash was insufficient.
- The investigator thought that the majority of the objectives recorded by Argent Wealth here seemed to be "stock" or generic motives, which lacked the detail required by the regulator. She used the desire for early retirement and "control" of a pension as examples of this.
- Mr D was also given pre-selected options of objectives to "tick", rather than recording his own specific objectives. She also noted that objectives such as retiring at age 55, given that Mr D was already 56, didn't seem to be tailored to him.
- The only two objectives which she considered to be specific to Mr D were those relating to the desire to access tax free cash to repay his mortgage and to leave a lump sum benefit to his sister in the event of his death. But there was little further detail about these – for example any indication that Mr D was struggling to repay his mortgage. So the investigator didn't think that those more specific objectives in any case warranted the transfer of guaranteed benefits away from the BSPS.

- In her view, the investigator thought that Mr D simply wanted to know the best option for him. And even though she accepted that Mr D might have had concerns about the prospect of the PPF, with a 10% reduction in the benefits payable, she thought that remaining in the BSPS would still have been the suitable recommendation, given the high risk strategy in terms of likely loss though transferring and bearing in mind his cautious risk attitude and little or no capacity for loss.
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- The investigator was confident that, had Argent Wealth advised him to remain in the BSPS, he would have accepted this, and then when the availability of the BSPS 2 arose, he would have opted to be transferred into this.

As such, she recommended that Argent Wealth conduct a loss assessment in line with the regulator's guidance. She recommended that this be undertaken on the basis that Mr D would have opted to later join the BSPS 2.

Argent Wealth's representative disagreed, however, saying the following in summary:

- The investigator's assessment dealt with the fact that the transferred sum would be unlikely to provide an income higher than the anticipated income from the BSPS. But this missed the point of the transfer. The objectives were to ensure a benefit for Mr D's sister upon his death and to retire early if circumstances allowed.

- Mr D was aware that he wouldn't be able to replicate the relinquished income benefits outside of the scheme. But it was never his intention to purchase an annuity.

- Mr D's income needs in retirement were modest, and taking a reduction in early retirement was affordable. It therefore made more sense to take advantage of the CETV and transfer this out of the scheme as it would be able to support that level of income and also meet Mr D's other objectives.

- The figures for the pension available from the BSPS were in any case irrelevant, as they were for a retirement age of 65, not the "much reduced" figures for the intended retirement age of 55/56.

- The representative said that, in the hundreds of defined benefit transfer cases it had dealt with, it had never seen a client who'd been advised to transfer for the prospect of them being able to secure an annuity better than the income available from the ceding scheme. The critical yield was therefore a red herring, as evidenced by the regulator's move away from this to the Appropriate Pension Transfer Analysis (APTA).

- It also didn't accept that, for a transfer to be deemed suitable, there needed to be a real possibility of improving on the benefits that an individual could expect from their scheme. COBS 19.1.6 deliberately didn't prescribe what might be in an individual's best interests or that suitability could only be demonstrated if it could be shown that the income from the transfer would exceed that from the ceding scheme, it said.

- It further contended that it was the standard response of this service to these types of complaints that suitability could only be assessed by reference to the

critical yield and whether income in retirement could be bettered through the transfer. And that none of the other reasons for transferring could "trump" this. This was an unwarranted position and showed no regard for other financial circumstances and objectives, it said.

- The representative further asserted that the investigator had taken a dismissive approach to the clear aims and objectives of Mr D at the time of the advice, instead taking at face value the claims made years later on the instruction of his own representative.
- It noted that the investigator had considered whether there were other reasons, other than the amount of pension income he might receive, which might have justified the transfer, but had said that the vast majority of the stated reasons were "stock
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motives". It rejected the latter point, saying that Mr D had made it clear that his primary objective was that his sister should be able to benefit from his pension in the event of his death. This was a specific objective which couldn't be met from within the BSPS.

- This was confirmed in the questionnaire completed by Mr D, in which he said that he would like *"any monies not taken to go to sister (name redacted) and her family (as much as poss)"*. Mr D said that his sister would be his nominated beneficiary and that, as he had no spouse or dependants, a lump sum death benefit wasn't important, but that he would like his sister to benefit. Mr D didn't feel like the provision of a spouse's pension should have any bearing on the recommendation, but he was very concerned that in the event of his death the benefits should be paid to his sister.
- This was also mirrored in the commentary within the suitability report. As such, it was queried as to why the investigator considered that there was little further detail about this objective.
- The prospect of being able to leave a lump sum to his sister was, in conjunction with other aspects, a good enough reason for Mr D to accept a reduced income. This was evidenced in contemporaneous documents.
- Mr D understood that he would be taking on investment risk by transferring, as also evidenced by the documents. He understood that there was no guarantee that there'd be a lump sum left upon his death, but there was sufficient prospect of this to justify the transfer and to support the view that this could be in his best interests. The desire to benefit a sister was deemed by the representative to reasonably fall in the category of being in the individual's best interests.
- Although Mr D confirmed that it was never his intention to take an annuity, it was established that the CETV would produce an income of around £7,480 pa at the time of the advice. This was close to Mr D's anticipated expenditure of £7,680 and close to the £7,718 which the representative said was likely to be offered by the BSPS for immediate retirement. The illustration issued at the time showed that, by taking the required level of income, this should allow for a lump sum to be left to Mr D's sister. This would then be enhanced by the state pension at 67, which would by itself cover all of the expenditure, thereby leaving a greater lump sum upon death.

- By contrast, the “FOS approach” of Mr D retiring at age 65 and taking full income was far more than he required, when taking account of the state pension two years later, with no prospect of leaving anything to Mr D’s sister. This would not have fulfilled Mr D’s objective, the representative said.

- The representative said that the alternative of being advised to remain in the BSPS and then transferring into the BSPS 2 didn’t take account of Mr D’s objectives. And if he was faced with the same choice now, he would take the same course of action.

- Mr D was 55 at the time of the initial meeting with Argent Wealth, and it was his objective to retire as soon as possible when the fact find was completed. He’d turned 56 by the time of the suitability report, but early retirement remained a key objective for him. This couldn’t be ignored, and it was a realisable objective by transferring out of the BSPS.

- Early retirement in the scheme would have significantly reduced the benefits payable to Mr D, even before the likely reduction of the BSPS 2 or the PPF was taken into account. The trustees’ letter to Mr D dated 17 June 2016 said that, if he took benefits
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  early, they would be subject to a reduction in the region of 43% as at mid-2016. Mr D did eventually retire in 2018, which demonstrated the validity and importance of his objective to retire early.

In closing, the business’ representative reiterated its view that Mr D’s objectives could only be met by transferring and that a “one size fits all” approach wasn’t appropriate when considering the aspects of this case. It reiterated its confidence that, if presented with the same options, Mr D would again choose to transfer, but he had been persuaded to raise the complaint on the basis of securing a further lump sum as redress.

As agreement hasn’t been reached on the matter, it’s been referred to me for review.

At my request, the investigator has notified both parties that, if the complaint was to be upheld, the appropriate comparator for redress purposes would be the transfer of the scheme benefits into the PPF. The investigator explained this was because the early retirement reduction is lower in the PPF and would more than offset the 10% reduction in the initial pension income. A spouse’s pension would be marginally higher with the BSPS 2, but the investigator explained this wasn’t a significant factor here in any case.

Mr D’s representative responded to say that when Mr D first met with Argent Wealth, he had no expectations regarding early retirement, but when he was led to believe that this would be possible with a transfer, he inevitably indicated that this would be his preference. And so any reference in the fact find or suitability report to early retirement being an objective should be viewed in that context.

The investigator confirmed that I was satisfied that early retirement was a key objective for Mr D, and that I’d noted that Mr D had in fact retired early in 2018, some seven years before the scheme’s normal retirement age.

The investigator also said that, although I was aware of the communication to scheme members in October 2020 about the proposed “buy out” of benefits, rather than them entering the PPF, if the complaint was upheld it would be my intention to direct any redress calculation to be undertaken on the current known basis, rather than any future

enhancement (considered unlikely, albeit not impossible, in Mr D's case).

Mr D's representative noted the investigator's comments and confirmed that Mr D would have no objection to any redress calculation being undertaken on the proposed current basis.

In response to these issues, Argent Wealth's representative said the following:

- It reiterated that, at the time of the advice, Mr D was concerned about the future prospects of his benefits in either a successor scheme or the PPF.
- The "adviser book" tool to which the investigator had referred in conveying my view that, if Mr D hadn't transferred, he would have opted to enter the PPF, wasn't available at the time of the advice. It wasn't therefore reasonable to suggest that either Argent Wealth Ltd or Mr D could have used this as a basis for decision making.
- It was on the basis of the known options that Argent Wealth had given its advice to Mr D – and this had met his aims and objectives. Remaining in the scheme, or entering into the PPF, would have met none of these.
- The communication to members in October 2020 referred to by the investigator also post dated the advice by almost four years. It wasn't therefore reasonable to suggest that either Argent Wealth Ltd or Mr D could have used this as a basis for decision making. Nor should this be taken into account in any redress calculation about advice given several years earlier.
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- It also expressed concern at the apparent lack of consideration being given to the responsibility of Mr D in this matter, as referred to in the Financial Services and Markets Act 2000 s.3B. Mr D was provided with the relevant information, understood the risks and made an informed decision to transfer.
- It also referred to an initial view from this service on a separate case, in which the opinion was that the complaint shouldn't succeed as the consumer had made an informed decision based upon the available information. This consideration had been lacking here.

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.

When considering what's fair and reasonable, and in accordance with the Financial Services and Markets Act 2000 (FSMA) and DISP, I need to take into account relevant: law and regulations; regulators' rules, guidance and standards, and codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

The applicable rules, regulations and requirements

This isn't a comprehensive list of the rules and regulations which applied, but provides useful context for my assessment of the business' actions here.

Within the FCA's handbook, COBS 2.1.1R required a regulated business *to "act honestly, fairly and professionally in accordance with the best interests of its client".*

The FCA's suitability rules and guidance that applied at the time Argent Wealth advised Mr D were set out in COBS 9. The purpose of the rules and guidance is to ensure that regulated businesses, like Argent Wealth, take reasonable steps to provide advice that is

suitable for their clients' needs and to ensure they're not inappropriately exposed to a level of risk beyond their investment objective and risk profile.

In order to ensure this was the case, and in line with the requirements COBS 9.2.2R, Argent Wealth needed to gather the necessary information for it to be confident that its advice met Mr D's objectives and that it was suitable. Broadly speaking, this section sets out the requirement for a regulated advisory business to undertake a "fact find" process.

There were also specific requirements and guidance relating to transfers from defined benefit schemes – these were contained in COBS 19.1.

COBS 19.1.2 required the

following: "A firm must:

(1) compare the benefits likely (on reasonable assumptions) to be paid under a defined benefits pension scheme or other pension scheme with safeguarded benefits with the benefits afforded by a personal pension scheme, stakeholder pension scheme or other pension scheme with flexible benefits, before it advises a retail client to transfer out of a defined benefits pension scheme or other pension scheme with safeguarded benefits;

2) ensure that that comparison includes enough information for the client to be able to make an informed decision;

(3) give the client a copy of the comparison, drawing the client's attention to the factors that do and do not support the firm's advice, in good time, and in any case no later than when the key features document is provided; and

(4) take reasonable steps to ensure that the client understands the firm's comparison and its advice."

Under the heading *"Suitability"*, COBS 19.1.6 set out the following:

"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."

COBS 19.1.7 also said:

"When a firm advises a retail client on a pension transfer, pension conversion or pension opt-out, it should consider the client's attitude to risk including, where relevant, in relation to the rate of investment growth that would have to be achieved to replicate the benefits being given up."

And COBS 19.1.8 set out that:

"When a firm prepares a suitability report it should include:

(1) a summary of the advantages and disadvantages of its personal recommendation;

(2) an analysis of the financial implications (if the recommendation is to opt-out); and

(3) a summary of any other material information."

I've therefore considered the suitability of Argent Wealth's advice to Mr D in the context of the above requirements.

Argent Wealth's rationale for transferring

Argent Wealth's representative has said that Mr D was concerned about the financial future of his employer and the pension scheme. Mr D was therefore seeking advice on the options available to him. Mr D wasn't categorised as an insistent client, and so Argent Wealth could be confident that he would be acting upon its advice.

In accordance with COBS 9.2.2R, Argent Wealth undertook its fact finding for Mr D and then set out its assessment of his circumstances and objectives.

Mr D's objectives may be summarised as follows:

- Flexibility of accessing his pension funds through drawdown
- Early retirement and repayment of his mortgage and other loans with the tax free cash
- Improved lump sum benefits for the specific benefit of his sister
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Before I explore these objectives in detail, I think it would be prudent to firstly address a comment made by the business' representative in response to the investigator's assessment.

It said that the investigator had taken a dismissive approach to the clear aims and objectives of Mr D, instead placing disproportionate emphasis on the matter of the critical yield required to match the scheme benefits.

This is in my view an unfair misrepresentation of the investigator's consideration here.

Firstly, even post pension freedoms, and in whatever format – either annuity or drawdown - it might be taken, a regular pension income is still the predominant objective for retirees in order to replace income derived of former employment. They may now take larger cash lump sums than that available on a tax free basis, but the remainder would still typically be drawn in some format as income – as was the recommendation for Mr D here.

Prior to the introduction of more recent guidance which assesses the overall cost of replacing the benefits being relinquished - and which still, it must also be noted, relies on factors including the erstwhile guaranteed income which would otherwise have been paid by the scheme - the critical yield was an entirely reasonable indicator to use in determining whether those scheme benefits might be bettered.

As an additional reminder here, and although I note a further comment from the business' representative that this service shouldn't automatically assume that, just because a case relates to a BSPS member, the advice would have been unsuitable, COBS 19.1.6 said precisely the opposite. The starting assumption for defined benefits transfers should be that they will *not* be suitable. A transfer should only then be deemed suitable if can clearly demonstrate, on contemporary evidence, that the transfer is in the consumer's best

interests.

And this is what the investigator then did – having noted the high critical yield, she specifically addressed whether there were other factors which might render the transfer suitable. The business' representative even acknowledges this, albeit immediately after saying that she had focussed on the matter of the critical yield. The investigator may not, in her final analysis, have thought that these objectives were sufficient justification for recommending the transfer away from guaranteed benefits, but it's a misrepresentation to suggest that she dismissed, or otherwise didn't consider, them.

Early retirement

The scope for early retirement was a key stated objective, and was a repeated theme throughout Mr D's dealings with Argent Wealth. This wasn't attributed the highest ranking of priority for Mr D - ranked as "B" on a scale of "A to C", where A was the highest priority. And Mr D had said that he'd like to retire early, if *feasible*. But the fact is that he did so, two years later, in 2018, and so I'm satisfied that this was indeed a key priority.

Much has been made, both at the time of the advice, and in the representative's response to the investigator's assessment, of the reduction which would have been made to the scheme benefits if Mr D retired immediately, amounting to some 43% of the pension he could expect at 65.

There are a couple of issues here, however. Firstly, there was no conclusive indication as to the age at which Mr D was in fact planning to retire. The business' representative acknowledged this in its submission to this service, conceding that this was an oversight on

Argent Wealth's behalf. This should therefore have been established, and a proper comparison undertaken as to the likely pension Mr D could have expected from the BSPS or the PPF at his actual intended retirement age.

Mr D was recorded as wanting to take the tax free cash for the purpose of repaying his mortgage and loans, but to defer income until a later date. But there was no suggestion that he was experiencing difficulty in making repayments – as borne out by his healthy surplus monthly income.

As we know, Mr D in fact retired in 2018. Given that this was two years closer to the normal scheme retirement date, I think it's likely, even in the absence of an actual comparison, that the discount applied would have been markedly reduced – and certainly to an extent where the scheme benefits from either the BSPS 2 or the PPF would have comfortably met his income needs.

And to illustrate this, even with immediate retirement in 2016, he could have expected a lump sum of £51,453, with which he could have repaid the majority of his mortgage and loan debt, and a residual income of £7,718 pa. I think it's likely that, with the associated increase in the benefits Mr D could have expected to receive two years later, his income needs would have been amply catered for.

I note that this wasn't specifically addressed in the suitability report, but in the response to the complaint there's also a lack of balance when talking about the reduction in the scheme benefits for early retirement. The reality was of course that, although the scheme benefits would be reduced to reflect a longer period of payment, the collective retirement account would also have had less time to grow, and any resulting income would need to

last longer. And so the effects of early retirement are felt in both scenarios.

It's also noteworthy that in the response of the business' representative to the investigator's assessment, it said that Mr D's income needs in retirement were modest and that taking a reduction upon early retirement was affordable.

But it seemed to only apply this principle to an income reduction produced by the transferred benefits. Any reduction in the scheme benefits, even though these would have met Mr D's income needs, have been described as "swingeing". But the actual percentage of reduction shouldn't matter if the income needs can be met. Whether or not a discount is too high only becomes a consideration which needs to be made if the individual is retaining their benefits in the scheme and deciding whether to retire early, or defer this for the sake of enhanced benefits at a later stage.

Overall, therefore, given that Mr D's income requirements are likely to have been met by early retirement within the scheme in 2018, if not before, I don't think this was sufficient reason for him to transfer away from the BSPS.

Lump sum death benefits

I'm satisfied that improving on this position was a key objective for Mr D. The death benefits offered by the transfer would be more beneficial to Mr D and his extended family – specifically his sister. And Mr D was concerned that most of his accrued benefits would be lost in the event of his premature death.

After the transfer, a lump sum would be payable to his beneficiary/ies, rather than in the form of spouse's/dependants' pensions from the scheme. And if he had none, these benefits would be lost.

But I have several concerns about this as a reason for transferring Mr D's benefits. Firstly, he had no particular health issues which would mean that death benefits, or any likelihood to not benefit from a pension income derived of the scheme for a reasonable amount of time, were of concern at that point.

The second is that accrued pension provision is intended to provide for an individual's retirement – as a reminder here, this was almost the entirety of Mr D's provision – rather than a desire to leave a legacy for an extended family member. The recommendation needed to be given in the context of Mr D's best interests, not those of his sister. The business' representative has said that, as the provision of a legacy for his sister was a key priority, this was therefore nevertheless acting in Mr D's best interests.

I'm afraid I disagree. This may have been acting in line with an expression of a wish to leave a financial legacy to a family member, but unless the financial needs of the individual concerned are given prominence over the extended family, this cannot be said to be acting in that individual's best interests. This desire to leave a legacy to his sister cannot reasonably have trumped Mr D's own personal requirement to benefit from his pension. And this objective to leave a legacy should have been properly weighed against the guaranteed benefits Mr D was relinquishing, and Argent Wealth should have advised him that his own financial benefit took priority here.

But there was also an absence of detail or discussion relating to the legacy which Mr D *could* in any case have left to his sister and would have allowed him to retain his guaranteed benefits in the scheme – a property worth in the region of £150,000, which after Mr D had repaid his loans with the tax free cash, would be unencumbered by a mortgage.

I've also seen no detail as to why a death benefit payment to his sister from his pension was so important to Mr D - for example, financially straitened circumstances or some kind of financial dependence. And there was no record of Mr D needing to provide for his sister as part of his normal outgoings. I therefore think that it was more likely than not an entirely understandable desire to leave some kind of financial legacy, but not essential, and certainly not of sufficient importance to justify Mr D compromising the security of his own financial future.

And finally, the death benefits provided by the BSPS were potentially valuable for Mr D in the future. A lump sum may have its appeal – and I recognise that in some situations the ability to pass a lump sum to a beneficiary could be particularly advantageous when compared to an income stream through a spouse's or dependants' pension, especially of course where the latter are currently absent in an individual's life.

But I can't see any record of Mr D ruling out any intention to marry in the future. And so it remained possible that a dependant's pension of some description may yet have had some value for him.

So for the reasons given, I don't think the prospect of a lump sum benefit for Mr D's sister by way of transferring to the collective retirement account constituted sufficient reason to transfer and lose otherwise valuable guaranteed benefits for Mr D personally.

Control of his pension

A further recorded objective for Mr D was control over his pension benefits. This was borne of his concern about the financial viability of his employer and the BSPS, along with the prospect of the latter entering the PPF.

But Mr D's concerns should have been addressed and appropriately managed. I appreciate that 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, but as the professional party, the IFA is tasked with rationally addressing those concerns and providing an appropriately balanced view of the available options.

I don't think this happened here. The extent to which Mr D's concerns were discussed and managed was a single line, as follows – *"You are concerned that your British Steel scheme funding status is in deficit."* Had reassurances instead been given about the protections which would still be available, even in the "worst case" scenario of the scheme benefits needing to enter the PPF, I think Mr D would have viewed things differently.

It's fair to say that the detail of any potential successor scheme, as an alternative to the PPF, is likely to have been lacking at this point in time. This advice predated the announcement in May 2017 relating to the RAA, but even if the BSPS entered the PPF, many important guarantees would remain. And my view is that Mr D would in fact have been better off by transferring to the PPF rather than the BSPS 2. A reduction of 10% would apply to the benefits payable, but even if Mr D retired early in 2018, I think it's more likely than not that those benefits would still have met his income needs.

But Mr D also didn't need to make any decision about whether to transfer until more details were known about the options which might later be available. My understanding is that there was no imminent prospect of the BSPS entering the PPF, and even once the options were known, members still had the choice of transferring out of the scheme, rather than being forced into the PPF.

So I don't think that these concerns, if appropriately managed, would have been sufficient justification to transfer at this time.

Flexibility and control of his pension funds

As background here, Mr D's income and expenditure was recorded in the fact find, with the former being in the region of £2,000 pm (net) and the latter being approximately £1,400.

According to a letter from the scheme trustees, Mr D could expect an income if he took immediate retirement of £10,964 pa, or a tax free lump sum of £51,453 and a lower income of £7,718. And so, even with immediate retirement, which as alluded to above doesn't appear to have been a requirement at that point, and is borne out by Mr D's decision to retire two years later in 2018, Mr D could have repaid the bulk of his mortgage and loans, or certainly restructured his mortgage for the sake of lower monthly payments, and likely have an income which was greater than his outgoings – and which would then be supplemented by the state pension at age 67.

By 2018, which is the point at which Mr D did in fact retire, given the likely reduction in his outstanding mortgage and increase in the tax free cash available from the scheme, I think it's likely he could have repaid his debts in full and benefited from an pension income which would have been comfortably higher than his remaining outgoings.

So, as previously set out above in my comments relating to early retirement, my view here is that there wasn't an income need which couldn't have been satisfied by Mr D's prospective BSPS income, or that produced by a successor scheme. He therefore didn't need to transfer to meet his income needs.

I've therefore then thought about the "flexibility" argument, in that Mr D could alter the income he withdrew from the flexi-drawdown arrangement to satisfy changing income needs.

But it's unclear as to why Mr D would have needed such flexibility, especially given the investment risk associated with it, his cautious risk attitude, lack of capacity to incur losses and apparent lack of any historical investment which might otherwise indicate a preparedness to take risks with his pension income.

According to the illustration produced by the proposed provider, Mr D could expect residual lump sums of between £36,900 and £449,000 (according to low and high rates of projected growth) if he withdrew the equivalent to the annuity (which would be provided by the transferred fund) of £7,480 pa until age 99. This would have enhanced any lump sum Mr D might have been able to leave to his sister.

But there are couple of issues here. Firstly, the relevant comparison here was with the guaranteed income which would be provided by the scheme, not an annuity which could only have been produced by a transfer to begin with. The scheme benefits, even if taken immediately, would have provided a commuted yearly income of £7,718, which in any case exceeded the annuity amount quoted. The pension from the scheme was also guaranteed income, rather than income through drawdown which was reliant upon steady investment growth for the rest of Mr D's life. And given Mr D's limited investment experience, I have to wonder to what extent he would have had confidence in unknown investment returns producing the required income for the rest of his life, but for the reassurances offered by Argent Wealth. Furthermore, the BSPS pension would have increased each year and the

drawdown figure doesn't appear to have factored in those yearly increases over the next 43 years.

Had Mr D been advised to not transfer, he wouldn't have needed to rely upon uncertain future investment performance to provide the income he required. And although I haven't seen projections to illustrate this, had the annual drawdown amount instead reflected the higher payment of the equivalent BSPS income, with the associated annual increases in payment, I think it's likely that the fund would have run out some way ahead of Mr D's 99th birthday. And this disparity in the benefits which would be produced was reflected in the high critical yield which was required to match the BSPS benefits, even taking into account that benefits were assumed to be taken later at 65.

I'm not, therefore, satisfied that flexibility of income withdrawal was a sound justification for the transfer, when a steady, guaranteed income from the BSPS would have met Mr D's income requirements and offered him this peace of mind for the rest of his life. And as I've set out above, even if Mr D didn't marry or have dependants, any legacy he wished to leave his sister could have been provided by the value of his mortgage free property.

I've then considered the critical yield quoted by Argent Wealth. And for the reasons given above, this is a key indicator as to the real value of the benefits being relinquished. It cannot simply be dismissed on the basis that a consumer might not have planned to take an annuity with transferred funds – an option which I've explained wouldn't in any case have been possible until that transfer had taken place.

On the basis of the recommendation to take regular drawdown here, Mr D was, in line with the majority of retirees, seeking some means of a regular income.

It seems to be accepted by all parties that the figure of 14.3% pa to match the scheme benefits at age 65 was unlikely to be achieved by the collective retirement account. And it could only really be achieved by taking a level of investment risk higher than was appropriate for Mr D.

Mr D was categorised as a cautious risk investor. As noted by the investigator, the advice was given during the period when this service was publishing 'discount rates' on our website

for use in loss assessments where a complaint about a past pension transfer was being upheld. Businesses may not have been required to refer to the discount rates produced by that guidance when giving advice on pension transfers, but they did nevertheless provide a useful indication of what growth rates would have been considered reasonably achievable when the advice was given in this case. And the discount rate cited at the time of the advice was 3.7% pa for a time period of 9 years to retirement.

The required critical yield was clearly comfortably in excess of this - and even if the business' representative doesn't accept the discount rate as a reliable indicator of the achievable growth rate, this also significantly exceeded the mid-band growth rates used by pension providers when providing quotations.

So, as noted by the investigator, to achieve an annual investment return of over 14% to simply *match* the scheme benefits, Mr D would have needed to take investment risks significantly in excess of those he was either prepared, or in a position, to take.

And in my consideration of this, I've further thought about Mr D's *capacity* to take risks with his pension funds. These pension benefits represented virtually the entirety of Mr D's

retirement provision – he'd accrued over 38 years' service. Any benefit accrued in the replacement defined contribution scheme established by his employer would have been relatively small, and is unlikely to have accrued further significant value in the number of years left until he planned to retire. It also didn't have the same guarantees which were attached to the BSPS, or successor schemes.

The business' representative portrays guaranteed income, for example from the ceding scheme, as being a secondary consideration in these transfers, and appropriately subjugated by higher priorities. The representative also cites its own experience where the stated objectives in a suitability report prepared by a business include, for example, a flexible income, rather than the desire for a guaranteed income as would be offered by either the scheme or an annuity.

So, whilst this case has been considered on its own merits, I thought it might be helpful to also provide our own experience of the types of complaints we then see at this service, when an individual says they have subsequently appreciated the significance of the income guarantees they've relinquished, saying that flexibility (often paired with the requirement of "control" over the pension) was in fact never a key objective, but was promoted by the business as a beneficial outcome of transferring. What had been portrayed by a business as an advantageous *outcome* of a transfer then became a stated objective – which of course was then met by means of the transfer.

Without appropriate evidence to justify why "flexibility and control" were so important to an individual that they would have been prepared to relinquish the guaranteed income provided by the scheme, it's often the case that this position, or reason to transfer, doesn't stand up well to scrutiny – as is, in my view, the case here.

On a similar theme, and as alluded to above, the business' representative has said that Mr D never expressed a desire to take his pension benefits in the form of an annuity, and that this is a further reason as to why the critical yield is a "red herring". But unless there was a real prospect of the benefits being bettered, as certainly wasn't the case here, this would in any case have been a somewhat odd rationale for transferring, given that guaranteed regular income for life could simply have been obtained from the BSPS or the successor schemes.

As with the "flexibility" argument, this is being considering from the wrong direction, again confusing objectives with outcomes. An outcome – in this case disadvantageous in terms of the guaranteed income available - of the transfer has again been used as a potential reason

for it. Firstly, prior to the transfer, Mr D would never have needed to entertain the possibility of taking an annuity. He had the prospect of guaranteed income from the scheme.

It was only on the basis of the transfer proceeding that Mr D then effectively ruled out the guaranteed income from an annuity presented to him, because it was only just sufficient to meet his expenditure. Drawdown, once the transfer had happened, therefore became the only viable, and recommended, option. The possibility of an annuity only arose as a result of the transfer. Or put another way, it wasn't – and cannot have been - one of Mr D's objectives to *not* take a previously unavailable annuity.

And so the inability to obtain an annuity from transferred funds which would be sufficient for his income needs wasn't a reason to transfer, and *then* implement drawdown because that would then be the only viable option for receiving sufficient income once the transfer had occurred. Rather, the inability to obtain a guaranteed income from transferred funds which

would match that provided by the scheme would be a reason to think carefully about whether an individual should be advised to transfer at all.

The business' representative has said that Mr D's other objectives outweighed the necessity for a guaranteed income stream to be matched by the flexi-drawdown benefits. But for the reasons I've outlined above, I don't consider these reasons to be sufficiently compelling to justify the transfer from an environment of guaranteed pension benefits to one in which no such guarantees existed, especially when Mr D's income needs could have been satisfied from the BSPS or successor schemes.

What should Argent Wealth have done – and would it have made a difference to Mr D's decision?

There were understandably concerns relating to the BSPS at the time of the advice - and I fully acknowledge this. It's undeniable that this was a period of great uncertainty for individuals such as Mr D. But this only serves to emphasise the need for a balanced assessment of the options available and, ultimately, suitable advice.

Furthermore, as I've also said above, there was no need for Mr D to make any decision about his BSPS benefits at this point in time. It would have been better for him to await further detail as to the prospects for the BSPS, whether this was a transfer into the PPF, or as was ultimately the case, the further option of transferring into the BSPS 2. There was no pressing need to retire at that point – no actual early retirement date had been recorded, and as it transpired, even after the transfer Mr D didn't retire for another two years.

I've also thought very carefully about whether the service provided to Mr D was a balanced appraisal of the options available to him, coupled with a robust and candid discussion about his own concerns relating to the BSPS. Mr D, amongst many others in a similar position, may have been concerned by developments relating to his employment and the BSPS, but he was nevertheless entitled to an impartial review of his options.

And looking at those options, one of the key recorded objectives - early retirement – was in any case achievable within the BSPS, and would have remained so in the PPF. For the reasons given above, I don't think the perceived advantage of flexibility of income outweighed the guaranteed benefits in the scheme, and I'm satisfied that Mr D's income needs could have been comfortably met by accessing benefits provided by the scheme.

My further view is that, if properly discussed, Mr D's concerns about the existing scheme and the links to his employer could have been successfully allayed, such that he appreciated the important guaranteed benefits, even under the PPF, which he would be relinquishing for the

sake of income flexibility which he simply didn't need, and a future pension which would be dependent upon investment returns.

Tax free cash for the purpose of mortgage and loan repayment was available from his scheme benefits and growth over the short term would be achieved by way of regular revaluations. Death benefits were also payable from the BSPS, albeit in a different format from those available from the collective retirement account. But I don't think these should have been a more important consideration than Mr D's own, personal benefit which he'd be relinquishing through the transfer.

The critical yield is a very telling indicator of the value of the benefits being relinquished. And at over 14%, there's a consensus here that this was unlikely to be achievable to even

simply match the scheme benefits - and this was at age 65, with the benefit of a further nine years' prospective continual growth. The justification for nevertheless transferring, despite the very high likelihood that the scheme benefits couldn't be matched (and almost certainly not with the type of investment risk appropriate for Mr D) was that it was nevertheless suitable in view of Mr D's stated objectives and the concerns about the BSPS. The business' representative has restated this in its response to the complaint.

And whilst I accept that the critical yield isn't the only factor to consider when weighing the suitability of a transfer, I'm unconvinced by what Argent Wealth, or its representative, considers to have been the overriding justifications for proceeding with the transfer, for the reasons given above. At least one of the key objectives – early retirement - could in any case have been met by the BSPS or the successor schemes. And in the absence of any health conditions which suggested that Mr D might not receive a reasonable period of guaranteed retirement benefits (according to Office for National Statistics (ONS) data, into his early 80s) from the scheme, Mr D would in any case have been able to leave a financial legacy to his sister through the value of his mortgage-free property.

The available evidence simply doesn't support the position as to why "flexibility and control" would have been sufficiently compelling reasons for Mr D to relinquish valuable benefit guarantees. He had no prior experience, or demonstrable history, of wanting to manage his own investments. And if the objective of "control" was borne of concerns relating to the financial viability of the BSPS, notwithstanding the benefit of waiting to learn more about the plans for the BSPS, alongside the known benefits of the PPF, there needed to be a much more balanced assessment of the scheme's attributes and prospects for Mr D to be able to make a properly informed decision.

And I don't think any potential lack of awareness of the detail of the BSPS 2 and its features in any case changes the outcome here. Even if there was the prospect of Mr D's funds entering the PPF, my view is that, taking account of his circumstances, including his attitude to risk, his objectives and the guarantees which the BSPS offered and would have persisted, Argent Wealth should have advised against the transfer.

I think that, had this happened, Mr D would have followed that advice and left his deferred benefits where they were.

Argent Wealth's representative has raised the issue of Mr D's responsibility in deciding to transfer his benefits. I don't disagree that properly informed, correctly advised individuals would be in a position to take that kind of responsibility and decide for themselves if they wanted to transfer their defined benefits. The problem here is that this was a complex matter involving many factors with which Mr D, as a layman, wouldn't have been familiar – hence his reliance on a professional party to take those factors into account and provide suitable, balanced advice.

For the reasons given above, my view is that Mr D simply wasn't placed in a properly informed, or suitably advised, position to be able to take that kind of personal responsibility.

The representative has also referred to a separate case against Argent Wealth in which the investigator has recommended that the complaint not be upheld. But it will be aware that each case will be different, and will have quite unique circumstances, not least those of the consumer involved. As I've said above, my consideration here has dealt with the circumstances of this particular case.

summary

For the reasons given, my view is that a fair and reasonable assessment of this case leads to a clear conclusion – that the recommendation to transfer wasn't suitable for Mr D, nor was it in his best interests. The key contributing factors here are: Mr D's cautious attitude to risk and its incompatibility with the type of investment risk required to match the scheme benefits
– a failing under COBS 19.1.7; and the lack of balance in the portrayal of Mr D's options and the benefits available from the BSPS – a failure to adhere to COBS 19.1.2 (2) and 19.1.8.

I also have significant concerns about the way in which the critical yield, itself a key indicator of the value of the benefits being relinquished, was largely dismissed on the basis of the other objectives identified and the described benefits of the transfer. But at least two of the key benefits sought by Mr D were available without needing to transfer – early retirement through the BSPS or the PPF, and a lump sum financial legacy for his sister through his property. And for the reasons I've set out above, the argument for requiring flexibility and control, over and above the comparative advantage of guaranteed benefits for life, doesn't bear up to scrutiny.

Argent Wealth would have known that, taking account of Mr D's attitude to risk with regard to his pension funds and matching that with the likely corresponding investment returns, it was unlikely that the benefits available from the BSPS, or the PPF, could be bettered through the transfer. As the other reasons for transferring were insufficiently compelling, when considered against the valuable benefits being relinquished, as required by COBS 2.1.1R and COBS 19.1.6, it would - or should - then have drawn, and conveyed, the conclusion that transferring wasn't in Mr D's best interests.

Putting things right

My aim to is put Mr D, as closely as possible, into the position he'd be but for Argent Wealth Limited's unsuitable advice. Reinstatement of Mr D's deferred benefits isn't possible.
Therefore, Argent Wealth Limited should undertake a redress calculation in line with the pension review guidance as updated by the Financial Conduct Authority in its Finalised Guidance 17/9: Guidance for firms on how to calculate redress for unsuitable DB pension transfers.

My view is that, had Mr D not transferred his pension funds to the PPP, he would have opted to join the PPF. There would be a 10% reduction in the starting pension entitlement within the PPF. The BSPS 2 wouldn't cut the starting entitlement for deferred members, but the reduction for early retirement under the PPF was lower and would have more than offset the 10% reduction. The commutation factors for tax free cash entitlement were also slightly more favourable under the PPF. And so both the starting income and the tax free cash would have been higher with the PPF.

If Mr D did marry, under the BPSP 2 his spouse's pension would be set at 50% of his pension at the date of death, and this would be calculated as if no lump sum was taken at

retirement. But although he may have later married, as Mr D was single at the time of the advice, I think any enhancement in spouse's benefits would have been of secondary importance to his own pension benefits.

Within BSPS 2, for service after 5 April 1988 and up to 5 April 1997, the scheme would include a Guaranteed Minimum Pension (GMP) element increase in line with CPI, capped

at 3% pa. Mr D's service accrued between 5 April 1997 and 5 April 2005 would also be increased in line with CPI, capped at 5% pa, and then 2.5% pa for his service thereafter. But again, I think the advantage of the higher starting income in the PPF would more have more than made up for this.

And so it's the benefits offered by the PPF which should be used for comparison purposes.

I'm aware of the recent announcement regarding the proposed insurance "buy-out" of the benefits currently under PPF assessment, which is scheduled to occur towards the end of 2021. It's been confirmed that, when this happens, all members whose PPF benefits would be less than their full scheme benefits (i.e. the amount they would be if the scheme were not in a PPF assessment period) will see an increase to their benefits. All other members will see no change as a result of the buy-out.

As I've set out above, my view is that Mr D's benefits from the PPF would in any case have been better than those he could expect from the BSPS 2, and so, whilst I can't be certain on this in advance of the knowing the actual terms of the buy out, I think he would fall into the latter category and would experience no change to his benefits as a result.

I've noted the comments made by Argent Wealth's representative about the tool for determining whether the BSPS 2 benefits, or those which would be offered by the PPF, would be the better for Mr D's objectives. It's said that, as this wasn't available at the time of the advice – and this was also the case with the information about the proposed buy out - any consideration of this in deciding the outcome of the complaint would be using the benefit of hindsight.

I'm afraid that the representative has misunderstood this. Neither the tool, nor the more recent announcement about the buy-out, have contributed to my findings on the suitability of the advice given to Mr D. My conclusions, quite apart from these later resources, are that Mr D wasn't suitably advised to transfer, for all the reasons sets out above.

There is no use of the benefit of hindsight here. I've concluded that, suitably advised, Mr D would have retained his benefits in the scheme. Had he done so, he would *then* have participated in the "time to choose" exercise, at which point the tool demonstrating the likely enhanced benefits for an early retiree would have been available to him. And I think it's then likely, given his objectives, that he would have opted for his benefits to enter into the PPF.

As such, the calculation on the basis of choosing to enter the PPF should be carried out using the most recent financial assumptions at the date of the actual calculation. Argent Wealth 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 calculation, which will take into account the impact of leaving the occupational scheme on Mr D's SERPS/S2P entitlement.

If the redress calculation demonstrates a loss, the compensation in respect of any future loss 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 a 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 after making a notional deduction to allow for future income tax that would otherwise have been paid.

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 future loss adequately reflects this.

The compensation amount must where possible be paid to Mr D within 90 days of the later of the date Argent Wealth Limited receives notification of his acceptance of my final decision.

Further interest must be added to the compensation amount at the rate of 8% per year simple from the date of my final decision to the date of settlement for any time, in excess of 90 days, that it takes Argent Wealth Limited to pay Mr D.

It's possible that data gathering for a SERPS adjustment may mean that the actual time taken to settle goes beyond the 90 day period allowed for settlement above – and so any period of time where the only outstanding item required to undertake the calculation is data from DWP may be added to the 90 day period in which interest won't apply.

Where I uphold a complaint, I can award fair compensation of up to £160,000, plus any interest and/or costs that I consider are appropriate. Where I consider that fair compensation requires payment of an amount that might exceed £160,000, I may recommend that the business pays the balance.

Determination and money award: I require Argent Wealth Limited to pay Mr D the compensation amount as set out in the steps above, up to a maximum of £160,000.

Where the compensation amount does not exceed £160,000, I additionally require Argent Wealth Limited to pay Mr D any interest on that amount in full, as set out above.

Where the compensation amount already exceeds £160,000, I only require Argent Wealth Limited to pay Mr D any interest as set out above on the sum of £160,000.

Recommendation: If the compensation amount exceeds £160,000, I also recommend that Argent Wealth Limited pays Mr D the balance. I additionally recommend any interest calculated as set out above on this balance to be paid to Mr D.

If Mr D accepts my decision, the money award is binding on Argent Wealth Limited. My recommendation is not binding on Argent Wealth Limited. 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 this decision.

My final decision

My final decision is that I uphold this complaint. Argent Wealth Limited should undertake the above calculation and, if it demonstrates a loss, compensate Mr D accordingly.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 24 May 2021.
Philip Miller
Ombudsman