DRN-3314441

The complaint

Mr D complained that he was given unsuitable advice to transfer his defined benefit (DB) British Steel Pension Scheme (BSPS), to a personal pension plan.

AJH Financial Services Limited is responsible for answering this complaint and so to keep things consistent, I'll refer mainly to "AJH".

What happened

In March 2016, Mr D's employer announced that it would be examining options to restructure its business, including decoupling the BSPS from the company. The consultation with members referred to possible outcomes regarding their preserved benefits, which included transferring the scheme to the Pension Protection Fund (PPF), or a new defined benefit scheme (BSPS2). Alternatively, members were informed they could transfer their benefits to a personal pension arrangement.

In May 2017, the Pension Protection Fund (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 BSPS2.

In October 2017, members of the BSPS were being sent a "Time to Choose" letter which gave them the options to either stay in BSPS and move with it to the PPF, move to BSPS2 or transfer their BSPS benefits elsewhere. The deadline to make their choices was 11 December 2017 (and was later extended to 22 December 2017).

Mr D was concerned about what the announcement by his employer meant for the security of his preserved benefits in the BSPS. He was unsure what to do and was referred to AJH which is responsible for providing the pension advice. A client agreement was signed with AJH on 13 December 2017 and a 'fact-find' completed the same day. Information gathered about his circumstances and objectives at the time were broadly as follows:

- Mr D was 38 years old, living with his partner aged 35. They had an 11-year-old dependent child.

- They lived in a home valued at approximately £110,000, which had an outstanding mortgage of around £65,000. The mortgage had 24 years left to run.

- Mr D's partner (Ms D) also worked and was contributing to a public sector pension of her own. Together they had a joint income of over £3000 (net) per month and a disposable income of around £1200 per month, after expenses. They had savings comprising over £21,000 mainly in cash accounts and individual savings accounts (ISAs).

- The cash equivalent transfer value (CETV) of Mr D's BSPS was approximately £218,399 and the normal retirement age (NRA) was 65. AJH said Mr D wanted to retire early if possible.

- Mr D and Ms D were in good health.

AJH commissioned a transfer analysis in January 2018 and set out its advice in a suitability letter on 12 February 2018. It advised him to transfer out of the BSPS and invest the funds in a personal pension plan. AJH said this would allow Mr D to achieve his objectives.

Mr D accepted this advice and so transferred to a personal pension. In 2021 Mr D complained to AJH about its advice, saying he shouldn't have been advised to transfer out of the BSPS. In response, AJH said it hadn't done anything wrong and was acting on the financial objectives Mr D had at the time.

Mr D referred his complaint to our Service. One of our investigators looked into the complaint and said it should be upheld. As the complaint couldn't be resolved informally, it's come to me for a final decision.

What I've decided – and why

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

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've considered with great care, the final response from AJH, and in particular, all the points made in a comprehensive document from AJH's legal advisers. But whilst I've noted all the points made, I've rightly focussed on what I think to be the relevant aspects and points in this case.

I've also taken into account relevant law and regulations, regulator's rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time. This includes the Principles for Business ('PRIN') and the Conduct of Business Sourcebook ('COBS'). Where the evidence is incomplete, inconclusive or contradictory, I reach my conclusions on the balance of probabilities – that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances.

The applicable rules, regulations and requirements

The below is not a comprehensive list of the rules and regulations which applied at the time of the advice, but provides useful context for my assessment of AJH's actions here.

- PRIN 6: *A firm must pay due regard to the interests of its customers and treat them fairly.*
- PRIN 7: *A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.*
- COBS 2.1.1R: *A firm must act honestly, fairly and professionally in accordance with the best interests of its client (the client's best interests rule).*
- The provisions in COBS 9 which deal with the obligations when giving a personal recommendation and assessing suitability and the provisions in COBS 19 which specifically relate to a DB pension transfer.

I have further considered that the regulator, the Financial Conduct Authority ('FCA'), states in COBS 19.1.6 that the starting assumption for a transfer from a DB scheme is that it is unsuitable. So, AJH should have only considered a transfer if it could clearly demonstrate that the transfer was in Mr D's best interests.

I've used all the information we have to consider whether transferring away from the BSPS to a personal pension was in Mr D's best interests.

I don't think it was, so I'm upholding his complaint.

Financial viability

AJH referred in its transfer analysis to 'critical yield' rates. The critical yield is essentially the average annual investment return that would be required on the transfer value - from the time of advice until retirement - to provide the same annuity benefits as the DB scheme. It is therefore part of a range of different things which help show how likely it is that a personal pension could achieve the necessary investment growth for a transfer-out to become financially viable. As well as considering the critical yield, I've looked at other financial projections too.

I've also noted that, at the time of the advice, AJH first considered one platform for the personal pension it was advising Mr D to transfer to, but then later considered another one. Both were large and well-known providers and I don't think there was a demonstrable difference between the two. When considering the first platform, AJH said the critical yield required to match the benefits of the proposed BSPS at the age of 65 was 5.3% if he took a full pension and 4.6% if he took tax-free cash and a reduced pension. At the age of 57 these figures were 6.1% and 5.2% respectively.

However, I've noted that these comparisons were made against buying a *single-life* annuity. Given Mr D was at the time unmarried, I think it's reasonable that these comparisons were included. But Mr D and Ms D had a child together and the evidence I've seen implies a long-term partnership between them. I'm also aware that Mr D and Ms D did go on to marry, in 2019, and I see this issue did come up during the discussions with the adviser. The relevance of this is that comparisons with a *joint-life* annuity were higher – the critical yield figures at 65 were 5.9% and 5.3% respectively. At 57, they were higher still: 6.9% and 6%.

At several points in the discussion documents – and later in AJH's final responses - much mention is made of Mr D's apparent wish to retire at 57. So I think all these critical yield figures should have raised a concern from AJH in that improving upon these growth rates, year-on-year, would be unlikely.

Elsewhere in its transfer analysis, AJH also made mention of the PPF. It said the critical yield to match the benefits available at age 65 was 4.8% per year if Mr D took a pension under the reduced terms of the PPF and 4.4% per year if he opted to take a tax-free cash element and a further reduced pension. For the age of 57, the yields were 6.1% and 5.6% respectively under the PPF. However, no critical yields were provided in relation to a joint-life annuity. So, overall I think there were certain limitations here to Mr D being given enough information with which to make an informed choice.

Nonetheless, AJH said matching the critical yield was 'potentially' achievable in Mr D's case although it didn't say which one it was targeting.

The advice was given after the regulator gave instructions in Final Guidance FG17/9 as to how businesses could calculate future 'discount rates' in loss assessments where a complaint about a past pension transfer was being upheld. Prior to October 2017 similar rates were published by the Financial Ombudsman Service on our website. Whilst businesses weren't required to refer to these rates when giving advice on pension transfers, they provide a useful indication of what growth rates would have been considered reasonably achievable for a typical investor.

The relevant discount rate closest to when the advice was given which I can refer to was published by the Financial Ombudsman Service for the period before 1 October 2017 and was 4.6% per year for 26 years to retirement (to age 65). For age 57, the discount rate was

4.4%. I've also kept in mind that the regulator's upper projection rate at the time was 8%, the middle projection rate was 5%, and the lower projection rate was 2%.

In my view, these figures show that improving upon the critical yields would be unlikely. AJH's advice to transfer away from the BSPS to a personal pension was largely based on its view that Mr D could grow his pension outside the DB scheme, in the recommended plan, to an extent that made transferring worthwhile. But at the time, AJH assessed Mr D's attitude to risk (ATR) firstly as "high medium" although this was later reduced to "low medium".

AJH therefore needed to consider all these issues together with the loss of guarantees and benefits transferring to a personal pension would incur. It's also important to bear in mind the additional costs and charges associated with a personal pension and that these would effectively reduce the growth rate further. And with all this in mind, I think its reasonable to say that a maximum potential growth rate in these circumstances could be assumed as being around 4 to 4.5%.

There would be little point in Mr D giving up the guarantees and benefits available to him through this scheme only to achieve a lower level of benefits in a personal pension. Here, the discount rate, the regulator's lower-end mid-projection rate and the figures I've used above myself were all materially below the relevant critical yield figures at 65 and 57.

So, in my view, there was simply no reliable evidence from AJH here that Mr D's transferred funds could confidently exceed the critical yield rates to an extent that supported the advice to transfer away from a DB scheme. Even small differences in projected growth rates can have a substantial effect over time, so I think these figures show Mr D would most likely receive lower pension benefits in the longer-term by transferring to a personal pension. I think that would also be the case even if Mr D moved with his existing scheme to the PPF.

Of course, AJH's recommendation was evidently supported by other reasons to transfer away. I've therefore thought about all the other considerations which might have meant a transfer was suitable for him, despite providing the overall lower benefits mentioned above. I've considered these below.

Other reasons the transfer was based on

In its suitability letter AJH recommended a transfer to a personal pension based on what it said were Mr D's objectives. In addition to 'potentially' matching the critical yield, which I've dealt with above, it listed the following themes as supporting the recommendation to transfer away:

- Mr D could take benefits at 57 and could draw his desired retirement income until beyond his life expectancy which was 87 years

- There would be more flexible access to the pension and more flexible death benefits

- Stability of the scheme was a concern

So, it seems that AJH also recommended the transfer for the flexibility and control it offered to Mr D. I have therefore considered all of these issues in turn.

Drawing his desired income until beyond his life expectancy

AJH said Mr D wanted to have around £1,300 per month in his retirement. However, retirement for Mr D, aged 38 years old, was a long time off. And so I think AJH should have started from the position that this could be no more than an educated guess at that point in time. I think it's fair to point out that in reality both he and Ms D were in 'mid-career' and they had many years before them where their family situation would evolve and their priorities and challenges could change.

So, AJH's job here was to provide realistic advice with this in mind which was in Mr D's best interests. And basing a recommendation to irreversibly leave his DB pension, on retirement aspirations that were so far off was, in my view, a poor start.

I've noted that AJH provided a range of scenarios whereby Mr D's transferred-out funds could last him well into retirement. Specifically it said he'd be able to draw £1,300 per month to beyond his life expectancy age. But this simply wasn't using 'like-for-like' comparisons with the BSPS2. So, when AJH said that "*when taking your benefits at age 57, based on your desired income of £1,300, your fund will exceed your life expectancy of 87"* this was based on a growth rate which I don't believe was reasonable to use in the circumstances because it was too high. In reality Mr D's funds, if transferred, could have been depleted sooner, particularly if returns were poor. But more so, by transferring out, Mr D was also giving up substantial guarantees and benefits associated with the DB scheme.

Flexibility of a personal pension

In its suitability letter, AJH referred to Mr D being able to access the maximum tax-free cash via a personal pension. It's usually the case that more tax-free cash can be accessed from a personal pension when compared against a DB scheme; this is because the values and benefits of the two schemes are calculated differently. But AJH should have been telling Mr D at the time that extra tax-free lump sums being removed from a personal pension, potentially from the age of 55, also came with consequences in that the amount left for his later retirement years would obviously decrease.

So, whilst I accept the notion of accessing more tax-free cash might have been appealing, this needed to be considered against the other options Mr D faced, including opting for the BSPS2. Again, I also come back to Mr D's age at the time and the fact that these assumptions about what Mr D would or wouldn't need when he retired, were effectively a 'best guess'.

Even if I were to accept £1,300 per month was roughly what Mr D needed to fund a retirement – which at best was some two decades away – I've seen nothing that shows the BSPS2 wouldn't have helped meet these needs anyway. In its transfer analysis AJH said that Mr D's estimated annual pension upon his NRA was £8,834 per year under BSPS2. But I can't see that AJH identified and promoted the additional income and flexibility Mr D would enjoy at retirement because he had also recently joined his employer's new defined contribution ('DC') scheme.

So, even if he did retire at the comparatively young age of 57, Mr D (and also his employer) would have been making contributions to this 'second' pension for around twenty years. This means he could have accessed this second pension as he saw fit or when he wanted to retire and it would have complemented his existing BSPS2 scheme. In my view, he would have been in a good position: the DB pension (BSPS2) was guaranteed and index linked; and the DC pension had the added ''flexibility' were his circumstances to change. I think this fitted in very well with Mr D's likely financial needs going forward.

I therefore think Mr D's circumstances were much more aligned to him retiring from a DB scheme in this case, such as BSPS2, and drawing this pension in the way it was originally intended. So, I think AJH's advice should have reflected this.

Death benefits

AJH says that death benefits were discussed at the time and the personal pension would better enable the retention of the value of the funds if Mr D died.

Death benefits are an emotive subject and of course when asked, most people would like their loved ones to be taken care of when they die. The lump sum death benefits on offer through a personal pension was probably made to look like an attractive feature to Mr D. But whilst I appreciate death benefits are important to consumers, and Mr D might have thought it was a good idea to transfer the BSPS to a personal pension because of this, the priority here was to advise him about what was best for his retirement provisions. A pension is primarily designed to provide income in retirement. And I don't think AJH explored to what extent Mr D was prepared to accept a lower retirement income in exchange for higher death benefits.

I've noted that at the time Mr D was unmarried. But there was clearly a discussion about this as it's referred to in documents I've seen from the advice session. We also know Mr D did marry the following year. I therefore think this is relevant to the way the significant death benefits in BSPS2 ought to have been viewed.

Whilst it could be alleged that this is using the benefit of hindsight, what was known at the time is that Mr D and Ms D had a dependent child. The facts also strongly imply theirs was a long-term relationship and so, at the ages of 38 and 35, I think marriage was something that ought to have been clarified more by the adviser. If married, this made the death benefits in BSPS2 very relevant to their situation.

In this context, I think the likely death benefits attached to the new DB scheme (BSPS2) were underplayed. Mr D's child already qualified for certain benefits under the BSPS2 and as they were only 11 years old, this benefit was relatively long lasting as at the point of the advice. But the spouse's pension provided by the BSPS2 would have been useful to Ms D if she and Mr D married and he then predeceased her. I don't think AJH made the value of this benefit clear enough. This was guaranteed and it escalated – it was not dependent on investment performance, whereas the sum remaining on death in a personal pension was.

In any event, there may not have been a large sum left anyway in a personal pension upon Mr D's passing, particularly if he lived a long life. So I don't think the advice should have implied Ms D and / or their child would benefit more from a personal pension. Furthermore, it doesn't appear that AJH took into account the fact that Mr D could have nominated Ms D as the beneficiary of any funds remaining in his DC scheme. So, to this end, Mr D had already ensured part of his pension wouldn't 'die with him'.

I see AJH itself has later said he had very little life cover. It's likely this area *was* discussed in this case as it does look like some quotes were obtained. However, it looks to me as if some of these were essentially quotes based on the transfer value of Mr D's full pension benefits and assumed that he could pass away on day one following the transfer. Accordingly, they were most likely very expensive and somewhat unrealistic for Mr D. At 38 years old and apparently healthy, 'term' life insurance may have been a much more affordable product if he really did want to leave a legacy for his loved ones. This would have been a good alternative to transferring to a personal pension just for the supposed death benefits.

I'm therefore clear that in this case I don't think different death benefits available through a transfer to a personal pension justified the likely decrease of the valuable retirement benefits Mr D would enjoy through the BSPS2.

Control or concerns over financial stability of the DB scheme

I've seen no evidence that Mr D had the capacity or desire to manage his own pension affairs. The evidence here suggests quite strongly that he was a relatively inexperienced investor who's only exposure to money market investments was a 'high street' stock and shares ISA with pre-selected stocks. Mr D told us he played no active part in the investment strategy and at the time of the advice there was under £2,000 in the ISA, a small percentage of his overall savings. AJH's implication that Mr D might have wanted to be actively involved in a personal pension's investments after the transfer therefore lacks evidence.

However, I do accept that it's clear that Mr D, like many employees of his company, was concerned about his pension. His employer had recently made the announcement about its plans for the scheme and AJH said he lacked trust in the company. He'd heard negative things about the PPF and AJH said he could have more control over his pension fund.

So, it's quite possible that Mr D was also leaning towards the decision to transfer because of the concerns he had about his employer and a negative perception of the PPF. However, it was AJH's obligation to give Mr D an objective picture and recommend what was in his best interests.

By the point of the advice being delivered details of BSPS2 were known and it seemed likely it was going ahead. So, I think this should have alleviated Mr D's concerns about the scheme moving to the PPF.

However, even if there was a chance the BSPS2 wouldn't go ahead, I think that AJH should have reassured Mr D that the scheme moving to the PPF wasn't as concerning as he thought. The income available to Mr D through the PPF would have still provided a significant portion of the income he thought he needed at retirement, and he was still unlikely to be able to exceed this by transferring out, given his ATR. And although the increases in payment in the PPF were lower, the income was still guaranteed and was not subject to any investment risk. So, I don't think that these concerns should have led to AJH's recommendation to Mr D to transfer out of the DB scheme altogether.

Summary

I don't doubt that the flexibility, control and potential for higher death benefits on offer through a personal pension would have sounded like attractive features to Mr D. But AJH wasn't there to just transact what Mr D might have thought he wanted. The adviser's role was to really understand what Mr D needed and recommend what was in his best interests.

Ultimately, I don't think the advice given to Mr D was suitable. He was giving up a guaranteed, risk-free and increasing income within the BSPS. By transferring to a personal pension, the evidence shows Mr D was likely to obtain lower retirement benefits. And I don't think there were any other particular reasons which would justify the transfer and outweigh this. I think AJH ought to have advised him against transferring out of his DB scheme for this reason, particularly as it meant he'd be worse off in retirement.

So, I don't think it was in Mr D's best interests for him to transfer his DB scheme to a personal pension when he had the opportunity of opting into the BSPS2.

I think it was clear to all parties in February 2018 that BSPS2 was going ahead. Mr D still had many years before he intended to retire. So, I don't think that it would have been in his interest to accept the reduction in benefits he would have faced by the scheme entering the PPF, as it wouldn't be offset by the more favourable reduction for very early retirement. By opting into the BSPS2, Mr D would have retained the ability to transfer out of the scheme nearer to his retirement age if he needed to.

Also, although not yet married, I think he would have wanted to at least consider a wife's pension and that it 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 (if Mr D chose to do so). I say this because of the particular relationship Mr D was in at the time. That he and Ms D also had a child was another factor, as the child may have been able to draw benefits from the scheme under certain circumstances. The annual indexation of his pension when in payment was also more advantageous under the BSPS2.

On this basis, I think AJH should have advised Mr D to opt into the BSPS2. And given the dates I've set out above, I think there was plenty of time for AJH to do this within the deadline. AJH said in its final response to our Service that the deadline was extended again, to 16 February 2018 due to high demand from pension members – and we know it had been discussing these matters with Mr D since late 2017.

I have considered whether Mr D would have transferred to a personal pension in any event. I accept that AJH disclosed some of the risks of transferring to Mr D, and provided him with a certain amount of information. But ultimately it advised Mr D to transfer out, and I think Mr D relied on that advice.

I'm not persuaded that Mr D would have insisted on transferring out of the DB scheme, against AJH's advice. I say this because of what I've said about Mr D's inexperience; and this pension also accounted for almost all of his retirement provision at that time. So, if AJH had provided him with clear advice against transferring out of the DB scheme, explaining why it wasn't in his best interests, I think he would have accepted that advice.

I'm also not persuaded that Mr D's concerns about the PPF were so great that he would have insisted on transferring his pension, knowing that a professional adviser, whose expertise he had sought out and was paying for, didn't think it was suitable for him or in his best interests. So if AJH had explained Mr D was also unlikely to exceed the benefits available to him through the PPF if he transferred out, and that he could meet his income needs in retirement without risking his guaranteed pension, I think that would have carried significant weight.

In light of the above, I think AJH should compensate Mr D for the unsuitable advice, using the regulator's defined benefits pension transfer redress methodology.

Putting things right

A fair and reasonable outcome would be for the business to put Mr D, as far as possible, into the position he would now be in but for AJH's unsuitable advice. I consider Mr D would have most likely opted to join the BSPS2, rather than transfer to the personal pension if he'd been given suitable advice. So, AJH should use the benefits offered by BSPS2 for comparison purposes.

On 2 August 2022, the FCA launched a consultation on new DB transfer redress guidance and set out its proposals in a consultation document - CP22/15-calculating redress for non-compliant pension transfer advice**.**

In this consultation, the FCA said that it considers that the current redress methodology in Finalised Guidance (FG) 17/9 (Guidance for firms on how to calculate redress for unsuitable defined benefit pension transfers) remains appropriate and fundamental changes are not necessary. However, its review has identified some areas where the FCA considers it could improve or clarify the methodology to ensure it continues to provide appropriate redress.

A policy statement was published on 28 November 2022 which set out the new rules and guidance-https://www.fca.org.uk/publication/policy/ps22-13.pdf. The new rules will come into effect on 1 April 2023.

The FCA has said that it expects firms to continue to calculate and offer compensation to their customers using the existing guidance in FG 17/9 for the time being. But until changes take effect firms should give customers the option of waiting for their compensation to be calculated in line with the new rules and guidance.

We've previously asked Mr D whether he preferred any redress to be calculated now, in line with current guidance, or wait for any new guidance/rules to be published.

Mr D has chosen not to wait for any new guidance to come into effect to settle his complaint. So I am satisfied that a calculation in line with FG17/9 remains appropriate and, if a loss is identified, will provide fair redress for Mr D.

I am satisfied that a calculation in line with FG17/9 remains appropriate and, if a loss is identified, will provide fair redress for Mr G.

For clarity, Mr D has no plans at present to retire any earlier than age 65. So, compensation should be based on his normal retirement age of 65, as per the usual assumptions in the FCA's guidance.

This calculation should be carried out as at the date of my final decision and using the most recent financial assumptions at the date of that decision. In accordance with the regulator's expectations, this should be undertaken or submitted to an appropriate provider promptly following receipt of notification of Mr D's acceptance of the decision.

AJH 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 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 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 his likely income tax rate in retirement - presumed to be 20%. So making a notional deduction of 15% overall from the loss adequately reflects this.

The payment resulting from all the steps above is the 'compensation amount'. This amount must where possible be paid to Mr D within 90 days of the date AJH 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 AJH 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.

I have also considered the impact on Mr D of the unsuitable advice and transfer. For this I direct AJH to additionally pay Mr D the sum of £300 for the stress and anxiety caused by this unsuitable transfer.

If the complaint hasn't been settled in full and final settlement by the time any new guidance or rules come into effect, I'd expect AJH to carry out a calculation in line with the updated rules and/or guidance in any event.

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

My final decision

Determination and money award: I've decided to uphold this complaint and I now direct AJH Financial Services 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 would additionally require AJH Financial Services 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 would only require AJH Financial Services 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 AJH Financial Services Limited pays Mr D the balance. I would additionally recommend any interest calculated as set out above on this balance to be paid to Mr D.

If Mr D accepts my final decision, the money award becomes binding on AJH Financial Services Limited.

My recommendation would not be binding. Further, it's unlikely that Mr D can accept my decision and go to court to ask for the balance. Mr D may want to consider getting independent legal advice before deciding whether to accept any final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 2 January 2023.

Michael Campbell
Ombudsman