DRN-3654795

The complaint

Mr M complains about the advice given by Acumen Independent Financial Planning Limited ('Acumen') to transfer the benefits from his defined-benefit ('DB') occupational pension scheme with British Steel ('BSPS') to a personal pension. He says the advice was unsuitable for him and believes this has caused a financial loss.

What happened

In March 2016, Mr M's employer announced that it would be examining options to restructure its business, including decoupling the BSPS (the employers' DB scheme) 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 private pension arrangement.

In October 2017, members of the BSPS were 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 choice was 11 December 2017 (and was later extended to 22 December 2017).

Mr M chose to opt into the BSPS2 prior to receiving advice from Acumen.

Nevertheless, Mr M was concerned about what the recent announcements by his employer meant for the security of his pension, so he contacted Acumen for advice in early December 2017 (Mr M had already approached another advice firm, but things didn't proceed.)

On 5 December 2017 Acumen completed a fact-find to gather information about Mr M's circumstances and objectives. Amongst other things, this recorded that Mr M was 37; he was married with one dependent child; he owned his own home which had an outstanding mortgage of around £42,000 due to be repaid in eight years; he had a couple of loans and a credit card debt; his target retirement date was 58; and he didn't know what his income need in retirement would be. Acumen also carried out an assessment of Mr M's attitude to risk, which it initially deemed to be 'high medium' but was revised to 'medium' risk.

Around 10 January 2018, Acumen advised Mr M to transfer his pension benefits into a personal pension and invest the proceeds in two funds, which it deemed matched Mr M's attitude to risk.

In summary the suitability report said the reasons for this recommendation were to provide greater freedom and flexibility in how Mr M accessed his pension benefits; to provide a broad range of investment opportunities; to provide better lump sum death benefits than remaining in the DB scheme; and to provide a sustainable income at Mr M's desired level beyond his life expectancy because of the combined value of his various sources of retirement income.

Mr M accepted the recommendation and in May 2018, around £88,000 was transferred to his new personal pension.

Mr M complained in 2021 to Acumen about the suitability of the transfer advice. Mr M said following receipt of a letter from the Financial Conduct Authority ('FCA') about how some instances of unsuitable advice to transfer out of the BSPS had taken place, he was concerned that he might also have received unsuitable advice and wanted the matter investigating.

Acumen didn't uphold Mr M's complaint. It provided a detailed response, which included setting out the background and events leading up to the 'Time to Choose' exercise and detailing the fact-finding and advice process. I haven't set out everything here because I don't think it is necessary – but in summary Acumen said that it believed the advice was suitable for Mr M, or at the very least it took reasonable steps to satisfy itself it was suitable, given his circumstances at the time. It said Mr M received detailed information about the scheme's retirement and death benefits and the advantages of remaining in it (transferring to the BSPS2 or the PPF.) It said Mr M received explicit risks warnings in relation to the transfer. It said its assessment is that a transfer to a personal pension was suitable and consistent with Mr M's stated needs, objectives and preferences – i.e. he was planning to retire at 58, he wanted flexibility and he wanted the ability to pass on the value of his pension benefits to his family upon his death. It said it was satisfied it had complied fully with its regulatory obligations at the time.

Dissatisfied with its response, Mr M referred his complaint to our service. An investigator upheld the complaint and required Acumen to pay compensation. In summary they said the advice to transfer was unsuitable. They said Mr M didn't have firm plans to retire early given his age and so it wasn't suitable to transfer at this stage – particularly when he didn't know what his income need would be and his plans might change. They said he should've been advised to wait until nearer his retirement date rather than give up his guaranteed benefits now. They said in terms of death benefits, by opting into the BSPS2 Mr M would retain the 50% spouse's pension and he already had lump sum death benefits available through his Defined Contribution ('DC') workplace pension scheme, so this wasn't a suitable reason to transfer. They said Mr M already had flexibility in how and when he accessed his retirement benefits – his objective was already met by his DC scheme. And they said Mr M was very unlikely to match let alone exceed the benefits available to him through his DB scheme by transferring given the growth rate required. They concluded by saying that if suitable advice had been given, Mr M would have likely moved to the BSPS2.

Acumen didn't reply to the investigator's findings. So, because things couldn't be resolved informally, the complaint was referred to me to make a final decision.

What I've decided – and why

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

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

The applicable rules, regulations and requirements

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

PRIN 6: *A firm must pay due regard to the interests of its customers and treat them fairly.*

PRIN 7: *A firm must pay due regard to the information needs of its clients, and communicate information to them in a way which is clear, fair and not misleading.*

COBS 2.1.1R: *A firm must act honestly, fairly and professionally in accordance with the best interests of its client (the client's best interests rule).*

The provisions in COBS 9 which deal with the obligations when giving a personal recommendation and assessing suitability. And the provisions in COBS 19 which specifically relate to a DB pension transfer.

Having considered all of this and the evidence in this case, I've decided to uphold the complaint for largely the same reasons given by the investigator. My reasons are set out below.

The regulator, the Financial Conduct Authority ('FCA'), states in COBS 19.1.6G that the starting assumption for a transfer from a DB scheme is that it is unsuitable. So, Acumen should have only considered a transfer if it could clearly demonstrate that the transfer was in Mr M's best interests. And having looked at all the evidence available, I'm not satisfied it was in his best interests.

Before I explain why I don't think a transfer was in Mr M's best interests, I can see that Acumen has made much of the fact that it is disappointed Mr M has complained about the advice he received. It says Mr M hasn't previously expressed any dissatisfaction with the advice he received and he hasn't explained why or given any detail as to why he thinks the advice was wrong. It also said it doesn't think Mr M has a valid complaint for this reason.

Just because Mr M now thinks differently, in hindsight, about the advice he received does not mean his complaint isn't valid. And it is not necessary for Mr M to know, or to articulate, all that has or might have gone wrong with the advice he received – just that something might have gone wrong. Mr M has expressed dissatisfaction with the advice he received and he thinks something might have gone wrong. I'm satisfied Mr M's complaint is a valid one.

Financial viability

Acumen carried out a transfer value analysis report (as required by the regulator) showing how much Mr M's pension fund would need to grow by each year in order to provide the same benefits as his DB scheme (the critical yield). I can see this was based on Mr M's existing scheme benefits. But at the time of the written advice – January 2018 – Mr M didn't have the option to remain in the BSPS.
In fact, and as Acumen documented in the advice paperwork, Mr M had already chosen to opt into the BSPS2. So basing the analysis on the existing scheme was somewhat redundant and not helpful to Mr M.

I can see that in Acumen's final response letter to Mr M's complaint, it said that at the time of the advice it was not in a position to recommend a transfer to the BSPS2 because there was no certainty it would come into existence. While the 'Time to Choose' exercise had ended and the deadline to make a decision had passed at the time of the advice, I accept the BSPS2 wasn't guaranteed to go ahead. But details of the scheme had been provided - the

BSPS2 would've offered the same income benefits but the annual increases would've been lower. And in my view, the communications sent out by the scheme trustees were very optimistic that the scheme operating conditions would be met. So I think the benefits available to Mr M through the BSPS2 should've been factored into Acumen's analysis and advice so that Mr M was able to make a properly informed decision.

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.

Mr M was 37 at the time of the advice and the advice paperwork recorded that he was looking to retire at 58, although this might change in the future. The TVAS dated 7 December 2017 set out the critical yields required to match Mr M's existing scheme benefits at age 65: 7.1% assuming, from what I can determine, that Mr M took a full pension. The TVAS didn't provide the critical yield assuming Mr M took a reduced pension and a cash lump sum. The critical yield required to match the benefits available through the PPF at age 65 was 5.2% assuming Mr M took a full pension.

But as I've said above, Mr M remaining in the BSPS wasn't an option. So, the critical yields applicable to the BSPS2 benefits should've been provided. The lower annual increases under the BSPS2 would've likely decreased the critical yields somewhat. But I still think they would've likely been higher than those reflecting the PPF benefits, particularly at age 65.

I'd add here that, given Mr M indicated his preferred retirement age was 58 – notwithstanding my view that this was far from a concrete plan as I will explain later on - I find it surprising Acumen didn't produce critical yield figures based on a retirement age of 58. I think this would've been more meaningful given this was what Acumen's advice was based on. I think this is further evidence that Acumen's analysis wasn't helpful to Mr M.

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 27 years to retirement (age 65.) It was 4.5% for 20 years to retirement (age 58.) I've kept in mind that the regulator's projection rates had also remained unchanged since 2014: the regulator's upper projection rate at the time was 8%, the middle projection rate 5%, and the lower projection rate 2%.

I've taken this into account, along with the composition of assets in the discount rate, Mr M's 'medium' attitude to risk (which I'm satisfied was not unreasonable in the circumstances) and also the term to retirement. In my view, there would be little point in Mr M giving up the guarantees available to him through his DB scheme only to achieve, at best, the same level of benefits outside the scheme.
Here, the lowest critical yield was 5.2%, which was based on Mr M taking a full pension through the PPF at 65. It was 7.1% if Mr M took benefits at 65 through the existing BSPS. So, based on taking the same benefits at age 65 through the BSPS2, I think the critical yield would've been somewhere between those figures, and likely closer to 7.1%.

So, given this, the fact that based on a retirement age of 58 the critical yields would most likely be higher, together with the discount rate of around 4.5% and the regulator's middle projection rate, I think Mr M would most likely receive benefits of a lower overall value in retirement than those provided by either the BSPS2 or the PPF if he transferred to a personal pension, as a result of investing in line with a medium attitude to risk.

Acumen's recommendation letter referred to cashflow analysis it had carried out, which was included in the appendix at the end of the recommendation. This doesn't appear to have been included in the business file submission. But in any event, I'm not persuaded this would've been very meaningful for Mr M, or indeed important evidence to support the viability of the transfer, because as Acumen documented, Mr M didn't know what income he would require from his pension at age 58. Acumen's analysis might have shown what fund value Mr M could expect at age 58 based on certain assumptions - but without an income figure to work on, I'm not persuaded this would've been meaningful for Mr M or that it demonstrated how his needs in retirement could be met by transferring.

On the basis of financial viability alone, I don't think a transfer out of the DB scheme was in Mr M's best interests. But I accept that financial viability isn't the only consideration when giving transfer advice, as Acumen has argued in this case. There might be other considerations which mean a transfer is suitable, despite providing overall lower benefits. I've considered this below.

Flexibility and income needs

A key reason for Acumen's recommendation to transfer was because it would allow Mr M to benefit from much greater freedom and flexibility in how he accessed his pension benefits.

But I'm not persuaded that Mr M needed flexibility or that in any event he needed to transfer his DB scheme to a personal pension in order to have flexibility in retirement.

Crucially here, Mr M was only 37 at the time of the advice. And while he indicated he wanted to retire early, which I think most people of working age, if asked, would say, Mr M had nothing that could reasonably be described as a concrete retirement plan. Indeed Acumen recorded that although Mr M indicated he wanted to retire at 58, this could change in the future. So I'm not persuaded Mr M could've reasonably known that he had a need or wanted flexibility in retirement. There's nothing to indicate that Mr M needed variable income throughout retirement for example – as I said above, he had no idea of his income need – and nothing to suggest that he needed access to a cash lump sum in the future and defer taking his income. I accept Mr M might have liked the idea of retiring early, but he already had this option available to him – he didn't have to transfer out to achieve this.

So it strikes me that 'flexibility' was simply a feature or a consequence of transferring to a personal pension arrangement rather than a genuine objective of Mr M's. And so I don't think it was a suitable recommendation for Mr M to give up his guaranteed benefits now when he didn't reasonably know what his needs in retirement would be.

Despite Mr M not having an apparent need for flexibility, importantly he was contributing to his workplace DC pension scheme, something I'm not persuaded Acumen properly considered in terms of the role this could play in Mr M's future income generation. Acumen recorded that a total of 18% of Mr M's salary was being invested here.

So given Mr M had the potential for at least another 21 years' contributions, without accounting for growth, salary increases, or increases to Mr M's contribution rate, this had the potential to be worth in excess of £100,000.

The nature of a DC scheme means this already provided Mr M with flexibility – he wasn't committed to take these benefits in a set way. Mr M could've taken lump sums as and when required and adjusted the income he took from it according to his needs. So, I think if Mr M retained his DB pension, this combined with his new workplace pension, would've likely given him the flexibility to retire early - *if* that's what he ultimately decided.

So in any event, Mr M didn't need to transfer his DB scheme benefits at this stage to a personal pension arrangement in order to achieve flexibility in retirement. But if Mr M did in fact have a greater need for flexibility beyond that which he already had, I think this could've been explored closer to his intended retirement age. Mr M had already chosen to opt into the BSPS2, so he would've retained the ability to transfer out nearer to retirement, if indeed it was required. I think Acumen could've explained this more clearly to Mr M.

Turning to Mr M's income need – I've already said that Mr M indicated he didn't know what level of income he needed in retirement because it was too far in the future. But based on Mr M's circumstances, as I also said above, I've seen nothing to indicate he needed variable income. And nothing to indicate that the income from the BSPS2 or the PPF (if the new scheme didn't go ahead) wouldn't have provided Mr M with at the very least a solid income foundation upon which his other provision could supplement, to likely meet his overall income need.

Acumen's analysis showed that at age 65, under the existing scheme Mr M would receive an annual income of a little under £8,500. Because of the reduced revaluation factors, under the BSPS2 this figure would be lower, but in my view still close to it. Although this alone wouldn't likely meet Mr M's income need – and perhaps less so at age 58 - as I said above, it would've provided a useful, solid and guaranteed income foundation. And importantly in my view, a solid foundation upon which Mr M could use his workplace DC pension along with any provision his wife had, to likely meet his overall household income need – at least until his state pension became payable. Mr M's DC pension would've likely had a not insignificant amount that he could draw on flexibly, as and when needed, to either top up his income or take a lump sum. I still think Mr M had a better chance of achieving his future retirement income needs by opting into the BSPS2 (the benefits under which were guaranteed and escalated) rather than relying on investment growth in a personal pension.

If the BSPS2 hadn't gone ahead, Mr M would've moved with the scheme to the PPF. And while the income Mr M would receive was likely lower than the pension he'd be entitled to under the BSPS2, I don't think it was substantially lower such that it should've made a difference to the recommendation at this time. As I've said above, Mr M's retirement plans and needs weren't known and he would've had his DC scheme to draw on flexibly until his state pension became payable.

Overall, I think Mr M could've likely met his income needs in retirement through the BSPS2 or the PPF. So, I don't think it was in Mr M's best interests for him to transfer his pension just to have flexibility, that I'm not persuaded he really needed.

Death benefits

Acumen also recommended the transfer to provide better lump sum death benefits for Mr M's beneficiaries than the DB scheme offered.

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 likely an attractive feature to Mr M.

But whilst I appreciate death benefits are important to consumers, and Mr M might have thought it was a good idea to transfer his DB scheme to a personal pension because of this, the priority here was to advise Mr M about what was best for his retirement provisions. A pension is primarily designed to provide income in retirement – it is not primarily a legacy planning tool. And I don't think Acumen explored to what extent Mr M was prepared to accept a lower retirement income in exchange for higher death benefits.

I also think the existing death benefits attached to the DB scheme were underplayed. Mr M was married and so the spouse's pension provided by the DB scheme would've been useful to his spouse if Mr M predeceased her. I don't think Acumen made the value of this benefit clear enough to Mr M. This was guaranteed and it escalated – it was not dependent on investment performance, whereas the sum remaining on death in a personal pension was. For example, if Mr M lived a long life and or investment returns were lower than expected, may not have been a large sum left to pass on anyway. In any event, Acumen should not have encouraged Mr M to prioritise the potential for higher death benefits through a personal pension over his security in retirement.

I'm mindful too that Mr M already had lump sum death benefits available – Acumen knew that Mr M had generous death-in-service cover through his employer if he died before retirement. And it also knew that Mr M was paying into his DC scheme and he would've been able to nominate his spouse as beneficiary if he hadn't already done so.

Furthermore, if Mr M genuinely wanted to leave a legacy for his family which didn't depend on investment returns or how much of his pension fund remained on his death, I think Acumen should've instead explored life insurance. The starting point here needn't have been to base the cover on the full transfer value, but ought to have been considered in terms of how much Mr M wanted to leave his family, after taking into account the above existing means. And this could've been explored on a whole of life or term assurance basis, which was likely to be cheaper to provide particularly given Mr M's relatively young age.

Overall, I don't think different death benefits available through a transfer to a personal pension justified the likely decrease of retirement benefits for Mr M. And I don't think that insurance was properly explored as an alternative.

Control or concerns over financial stability of the BSPS

I imagine that Mr M, like many of his colleagues, was concerned about his pension. His employer had recently made the announcement about its plans for the scheme and so he was likely worried his pension would end up in the PPF. There were lots of negative things circulating about the PPF. So it's quite possible that Mr M was leaning towards the decision to transfer because of the concerns he had about his employer and his negative perception of the PPF. However, it was Acumen's obligation to give Mr M an objective picture and recommend what was in his best interests.

As I've explained, by this point details of BSPS2 were known and it seemed likely it was going ahead. So, the advice should've properly taken the benefits available to Mr M through the BSPS2 into account, particularly as he'd already chosen to opt into it. I think this should've alleviated Mr M's concerns about the scheme moving to the PPF.

But even if there was a chance the BSPS2 wouldn't go ahead, I think that Acumen should've reassured Mr M that the scheme moving to the PPF wasn't as concerning as he thought or he'd been led to believe. Importantly Mr M still had the option of taking early retirement through the PPF. Mr M didn't have any real retirement plans at this stage - but I think the income available to Mr M through the PPF would've still provided a solid base, which his other means could supplement to likely meet his overall income need at retirement. Crucially he was also unlikely to be able to exceed this by transferring out. And although the increases in payment in the PPF were lower, the income was still guaranteed and was not subject to any investment risk. Mr M might not have been able to later transfer out of the PPF – but for the reasons I set out earlier, I don't think there was an apparent need for him to do so.

So I don't think that Mr M's concerns about his DB scheme was a compelling reason to recommend a transfer out of the DB scheme altogether.

Summary

I accept that Mr M was likely motivated to transfer out of the BSPS and that his concerns about his employer and the scheme were real. And 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 M. But Acumen wasn't there to just transact what Mr M might have thought he wanted. The adviser's role was to really understand what Mr M needed and recommend what was in his best interests.

Ultimately, I don't think the advice given to Mr M was suitable. He was giving up a guaranteed, risk-free and increasing income. By transferring, Mr M was very likely to obtain lower retirement benefits and in my view, there were no other particular reasons which would justify a transfer and outweigh this. Mr M had no firm retirement plans, so he shouldn't have been advised to transfer out of the scheme just to have flexibility that I'm not persuaded he really needed, and the potential for higher death benefits wasn't worth giving up the guarantees associated with his DB scheme. I don't think it was in Mr M's best interests for him to transfer his BSPS benefits to a personal pension at this time.

So, I think Acumen should've advised Mr M to remain in his DB scheme and that his decision to opt into the BSPS2 was the right one in the circumstances.

I understand Acumen believes it couldn't advise on the BSPS2 because there was no certainty it would come into existence. I appreciate that the BSPS2 wasn't guaranteed to go ahead at this time. But as I've already said, I think everything pointed to it going ahead, so this ought to have been the position Acumen adopted.

Of course, I have to consider whether Mr M would've gone ahead anyway, against Acumen's advice.

I've considered this carefully, but I'm not persuaded that Mr M would've insisted on transferring out of the BSPS against Acumen's advice. I say this because, while as I've already said Mr M was likely motivated to transfer when he approached Acumen, I still think Mr M would've listened to and followed its advice if things had happened as they should have and it recommended he not transfer out of the scheme. Mr M was not an experienced investor, so he neither possessed the requisite skill, knowledge nor confidence to against the advice he was given, particularly in complex pension matters. Mr M's pension accounted for the majority of his private retirement provision at the time – so, if Acumen had provided him with clear advice against transferring out of the BSPS, explaining why it wasn't in his best interests, I think he would've accepted that advice.

I'm not persuaded that Mr M's concerns about his employer or the scheme were so great that he would've insisted on the transfer 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. If Acumen had explained that Mr M could likely meet all of his objectives without risking his guaranteed pension, I think that would've carried significant weight. So, I don't think Mr M would've insisted on transferring out of the BSPS against Acumen's advice.

In light of the above, I think Acumen should compensate Mr M 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 M, as far as possible, into the position he would now be in but for the unsuitable advice. I consider that, if suitable advice had been given, Mr M would most likely have moved to the BSPS2 as he'd already chosen to do.

Acumen must therefore undertake a redress calculation in line with the rules for calculating redress for non-compliant pension transfer advice, as detailed in policy statement PS22/13 and set out in the regulator's handbook in DISP App 4: https://www.handbook.fca.org.uk/handbook/DISP/App/4/?view=chapter.

Acumen should use the FCA's BSPS-specific redress calculator to calculate the redress. A copy of the BSPS calculator output should be sent to Mr M and our Service upon completion of the calculation.

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

This calculation should be carried out using the most recent financial assumptions in line with DISP App 4. In accordance with the regulator's expectations, this should be undertaken or submitted to an appropriate provider promptly following receipt of notification of Mr M's acceptance of my final decision.

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

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

Redress paid to Mr M as a cash lump sum includes compensation in respect of benefits that would otherwise have provided a taxable income. So, in line with DISP App 4, Acumen may make a notional deduction to cash lump sum payments to take account of tax that consumers would otherwise pay on income from their pension. Typically, 25% of the loss could have been taken as tax-free cash and 75% would have been taxed according to Mr M's likely income tax rate in retirement – presumed to be 20%. So making a notional deduction of 15% overall from the loss adequately reflects this.

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 uphold this complaint and require Acumen Independent Financial Planning Limited to pay Mr M the compensation amount as set out in the steps above, up to a maximum of £160,000.

Recommendation: If the compensation amount exceeds £160,000, I also recommend that Acumen Independent Financial Planning Limited pays Mr M the balance.

If Mr M accepts this decision, the money award becomes binding on Acumen Independent Financial Planning Limited.

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

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 10 August 2023.
Paul Featherstone
Ombudsman