DRN-3691007

The complaint

Mr T complained that he was given unsuitable advice to transfer his defined benefit (DB) British Steel Pension Scheme (BSPS), to a type of personal pension plan, in 2018.

Mather & Murray Financial Ltd is responsible for answering this complaint and so to keep things consistent, I'll refer mainly to "MMF".

What happened

In March 2016, Mr T'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 T'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 T 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 MMF which is responsible for providing the pension advice. Information gathered about his circumstances and objectives at the time of the recommendation were broadly as follows:

- Mr T was 26 years old, unmarried and living with parents.
- Mr T didn't own his own home, but he had a share in a buy-to-let investment which was valued at £140,000 and which had a mortgage of around £114,000 outstanding.
- Mr T earned around £28,000 per year.
- With almost 9 years' service, the cash equivalent transfer value (CETV) of Mr T's BSPS was approximately £74,989. The normal retirement age (NRA) was 65.
- Mr T had joined the new TATA defined contribution (DC) pension scheme as a consequence of the BSPS ceasing new contributions.

MMF set out its advice in a suitability report in January 2018. In this it advised Mr T to transfer out of the BSPS and invest the funds in a type of personal pension plan. MMF said this would allow Mr T to achieve his objectives. Mr T accepted this advice and so transferred out. In 2021 Mr T complained to MMF about its advice, saying he shouldn't have been advised to transfer out to a personal pension.

Mr T referred his complaint to our Service. One of our investigators looked into the complaint and said it ought to be upheld. But MMF still said it hadn't done anything wrong and was acting on the financial objectives Mr T had at the time. A second investigator looked at the complaint and also came to the same conclusion that it ought to be upheld; they also recommended a payment to Mr T of £150 for the distress and inconvenience he's suffered.

As this complaint can't be resolved informally it's been sent 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 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 MMF'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, MMF should have only considered a transfer if it could clearly demonstrate that the transfer was in Mr T's best interests.

I've used all this information we have to consider whether transferring away from the BSPS to a personal pension was in Mr T's best interests. I have also carefully considered the final response letter from MMF. I've carefully considered too, the various other responses made to the points contained within our investigators' views. I have also recently contacted the parties myself to establish whether they have anything to add ahead of me making a decision.

Having done all this, I'm upholding Mr T's complaint.

Introductory issues

I'd like to start by referring to the 'timeline' of events. I've already described above how members of the BSPS were given until 22 December 2017 to decide whether or not to join the BSPS2. It's not entirely clear whether Mr T ever made that choice. However, there's no evidence that he did. Perhaps understandably, he can't remember now if he ever filled out his "Time to Choose" form although he did send me a transfer analysis document about his pension which was dated 3 October 2017. This is often referred to as a "TVAS".

However, there's no evidence this TVAS was completed by MMF. I say this because it differs considerably in style from the MMF 'headed' TVAS I've seen which is dated 14 January 2018. This tends to suggest that MMF's dealings with Mr T only started in January 2018 and this is corroborated by a number of other documents. I can see, for example, that the client agreement between Mr T and MMF is dated 11 January 2018. A 'fact-find' is dated 11 January too and a risk profile report is dated 15 January. The suitability report is dated 15 January – all these dates are in 2018 – and within this document it says Mr T is a "new client".

So, all this strongly implies that whilst Mr T may well have been thinking about transferring his pension or seeking financial advice, as of late 2017, it's far more likely that he missed the 22 December 2017 deadline to make a choice about what he wanted to do with regards his existing BSPS. There is no documentation, which I've seen, showing he did make a choice to say he wanted to join the BSPS2. And we know that if no choice was made then the member would eventually move from the BSPS, which was no longer an option, to the PPF, if they didn't transfer away to a personal pension type arrangement.

I think it's also much more likely that Mr T's dealings with MMF were several weeks after the 'hard' deadline of 22 December 2017 as this is what all the above documentation is telling me. I therefore think the advice process was only conducted throughout January 2018 and beyond, by MMF.

I should say that none of this really matters to the actual *suitability* of the advice – as I explain below, it was unsuitable overall. Nevertheless, it does matter to the redress that could be due for providing the unsuitable recommendation to transfer away: redress should be measured against as if the member would have joined the PPF, rather than the BSPS2. This is a departure from the redress recommendation made by our investigator which I've already corrected with both parties. Neither party has told me that Mr T ever elected to join the BSPS2 within the time allowed. So redress will be based on the PPF as this was his only other option.

Financial viability

MMF referred in its transfer analysis and suitability report 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.

The critical yield comparison was a requirement from the regulator at the time when advising clients on DB transfers. It's also important to point out that the critical yield comparison is only one of a number of different metrics I've used to compare the different schemes.

As I've said, at least two transfer analysis documents were produced for Mr T. However, I've focussed on the TVAS dated 14 January 2018 as this is the most recent and it represented the type of fund Mr T was ultimately recommended to transfer into. It also appears to be the only one completed by MMF. In this document the critical yield required to match the benefits at the age of 65 in the existing scheme, was listed as 4.28%.

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 4.7% per year for 38 years to retirement (age 65). But even though an early retirement was clearly mentioned during the advice sessions, no critical yield was published that I can see for retiring early.

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%. At the time, MMF assessed Mr T’s attitude to risk (ATR) as “adventurous” or a level of 8/10. But I’ve also seen references elsewhere to his ATR being lower. The ‘fact-find’, for instance, clearly says his ATR is “moderate-to-adventurous”.

But in reality, Mr T had no previous experience of these types of investments. He was given a questionnaire about his investment experience with pre-determined questions about his investing history, if he had any. This indicates to me that Mr T wasn’t an experienced and / or confident investor and I think “adventurous” was far too high a category to put Mr T into.

I’ve taken into account that Mr T had evidently invested in a property to rent. But that’s a quite different type of investment to having a personal pension arrangement. I also accept he’d joined the new TATA DC scheme which involved investing, but again I’ve seen nothing showing this was conducted under anything other than an ‘off the shelf’ investment strategy which required no direct investment decisions from Mr T himself. In any event, he’d only just joined this a few months before. I’ve also noted that although he had £5,000 in savings, there’s no evidence these funds were held in anything other than a type of deposit account. An “adventurous” investor would normally be expected to have significant investment experience – this is even set out in the explanation section in MMF’s own forms used at the time. In my view, there’s no indication Mr T had such experience.

In summary then, the adviser used a pre-populated questionnaire to arrive at an ATR categorisation which was much higher than I think it ought to have been. However, they seemed to ignore the obvious fact that Mr T was a 26-year-old steelworker with no such investments, no previous experience to draw upon and a questionable attitude to stock market fluctuations. Because he was so young, I think it’s also fair to say he probably had very little idea of what retirement might look like for him. So, realistic growth assumptions close to the lower end of the regulator’s range, and also close to the discount rate, were most relevant here in my view.

MMF said at the time that the critical yield of 4.28% was achievable. It was basing this on the BSPS which of course was no longer an option for Mr T. The critical yield for the PPF was 4.04% although I think Mr T was thinking this wouldn’t be what he wanted to move into at that time. I don’t doubt it was possible to reach close to this lower growth rate, particularly given that Mr T had many years ahead in which he could ‘ride out’ the peaks and troughs of the investment cycles. However, in my view, there would be little point in transferring away from a DB scheme only to achieve broadly similar financial benefits at retirement. But even if I accept that a growth rate of around 4.5% -to- 5% was realistic and possible, and this *is* moderately above the critical yield, I'd also need to factor in the costs and fees associated with a personal pension plan and which Mr T didn't have in his existing BSPS, the BSPS2or PPF. As our investigator explained these were around 0.95% per year.

To be clear then, looked at through the prism of 2017, there was a *chance* of Mr T's transferred funds growing by enough to match the critical yield. However, as I'll explain more about later, whether this alone was enough to make transferring a worthwhile exercise overall, is another matter. There was still no guarantee he'd exceed the critical yield, particularly as MMF had clearly exaggerated his ATR. I therefore don't think a persuasive case for transferring only on this basis was made. The risks of receiving lower overall pension benefits at retirement were quite high.

As I've said, the critical yield is only one aspect of assessing the financial viability of a transfer such as this. I've also noted that using the NRA of 65, MMF's own transfer analysis said that even in order to purchase an annuity to provide benefits of equal value to the estimated benefits provided by the existing scheme, assuming *no* spouse's pension, *no* increases in payment and *no* guarantee at retirement, the estimated fund required was £165,885. This was over two times more expensive than Mr T's CETV – and for a much inferior pension. So, in my view, these costs provide a revealing window into the real value Mr T could lose if he transferred out to a personal pension plan.

I therefore think it's fair to say that from a financial comparison perspective, MMF's own figures, shown in its suitability report and transfer analysis documents, showed that transferring to a personal pension plan did not mean Mr T was more likely to receive higher pension benefits in the longer term. MMF inflated Mr T's ATR and was obliged to take note of the regulator's starting assumption for a transfer from a DB scheme, that it is most likely unsuitable.

I've also considered some projections MMF used to help show that if he transferred out to a personal plan, the funds could last Mr T well into retirement. I think most of these were based on growth projections using past performance, which isn't ever guaranteed. It's also fair to say these were not comparing like-with-like. What MMF was showing Mr T were comparisons with plans which lacked the wider guarantees and benefits of a DB scheme.

Of course, according to MMF, its recommendation that he should transfer out to a personal pension was not wholly based on the financial comparisons with his current scheme alone. Rather, MMF said Mr T also had other reasons to transfer away.

I've considered these below.

<u>Other needs and objectives</u>

I've thought about all the other considerations which might have meant a transfer was suitable for him. I've done this by carefully assessing all the different documents from the time, recording Mr T's thoughts and those of the adviser. Our investigator listed some of these and in particular, I've considered the 'fact-find' and suitability report in coming to a judgement about what Mr T's objectives were, and why the adviser chose to recommend the transfer to a personal pension arrangement.

I've also got no doubt that Mr T probably went to MMF with a somewhat fixed view of what he thought was a good idea. I think Mr F probably thought at that stage that transferring away was reasonable, particularly as he'd started another pension scheme which also was stock market based.

However, I think it's important to remember two things here. The first is that all the evidence tends to show that Mr T was a young man with no experience of this type of 'money market' investing. He had no current investments and no experiences to draw upon. To this end, MMF wasn't there to simply transact what Mr T might have thought – with little or no knowledge – was a good idea. He had every right to expect that the adviser would use their much greater knowledge and experience to recommend what was really in his best interests, whatever he himself initially thought. The second thing to think about is that MMF was being paid for this advice. So, again, I think the expectation here is that it would actually 'do something' for this: by this I mean its job wasn't to simply transact a transfer in the face of evidence showing it probably wasn't the right thing to do.

In my view, the following themes were given as rationale for the transfer-away advice:

- *The adviser took note of Mr T apparently wanting to retire early, with the age of 57 mentioned.*

- *Transferring to the personal pension allowed the flexibility to draw a tax-free lump sum and a varied or different income at retirement. MMF said this option was not available with a defined benefit pension.*

- *He evidently wanted to take control of the pension funds himself.*

- *The death benefits in the DB scheme weren't important to him.*

I have therefore considered all these issues in turn.

- *Retiring early*

I think it's important to focus for a moment here on just how young Mr T actually was in pension terms. The evidence I've seen is that Mr T – understandably - had absolutely no plans whatsoever for his retirement. With over 38 years still left to when he'd be actually contemplating retiring if using his NRA, there's simply no way that what he might possibly use the money for, should have been a major influence in him deciding to irreversibly move away from a DB scheme. Doing so involved an investment risk which Mr T had no meaningful experience of.

So whilst I'm sure, like most people, Mr T probably wanted to stop working as early as possible, I think what he and the adviser discussed could only ever have been vague retirement aspirations on his part. In reality, there was no plan to retire early.

I therefore think that everything that flowed from predicting Mr T's retirement was flawed. For example, I don't think there's any real credibility behind Mr T estimating how much he'd need to live on each month when he retired as this was so far off. I think it's likely this was instigated by the adviser. In any event, the 'fact-find' said Mr T's target annual income in retirement was £10,000, whereas the suitability report said £20,000 (in 'today's' money). I think this reflects the challenges in predicting what retirement might look like, so far ahead of when it was actually due. Mr T still had his whole life ahead of him and it's reasonable to assume he might possibly marry and possibly have children too. And even if his life did not follow this pattern, there were many years in which his personal and financial circumstances would almost certainly change. I think the adviser should have noted a clear vulnerability here in advising someone so young to withdraw from a guaranteed pension.

Flexibility and control

I also can't see that Mr T required flexibility in retirement in the way the adviser suggested. In any event, flexibility was poorly defined by MMF. I therefore think this was no more than a 'stock' objective used to help justify the recommendation to transfer out to a personal plan. For example, I've seen nothing that showed Mr T required changing how his retirement benefits ought to be paid.

I don't think this could have been predicted whilst still so far away from retirement age. In any event he already had a new and more flexible DC pension with his existing job as a consequence of the old BSPS scheme being closed to new contributions. This DC pension was being significantly contributed towards by both Mr T and his employer - 6% and 10% respectively and still had up to 38 years left to run (even over 30 years if he did eventually retire early at 57). So, this secondary pension would have afforded Mr T any flexibility he might have needed in the years ahead.

This means I've seen nothing explaining why Mr T wouldn't want to continue membership of a DB scheme and to use that scheme in exactly the way it was originally intended. Indeed, I think that by retirement, whenever it eventually came, Mr T could have been in an agreeable position. On one hand he'd have a small but meaningful existing deferred DB scheme. This would contain all the guarantees and benefits that such schemes normally bring which tend to include a promise to pay a known pension for life. Significant indexation guarantees also existed within the PPF. On the other hand, he'd have also built up a substantial DC scheme over a long period of time and it's not unreasonable to say he'd have amassed a substantial six-figure sum in this by retirement. So, if Mr T ever found he needed flexibility, then he'd be able to use the latter, rather than transferring away from the former.

I've also seen no evidence that Mr T had either the capacity or true desire to exercise control over his funds. With his DB scheme, Mr T was being offered the opportunity to move to the PPF. It's true there were some differences in this scheme when compared to the original BSPS, but it remained a DB-type scheme nonetheless and was run for him by trustees. Mr T himself had no hands-on experience of these types of other DC 'money market' investments and I think he would have found the complexity, scale and responsibility of managing almost £75,000 of transferred funds to be onerous in the years ahead. What I've seen tends to show Mr T would have required ongoing financial advice and support, all of which would cost him money which his DB scheme didn't require from him.

MMF itself set out the estimated pension he'd get under the BSPS. I'm not going to use up time explaining what these figures were because retirement was so far away in the future as to make these estimates almost completely irrelevant. However, MMF accepted without any apparent challenge that Mr T might have needed around £20,000 per year in 'todays' money – something I seriously question given the incredibly distant timescale. What the adviser was accepting here was that Mr T could estimate how much he'd need each month in around 38 years' time.

However, I don't think there's anything showing Mr T's pension entitlements wouldn't have met his likely requirements, without any need to transfer from a DB scheme. I don't think MMF adequately explained these things to Mr T as its advice simply discounted him transferring to the PPF to obtain flexibility which was poorly defined and which he didn't need.

I think Mr T's circumstances here were much more aligned to him moving to the PPF and retiring from that when he felt he was ready to do so.

Death benefits

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 PPF contained certain benefits payable to a spouse and children if Mr T died. Mr T wasn't married and nor did he have children; I think the adviser included this as part of the rationale for saying the death benefits weren't needed in this way.

Once again, I think this shows a significant lack of foresight by the adviser. I think it's obvious, that as a 26-year-old male, there was every reason to assume Mr T's circumstances might change in the years ahead. I think the value of these benefits were most likely underplayed because the spouse's pension provided by the PPF would have been useful to a future spouse and / or children if he predeceased them. I don't think MMF 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.

I can't say to what extent life insurance was discussed. But at 26 years old, a modest 'term' life insurance policy would have been a reasonably affordable product if Mr T really did want to leave a large legacy for a specific relative or someone else. But more so, it doesn't appear that MMF took into account the fact that Mr T could have nominated a beneficiary of any funds remaining in his other (TATA) DC scheme. So, to this end, Mr T already had plenty of options ensuring part of his pension wouldn't 'die with him'.

Overall, in this case I don't think different death benefits available through a transfer to a personal pension justified the likely decrease of retirement benefits for Mr T. I think this was no more than a generic issue and not meaningful to Mr T's situation.

<u>Concerns over financial stability of the DB scheme</u>

It's clear that Mr T, 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 I think to a degree, he probably lacked trust in the company. He'd heard negative things about the PPF and MMF said he could have more control over his pension fund.

So, it's quite possible that Mr T 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 MMF's obligation to give Mr T an objective picture and recommend what was in his best interests. I think that MMF should have reassured Mr T that the scheme moving to the PPF wasn't as concerning as he thought. The income available to Mr T through the PPF would have still probably provided a significant minority of the income he would have needed at retirement, and it was still uncertain that he'd be able to exceed this by transferring out, given his ATR and the effect of pension charges and fees. 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 MMF's recommendation to Mr T to transfer out altogether.

<u>Suitability of investments</u>

MMF recommended that Mr T invest his funds in a personal pension. As I'm upholding the complaint on the grounds that a transfer out of the DB scheme wasn't suitable for Mr T and I don't think he would've insisted on transferring to a new personal pension if clear advice had been given to him, it follows that I don't need to consider the suitability of the investment recommendation. This is because he should have been advised to remain in the DB scheme and migrate to the PPF. This means the investment in the new funds wouldn't have arisen if suitable advice had been given.

Summary

I don't think the advice given to Mr T was suitable.

His CETV may have been modest by most BSPS standards, but he was still giving up a guaranteed, risk-free and increasing income within the PPF. By transferring to a personal pension, the evidence shows Mr T might well still obtain lower retirement benefits. And I don't think there were any other particular reasons which would justify the transfer and outweigh this.

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

Mr T still had many more years before he intended to retire and much of the rationale used to justify the transfer-out recommendation was not wholly relevant to Mr T's circumstances.

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

I'm not persuaded that Mr T would have insisted on transferring out of the DB scheme, against MMF's advice. I say this because Mr T was an inexperienced investor and this pension accounted for most of his retirement provision at the time. So, if MMF 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.

In light of the above, I think MMF should compensate Mr T 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 T, as far as possible, into the position he would now be in but for MMF's unsuitable advice.

As the advice was in January 2018, I consider Mr T would have most likely opted to join the PPF, rather than transfer to the personal pension if he'd been given suitable advice and compensation should be based on his normal retirement age of 65, as per the usual assumptions in the FCA's guidance. MMF should use the benefits offered by the PPF for comparison purposes.

MMF 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.

MMF 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 T and our Service, the Financial Ombudsman Service, upon completion of the calculation together with supporting evidence of what MMF based the inputs into the calculator on.

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 T'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, MMF should:

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

Redress paid to Mr T as a cash lump sum will be treated as income for tax purposes. So, in line with DISP App 4, MMF 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 T'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.

Our investigator recommended that MMF should pay Mr T for the distress and inconvenience caused by the unsuitable advice. I have considered the impact this would likely have had on Mr T in his particular circumstances. This pension at the time represented most of his retirement provision. In his situation I think the thought of losing material benefits would have impacted upon Mr T. So I agree the recommended payment of £150 for distress and inconvenience. MMF should pay Mr T this amount in addition to the redress I've set out above.

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

<u>Determination and money award</u>: I am upholding this complaint and I now direct Mather & Murray Financial Ltd to pay Mr T 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 Mather & Murray Financial Ltd pays Mr T the balance. I would additionally recommend any interest calculated as set out above on this balance to be paid to Mr T.

If Mr T accepts my final decision, the money award becomes binding on Mather & Murray Financial Ltd.

My recommendation would not be binding. Further, it's unlikely that Mr T can accept my decision and go to court to ask for the balance. Mr T 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 T to accept or reject my decision before 3 November 2023.

Michael Campbell
Ombudsman