DRN-3765566

The complaint

Mr T complains about the advice given by Tavistock Partners (UK) Limited trading as Abacus Associates Financial Services ('Abacus') to transfer the benefits from his defined-benefit ('DB') occupational pension scheme to a self-invested personal pension ('SIPP'). He says the advice was unsuitable for him and believes this has caused a financial loss.

What happened

In March 2016, Tata Steel UK Ltd announced that it would be examining options to restructure its business including decoupling the British Steel Pension Scheme ('BSPS') (the DB pension scheme) from the company. The consultation with members referred to possible outcomes regarding their preserved pension benefits, one of which was a transfer to the Pension Protection Fund ('PPF') – the PPF is a statutory fund designed to provide compensation to members of defined benefit pension schemes when their employer becomes insolvent. The BSPS was closed to further benefit accrual from 31 March 2017.

In May 2017, the PPF made the announcement that the terms of a Regulated Apportionment Arrangement ('RAA') had been agreed. That announcement said that, if risk-related qualifying conditions relating to funding and size could be satisfied, a new pension scheme sponsored by Mr T's employer would be set up – the BSPS2.

In October 2017, members of 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 choices was 11 December (and was later extended to 22 December 2017).

Mr T approached Abacus in late 2017 to discuss his pension and retirement needs. He was given Abacus' details by a person he knew who was also a customer of Abacus. Abacus says that Mr T wanted to transfer away from the BSPS and he was referred to a pension specialist.

Abacus completed a fact-find in October 2017 to gather information about Mr T's circumstances and objectives. This showed that:

- He was aged 48 (almost 49) and married with three children. One of which was still dependent.
- He was employed earning £42,000.
- Mr and Mrs T owned their own home which had a value of £95,000 and was subject to a mortgage of £35,000.
- He had three loans with a value of £35,000, these were due to be fully repaid in the very near future.

In respect of his, and Mrs T's, pension arrangements:

Mr T had received a cash equivalent transfer value ('CETV') from the BSPS in September 2017. This showed that Mr T had over 26 years service. He was entitled to a pension of about £23,000 at his age 65. The transfer value was about £617,500. The transfer value, and benefits, were increased as Mr T had been regularly making additional voluntary contributions ('AVC') to enable him to retire early.

Mr T had joined his employers new defined contribution ('DC') scheme. He and his employer were contributing £705 a month into this. I understand this was 16% of his salary.

Mrs T was also a member of a DB scheme and it was recorded that she had accrued a pension of £9,340 per annum plus a lump sum of £18,387 so far. Her projected pension at age 67 (which was in around 20 years' time) was £21,490.

Abacus also carried out an assessment of Mr T's attitude to risk, which it said was medium plus or adventurous. In a later meeting Mr T clarified that he only wanted to take a medium risk. He thought that medium plus or adventurous was too risky for him.

On 21 November 2021, Abacus advised Mr T to transfer his pension benefits into a SIPP and invest the proceeds using a discretionary fund manager (DFM). The suitability report said the reasons for this recommendation were that he wanted to:

- Retire at age 55 with an income of £20,000 per year. Although he may continue to work in an industry, or area, that was less physically demanding.
- Increase the potential for tax-free cash.
- Be able to pass the value of his pension funds to his children and improve on the death benefits.
- Have more flexible benefits than those available with the PPF or the BSPS.

And it was also noted that he had lost faith with the BSPS and he was concerned that if the pension moved to the PPF he wouldn't have been able to access the benefits until age 65. He found this a particular problem as he had been contributing a significant amount to the AVC's so that he could retire early.

Mr T complained in 2021 to Abacus about the suitability of the transfer advice. He complained because he had recently received information from the Financial Conduct Authority ('FCA') that said he might have received unsuitable advice to transfer his BSPS benefits. He said that his pension fund had gone down in value and this had caused him stress and anxiety. He had moved the investment to a capital protected fund because of this.

Abacus didn't uphold Mr T's complaint. It said the documentation fully explained the advice it gave him which included detail about the risk of the transfer and Mr T's pension provision. Tavistock was satisfied that the advice Mr T was given to transfer his BSPS benefits met his objectives of achieving flexibility in how he took the benefits and greater tax-free cash. And it was satisfied Mr T was in a fully informed position.

Mr T referred his complaint to our service. An Investigator upheld the complaint and recommended that Abacus pay compensation. She said that the transfer wasn't financially in his best interests as he would likely receive lower benefits from it. She said that Mr T should have been advised stay in the BSPS and move to the PPF due to his aim to retire early.

Abacus disagreed, saying the advice, met Mr T's needs for flexibility in how he could take his pension benefits and improve on the death benefits. He had a sustainable fund in retirement that met his aims. It also felt that we had placed too much emphasis on the critical yield. It said that DB transfers are complicated, and we need to consider all of the factors in Mr T's situation. It thought that the advice it gave to transfer was suitable for him at the time. The Investigators opinion was dismissive of the clear reasons given for the advice.

The Investigator wasn't persuaded to change their opinion. I have noted the correspondence that followed this, but I think it's reasonable to say that no new issues were raised. So, 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 Abacus'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.

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

Financial viability

Abacus carried out a transfer value analysis report ('TVAS'), as required by the regulator, showing how much Mr T's pension fund would need to grow by each year in order to provide the same benefits as the BSPS2 or the PPF. The benefits Mr T could receive under the BSPS weren't considered as this scheme was closing in the future.

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 T was 47 at the time of the advice and wanted to retire at 55. The critical yield required to match Mr T's benefits through the BSPS2 at age 55 was 8.27% if he took a full pension and 5.24% if he took tax-free cash and a reduced pension. The critical yield to match the benefits available through the PPF at age 55 was quoted as 6.72% per year if Mr T took a full pension and 6.13% per year if he took tax-free cash and a reduced pension.

A similar calculation was also done at Mr T's age 65. The critical yield required to match Mr T's benefits at this age was 5.27% if he took a full pension and 4% if he took tax-free cash and a reduced pension. The critical yield to match the benefits available through the PPF at this age was quoted as 4.28% per year if Mr T took a full pension and 3.96% per year if he took tax-free cash and a reduced pension.

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 3.1% per year for five years to retirement and 4.8% for fifteen years to retirement. 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 T's 'medium' attitude to risk and also the term to retirement. I can accept that Mr T indicated that he was prepared to take some investment risk. But it's also very clear that he wanted, and had been working towards, making sure he had a secure income so he could retire early. So, it's not clear to me that the questions he answered about his attitude to ordinary investment risk would override this need.

And I've borne in mind that when the funds his pension was invested in experienced some volatility Mr T moved the investments to a capital secure fund to avoid losses in the future.

So, I'm not persuaded that Mr T did want to take a significant risk with this pension fund and I don't think his attitude to risk was as high as Abacus recorded it to be.

In any event, there would be little point in Mr T giving up the guarantees available to him through his DB scheme only to achieve, at best, the same level of benefits outside the scheme. The critical yields at his age 55 are by far the most relevant here. And given the lowest critical yield was just over 6% at this age (if he moved to the PPF), I think Mr T was likely to receive benefits of a substantially lower overall value than the DB scheme at retirement, as a result of investing in line with that attitude to risk.

Abacus says that the critical yield is of limited relevance because it is based on the growth required to produce a fund large enough to purchase an annuity on the same basis as the benefits provided by the DB scheme. Abacus says Mr T didn't want an annuity, it said he wanted to take his benefits flexibly. But the regulator required Abacus to consider the rate of investment growth that would have to be achieved to replicate the benefits being given up. So, it needed to provide an analysis based on the critical yield and I do think it is a relevant consideration here, particularly as I don't think Mr T could realistically say with any certainty whether he would want to take a regular income at retirement or not. He wasn't expecting to retire for at least another five or six years. It's entirely possible that Mr T would want at least some guaranteed income in retirement (which he could achieve by taking benefits from the DB scheme).

Abacus has provided cashflow models which it says shows Mr T would've been able to meet his needs despite the high critical yields. I've considered these, but Abacus's models show if equivalent drawings and tax-free cash were taken from age 55, it was projected that the transferred sum would run out around his age 90. I understand a 'medium' growth rate of 4.14% was used in these calculations which I'm not persuaded is realistic to age 55.

Also, as Abacus will know, past performance is no guarantee for future performance and so I consider the discount rates and the regulator's standard projections to be more realistic in this regard in the long term rather than projecting historic returns forward, particularly over such a long period of time.

And it's worth noting that the point of sale documentation did confirm this. The suitability report said about the transfer that, *'You need to fully appreciate that this will not improve the income that you can take but will provide greater flexibility and better death benefits than those currently available.*' And that '*a transfer to a personal scheme is likely to be far less beneficial from an income standpoint*.' And the report said that it was highly unlikely he would be able to match the income he was giving up if he purchased an annuity later on.

For this reason alone, a transfer out of the DB scheme wasn't in Mr T's best interests. Of course, financial viability isn't the only consideration when giving transfer advice. As above, Abacus has said that it was clear that the flexibility and improved death benefits were something that Mr T wanted. And there might be other considerations which mean a transfer is suitable, despite providing overall lower benefits. I've considered these below.

Flexibility and income needs

It seems the main reason that Abacus recommended this transfer was for the flexibility and control it offered Mr T. The suitability letter said about this that:

'In simple terms, the appeal of a transfer comes down to whether you would prefer this particular retirement 'pot' to provide a 'gold-plated' pension for the rest or your life, or a plan that you can leave to anyone you choose to nominate and that, after the age of 55, will allow you to withdraw however much you want, whenever you want.'

Saying to Mr T that he could withdraw as much as he wanted to, and whenever he wanted to, was misleading. It's unrealistic to think this would be the case. But I expect that Mr T probably realised that his funds were limited. And that this paragraph referred to the increased access he would have to his pension fund over the DB scheme benefits.

Clearly Mr T was attracted to the idea of flexibility. And it's evident that he could not take his DB scheme benefits flexibly in the same way as a personal pension. Although he could choose to take tax-free cash and a reduced annual pension, Mr T had to take those benefits at the same time.

But having looked at all of the point of sale documentation I'm not persuaded that Mr T had any concrete need to take tax-free cash and defer taking his income, or to vary his income throughout retirement. To my mind this seems more of a 'nice to have' rather than a genuine objective.

Mr T's overriding objective was that he wanted to retire early. He had originally thought about retiring at 50 but this wasn't possible due to changes in the rules about when he could take his pension benefits. He now planned to retire at age 55 with an income of £20,000. And he had been making additional contributions to his DB scheme to meet this aim.

The suitability letter said that the BSPS2 should provide an annual pension of £19,732 at age 55 or tax-free cash of £95,792 and a reduced annual pension of £14,368. The PPF would also provide an annual pension of £19,199 at age 55 or tax-free cash of £106,073 and a reduced pension of £15,896.

So, I think it's reasonable to say that either a pension from the BSPS2 or the PPF would have met Mr T's income needs at his age 55. Or be very close to them. And in addition to the DB scheme Mr was also contributing to a DC scheme. Our Investigator estimated that this would have a fund value (without investment returns) of just over £50,000 at 55. So, he could use this for any cash, or flexibility needs he may have had, whilst securing the income of £20,000 he wanted from the DB scheme.

So, I think it's reasonable to say that the provision Mr T had met his needs for both income and flexibility. I don't think he had a pressing need for a cash lump sum above what he could already access. His debts would be either fully paid, or very close to being paid, before his retirement.

Added to this Mrs T also had DB scheme benefits which would become payable at some point and they would both have their state pensions in due course.

And, of course, if Mr T delayed retirement anywhere up to his age 65 then the amounts he would receive would be greater. And so if he decided to work for a little longer then the DB scheme would still provide enough to meet, or exceed, his needs.

In summary, Mr T had a realistic prospect of being able to retire fully at age 55 with the income he wanted through the BSPS2 or the PPF. And he could have moved to less demanding role somewhere else if he didn't want to retire straight away.

So, I'm satisfied Mr T could have met his income needs in retirement through the DB scheme and his other existing provision. I don't think he should have been advised to transfer to gain flexibility that he didn't really need.

Death benefits

Alongside the flexibility it was documented that Mr T wanted to pass on the benefits of his pension plan to his family on his death. The point of sale documentation said that:

'You believe that your DB pension fund would be lost on death and a transfer to a personal scheme, although likely to be less beneficial from a pension income viewpoint, will allow for inter-generational financial planning.'

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 were likely an attractive feature to Mr T. But whilst I appreciate death benefits are important to Mr T, and he 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 T about what was best for his retirement provisions. A pension is primarily designed to provide income in retirement. And I don't think Abacus explored to what extent Mr T 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 T was married (his children would soon all be non-dependent) and so the spouse's pension provided by the DB scheme would've been useful to Mrs T if Mr T predeceased her. I don't think Abacus made the value of this benefit clear enough to Mr T. This was guaranteed and it escalated – it was not dependent on investment performance, whereas the sum remaining on death in a personal pension was. And as the cashflow analysis shows, there may not have been a large sum left particularly if Mr T lived a long life. In any event, Abacus should not have encouraged Mr T to prioritise the potential for higher death benefits through a personal pension over his security in retirement.

Furthermore, if Mr T genuinely wanted to leave a legacy for his spouse, which didn't depend on investment returns or how much of his pension fund remained on his death, I think Abacus should've instead explored life insurance.

I appreciate that the suitability report mentioned a whole of life policy with a sum assured of £617,485 – this was discounted by Mr T because of the cost (£621.94 per month). But I don't think that this was a balanced way of presenting this option to Mr T.

Basing the quote on the transfer value of Mr T's pension benefits essentially assumed that he would pass away on day one following the transfer, and that isn't realistic. Ultimately, Mr T wanted to leave whatever remained of his pension to his family, which would be a lot less than this if he lived a long life or if investment returns were poor. So, the starting point ought to have been to ask Mr T how much he would ideally like to leave to his wider family, and this could've been explored on a whole of life or term assurance basis, which was likely to be a lot cheaper to provide.

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

Control or concerns over financial stability of the DB scheme

I appreciate that Mr T, like many employees of his company, may have been concerned about his pension. His employer had recently made the announcement about its plans for the scheme and he had to decide whether he would transfer away, move to the new BSPS2 scheme or the PPF. Mr T said he preferred to have control over his pension fund.

So, it's quite possible that Mr T was leaning towards the decision to transfer because of the concerns he had about his employer and his negative perceptions of leaving the scheme with the BSPS2 framework or moving to the PPF. However, it was Abacus' obligation to give Mr T 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. The advice did take into account the benefits available to Mr T through the BSPS2, and it contrasted these with the PPF.

But even if there was a chance the BSPS2 wouldn't go ahead, I think that Abacus should've 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've still provided all, or a significant portion of the income he thought he needed at retirement, and he was 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. So, I don't think that these concerns should've led to Abacus recommending Mr T transfer out of the DB scheme altogether.

It was documented that Mr T did not want his pension to go into the PPF. He thought this would be 'particularly galling' as he had paid for added years in the hope of retiring early. If it went to the PPF he thought he may not have been able to get his pension until age 65.

It’s not clear whether or not Mr T was aware that he could take his benefits early from the PPF, and the actuarial reduction could be lower than in the BSPS2 if he did this. So, this concern was misplaced and I think Abacus should have done more to correct this.

I think Mr T’s desire for control over his pension benefits was overstated. Mr T was not an experienced investor, and I cannot see that he had an interest in or the knowledge to be able to manage his pension funds on his own. So, I don’t think that this was a genuine objective for Mr T – it was simply a consequence of transferring away from his DB scheme.

Use of DFM

Abacus recommended that Mr T use a DFM to manage his pension funds. As I’m upholding the complaint on the grounds that a transfer out of the DB scheme wasn’t suitable for Mr T, it follows that I don’t need to consider the suitability of the investment recommendation. This is because Mr T should have been advised to remain in the DB scheme and so the DFM would not have had the opportunity to manage his funds if suitable advice had been given.

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 T. But Abacus wasn’t there to just transact what Mr T might have thought he wanted. The adviser’s role was to really understand what Mr T needed and recommend what was in his best interests.

Ultimately, I don’t think the advice given to Mr T was suitable. He was giving up a guaranteed, risk-free and increasing income within the BSPS2 or the PPF. By transferring to a SIPP Mr T was, in my view, likely to obtain lower retirement benefits at his desired retirement age. 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.

Mr T had a relatively short time before he expected to retire. He was clear that he wanted to do this at age 55 and he had been planning this for some time. And it looked like this was a realistic option for him.

So, I think that it would've been in his interests to accept the reduction in benefits he would've faced by the scheme entering the PPF, as these would be offset by the more favourable reduction for very early retirement. I think this is what Abacus should have advised him to do. Abacus should’ve advised Mr T to remain in his DB scheme and it would have passed to the PPF in due course.

Abacus says that regardless of the advice given, Mr T made an informed choice to proceed with the transfer.

I accept that Abacus disclosed the risks of transferring to Mr T and provided him with a significant amount of information in the suitability report. But ultimately it advised Mr T to transfer out, and I think Mr T relied on that advice.

I have to consider whether Mr T would've gone ahead anyway, against Abacus's advice. I’ve considered this carefully, but I’m not persuaded that Mr T would’ve insisted on transferring out of the DB scheme, against Abacus’s advice. I say this because Mr T was an inexperienced investor and this pension accounted for the majority of his retirement provision. So, if Abacus 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’ve accepted that advice.

I'm not persuaded that any concerns or disillusionment Mr T had with 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. And if Abacus had explained Mr T was 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've carried significant weight.

I'm aware that in some communications with Abacus Mr T appeared motivated to get the transfer out completed. But Mr T had received advice from Abacus that he should transfer out of the DB scheme. So, I think his words have to be considered in that context. It isn't reasonable to assume that he'd have behaved the same way if he'd been advised to move to the PPF. So, I don't think demonstrates he'd have gone against the advice.

In light of the above, I think Abacus should compensate Mr T for the unsuitable advice, using the regulator's defined benefits pension transfer redress methodology.

Our Investigator recommended that Abacus also pay Mr T £300 for the distress caused by the unsuitable advice. I don't doubt that Mr T has been caused distress and concern and in particularly he said that the fall in the fund value has caused him some anxiety. I'm conscious this wouldn't have happened but for the unsuitable advice. And so, in the circumstances, I think the award the Investigator recommended is fair.

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 the unsuitable advice. I consider Mr T would most likely have remained in the occupational pension scheme and moved with it to the PPF if suitable advice had been given.

Abacus 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.

Abacus should use the FCA's BSPS-specific redress calculator to calculate the redress. If Abacus does not yet have access to the calculator it should contact the supervision department of the FCA to seek access to it as soon as possible. A copy of the BSPS calculator output should be sent to Mr T and our Service upon completion of the calculation together with supporting evidence of what Abacus based the inputs into the calculator on.

For clarity, Mr T planned to retire at age 55. So, compensation should be based on him taking benefits at this age.

This calculation should be carried out using the most recent financial assumptions in line with PS22/13 and 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 the decision.

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

- calculate and offer Mr T redress as a cash lump sum payment,

- explain to Mr T before starting the redress calculation that:
  - his 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 his redress prudently is to use it to augment his DC 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 Abacus's offer to calculate how much of his 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 his 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 includes compensation in respect of benefits that would otherwise have provided a taxable income. So, in line with DISP App 4, Abacus may make a notional deduction to cash lump sum payments to take account of tax that Mr Ts 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.

Abacus should also pay Mr T £300 for the distress the poor advice caused him.

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 uphold this complaint and require Tavistock Partners (UK) Limited to pay Mr T the compensation amount as set out in the steps above, up to a maximum of £160,000.

<u>Recommendation:</u> If the compensation amount exceeds £160,000, I also recommend that Tavistock Partners (UK) Limited pays Mr T the balance.

If Mr T accepts this decision, the money award becomes binding on Tavistock Partners (UK) Limited.

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 11 October 2023.

Andy Burlinson
Ombudsman