

The complaint

Mr M complains about advice given by Corville Financial Services Ltd (“Corville”) to transfer defined benefits he held in the British Steel Pension Scheme (“BSPS”) to a Self-Invested Personal Pension (“SIPP”). He says the advice was unsuitable and believes this has caused him a financial loss.

Mr M is represented in this matter by a third party (“the representative”).

What happened

I issued a provisional decision on 30 August 2022. I’ve recapped the background below:

“In March 2016, Tata Steel UK Ltd 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 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 (DB) pension schemes when their employer becomes insolvent. The BSPS was eventually closed to further benefit accrual from 31 March 2017.

Concerned about what the above announcement meant for the security of the benefits he’d accrued in the BSPS, Mr M contacted a firm I’ll refer to as “Firm S” in early 2016. As Firm S didn’t have the relevant permissions to advise on DB transfers, it referred Mr M to Corville.

Corville completed a fact find in August 2016 to gather information about Mr M’s circumstances. To summarise, the following was recorded:

- *Mr M was 53 years old, married and in good health. He had two financially dependent children, one of whom would be permanently dependent due to disability.*
- *Mr M was employed earning around £30,000 pa. His wife stayed at home to care for their disabled son. After expenditure, Mr and Mrs M had £200 left over each month.*
- *Mr and Mrs M owned their own home, valued at around £160,000, with an outstanding mortgage of £40,000.*
- *Mr M held £2,000 in cash savings and had an outstanding loan of £5,000, for which his monthly repayments were £200.*
- *In addition to his BSPS pension, Mr M held a personal pension (PP), valued at £40,000. He intended to retire at age 65.*

Further to a conversation with Mr M, Corville produced a Risk Profile Summary Report and concluded that Mr M’s attitude to risk (ATR) was Moderate.

As at 15 August 2016, Mr M had accrued 30 years and 2 months qualifying service in the BSPS. The scheme offered him a cash equivalent transfer value (CETV) of £233,216.45.

Corville arrange for a third party to produce two Transfer Value Analysis (TVAS) reports for Mr M, one assuming retirement at age 65 and the other at age 55.

In September 2016, Corville sent Mr M its suitability report and enclosed a TVAS assuming a retirement age of 65. Corville first said that based on a “pure economic comparison”, Mr M shouldn’t transfer. Specifically, it referred to guarantees Mr M would lose if he transferred and the unachievable investment return (15.2%) required to match the potential income available from the BSPS. However, Corville went on to say that, as Mr M had confirmed that flexibility with his pension outweighed any economic considerations, it agreed there was evidence to suggest that transferring to a PP was in his best interests for the following reasons:

- Mr M wanted control over when and how he took his pension. He might take higher income in the early years of retirement when he expected spending to be higher. He also wanted to know where his pension was invested and receive ongoing investment advice.
- Mr M wanted to access benefits earlier than age 65. At age 55, he wanted the option of semi-retiring to help his wife care for their permanently disabled child.
- The potential death benefits would be higher, and Mr M wanted to be able to leave a lump sum to his wife and children rather than an income. He was also concerned that if he or his wife died early, his pension fund would die with them.
- Mr M was concerned about the funding of the BSPS and didn’t feel he could leave his pension where it was.

Corville said, “You accept the information we have provided to you and our initial reservations, but after taking into account the competing reasons you have given you have decided you would like to transfer. I am therefore recommending you take the transfer value which will then be invested in a personal pension (...).”

Corville advised Mr M to transfer to a SIPP. In terms of investment strategy, it recommended a “Model Portfolio approach”. Following the transfer, Corville said Firm S would assume responsibility for ongoing investment advice and place Mr M’s funds in the Tatton Managed (OBSR) Balanced portfolio.

Mr M accepted Corville’s recommendation and his BSPS CETV was paid into a new SIPP on 21 December 2016. Once adviser fees were paid, £229,125.48 was invested in the BlackRock Cash Fund. The servicing rights to Mr M’s SIPP were later transferred from Corville to Firm S.

In May 2017, the PPF announced that the terms of a Regulated Apportionment Arrangement (“RAA”) had been agreed – this was approved by the Pensions Regulator in August 2017. Under the announced plans, Tata Steel agreed to set up and sponsor a new defined benefits pension scheme, BSPS2, subject to certain conditions relating to funding and size being satisfied.

In December 2019, Mr M’s representative complained to Corville about the suitability of its September 2016 advice. It made the point that Mr M’s BSPS benefits, which could’ve been carried forward into BPS2, were highly unlikely to be matched through the SIPP Corville had recommended.

Corville responded saying that, at the time of its advice, the future of the BPS was under review and subject to consultation. It said that even the Trustees believed at the time that the

most likely outcome was that the BPS would not continue, so it seemed probable that the scheme would enter the PPF. Corville pointed out that BPS2 wasn't an available option at the time of its advice and maintained that it gave suitable advice.

Unhappy with Corville's response, Mr M's representative referred the complaint to our service. One of our investigators considered the matter and didn't feel that Mr M's complaint should be upheld. She said that although the investment return required for the SIPP to match benefits available under Mr M's BPS pension or the PPF was high, retiring early and taking a cash lump sum were Mr M's priorities and compelling reasons for transferring. Notwithstanding this, she said the available evidence indicated that Corville didn't advise Mr M to transfer and that it was Mr M who'd been keen to do so.

Mr M's representative responded and disagreed. It said Corville's personal recommendation had been for Mr M to transfer and, overall, its reasons for doing so weren't sufficient to make transferring suitable in the circumstances (...)

Mr M has confirmed via his representative that following the transfer, he drew down money from his SIPP to carry out upgrades to his house and garden. He remains in fulltime employment with British Steel and intends to retire at age 65."

Because no agreement could be reached, the matter was passed to me for a decision. And my provisional findings were as follows:

"At the time of Corville's advice, the regulator, the Financial Conduct Authority (FCA), set out the principles for assessing suitability. The relevant rules are 9.2.1 and 9.2.2 as set out in the FCA's Handbook and Conduct of Business Rules (COBS). These required Corville to gather sufficient information from Mr M to ensure its recommendation met his objectives; that Mr M could financially withstand the risks associated with these objectives and that Mr M had the necessary experience and knowledge to understand the risks involved in the transaction.

I don't think all the factors in deciding suitability were met in this case. I'm not satisfied Corville went far enough in terms of gathering and recording enough information about Mr M's circumstances; adequately exploring and interrogating his objectives or satisfactorily evaluating, explaining, and documenting the associated risks with transferring. Because of this I don't think it was reasonable for Corville to conclude that transferring was the most appropriate course of action for Mr M to take.

DB schemes like Mr M's BPS typically have significant benefits and guarantees. Giving these up and subjecting future pension income to the risks associated with unpredictable investment returns should only be done where it can be shown it's clearly in the best interests of the consumer. Under 19.1.6 the COBS rules at the time of the advice said:

"When advising a retail client who is (...) a member of a defined benefits occupational pension scheme (...), a firm should start by assuming that a transfer (...) will not be suitable. A firm should only consider a transfer (...) to be suitable if it can clearly demonstrate, on contemporary evidence, that the transfer, (...) is in the retail client's best interests."

Given the regulator's position, my starting point is that a transfer won't usually be suitable. So, Corville should've only considered a transfer to a SIPP if there were compelling reasons why, instead of maintaining safeguarded benefits in the BPS, the transfer was in Mr M's best interests – merely meeting his apparent objectives wouldn't, in my view, be enough. Generally, a transfer will only be in the consumer's best interests if there's a reasonable prospect that the new arrangement will provide better retirement benefits. The transfer will also need to be suitable, taking into account the individual's particular circumstances.

Was Mr M advised to transfer?

There's some dispute about whether Corville advised Mr M to transfer. Corville says that it advised against Mr M doing so, while Mr M's representative says that Corville clearly provided a positive recommendation to transfer. Having carefully considered the available evidence, I'm satisfied that Corville advised Mr M to transfer out of the BSPS to a new SIPP.

Although Corville initially expressed some misgivings about the prospect of Mr M transferring, it's clear from its suitability report that, despite these reservations, its view was that there were sufficient reasons to suggest transferring would be in Mr M's best interests. And it's because of this that Corville went on to say, "I am therefore recommending you take the transfer value which will then be invested in a [PP] (...)" I don't think there's any ambiguity here about what Corville was advising Mr M to do.

I've considered the undated signed letter which Mr M says Corville asked him to prepare after issuing him with its suitability report. However, this hasn't persuaded me to alter my view on Corville's advice. The letter addressed to Corville said, "Following our meeting (...) I accept your recommendation regarding my [BSPS pension]. However, taking into consideration the flexibility a [PP] could provide me with, and the death benefits you explained, I would still like to proceed with the transfer." A handwritten note was included on the letter saying, "concerns regarding going into PPF has [sic] steered my decision and the flexibility of a private pension fund."

Mr M says he felt uneasy writing the letter, but as he lacked the skills and experience to make his own decision about what to do with his pension, he did as he was asked by Corville – the adviser he'd appointed to help him make this decision.

The wording of the letter does, in my opinion, create some confusion about the nature of Corville's advice, particularly as it appeared to contradict what was set out in the suitability report – namely that Corville did recommend that Mr M transfer. Read in isolation, the letter could be interpreted as Corville having advised Mr M against transferring, while Mr M remained determined to proceed anyway. However, this isn't something I'm satisfied Corville expressed in terms which were clear and not misleading, such that Mr M would've reasonably understood that it was only facilitating the transfer at Mr M's request and not because it thought it was the best course of action for him to take.

I think that what's captured in the Client Review document Corville completed for Mr M, the purpose of which was to capture some of the key considerations in its advice process, supports the fact that Corville advised Mr M to transfer. Specifically, Corville confirmed in the document that Mr M wasn't an insistent client and wrote "N/A" over the following wording:

"Where a recommendation to transfer cannot be made, but the client wishes to proceed against your advice, have the consequences of proceeding against your advice been documented and explained (...)? If the client still wishes to proceed, has it been recorded (...) that the client wishes to proceed on an insistent customer basis? (...) Has a separate document been prepared which communicates the reasons, risks, discussion, and outcome of not accepting the personal recommendation been prepared? (...)"

Corville marking these statements "Not Applicable", suggests to me that it didn't consider that, by transferring, Mr M was going against its own advice. But if it did, there was a requirement for it to document and explain this to Mr M clearly and consistently. As I haven't seen anything to this effect, I'm satisfied that Corville advised Mr M to transfer, and so I'll be considering the complaint on this basis.

Mr M's position at the time of Corville's advice

Corville's advice pre-dated the outcome of the consultation on the future of the BPS, and so Mr M hadn't yet received information relating to the "time to choose" exercise which began in late 2017. It's Corville's position that Mr M was sufficiently concerned about the future of the BPS to make him keen to transfer. But Mr M was nevertheless seeking advice on his options, and as he wasn't categorised as an insistent client Corville could be confident that he would be acting upon, or at least taking into account, its advice.

At the time of the advice, Mr M was 53 years old and had accrued significant qualifying service in the BPS he'd held with his employer of over 30 years. Given how long Mr M had been working, it's understandable that he may have been interested in retiring earlier than age 65. However, other than his state pension entitlement and a very modest PP, Mr M's BPS pension was his only retirement provision. Although I haven't seen any note or evidence of an enquiry by Corville about Mr M's wife's retirement provision on file, I understand that other than her state pension entitlement, she only had a small PP. So, Mr M's BPS pension represented the largest proportion of his and his wife's combined wealth and future retirement income. They also had two financially dependent children (aged 10 and 14), one of whom was disabled and would be permanently dependent. I'm also aware that Mr and Mrs M were receiving benefits in the form of disability living allowance, carer's allowance, working tax credits and child benefit.

Mr and Mrs M didn't have other sizable assets they could rely on if Mr M's transfer didn't work out, and as they had minimal savings and an outstanding mortgage of £40,000, it seems to me that Mr M's BPS pension was his most valuable asset. It provided a guaranteed income for the future with increases; a spouse's pension for Mrs M should Mr M pass away and provision for any qualifying dependents.

By transferring, Mr M was giving up what was intended to provide a secure income in retirement in favour of an uncertain income largely reliant on the investment performance of a new arrangement. In my view, this represented a relatively risky strategy, which should've made Corville proceed with caution. I also don't think Mr M's situation lent itself to taking risks. I think it should've been clear that while Mr M, a standard retail investor, may have been open to taking some risk, he wasn't prepared or able to take a significant amount. While having regard for Mr M's circumstances, objectives, ATR and capacity for loss, it was Corville's responsibility to evaluate the merits and shortcomings of transferring, while considering alternatives, to determine the best course of action for Mr M, especially in terms of what would place him in the best possible position in retirement.

Based on Mr M's answers to a risk profile and its own assessment of capacity for loss, Corville determined that Mr M had a moderate ATR and could "absorb any losses without a material effect on [his] standard of living". Regarding ATR, Mr M said he'd describe his typical attitude when making important financial decisions to be "fairly cautious", and in response to questions about ATR, he answered "in between" to six out of eighteen questions.

Given some of Mr M's answers, I can see how the results may have led Corville to categorise him as having a moderate risk profile. However, some of Mr M's answers were inconsistent and Corville should've recognised and queried this given the discussions it had with Mr M about his circumstances. For example, Mr M was recorded as an "experienced" investor on the risk profile, but this wasn't reflected in the information Corville collected about his background. Given his lack of investment experience, significant assets and any clear indication he was prepared – or able – to give up a largely certain outcome for a gamble, I think Mr M would more accurately have been described as having a moderately cautious ATR.

In terms of Mr M's capacity for loss, I find Corville's assessment lacking. It's not clear to me

on what basis it was able to be “confident” that Mr M could “absorb any losses without a material effect on [his] standard of living”. Again, there were inconsistencies with what was recorded compared with what Corville knew of Mr M’s circumstances and financial position. For example, “no” was recorded as Mr M’s answer to the following questions: “Is this investment a significant proportion of your total wealth?” and “Do you have any dependants who rely on you financially?”. But as Corville knew from discussions, Mr M’s BPS pension did represent most of his wealth and he had two dependants. There’s nothing to suggest Corville made any attempt to address these inconsistencies, and in my view, this resulted in an inaccurate appraisal of the investment risk Mr M was prepared and able to take on.

Financial viability

An important part of assessing the viability of a DB transfer, is a careful analysis of the investment returns required from any investments in the receiving scheme, to match (let alone exceed) the benefits that are being given up by transferring out of the DB scheme. And that needs to be done in conjunction with other important considerations, including the investor’s ATR, financial circumstances, and objectives.

Under COBS 19.1.2, the regulator requires a business arranging a pension transfer to:

1. compare the benefits likely (on reasonable assumptions) to be paid under the ceding arrangement with the benefits afforded by the proposed arrangement;
2. ensure that that comparison includes enough information for the retail client to be able to make an informed decision;
3. give the retail client a copy of the comparison, drawing the retail client's attention to the factors that do and do not support the firm's personal recommendation, in good time, and in any case no later than when the key features document is provided; and
4. take reasonable steps to ensure that the retail client understands the firm's comparison and its advice.

COBS 19.1.3 goes on to say the comparison should:

1. take into account all of the retail client's relevant circumstances;
2. have regard to the benefits and options available under the ceding arrangement and the effect of replacing them with the benefits and options under the proposed scheme;
3. explain the assumptions on which it is based and the rates of return that would have to be achieved to replicate the benefits being given up;
4. be illustrated on rates of return which take into account the likely expected returns of the assets in which the retail client's funds will be invested; and
5. where an immediate crystallisation of benefits is sought by the retail client prior to the ceding arrangement's normal retirement age, compare the benefits available from crystallisation at normal retirement age under that arrangement.

In view of this, I would expect to see that a TVAS was produced outlining the estimated annual investment return (critical yield) required on Mr M’s CETV in order to provide benefits of equal value to the estimated benefits under the BPS and PPF at relevant intervals – Mr M’s scheme Normal Retirement Age (NRA), age 65, and his desired retirement date, age 55. Corville obtained two TVAS reports - one assuming retirement at age 65 and another at age 55 and 65. From what I’ve seen, only a copy of the first TVAS (assuming retirement at age 65) was provided to Mr M, and it’s the critical yield figures from this TVAS which were

quoted in Corville's suitability report.

The advice was given during the period when the Financial Ombudsman Service was publishing 'discount rates' on our website for use in loss assessments where a complaint about a past pension transfer was being upheld. Whilst businesses weren't required to refer to these rates when giving advice on pension transfers, I consider they provide a useful indication of what growth rates would've been considered reasonably achievable when the advice was given in this case.

As set out in the TVAS shared with Mr M, the critical yield required to match Mr M's BPS pension benefits at age 65 was 15.2% pa if he took a full pension and 13.4% if he took tax free cash (TFC) and a reduced pension. The critical yield to match the benefits available through the PPF at age 65 was 11% pa if Mr M took a full pension and 10.9% pa if he took TFC and a reduced pension. This compares with the discount rate of 3.9% for 12 years to retirement in this case. For further comparison, the regulator's upper projection rate at the time was 8%, the middle projection rate 5%, and the lower projection rate 2%.

Given the above, I think it's reasonable to assume the critical yield for retirement at age 55 would be considerably higher. As I've said, I can't see that Corville provided the critical yield figures for retirement at age 55 to Mr M. It's not immediately clear why, especially given that accessing benefits early was one of the reasons Corville said transferring was in Mr M's best interests. Without this information I'm not satisfied that Mr M was placed in a position where he could properly consider the potential implications of transferring to retire early and make an informed decision about whether pursuing this objective was realistic and worthwhile.

I've reviewed the second TVAS capturing the critical yield figures for retirement at age 55. It recorded the critical yield required to match Mr M's BPS pension benefits at age 55 as 99% pa if he took a full pension and 77.3% if he took TFC and a reduced pension. The critical yield to match the benefits available through the PPF was recorded as 102.7% if Mr M took a full pension and 101.9% pa if he took TFC and a reduced pension. I'm not satisfied these figures are entirely correct, especially since the critical yield figures for retirement at age 65 captured in the second TVAS are noticeably different to those recorded in the first. However, as I've said, given the critical yield figures for retirement at age 65, which Corville based its advice on, I think it's reasonable to assume the critical yield for retirement at age 55 would be much higher. Corville should've brought this to Mr M's attention and clearly recorded it in the suitability report, however there's nothing to indicate it did.

I've taken all of this into account, along with the composition of assets in the discount rate, what Corville determined was Mr M's ATR and the term to retirement. There would be little point in Mr M giving up the guarantees available to him through the BPS only to achieve, at best, the same level of benefits outside the scheme. But here, given the lowest critical yield was 10.9%, I think Mr M was likely to receive benefits of a substantially lower overall value than the BPS at retirement, as a result of investing in line with his recorded ATR. This would be the case even if the scheme moved to the PPF. Corville itself said that it considered the critical yields to match the scheme benefits to be unachievable, but I don't think it went far enough in terms of clearly setting out that there was a very real and significant risk that Mr M could be worse off given the critical yields involved and what it should've recognised given his ATR and capacity for loss.

Corville didn't produce any cashflow models to show that by transferring Mr M would've been able to meet his needs despite the high critical yields involved. But that's not surprising given the absence of any evidence showing that Corville tried to establish what, in financial terms, Mr M's specific income needs in retirement were likely to be. As a result, I think Corville failed to meet the regulator's requirement that its advice took into account Mr M's relevant circumstances. I'm also conscious that the main purpose for a pension is to provide an

income in retirement. Other considerations, like death benefits are secondary to that, particularly where, as here, there was nothing to suggest Mr M was in ill health, such that it wasn't expected that his BPS pension would need to support him for a long time.

I've considered illustration Corville shared with Mr M based on him transferring to a SIPP, but I don't think this provided Mr M with meaningful information which would've assisted him any more than the TVAS did about the position he could find himself in at retirement if he transferred. Like the TVAS, the illustration showed that even if the level of investment return on Mr M's CETV exceeded the regulator's upper projection rate of 8% pa, the annual pension this could provide at age 65, assuming no TFC was taken, would be less than half of the pension he'd be guaranteed under the BPS. The position was similar where maximum TFC was taken.

Although a transfer won't always be unsuitable even if the critical yields are high, it does give an indication of the degree of risk involved in the transaction and whether the transfer value represents good value in return for the benefits being given up. Given that Mr M was likely to receive retirement benefits of a substantially lower value, for this reason alone I don't think transferring out of the BPS was in Mr M's best interests. Nevertheless, financial viability isn't the only consideration when giving transfer advice. There might be other considerations which mean a transfer is suitable, despite providing overall lower benefits. My understanding of Corville's position is that the basis of its recommendation was the benefit transferring had for Mr M in terms of other objectives being met.

Concerns about the financial stability of the BPS and benefits entering the PPF

Corville says that Mr M was very worried about the prospect of the BPS entering the PPF, and this is what led to him seeking financial advice. Up until seeking Corville's advice, Mr M says that everything he'd heard about the PPF and any prospect of a modified BPS (BPS2) had been very negative. Although this might suggest that, at the time, Mr M may have already been leaning towards transferring for this reason alone, Corville still had a significant and overriding responsibility to give Mr M a fair and balanced assessment of the situation; explaining what it might mean for him specifically and providing a recommendation based on what was in his best interests. As Mr M's financial adviser, Corville ought to have explored, interrogated and, where necessary, corrected Mr M's views about the PPF and any prospect of BPS2, ensuring that any decision he was making about transferring was based on a sound understanding of his options and the features, risks and benefits of the these. I can't see that this happened here or that Corville made any concerted attempt to allay Mr M's misapprehensions. The extent to which Mr M's concerns were discussed and managed is captured in Corville's suitability report where it said:

"You are concerned about the funding of the scheme and don't feel you can leave the fund within the scheme (...) you have received a letter from the scheme (...) stating that the scheme is 'likely that it would be impossible to find a new employer wishing to take on the scheme in its current form, and that the scheme would be required to go into the pension protection fund.[sic]'"

In its suitability report, Corville set out the level of some, but not all, of the benefits likely to be available to Mr M under the PPF. It confirmed what his annual pension would be, and the investment return required for any new arrangement to match these benefits. Other than this, Corville merely referred Mr M to the enclosed TVAS "for full details of this pension entitlement". The TVAS, produced by a third party, did set out the particular features of the PPF, but this was fact based as opposed to Corville offering reassurances in terms of the guaranteed benefits offered or Mr M's specific concerns being addressed. Had such reassurances instead been given about the protections which would still be available, even in the "worst case" scenario of the scheme benefits needing to enter the PPF, I think Mr M

would have viewed things differently.

Given Mr M's concerns about his safeguarded benefits being transferred to the PPF which would result in him losing 10% of his income, I question why he would then be prepared to accept the risk of transferring to a SIPP which, based on the critical yield figures, arguably exposed him to unlimited risks, where the loss could be much greater than 10%. I think this indicates that Mr M didn't have the knowledge and experience to understand the nature of the PPF compared to the transfer. He was relying on Corville to provide expert advice about this, but this seems to have been absent. Overall, I don't think that Mr M's concerns, if appropriately managed, would have been sufficient justification for Mr M to transfer at time.

Flexibility

Corville referred to Mr M wanting flexibility and control as "evidence" that transferring was in his best interests. Specifically, it said that Mr M wanted to control when and how he took his pension income, as well as where his funds were invested. He also wanted the option of accessing benefits earlier than the scheme NRA, so he could semi retire and help his wife care for their disabled son.

In terms of controlling how and when he took pension income, Corville didn't gather much in the way of detail about what this really meant for Mr M. Although the suitability report said Mr M might take a higher income in the early years of retirement, there's no evidence of any discussion between Mr M and Corville about why this might be; what level of income Mr M anticipated taking in early retirement compared to later on; and whether this was likely to be sustainable or make the risks associated with transferring, worthwhile. Without even basic information about Mr M's personal goals, I can't see how Corville could conclude that flexibility in this regard was a genuine need or something which transferring was likely to meet.

It's understandable that Mr M wanted the option of being able to semi-retire as early as age 55 and help his wife care for their disabled son. However, early retirement was already an available option to Mr M through the BPS and PPF (subject to a 10% reduction in benefits). There was no mention of this in Corville's suitability report, and when Mr M emailed Corville asking whether the BPS entering the PPF would mean he couldn't take benefits before age 65, Corville failed to answer the question. Instead, it suggested that a discussion in person about this would be useful. However, Corville's notes from the meeting it had with Mr M following this exchange doesn't indicate that any such discussion took place. There's no record of Corville providing Mr M with any assurances about early retirement before age 65 being possible under the PPF. Corville's notes merely reflected Mr M's incorrect view on the matter, saying, "[Mr M] wants to retire early (...) and this would not be available in the PPF – this is another concern for him." I think it was remiss of Corville not to address Mr M's concerns on this point, and I'm unclear as to why it instead chose to leave him with an obvious misunderstanding of the options available to him.

Many people might want to retire early, but this can only happen if they have the financial means to support themselves in retirement. Financial planning therefore involves managing a client's expectations and identifying any need for compromise. So, it was for Corville to establish what was feasible, manage Mr M's expectations and, where applicable, help him modify his objectives to reflect the reality of his circumstances. For example, Corville ought to have identified the basis on which Mr M wanted to semi-retire and worked out what this meant in financial terms given his family's anticipated requirements, bearing in mind that Mr M's income would likely be their main source of revenue for some time as Mrs M was unlikely to become employed and their children would both still be dependent on them.

There'd be little point transferring to retire early if it was unlikely that the new arrangement

would be able to provide the income required to cover the expected expenditure from Mr M's target retirement age. And transferring would've made even less sense if the income could've been met and guaranteed under the PPF or BPS. To sacrifice guaranteed benefits for the sake of flexibility in an income which could never reasonably achieve the same value as that offered by the BPS or PPF, would not in my view be a suitable course of action. Mr M would effectively be swapping a higher guaranteed income for the sake of flexibility in withdrawing a lower overall income. I can't see that there was an advantage in terms of this objective from transferring.

In terms of having control of his pension and where it was invested, Mr M has said his only concern was keeping his pension safe. He was worried that his pension could be reduced, or worse still, that he might lose it entirely if he didn't take action. But again, instead of discussing and addressing this concern with Mr M, Corville seemingly took what he said at face value and concluded it was a valid reason to transfer. But Mr M had minimal investment knowledge and experience. So, while he might have desired control, Mr M was unlikely to be – let alone remain – capable of managing his investments himself into old age. It's understandable that Mr M might have been attracted to the thought of severing ties with his employer, as far as his pension was concerned, given some of the uncertainty around this at the time, but I don't think this could be considered a reasonable justification for transferring. I think Corville should've enquired further about what Mr M specifically meant when he said he wanted his pension in his own control and what he thought might happen if he didn't transfer to secure such control.

Given that Corville said in its suitability letter that it had gone from not recommending the transfer, to doing so because of evidence it was in Mr M's best interests – flexibility and control being two of the motivations given – I would expect to see clear reasons and compelling rationale from Corville, to meet the regulator's requirements that it plainly demonstrated with evidence that transferring was in Mr M's best interests. Unfortunately, this is noticeably absent. So, it's my view that Mr M made the decision to accept the advice to transfer from an uninformed position regarding his flexibility and control objectives.

Death benefits

Regarding death benefits, Corville recorded that Mr M wanted flexibility. Specifically, he wanted to leave his wife and children a lump sum instead of a regular income. He was also concerned that if he or his wife died early, the fund would die with them. It's understandable, given the circumstances, that Mr M would want to ensure his wife, who was their disabled son's full-time carer, was provided for in the event of his death. It's also reasonable to expect that he wanted his children to benefit too. Mr M has said that ensuring his family, especially his disabled son, were provided for was very important to him. However, based on what I've seen, I don't think Corville has provided credible evidence which demonstrates that transferring for more flexibility with death benefits was worthwhile; that it met its obligation to provide Mr M with sufficient information about the death benefit options available to him under the BPS and the PPF or that it had regard for the effect of replacing them with the benefits and options under a new arrangement.

Corville's suitability report set out, in very general and limited terms, what Mr M's death benefit entitlement under the BPS was and what it could potentially be if he transferred. It confirmed that under the BPS, a spouse's pension equal to 50% of Mr M's pension at the time would be paid if he died before retiring, as well as a lump sum of £57,581.25. No information about the death benefits available if Mr M died after taking his pension was provided. There was also no information about what the death benefit entitlement under the PPF was. The TVAS enclosed with Corville's suitability report did set out in monetary terms what the spouse's pension under the BPS would be depending on when, before taking his pension, Mr M passed away. But again, there was nothing about what death benefit options

were available under the PPF, even in general terms.

Although Corville noted in the suitability report that it discussed with Mr M what would happen on this death and that he felt the likely scenario would be that, under a PP arrangement, his nominated beneficiary would take any remaining fund as a cash lump sum, no further details of any discussion about death benefits is provided. Because of this, and the lack of information Mr M appears to have been provided with, I'm not satisfied that Corville put Mr M in a position where he fully understood what his various death benefit options were, such that he could make an informed decision about transferring for this reason.

The reality was that transferring to a SIPP did offer flexible death benefits – nominated beneficiaries could choose to convert the fund value to secure a lifetime annuity, lump sum, income drawdown or any combination of these. And for the period immediately following the transfer until Mr M could take any retirement income, the death benefits available would, subject to investment performance, be significant simply because he couldn't access and deplete the fund value. But Mr M was in good health, there was nothing suggest he couldn't expect a normal life expectancy and therefore require money from the SIPP to meet his main income needs in retirement. So, in later years, when passing away was more likely, this could mean that upon death the size of Mr M's SIPP fund remaining for his beneficiaries was more likely to be much smaller.

In addition to setting out the death benefit options available, Corville needed to establish what Mr M's specific needs in this regard were. Without doing this, it was impossible to say with any certainty what fund might reasonably be available to Mr B's beneficiaries based on his expected rate of income withdrawal and life expectancy and therefore how the SIPP might provide financial support for his wife and children further down the line.

Saying he wanted to leave as much of his pension fund to his wife and children in the event of his death wasn't in my view a fully articulated objective. Corville ought to have discussed with Mr M what, in real terms, his position on death benefits was and specifically how he wanted to provide for his wife and children in this respect – for example, why he wanted to leave his wife a lump sum benefit as opposed to a guaranteed ongoing spouse pension, and how much of a safety net his wife and children might require if he passed away.

Mr M has said that he and his wife had two life cover policies, each worth £95,000 at the time of Corville's advice. So if it was a genuine objective for Mr M to provide a lump sum on his death, as asserted by Corville, then I think life cover could've achieved the same objective of providing a lump sum while enabling Mr M to maintain safeguarded benefits. There's nothing to show that Corville considered this option or any death in service cover Mr M might have available as a result of his employment with British Steel. As I understand it, if Mr M was still employed by British Steel at the time of his death, a death in service lump sum based on a specified multiplication of his salary would be payable, which again, like any life cover would've arguably bolstered his position where death benefits were concerned, without giving up guarantees.

Corville didn't identify the level of retirement income Mr M and/or Mrs M thought Mrs M would need in the event Mr M passed away; explore whether the spouse's pension Mrs M could secure under Mr M's BSPS pension or the PPF would be sufficient; or if transferring to improve on this was necessary or realistically achievable given Mr M's ATR and capacity for loss.

I also think it was remiss of Corville not to establish the specifics of any pension provision Mrs M had of her own which might have reduced her dependence on Mr M's BSPS pension. As I understand it, Mrs M has her own very modest pension from a previous employer, but

there's no indication that Corville considered this when advising Mr M to transfer for death benefits.

In terms of provision for Mr M's children, Corville didn't collect any information about their anticipated needs, such as the specific requirements of Mr M's permanently disabled son, who, in the event of both of his parents' death, might need money for care costs as he was unlikely to ever be able to live independently. In my view, information of this nature was critical to Corville evaluating and determining whether taking on additional risks by transferring was worthwhile and in Mr M's best interests and later, those of his wife and children. Without this, I don't think Corville could reasonably conclude that transferring to a SIPP to alter and improve on death benefits was worth Mr M giving up guaranteed benefits.

I'm mindful that Corville didn't, in the first instance, provide Mr M with an objective picture of the death benefits under the BPS and PPF. Notably, Corville failed to highlight the provision both included for dependants. Under the BPS Mr M's benefits included the provision for a dependant's allowance. This meant that, following his death, the scheme trustees would assess whether there were any dependants – for example, a spouse, children or other relatives who financially depended on him. In the case of Mr M's disabled son, it was clear he would be a financially dependent for life due to his disability and high level of dependency. And although provision for dependents ordinarily ends when they complete full time education or by their mid-twenties, a dependence allowance under the BPS could be paid indefinitely, subject to the discretion of scheme trustees.

So, in the event of Mr M's death, the BPS could pay a dependant's allowance for the rest of his disabled son's life. Had this, coupled with the provision of a guaranteed spouse's pension, been properly explained to Mr M, I think it's likely that, bearing in mind his wish to ensure his wife and children were provided for when he died, Mr M would've instead opted to remain where he was, until such time as BPS2 or even the PPF became available. Both likely offer better death benefits for Mr M's beneficiaries compared to a SIPP.

Limited advice

In addition to the reasons I've already given for why I think Corville failed to provide Mr M with suitable advice, I think that its attempt to limit the advice it gave compounded this. Corville appears to have been under the impression that as it told Mr M that it wasn't providing advice on where his funds should be invested once transferred to the SIPP, this enabled it to provide advice on a restricted basis. But this wasn't right. It couldn't separate out the two elements. Its advice on the suitability of the transfer to the SIPP had to include the suitability of the underlying investments. Without this I'm not satisfied Corville could make a reasonable determination about whether the transfer was in Mr M's best interests. And I don't think there was any ambiguity regarding the regulator's position on the matter. The regulator restated its position in two alerts issued in 2013 and 2014, where it said:

"The [regulator's] view is that the provision of suitable advice generally requires consideration of the other investments held by the customer or, when advice is given on a product which is a vehicle for investment in other products (such as SIPPs and other wrappers), consideration of the suitability of the overall proposition, that is, the wrapper and the expected underlying investments (...). It should be particularly clear to financial advisers that, where a customer seeks advice on a pension transfer in implementing a wider investment strategy, the advice on the pension transfer must take account of the overall investment strategy the customer is contemplating (...)."

and

"Where a financial adviser recommends a SIPP knowing that the customer will (...) transfer

(...) to release funds to invest through a SIPP, then the suitability of the underlying investment must form part of the advice given to the customer (...). If a firm does not fully understand the underlying investment proposition intended to be held within a SIPP, then it should not offer advice on the pension transfer (...) at all as it will not be able to assess suitability of the transaction as a whole."

So, although the intention was for another regulated firm (Firm S) to advise on where Mr M's funds were invested, I don't think this meant Corville's responsibilities ended once the SIPP had been set up. Corville still had a duty to ensure the overall transaction was suitable, notwithstanding that another firm was going to be involved. Suitable advice couldn't be given without thinking about the intended investment. That's the regulator's position as I've referred to above.

Corville's suitability letter said that following the transfer, Firm S would assume responsibility for ongoing investment advice and place Mr M's funds in the Tatton Managed Balanced portfolio – no information about this fund was provided. But once transferred, Mr M's funds were actually first placed in the BlackRock Cash Fund. And after Firm S carried out its own assessment of Mr M's ATR and capacity for loss, his funds were placed in the Tatton Managed Cautious portfolio.

The assumptions used in the TVAS report (upon which Corville's suitability report was based) were that Mr M would be invested in a generic Balanced fund (the Tatton Managed Balanced portfolio isn't mentioned anywhere) with a 1% Annual Management Charge (AMC) being charged half-annually. However, in Corville's suitability report the applicable fund charge is recorded 0.32% pa. This doesn't appear to be the charge for the Tatton Managed Balanced portfolio Corville said Mr M would be invested in. Instead it reflects the total charge for Mr M investing in the BlackRock Cash Fund. So, there was a real disconnect between where Corville told Mr M that his funds would be invested, what this would cost and ultimately, the impression Mr M was given by Corville about the impact this would likely have on investment growth, the size of his fund at retirement and the extent to which transferring would therefore meet the objectives Corville said it would.

Together, I think Corville's attempt to distance itself from any responsibility for where Mr M's funds were invested and the errors and inconsistency regarding which funds and charges were used in the TVAS and suitability report, meant that, at best, Corville confused matters and at worst, that it misrepresented the transfer to Mr M and in doing so, failed to take reasonable steps to ensure Mr M was placed in an informed position whereby he could understand Corville's advice and make an informed decision about transferring.

Summary

Corville's position appears to be that, based on Mr M's objectives and concerns that, at the time, "it was highly likely the [BSPS] would enter the PPF", he would've always transferred irrespective of the advice it provided. I disagree. I think it was clear from the outset that Mr M was seeking to rely on the information and advice he obtained from Corville. And I think Corville's failings in appropriately assessing the suitability of the transaction it was recommending played a pivotal role in Mr M's decision to transfer. As I've explained, the perceived benefits of doing so didn't justify the transfer at this time. In my view Corville shouldn't have gone on to recommend the transfer to Mr M. And if it hadn't done so then I don't believe it's likely that Mr M would've gone ahead with it. In the circumstances I'm satisfied that it is more likely than not that Mr M would've listened to suitable advice and followed the recommendation I think Corville should have made, which was not to transfer.

I accept that the detail of any potential successor scheme, as an alternative to the PPF, was lacking when Corville was advising Mr M. As I've said above, this advice predated the

announcement in May 2017 relating to the RAA. However, based on what I've seen, I'm not persuaded that Mr M had to make any decision about whether to transfer until more details were known about the options which might later be available. My understanding is that, at the time Mr M engaged Corville for advice, there was no imminent prospect of the BPS entering the PPF and the consultation was geared towards the opposite outcome.

I'm mindful that an update issued by the BPS trustees in June 2016 (before Corville's advice to Mr M) said that, although earlier thoughts had been that the BPS would likely transfer to the PPF, recent developments meant that it was now believed that the scheme would be able to provide modified benefits (BPS2), which, for the vast majority of members would be better than those provided by the PPF. Clearly, this was subject to the government's conclusions and there were no guarantees about what the outcome would be. However, given the significance of the decision Mr M would be making about his future retirement needs, as well as provision for his dependent family, especially the high dependency of his disabled son, I think it was essential that, as part of providing comprehensive suitable advice, Corville ensured it understood the position with the BPS and could, as a result, properly advise Mr M regarding the options available to him. It's worth noting that even once the options were known, BPS members still had the choice of transferring out of the scheme, rather than being forced into the PPF.

Corville needed to question and drill down into the drivers behind Mr M's objectives. Without doing this and setting out Mr M's various options in a clear and balanced way – in monetary form, where possible – I don't think Corville, let alone Mr M, was able to establish whether there were reasonable justifications for giving up guaranteed benefits and taking a gamble with his main retirement provision.

Taking into account Mr M's circumstances, including his ATR, his objectives and the guarantees which the BPS offered and would've persisted with either the BPS2 or the PPF, my view is that Corville should have advised against the transfer. I've carefully considered Mr M's recorded objectives, but I haven't seen any evidence which persuades me that options for early retirement, flexibility or control were sufficiently compelling reasons to transfer and give up guaranteed benefits. As I've said one of Mr M's recorded objectives – the option of early retirement – was in any case achievable within the BPS2 and would have remained so in the PPF. In terms of death benefits, I think Mr M's personal circumstances made this a key consideration, especially in terms of protecting his wife and children. But protecting his fund and thereby protecting his wife and children in the event of his death was available without needing to transfer. Arguably, in transferring the protection provided in terms of death benefits was lost.

I accept that Mr M was given risk warnings and was more likely than not capable of understanding them. But it's important to note that disclosure isn't the same as suitability. If the recommendation to transfer was fundamentally unsuitable then the provision of risk warnings doesn't transform it into a suitable one.

For the reasons given, my view is that a fair and reasonable assessment of this case leads to a conclusion that the recommendation to transfer wasn't suitable for Mr M, nor was it in his best interests.

Retiring at age 55 was an option Mr M wished to have as opposed to a concrete plan he did have. So, I don't think that it would've been in his interest to accept the reduction in benefits he would've faced by the scheme entering the PPF, as it wouldn't be offset by the more favourable reduction for early retirement. As it stands, Mr M remains in full time employment with British Steel and intends to retire at age 65. Also, Mr M was married, and his wife's pension would be set at 50% of his pension at the date of death, and this would be calculated as if no lump sum was taken at retirement (if Mr M chose to do so). So, I think

Corville should've advised Mr M to remain in the BPS and when he later had the choice, advised him to opt into BPS2.

So, overall, I think Corville should compensate Mr M for the unsuitable advice, using the regulator's defined benefits pension transfer redress methodology. And as per the above, it is the benefits available to him through BPS2 at age 65 that should be used for comparison purposes.

As I've said, notwithstanding Firm S' involvement, Corville had a duty to give Mr M suitable advice and without its advice a transfer couldn't have proceeded. And it was only as a result of Corville's involvement that Mr M transferred the funds held in his BPS pension to the SIPP. Corville's role was pivotal, since the eventual investment was fully reliant on the funds being transferred first. If that hadn't happened, Mr M couldn't have invested as he did. So, in my view, the entirety of Mr M's loss stems from Corville's unsuitable advice to transfer away from the BPS. For this reason, I think it's fair and reasonable to hold Corville fully responsible for any losses this transfer caused Mr M. If Corville considers that Firm S should also be held liable, it is free to pursue Firm S directly after having compensated Mr M in full.

Putting things right

I intend to say that 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 Corville's unsuitable advice. I consider Mr M would have most likely remained in his BPS and subsequently moved into the BPS2, rather than the SIPP, if suitable advice had been given. So, Corville should use the benefits offered by BPS2 at age 65 for comparison purposes, as per the usual assumptions in the FCA's guidance.

Corville must therefore undertake a redress calculation in line with the regulator's pension review guidance as updated by the Financial Conduct Authority in its Finalised Guidance 17/9: Guidance for firms on how to calculate redress for unsuitable DB pension transfers.

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

Corville may wish to contact the Department for Work and Pensions (DWP) to obtain Mr M's contribution history to the State Earnings Related Pension Scheme (SERPS or S2P). These details should then be used to include a 'SERPS adjustment' in the calculation, which will take into account the impact of leaving the occupational scheme on Mr M's SERPS/S2P entitlement.

If the redress calculation demonstrates a loss, the compensation should if possible be paid into Mr M's pension plan. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension plan if it would conflict with any existing protection or allowance.

If a payment into the pension isn't possible or has protection or allowance implications, it should be paid directly to Mr M as a lump sum after making a notional deduction to allow for income tax that would otherwise have been paid. Typically, 25% of the loss could have been taken as tax-free cash and 75% would have been taxed according to his likely income tax rate in retirement - presumed to be 20%. So, making a notional deduction of 15% overall from the loss adequately reflects this.

The payment resulting from all the steps above is the 'compensation amount'. This amount

must where possible be paid to Mr M within 90 days of the date Corville receives notification of his acceptance of my final decision. Further interest must be added to the compensation amount at the rate of 8% per year simple from the date of my final decision to the date of settlement for any time, in excess of 90 days, that it takes Corville to pay Mr M.

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

I invited Corville and Mr M to respond to my provisional decision. Mr M accepted my findings. Corville disagreed and, in summary, said:

- I hadn't considered the uncertainty surrounding the BPS at the time of its advice and my findings were based on hindsight.
- I'd failed to take into account Mr M's circumstances and the merits of alternative options available at the time of its advice.
- I'd ignored Mr M's desire to take a lump sum from his pension and leave funds to his children when he died.
- Mr M's claim that he felt uneasy writing the letter it asked him to prepare, setting out why he wanted to transfer, wasn't consistent with his actions as he still went on to accept its advice.
- The PPF didn't clarify the future with the RAA only being issued in 2017, after its advice to Mr M.

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 looked at all the information from both parties afresh and having done so, my decision remains the same as before (and as set out above). That means I'm upholding Mr M's complaint for the reasons I've previously given. However, I'll respond to some of the points Corville made following my provisional decision.

While I won't be responding to all of Corville's arguments, I've considered each of them. If I don't mention something, it isn't because I've ignored it. It'll be because I don't think I need to comment on it in order to reach what I think is a fair and reasonable outcome on the matter. I'll confine my comments to what I think is relevant and hope that Corville will understand that I mean no discourtesy by this.

Corville disagrees with my provisional decision, suggesting that I've failed to take into account Mr M's circumstances and the merits of alternative options available at the time of its advice. Because of this it feels that my decision is, in essence, a template. It says it's seen similar approaches taken in other cases considered by our Service, which indicates a blanket approach to these types of complaints.

In reaching a decision about the suitability of Corville's advice, I've taken into account a number of factors, such as – but not limited to – the regulator's position on DB transfers, the status of the DB scheme at the time of Corville's advice and the financial viability of the transfer. Naturally, some of these factors are common across the types of complaints our Service sees about DB transfers. But taking into account other relevant factors, doesn't mean that Mr M's circumstances and the merits of the options available to him at the time

haven't been key considerations when I've looked at the suitability of the advice he received. I think my provisional decision shows the opposite to be true.

Repeated references to Mr M's circumstances were made throughout my provisional decision and, most notably, under the section headed, "*Mr M's position at the time of Corville's advice*", where I set out Mr M's circumstances as I understood them. Specifically, I said:

"At the time of the advice, Mr M was 53 years old and had accrued significant qualifying service in the BPS he'd held with his employer of over 30 years. Given how long Mr M had been working, it's understandable that he may have been interested in retiring earlier than age 65. However, other than his state pension entitlement and a very modest PP, Mr M's BPS pension was his only retirement provision. Although I haven't seen any note or evidence of an enquiry by Corville about Mr M's wife's retirement provision on file, I understand that other than her state pension entitlement, she only had a small PP. So, Mr M's BPS pension represented the largest proportion of his and his wife's combined wealth and future retirement income. They also had two financially dependent children (aged 10 and 14), one of whom was disabled and would be permanently dependent. I'm also aware that Mr and Mrs M were receiving benefits in the form of disability living allowance, carer's allowance, working tax credits and child benefit.

Mr and Mrs M didn't have other sizable assets they could rely on if Mr M's transfer didn't work out, and as they had minimal savings and an outstanding mortgage of £40,000, it seems to me that Mr M's BPS pension was his most valuable asset. It provided a guaranteed income for the future with increases; a spouse's pension for Mrs M should Mr M pass away and provision for any qualifying dependents."

Bearing this in mind, I didn't think that Mr M's situation was one which lent itself to taking risks, especially not those which transferring presented. And, when considering Mr M's capacity for loss, I still have doubts about the basis on which Corville concluded that Mr M could "*absorb any losses without a material effect on [his] standard of living*" – his circumstances, as I've set out above, simply didn't reflect that.

In terms of Mr M's income needs in retirement, I noted that Corville had made no attempt to establish what these were likely to be. And without this, I didn't think Corville could reasonably conclude that transferring was in his best interests or that it had demonstrated that it had met the regulator's requirement that its advice took into account Mr M's relevant circumstances.

I also thought carefully about Mr M's circumstances when looking at Corville's justifications for its advice, but I wasn't satisfied that transferring for reasons like flexibility or death benefits was necessary or shown by Corville to be in Mr M's best interests. Regarding flexibility, I said:

"Corville didn't gather much in the way of detail about what this really meant for Mr M. Although the suitability report said Mr M might take a higher income in the early years of retirement, there's no evidence of any discussion between Mr M and Corville about why this might be; what level of income Mr M anticipated taking in early retirement compared to later on; and whether this was likely to be sustainable or make the risks associated with transferring, worthwhile. Without even basic information about Mr M's personal goals, I can't see how Corville could conclude that flexibility in this regard was a genuine need or something which transferring was likely to meet (...) it was for Corville to establish what was feasible, manage Mr M's expectations and, where applicable, help him modify his objectives to reflect the reality of his circumstances (...)"

And concerning death benefits, I said:

"It's understandable, given the circumstances, that Mr M would want to ensure his wife, who was their disabled son's full-time carer, was provided for in the event of his death (...) Mr M has said that ensuring his family, especially his disabled son, were provided for was very important to him. However, based on what I've seen, I don't think Corville has provided credible evidence which demonstrates that transferring for more flexibility with death benefits was worthwhile; that it met its obligation to provide Mr M with sufficient information about the death benefit options available to him under the BSPS and the PPF or that it had regard for the effect of replacing them with the benefits and options under a new arrangement (...)"

Although Corville noted in the suitability report that it discussed with Mr M what would happen on this death and that he felt the likely scenario would be that, under a PP arrangement, his nominated beneficiary would take any remaining fund as a cash lump sum, no further details of any discussion about death benefits is provided. Because of this, and the lack of information Mr M appears to have been provided with, I'm not satisfied that Corville put Mr M in a position where he fully understood what his various death benefit options were, such that he could make an informed decision about transferring for this reason (...)"

So, again, I'm unable to agree that my consideration of Corville's advice ignored Mr M's circumstances. It's Mr M's circumstances and their relation to other relevant factors in this case which led me to conclude that Corville's advice was unsuitable.

Corville has suggested that my findings ignored Mr M's desire to leave funds to his children when he died. But I addressed this in my provisional decision under the heading, "Death benefits", saying:

"In terms of provision for Mr M's children, Corville didn't collect any information about their anticipated needs, such as the specific requirements of Mr M's permanently disabled son, who, in the event of both of his parents' death, might need money for care costs as he was unlikely to ever be able to live independently. In my view, information of this nature was critical to Corville evaluating and determining whether taking on additional risks by transferring was worthwhile and in Mr M's best interests and later, those of his wife and children. Without this, I don't think Corville could reasonably conclude that transferring to a SIPP to alter and improve on death benefits was worth Mr M giving up guaranteed benefits."

I'm mindful that Corville didn't, in the first instance, provide Mr M with an objective picture of the death benefits under the BSPS and PPF. Notably, Corville failed to highlight the provision both included for dependants. Under the BSPS Mr M's benefits included the provision for a dependant's allowance. This meant that, following his death, the scheme trustees would assess whether there were any dependants – for example, a spouse, children or other relatives who financially depended on him. In the case of Mr M's disabled son, it was clear he would be a financially dependent for life due to his disability and high level of dependency. And although provision for dependents ordinarily ends when they complete full time education or by their mid-twenties, a dependence allowance under the BSPS could be paid indefinitely, subject to the discretion of scheme trustees (...)"

So, in the event of Mr M's death, the BSPS could pay a dependant's allowance for the rest of his disabled son's life. Had this (...) been properly explained to Mr M, I think it's likely that, bearing in mind his wish to ensure his wife and children were provided for when he died, Mr M would've instead opted to remain where he was, until such time as BPS2 or even the PPF became available. Both likely offered better death benefits for Mr M's beneficiaries compared to a SIPP (...)"

In my provisional decision, I acknowledged that the full details of BPS2 were lacking at the time of Corville's advice. So I think it was even more important for Corville – which said leaving funds for Mr M's children was "*an important factor*" in its advice – to ensure that, based on what was known, Mr M had relevant information about what the position might be if the BPS transferred to the PPF.

The reality was that, under the PPF, there was provision for a member's children directly relevant to Mr M's circumstances, especially bearing in mind his permanently disabled son. It would provide compensation to children under 18 (which Mr M's children were at the time of Corville's advice), or over 18 but under 23 who were in qualifying education or who had a qualifying disability. The amount Mr M's children could receive would depend on whether Mrs M was also receiving an income from Mr M's pension following his death. Where she was, Mr M's children could receive 50% of Mr M's pension, divided equally. Where an income wasn't being paid to Mrs M, Mr M's children could receive 100 per cent of his pension, divided equally.

I can't see that Corville provided any of this information to Mr M when it should've, particularly given how pertinent it was to his circumstances. Corville said that the prospect of the BPS entering the PPF was a "*serious concern*" for Mr M and the driving force behind him seeking its advice. So, it's unclear to me why, as part of the advice process, it made no attempt to address Mr M's worries in this respect.

Given the circumstances, I think that discussing the features of the PPF and providing Mr M with the information I've outlined above, would've likely allayed many of Mr M's fears about the PPF. Having been provided him with a balanced and objective view of what benefits under the PPF were likely to look like and what this could mean given his circumstances, I think that Mr M would've instead opted to remain where he was, until such time as BPS2 or the PPF became available. I believe he would've understood that the BPS entering the PPF wasn't necessarily the worst-case scenario he'd imagined.

Corville suggests that my findings ignored Mr M's desire to take a lump sum from his pension. It says that Mr M "*took advantage*" of its advice and accessed lump sums as he said he would. Corville seems to think this demonstrates that its advice, which enabled Mr M to access lump sums, was suitable.

As I've said, my findings on Corville's advice took into account a number of things, including the reasons Corville gave for why transferring was in Mr M's best interests. A desire or requirement to access a lump sum wasn't provided as a reason for Corville's recommendation. The Financial Planning Questionnaire completed for Mr M didn't show that Mr M had any debts he was struggling to pay, or which needed repaying immediately such that transferring for this reason necessary. He was meeting his outgoings without any need to access his pension. And the section of the Client Considerations form to be completed for those who needed a "*larger lump sum for debt repayment, or another capital need*" was left blank.

As there was nothing to suggest that accessing a lump sum was a reason for Corville's recommendation, I didn't consider it necessary to explore this in any significant detail in my provisional decision. If Corville's recommendation had been based on Mr M wanting or needing to access a lump sum which could only be achieved following a transfer to a SIPP, I would've expected to see this documented by Corville, but it wasn't. There's nothing to suggest that Corville collected even basic information about the lump sum it says Mr M required, such as the amount he was seeking, when he needed it or what it was intended for.

Notwithstanding this, I accept that transferring meant that Mr M was able to access his

pension and withdraw funds from his pension. And it's true that Mr M has made use of this facility. However, Mr M could've taken a lump sum under the BPS2 or the PPF at the same time he did from his SIPP if he really needed to, while retaining guarantees. There's nothing to suggest this was considered by Corville before being discounted in favour of transferring. The same can be said for other viable options such as the lump sum which could've been available to Mr M under the defined contribution scheme he was contributing to.

Although Mr M has withdrawn funds from the SIPP he transferred to, I'm not persuaded that this demonstrates that Corville's advice was suitable. In my view it's merely been a consequence of transferring and not because it met any essential need which made transferring and giving up a guaranteed escalating pension worthwhile.

Corville says that Mr M's claim that he felt uneasy writing the letter it asked him to prepare, setting out why he wanted to transfer, isn't consistent with his actions as he still went on to accept its advice. I don't agree.

Mr M wasn't an experienced investor or a pensions expert, he was therefore wholly reliant on Corville, as his financial adviser, to provide a balanced assessment of the options available, act in his best interests and provide suitable advice. So, I don't find it surprising that, given this dependence, Mr M trusted and ultimately accepted Corville's advice, despite misgivings he had about being asked to prepare and sign an undated letter.

Notwithstanding this, Mr M's recollection of how he felt about Corville's letter doesn't alter my view that Corville's advice was unsuitable. Corville failed to adequately take into account Mr M's circumstances and concerns; interrogate and distil his objectives and evaluate the merits and shortcomings of transferring, while sufficiently considering alternatives. And in doing so, I think it seriously let him down at time when he was contemplating making a critical decision about his future.

Corville indicated that it didn't think I considered the uncertainty surrounding the BPS in reaching my decision about the suitability of Corville's advice. It hasn't made any specific points regarding this, so I can only disagree and refer it to the sections in my provisional decision headed, *"Concerns about the financial stability of the BPS and benefits entering the PPF"* and *"Summary"*, where I acknowledged the lack of certainty and set out what bearing I thought this ought to have had on Corville's advice – put simply, I wasn't persuaded that Mr M had to make any decision about whether to transfer until more details were known about the options which might later be available.

Finally, Corville has said my provisional decision was based on hindsight. Specifically, it says:

"(...) the PPF did not clarify the future with the RAA only being issued in 2017, after the advice (...)".

It's not entirely clear to me what exactly Corville means by this comment. But as I understand it, it seems to be suggesting that until the RAA was announced in 2017, the full details of the position with the PPF or any potential successor scheme weren't known. And therefore, my comments about what Mr M would likely have done had he received suitable advice, were based on hindsight and not the actual situation the time of Corville's advice.

Under the *"Summary"* section of my provisional decision, I said:

"However, based on what I've seen, I'm not persuaded that Mr M had to make any decision about whether to transfer until more details were known about the options which might later be available. My understanding is that, at the time Mr M engaged Corville for advice, there was no imminent prospect of the BPS entering the PPF and the consultation was geared

towards the opposite outcome.

I'm mindful that an update issued by the BSPS trustees in June 2016 (before Corville's advice to Mr M) said that, although earlier thoughts had been that the BSPS would likely transfer to the PPF, recent developments meant that it was now believed that the scheme would be able to provide modified benefits (BSPS2), which, for the vast majority of members would be better than those provided by the PPF. Clearly, this was subject to the government's conclusions and there were no guarantees about what the outcome would be. However, given the significance of the decision Mr M would be making about his future retirement needs, as well as provision for his dependent family, especially the high dependency of his disabled son, I think it was essential that, as part of providing comprehensive suitable advice, Corville ensured it understood the position with the BSPS and could, as a result, properly advise Mr M regarding the options available to him. It's worth noting that even once the options were known, BSPS members still had the choice of transferring out of the scheme, rather than being forced into the PPF."

I don't think the RAA not being announced until 2017 precluded Corville from providing Mr M with all the relevant information that was available at the time of its advice and explaining what this meant in terms of his options. And it didn't automatically mean that transferring necessary. Given that Corville seems to accept that the future of the BSPS wasn't entirely clear when it advised Mr M to transfer, I think it was even more incumbent on it not to advise Mr M to take any action until such time as he had the full details of his options and a clear idea of what the implications of choosing one of these options could be.

I don't agree that my decision is based on hindsight, it's based on what was known at the time of Corville's advice, bearing in mind what I think Mr M would most likely have done based on his circumstances and if Corville had provided suitable advice.

For the reasons given, my view is that a fair and reasonable assessment of this case leads to a conclusion that the recommendation to transfer wasn't suitable for Mr M, nor was it in his best interests. So, overall, I think Corville should compensate Mr M for the unsuitable advice, using the regulator's defined benefits pension transfer redress methodology. And as per the "Summary" section of my provisional decision, it is the benefits available to him through BSPS2 at age 65 that should be used for comparison purposes.

Putting things right

On 2 August 2022, the FCA launched a consultation on new DB transfer redress guidance and has set out its proposals in a consultation document - [CP22/15-calculating redress for non-compliant pension transfer advice](#). The consultation closed on 27 September 2022 with any changes expected to be implemented in early 2023.

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

The FCA has said that it expects firms to continue to calculate and offer compensation to their customers using the existing guidance in FG 17/9 whilst the consultation takes place. But until changes take effect firms should give customers the option of waiting for their compensation to be calculated in line with any new rules and guidance that may come into force after the consultation has concluded.

We've previously asked Mr M whether he preferred any redress to be calculated now in line with current guidance or wait for the any new guidance /rules to be published. And he has chosen not to wait for any new guidance to come into effect to settle his complaint.

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

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 Corville's unsuitable advice. I consider Mr M would have most likely remained in his BSPS and subsequently moved into the BSPS2, rather than the SIPP, if suitable advice had been given. So, Corville should use the benefits offered by BSPS2 at age 65 for comparison purposes, as per the usual assumptions in the FCA's guidance.

Corville must therefore undertake a redress calculation in line with the regulator's pension review guidance as updated by the Financial Conduct Authority in its Finalised Guidance 17/9: Guidance for firms on how to calculate redress for unsuitable DB pension transfers.

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

Corville may wish to contact the Department for Work and Pensions (DWP) to obtain Mr M's contribution history to the State Earnings Related Pension Scheme (SERPS or S2P). These details should then be used to include a 'SERPS adjustment' in the calculation, which will take into account the impact of leaving the occupational scheme on Mr M's SERPS/S2P entitlement.

If the redress calculation demonstrates a loss, the compensation should if possible be paid into Mr M's pension plan. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension plan if it would conflict with any existing protection or allowance.

If a payment into the pension isn't possible or has protection or allowance implications, it should be paid directly to Mr M as a lump sum after making a notional deduction to allow for income tax that would otherwise have been paid. Typically, 25% of the loss could have been taken as tax-free cash and 75% would have been taxed according to his likely income tax rate in retirement - presumed to be 20%. So, making a notional deduction of 15% overall from the loss adequately reflects this.

The payment resulting from all the steps above is the 'compensation amount'. This amount must where possible be paid to Mr M within 90 days of the date Corville receives notification of his acceptance of my final decision. Further interest must be added to the compensation amount at the rate of 8% per year simple from the date of my final decision to the date of settlement for any time, in excess of 90 days, that it takes Corville to pay Mr M.

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

Where I uphold a complaint, I can award fair compensation of up to £160,000, plus any interest and/or costs that I consider are appropriate. Where I consider that fair compensation

requires payment of an amount that might exceed £160,000, I may recommend that the business pays the balance.

My final decision

Determination and money award: I uphold this complaint and require Corville Financial Services Ltd to pay Mr M the compensation amount as set out in the steps above, up to a maximum of £160,000.

Where the compensation amount does not exceed £160,000, I would additionally require Corville Financial Services Ltd to pay Mr M any interest on that amount in full, as set out above.

Where the compensation amount already exceeds £160,000, I would only require Corville Financial Services Ltd to pay Mr M any interest as set out above on the sum of £160,000.

Recommendation: If the compensation amount exceeds £160,000, I also recommend that Corville Financial Services Ltd pays Mr M the balance. I would additionally recommend any interest calculated as set out above on this balance to be paid to Mr M.

If Mr M accepts this decision, the money award becomes binding on Corville Financial Services Ltd.

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.

If Mr M was to accept a final decision on the above basis, the money award would be binding on Corville Financial Services Ltd. My recommendation would not be binding on Corville Financial Services Ltd. Further, it's unlikely that Mr M could accept my decision and go to court to ask for the balance. In the event that the complaint is ultimately upheld, 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 21 November 2022.

Chillel Bailey
Ombudsman