DRN-4253410

The complaint

Mr C complains that he was given unsuitable advice by Lifestyle (Glamorgan) Limited ('Lifestyle') to transfer deferred benefits from his Defined Benefit ('DB') pension with British Steel ('BSPS') to a personal pension.

What happened

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 pension schemes when their employer becomes insolvent. The BSPS was closed to further benefit accrual from 31 March 2017.

In May 2017, the Pension Protection Fund (PPF) made the announcement that the terms of a Regulated Apportionment Arrangement (RAA) had been agreed. That announcement said that, if risk-related qualifying conditions relating to funding and size could be satisfied, a new pension scheme sponsored by Mr C's employer would be set up – the BSPS2.

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

Mr C had been a client of Lifestyle since 2014 and he had consolidated a couple of money purchase pensions into a personal pension plan with Aviva.

In July 2017, Mr C contacted Lifestyle to discuss his BSPS benefits. He was concerned about the security of his pension and about the possibility of it moving to the PPF or to a new scheme with lower benefits.

A fact find was completed which showed:

- Mr C was 47, living with his long-term partner and his young daughter and was in good health.
- He had a salary of £40,000 per year and his partner was earning £10,000 per year. Their joint net income was £3,300 per year with outgoings of £3,000. They owned their own home worth around £200,000 with an outstanding mortgage of £130,000. They had no savings.
- Mr C had joined the new company defined contribution (DC) pension scheme in April 2017 with combined employee and employer contributions of 20% being paid into it.
- His personal pension with Aviva had a value of around £40,000. He wanted to transfer his BSPS pension into the same plan. His partner had a personal pension

worth around £26,000 and a workplace pension with a value around £12,000 with combined employee and employer contributions of 10%.

- Including the transfer value from the BSPS, Mr C was aiming for a personal pension value of £300,000 at age 60 plus another £100,000 from his DC pension. He then wanted to take £100,000 in tax-free cash and draw a higher income from his pensions until state retirement age and then reduce his income from the drawdown plan when a large part of their income would be met by his and his partner's state pensions. Mr C said he was unsure of his income needs but expected being comfortable on £2,000 per month in retirement.

- Mr C was interested in his financial affairs and was monitoring his personal pension which he was happy with. His attitude to risk with regards to his pension was assessed as moderately cautious (Risk Profile 5). He wanted to lower the current risk profile of his Aviva pension from a Level 6 as he wanted less risk with a larger fund.

- As he was unmarried, he was concerned that his BSPS pension would "die with him" and he wanted his daughter to inherit his pension.

A suitability report was subsequently issued in August 2017 which recommended Mr C to transfer his BSPS benefits to his existing Aviva pension. The reasons why this was the suitable strategy were listed as tax-free cash flexibility, income flexibility, greater death benefits, tax planning, investment control and succession planning.

The adviser came to the conclusion that neither the PPF nor the new BSPS2 would offer him the flexibility and control he wanted in retirement.

Mr C complained to Lifestyle in 2021 about the advice he received. He said it wasn't suitable. Lifestyle rejected his complaint.

Mr C referred his complaint to this service and one of our investigators upheld his complaint. He agreed Lifestyle had given unsuitable advice.

Lifestyle disagreed and so the complaint was passed to me for a 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.

Provisional decision

I previously issued a provisional decision in which I said the following:

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. 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.

Lifestyle has provided very detailed comments on this complaint and I understand they feel aggrieved that Mr C has made, as they see it, a spurious and speculative complaint. I have considered everything they said but will focus on what I consider to be the key points.

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 Lifestyle'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.

The provisions in COBS 19 which specifically relate to a DB pension transfer.

COBS 19.1.2R required the following:

"A firm must:

1) compare the benefits likely (on reasonable assumptions) to be paid under a defined benefits pension scheme or other pension scheme with safeguarded benefits with the benefits afforded by a personal pension scheme, stakeholder pension scheme or other pension scheme with flexible benefits, before it advises a retail client to transfer out of a defined benefits pension scheme or other pension scheme with safeguarded benefits;

2) ensure that that comparison includes enough information for the client to be able to make an informed decision;

(3) give the client a copy of the comparison, drawing the client's attention to the factors that do and do not support the firm's advice, 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 client understands the firm's comparison and its advice."

COBS 19.1.3 G:

In particular, 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 scheme 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 scheme's normal retirement age, compare the benefits available from crystallisation at normal retirement age under that scheme.

Under the heading “Suitability”, the following was set out:

COBS 19.1.6G:

“When advising a retail client who is, or is eligible to be, a member of a defined benefits occupational pension scheme or other scheme with safeguarded benefits whether to transfer, convert or opt-out, a firm should start by assuming that a transfer, conversion or opt-out will not be suitable. A firm should only then consider a transfer, conversion or opt-out to be suitable if it can clearly demonstrate, on contemporary evidence, that the transfer, conversion or opt-out is in the client's best interests.”

COBS 19.1.7G:

“When a firm advises a retail client on a pension transfer, pension conversion or pension opt-out, it should consider the client’s attitude to risk including, where relevant, in relation to the rate of investment growth that would have to be achieved to replicate the benefits being given up.”

COBS 19.1.7B:

“In considering whether to make a personal recommendation, a firm should not regard a rate of return which may replicate the benefits being given up from the defined benefits pension scheme or other scheme with safeguarded benefits as sufficient in itself.”
COBS 19.1.8G

“When a firm prepares a suitability report it should include:
(1) a summary of the advantages and disadvantages of its personal recommendation;
(2) an analysis of the financial implications (if the recommendation is to opt-out); and
(3) a summary of any other material information.”

<u>Did Lifestyle take reasonable steps to ensure a DB transfer was suitable for Mr C?</u>

Financial viability

Lifestyle prepared a transfer value analysis (“TVAS”) at the time of the advice to show what investment returns were required in the personal pension to match the DB benefits at age 65 (“critical yield”). The comparison was done on a joint life basis which means it included the spouse’s benefits that the DB pension would provide. If Mr C took tax-free cash, the critical yield needed was 6.03%.

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 have been considered reasonably achievable when the advice was given in this case.

The discount rate in this case was 4.4% per year if Mr C retired at age 65 and 4% if he retired at 60. 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% per year.

Taking this into account along with the composition of assets in the discount rate and Mr C’s moderately cautious attitude to risk I think it was unlikely Mr C could meet or exceed this critical yield over the long term. I acknowledge that the funds Mr C would invest in had performed well over the past five years. Lifestyle had noted in their records that they had grown by approximately 9% per year with relatively low volatility which they thought compared favourably with the critical yield. However, as they will know, past performance is no guarantee for future performance and I think it was likely returns of 6% per year would not be achieved in the long term. So he would likely achieve overall lower benefits in the personal pension.

The report did mention that income could be higher in the DB scheme, however the critical yields weren't put in any context in the suitability report and given the mention of the 9% in their notes, I think it's plausible to think that this was the message they would have given Mr C. He had been happy with the performance of his existing Aviva pension, so I think it would have been easy for him to believe that critical yields could be achieved. Lifestyle should have made it clearer in my view that over the longterm such performance was a lot less likely.

I then considered that Mr C was looking to retire at age 60 and he was unmarried, so his partner would not be guaranteed a spouse's pension from the BSPS. During the course of this complaint Lifestyle requested a backdated TVAS comparing his benefits at age 60 and on a single life basis. They also factored in Mr C's actual transfer value slightly increasing (around £4,000) between August and October when the transfer happened.

Whilst this is something that should have happened at the time, I'm willing to accept that this would have been a reasonable comparison in these circumstances.

At the time of the advice in August it was clear that the BSPS would not continue to exist as it was and there wasn't yet enough information about the benefits available from the BSPS2. So comparisons in the transfer value analysis should have been done against the PPF. The PPF critical yields are only shown on one basis (which includes a spouse's pension). Based on Mr C's wish to take tax-free cash in retirement, the critical yield at 65 would have been 4.13% and 5.47% at age 60. The higher critical yield at age 60 is due to the more generous early retirement factors in the PPF.

I considered the reductions in critical yields between single and joint life for the BSPS benefits in the TVAS which were 0.44% at age 65 and 0.64% at age 60. So I think it's reasonable to assume similar reductions for the PPF. This would mean the critical yields to meet PPF benefits on a single life basis to be in the region of 3.69% at age 65 and 4.83% at age 60.

I think if Mr C was to retire at 65 there was a realistic chance he could have matched and even exceeded the PPF benefits on a single life and joint life basis. However, at age 60 which was his aspiration, I think this was a lot less likely. And if Mr C decided to get married at any point in his lifetime it was even more unlikely he would match the benefits.

Even if I accept there was a chance that he could maybe match the benefits at age 60, I don't think he could realistically improve on them in the personal pension.

By transferring his pension it was more likely Mr C would receive overall lower benefits in retirement. So based on the above alone, a transfer wasn't in Mr C's best interest.

Of course 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. I considered below whether such other reasons applied here.

Flexibility and death benefits

This was the major reason for recommending the transfer. Mr C wanted flexible benefits from age 60 and be able to take a large tax-free cash lump sum and higher income before state pension age. And he was concerned that his DB benefits would not be guaranteed to go to his partner as they weren't married and that nothing would go to his daughter either.

Mr C seemed to have a good idea of what he thought he wanted to achieve with his pension. However, I think he already had flexibility within his existing benefits and in my view he could have met his objectives without giving up valuable guarantees. Mr C and his partner already had other personal pensions and both had workplace pensions which they were contributing to. They still had many years to accrue further benefits and all of the pension provisions they had could be accessed flexibly. Mr C could have taken tax free cash from the PPF at age 60 and more from his other pensions if he needed to. He then could have used his guaranteed income and topped it up flexibly from his other pensions until he reached state retirement age. And by using his guaranteed income first, more money would be left in his flexible pensions.

If Mr C died before retirement, his family would have received a lump sum from the DB scheme as well as from his DC pension and his personal pension and Mr C also had very generous death in service benefits. I understand he also had term assurance of £150,000, so the mortgage would have been paid off as well. Whilst not guaranteed, his partner could have applied for a dependent's pension and in the PPF there was a guaranteed child's pension paid until 18 and up to 23 if they were still in education. If Mr C died after retirement, again his partner might have received a dependent's pension. But even if not, she would have had any sums left from Mr C's personal and DC pension and she also had some of her own pension provisions.

Mr C was relatively young and in good health and the primary purpose of retirement planning was to ensure Mr C's retirement needs would be met in the longterm. By the time he was planning to retire at age 60, is daughter would be 18. And as set out above, his existing pensions would provide good death benefits.

By transferring his guaranteed benefits he was exposing all of his pension provisions to investment risk. Aware of this, Mr C even lowered his risk profile. If he had kept his DB benefits, he wouldn't have needed to do this. He could have taken a bit more risk if he wanted to in the knowledge that a good part of his pension was guaranteed. He would have had the best of both worlds: flexibility and guaranteed benefits.

There was simply no need in my view to take unnecessary risks with his pension.

concerns about financial stability of BSPS

Many of Mr C's colleagues at the time were transferring out of the scheme there was a lot of negative communication around the PPF and speculation about the new scheme and I think it's likely Mr C came to Lifestyle with the clear intention to transfer out.

Mr C was worried about the security of his pension. From the fact find I take it that he had a fairly clear idea what he thought was best and how to achieve flexibility in retirement.

However, it was Lifestyle's obligation to give Mr C an objective picture and recommend what was in his best interest. Even if the scheme went into the PPF, Mr C could have retired early and maintained his guaranteed benefits. And he still could have had flexibility and sufficient death benefits for his dependents. I can't see that this was properly explained to him or that Lifestyle did enough to alleviate these concerns. Mr C was prepared to give up guaranteed benefits for more flexibility. But he could achieve what he wanted without taking more risk and I don't think this was explained to him. I can't see any persuasive reason why Mr C needed to give up his DB benefits.

And given that it was in his best interest to stay in the DB scheme, the possible loss of opportunity to transfer his pension in future shouldn't have been a significant concern to Mr C.

summary

It's likely that Mr C was attracted by the idea of transferring. He might have heard from colleagues that this is what they were doing and he was very concerned about the possibility of his pension falling to the PPF or future transfer values being lower. And I don't doubt that flexibility, control and different death benefits would have also sounded like attractive features. But Lifestyle wasn't there to just transact what Mr C might have thought he wanted. The adviser's role was to really understand what Mr C needed and recommend what was in his best interest.

I appreciate Lifestyle included some risk warnings in their suitability report. However, this doesn't replace suitable advice.

Mr C was able to retire early from the DB scheme and secure a guaranteed and index-linked income which would likely be higher than what he could achieve in his personal pension. I can't see any reasons that justified taking unnecessary risks with his pension. So I'm not persuaded a transfer was in Mr C's best interest here.

If Lifestyle had recommended him to keep his DB benefits and explained their reasons properly why Mr C would be better off staying in BSPS and that going into the PPF wasn't as concerning as he thought, I think on balance Mr C would have followed their advice.

My aim is to put Mr C as much as possible into the position he would be in now if he had been recommended not to transfer. And so I need to consider what would have happened next, on the balance of probabilities, if he had not transferred out of the BSPS in August.

In October Mr C was given the choice to either stay in BSPS and move with it to the PPF or transfer to the BSPS2. Mr C didn't want to do either and was pressing for the transfer into his personal pension to happen. However, this has to be considered in the context that Mr C thought this was the best for him and the adviser had endorsed this view by recommending him to transfer and that there was a deadline to meet.

I think matters would have been different if Lifestyle had advised him not to transfer in August. I think Mr C would have listened and when he received the Time to Choose paperwork in October he would have considered his options again before this background. I'm not persuaded he would have insisted to proceed against professional advice.

So I carefully considered what Lifestyle should have advised him to do in October when he was given the choice of either the PPF or BSPS2. On balance I think suitable advice would have been to go to the BSPS2.

He was still 13 years away from his desired retirement age of 60. So, I don't think that it would have been in his interest to 'lock in' the reduction in benefits in the PPF when his plans might still change in future. By opting into the BSPS2, Mr C also would have retained at least the possibility to transfer out of the scheme nearer to his retirement age if he needed to. The annual indexation of his pension when in payment was also more advantageous under the BSPS2.

Putting things right

A fair and reasonable outcome would be for the business to put Mr C, as far as possible, into the position he would now be in but for the unsuitable advice he was given. For the reasons above I consider he would have remained a member of the BSPS and subsequently moved to the BSPS2. So calculations should be made on this assumption.

Lifestyle must 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

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

I note Mr C's representatives' comments that the calculator is not appropriate as they feel actuarial input is needed due to Mr C having consolidated his BSPS pension into an existing plan. However, I disagree that the calculator can't be used in these circumstances. When comparing Mr C's current pension value with his lost DB benefits, Lifestyle has to only use the part of Mr C's Aviva pension which stems from the BSPS transfer value (plus the relevant returns on that value). And their calculations should make it clear how they stripped out his existing pension in this calculation.

Mr C has not reached retirement age yet, so Lifestyle should use the retirement age assumption of 65 for the calculation as per the FCA guidance.

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

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

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

Redress paid to Mr C as a cash lump sum will be treated as income for tax purposes. So, in line with DISP App 4, Mr C may make a notional deduction to cash lump sum payments to take account of tax that consumers would otherwise pay on income from their pension.

Typically, 25% of the loss could have been taken as tax-free cash and 75% would have been taxed according to Mr C'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.

Responses to my provisional decision

After my provisional decision Lifestyle indicated they wanted to calculate redress and asked for information from Mr C's representatives to do so which was provided to them. Disappointingly they have not done this but instead continue to disagree with my decision. They provided detailed comments. I've considered them in full, but won't comment on everything in detail, particularly as the majority of their comments have been raised before and have been considered previously. I'll focus on what I consider most relevant.

Mr C's representatives pointed again to FCA guidance that says firms may require actuarial support when "apportioning the defined contribution (DC) value attributable to the BSPS transfer value" and wants me to recommend that Lifestyle seeks actuarial support in this case given that Mr C transferred into an existing pension plan.

My findings

I've re-considered the available evidence and the parties' additional comments, but my decision remains the same.

- Lifestyle claims the decision has been written with the benefit of hindsight and that I relied on "what if" scenarios rather than Mr C's circumstances at the time of the advice.

However, I simply pointed out considerations that should have been included in the advice at the time. For example what other pension provisions Mr C and his partner had or likely would have in retirement given they were both still many years from retirement or what death benefits were already available to him.

- Lifestyle queries why I refer to the retirement age of 60 throughout my findings and refer to early retirement in the PPF but then direct them to calculate redress based on the BSPS2 and use the normal retirement age of 65. They also don't agree that the BSPS calculator should be used as this complaint isn't part of the BSPS redress scheme and using the FCA calculator is not mandatory.

Mr C said he wanted to retire at 60 and so Lifestyle ought to have compared his available benefits from the DB scheme and in the personal pension at that age to show him how achievable it was to meet this objective. And given that there wasn't yet enough information about the BSPS2 benefits, the adviser needed to also do a benefit comparison against the PPF. This is why I referred to age 60 and the PPF in my findings and, as I explained, I think Mr C could have met his objective of retiring early even if he ended up in the PPF without having to give up a guaranteed and likely higher income.

When it comes to the redress calculations, the rebuttable retirement age assumption with regards to when Mr C would have accessed his DB benefits if he had kept them is the normal retirement age of the scheme (DISP APP 4.3.16R) which is age 65 in this case. The FCA clarified in their guidance PS22/13 that retirement in this context essentially means the point at which he would have become dependent on his DB income. I acknowledge that Mr C had an aspiration to start taking benefits flexibly at age 60. However, he was still 13 years away from this age when he received the advice and plans about retirement can change over such a long period of time. Mr C is still quite a few years away from retirement age. And I'm not persuaded that there's sufficient evidence that he would have started taking his DB benefits which involved taking a regular income from age 60. So I remain of the view that age 65 should be used for the calculation.

I appreciate that some members of the scheme could have been better off in the PPF (for example if someone had concrete plans to retire early or wanted to take the highest available tax free cash lump sum). However, I already explained in my provisional decision why I think later advice in October 2017 ought to have been to switch to the BSPS2 in Mr C's circumstances (mainly because of him being so far away from retirement age).

Lifestyle is correct that the BSPS redress calculator which was designed for the BSPS redress scheme is not a mandatory requirement for non-scheme cases. However, the FCA encourages firms to use the calculator for non-scheme cases as this ensures consistency and helps provide more certainty that the correct assumptions are used. It also is free for firms to use. And so I think it's reasonable to require Lifestyle to use the calculator in this case.

- Lifestyle maintains that they shouldn't be held responsible for losses to Mr C's pension which happened since he switched his pension to a different adviser in 2021. They noted that by switching Mr C incurred further initial advice charges, higher ongoing charges and the recommended investments by the new adviser had performed poorly. They feel the pension switch in 2021 was unsuitable as there was no evidence a new, more expensive plan was needed. Lifestyle says there was a break in the chain of causation when Mr C switched his pension. They say they shouldn't be judged for someone's else advice. If it wasn't for the subsequent switch, Mr C wouldn't have been worse off in retirement.

DISP APP 4.4.2 R uses the *current value of the DC pension arrangement* as the comparator (adjusted only for benefits already paid to the consumer and SERPS adjustments where applicable). And DC pension is defined in DISP APP 4.1.1 R as (with my emphasis):

'DC pension arrangement' means any pension arrangement holding the value of the consumer's pension benefits which originated from the non-compliant pension transfer advice, ***including where the arrangement has been subsequently changed to a new arrangement;***

So the rule does not limit the losses to the point where the pension is moved elsewhere.

I can assure Lifestyle that I've only considered their own advice to Mr C. If they had given suitable advice, Mr C would have, more likely than not, ended up in the BSPS2 and his benefits would not have been exposed to any investment risk at all. By moving to a personal pension arrangement it was reasonably foreseeable that Mr C might change advisers and/or investments in future. Lifestyle couldn't reasonably expect that Mr C would remain invested in the funds they initially recommended until retirement or that he would never change advisers. And this comes with the risk of further unsuitable advice which Lifestyle exposed him to when they recommended him to transfer away from a secure DB scheme. If Mr C had remained in the DB scheme he would not have been exposed to any advice and product charges or investment losses.

It's possible that Mr C's new adviser gave him unsuitable advice. However, I'm deciding the complaint against Lifestyle and I think without their unsuitable advice he wouldn't be in the position he is in now. In the circumstances of the complaint I consider it's fair and reasonable to hold Lifestyle responsible for all of the losses Mr C might have incurred. And this is also in line with the regulator's rules as set out above.

Lifestyle asked us to provide the advice documentation from 2021 for their insurers. However, this isn't information we hold and as I don't consider this information is relevant for my decision I see no reason to request this on their behalf.

- Mr C's representatives would like Lifestyle to use an actuary for the calculations.

As I said above, I think using the FCA BSPS calculator is reasonable in this case. However, I acknowledge that preliminary calculations will be needed to obtain the DC value which relates only to the BSPS transfer and which then needs to be put into the calculator. This often is simply a percentage split. However, possible further contributions to the pension and withdrawals will also have to be considered and depending on the circumstances of the individual this can include different levels of complexity. FCA guidance does stipulate that firms should consider using an actuary or an approach approved by an actuary in these circumstances.

The calculations need to be provided to this service and Mr C's representatives in clear and detailed format. So if the calculations aren't straight forward and Lifestyle has trouble doing the relevant calculations or their approach isn't clear, they need to use actuarial support. And in these circumstances costs for this can't be charged to Mr C or deducted from any redress.

My final decision

Determination and money award: I uphold this complaint and require Lifestyle (Glamorgan) Limited to pay Mr C the compensation amount as set out in my provisional decision under "putting things right" (repeated above), up to a maximum of £160,000.

Recommendation: If the compensation amount exceeds £160,000, I would also recommend that Lifestyle (Glamorgan) Limited pays Mr C the balance.

If Mr C accepts this final decision, the money award becomes binding on Lifestyle (Glamorgan) Limited. My recommendation is not binding. Further, it's unlikely that Mr C can accept a final decision and go to court to ask for the balance. Mr C may want to consider getting independent legal advice before deciding whether to accept this final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 30 September 2023.

Nina Walter
Ombudsman