

The complaint

Mr M has complained that CST Wealth Management Limited (CST) gave him unsuitable advice to transfer his defined benefits from his occupational pension scheme (OPS) – the British Steel Pension Scheme (BSPS) – to a Self Invested Personal Pension (SIPP).

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 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 M’s employer would be set up – the BSPS 2.

This was, however, intended to receive deferred benefits only. The main defined benefit OPS had been replaced by a new defined contribution scheme. The existing scheme was due to be closed in the near future, with the options being set out in a subsequent letter in October 2017 for deferred members to either transfer their benefits to the successor scheme, BSPS 2, the PPF or into a private arrangement, such as a SIPP.

At the date of leaving the scheme, Mr M had a pension of £15,487 pa. His cash equivalent transfer value (CETV) was just over £384,000. Mr M completed a pension transfer questionnaire in September 2017, which required him to choose from a selection of answers.

His answers included, but were not limited, to the following:

- The scheme benefits were a major proportion of his overall pension benefits which should be protected as far as reasonably possible.
- He required the maximum possible lump sum at retirement to buy property and cars for his children.
- He realistically expected to retire early and was happy to accept a lower pension.
- Additional death benefits were not a priority.
- He wanted flexibility at retirement so he could make decisions depending on his circumstances at the time.
- His capacity and tolerance for loss was cautious.

A fact find completed at the time recorded his circumstances as follows:

- He was 39, married and had two financially dependent children.
- He was in good health.
- His salary was £42,000 pa and he had death in service benefits of four times' this sum.
- The total household expenditure was £2,600 pm and he had under £1,000 in his current account.
- Mr M had a mortgage with 12 years to run, a £20,000 loan with four years to run, a £5,000 credit card debt, and £400 on a 'buy now pay later' arrangement.
- The mortgage was covered by a Scottish Widows life assurance policy.
- Mr M said he was likely to benefit from future inheritance from his parents and in-laws.
- He had an Aviva money purchase pension receiving total contributions of 16%, and his wife was a member of her defined benefit pension scheme.

An attitude to risk ('ATR') questionnaire recorded that Mr M had a medium ATR. On 26 October 2017, CST produced a pension transfer report on an updated CETV of around £396,541. This estimated the benefits available at ages 65 and 57, the latter being his preferred age of retirement.

A critical yield of 7.93% was needed to match the scheme benefits of just over £18,000 pa. A critical yield of 6.72% was required to match the reduced income of around £13,258 pa and a lump sum of around £88,389.

CST compiled a cash flow model based on Mr M taking his 'desired annual lifestyle cash flow' of £24,000 per annum, from age 57.

CST set out its recommendations in a letter dated 2 November 2017. This advised Mr M to transfer from the BPS to an AJ Bell SIPP, and noted the following:

- He wanted to retire at 57 on a sustainable income of £24,000 net pa.
- Taking the scheme benefits at 57 would reduce his retirement income.
- He and his wife were likely to receive a substantial inheritance to help fund his retirement.
- Given his ATR and requirement to provide sustainable income for many years, a cautious investment approach was recommended, and he had a medium capacity for loss.
- CST's opinion was that the critical yields could not be guaranteed year on year.

Mr M accepted the recommendations made to him, and he transferred to AJ Bell where Brewin Dolphin was recommended as the discretionary fund manager for his pension plan.

Mr M then complained about the advice directly to this service, and CST provided a final response letter in which it said that it had calculated losses in line with the regulator's current guidance. It concluded that no loss had occurred.

Dissatisfied with the response, Mr M asked this service to consider the complaint.

Having done so, our investigator thought that it should be upheld. He said the following in summary:

- The regulator's guidance, when considering a transfer of defined benefits, was that it should be presumed to be unsuitable unless it could be clearly demonstrated that it was in an individual's best interests.
- Although Mr M's main priority had been recorded as wanting to be able to retire at 57, he'd said in his submissions to this service that he'd planned to retire at 65 before the advice – and that the prospect of early retirement was a consequence of the advice.
- Mr M was also only 39 at the time, with debts and a young family – he would have had any reasonable degree of certainty as to what his retirement plans might be. Mr M didn't need to make any decision on this at that point.
- Any requirement for flexibility could be addressed by accessing the likely significant accrual of defined contributions which would likely be available to Mr M at retirement.
- The advice had been after the regulator had given instructions in final guidance FG17/9 as to how businesses could calculate future "discount rates" for complaints about transfers which were being upheld. Prior to that, this service was publishing information with which businesses could calculate future "discount" rates.
- Whilst businesses weren't required to use these when giving advice, they nevertheless provided a useful guide as to the kinds of returns deemed feasible at the time of the advice.
- The critical yield to match the scheme benefits was 7.93%. The discount rate for the 17 years to retirement was 4.4%. Taking into account Mr M's attitude to risk, along with the regulator's mid band growth projection of 5% pa, it was unlikely that the scheme benefits could be bettered through transferring.

The investigator recommended that CST undertake a loss calculation in accordance with the regulator's guidance (FG 17/9) for such complaints – and on the basis that Mr M would have opted to join the BPS 2.

But the investigator also noted the regulator's consultation on a revised methodology and enquired of Mr M as to whether, if the complaint was upheld, his preference would be to have a loss calculation undertaken on the existing basis, or to await the new methodology for defined benefit transfer redress calculations.

He said that any redress should in the first instance be paid to Mr M's pension plan, but if this wasn't possible, it should be paid directly to Mr M, with a notional deduction for the (assumed basic rate) income tax he would have paid on the pension benefits.

He also said that CST should pay Mr M £250 in respect of the trouble and upset that the matter would have caused him. Mr M had explained how stressed he'd felt as a result of making the transfer and watching the value of his pension funds fluctuate.

Mr M confirmed that he would like CST to undertake the redress calculation in accordance with the existing methodology. He also asked that the amount he should be paid in respect of the distress caused to him be reconsidered, given the effect that the matter had had on him. Mr M offered to provide authority for this service to access his medical records to support this.

The investigator then wrote to both parties to confirm that the FCA had developed a BSPS-specific redress calculator to calculate redress for cases which were included in the BSPS consumer redress scheme. But, he said, the FCA was also encouraging businesses to use the calculator for non-scheme cases.

The investigator further said that, when issuing my decision, I may require CST to use the FCA's BSPS-specific calculator to determine any redress due to Mr M.

The investigator said that, if either party didn't think it was appropriate to use the BSPS-specific redress calculator in the circumstances of Mr M's complaint, they should let him know by 5 June 2023.

CST had no objection to the new calculator being used, and indicated by way of a calculation using an assumed pension fund valuation that Mr M hadn't suffered a financial loss. It said that, with no admission of liability, to resolve the matter it would accept the investigator's conclusions and agree to recalculate whether Mr M had been caused any loss.

But it asked that it be provided with the actual fund value so that this could be undertaken. It also confirmed that it would be prepared to pay Mr M £250 as directed by the investigator.

Mr M maintained that he should be paid a higher amount in respect of the distress caused to him by the matter.

The investigator acknowledged Mr M's strength of feeling, and invited him to submit his medical information relating to this. Mr M said in response that he was unwilling to provide a fund value prior to the case being looked at by an ombudsman would wait to see if his medical records were requested by the ombudsman who would review the case.

As agreement wasn't reached, the matter was referred to me for review.

I asked the investigator to contact Mr M to enquire as to whether he would like to submit his medical records so that I could consider his request for a higher payment in respect of the distress the matter had caused him. The investigator invited Mr M to do so.

In response, Mr M expressed concern at what he considered to be the "compressed" nature of the consideration of his physical and mental health, and that this should have been integrated at the beginning of the process of considering his complaint.

Mr M also expressed concerns at the manner in which his medical records might be treated or held by this service. Mr M didn't consider that the effect that this matter had had on him was being treated seriously.

Mr M further said that his future was unknown, but that the proposed £250 payment didn't even meet the "minimum standard" on this service's website. The decision in this regard hadn't been evidenced with reasoning, he added.

Mr M also said that he was concerned about the request to provide the current fund value to CST to help with its administration. This, he said, was completely unacceptable given the effect on his wellbeing around this issue.

I issued a provisional decision on the matter on 4 January 2024, in which I set out my reasons for upholding the complaint. The following is an extract from that decision:

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

Consideration of the merits of the case

As CST has offered to undertake the recommended redress calculation and pay Mr M £250 in respect of the distress and inconvenience caused to him, I don't intend to address the key issues relating to the suitability of the advice in any depth.

But suffice to say that I agree with the investigator's summary. I can't see persuasive reasons as to why it was clearly in Mr M's best interest to relinquish his defined benefits and transfer them to a SIPP, especially at the age of 39. And I also haven't seen anything to persuade me that Mr M would have insisted on transferring, against advice to remain in the defined benefit scheme.

So, as with the investigator, I'm upholding the complaint as I think the advice Mr M received from CST was unsuitable.

Award for the impact the matter has had on Mr M

I've carefully considered what Mr M has said in the course of the complaint relating to this. Mr M has said that, as a result of the transfer, he's been facing an uncertain future, and that the financial uncertainty caused by the transfer will live with him until he retires.

Mr M has told us that the impact hasn't just been on him, but on his whole family. Mr M has said that he's suffered both mental and physical effects - he's been losing sleep over the matter, has lost weight, and he's missed work because of the effects of it.

He's also said that he left his job at Tata due to what had been going on.

I'd firstly say, with regard to the issue of Mr M's medical records, this isn't something that this service would routinely request in order to assess the impact which the subject of the complaint has had on an individual. But where it's been suggested that such records might assist in the consideration of that impact, it's open to a complainant to send these to us.

I'm satisfied that in this instance Mr M has been given the opportunity to provide these if he considers that they would support his position that the impact on him from this matter would warrant a higher payment. And this service is able to safeguard such information if provided.

I'd also say that the format of such medical evidence needn't necessarily be in the form of medical records. For example, Mr M could request a letter from his GP outlining their view on how this matter has affected him. This remains an option for Mr M in response to this provisional decision.

But even in the absence of such medical details, on a fair and reasonable assessment of the facts here, I think it's in any case clear that Mr M has been impacted to some considerable degree by what has happened. Mr M has articulated this from the beginning of his complaint

– in the complaint form, in the responses to the investigator’s view on the matter, and in his most recent comments. I don’t think there can reasonably be any doubt that Mr M feels the effects of the transfer keenly, and has had significant concerns for his financial future.

Awards which this service might make in respect of, for want of a better phrase, distress and inconvenience, are subjective by their nature and very much intended to take into account the particular circumstances of a case and the impact on the individual – but also whether that impact was reasonably proportionate to the business’ error. There is no “one size fits all”, although the level of some awards might be similar in nature.

Our website sets out the types of award which this service might make in certain example situations, but again these are for guidance only. They cannot, for obvious reasons, allow for all possible situations. They do, however, enable me to think about the kind of award which might be appropriate here, given what Mr M has told us about the impact this matter has had on him.

Mr M raised his concerns with this service in late 2021, and when this service then conveyed the complaint to CST in July 2022 following receipt of the required information from Mr M, it provided its final response letter in October 2022.

Within that final response, I note that, although CST declined to uphold the complaint, it nevertheless said that, according to redress calculations it had undertaken in line with the regulator’s guidance for such cases, Mr M hadn’t suffered a financial loss and was better off as a result of the advice to transfer.

I think it’s quite likely (albeit not certain) that, as with others in Mr M’s position, a further redress calculation undertaken in accordance with this decision (as set out below) would determine the same outcome – that Mr M has suffered no financial loss as a result of the transfer.

And so I think it could reasonably argued that there were indications, from the date of the final response letter, that Mr M hadn’t incurred a financial loss – and so in that sense any concerns Mr M had about his pension provision might reasonably have been mitigated from that point.

Therefore, I’ve thought about the guidance on our website where a financial matter might have caused an individual considerable distress for a reasonable length of time. But given that it is CST which will be paying the award, I ought to be mindful here of the opportunity and amount of time that CST actually had to put matters right (or as was the case here to notify Mr M of the “no loss” outcome) after being notified of the complaint.

Having done so, and taking into account the timeline here as set out above, I think an award somewhere between £300 and £750 would be appropriate.

I’ve then thought about whether Mr M has needed to put considerable effort into the resolution of his complaint, but I don’t think this could reasonably be said to be the case, certainly with regard to his dealings with CST.

As I’ve said above, Mr M referred his complaint directly to this service, and upon conveying this to CST, it issued its final response letter with the “no loss” outcome.

Therefore, taking into account the above factors, I think an award of £500 - around midway within that band - seems appropriate here.

Putting things right

As set out in the investigator's further comments relating to the BSPS-specific redress calculator, I consider that it would be appropriate to use that calculator here, given the BSPS-specific circumstances.

A fair and reasonable outcome would be for the business to put Mr M, as far as possible, into the position he would now be in but for the unsuitable advice. I consider Mr M would more likely than not have remained in the occupational pension scheme and opted to join the BSPS 2 if suitable advice had been given.

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

CST Wealth Management Limited should use the FCA's BSPS-specific redress calculator to calculate the redress. A copy of the BSPS calculator output should be sent to Mr M and our service upon completion of the calculation.

Mr M hasn't yet retired, and cannot do so for several years yet. So compensation should be based on the scheme's normal retirement age, as per the usual assumptions in the FCA's guidance.

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

I've noted Mr M's comment that he finds it unacceptable to be asked to provide the current fund value to CST, but this will be needed to undertake the required calculation.

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

- *calculate and offer Mr M redress as a cash lump sum payment,*
- *explain to Mr M before starting the redress calculation that:*
 - *its 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 defined contribution pension*
- *offer to calculate how much of any redress Mr M receives could be augmented rather than receiving it all as a cash lump sum,*
- *if Mr M accepts CST Wealth Management Limited's offer to calculate how much of its redress could be augmented, request the necessary information and not charge Mr M for the calculation, even if he ultimately decides not to have any of its redress augmented,*

and

- *take a prudent approach when calculating how much redress could be augmented, given the inherent uncertainty around Mr M's end of year tax position.*

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

Typically, 25% of the loss could have been taken as tax-free cash and 75% would have been taxed according to Mr M's likely income tax rate in retirement – presumed to be 20%. So making a notional deduction of 15% overall from the loss adequately reflects this.

For the reasons set out above, CST Wealth Management Limited should also pay Mr M £500.”

In response, Mr M said the following:

- CST had implied that he wanted to buy property and cars for his children, but by the time he was 57 his two children would be in their late twenties and early thirties respectively. It was likely that they would already have their own cars and properties by then.
- Despite the comment that he was prepared to accept a lower pension for the sake of earlier retirement, this wasn't the case.
- Although CST had said that additional death benefits weren't a priority, this wasn't the case – they were very important to him.
- At no point in the discussions relating to the transfer was his wife's defined benefit pension scheme taken into account.
- CST had recorded him as wanting to retire on a sustainable income of £24,000 net pa, but there was nothing sustainable about the transfer – as evidenced by a drop in the fund's value of over £70,000 18 months ago, which caused him and his family huge stress and uncertainty about his retirement. The BPS by comparison would have provided a guaranteed income.
- Although CST had concluded that no loss had occurred, clearly this wasn't the case as the fund lost over £70,000 at one point, along with the fees he was paying of over £11,000 pa. These costs should be taken into account.
- It wasn't the case that he was unwilling to provide a fund value – he'd been asked to provide this to help CST with its “administration” which he thought was unacceptable at the time due to the poor health he'd been experiencing. And he was advised that there was no benefit to providing this.
- As I had concluded that the advice had been unsuitable, the advice fees he'd paid should be refunded. The unsuitable advice had impacted on his health, his family and his job, and it was causing him additional upset in responding to the provisional decision.

- He's asked at least five times for his medical records to be considered, and these were then asked for by this service just weeks before the provisional decision was issued.
- Although I had acknowledged that Mr M had been impacted to some considerable degree by the matter, the increase had only been to £500. He found this hard to accept, given that his life had been turned upside down by the transfer. And although I also noted that Mr M had raised the matter of the impact it had had on him from the start of the complaint, this had only recently been taken into consideration.
- I'd said that the web page award criteria was for guidance only, but Mr M queried how I could make a decision on this from guidance against the impact this had had on him as an individual. He was only 45 at the moment and the health consequences from this would have an unknown long term effect.
- Mr M also asked whether, by accepting my findings in principle, he would be able to raise a complaint with our Independent Assessor in the future.

CST also made the following points in response to my decision:

- It wasn't the case that Mr M had intended to retire at age 65 before the transfer advice. Mr M had indicated the early retirement desire in the pension transfer questionnaire he provided to CST before he met with its adviser. This position was also re-emphasised in post-transfer communications.
- Mr M confirmed that he was happy with both the performance of his transferred pension fund and the move away from the BSPS. There was no indication that Mr M had been stressed by it or regretted his decision.
- It should also be noted that, although Mr M had been provided with the opportunity to submit his medical records to support his position, he hadn't done so.
- Had Mr M been feeling the stress which he has described, he would reasonably have taken up CST's offers to carry out the loss calculations. It wasn't simply asking for the pension valuation to help with its administration.
- Although it considered that Mr M was likely to be in the region of £30,000 better off because of the transfer, it nevertheless offered to pay him £250 as a gesture of goodwill. This was more than fair.
- In the review letter of August 2021, Mr M had asked for advice about his move to alternative employment, but there was no indication that he was leaving Tata due to concerns around his transferred pension. And CST queried as to why a person would need to leave a job because of pension transfer advice.
- Social media posts made by Mr M celebrating his second anniversary in his new job would appear to suggest that he wasn't unduly stressed. Mr M had seemingly found a higher level of pay and increased responsibilities in his new role at the very time that he claimed he was suffering stress to such a degree that he couldn't work.
- It seemed that the decision to increase the compensation rested largely on my conclusion that CST had taken a long time to respond to the initial complaint. But this was unfair as it responded to Mr M's complaint eight days after it had been notified of

it. Prior to this, there had been no indication that Mr M had been anything other than happy with the service he received in every review meeting.

- CST had given Mr M assurance, through the complaint resolution process, that he hadn't suffered any loss. All attempts to confirm the precise position of financial gain to Mr M had been thwarted by him declining to provide the pension policy's valuation.

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.

To firstly address the points made by CST, I note that it's said that my position on increasing the award largely rests on the time it took to answer Mr M's complaint. This isn't the case – my reasons for upholding the complaint were in my view set out clearly enough in the provisional decision.

But I think I ought to in any case correct CST on its timeline here. CST was notified of Mr M's complaint on 7 July 2022, giving it eight weeks to issue a response before this service would look into it further. CST didn't meet this timescale, and then assured Mr M that he would receive a detailed response by 20 September 2022. This too was missed, with the final response letter then being issued on 12 October 2022. It didn't therefore take eight days for it to respond to Mr M's complaint after being notified of it. It took just over three months, despite, as I said in the provisional decision, Mr M being clear in his complaint form that he was distressed by the situation. So whilst my provisional decision to increase the award doesn't rest largely on the timescale it took CST to respond, it does reasonably factor into it.

I've also noted CST's further points as to why the award shouldn't be increased, but they don't change my overall position on this. I'd firstly say, with regard to the comments made about Mr M's new role, it's possible to express satisfaction with a new role and nevertheless be distressed about a position relating to the pension benefits accrued over a significant proportion of an individual's working life.

Further, with regard to what CST has said about Mr M not expressing concern in the annual reviews up to 2022, Mr M may quite reasonably have had no concerns about the transfer when his position was being reviewed by CST. He may not initially have been particularly troubled by the transfer, but then became so, which prompted the submission of the complaint.

And I think it's perhaps notable that the quite detailed statement in the August 2021 review relating to Mr M being happy with the transfer of his funds from the BSPS, along with the rationale for doing so, was absent from that issued a year later. This simply noted that Mr M was happy with the performance of the plan, and that he had changed employment.

Once Mr M became concerned about the transfer, I think it's fair to say that he was quite acutely so – and as I said in the provisional decision, Mr M has been consistent in his statements regarding this. And on the basis of other communication with this service, I think it's reasonably apparent that Mr M has been stressed by the situation. And although Mr M may not have capitalised on the opportunity to have the matter of any loss quantified by declining to provide the fund value, which as I said in the provisional decision ought reasonably to limit any enhancement to the award in respect of stress, I don't agree that this was an attempt to prolong the matter for the sake of financial betterment.

I think I should also reemphasise a key point at this juncture. Although there may be no loss to Mr M as at the date of a calculation after this decision, my view, as with the investigator's,

is that the transfer wasn't suitable for Mr M. I've noted CST's comments relating to whether Mr M wished to retire early as a consequence of the advice, or already had this notion prior to meeting with the adviser. But I don't think this matters too much. Mr M was 39 at the time of the advice, and didn't at that point need to make the decision as to whether or not to transfer to a personal pension plan. Even if he planned to retire at 56, this was still some 17 years distant.

Further, the critical yields in comparison to the discount rate and the mid band growth rate deemed achievable by the regulator meant that it was unlikely that Mr M would receive the same level of overall benefits from a transfer as he would from the scheme.

Turning then to Mr M's additional points, I consider that I've already addressed the matter of the medical records. Mr M was again invited in the provisional decision to submit anything further he wished to in this regard, be it in the form of actual records or a letter from his GP, but I note that this hasn't been received. Mr M may have his reasons for not doing so, but I think there can be no doubt that this option has been offered to him now on several occasions.

I also don't intend to dwell on the suitability points Mr M has raised. My conclusion is that the transfer advice wasn't suitable, and CST has already offered to undertake the redress calculation.

As to the matter of the fees taken from the transferred fund, as these will have impacted on the fund value, they would in any case be factored into the loss calculation, as would any reduction in value. If the fund hasn't recovered from the losses Mr M has noted, then there may be a loss. If it has recovered, then the pension fund value has grown, to Mr M's advantage.

In terms of Mr M's query as to how I'm able to quantify an award on the basis of our website guidance, given that he has many years left to his retirement in which he will be stressed about his financial position, it's frankly difficult to know how to answer this. The fact is that I can't know how Mr M will be impacted in the future, and whether a potential "no loss" outcome will serve to reassure him, or whether he'll continue to feel stressed about the situation. But I can make an award on the basis of what's currently known about his situation, the circumstances of the case, along with what Mr M has told us - and I think that's as far as I can practicably or fairly and reasonably go. And for the reasons set out in this and the provisional decision, my view is that an increase to £500 is appropriate.

And finally, to answer Mr M's point about whether he can accept my decision and still contact the independent assessor, he will be free to do so.

Putting things right

For the reasons set out in this and my provisional decision, I'm upholding the complaint. As set out in the investigator's further comments relating to the BSPS-specific redress calculator, I consider that it would be appropriate to use that calculator here, given the BSPS-specific circumstances.

A fair and reasonable outcome would be for the business to put Mr M, as far as possible, into the position he would now be in but for the unsuitable advice. I consider Mr M would more likely than not have remained in the occupational pension scheme and opted to join the BPS 2 if suitable advice had been given.

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

CST Wealth Management Limited should use the FCA's BSPS-specific redress calculator to calculate the redress. A copy of the BSPS calculator output should be sent to Mr M and our service upon completion of the calculation.

Mr M hasn't yet retired, and cannot do so for several years yet. And although I've noted above the disagreement about Mr M's intended retirement age at the time of the advice, I think it's currently very far from certain, given Mr M's expressed distress over his retirement situation, that he would now be retiring early at all. So compensation should be based on the scheme's normal retirement age, as per the usual assumptions in the FCA's guidance.

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

As set out in my provisional decision, Mr M will need to either provide, or assist CST in obtaining, his pension fund value for the purposes of undertaking the required calculation.

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

- calculate and offer Mr M redress as a cash lump sum payment,
- explain to Mr M before starting the redress calculation that:
 - its 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 defined contribution pension
- offer to calculate how much of any redress Mr M receives could be augmented rather than receiving it all as a cash lump sum,
- if Mr M accepts CST Wealth Management Limited's offer to calculate how much of its redress could be augmented, request the necessary information and not charge Mr M for the calculation, even if he ultimately decides not to have any of its redress augmented,

and

- take a prudent approach when calculating how much redress could be augmented, given the inherent uncertainty around Mr M's end of year tax position.

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

Typically, 25% of the loss could have been taken as tax-free cash and 75% would have been taxed according to Mr M's likely income tax rate in retirement – presumed to be 20%. So making a notional deduction of 15% overall from the loss adequately reflects this.

For the reasons set out in this decision and my provisional decision, CST Wealth Management Limited should also pay Mr M £500.

My final decision

My final decision is that I uphold the complaint and I direct CST Wealth Management Limited to undertake the above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 16 April 2024.

Philip Miller
Ombudsman