DRN-3401163

## Complaint

Mr H complains about Options UK Personal Pensions LLP (trading as Carey Pensions UK LLP ("Carey") at the time of the relevant events) accepting an application for a Self-Invested Personal Pension ("SIPP"), and an investment in Store First, from an unregulated business called Commercial Land and Property Brokers ("CL&P"). Mr H says he has suffered a loss from the Store First investment and that Carey should compensate him for this loss. Mr H is represented by a Claims Management Company ("CMC"). In brief, the CMC says Carey had a duty to carry out due diligence on CL&P before accepting business from it and, had it done so, it ought to have been aware of various reasons not to deal with CL&P.

## Background

We issued a final decision on another complaint involving Carey's acceptance of a SIPP application and Store First investment application from CL&P in February 2021. That final decision has been published on our website under DRN5472159, and a copy can be found in the decisions database on our website. I have reached my decision in this case independently. The published decision however sets out the general detail of Carey's relationship with, and due diligence on, CL&P and the general detail of Store First and Carey's due diligence on that investment, across pages 2 to 11 (up to "Mr S's dealings with CL&P and Carey"). So I will rely on that detail set out in the published decision here, rather than repeat it – I will only include the key factual background of this particular complaint here.

## Mr H's dealings with CL&P and Carey

Mr H says he was advised by CL&P to switch his pension arrangements to a Self-Invested Personal Pension ("SIPP") with Carey and invest in Store First following the switch. He also says CL&P arranged the switch to the SIPP and the Store First investment for him.

Before being contacted by CL&P Mr H had a personal pension. Following the contact by CL&P the cash value of this was switched into a SIPP with Carey, and invested in Store First. The key events which took place during Mr H's dealings with Carey were as follows:

- Mr H signs a Carey SIPP application form - 14 March 2012.
- Carey sends its welcome letter, confirming the establishment date of the SIPP - 16 March 2012.
- Mr H signs Carey's member declaration and indemnity (referred to as "the indemnity" in the published decision, using the wording quoted in full there) – 2 August 2012.
- Carey sends cash from Mr H's SIPP to Store First (£35,836) - 21 August 2012.

There is also a copy of a letter of authority signed by Mr H, authorising Carey to deal with CL&P. This is undated, but presumedly pre-dates the SIPP application

Mr H has confirmed he was paid "cashback" by CL&P, after the Store First investment was

made.

**CL&P and Carey**

The below is a chronological summary (set out in greater detail in the published decision) of the key events during the relationship between CL&P and Carey.

15 August 2011 - Carey begins to accept introductions from CL&P.

20 September 2011 - Carey conducted a World Check (a risk intelligence tool which allows subscribers to conduct background checks on businesses and individuals) on a Zoe Adams and a Mark Lloyd. Ms Adams and Mr Lloyd were two of the people at CL&P Carey initially had contact with. This check did not reveal any issues.

27 September 2011 - Carey asked CL&P to complete a non-regulated introducer profile.

29 September 2011 - The non-regulated introducer profile was completed by CL&P. It was completed and signed by Terence Wright.

9 December 2011- Carey had a conference call with representatives of CL&P. During that call the issue was raised of consumers being offered cash incentives by CL&P to transfer or switch to a SIPP and make investments. The note of the call included the following:

"[Carey staff member] *also raised a concern that a potential member had asked when they would receive their money from their Store First Investment,* [CL&P representatives] *confirmed that no clients or connected parties referred by CL&P receive any form of inducement for either establishing the SIPP or making the Store First Investment and that CL&P policy does not include offering inducements.*

[Carey staff member] *emphasised that it is completely against all rules that clients or connected parties receive any form of inducement for making particular investments*."

13 March 2012 - Carey's Head of Service and Operation, said in an email to CL&P:

*"On another matter, we need our Terms of Business for Non Regulated introducers in place between our two companies. So that our records are all straight from a Compliance aspect I attach the Terms of Business and have entered a commencement date of 15 August 2011 which is the date of your first case with us and would be grateful if you could agree and complete the terms and return."*

The agreement was signed by CL&P on 20 March 2012. It was signed by Ms Adams.

23 March 2012 - Carey's compliance support said in an email to CL&P:

"*To comply with our in house compliance procedures could you please supply the following information relating to CLP Brokers:*

*A copy of the latest set of accounts*

*A certified copy passport for each of the main directors/principals/partners of the company*"

29 March 2012 - a Team Leader at Carey sent an email to Ms Hallett, Carey's Chief Executive, with the subject – "*03-29-2012 - Storefirst Investment Query re Cash Back* [reference removed]". That email forwarded an email sent by the Team Leader to a consumer, which included the following:

"*you mentioned in our conversation a cash back amount you are expecting in the sum of £1,800 from CL&P following completion of the Storefirst investment*"

And the text addressed to Ms Hallett by the Team Leader said "*this is the second member this week to ask when are they getting their money*".

3 April 2012 - Carey's compliance support followed up on its 23 March 2012 email:

"*It is now becoming urgent that we receive the outstanding documentation. You very kindly passed this on to your colleague and I would be very grateful if we could receive the documentation as a matter of urgency Thank you in anticipation of your assistance*."

When asked, Carey said it has no record of receiving the information from CL&P.

15 May 2012 - Carey conducted a World Check on Terence Wright. The report highlighted that he appeared on the FSA list of unauthorised firms and individuals.

25 May 2012 - Carey terminated its agreement with CL&P. Carey's Head of Service and Operation told CL&P of Carey's decision in an email to CL&P of that date:

"*Despite your assurances that no clients have been or will be offered inducements (monetary or otherwise) for making investments through their SIPPs with us, we have received enquiries as to when client can expect to receive their money and have today been informed by a new client that they are expecting circa £2,000 on completion of the Storefirst investment purchase, which they confirmed was offered by a member of your staff.*

*We have advised this client that we will not proceed with this case.*

*In light of this, it is with regret that I have to notify you that we are terminating our Introducer Agreement with you, with immediate effect, and can no longer accept business from you*."

In reply to this email CL&P asked *"Regarding business which you have already accepted from us, will you still be processing this as the client's SIPPs have already been established?"*

28 May 2012 - Carey's Ms Hallett sent the following reply to CL&P:

"*We will process them where we have already established the schemes, we will be writing to all clients informing them if they have received any monies then they must declare this to HMRC and their fund would also be vulnerable to a tax charge as well.*

*HMRC have already asked a number of SIPP providers for lists of clients who are investing in alternatives, they will I am sure be doing some random checks and will charge people for unauthorised transactions if they have received cash sums for transferring their pension and making investments.*

*I would urge you and your agents to review your position if you are continuing this as part of your sales process, ultimately no SIPP providers will be taking the business, it is not allowable as we have explained to you previously*."

**Submissions made by Mr H**

We asked Mr H for some further detail of his recollections. We asked the following questions, and received the replies quoted in italics:

- Were you interested in changing your pension at the time of being contacted by

CL&P? Why? What attracted you to CL&P? What attracted you to the Store Pod investment?

*"Yes that's why they contacted me – I was searching online and they must've got my details and cold called me out of the blue. I was looking for ways to make my pension work harder. It wasn't CL&P themselves that attracted me, it was the positives of the investment into storage pods which they told me about which on paper seemed like a good investment with decent returns. I didn't know anything about investments. CL&P told me about store fist and told me the investment gives you the first years investment returns up front and the returns were really good. But at the time I wasn't aware that this was only when your pods were rented out."*

- What role did you think CL&P had in this transaction?

*"I just thought they were a broker or a 'middle man' to the investment."*

- Did CL&P recommend any products to you? Can you recall what it said to you?

*"They told me about Store First and said it was a really good investment regarding renting storage space for people. I thought it sounded feasible. They told me it was really high returns and the returns had 2 options – I'd have the investments and also a SIPP bank account."*

- You have previously told us you received £2,500 from CL&P. Your representative says you were "*told the investment was that good it could afford to pay him a cash bonus for transferring his pension"*. Can you please provide some more detail about this? Can you recall what CL&P said? What was your understanding of the £2,500? Why did you think CL&P was paying you this amount? What did you think of this?

*"I was confused about this question previously. It wasn't £2,500 – this was the figure originally quoted by CL&P but the actual amount was no more than £1,500. I remember the guy from CL&P telling me I'd get a cash bonus from the investment and get the first years profits because they were so confident my pension was going to make so much money and that's why they were paying me up front. The actual payment I received was no more than £1,500. I believed the money was up-front monies I was receiving from the first years return on the investment like CL&P told me. The reason they paid me that was because they told me the investment was so good that they could guarantee the profits."*

- If you had been aware that the £2,500 payment might have tax consequences, what would you have done?

*"I would have said I don't need the payment then and to leave it in my SIPP bank account*."

- If Carey had told you that Mr Terence Wright, a director of CL&P, was the subject of an FSA alert, what would you have done?

*"I wouldn't have gone through with the transfer."*

- Carey ended its relationship with CL&P in May 2012. If you had been made aware of this what would you have done?

*"I wouldn't have thought anything because the investment wasn't with CL&P, it was with Careys. I would've thought they had ended business with them. Careys weren't saying the investment wasn't any good."*

- What is your understanding of how the Store First investment works?

*"People rent the storage pods that I invested in / owned and the profits / a share of profits of that would come back to me."*

- Did you understand the risks associated with a high risk, speculative investment? What are they in your own words?

*"I didn't understand it. It wasn't sold to me as high risk so why would I have even known what that meant then? It didn't sound like there was any risk involved."*

- What was your understanding of the risks associated with the Store First investment? Please explain your answer fully.

*"It wasn't sold to me as high risk. It didn't sound like there was any risk involved."*

- What did you think Carey's role was at the time?

No response

- Your SIPP was set up in March 2012 and your investment in Store First was made on 21 August 2012. Were you aware that you were still free to choose whether or not to invest in Store First after the SIPP had been set up?

*"No. This is all new to me*."

- On 2 August 2012, you signed a Members Declaration & Indemnity (the indemnity) which included the following statement "I am fully aware that this investment is an Alternative Investment and as such is High Risk and / or Speculative". Did you read the indemnity before signing it? What does this indemnity mean to you in your own words?

*"I don't remember reading that anywhere. I don't know what this means either."*

In my provisional decision on this complaint I noted Mr H had given inconsistent recollections about the amount of the cash he was paid by CL&P, and I invited him to provide further evidence on this. He has not however been able to do so.

**Submissions made by Carey**

The submissions made by Carey in this complaint are essentially the same as those summarised in the published decision. That summary also includes general submissions about Carey's relationship with CL&P. So I will rely here on the summary given in the published decision under "*Carey's submissions*" rather than repeat the detail.

**The investigator's view**

The investigator's view, in short, was that acting fairly and reasonably to meet its regulatory obligations Carey should not have accepted Mr H's application from CL&P. The basis of the view was what Carey knew, or ought to have known, about CL&P at the time.

**Carey's response to the investigator's view**

Carey did not accept the investigator's view. It said, in summary**:**

- In assessing the complaint, we must take into account the overarching context of the

relationship that Carey has with its customers, including Mr H, being one of a self invested personal pension scheme in which Carey acts on a strictly execution only/non-advised basis and is member-directed throughout. Carey is not permitted to, and does not, provide advice or otherwise comment on the suitability of investments or any other aspect of a customer's SIPP. Carey expressly states that all customers should seek independent financial advice from an adviser who is regulated by the Financial Conduct Authority.

- The fundamental consideration that underpins the view is the contention that had Carey identified that Mr Terence Wright was on the FSA's warning list and informed Mr H of this, then it should not have accepted business from CL&P, or Mr H would not have proceeded with the investment.

- There is a material difference between a warning detailing that you should not deal with a particular individual and a notice informing you that an individual is not a regulated individual and that the ombudsman service and FSCS would not be available to you if you chose to deal with such individual. The wording in the FCA's notice published on 15 October 2010, which was available to Carey at the time it undertook its due diligence on CL&P, does not include any such warning stating that Terence (Terry) Wright is an individual to avoid or be wary of; the notice amounts simply to a notification that Mr Wright is not authorised to carry on regulated activities, a fact of which Carey was well aware and upon which basis it accepted referrals from CL&P. Carey reasonably considered at all times that CL&P was an unregulated introducer which was not providing advice. So it is not fair or reasonable to state that Carey should not have accepted this business.

- The fact that the FCA updated their notice in 2013 to a clear warning including an express comment that Mr Wright was an individual to avoid, a warning that would have put Carey on notice to stop accepting business from Mr Wright, is irrelevant in this case because Carey had already severed its Terms of Business some 18 months before the warning in 2013 regarding Mr Wright was published.

- The fact that the FSA later made express comment as to Mr Wright's conduct, but did not make any comment of a similar nature in the earlier wording plainly indicates that at the time that Carey accepted business from CL&P, the FSA did not believe Mr Wright to have been providing financial services or products without authorisation at that time, nor consider it necessary to express any concerns in this regard.

- If the FSA did not consider there to be any cause for concern at the relevant time and there was no way through reasonable due diligence checks for Carey to establish any cause for concern, then plainly it is not fair or reasonable to have expected Carey to have rejected business from CL&P on this basis.

- COBS 11.2.19R, which deals with execution only business and was in force at the relevant time, stated as follows: "*Whenever there is a specific instruction from the client, the firm must execute the order following the specific instruction*".

- A firm satisfies its obligation under this section to take all reasonable steps to obtain the best possible result for a client to the extent that it executes an order, or a specific aspect of an order, following specific instructions from the client relating to the order or the specific aspect of the order.

- The significance of this rule to an execution only business, such as Carey, cannot be overstated. Carey would have been in breach of COBS if it had not executed Mr H's specific instructions to make the investment.

- There is no rule, guidance, or requirement that a regulated business is prohibited or encouraged not to do business with an entity which is the subject of an FSA/FCA warning, solely by virtue of the fact that it is subject to that warning.

- The investigator's view amounts to a requirement for Carey to have refused business from a business associated with an individual on the basis that it should have been "*wary of conducting regulated business with*" him, despite the FSA/FCA not having made such a comment, prohibiting businesses from dealing with Mr Wright, or having taken any action against him.

After the published decision was issued, Carey was asked to take it into consideration, as an important representative decision, in accordance with the relevant Financial Conduct Authority (FCA) DISP Rules and Guidance (particularly DISP 1.4.1, 1.4.2 and 1.3.2A), which should be taken into account when assessing other similar complaints.

On this basis, Carey was asked to review each outstanding complaints involving CL&P and Store First – including Mr H's - and if it was not prepared to make a settlement offer taking account of the detailed reasons set out in the published decision, to explain why it was distinguishing it from the published decision. To date Carey has not carried out such a review. Mr H's complaint has therefore been passed to me for review and I'm satisfied that there is no need to wait any further before progressing this complaint.

We shared a copy of the questions asked of Mr H, and the answers he provided to those questions, with Carey and invited it to make any comments on these it wanted us to take into account. No response was received from Carey before I issued my provisional decision in this case.

**My provisional decision**

In my provisional decision I concluded Mr H's complaint should be upheld. As I revisit (and, where appropriate, repeat) my provisional findings below I will not include any more than a brief summary here. In short, I concluded:

- If Carey had carried out sufficient due diligence on CL&P, or acted on the information it subsequently received in a timely manner, it should not have accepted Mr H's application from CL&P

- The fair and reasonable conclusion, based on what Carey knew or ought to have known at the time, is that it should also not have accepted Mr H's application to invest in Store First.

- It was not fair and reasonable in all the circumstances for Carey to proceed with Mr H's instructions.

- It is fair and reasonable to conclude that Carey should compensate Mr H for the loss he has suffered to his pension.

Mr H accepted my provisional decision, and made no further comments. Carey did not accept my provisional decision. It said, in summary:

**General points:**

- Carey is not permitted to, and does not, provide advice or otherwise comment on the

suitability of investments.

- No breach can arise on Carey's part simply by virtue of its dealing with unregulated introducers. The regulatory regime has never prohibited unregulated introducers from connecting clients with SIPP providers, and neither the FSA nor the FCA have ever sought to prohibit SIPP providers from accepting business by this route.

- My decision seeks to impose new and unexpected duties of due diligence on introducers and investments. These duties are inconsistent with both the contract into which Mr H entered and with the general scheme of the COBS rules at the relevant time (which imposed no duty on Carey to assess introducers or investments).

- Given the proper scope of Carey's regulatory duties, as established in Adams, there can be no breach of those duties on Carey's part as a result of its decision to accept customers introduced by CL&P in the circumstances relevant to this case.

**On the due diligence on CL&P:**

- The FSA Notice was not entered onto World Check until 24 October 2011, i.e. after Carey had carried out its checks on CL&P, after it had started accepting business from CL&P. Even if Carey had run a World Check search in respect of Mr Wright when its relationship with CL&P began, it would not have identified the notice in question.

- Carey did not routinely check the FSA's list of unauthorised firms and individuals, nor was it under any obligation to do so. Carey's use of World Check – an independent professional third party verification system – was reasonable and appropriate.

- The FSA Notice, in the form in which it had been published in 2010 and which would have existed as at the inception of Carey's relationship with CL&P, stated only that Mr Wright was not regulated by the FSA and referred only to a business named Cash In Your Pension targeting UK investors. There was nothing in the FSA Notice which described any criminal or civil wrongdoing and there was no contradiction between the FSA Notice and any statement provided by Mr Wright that he was not subject to any FSA action or censure.

- Had the FSA had significant concerns about Mr Wright, or had there been any reasonable basis for expecting regulated firms not to deal with Mr Wright/CL&P then the FSA Notice should and would have explicitly said so. It did not. If the FSA did not hold such significant concerns about Mr Wright (or was not prepared to publish them), then it cannot be fair and reasonable to find that Carey should have held any such concern, or refused point blank to have any dealings with CL&P.

**On the due diligence on Store First:**

- My findings amount to imposing an obligation on Carey to undertake a qualitative assessment of the Store First investment (based on limited material), and then an obligation to pass on that assessment and those findings with what effectively amounts to a recommendation to Mr H not to proceed. That significantly overreaches the actual legal obligations on Carey at the time, as found by the Court in Adams. It also goes significantly further than any published regulatory material. My findings amount to a requirement for Carey to have provided advice to Mr H.

**On Mr H's actions:**

- Mr H comments that "it was the positives of the investment into storage pods" that attracted him, it "*seemed like a good investment with decent returns*" and *"it wasn't CL&P themselves that attracted me"*. So Mr H plainly wished to proceed with the investment, and based on his responses any issues regarding CL&P would not have had any bearing on his pursuit of that investment.

- If the clear risk warnings given to Mr H were insufficient for Mr H to decide not to proceed with his investment, then it does not understand on what basis I can reasonably conclude that further information would have changed Mr H's decision to invest.

- Mr H claimed that he "*didn't understand* [the risk]…*it didn't sound like there was risk involved*" and "*it wasn't sold to me as high risk*". This is despite the fact that he signed the member declaration that stated that the investment was "*High Risk and/or Speculative*". Mr H's statements, set out above, are either contrived to be self-serving years after the facts or indicate that either Mr H did not read the clear and simple paperwork he signed, or paid no attention to it. Whichever it is, the consequences cannot reasonably nor fairly be held against Options.

- Mr H's answers to the questions put to him suggest that, if Options had informed Mr H that its relationship with CL&P had ended in May 2021, he would still have proceeded with the investment – he says he "*wouldn't have thought anything*" of it.

- That I have not addressed, queried or even commented on the unreliability and self-serving nature of Mr H's statements speaks volumes as to my clear failings to approach this matter in an impartial manner and in adopting a fair procedure.

**On causation:**

- Carey did not cause Mr H's loss. It is very likely that he was extremely keen to proceed with the investment. He would have found a way to invest even if Options had not been dealing with CL&P or if it had not been accepting Store First investments.

- My decision asserts that Options cannot argue that another SIPP provider might legitimately have accepted Mr H's investment instruction. This implies that a SIPP provider could not properly have accepted an instruction by a customer to place funds in this perfectly legal investment, even if the customer had been sophisticated and fully informed (and indeed even if the customer had been wealthy and with a high risk appetite). This reasoning must be flawed.

- Mr H claims that he was "*cold called out of the blue*". However, he also admits that, at the time, he was interested in changing his pension. Mr H claims that CL&P "*must have got my details*" from his online searching. It is implausible that CL&P would have obtained Mr H's telephone number had he not provided it at some point during his internet searches and enquiries into transferring his pension. Mr H was therefore not 'cold called'. Rather, it seems highly likely that CL&P called Mr H in response to him providing his contact details with the express purpose of being contacted by firms such as CL&P.

- The fact that Mr H was searching online for "*ways to make* [his] *pension work harder*", as Mr H put it, is a key factor in understanding Mr H's mindset in dealing with his pension and in determining the actions he was likely to take had Options acted as I suggest it should have.

- Crucially, Mr H does not say that he would not have proceeded if he had been made aware of the tax consequences of the "incentive" payment. On the contrary, Mr H said that he would simply have "*said I don't need the payment then and leave it in my SIPP bank account*". It seems that Mr H would have proceeded with the investment with or without the "incentive" payment. In any event, Mr H ought reasonably to have questioned the legitimacy of the "incentive" payment as any reasonable member of the public would in those circumstances.

- While Mr H states that he would not have agreed to the pension transfer if he had been "*told that Mr Terence Wright, a director of CL&P, was the subject of an FSA alert*", his answer is open to question. He was not, for example, told that the FSA alert alleged no actual wrongdoing and only indicated that Mr Wright had no FSA authorisation. Further, and crucially, Mr H states that "*I wouldn't have gone through with the transfer*". He makes no comment about the investment, and whether he would have proceeded with a different transfer, to a different SIPP provider, without the involvement of CL&P, and then proceeded to invest in Store First.

- Indeed, the evidence provided suggests that, on balance, that is exactly how Mr H would have proceeded, and that he would have suffered the same loss. Given Mr H's clear desire to "*make his pension work harder*", it must, at the least, be questionable whether he would really have given up that opportunity because of the FSA Notice (particularly if full detail of the FSA Notice was provided), or to have otherwise invested in a separate high risk asset.

- Even if another provider might have reached the same conclusions as I find Options should have, the evidence suggests that Mr H was determined to proceed with the Store First investment and another SIPP provider could properly have accepted that investment. In those circumstances, the outcome would have been the same as it was.

**On fair compensation:**

- On its proper application, the contract between Mr H and Carey was effective to relieve Carey of any liability it might otherwise bear. To conclude otherwise would be to render void and unenforceable a validly concluded contract.

- Further or alternatively, at acknowledging the criterion of what is "fair and reasonable", Mr H must bear a measure of responsibility for his own actions.

- My decision amounts to a finding that there was no possibility that Mr H would have proceeded with an investment in Store First, via another SIPP provider, and without the involvement of CL&P. That is not a reasonable conclusion to reach in the circumstances.

- Carey does not know how much Mr H received by way of "incentive" payment. Carey agrees with the Ombudsman that Mr H must take further steps to investigate the amount he received.

- From a representative sample of other cases where Options is aware that a member has received a similar payment from CL&P, Options understands that investors received payments averaging c. 8% of the value of their investment in Store First. Mr Adams received c.7.17% of his investment in Store First as an "incentive" payment.

- In the light of Mr H's confirmation that he was actively looking for ways to make his pension "work harder" it is fair and reasonable to conclude that, had he not invested

in Store First, he would nonetheless have transferred his pension to a different investment which was higher risk than his pre-existing personal pension. So in order to calculate Mr H's losses the investment in Store First should be compared against a high risk investment, not his personal pension.

- Carey agrees that, in keeping with the Court of Appeal decision in Adams, Mr H should assist Carey in it taking ownership of the storage pods. However, the Provisional Decision suggests that, if the storage pods cannot be returned to Carey then they should remain in the SIPP or otherwise with Mr H and there should be no adjustment in the compensation award. To allow Mr H to retain the storage pods, whether within the SIPP or otherwise, in circumstances where the compensation awarded to him has been calculated upon the assumption that they would be returned to Carey, would give Mr H a windfall. Plainly this is not fair and reasonable.

Carey also requested an oral hearing, to test "*Mr H's understanding of and approach to this investment*".

**My findings**

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

**Oral hearing request**

Carey has requested an oral hearing. It says this is necessary because Mr H's understanding of and approach to the Store First investment should be investigated and tested.

The Ombudsman Service provides a scheme under which certain disputes may be resolved quickly and with minimum formality (section 225 of the Financial Services and Markets Act 2000 (FSMA)). DISP 3.5.5R of the FCA Dispute Resolution rules provides the following:

*"If the Ombudsman considers that the complaint can be fairly determined without convening a hearing, he will determine the complaint. If not, he will invite the parties to take part in a hearing. A hearing may be held by any means which the Ombudsman considers appropriate in the circumstances, including by telephone. No hearing will be held after the Ombudsman has determined the complaint".*

Given my statutory duty under FSMA to resolve complaints quickly and with minimum formality, I am satisfied that it would normally not be necessary for me to hold a hearing in most cases (see the Court of Appeal's decision in *R (Heather Moor & Edgecomb Ltd) v Financial Ombudsman Service* [2008] EWCA Civ 642).

The key question for me to consider when deciding whether a hearing should be held is whether or not "*the complaint can be fairly determined without convening a hearing*".

We do not operate in the same way as the Courts. Unlike a Court, we have the power to carry out our own investigation. And the rules (DISP 3.5.8R) mean I, as the ombudsman determining this complaint, am able to decide the issues on which evidence is required and how that evidence should be presented. I am not restricted to oral cross-examination to further explore or test points.

If I decide particular information is required to decide a complaint fairly, in most circumstances we are able to request this information from either party to the complaint, or even from a third party. In this case, we have put the questions to Mr H, as set out above.

And Mr H has provided the answers to the questions we put to him. Carey has had the opportunity to consider, and comment, on these.

I have carefully considered the submissions Carey has made. However, I think I am able to fairly determine this complaint without convening a hearing. In this case, I am satisfied I have sufficient information to make a fair and reasonable decision. So I do not consider a hearing – or any further investigation by other means – is required. A key point here is my provisional finding (which I maintain and emphasise as being the primary point in my below findings) that Carey should not have accepted Mr H's application *at all*. Mr H's understanding of and approach to the Store First investment is secondary to this. And I am, in any event, able to test this to the extent I think necessary – which I have done - by asking questions of Mr H in writing.

In any event – and I make this point only for completeness - even if I were to invite the parties to participate in a hearing, that would not be an opportunity for Carey to cross-examine Mr H as a witness. Our hearings do not follow the same format as a Court. We are inquisitorial in nature and not adversarial. And, the purpose of any hearing would be solely for the ombudsman to obtain further information from the parties that they require in order to fairly determine the complaint. The parties would not usually be allowed direct questioning or cross-examination of the other party to the complaint.

As I am satisfied it is not necessary for me to hold an oral hearing, I will now turn to reconsidering the merits of Mr H's complaint.

**The merits of Mr H's complaint**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I have not been persuaded to depart from my provisional decision.

In reconsidering what is fair and reasonable in all the circumstances of this complaint, I have taken into account relevant law and regulations; regulators rules, guidance and standards; codes of practice; and where appropriate, what I consider to have been good industry practice at the relevant time. Having done so, for similar reasons as set out in the published decision I have reached the view that this complaint should be upheld.

I remain of the view the relevant considerations in this complaint set out in the published decision apply here – so I will refer to the published decision rather than repeat those considerations here.

I confirm I have taken account of the judgment of the High Court in the case of Adams v Options SIPP [2020] EWHC 1229 (Ch) and the Court of Appeal judgment in Adams v Options UK Personal Pensions LLP [2021] EWCA Civ 474.

I remain of the view that neither of the judgments say anything about how the Principles apply to an ombudsman's consideration of a complaint. But, to be clear, I do not say this means Adams is not a relevant consideration *at all.* As noted above, I have taken account of both judgments when making this decision on Mr H's case.

I acknowledge that COBS2.1.1R (*A firm must act honestly, fairly and professionally in accordance with the best interests of its client)* was considered by HHJ Dight in the High Court case. Mr Adams pleaded that Options SIPP owed him a duty to comply with COBS 2.1.1R, a breach of which, he argued, was actionable pursuant to section 138(D) of FSMA ("the COBS claim"). HHJ Dight rejected this claim and found that Options SIPP had complied with the best interests rule on the facts of Mr Adams' case.

The Court of Appeal rejected Mr Adams' appeal against HHJ Dight's dismissal of the COBS claim on the basis that Mr Adams was seeking to advance a case that was radically different to that found in his initial pleadings. The Court found that this part of Mr Adams' appeal did not so much represent a challenge to the grounds on which HHJ Dight had dismissed the COBS claim, but rather was an attempt to put forward an entirely new case.

I note that there are significant differences between the breaches of COBS 2.1.1R alleged by Mr Adams and the issues in Mr H's complaint. The breaches were summarised in paragraph 120 of the Court of Appeal judgment. In particular, as HHJ Dight noted, he was not asked to consider the question of due diligence before Options SIPP agreed to accept the store pods investment into its SIPP. The facts of the case were also different.

I think it is also important to again emphasise that I must determine this complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case. And, in doing that, I am required to take into account relevant considerations which include: law and regulations; regulator's rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time. This is a clear and relevant point of difference between this complaint and the judgments in Adams v Options SIPP. That was a legal claim which was defined by the formal pleadings in Mr Adams' statement of case.

To be clear, I have proceeded on the understanding Carey was not obliged – and not able – to give advice to Mr H on the suitability of its SIPP or the Store First investment for him personally. But I am satisfied Carey's obligations included deciding whether to accept particular investments into its SIPP and/or whether to accept introductions of business from particular businesses. As the published decision sets out, this is consistent with Carey's own understanding of its obligations at the relevant time.

I acknowledge Carey has applied to the Supreme Court for permission to appeal the Court of Appeal judgment and the outcome of that application is awaited. However, the grounds of appeal are in respect of issues not directly relevant to my determination of this case and therefore it is unnecessary to await either the consideration of the application or, if permission is granted, the Supreme Court judgment. I am satisfied it is appropriate to determine this complaint now.

Having carefully considered the relevant considerations I am satisfied that, in order to meet the appropriate standards of good industry practice and the obligations set by the regulator's rules and regulations, Carey should have carried out due diligence on CL&P to the sort of standard which was consistent with good industry practice and its regulatory obligations at the time *and* carried out due diligence on the Store First investment which was consistent with good industry practice and its regulatory obligations at the time. And Carey should have used the knowledge it gained from that due diligence to decide whether to accept or reject a referral of business or a particular investment.

I am also satisfied that, as in the complaint subject to the published decision, the contract between Carey and Mr H does not mean that Carey should not be held responsible for failing to comply with its regulatory obligations to carry out adequate due diligence on CL&P and the Store First investment which ultimately led to Mr H losing a significant part of his pension.

In this complaint, like the complaint subject to the published decision, Carey had obtained information many months before it facilitated Mr H's investment which led it to reject any further referrals from CL&P and had concerns about the Store First investment before it facilitated Mr H's investment. So in this complaint, like the complaint subject to the published decision, it would not be fair and reasonable to say the contract meant Carey could ignore all

red flags and proceed with Mr H's business regardless.

In my view, like the complaint subject to the published decision, had Carey done what it ought to have done here, and drawn reasonable conclusions from what it knew or ought to have known, it should not have accepted either the application for Mr H's SIPP from CL&P or the Store First investment.

**Due diligence on CL&P**

The published decision sets out what information Carey was privy to – or ought to have been privy to, had it carried out sufficient due diligence on CL&P.

I note Carey says it did not routinely check the FSA's "*Firms and individuals to avoid*" list. However, I remain of the view that checking the warnings posted on the FSA's website is something that Carey should have done as a matter of course before it began accepting any business from CL&P. This is consistent with good industry practice as highlighted in the 2009 thematic review report and later documents. And, I find it would have been fair and reasonable, and in accordance with its regulatory obligations, for such a check to take place *before* it entered into a relationship with CL&P.

Mr H's application was accepted on 28 February 2012. As the published decision sets out it is fair and reasonable to say by that time Carey ought to have known that CL&P's director was Mr Terence Wright, and that he was on the FSA's "*Firms and individuals to avoid*" list, which was described on the website as "*a warning list of some unauthorised firms and individuals that we believe you should not deal with*".

I note Carey says Mr Wright's entry on the list, in the form in which it had been published in 2010 and which would have existed as at the inception of Options' relationship with CL&P, stated only that Mr Wright was not regulated by the FSA and referred only to a business named Cash In Your Pension targeting UK investors. There was nothing in the FSA Notice which described any criminal or civil wrongdoing and there was no contradiction between the FSA Notice and any statement provided by Mr Wright that he was not subject to any FSA action or censure.

I think at this point it is worth highlighting that Carey's Chief Executive, Ms Hallett, gave evidence to the court during the *Adams v Carey* hearing (at Paragraph 60) which HHJ Dight summarised as follows:

*"It was also brought to my attention that from October 2010 the FCA had published warnings about dealing with another director, Mr Terence Wright, who was not authorised under FSMA to carry out regulated activity. Ms Hallett accepted in cross examination that no check was made to see whether his name appeared on a regulatory warning notice on the FCA's website until May 2012. The relationship between the defendant and CLP was severed on 25 May 2012. She accepted that had she been aware of such a warning in 2010 the defendant would not have dealt with CLP."*

Carey's response to the provisional decision appears to be completely at odds with this testimony of its Chief Executive.

In any event, I do not accept Carey's argument that the 2010 version of the FSA alert would not necessarily have led it to conclude that it should not enter into business with CL&P. For all the reasons given in the published decision, I am of the view that the October 2010 alert was a clear indication that the regulator had serious concerns about the way Mr Terence Wright conducted his business and therefore should have put Carey on notice that it should not accept business from Mr Terence Wright.

The National Archive of the FSA website shows the description of the list on the FSA's website in August 2011 (when Carey's relationship with CL&P began) was as follows:

***"Firms and individuals to avoid***

*We have a warning list of some unauthorised firms and individuals that we believe you should not deal with."*

The regulator therefore described those featuring on the list as "*firms and individuals that we believe you should not deal with".* I consider that this supports my view that Carey should have been particularly circumspect before it agreed to do business operated by an individual who featured on that list.

The money was invested in Store First on 15 June 2012. As the published decision sets out it is fair and reasonable to say by that time Carey knew, or ought to have known:

- That what CL&P had told it in December 2011 about cash incentives not being offered was not correct. So CL&P was acting in a way which was, to use its own words, "*completely against all rules*". And CL&P was acting without integrity as it had not told it the truth when asked about cash incentives.

- Multiple requests had been made for copies of CL&P's accounts, but CL&P was unwilling to provide this information.

So for the same reasons set out in the published decision, it is my finding that if Carey had carried out sufficient due diligence on CL&P, or acted on the information it subsequently received in a timely manner, it should not have accepted Mr H's application from CL&P – or, at the very least, not continued to process it.

I am satisfied this is not imposing "*new and unexpected duties*". On this point, Carey's response to my provisional decision appears to be at odds with Carey's own understanding of its obligations and good practice at the time, and some of its previous submissions to us. Long before the time of Mr H's application, Carey understood and accepted its obligations meant that it had a responsibility to carry out due diligence on CL&P. It had set a standard for its introducer due diligence which it thought was consistent with good (or "best") practice at the relevant time and that, in turn, was consistent with its regulatory obligations.

**Investment due diligence**

The published decision sets out what information Carey was privy to – or ought to have been privy to, had it carried out sufficient due diligence on Store First.

I remain of the view that, as the published decision sets out, at the time Mr H's application was accepted, Carey knew or ought to have known:

- There were factors in the report Carey obtained on Harley Scott Holdings Ltd (the promoter of Store First) which ought to have been of concern – namely the adverse comments for the previous three years, the CCJs, and the fact the business had recently changed its name.

- Dylan Harvey (one of three previous names of Harley Scott Holdings Ltd, which at the time had the web address dylanharvey.com) and one of its directors, Toby Whittaker, were the subject of a number of national press reports, online petitions and proposed legal action, as a result of a failed property investment.

- Harley Scott Holdings Ltd had recently been involved in a property investment scheme which had failed. It had also recently changed its name, and had been subject to a number of adverse comments in succession, following audit.

- Store First's marketing material set out high fixed returns, and said these were guaranteed. The material did not contain any type of risk warning, or illustrations of any other returns. No explanation of the guarantees was offered, or the basis of the projected returns – other than Store First's own confidence in its business model and the self-storage marketplace.

- The conclusion of the Enhanced Support Solutions report Carey had obtained was inconsistent with the result of Carey's own company searches. The report also makes no comment on the obvious issues with the marketing material.

- The marketing material showed there was a significant risk that potential investors were being misled.

- Store First appeared to be presenting the investment as one that was assured to provide high and rising returns, was underwritten by guarantees, and offered a high level of liquidity together with a strong prospect of a capital return - despite the fact that there was no investor protection associated with the investment and that, in Carey's own words, "*there is no apparent established market"* for the investment and *"the investment is potentially illiquid"*

- Store First had no proven track record for investors and so Carey couldn't be certain that the investment operated as claimed.

- Consumers may have been misled or did not properly understand the investment they intended to make.

And I remain of the view, by the time the money was sent to Store First, as the published decision sets out, Carey knew, or ought to have known:

- Store First was paying commission of 12% to CL&P. Payment of such a high level of commission to an unregulated business was very serious cause for concern, given how the investment was being marketed. How Store First was funding such levels of commission alongside guaranteed income payments and guaranteed buy backs called the nature of the Store First investment into serious question.

- Of at least some of the issues with Store First which were of sufficient concern for it to suspend acceptance of the investment in August.

On the latter point, Carey suspended acceptance of new investments in Store First in August 2012. It has still not confirmed the date at which this suspension was placed. But it has provided details of an internal meeting, which took place on 15 August 2012, at which concerns about Store First were discussed. And it has provided a copy of an internal email dated 17 August 2012 which says new investments in Store First had been suspended. So it seems likely the decision to suspend new investments in Store First was taken during or shortly after the 15 August 2012 meeting, and that Mr H's investment therefore post-dates the suspension. If that is the case it is not clear why Carey went ahead and sent the money to Store First from Mr H's SIPP.

In any event, it is clear from the available evidence that by the date on which Carey sent cash from Mr H's SIPP to Store First Carey had the concerns that led to the suspension of the acceptance of new investments in Store First. As set out in the published decision these

related to "*Rental Income Process/Delays*", "*Sale Process/Delays*", a tax investigation and that *"the marketing material provided for …. a guaranteed rental income"* but "*only a small proportion of Store First investors were receiving the rental income as expected".*

As in the complaint subject to the published decision, I think all of the points listed above should have been considered alongside the fact the investment was being sold by an unregulated business, which was clearly targeting pension investors. I think it is fair and reasonable to find that Carey ought to have concluded there was an obvious risk of consumer detriment here.

So, given the circumstances at the time of Mr H's application, I think the fair and reasonable conclusion, based on what Carey knew or ought to have known at the time, is that Carey should not have accepted Mr H's application to invest in Store First. In my opinion, it ought to have concluded that it would not be consistent with its regulatory obligations, or best practice, to do so. Indeed, it seems to have reached the conclusion, before it sent Mr H's money for investment in Store First, that it should not accept any further investments in Store First. I note that in its response to my provisional decision Carey has made to attempt to explain why it went ahead with Mr H's investment in these circumstances.

To confirm, I am satisfied the finding Carey should not have accepted Mr H's application to invest in Store First does not amount to a requirement for Carey to give advice on the suitability of the investment in Store First for Mr H. On this point, I note Carey's response to my provisional decision appears to be at odds with its own understanding of its obligations and/or good practice at the time. It was clearly of the view it had to undertake some due diligence into the Store First investment, and to make a decision on whether or not to allow the investment in its SIPP. As the published decision highlights, Carey's own Terms and Conditions explained that investments would be made at its discretion and gave several examples of where it might conclude it should not proceed with an investment.

As mentioned, Carey had in fact made the decision not to allow the investment and to not accept applications like Mr H's – but in the case of Mr H it decided to nonetheless proceed, for reasons it has not explained.

**Was it fair and reasonable in all the circumstances for Carey to proceed with Mr H's instructions?**

I remain of the overall view I reached in my provisional decision, which is largely the same as the view set out in the published decision. However, I should emphasise that the primary points are:

- It was not fair and reasonable for Carey to have accepted Mr H's application from CL&P in the first place. So, Mr H's SIPP should not have been established and the opportunity to execute investment instructions or proceed in reliance on an indemnity should not have arisen at all. This, in my view, is the primary point.

- The Principles exist to ensure regulated firms treat their clients fairly. I consider there is a significant imbalance of knowledge between the parties which creates unfairness in the circumstances of this case. At the time of receiving Mr H's application and executing his investment instructions, Carey knew things that Mr H did not.

- Carey was required by its regulatory obligations to ensure that it treated its customers fairly. In the circumstances, I am satisfied that this would have required Carey to have stopped Mr H from proceeding with his application to invest in Store First.

In short, the application should simply have been rejected by Carey – and there should therefore have been no option for Mr H to proceed insistently. He should simply not have been able to proceed.

For completeness, I confirm my view remains that if Carey had explained the situation to Mr H and let him have the opportunity of making an informed decision whether or not to proceed it is unlikely Mr H would have proceeded with the investment in Store First. But, as mentioned, my primary point is Mr H should simply not have been able to proceed.

**Is it fair to ask Carey to compensate Mr H?**

My view on this point, in relation to this complaint, is also largely the same as the view set out in the published decision.

I note Carey says that, on its proper application, the contract between Mr H and Carey was effective to relieve Carey of any liability it might otherwise bear. But, in my view, the contract between Carey and Mr H does not mean that Carey should not be held responsible for failing to comply with its regulatory obligations to carry out adequate due diligence on CL&P and the Store First investment which ultimately led to Mr H losing a significant part of his pension. This is especially true when Carey had obtained information many months before it facilitated Mr H's investment which led it to reject any further referrals from CL&P and had, it seems, stopped accepting Store First before it facilitated Mr H's investment.

Again, there is a primary point, which is that had Carey acted in accordance with its regulatory obligations and best practice, it should not have accepted Mr H's application to open a SIPP introduced from CL&P *at all*. That should have been the end of the matter – it should have told Mr H that it could not accept the business. So if that had happened, the arrangement for Mr H would not have come about in the first place, and the loss he suffered could have been avoided.

For completeness, I confirm my view also remains:

- I do not consider the fact that Mr H signed the indemnity means that he shouldn't be compensated if it is fair to do so.

- Had Carey explained to Mr H why it would not accept the application from CL&P or was terminating the transaction, I find it unlikely that Mr H would have tried to find another SIPP operator to accept the business.

- In any event, it is not fair and reasonable to say that Carey should not compensate Mr H for his loss on the basis of speculation that another SIPP operator would have made the same mistakes as I've found it did.

- I am satisfied that it would not be fair to say Mr H's actions mean he should bear the loss arising as a result of Carey's failings. I acknowledge Mr H was warned of the high-risk nature of Store First and declared he understood that warning. I also acknowledge Mr H recalls CL&P saying he should not tell Carey about the cash incentive. But Carey failed to act on significant warning signs. Carey should simply not have accepted Mr H's application at all. In these circumstances, I am satisfied that Carey should not have asked him to sign the indemnity at all. In these circumstances, although it may have been unwise of Mr H to sign the indemnity and to deal with CL&P when it had told him not to tell Carey about the cash incentive, I do not think it would be fair to make any reduction to the compensation because of Mr H's actions. The starting point has to be that if Carey had acted fairly and reasonably the application simply would not have been accepted.

With all this in mind, I remain of the opinion that it is fair and reasonable in all the circumstances of this case to find that Carey is unable to rely on the indemnity that Mr H signed in order to avoid liability for the regulatory failings it has made in this case. So I am satisfied that it is fair and reasonable to conclude that Carey should compensate Mr H for the loss he has suffered to his pension.

**Putting things right**

I am satisfied that Carey's failure to comply with its regulatory obligations and industry best practice at the relevant time have led to Mr H suffering a significant loss to his pension. And my aim is therefore to return Mr H to the pension position he would now be in but for Carey's failings. When considering this I have taken into account the Court of Appeal's supplementary judgement ([2021] EWCA Civ 1188), insofar as that judgement deals with restitution/compensation.

In light of the above, Carey should calculate fair compensation by comparing the current position to the position Mr H would be in if he had not transferred from his existing pensions. In summary, Carey should:

1. Calculate the loss Mr H has suffered as a result of making the transfer.

2. Take ownership of the Store First investment if possible.

3. Pay compensation for the loss into Mr H's pension. If that is not possible pay compensation for the loss to Mr H direct. In either case the payment should take into account necessary adjustments set out below.

4. Pay £500 for the trouble and upset caused.

I'll explain how Carey should carry out the calculation set out at 1-3 above in further detail below:

*1. Calculate the loss Mr H has suffered as a result of making the transfer*

To do this, Carey should work out the likely value of Mr H's pensions as at the date of this decision, had he left them where they were instead of switching to the SIPP.

I note Carey's point made in its response that a high risk benchmark should be used to complete this calculation. However, I have seen no evidence to show Mr H was seeking a high risk investment. He may have been looking for alternative investments, but it does not follow he would certainly have moved away from his existing pensions, had Carey rejected his application. And, in any event, I think it likely if he Carey had rejected the application Mr H would have sought advice from a regulated advisor and, if that did result in him moving to a new pension, that pension would likely have had an existing risk profile to his existing pensions. And so I remain satisfied that comparison to Mr H's previous pensions offer a fair approximation of the loss he has suffered.

Carey should ask Mr H's former pension providers to calculate the current notional transfer value had he not switched his pensions. If there are any difficulties in obtaining a notional valuation then the FTSE UK Private Investors Income Total Return index should be used to calculate the value. That is likely to be a reasonable proxy for the type of return that could have been achieved if suitable funds had been chosen.

The total notional transfer value should be compared to the transfer value of the SIPP at the date of this decision and this will show the loss Mr H has suffered. The Store First

investment should be assumed to have no value. Account should however be taken of the cash back payment paid out to Mr H. This can be taken into account in the calculation on the basis of it having been paid at the outset i.e. the same approach can be taken as was taken by the Court of Appeal in its supplementary judgement.

On this latter point, Mr H has not been able to provide evidence of how much cash he received in his response to the provisional decision. So I think a fair assumption should be made and a fair assumption is the sum Mr H initially recalled receiving - £2,500. That is not inconsistent with the amounts we have seen on other cases (as Carey notes in its response to my provisional decision).

2. *Take ownership of the Store First investment*

I understand Carey has been able to take ownership of the Store First investment, for a nil consideration, in other cases. It should do that here, if possible.

If Carey is unable to take ownership of the Store First investment it should remain in the SIPP. I remain of the view that is fair because first of all I understand Carey can take ownership of the investment, if it wishes to. And in any event because I think it is unlikely it will have any significant realisable value in the future. I also understand Mr H has the option of returning his Store First investment to the freeholder for nil consideration, and I think Mr H should be free to take that option, if Carey does not want to take ownership of the investment. That should enable Mr H to close his SIPP, if Carey does not take ownership of the Store First investment.

In the event the Store First investment remains in the SIPP and Mr H decides not to transfer it to the freeholder he should be aware that he will be liable for all future costs associated with the investment such as the ongoing SIPP fees, business rates, ground rent and any other charges. He should also be aware it is unlikely he will be able to make a further complaint about these costs.

3. *Pay compensation to Mr H for loss he has suffered calculated in (1).*

Since the loss Mr H has suffered is within his pension it is right that I try to restore the value of his pension provision if that is possible. So if possible the compensation for the loss should be paid into the pension. The compensation shouldn't be paid into the pension if it would conflict with any existing protection or allowance. Payment into the pension should allow for the effect of charges and any available tax relief. This may mean the compensation should be increased to cover the charges and reduced to notionally allow for the income tax relief Mr H could claim. The notional allowance should be calculated using Mr H's marginal rate of tax.

On the other hand, Mr H may not be able to pay the compensation into a pension. If so compensation for the loss should be paid to Mr H direct. But had it been possible to pay the compensation into the pension, it would have provided a taxable income. Therefore, the compensation for the loss paid to Mr H should be reduced to notionally allow for any income tax that would otherwise have been paid. The notional allowance should be calculated using Mr H's marginal rate of tax in retirement. For example, if Mr H is likely to be a basic rate taxpayer in retirement, the notional allowance would equate to a reduction in the total amount equivalent to the current basic rate of tax. However, if Mr H would have been able to take a tax free lump sum, the notional allowance should be applied to 75% of the total amount.

4. *Pay £500 for the trouble and upset caused.*

Mr H has been caused some distress and inconvenience by the loss of his pension benefits. This is money Mr H cannot afford to lose and its loss has undoubtedly caused him upset. I note the Court of Appeal did not find compensation should be paid for non financial loss. But my role here is to determine what, in my view, is fair compensation in the particular circumstances of this case. And I consider that a payment of £500 is fair to compensate for the upset Mr H has suffered.

*interest*

The compensation must be paid as set out above within 28 days of the date Carey receives notification of his acceptance of my final decision. 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 if the compensation is not paid within 28 days.

**My final decision**

For the reasons given, my decision is that I uphold Mr H's complaint. Options UK Personal Pensions LLP should calculate and pay compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 25 April 2022.

John Pattinson
**Ombudsman**