

The complaint

Mrs B complains about the level of service, delays and the suitability of the advice provided by Chase de Vere Independent Financial Advisers limited ("CDV") regarding accessing money from her personal pension plan ("PPP") to partially fund the cost of renovating her house. She says she wasn't correctly advised about the tax implications of withdrawing money from her PPP and, by the time she realised, it was too late to change plans for the renovation.

She says that the delays and errors by CDV caused her to suffer significant stress, worry and embarrassment after she had to unexpectedly borrow money from friends and family before obtaining a mortgage of £320,000 as an alternative option to complete the renovation.

What happened

I issued my provisional decision on this complaint on 20 June 2023 in which I set out the background and my provisional findings. I've repeated what I said here:

"In October 2020, Mrs B bought a house knowing that it required significant renovation. She was an existing client of CDV who had previously provided advice on her investment and pension arrangements. In June 2021, she emailed CDV to request advice on how to fund the renovation which she thought would cost somewhere between £300,000 and £400,000.

In July 2021, Mrs B had a meeting with CDV who recorded details about her circumstances, summarised as follows:

- She was aged 69, a widower, in good health and worked part-time as a locum having previously been employed by the NHS;*
- Her total monthly income after tax was about £7,684 which came from four sources: locum income of £3,930, an NHS pension of £2,106, a spouse's pension of £1,033 and State pension of £615. Details of how much Lifetime Allowance ("LTA") was used when Mrs B took her NHS pension weren't recorded or requested by CDV at that time;*
- Her monthly expenditure was about £4,000, meaning she had disposable income of about £3,500;*
- Her investable assets totalled about £1,338,289, which comprised an uncrystallised PPP valued at £1,021,000 (the PPP at the centre of this complaint), an ISA valued at £272,289 and cash savings of £45,000. She had an investment bond valued at £146,314 but couldn't access it since it was held in trust for the benefit of her children; and*
- Her goals and needs were recorded as, "Client considering a capital withdrawal in the near future, to fund home improvements, following a recent house move".*

A few days after the meeting, Mrs B emailed CDV and stated that, based on new information provided by her architect, the expected cost of the renovation had increased to about £465,000 plus VAT, fees and other costs. Following that meeting in July 2021, CDV didn't provide any formal recommendation to Mrs B about withdrawing capital from her PPP to cover the cost of the renovation.

In August 2021, the renovation started. Over the following months, Mrs B withdrew ad hoc lump sums from her ISA and cash savings to fund the early stages of the renovation. Her PPP remained untouched during this time.

In January 2022, Mrs B contacted CDV again. There followed an exchange of emails. In summary, she stated she required about another £400,000 to complete the renovation. But she required an immediate lump sum of £200,000 to fund the next stage. CDV explained to Mrs B that she didn't have enough money in her ISA, then valued at about £130,000, to provide the full £200,000 and would therefore need to access her PPP which would involve her withdrawing taxable money – it stated that, because of this, it would need to produce a pension drawdown report (the "Report"). To enable CDV to produce the Report, it asked Mrs B to provide precise details about costs and timescales so that it could consider recommending withdrawals across different tax years, where possible. CDV also asked Mrs B to provide details about how much LTA was used when she took her NHS pension.

On 21 February 2022, after obtaining the information from the NHS Pension Scheme, Mrs B emailed CDV and stated she had used 70.04% of her LTA when she took benefits in 2012 – this meant she had a remaining LTA of 29.96% or £321,500 based on the standard LTA of £1,073,100 for 2022/23. CDV replied to Mrs B on the following day to acknowledge this and stated that the Report was being worked on.

There followed a further exchange of emails in March during which time Mrs B stated she then required £350,000 and asked about the tax implications of withdrawing that money from her PPP. On 6 April 2022, CDV replied and stated it was, "Finishing the drawdown report as we speak. Some of the pension withdrawal will be tax free and the remainder taxed as earned income. The report will detail this". On the same date, CDV issued its Report to Mrs B (she didn't receive this until 9 April because CDV sent it to the wrong address). In the Report CDV recommended that Mrs B crystallise £665,000 of her uncrystallised PPP then valued at £973,110 to generate a net of tax payment of £350,000.

Mrs B accepted CDV's recommendation and expected to receive the net amount of £350,000 from her PPP shortly. But she became increasingly distressed and frustrated during the remainder of April and into early May 2022 about the lack of communication from CDV and the delay in receiving the money. She expressed her concerns to CDV and that she was under pressure to settle invoices for her builder. CDV responded and explained it was reliant on the PPP provider to act on its instruction and sell assets into cash before remitting the money to her bank account.

On 9 May 2022, while dealing with the withdrawal request, an administrator at the PPP provider emailed CDV and stated:

"I note that the client has indicated on the Flexi-Access Drawdown form that they have used 70.04% of the lifetime allowance and that they have requested a further crystallisation of £665,000.00. As such, the client will be incurring a Lifetime Allowance tax charge as the client will be exceeding the Lifetime Allowance by £343,499.24 (32.00%). Based on the lifetime allowance charge option chosen in the form (55% lifetime allowance charge and a 45% lump sum) the client will incur a tax charge of £188,924.58 and will be paid a lump sum of £154,574.65. If you have any queries in regards to this please do let us know."

CDV forwarded the email to Mrs B and mentioned – for the first time during the advice process – that there would be an LTA tax charge on the crystallisation.

Mrs B replied to CDV by email and stated she was shocked to learn that implementing the recommendation would lead to an LTA tax charge of £188,294.58. Based on her interpretation of the PPP provider's email of 9 May 2022, she thought the transaction would lead to a total tax charge of £510,425.35. She couldn't understand how CDV had concluded it was suitable advice to relinquish £510,425.35 of her PPP fund value in tax to receive a net payment of £154,574.65.

In its email response of 10 May 2022, CDV stated, "Yes, the Taxation and the Lifetime Allowance charge are high, which is one of the reasons that withdrawing capital from Pensions is usually a last resort. The withdrawal can be stopped and the funds reinvested, as the funds were disinvested proportionally across the portfolio. With regards remortgaging to cover the improvements, this can of course be done, and I can put you in contact with one of our specialists."

Shortly after this exchange, Mrs B was diagnosed with cancer. There followed further conversations between Mrs B and CDV during May 2022. The outcome was that she crystallised £321,500 of her PPP to exhaust her remaining LTA – this enabled her to take 25%, or £80,375, as a tax-free lump sum on 16 May 2022 and leave the balance invested (so no taxable income was withdrawn). But this wasn't enough money to complete the renovation. So she borrowed money from family and friends as a short-term remedy until she was able to obtain a mortgage. She expected a mortgage adviser from CDV to contact her but that didn't happen. So she arranged for a £320,000 mortgage over a nine-year term on the advice of another adviser not connected to CDV. She then terminated her relationship with CDV.

This complaint

Mrs B was very upset about the level of service, delays and suitability of the advice provided by CDV. She was particularly upset about the delay in receiving its Report in April 2022 and that it failed to mention an LTA tax charge would apply if she crystallised £665,000 of her PPP fund value. She said that had she known this when she had a meeting with CDV in July 2021, she would never have embarked on such a large-scale renovation. But by the time she realised in May 2022 that an LTA tax charge would apply, it was too late to change plans for the renovation. And so this led to her unexpectedly having to borrow money from friends and family before obtaining a mortgage £320,000 as an alternative option to complete the renovation. She stated that borrowing money from friends and family had caused her embarrassment and that being diagnosed with cancer at the time amplified the stress, worry and embarrassment caused by CDV's delays and errors. She thought that CDV's advice had caused her significant harm and led to her suffering a financial loss with no emergency fund or money available for discretionary spending because of her ongoing mortgage costs.

To put things right, she asked that CDV reimburse her for all costs associated with her borrowing money and pay redress for the considerable trouble and upset caused by its delays and errors.

CDV's response to this complaint

CDV upheld Mrs B's complaint in part. It stated that its role wasn't to advise clients on moving properties or funding renovation projects since this was a specialist area. And so, in its view, it wasn't responsible for advising Mrs B on how to fund the renovation or scrutinising

her decisions regarding how much to spend on it. It stated its relationship with Mrs B was limited only to advising on the management of her investment and pension arrangements and to facilitate withdrawal requests in the most appropriate manner. It apologised for the delays she had experienced in receiving some withdrawals but said it was dependent on the product providers to action its requests. It also apologised for the delay in issuing its Report and that one of its mortgage advisers didn't contact her, as had been promised.

While it understood the situation was upsetting, it stated it wasn't responsible for Mrs B's decision to buy her house or the higher than expected renovation costs. But it accepted it should've recognised and considered in early 2022 the impact of the LTA which would've enabled Mrs B to consider alternative options sooner, such as obtaining a mortgage. But it was satisfied that, ultimately, the situation had been resolved satisfactorily because Mrs B took a reduced amount of £80,375 from her PPP to avoid an LTA tax charge and obtained a mortgage to complete the renovation, which is likely what would've had happened anyway had the LTA issue been identified sooner.

In recognition of the delays and material trouble and upset Mrs B suffered because of its error relating to the LTA, it offered to pay her a compensation payment of £1,500.

Our investigator's assessment

Mrs B didn't accept CDV's offer and referred the matter to this service. Our investigator recommended that this complaint should be upheld. He thought that CDV had made several mistakes and provided a poor level of service to Mrs B. In his view, based on Mrs B's recorded requirements in July 2021, CDV should've provided a recommendation at that time on how to fund the renovation using her investments and pension arrangements. And that, had it done this, the LTA issue would've become apparent sooner than early 2022, as suggested by CDV. He said that had this happened, Mrs B would've been placed into an informed position sooner and therefore able to consider reassessing the scale of the renovation and consider alternative options to fund it. Given her age, he didn't think Mrs B would've chosen to obtain a mortgage but, due to the delays and errors made by CDV, she was essentially compelled to obtain a mortgage of £320,000 to complete the renovation. But he recognised that obtaining the mortgage and investing more money into the renovation had, in turn, likely increased the value of her house beyond what it would've been had the renovation been scaled back. And that she ultimately has the option of equity release or to downsize to a smaller property to enable her to repay the mortgage.

To put things right, he recommended that CDV:

- increase its compensation payment for the trouble and upset caused by its delays and errors from £1,500 to £2,000;
- refund any relevant adviser fees related to its recommendation; and
- pay the interest on Mrs B's mortgage for the first five years as an upfront lump sum.

Mrs B accepted our investigator's assessment and recommendation. She commented that while the value of her PPP is substantial, it's effectively of little value to her due to the punitive tax charges to access money. And so she doesn't believe she'll be able to benefit from it during her lifetime, although she acknowledged her children will on her death. She concluded that in the medium term, equity release was likely to be the best solution to enable her to remain in her house.

CDV didn't accept our investigator's assessment. It said it cannot be held responsible for Mrs B's decision to buy her home and start a large-scale renovation which, by her own

action and subsequent admission, escalated beyond the initial estimates. Notwithstanding this, it said that there wasn't any evidence Mrs B would've scaled back the renovation had the issue regarding the LTA come to light sooner. So it didn't agree it should pay compensation in connection with Mrs B's mortgage interest costs for the first five years of the loan. It noted that the fact find document from July 2021 showed she had disposable income that would've covered the cost of a mortgage and said that the investigator had ignored the scenario Mrs B likely would've had to obtain a mortgage anyway had the LTA issue been brought to her attention sooner. Finally, it said that Mrs B could decide to downsize at any time or achieve funding through equity release to resolve her situation.

Our investigator considered CDV's comments but wasn't persuaded to change his mind. Since agreement couldn't be reached, it requested that this complaint be referred to an ombudsman for review.

What I've provisionally decided – and why

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

I've taken into account the law, any relevant regulatory rules, guidance and good industry practice at the time. I've also carefully considered the submissions made by Mrs B and CDV. Where the evidence is unclear, or there are conflicts, I've made my decision based on the balance of probabilities. In other words I've looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

Before going any further, I'd like to say that I'm very sorry to hear about Mrs B's ill-health. Reading through her correspondence, I can see that being diagnosed with cancer during a large-scale renovation on her home has had a significant impact on her life over the past year.

CDV's role

To begin with, I think it's important that I express my view on CDV's role in its dealings with Mrs B. I don't think CDV was responsible for scrutinising or checking Mrs B's decisions regarding the renovation of her home. In my view, it was ultimately for Mrs B to decide how much she was prepared to spend on the renovation. That the cost escalated and ended up being substantially more than was first estimated isn't CDV's fault or responsibility.

CDV said that its role wasn't to advise clients on moving properties or funding renovation projects since this was a specialist area. But Mrs B wasn't seeking such specialist advice. Rather, she simply wanted CDV, who had advised her during the preceding several years, to provide advice on how best to withdraw money from her investment and pension arrangements to fund the renovation. If it wasn't CDV's role to advise on this, then I think it should've made this clear to Mrs B in June 2021. But it didn't. It instead proceeded to hold a fact find meeting with her in July 2021 during which it noted, "Client considering a capital withdrawal in the near future, to fund home improvements, following a recent house move" and then issued its Report in April 2022 recommending she crystallise £665,000 of her PPP fund value in connection with this. It later suggested in May 2022 that Mrs B obtain a mortgage to complete the renovation. So I think it's fair to say that Mrs B reasonably believed CDV had agreed to provide advice to her on this and was, therefore, relying on it to provide expert advice.

In my view, CDV had a regulatory obligation to act in Mrs B's best interests and to provide a suitable recommendation to achieve her stated objective.

CDV's recommendation

In its Report in April 2022, CDV recommended that Mrs B crystallise £665,000 of her PPP fund value to generate a net of tax payment of £350,000. The Report confirmed that the value of Mrs B's PPP was then valued at £973,110 and CDV stated, "I am recommending that you utilise your existing [PPP] which is currently uncrystallised and draw a capital sum of £665,000 as a gross taxable withdrawal of which, after tax, should provide you with a lump sum of approximately £350,000. We discussed the fact that you would have to pay tax on this withdrawal and you confirmed that you understood this".

Mrs B made this complaint because CDV failed to consider the impact of an LTA tax charge when formulating its recommendation – it was only after the PPP provider, when facilitating the withdrawal request in May 2022, warned CDV that an LTA tax charge would apply that both CDV and Mrs B first became aware.

CDV doesn't dispute this and has already conceded that it made a mistake by failing to take into account the impact of the LTA earlier in the advice process. It says it should've identified the issue in early 2022. But I have a different view.

In June and July 2021 there were several email exchanges and a meeting between Mrs B and CDV when a fact find document was completed. This evidence confirms that from July 2021 onwards, CDV knew:

- the estimated cost of the renovation was over £465,000 plus VAT;*
- Mrs B wanted advice on using her investable assets to fund the renovation – and that her investable assets totalled about £1,338,289, which comprised an uncrystallised PPP valued at £1,021,000 (the PPP at the centre of this complaint), an ISA valued at £272,289 and cash savings of £45,000;*
- she was in receipt of income from four sources including an NHS pension income; and*
- she had disposable income of about £3,500 every month.*

Based on what CDV knew in July 2021, it's my view it ought to have realised Mrs B's ISA and cash savings of about £317,289 wouldn't be enough to cover the estimated cost of the renovation of £465,000 plus VAT and that she would therefore likely need to crystallise some of her PPP in the short-term and/or obtain borrowing to complete the project. Given CDV knew Mrs B was receiving an NHS pension income, I think it should've realised she had previously used some of her LTA. And that this should've prompted it to establish her LTA position as soon as possible. But it didn't. Rather, despite knowing Mrs B would likely need to withdraw money from her PPP, CDV appears to have done nothing meaningful in advising Mrs B and inexplicably waited until January 2022 to request information from her about previous LTA usage before issuing its Report in April 2022.

Based on the above considerations, I think CDV should've recognised in July 2021 the importance of understanding Mrs B's LTA position as soon as possible. Had it done so and acted in her best interests by obtaining the information sooner, I think it's likely it would've issued its Report in late summer/early autumn 2021 rather than in April 2022.

CDV didn't include in its Report a computation of how it determined that crystallising £665,000 of the PPP fund value would generate a net payment of £350,000. For example,

there wasn't any reference to 25% of the crystallised amount up to her remaining LTA being tax-free, or the level of income tax that would be applied to the residual taxable element or the part of the withdrawal above the LTA being subject to an LTA tax charge – this was despite noting in the Report that Mrs B was receiving NHS pension income and had previously been informed she had used 70.04% of her LTA in connection with this. Rather, CDV simply noted that the crystallised amount of £665,000 would be subject to income tax rate at, “40% & 45%” and, it appears, used this as a basis to arrive at a net payment of £350,000. The Report also included typos and references to other individuals not connected to Mrs B, suggesting that CDV had cut and pasted content from a different report, which clearly wasn't appropriate.

Mrs B was content to proceed with the recommendation to crystallise £665,000 of her PPP fund value to receive a net payment of £350,000. When she received a copy of the email dated 9 May 2022 from the PPP provider, she incorrectly believed she'd only receive £154,574.65 from the total crystallised amount of £665,000. What the email from the PPP provider didn't explain, or CDV when forwarding the email to Mrs B, was that £321,500 of the withdrawal would use her remaining LTA, and of that amount 25% (£80,375) would be tax-free and the balance (£241,125) would be subject to income tax at her marginal rate – given her income from other sources, her marginal rate would've likely been 40% or even 45%.

Had Mrs B followed the recommendation and crystallised £665,000 of her PPP fund value, she would've received a net payment of at least £367,569, broken down as follows:

- **£80,375** tax-free lump sum; plus
- £241,125 less income tax of £108,506 (assumed worst case scenario of income tax at 45% on the whole amount) = **£132,619**; plus
- £343,499 less the 55% LTA tax charge of £188,924 = **£154,575**

I cannot see any evidence that either CDV or the PPP provider explained this to Mrs B at the time or in response to this complaint. And so it appears she's continued to incorrectly believe, based on the content of that email of 9 May 2022, that crystallising £665,000 would result in a net payment of £154,574.65 which was substantially less than her requirement for a lump sum of £350,000. I think the lack of clarity on this point exacerbated her confusion which, understandably, led to her questioning the entire concept of withdrawing money from her PPP to the point where she now believes it's of no value to her during her lifetime.

Mrs B has complained about the suitability of CDV's recommendation in April 2022, but she did so from an uninformed position because she incorrectly thought the transaction would lead to a total tax charge of £510,425.35. But this isn't the case, as I've explained above. Had CDV understood and explained the above to Mrs B, she may well have proceeded with the withdrawal to achieve a net payment of £367,569 – I think this is a fair conclusion bearing in mind she initially accepted the recommendation on the basis it would generate a net payment of £350,000.

But whether it was suitable for Mrs B to crystallise £665,000 of her PPP at that time and relinquish about £297,431 of its fund value in tax is a separate question which I've covered in the next section.

What should CDV have recommended?

Had a competent business conducted a proper analysis and issued a Report to Mrs B in late summer/early autumn 2021, as I think should've happened for the reasons explained above, I think a suitable solution to achieve Mrs B's objective would've entailed her:

- *fully utilising her ISA and cash savings (because there weren't any tax implications with this);*
- *crystallising £321,500 of her PPP to exhaust her remaining LTA of £321,500 to enable her to take 25%, or £80,375, as a tax-free lump (and leave the balance invested so no taxable income was withdrawn); and*
- *obtaining a mortgage for the balance of the money she required to complete the renovation (rather than withdrawing taxable money from her PPP which would've been subject to punitive tax charges given she was already receipt of significant taxable income from other sources and had limited LTA available).*

Ultimately, this is what Mrs B did, albeit several months later in 2022. I think, given the circumstances, this was likely the most suitable option for her and so she's broadly in the correct financial position had a suitable recommendation been provided.

I say this because at that time she was in receipt of substantial annual income from four sources which was about £92,208 after income tax, meaning her gross annual income was well in excess of £100,000. So any taxable income she withdrew from her PPP would've been subject to income tax at 40% or even 45%. After paying for essentials, she had disposable income of about £3,500 available every month – so I'm satisfied that she could afford to borrow money to complete the renovation; if affordability was deemed an issue, then I don't think she would've been able to obtain a mortgage of £320,000 at age 70 over a nine-year term at a fixed monthly cost of £3,335.20 for the first five years. Based on her income, she could afford the mortgage, albeit it left minimal disposable income available every month. But she retained access to her PPP from which she could draw taxable income to meet any unexpected costs.

Would Mrs B have made a different decision?

Mrs B has said that had she been made aware of the LTA issue sooner she would've made a decision to scale back the renovation to avoid obtaining a mortgage. I'm not convinced. It's clear it was a large-scale project. And that even by July 2021 the estimated cost of £465,000 plus VAT exceeded the value her ISA and cash savings by a substantial margin, meaning she'd need to obtain money from elsewhere. I've not seen any evidence of how Mrs B may have scaled back the project such that she could avoid obtaining a mortgage.

I think given the scale of the project it was inevitable she'd need to borrow money. Mrs B may not have wanted to obtain a mortgage at that time, but I think it's fair to say that by borrowing the money, it enabled her to invest a greater amount into the renovation which has likely led to the current value of her home being higher than it otherwise would've been had the project been scaled back (with less money invested into it). This fact needs to be borne in mind. Obtaining the mortgage also enabled Mrs B to retain substantial money in a tax-efficient environment in the PPP from which she can withdraw taxable income in the future, perhaps when she's stopped working.

I think it's also important to highlight that if repaid within nine years, the total cost of the mortgage will be significantly less than the tax Mrs B would've incurred had she followed CDV's recommendation in April 2022. While Mrs B may not currently see it this way, it's likely worked out in her best interests (and the best interests of her children) that she didn't follow CDV's recommendation by crystallising £665,000 of her PPP fund value at that time. Had she done so, she would've relinquished about £297,431 of her PPP fund value in tax – but that money now remains in her PPP for future use.

In addition, while the net payment of £367,569 from her PPP would've enabled Mrs B to complete the renovation and avoid obtaining a mortgage, that money would've been brought into her estate for inheritance tax purposes and so a part of this money would've likely been subject to a further tax charge at 40% on her death – given her wider financial situation, it's likely inheritance tax will be due on her estate on death. But money held in a PPP doesn't normally form part of an individual's taxable estate on death which will likely be to the benefit of Mrs B's children.

I think these factors are relevant in formulating a view on whether Mrs B has suffered a financial loss, as she's asserted. Overall, based on what I've seen, I'm not persuaded Mrs B has suffered a financial loss by obtaining a mortgage of £320,000 compared to crystallising £665,000 of her PPP fund value or scaling back the renovation and investing less money in her home.

What impact did CDV's delays and errors have on Mrs B?

While I think Mrs B is broadly in the position she would've likely been in had a competent business carried out a proper analysis and provided a suitable recommendation to her in late summer/early autumn 2021, I think it's important to express my view that I think CDV failed to act with due skill, care and diligence in its dealings with Mrs B from June 2021 onwards.

From reading the evidence I think it's clear the delays and errors by CDV caused Mrs B to suffer a considerable amount of trouble and upset at a very stressful time in her life while she was undertaking a significant renovation project on her home which unfortunately coincided with her being diagnosed with cancer. I think CDV's mistakes caused Mrs B to suffer sustained distress and potentially affected her mental wellbeing when it failed to properly explain the income tax and LTA tax charge that would be applied by crystallising £665,000 of her PPP fund value. This caused a severe disruption to her life such that she had to unexpectedly borrow money from friends and family as a short-term measure to pay invoices for her builder before obtaining a mortgage. I can fully appreciate that this caused her embarrassment and a significant amount of worry.

As I've explained above, given the scale of the project, I think it was inevitable she'd have to obtain a mortgage to complete the renovation. But I think this should've been identified several months earlier by CDV which would've enabled Mrs B to be better informed with more time to consider her options while she was using her ISA and cash savings to fund the early stages of the renovation – this would've likely avoided the pressure to find a quick solution in May 2022 when the LTA issue came to light and the resultant stress and worry this caused Mrs B.

Overall, I think it's fair to say that CDV's mistakes caused Mrs B to experience pain and suffering which could've been avoided had it acted with due skill, care and diligence from June 2021 onwards. As a result, it's my view that CDV should pay Mrs B a substantial amount of compensation to reflect this. It previously offered to pay her an amount of £1,500. Our investigator thought this should be increased to £2,000. But, overall, I think an award of £3,000 is fair and reasonable in the circumstances."

In summary, my provisional decision was that it was fair and reasonable to uphold this complaint based on the available evidence. I went on to set out what I considered was fair compensation on the basis that CDV refund the ongoing adviser fees it received from Mrs B from June 2021 onwards until she terminated their relationship in 2022 and pay her compensation of £3,000 for the significant pain she suffered because of its failure to act with due skill, care and diligence.

I asked both parties to this complaint to provide any further comments or evidence that they wanted me to consider before I made my final decision.

CDV replied and stated that it didn't have anything further to add. Mrs B replied and stated:

"Thank you for your assessment of my case. I have read through it very many times and digested it as best I can. At first, I was disappointed with your opinion. However, as I looked at it more carefully, I came to understand some of the complexities a little better. You seem to have greater clarity about LTA, the tax situation and pension pot than anyone else to whom I have spoken. I feel that I understand it a little better now. I am grateful for this and I am less unhappy about current my financial situation than I was. And I accept your judgement."

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.

When considering what's fair and reasonable, and in accordance with the Financial Services and Markets Act 2000 and the Dispute Resolution section in the FCA's handbook, I need to take into account relevant: law and regulations; regulators' rules, guidance and standards, and codes of practice; and, where appropriate, what I consider to have been good industry practice at the time.

The findings I made in my provisional decision and set out above form part of this final decision. Given the responses received, I see no reason to depart from my provisional decision of 20 June 2023 to uphold Mrs B's complaint. And so I've decided to proceed on this basis.

Putting things right

As I explained in my provisional findings, from a financial point of view, I think Mrs B is broadly in the position she would've likely been in had a competent business carried out a proper analysis and provided a suitable recommendation to her in late summer/early autumn 2021 – I think it's clear that she needed to obtain a mortgage to complete the renovation. And so I don't agree that CDV should pay the interest on Mrs B's mortgage for the first five years as an upfront lump sum, as recommended by our investigator.

I understand that there wasn't an initial advice charge for the Report in April 2022 but that Mrs B instead paid an ongoing fee to CDV for its advice.

Overall, to resolve this complaint, I direct CDV to:

- refund the ongoing adviser fees it received from Mrs B from 1 June 2021 onwards until she terminated their relationship in 2022 – this is because I think it provided a poor level of service to Mrs B during this period; and
- pay compensation of £3,000 for the significant pain and suffering Mrs B suffered because of its failure to act with due skill, care and diligence.

My final decision

I uphold this complaint. I require Chase de Vere Independent Financial Advisers limited to pay Mrs B the compensation amount as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 16 August 2023.

Clint Penfold

Ombudsman