complaint

Miss M complains about advice given by HDIFA (then part of Berkshire Financial Advisers Ltd) to transfer the value of her deferred benefits in a former employer's pension scheme to a self invested personal pension (SIPP) and invest in unregulated investments.

Meyado Private Wealth Management London Ltd (Meyado) is now responsible for the advice HDIFA gave.

background

I've considered Miss M's complaint before. I issued a provisional decision on 20 January 2020. I've summarised the findings I reached below. But I'll first recap the facts and how our investigation progressed.

Miss M had deferred benefits in a former employer's final salary pension scheme. She was referred to a firm I'll call Firm A (an appointed representative of a regulated firm). Firm A didn't have the necessary permissions to advice on final salary pension transfers. So Miss M was referred to HDIFA.

Towards the end of 2011, following advice from HDIFA, Miss M transferred the value of her deferred benefits (£104,223.28) to a SIPP. In January 2012 she invested a total of £97,998.50 in carbon credits and White Sands, a property development in Brazil.

In 2016 Miss M's representative complained on her behalf to Meyado. It didn't uphold the complaint. Miss M's representative referred it to us.

An adjudicator investigated Miss M's complaint. He concluded that Meyado had given unsuitable advice. He referred to the regulator's consultation about updating the redress methodology where unsuitable advice had been given to transfer from an occupational pension scheme and said he'd update the parties as to how redress should be calculated. We later sent the regulator's published guidance. We suggested that Meyado undertake a redress calculation in line with the methodology set out.

Meyado didn't agree that the complaint should be upheld. In summary it said our analysis of the factual matters was flawed; there was an absence of evidence about Firm A's role; it wasn't fair and reasonable to hold HDIFA liable in full when the money was invested on the advice of someone else; and HDIFA had no control over but was being blamed for Miss M's investment decisions.

We then made some further enquiries of Miss M. We were aware that in some cases investors had received incentive payments. Miss M's representative confirmed that Miss M had received a payment of £37,611.80 on 23 January 2012.

Miss M told us a friend had suggested an adviser with a business I'll call Firm B might be able to help Miss M with a mortgage. The adviser was able to assist and handled the matter very well. Sometime after Miss M got a letter from him about taking money out of a pension. She called him and he contacted her a few days later to ask some questions and made an appointment to visit her. He didn't attend but he sent a colleague. Miss M says he made it sound as though it would be beneficial and that everything was regulated and done properly.

Miss M said she was vulnerable. She wasn't financially experienced and she'd trusted the adviser. It seemed a good and safe opportunity. She said she didn't understand why we were asking about HDIFA. She didn't know who they were and she didn't think she'd spoken to them unless they were connected to Firm B's adviser.

Miss M admitted that at the time her financial position wasn't good. She was only working part time. Her car was unreliable and she used some of the money she got to replace it. The rest helped with her daughter's university tuition and accommodation fees.

We shared what Miss M had said with Meyado. It said Miss M's dealings were with Firm B's adviser and not HDIFA. She'd previously referred to Firm A and her initial complaint to us had been against that business. She was in severe financial difficulties at the time of the transfer. She'd confirmed she'd received a financial incentive which she hadn't disclosed when she originally complained. The availability of that payment would have been a powerful motivating factor in her decision to transfer her pension. She'd have transferred anyway and irrespective of any advice to the contrary.

Meyado also pointed to what Miss M had said about not knowing who HDIFA was. And to what she'd said about Firm B's adviser's part in the matter and the trust she'd placed in him. She blamed an entity (or entities) other than HDIFA. That reflected a central issue – that it was incorrect simply to target Meyado with full responsibility for Miss M's losses.

We shared the enquiries we'd made of Miss M. But we said we weren't going to disclose her bank statements. Meyado said we'd refused to provide that evidence for unspecified data protection reasons. There was no proper basis to withhold material evidence from a party to a complaint of this nature. It asked us to reconsider. But we still didn't think it was necessary or proportionate to disclose the statements. We said, if we were going to disclose them, we'd redact virtually everything.

Meyado repeated that Miss M faced serious financial pressure when she chose to transfer and benefit from the incentive payment of £37,611.80. She was fundamentally influenced by the incentive payment and no advice against would have prevented her from proceeding with the transfer. It was irrational to conclude otherwise. From her Miss M's own evidence, HDIFA couldn't have known about the payment.

In the provisional decision I issued on 20 January 2020 I upheld the complaint. In brief my findings were:

was HDIFA's advice suitable?

- HDIFA couldn't fulfil its regulatory duties to Miss M without considering the overall transaction. To determine if the transfer to a SIPP was suitable HDIFA had to understand what the SIPP was going to be invested in. HDIFA knew from the outset that Miss M intended to invest in unregulated investments.
- The regulator's alert 18 January 2013 alert makes it clear that HDIFA couldn't just advise on the SIPP itself. The underlying investments were part and parcel of the transfer. HDIFA needed to consider their suitability too. And even if the introduction had come from another regulated firm and HDIFA had made it clear that it wasn't giving advice on the underlying investments.

what would suitable advice have been?

- As per COBS 19.1.6G, HDIFA should have started by assuming the transfer wouldn't be suitable. Further examination would have confirmed that.
- The assessment of Miss M's attitude to risk wasn't credible. She didn't have the capacity for loss that could result. Her deferred benefits represented her only pension provision. Her earnings were modest and her ability to make further provision was limited. If she'd described her deferred pension as '*insignificant*' it was up to HDIFA to test that and explain she'd be giving up valuable virtually guaranteed benefits in return for those dependent on investment performance.
- Both investments were unregulated. I referred to what the regulator had said about that type of investment. Virtually all of Miss M's only pension was invested in unregulated funds. She should have been advised against transferring and investing any of her pension funds in carbon credits or White Sands. The advice was unsuitable.
- Meyado didn't argue that its advice was suitable. Its position was that, due to the involvement of others, it isn't fair and reasonable to hold it responsible for Miss M's losses in full.
- It could be argued that Miss M's losses stem mainly from the failure of the investment. And, given that the funds transferred were initially held in cash, no loss had resulted by the time HDIFA's role ceased. But HDIFA knew that, ultimately, the proposed investment was in carbon credits and White Sands. The money was only available to invest because HDIFA had recommended the transfers and facilitated them. Whatever Miss M may have signed confirming she understood that the investments may be high risk and that responsibility didn't rest with HDIFA didn't absolve HDIFA from its responsibility to consider the investments too.

what would Miss M have done if HDIFA had given her suitable advice?

- Miss M trusted Firm B's adviser. But she'd been referred to HDIFA for specialist pension transfer advice. I didn't think she'd have ignored advice from HDIFA not to transfer. I thought she'd have placed weight on what HDIFA said. If HDIFA had given suitable advice, that she shouldn't transfer, Miss M would have thought again.
- Instead HDIFA's unsuitable advice effectively endorsed what she may already have been told by others about the benefits of transferring so she could invest in carbon credits and White Sands. So Miss M had no reason not to go ahead.
- HDIFA should have considered the investments and spelled out the risks. That would have counterbalanced any overly positive views expressed by any other party. No one explained to Miss M how risky those sorts of investment were. If HDIFA had done that and told Miss M it didn't recommend the transfer, she'd have thought about whether what she was planning was a good idea after all.
- HDIFA may not have been prepared to facilitate the transfer on an insistent client basis. HDIFA would have had to discuss with Miss M why she wanted to go ahead, despite specialist advice against and record her reasons. That would have concentrated her mind on whether it was really advisable.
- If HDIFA wasn't prepared to process the transfer on an insistent client basis Miss M would have needed to have found another adviser who presumably would have given her suitable advice – that she shouldn't transfer.
- Miss M received a very substantial payment - £37,611.80 - in return for investing as she did. Most people would want to access that sort of payment. It was a motivating factor in Miss M's decision to go ahead.
- She no doubt welcomed the money. But she wasn't in severe financial difficulties. Nor was she actively looking to raise money. She'd been contacted by Firm B's

adviser who'd suggested transferring and the possibility of a tax free payment. If she'd been told she risked losing her entire pension fund, it wasn't clear she'd have gone ahead, just to secure the payment.
- She hadn't concealed the payment. She'd provided the details we'd requested and a copy of her bank statement.
- But, as she'd had the use and benefit of the payment, it should be taken into account in calculating redress.

the role of Firm A and others

- I referred to DISP 3.6.1R. It requires me to determine a complaint by reference to what is, in my opinion, fair and reasonable in all the circumstances of the case. I agreed the involvement of other parties is a relevant factor. I also referred to DISP 3.5.2R, DISP 3.5.3R and DISP 3.6.3G.
- Miss M's complaint has been made against HDIFA. That didn't mean I hadn't considered the involvement of others. Or that we won't consider whether any other party might have some responsibility. But a conclusion that, despite the involvement of other (regulated) entities, the complaint should be upheld against the party complained about and that party should meet the consumer's losses in full, won't necessarily be unfair or unreasonable.
- Miss M hadn't said HDIFA was the culpable party. She didn't recall HDIFA's part at all. She says her dealings were with Firm B's adviser. He instigated and drove the whole process. But, as Meyado accepts, who Miss M thinks is responsible won't be conclusive – a consumer may not fully appreciate the responsibilities of each party involved. Miss M trusted the adviser and I didn't underplay his role or influence. He was and remains a regulated adviser. He may have given regulated advice about the investment. Or he may have acted in an unregulated capacity.
- But he'd referred Miss M to Firm A for advice. Firm A couldn't advise and introduced Miss M to HDIFA. Firm A did some initial information gathering – completing a fact find and researching Miss M's existing pension. The information was submitted to HDIFA and used, together with any additional details obtained by HDIFA, to prepare the recommendation report. Firm A may also have verified the consumer's identity. And Firm A got a fee (£500) for the introduction.
- From what I've seen Firm A didn't give advice. But there's no dispute (and despite the fact that Miss M may not now recall) that HDIFA did advise. It was up to HDIFA to give suitable advice. That advice should have taken into account the proposed underlying investment(s). It wasn't open to HDIFA to seek to limit its advice to the SIPP wrapper. Consideration has to be given to the suitability of the overall proposition, that is, the wrapper (here the SIPP) and the expected underlying investment – here high risk, illiquid unregulated funds, and the type of investment mentioned in the FCA's alert.
- We hadn't simply relied on what Firm A said – that it wasn't responsible and didn't advise – and disregarded similar evidence from Meyado and continued with the complaint against it. Miss M complained to Meyado in May 2016. In its reply on 5 July 2016 Meyado denied any responsibility for the underlying investments and said the complaint should be directed to Firm A or its principal. We received Miss M's complaint in August 2016. On her complaint form she named HDIFA as the business responsible. And the covering letter made it clear the complaint was being made against Meyado. We told Meyado we'd be looking into a complaint about it. Meyado said (its letter dated 19 September 2016) the complaint should be redirected. We did that. But Firm A's principal didn't agree the complaint was against it. We then

reverted to dealing with the complaint against Meyado. That was the complaint we'd received and it was HDIFA that had advised in connection with the transfer.
- Once the investments had been made Miss M wouldn't have been able to have disinvested. HDIFA can't avoid responsibility for its unsuitable advice by saying another party should have reviewed things later and told Miss M she should invest differently. HDIFA knew the purpose of the transfer to the SIPP was to invest in carbon credits and White Sands. HDIFA is responsible for losses flowing from its unsuitable advice.

compensation and responsibility for the underlying investments

- HDIFA wasn't '*simply arranging the transfer*'. HDIFA advised on whether Miss M should transfer. If that advice was unsuitable, HDIFA was responsible for Miss M's losses in consequence of that unsuitable advice – the losses she'd suffered as a result of transferring to the SIPP and investing in carbon credits and White Sands.
- That redress wasn't wrong in law or irrational. It reflected the facts of the case and HDIFA's pivotal part in the matter: HDIFA was in a position prevent the transfer. Instead HDIFA facilitated it, having given unsuitable advice that Miss M should transfer.
- If Meyado considers that others have some responsibility in the matter, it's presumably open to Meyado to pursue those other parties. Miss M, if her losses were met in full by Meyado, wouldn't object to assigning her rights to Meyado.
- HDIFA couldn't advise on the transfers to a SIPP without considering the intended underlying investments. HDIFA is responsible for the underlying investments. It wasn't that HDIFA had no control over but is being blamed for Miss M's investment decisions. She'd been referred to HDIFA for specialist advice about possibly giving up valuable deferred defined benefits and investing in a high risk, speculative investments. HDIFA gave her unsuitable advice and is responsible for the consequences of that.
- I set out what I considered would be fair compensation.

responses to my provisional decision

Miss M's representative confirmed that Miss M was happy to accept my provisional decision.

Meyado wasn't. In summary Meyado said:

- Miss M's decision to transfer was made with assistance or advice from a number of entities, not just HDIFA. I'd continued to ignore the material involvement of others – Firm A (a regulated entity) and Firm B's adviser.
- Miss M (on legal advice) had originally directed her complaint to Firm A. It had issued a denial and we'd taken that at face value. We'd advanced the complaint against Meyado which had also denied responsibility. That wasn't fair and reasonable in all the circumstances and was irrational.
- I'd been unwilling to look into the relationship between Miss M and Firm A. I'd deliberately excluded relevant matters. That suggests, where multiple entities are involved (regulated or otherwise) we'll ignore all but the one at which the complaint is directed and hold it liable, irrespective of where responsibility properly lies. That's contrary to our obligations under the Financial Services and Markets Act (FSMA) and unjust to one or more parties.
- That approach had handicapped Meyado. Key documents and evidence from Firm A

haven't been made available. Our enquiries are at best incomplete. Meyado's ability to defend itself had been impaired.

- That had led to a fundamental error as to causation – that without Meyado's involvement, the investments and Miss M's losses, couldn't have happened. That oversimplified the true position and failed to take into account Miss M's decision to invest and that it is the investments, not the SIPP, which are the primary cause of her losses.
- We'd assumed Miss M was an inexperienced investor. That's contrary to how she described herself and her investment profile. It's irrational and ignores evidence in favour of assumptions.

Meyado also highlighted sections of my provisional decision.

- Miss M had already decided to transfer before HDIFA's involvement. Her decision can't have been influenced by HDIFA. Firm A was to advise on the investment after the transfer. My decision was irrational and relied on speculation, not facts.
- Another entity (not HDIFA) was the materially active advising entity. Our unwillingness to investigate other entities' involvement properly or at all was irrational and unfair. We hadn't properly considered what was fair and reasonable in all the circumstances of the case.
- Miss M received a substantial incentive payment (£37,611). On her own evidence she was in desperate need of those substantial funds. It was unfounded speculation and irrational to conclude Miss M wouldn't have proceeded anyway. The evidence overwhelmingly points to the conclusion she'd have proceeded with her chosen investment come what may.
- An entity other than HDIFA actually advised on the investment. HDIFA had no involvement in the decision to invest in carbon credits/White Sands. HDIFA can't be blamed for any investment decision it didn't know about, made after its involvement had ceased and when it had no influence or control over the ultimate investment.
- It was conjecture to say Miss M would have thought again if HDIFA had advised against transferring. It was at odds with the evidence which points to her determination not to heed warnings and that she invested in a product in which HDIFA had no involvement.
- I'd disregarded Miss M's assessment of her own investment experience and attitude to risk. That was speculative and not grounded in fact.
- The regulator's alert dealt with unregulated introducers which wasn't the situation here.
- My decision was unfair, unjust and irrational. Miss M had experienced loss as a result of investing on the advice of others in investments which had failed her. But my decision failed to properly appreciate causation and reliance issues. Based on the information I'd considered – or chosen not to consider – the decision unfairly placed the entire responsibility for Miss M's losses on Meyado and so didn't comply with our obligations under FSMA.

Meyado has more recently made some further representations about the High Court's judgment handed down on 18 May 2020 in the case of Adams v Options SIPP UK LLP (formerly Carey Pensions UK LLP). The claimant had argued that the underlying investment had been manifestly unsuitable and the SIPP provider had a duty to advise on the underlying investment. The claim was dismissed. The court held that the SIPP provider didn't owe a duty to advise on the underlying investments and there was no obligation to

refuse the claimant's instructions to transfer. Meyado argued the judgment was material to Miss M's complaint. Meyado said it would be making further submissions.

my findings

I've considered again all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. In doing so I've taken into account relevant law and regulations; regulators' rules, guidance and standards; codes of practice and what I consider to have been good industry practice at the relevant time. And, as set out above, I've paid attention to the relevant DISP rules. I've also carefully considered Meyado's comments in response to my provisional decision.

Generally what Meyado has said isn't new. Meyado's main point remains the involvement of others. I don't agree we haven't made sufficient enquiries about that. Or that I've misunderstood or ignored the part played by Firm A and/or Firm B's adviser. Miss M has said the whole process was instigated by Firm B's adviser. He referred her to Firm A. But Miss M had deferred benefits in a former employer's final salary pension scheme. Firm A couldn't advise about that and referred her to HDIFA. There's no dispute that HDIFA did advise Miss M to transfer to a SIPP. And HDIFA set up the SIPP and arranged the transfer. HDIFA didn't place the investments – I think Miss M gave the investment instructions for White Sands and carbon credits herself. In my provisional decision I made it clear that I considered the involvement of other parties was a relevant factor.

I acknowledge it's possible that Firm A gave advice about the carbon credits and White Sands investments. And (unregulated) advice may have been given too. But there's no dispute that HDIFA did give advice, even if Miss M doesn't recall that now. HDIFA thought it could limit its advice to the transfer and the SIPP. But, as I've explained, its understanding was wrong. HDIFA needed consider the proposed investment too.

Even if Firm A (or indeed the unregulated entity even though it couldn't lawfully have given advice) had advised Miss M, and in the strongest possible terms, to invest in carbon credits and/or White Sands my decision would have been the same. Miss M had deferred benefits in a former employer's defined benefit scheme. Firm A wasn't competent to advise on transferring those benefits. Firm A didn't have the necessary regulatory permissions. Firm A had to refer the matter to HDIFA.

HDIFA had the requisite permissions, expertise and responsibility to advise Miss M properly on the overall transaction. Its role was pivotal, since the eventual investment was wholly contingent on the transfer taking place. HDIFA's advice that Miss M should transfer to a SIPP so that she could invest in a high risk, unregulated, illiquid investment was unsuitable. But for the transfer Miss M couldn't have invested as she did.

Meyado argues that Miss M's losses arise from the investment and not the transfers or the SIPP itself. But if the transfers hadn't happened and the SIPP hadn't been set up, Miss M wouldn't have been in a position to make the White Sands investment. On that basis HDIFA's role was instrumental.

HDIFA advised Miss M to transfer. My starting point as to causation is that HDIFA gave unsuitable advice. So it is responsible for the losses Miss M suffered in transferring to the SIPP and investing in White Sands. That isn't wrong in law or irrational but reflects the facts of the case and HDIFA's pivotal part in the matter. HDIFA could have prevented the investment. Instead it facilitated it, having given unsuitable advice that Miss M transfer.

HDIFA gave the transfer advice and it is responsible for the losses which have been incurred as a result. Miss M was only able to invest in White Sands because HDIFA's unsuitable advice unlocked the money from her former employer's pension scheme. The transfer itself was unsuitable – and Meyado hasn't argued otherwise.

Miss M's complaint may have initially been directed at Firm A. But, as I've said, who a complainant may think is responsible (whether or legal advice or otherwise) isn't determinative. We don't take any denial of responsibility at face value. Our investigation and determination of a complaint against HDIFA reflects its central role. It isn't irrational but reflects the circumstances of the case.

As I've said my starting point as to causation is that Meyado gave unsuitable advice to transfer and so is responsible for the losses which flow from the transfer including, for the reasons I've explained, Miss M's investment losses. But I've recognised that there's a forceful argument that Miss M would have gone ahead in any event and even if Meyado had advised her against, given the incentive payment on offer. I need to reach a view whether, on the balance of probabilities, Miss M would have proceeded if HDIFA had given her suitable advice.

I've thought very carefully about that. I don't agree that it's '*conjecture*' to say Miss M would have thought again if HDIFA had advised against transferring. Or at odds with the evidence which points to her determination not to heed warnings – particularly as HDIFA didn't warn her against transferring. And I don't think it's really the case that she invested in a product in which HDIFA had no involvement. It advised her to transfer and facilitated the transfer, which meant she could invest in carbon credits and White Sands. I agree that, in reaching a conclusion as to whether Miss M is more likely than not to have gone ahead anyway, it's necessary to make some assumptions. But I don't think any assumptions I've made are unreasonable, irrational or contrary to such evidence as there is.

I don't agree that Miss M had made a firm or irrevocable decision to transfer before HDIFA's involvement and that her decision couldn't have been influenced by HDIFA. As I've said the advice that HDIFA gave meant that Miss M was able to access her pension fund to make the unsuitable investments. She didn't have any other funds to make the investments. If HDIFA had said she shouldn't do it then Miss M would have needed to have overcome other hurdles to go ahead. As things stood, HDIFA's unsuitable advice made it easy for Miss M to proceed and didn't give her any reason to question whether what she was planning was really advisable.

The incentive payment (£37,611) was substantial. But I don't think it's right to say Miss M admits she was '*in desperate need of those substantial funds'*. As I said in my provisional decision I think that's somewhat of an exaggeration. The money was no doubt useful but I'm not sure I'd put it much higher than that. Miss M was working, albeit part time. She did need to replace her car and the payment meant she could help her daughter. But, as far as I'm aware, she and her partner (who met most of the household expenses) didn't have any pressing debts that they needed to clear. The suitability letter records that Miss M's and her partner's combined net monthly income was £3,933 with expenditure of approximately £1,377, leaving a spare income of £1,613 per month, of which £1,000 is truly disposable income. Miss M didn't expect that to change significantly in the near future. That would suggest that Miss M's financial situation wasn't anywhere near '*desperate*' at the time.

Miss M wasn't actively looking to raise money at the time. It was Firm B's adviser who contacted her and introduced her to the possibility of transferring and receiving a tax free cash payment. Once that had been mentioned I can see that Miss M would have been attracted to that, especially given the large sum on offer.

But I don't think that must mean she'd have gone ahead just to secure the payment. If she'd have known how risky the investments were and that she could lose her entire (and only) pension fund I'm not sure she'd have wanted to jeopardise that for an immediate (albeit generous) cash payment. And, if she'd have known that the payment wasn't something that strictly speaking she was necessarily entitled to and could be treated as an unauthorised payment which would attract a hefty tax charge – over half of the amount paid – I think that would have made the payment considerably less attractive.

I don't underplay Firm B's adviser's part in the matter. Miss M had an existing relationship with him and from what she'd seen he was competent and efficient. I think she trusted him. From what she recalls the whole process was driven by him. I think he played an important part. But Miss M had to get regulated advice from a firm that had the necessary permissions to advise on defined benefit transfers. Firm B's adviser didn't. Nor did Firm A. So the transaction – the transfer and the investments – hinged on HDIFA's advice.

Miss M had been referred to HDIFA for specialist advice because the other parties involved couldn't advise. HDIFA were the experts and had the requisite skill and experience and regulatory permissions to advise on defined benefit transfers.

If HDIFA had given suitable advice HDIFA would have advised Miss M against transferring from her former employer's defined benefit scheme. HDIFA would also have made it clear why it was unable to advise Miss M to transfer. I don't see that Miss M would simply have ignored such advice. In my view, HDIFA's advice would have carried significant weight. I think advice from HDIFA that Miss M shouldn't transfer and invest as she planned would have called into question what Miss M may been told by others about the investments and their potential. I can't see that Miss M would have chosen to go ahead anyway.

If HDIFA had said Miss M shouldn't go ahead and if she'd have wanted to proceed anyway, HDIFA would have needed to have treated her as an insistent client. As I explained in my provisional decision, HDIFA may not have been willing to act on that basis. And, even if it was, had the correct process been followed, I think it would have drawn Miss M's attention to the considerable risks involved and concentrated her mind on whether what it had been suggested she do was really advisable.

Overall, on balance and despite the 'carrot' of the very substantial incentive payment (over half of which Miss M stood to lose if it was treated an unauthorised payment), I think Miss M would have thought again and decided against proceeding if HDIFA had given suitable advice that she shouldn't transfer.

I've considered Meyado's more recent comments. Meyado has referred to the case of Adams v Options SIPP UK LLP (formerly Carey Pensions UK LLP) [2020] EWHC 1229 (Ch). Meyado did indicate that it wished to make further comments about the case. We've allowed Meyado ample time to do so. But we have to be fair to both parties so I don't think it's unfair or unreasonable to proceed in the absence of any further detailed submissions about the case and when I don't see that the case is relevant.

First it relates to a SIPP provider's obligations whereas Miss M's complaint is made against her independent financial adviser. Secondly, the issue in the court case was the extent, if any, of the SIPP provider's obligations in an execution only transaction. Here HDIFA was providing regulated advice. Further, the court case involved a personal pension arrangement. In the present case HDIFA's advice was in respect of the transfer of the value of Miss M's benefits in her former employer's defined benefits scheme. I don't see there's anything in the Adams v Carey judgement which is obviously relevant to the present case.

All in all my views remain as I've previously indicated. I uphold the complaint. Meyado must redress Miss M as I set out in my provisional decision and which I've repeated here.

fair compensation

My aim in awarding redress is to put Miss M as far as possible in the position she'd be in now if HDIFA had given her suitable advice. I think Miss M would have retained her deferred benefits in her employer's scheme. The redress I've set out below essentially requires Meyado to compare what Miss M would have had with what she's got in her SIPP.

My understanding is that the SIPP was closed on 24 August 2016 - all investments had a nil value and there was no cash left. So a nil value should be assumed. And no award for future SIPP fees needs to be made.

I've said below that the redress should, if possible, be paid into a suitable pension arrangement. But if that's not possible a cash payment direct to Miss M should be made but reduced as I've set out below.

what should Meyado do?

Meyado should undertake a redress calculation in line with the revised methodology issued by the Financial Conduct Authority in October 2017. This calculation should be carried out as at the date of my final decision, and using the most recent financial assumptions published at the date of that decision. In accordance with the regulator's expectations, this should be undertaken or submitted to an appropriate actuarial services provider promptly following receipt of notification of Miss M's acceptance of the decision.

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

The compensation in respect of any loss should if possible be paid into a suitable pension arrangement. The payment should allow for the effect of charges and any available tax relief. It shouldn't be paid into the pension plan if it would conflict with any existing protection or allowance.

If payment into a pension isn't possible or has protection or allowance implications, it should be paid directly to Miss M as a lump sum after making a notional deduction to allow for future income tax that would otherwise have been paid.

For example, if Miss M wouldn't yet have taken a tax-free cash sum from the employer's scheme, 25% of the future loss would be tax-free and 75% would have been taxed

according to her likely income tax rate in retirement - presumed to be 20%. So making a notional deduction of 15% overall from the loss adequately reflects this.

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

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

In carrying out the above calculations, Meyado should make an allowance for the incentive payment Miss M received. It should do this by applying a withdrawal of £37,611.80 from the calculation on the date Miss M actually received the lump sum (23 January 2012).

Meyado should also pay Miss M £250 for the worry and upset this matter has caused her.

my final decision

I uphold the complaint. Meyado Private Wealth Management London Limited must redress Miss M as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 13 November 2020.

Lesley Stead
ombudsman