

The complaint

Mr H has complained that HSBC UK Bank Plc caused unacceptable delays in transferring his Self Invested Personal Pension (SIPP) funds to a new provider. Mr H has said that the delays resulted in a substantial financial loss, for which he'd like to be compensated.

What happened

HSBC was the trustee for Mr H's SIPP provider – Brewin Dolphin – and at the beginning of 2020, Mr H decided to move his SIPP to James Hay, with investment management to be provided by Raymond James Investment Services. This was to be done on an "in specie" basis, whereby the assets wouldn't be disinvested and then reinvested – rather the assets would simply be moved and reregistered within the new SIPP.

Mr H signed a letter of authority on 18 January 2020 which enabled Raymond James to obtain information regarding his SIPP. This was received by HSBC on 18 February 2020, and HSBC processed this the following day.

Unfortunately, HSBC wasn't able to match Mr H's signature with the one they held on their records and the address for the new SIPP provider was different to that which was held on the FCA's register. And so HSBC needed to conduct further checks.

HSBC provided the requested information to Raymond James on 31 March 2020, but by this time it was over 30 days old. This included the valuation it had sought from Brewin Dolphin. Much of the requested information was also missing, and so the information request was sent back to HSBC on 3 April 2020.

HSBC then received a new valuation on 15 April 2020, but didn't send this to Raymond James until it had been chased on 6 May 2020. On 9 June 2020, Mr H signed the transfer discharge forms, but HSBC said that they didn't receive these until 1 July 2020.

On 2 July 2020, HSBC requested a valuation for Brewin Dolphin for the in specie transfer, and also sought verification that the new SIPP could accommodate the stock which Mr H held in his portfolio. This was confirmed to HSBC on 30 July 2020.

HSBC sent Brewin Dolphin instructions to proceed with the in specie transfer on 13 August 2020, and on 21 August 2020 the transfer began. On 24 September 2020, Brewin Dolphin confirmed that the transfer had completed.

There remained cash of around £183,000 in the original SIPP, and this was sent to the new SIPP on 28 October 2020. A small amount of residual cash was also then transferred on 16 November 2020.

Mr H had complained during this process, through Raymond James, on 20 April 2020, saying that the process was taking too long and that Mr H was concerned as Brewin Dolphin had confirmed that it wasn't actively managing his portfolio. In its response of 9 October 2020, HSBC acknowledged Mr H's frustration with the time it had taken to complete, but it said that aspects of the transfer process were beyond its control.

It accepted that Mr H's experience "was not ideal", however, and offered Mr H £200 in respect of this.

Dissatisfied with the response, Mr H referred the matter to this service on 21 October 2020, saying that the process had taken too long and that his son, with whom he shared the same attitude to investment risk, had capitalised on investment growth with Raymond James's investment service of around 24% between 6 April 2020 and 23 September 2020.

This compared with around 11% on the portfolio he held, and he therefore considered that he'd missed out on 13% additional growth. On the value of his own pension funds, this meant that the net difference would have been growth of just under £156,000.

One of our investigators considered the matter, but didn't think it should be upheld. In summary, he noted that, due to the early checks which needed to be made on the basis of discrepancies with the signatures and Raymond James's address, several different HSBC departments were involved and this meant that there were delays in providing the requested information.

He also noted other specific delays in the process which he thought had been caused by HSBC. But he also said that, although there were failings demonstrated by HSBC, there were also other delays incurred by the other parties to the transfer, for example the initial month's delay in the letter of authority being received by HSBC, and the further delay between providing Raymond James with the required information on 6 May 2020 and the transfer discharge form being signed on 9 June 2020 – with this not then being received by HSBC until 1 July 2020.

The investigator thought that, even if HSBC had dealt with the matter more swiftly, there was no guarantee that Raymond James would have itself proceeded in a timelier fashion. He also noted that the transfer was being processed during a particularly challenging period, coinciding with the beginning of the Covid pandemic. This, he said, had exacerbated the issues between different departments within HSBC.

With regard to the losses claimed by Mr H, the investigator noted that Mr H had requested an in specie transfer, which meant that the delays wouldn't have caused him financial loss through being disinvested for any period of time. But he thought that there was a potential loss of opportunity to invest differently, which he said may or may not have resulted in a higher pension fund value.

He said that, having checked the industry standard for in specie transfers, he thought it could take between three and six months for this to complete. Mr H's application to transfer was received in July 2020, he said, and it completed in October 2020.

However, he thought Mr H should be compensated for the avoidable delays caused by HSBC, and so he recommended that it pay Mr H a total of £300 in respect of this – so £100 in addition to the £200 already offered by HSBC.

Mr H disagreed, however, saying the proposed compensation sum was derisory, and expressing concern that Raymond James hadn't been contacted during the investigation for its comments.

The investigator replied, saying that although he appreciated what Raymond James had said, and would take into account any further commentary it wished to make, he was considering the complaint against HSBC. And he remained of the view that a total sum of £300 was appropriate in this instance.

Mr H rejected the investigator's conclusions, however, saying that the transfer should have completed within three months rather than nine. He also said that the investigator had only considered HSBC's views and hadn't consulted Raymond James. He didn't think the substantial financial loss he'd suffered had been fairly considered and he said that he'd contacted a particular individual at HSBC several times in February 2020 to enquire about the delay, but hadn't been given any of the reasons set out in the investigator's assessment.

As agreement couldn't be reached, it's been referred to me for review.

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.

Having done so, I've firstly noted what Mr H has said about Raymond James not being asked to provide further commentary – but both Mr H and any party he wishes to involve have had the opportunity to provide such commentary in response to the investigator's assessment.

I've also made several further enquiries as to the details of the case, which has provided additional opportunity for Mr H and/or his representative to make any commentary on the matter if it wished to do so. Mr H has, for his part, requested that our investigation be brought swiftly to a conclusion, and as I'm confident that I can now decide the outcome of the complaint on the basis of available evidence, I'm issuing this decision.

Addressing the merits of this case, therefore, I think it's accepted by all the parties that the transfer could have been completed sooner than it was, and HSBC has acknowledged that it was responsible for some of the delays. That said, I've noted the investigator's comments on the unexplained delays which seem to have been caused by other parties to the process – so again, this has been Mr H's, or his representative's, opportunity to explain why they feel this isn't the case.

But even if it could be demonstrated that HSBC, rather than another party, was responsible for delays in addition to those identified above, I don't think an award beyond a payment for the frustration Mr H would have felt at the time taken to complete the transfer – and along the lines recommended by the investigator – would be warranted here.

To clarify, Mr H's position is that, had the transfer completed sooner, he would have been able to capitalise on the levels of fund growth enjoyed by his son, whose portfolio was also being managed by Raymond James and with whom he said he shared the same attitude to investment risk.

So I firstly need to think about whether Mr H would in fact have invested in the same way had the transfer completed sooner. And in my consideration of this, I think it's fair to say that, although Mr H asserts that he has the same attitude to investment risk as his son, their circumstances are likely to be quite different, notably in terms of their age and the fact that Mr H has been drawing on his pension assets for many years. Generally speaking, if an individual is in drawdown, the more regard is given to safeguarding a proportion of the pension fund so that the fund isn't being exposed to levels of market volatility which could significantly affect those benefits in payment – along with there being little time to recoup any losses.

Nevertheless, on the basis that Mr H was ultimately assessed as being suitable for the same kind of portfolio as his son, and that Mr H did ultimately invest in the 25% defensive/75% growth portfolio, I accept that it's possible he would have done so at an earlier point, had the

transfer completed sooner.

I've then considered the actual growth figures which have been cited at various points in the course of the complaint. Mr H said in his initial complaint submission that his son achieved 24% growth in a period of just over five months, from April 2020 to September 2020. And this was achieved by investing in a 25% defensive/75% growth portfolio (which was slightly reduced by direct investment in four assets – Hothschild, Regent Pacific, Blue Prism and Reunion).

Mr H's representative has said that the Raymond James portfolio into which Mr H would have been invested – and was invested once the transfer had completed – was more focussed on growth and investment in the USA than had been the case with his Brewin Dolphin portfolio. I note that the latter consisted of some 28 investments, spread across fairly mainstream assets of fixed interest, equities, property and cash, and wouldn't be considered particularly out of the ordinary.

Mr H's representative has further said that this level of growth was actually achieved over the whole of 2020, rather than over just five months, but I've also noted both the performance chart and other documents which indicate that the portfolio in question did increase by the percentage conveyed to us by Mr H between April 2020 and September 2020.

And so, had Mr H invested in the Raymond James portfolio sooner, he would have participated in that kind of fund growth.

But I also need to take into account that Mr H made a conscious decision to transfer in specie, rather than decide to disinvest and then reinvest according to further advice, or as has been asserted, in the same way as his son – a process which would have taken a much shorter amount of time to achieve as there would have been no need to reregister the assets. Had this been the case, Mr H would have been able to invest in the 25% defensive/75% growth portfolio sooner.

And I think this reasonably means that, until Mr H had transferred, he was keen to maintain his existing portfolio, which I don't think is to be unexpected, given what I've said above about its well diversified nature. And it should be noted that it returned 11% growth over the five months in question, which equates to an annualized growth rate of over 26%. It may have been the case that the alternative portfolio strategy performed better, but this could also have had quite a different result. The diversification of Mr H's existing portfolio reduced the exposure to potentially higher returns which could have been achieved by investing in a way which focussed more on overseas equities and growth, but by the same token reduced the prospect of magnified losses.

The emailed complaint of 20 April 2020 said that Brewin Dolphin had confirmed that it wasn't managing Mr H's portfolio, and that this was causing Mr H concern, especially during such a volatile period. But Mr H could have cancelled the in specie transfer at any point, and chosen to disinvest for the sake of reinvesting with Raymond James. If it was Mr H's intention to invest in the same way as his son, this would have been the way of both achieving this and alleviating any concerns he held regarding the lack of management of his portfolio.

That he decided not to, instead preferring to continue with the in specie transfer, in my view reasonably indicates, as I've said above, that Mr H at that point remained prepared to retain his existing portfolio. And the market volatility mentioned in the complaint email may well have had an influence on this.

Summary

Mr H had opted to transfer in specie, and so as far as HSBC was concerned, although it needed to expedite the process as quickly as possible (which it didn't – see below), it could nevertheless be confident that Mr H wasn't incurring losses which might be caused by being disinvested and "out of the market". As such, I don't think HSBC was reasonably on notice that Mr H wished to invest differently.

And although concern was expressed in the complaint email of April 2020 that Mr H's portfolio wasn't being actively managed, there was no mention that the in specie transfer needed to happen quickly so that Mr H could disinvest and reinvest in a different portfolio. This would in any case have seemed somewhat counterintuitive. If Mr H had wanted to change the bulk of his investments, it would have been pointless to transfer in specie in the first place – as alluded to above.

Overall, therefore, I accept that there may have been a loss of opportunity here, as noted by the investigator – Mr H may have invested in the same way as his son sooner. But on the basis that Mr H opted to transfer in specie instead of disinvesting and reinvesting in line with a different investment strategy, and maintained this course of action when the alternative was readily available, I don't think it would be fair or reasonable to uphold the complaint about notional investment losses on the basis of what is known about the performance of the alternative portfolio with the benefit of hindsight.

But HSBC did cause some unnecessary delays in the in specie transfer, as I've said above. And even though this didn't result in Mr H being disinvested for any period of time, I think Mr H would quite reasonably have been frustrated by this. As such, I think the recommended total of award of £300 is about right.

Putting things right

HSBC UK Bank Plc should pay Mr H a total of £300.

My final decision

My final decision is that I uphold the complaint and HSBC UK Bank Plc should pay Mr H the total sum of £300.

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

Philip Miller
Ombudsman