

The complaint

Mr T complains about the poor service and delays he experienced when he moved his SIPP from Embark Services Limited to another SIPP provider.

In order to put matters right Mr T wants Embark to refund all the fees it applied to his account in 2020, pay the fees his IFA intends to charge him for its involvement in this matter (Mr T estimates the fees will be around £2,500 plus VAT), compensate him for the trouble and upset this matter has caused and compensate him for the loss of the use of his money while the transfer was being processed.

What happened

Mr T held a SIPP with Embark (previously Hornbuckle).

In February 2020, Mr T, with the assistance of his IFA, began the process of moving his SIPP from Embark to another provider. I understand that Mr T wanted to move his SIPP to a new provider as Embark would not permit him to hold another property within his SIPP wrapper.

At the time the transfer was requested Mr T's SIPP held cash of over £277,000 and a property valued at £205,000.

The transfer to the new SIPP provider was completed in October 2020.

In July 2020 Mr T complained to Embark. He said he was unhappy with the length of time the transfer was taking and that Embark had continued to apply fees to his account.

Embark issued a final response in August 2020, it accepted that it was responsible for some of the delays Mr T had experienced. In order to put matters right it offered to refund part of the 2020 property administration fee it had applied and a drawdown fee that had been charged incorrectly. It said it would calculate the amount it was willing to refund, once the transfer had been completed.

Mr T was not satisfied with Embark's offer and referred the matter to this service.

In order to resolve his complaint Mr T said he wanted Embark to refund all the fees it had applied for 2020, pay his IFA's costs in relation to the transfer and his complaint, compensate him for the trouble and upset this matter had caused and compensate him for the loss of the use of his money while the transfer was being processed.

Our investigator said, in summary, that he didn't think it would be fair to require Embark to reimburse Mr T for any IFA fees he had incurred in relation to chasing up the SIPP transfer or assisting Mr T with his complaint. He explained that he was of the view that it was Mr T's choice to use his IFA to chase Embark and help with his complaint, so he didn't think it would be fair to require Embark to cover these costs.

He noted that Mr T said that, as a result of the delays caused by Embark, he had lost out on possible investment opportunities, as he couldn't invest the cash held in his SIPP until the transfer to the new provider had been completed. Our investigator noted that Mr T hadn't provided anything to show that he had missed out on a specific investment as a result of any delays in transferring his SIPP. As this was the case, he said he didn't think he could reasonably require Embark to compensate Mr T in respect of this aspect of his complaint.

Mr T also said he wanted Embark to refund all the fees it had applied in 2020. Our investigator said he didn't think it would be fair to require Embark to refund all the fees that had been applied. He noted that Embark had offered to refund £517.48 of the fees it had charged. Having reviewed how this figure had been calculated he said he felt this offer was fair, but he said Embark should also pay 8% simple interest on this figure from the date the payment was taken, to the date of settlement.

In addition, he said he was of the view that Embark should pay Mr T a further £100 for its failure to notify him of the amount it was willing to pay in order to resolve his complaint.

Mr T did not accept our investigator's view. He said:

When Embark have acknowledged their mistakes and extremely poor service I cannot see how you can reach a conclusion that the additional IFA Costs, loss of investment opportunities and general unnecessary stress I have experienced can only be worth the nominal compensation sum of £100 !

Having had the personal experience of many years working in financial services I consider that none of these large companies like Embark will change their attitudes to appalling service and poor administration whilst the penalties for falling short are not financially detrimental to them on a meaningful basis...

...In addition there appears to have been no penalty imposed on Embark for not even bothering to meet the timeframe which you set for them to respond to your enquiries and perhaps you would explain why this should be the case.

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 think the redress recommended by our investigator is fair in the circumstances of this complaint. I'll explain why.

I am sympathetic to Mr T's position and I appreciate that he feels Embark was responsible for all the delays he experienced when he moved his SIPP to a new provider. But, based on the information that has been provided to this service I can't reasonably agree with Mr T's position.

As Embark set out in its final response letter, dated August 2020, as Mr T wanted to transfer the property he held in his SIPP in-specie it needed a completed property sale form. The transfer process for the property couldn't start until this was received. I understand that this was provided to Embark on 18 March 2020. So, although the initial request to transfer the SIPP was received in February 2020, the process couldn't actually begin until mid-March 2020.

Embark accepts that it didn't respond to the solicitor acting for the receiving scheme as quickly as it should have once it received the property sale form. The solicitor acting for the

receiving scheme chased Embark on 2 and 9 April 2020 but Embark did not respond until 14 April 2020 (nearly a month later). Embark then responded and said that as no solicitor had been confirmed to be acting for the existing scheme it assumed that the solicitor acting for the receiving scheme was acting for both parties and it issued a letter of no conflict. However, the solicitor for the receiving scheme then notified Embark in mid-April 2020 that it couldn't act for both sides in the transaction.

Embark then contacted Mr T's IFA on 21 April and asked for details of the solicitor who would be acting on behalf of the existing scheme. It appears it did not receive a response and it chased Mr T's IFA on 28 April 2020. Mr T's IFA then responded and asked Embark to get a quote from its panel solicitor. On 11 May 2020 Mr T's IFA then contacted Embark again to say it had appointed a solicitor to act on behalf of the scheme. So, it would appear that a three-week delay was caused while a solicitor was appointed to represent the existing scheme. I can't reasonably hold Embark responsible for this delay.

Once a solicitor had been appointed for the existing scheme there was then a further delay as the necessary transfer forms were not received until 2 June 2020. Again, I can't reasonably hold Embark responsible for this delay.

Once it had received the transfer forms Embark responded on 9 June and explained that it required amendments to the transfer documents to meet HMRC requirements. On 22 June Embark received an email relating to the revised transfer document but it appears attachments were missing from the email and despite Embark flagging this on 29 June 2020. I understand that the necessary documents were not provided until 16 July 2020. Again, I can't reasonably hold Embark responsible for these delays.

I also understand that in early September 2020, Embark was informed that the property transfer documentation needed to be amended as there were two title numbers for the property Mr T held in his SIPP. Again, it is not clear to me how Embark could be considered responsible for the delay this caused.

Having carefully considered this matter I cannot agree with Mr T's position that Embark was solely responsible for the delays he experienced. As I have set out above it appears that, on occasion Embark could have responded more promptly, but it appears that delays were also caused by other parties. As this is the case, I don't think it would be fair or reasonable to require Embark to refund all the fees it charged Mr T in 2020.

I have reviewed the offer Embark has made to refund part of the property administration fees it applied in 2020 and a drawdown fee that was charged incorrectly. I think its offer is fair and reasonable, but I think it should also pay 8% simple interest on this amount from the date the payment was taken to the date of settlement.

I don't think it would be fair to require Embark to refund other fees Mr T was charged (in particular the non-block insurance risk fee or the self-managed risk premium fee) as I am satisfied that these fees needed to be paid.

However, I do think Embark should have contacted Mr T with its redress offer and it is disappointing that Mr T did not receive the offer until our investigator requested it. But I think the £100 our investigator recommended for this failing is fair in the circumstances of this complaint.

I appreciate that Mr T feels this offer is too low and that Embark should compensate him for '*additional IFA Costs, loss of investment opportunities and general unnecessary stress*'. But as I have set out above, I don't think Embark was responsible for all the delays Mr T

experienced and I cannot reasonably require it to compensate Mr T for delays it was not responsible for.

I am also mindful that in-specie SIPP property transfers usually require the receiving scheme to carry out the same due diligence as would be the case in any other type of property purchase, and this can be time consuming.

In his response to our investigator's view Mr T said he felt Embark should pay a '*financially detrimental*' penalty for the poor service he received. As Mr T may know, this service determines complaints on their individual merits. We don't have the power to fine or discipline financial services businesses, that is the role of the industry regulator, the Financial Conduct Authority (FCA). If Mr T wishes to pursue the wider implications of what he feels was an unacceptable level of service, he may wish to raise his concerns directly with the FCA. Likewise, if Mr T does not wish to accept this decision he is, of course, free to pursue this matter in the courts.

Putting things right

In order to resolve this matter my decision is that Embark should pay Mr T £517.48.

Embark has calculated the redress as follows:

Property administration fee

Fee raised on 1 May 2020. Transfer completed on 22 October 2020. The property was therefore in the scheme for 175 days.

365 – 175 = 190. Pro rata refund is therefore 190 days.

£425.00 ÷ 365 x 190 = £221.23 (£265.48 including VAT)

Drawdown fee

£210.00 plus VAT = £252.00

Refund offered

£265.48 + £252.00 = £517.48.

In addition, Embark should pay 8% simple interest on this amount from the date the payment was taken, to the date of settlement.

Embark should also pay Mr T a further £100 for its failure to contact him with its offer of redress.

My final decision

My decision is that I uphold Mr T's complaint.

I have set out above the redress Embark Services Limited must pay Mr T in order to resolve this matter.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 4 August 2022.

Suzannah Stuart
Ombudsman