DRN-3393423

The complaint

Mrs F complains that errors made by A J Bell Management Limited ("AJB") meant that the transfer of some pension savings from another provider to AJB was delayed.

What happened

I issued a provisional decision on this complaint in February 2022. In that decision I explained why I thought the complaint should be upheld and what AJB needed to do in order to put things right. Both parties have received a copy of the provisional decision but, for completeness, I include some extracts from it below. In my decision I said;

> *Mrs F held pension savings with AJB. She also held pension savings with another firm. In September 2019 Mrs F instructed AJB to request the transfer of approximately £330,000 of her pension savings from the other firm to the pension plan she held with AJB.*
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> *AJB appears to have made a number of errors when requesting that transfer. It initially added a note to the transfer request stating that the amount was £33,000, and confirmed that request to Mrs F's financial advisor. When the error was identified, AJB cancelled the original transfer request and input a replacement. But the other provider sought confirmation from AJB that all was now in order before it actioned the request. It took a little time for AJB to respond to that request.*
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> *When Mrs F first complained to AJB it didn't think its errors had caused any material delays to her transfer. But, whilst we have been considering the complaint, AJB accepted responsibility for a delay amounting to approximately eight days. So it offered to pay Mrs F compensation based on the fall in the value of the transferred amount, and the changes in the prices of the investments she subsequently made after the transfer.*
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> *AJB has accepted responsibility for the delay in the transfer of Mrs F's pension savings from the other provider. The time period that AJB has suggested for the delay appears to me to be reasonable, and a fair reflection of how things might have progressed had it not made the initial error in the amount being transferred. Although some of the delay might be attributed to the additional confirmation sought by the other provider, that was only done in response to the error AJB had made. I agree with AJB's assessment of the delay that Mrs F experienced.*
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> *So my decision here only needs to consider what AJB should do to put things right.*
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> *I think that Mrs F has lost out as a result of the delay in two respects. Before the other provider could transfer the pension savings to AJB it needed to sell Mrs F's investments. Had that sale been completed when AJB made its original request, the proceeds of the liquidation of the assets would have been greater. The other provider has told AJB that the delay meant that the transfer it made was reduced by £7,861.11.*

And then, if the higher amount had been transferred, it would have been available to Mrs F to invest alongside her other pension savings with AJB. Those pension savings were held in two ways. A proportion of Mrs F's pension savings were invested using a third-party investment manager. And the remainder appears to have been invested directly by Mrs F, in what AJB calls its Funds and Shares Service Account. I think it would be reasonable to conclude that if Mrs F had received the higher transfer amount she would have invested her additional monies in the same way.

And to an extent that is the approach that AJB has taken when assessing the compensation that is due to Mrs F. It has looked at what the value of the additional transfer amount would now be, had it been invested in the same proportions as the transfer it actually received.

But as I explained to AJB, I think its calculations are flawed in two respects;

- *When looking at Mrs F's investments AJB appears to have failed to consider the monies that she invested into the Funds and Shares Service Account. It only seems to have considered the monies that were placed with the investment manager.*
- *One of the benefits of using an investment manager is that investments are regularly reviewed to take account of changing market conditions. I don't have full statements for Mrs F's accounts, but it seems even in the first month following the transfer some changes were made. So simply looking at the current value of the investments Mrs F actually made at the time doesn't fairly reflect the position she'd now be in had the higher amount been transferred.*

So, I currently think AJB needs to revise the compensation it is paying to Mrs F to more fairly reflect the position she'd now been in had the transfer been completed in a timely manner.

I invited both parties to provide us with any further comments or evidence in response to my provisional decision. Mrs F has said she accepts my provisional findings. She has pointed out that she holds Fixed Protection 2014 (FP2014) on her lifetime allowance, so asks that it is taken into account when the method of compensation is decided. And she has confirmed that she is a basic rate taxpayer.

AJB doesn't agree with the method I have proposed for calculating the compensation. It says that this Service has long accepted the method of calculation it has used. It says it has never been asked to calculate compensation in the way I have suggested. It accepts it is responsible for the original delay, but says it didn't cause any delays to subsequent trades that Mrs F might have completed. It says including these in any calculation would not be rational. AJB says its calculations show that Mrs F was actually £548.42 better off as a result of the delay to the investment of her pension savings.

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.

I thank Mrs F for her response to my provisional decision, and I will note her fixed protection as part of the redress I direct below. I have considered carefully what AJB has said, but its comments haven't led me to conclude that I should alter the redress methodology I set out in my provisional decision. But I would like to comment further on some of the points it has raised.

As AJB will be aware, I am required to decide each complaint on its own merits. And in doing that I need to ensure that any compensation I direct a business to pay is appropriate, and specifically tailored to the actual circumstances of the complaint. I think I can fairly summarise what I think the impact of the delay on Mrs F's investments was by the following;

- As a result of the delay (for which AJB accepts responsibility) the amount that was transferred from the other pension provider was reduced by £7,861.11. So the amount that Mrs F had available to invest was lower than it should have been.
- Following the transfer Mrs F made a number of initial investments, both directly and through her investment manager. And over the years since the delay took place she has made further changes to her investments.
- As a result of her investment decisions, Mrs F's pension savings (both directly invested and invested by the third party) have grown in value. It is reasonable to assume that the additional amount that would have been transferred had there been no delay would have grown at the same rate. So it is those growth rates that fairly reflect the investment loss that Mrs F will have suffered.

In calculating the compensation I am not suggesting that AJB needs to examine in detail every trade that Mrs F has made. Instead I think it would be reasonable to simply compare the total starting value of each tranche of Mrs F's pension savings (at the date her first investments of the transferred funds were made) with their total value at the date of this final decision. In assessing those values, AJB should clearly take account of any deposits, or withdrawals, that Mrs F might have made to or from her pension savings.

As I said above, Mrs F made her investments both directly and through an investment manager. I can see that approximately 84% of the transferred funds were placed with the investment manager, and the remainder invested directly by Mrs F. So AJB should use those proportions when applying the overall investment returns to the deficit.

I think that what I am proposing above is the correct methodology for AJB to use in order to put Mrs F as close as possible to the position she would have been in had no delays taken place. Whilst that might be different from what AJB has been asked to do on other complaints, I think that the approach I am directing is both fair and reasonable.

Putting things right

Had the transfer been completed without any delays Mrs F's former provider has calculated that AJB would have received an additional £7,861.11. That amount should be paid to Mrs F, but should be increased, or decreased, in line with the investment returns I set out below.

As I said earlier, Mrs F's pension savings were invested both by an investment manager, and directly in the Funds and Shares Service Account. I can see that Mrs F allocated approximately 84% of her transferred pension savings to the investment manager, with the remainder being used for purchases in the Funds and Shares Service Account.

So AJB should calculate the overall returns that Mrs F has received during the period from her first investments being made on 15 October 2019 to the date of this final decision, on each account. And those returns should be applied to the relevant proportion of the compensation set out above to calculate the position Mrs F would now be in had nothing gone wrong.

Details of the calculation should be provided to Mrs F in a clear, simple format.

The total calculated compensation (additional transfer plus or minus investment returns) should be paid into Mrs F's SIPP. The amount paid should allow for the effect of charges and any available tax relief. Compensation should not be paid into the pension plan if it would conflict with any existing protection or allowance. AJB should particularly note the Fixed Protection 2014 (FP2014) Mrs F holds on her lifetime allowance.

If AJB is unable to pay the total amount into Mrs F's SIPP, it should pay that amount direct to her. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore the total amount should be reduced to notionally allow for any income tax that would otherwise have been paid. The notional allowance should be calculated using Mrs F's expected marginal rate of tax in her retirement. I have concluded that Mrs F is likely to be a basic rate taxpayer so the reduction should equal the current basic rate of tax. However, as Mrs F would have been able to take an additional tax-free lump sum, the reduction should be applied to 75% of the compensation.

If payment of the compensation is not made within 28 days of AJB receiving Mrs F's acceptance of my final decision, interest should be added to the compensation at the rate of 8% per year simple from the date of my final decision to the date of payment.

My final decision

My final decision is that I uphold Mrs F's complaint and direct A J Bell Management Limited to put things right as detailed above.

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

Paul Reilly
Ombudsman