

The complaint

Mr B complains that Perspective (Thornton Springer) Ltd (Perspective) caused unnecessary delays in processing his request for a withdrawal from his pension plan.

What happened

Mr B had a personal pension plan (PPP) held with a firm I'll refer to as [A]. Perspective was engaged as his financial adviser.

In March 2021, Mr B contacted Perspective and informed it he wished to make a withdrawal of £35,000 from his portfolio, and for the funds to be paid to him within the tax year 2020/21. Perspective made a formal recommendation that he utilise the funds within his PPP held with [A]. The necessary paperwork was completed, and the instruction passed to [A], but the funds were released on 6 April 2021, which was in the tax year 2021/22.

Mr B told Perspective that having the payment made in the tax year 2021/22 meant he was going to be liable for additional tax in that year. The matter wasn't resolved and on 21 May 2021 Perspective opened a formal complaint investigation to establish what had happened.

Perspective sent Mr B its final response to his complaint on 16 August 2021. In this Perspective upheld his complaint and agreed it had failed to process his withdrawal request in a timely manner. It agreed that if Mr B could demonstrate he'd suffered any financial loss as a result of the payment being made in the tax year 2021/22, instead of the previous year as he'd intended, it would make good his losses.

In September 2021 Mr B asked Perspective to arrange a withdrawal of £41,525 from his PPP. But Perspective recommended he utilise his NS&I Premium Bond holdings to access this amount as this would reduce any tax liability. Perspective also said that its offer to make good any financial losses incurred by Mr B still stood, but as he was able to make the required withdrawal from his portfolio without incurring any tax liability, it wouldn't reimburse any tax liability incurred through a withdrawal from his PPP, as this wasn't the course of action it was recommending.

Mr B wasn't happy with this so complained to our service.

When our Investigator looked into what had happened, he thought Perspective hadn't treated Mr B fairly. He thought Perspective ought to honour its original commitment to make good any financial losses Mr B incurred as a result of the funds being paid to him in the incorrect tax year. But he did note that Mr B hadn't actually made any further withdrawals from his PPP in the tax year 2021/22 so there was no further tax liability and hence no financial loss. But he did think Perspective should pay Mr B £300 for the distress and inconvenience it had caused him for the consequences of it failing to process the withdrawal in a timely manner.

But Mr B didn't agree. He submitted a large amount of information to support his position. In summary, he didn't think £300 was sufficient compensation for the distress and inconvenience he'd been caused, and he explained in some detail why this was the case. He

also said that he was unhappy with the way Perspective had handled his complaint, and that it had failed to honour the commitment it had made in its final response letter to his complaint. He also said he had suffered a financial loss, as he had had to cash in two index-linked National Savings Certificates (NS&I) bonds with a combined value of £25,664.32 and these would've been of increasing value had they not been cashed in.

As no agreement could be reached the matter has come to me for a final decision.

Whilst considering the case, I asked Mr B to provide me further information about his expenditure during the tax year 2021/22 and what investments, if any, he had had to utilise instead of the requested PPP withdrawal in September 2021.

Mr B said, in summary, that it was a long-standing plan to utilise withdrawals from his PPP in the tax years 2020/21 and 2021/22 to supplement his income up to the higher rate tax threshold. The cash withdrawal which should have occurred in March 2021 had been already earmarked for the purchase of a new car in May 2021, so given the uncertainty at the time caused by Perspective not committing to cover any future tax liability, he'd cashed in the two NS&I Savings Certificates which were attracting a high rate of interest. He'd also started taking the dividends from his share investments as income rather than re-investing them as he'd done previously. So, he said he'd suffered the loss of investment returns and growth from both of these sources as a direct result of Perspective's error.

He stressed that had he been able to make the planned PPP withdrawal in September 2021 this would've provided a net income of roughly the same as the NS&I bonds and dividends combined, which confirmed that this was his original intention all along. He concluded that Perspective had only changed its position as it realised it would have to compensate him for excess tax. Therefore, he thought Perspective ought to compensate him £8,305 which was roughly the 20% tax he would've paid had he completed the September 2021 withdrawal from his PPP.

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.

Perspective is not disputing that it should've actioned Mr B's withdrawal request in March 2021 more quickly. And this would've meant Mr B would've received his income in the tax year 2020/21, and not, as it transpired, in 2021/22. And when it issued its final response to his complaint, it agreed that it would cover any financial loss Mr B suffered as a result of its error.

But when Mr B asked Perspective to arrange a withdrawal of £41,525 from his PPP in September 2021, it recommended that he utilise his Premium Bonds in order to reduce his tax liability. And although it said it would cover any demonstrable loss that Mr B incurred, it was recommending that he get his required income from an available tax-free source.

The role of our service is to identify if an error, or errors have occurred. And where one or more has been identified, we aim to put the consumer back in the position they would've been if the error hadn't occurred. But we are limited in what types of activity we can consider. I know Mr B will be frustrated by this, but complaint handling, in the specific circumstances of this complaint, is not a regulated activity. So, it falls outside of my powers to rule on how Perspective has handled its complaints procedure. Nor can I require it to pay compensation for the delays in the issuing of its final response or make a finding if it changes its position post its final response. What I can do however, is focus on the crux of this complaint - the delay in actioning the withdrawal - and decide what, if anything,

Perspective needs to do to put things right.

Perspective has agreed that Mr B requested the withdrawal of £35,000 from his portfolio in time for it to be paid to him within the tax year 2020/21. I can see Perspective made a formal recommendation for Mr B to use the funds held within his [A] PPP for this purpose. This recommendation is not the subject of a complaint, so I have not assessed its suitability.

But Perspective have, by delaying the transfer so that it fell within the tax year 2021/22, made a mistake here. So, it is fair and reasonable for it to make good any financial loss which Mr B suffered as a result of its mistake.

Mr B has supplied a great deal of information, both to the Investigator and to myself, for which I'm grateful, and I can assure him I've read and considered it all closely. But having done so, I can't see that Mr B has suffered any financial loss as a result of Perspective's error. I'll explain why.

I have looked closely at what Mr B has said he had to do to support his income in 2021/22. He has explained that the £35,000 withdrawal which should've occurred in March 2021 was earmarked for a car purchase in May 2021. And he says that because of the uncertainty at that time caused by Perspective not committing to cover any tax losses from a further planned withdrawal, he cashed in two index-linked savings bonds, and took share dividends as cash. He says both of these investments could've grown in value, and this potential growth has been lost.

Whilst I understand Mr B's position here, I don't agree that it's caused a loss in the way he thinks it has. I can see the NS&I savings certificates he cashed in in May 2021 were maturing then anyway. I understand Mr B says he could've re-invested them, but he chose not to. This is the same for the share dividends. Mr B made a decision to take these as cash to supplement his income. And both of these decisions meant a probable loss of future growth. But both of these decisions were made a significant time before Perspective's complaint investigation outcome, and given the first PPP withdrawal was already earmarked for the purchase of a new car, I think it is more likely than not that Mr B would've had to supplement his income by cashing in the NS&I savings certificates and share dividends anyway. So, it wouldn't be fair for me to hold Perspective responsible for any associated loss of investment growth from either of these.

And Mr B has shown that the income he received from the NS&I savings certificates and share dividends was roughly the net income he would've received from the second withdrawal of £41,525 from his PPP. So, he had already received an equivalent income before the second request, made in September 2021 which ultimately didn't go ahead, was made. I can only say that Perspective would be responsible for any losses which occurred after this date. And Mr B hasn't shown that there were any other additional sources of income accessed for the remainder of the tax year 2021/22.

Whilst I agree that Perspective should've honoured its commitment made in its final response letter to compensate Mr B for any financial losses he incurred, the tax year 2021/22 has passed, and I'm satisfied that Mr B hasn't suffered any financial losses that I can fairly hold Perspective responsible for.

Putting things right

I do agree that Perspective's delay in actioning Mr B's withdrawal request has caused him some distress and inconvenience. And he has provided a lot of evidence to support this. I can see that he probably had to make some changes to his 2021/22 financial plans due to the uncertainty regarding his tax position, but as I've said above, I'm limited to considering

the impact the original error has had. I can't consider the distress and inconvenience he's been caused by Perspective's complaint investigation or its outcome. This is because complaint handling in these circumstances is not a regulated activity, and so is outside of the jurisdiction of this Service.

But having considered the impact of Perspective's error, I agree with the Investigator that £300 compensation is fair and reasonable in the circumstances and is broadly in line with our Service's approach.

My final decision

I uphold this complaint. I require Perspective (Thornton Springer) Ltd to pay Mr B £300 compensation for the distress and inconvenience he's been caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 18 January 2023.

Chris Riggs
Ombudsman