

The complaint

Mr B says The Private Office Limited (TPO) failed to provide him with sufficient advice and information in order that he could make informed decisions about the switch of his Self-invested Personal Pension (SIPP) and investment funds.

What happened

Mr B decided during the summer of 2020 that he needed advice regarding his SIPP. He says it had suffered post COVID and he no longer felt it appropriate to self-manage his pension. He engaged TPO to prepare a report and provide recommendations about what he should do. He also wanted to take some benefits through the Uncrystallised Funds Pension Lump Sum (UFPLS) mechanism.

TPO produced a suitability report for Mr B dated 7 October 2020. It recommended he switch his SIPP from Hargreaves Lansdown (HL) to Novia. It said it could provide him with ongoing management of his pension and improve the coherence and diversification of his investment strategy through the new provider giving him access to portfolios of funds which met his risk appetite. It also provided for a £10,000 UFPLS. Mr B agreed to its recommendations.

TPO advised Mr B to sell all investments in his HL SIPP and move the funds across to his new provider in cash. He says funds were available by 14 October 2020. An electronic transfer request was sent to HL on 20 October 2020. However, the transfer to Novia didn't take place until 25 November 2020. And his funds weren't reinvested in its portfolios until 24 December 2020.

Mr B had several concerns about what happened. He complained separately to HL, Novia and TPO. His case and its focus has evolved during its journey. In January 2021 TPO responded to matters concerning the chronology of events in switching his pension provision, including matters such as delay and the timing of payment of fees.

TPO accepted responsibility for its role in a short delay effecting Mr B's new investments. It conducted a loss calculation which showed he hadn't been financially disadvantaged. Nevertheless, it offered him £250 in recognition of the inconvenience caused.

Mr B wasn't satisfied by TPO's response and his complaint began to expand on his concerns, for example about why it hadn't properly explored the potential for carrying out the switch of his existing HL funds in specie. TPO explained to him in May 2021 why it thought selling down his investments to cash was the right option for him, but Mr B disagreed.

Mr B decided to bring his complaint to this Service. He told us:

"The basis of my complaint against The Private Office is not the delay in transferring funds. ..[It] is that they advised a cash transfer of funds. I was not aware that there was another option i.e. in specie transfer. The Private Office did note in the advisory report to me that my capital would not be invested while the recommended changes to my pension funds were being transacted further explaining that this meant that I would not be exposed to market

movements during this period of time and there was potential for loss of growth should the markets rise. There was no mention of the option of an in specie transfer...”

“...I am complaining that the advice was wrong and that the transfer should have been an in specie transfer. I would like to point out that subsequent internet research revealed to me that it is a matter of public knowledge that Hargreaves Lansdown are amongst the slowest of SIPP transferors taking in excess of 30 days to effect a transfer. The Private Office should have known this and this should have informed their decision as to how to effect the transfer.”

“Additionally, there was a UFPLS transfer in the process. One of the reasons for the delay in effecting the transfer is that Novia's process is to only effect investments after the UFPLS process is complete. The Private Office should have been aware of this and Novia's prior performance in effecting transfers.”

“The Private Office has explained to me that one of the difficulties of an in specie transfer is that I was not invested in the same funds as they would be investing in through the Novia platform. I contend that The Private Office could have provided ...details of the investments that they proposed and I could have re-adjusted my Hargreaves Lansdowne SIPP to reflect The Private Office's recommendations.”

An Investigator considered Mr B's case but didn't uphold it. Amongst other matters, he noted the constraints of his former arrangements where HL didn't work directly with other advisory firms. He thought that in his situation, selling to cash rather than conducting an in specie switch was more common because it was generally simpler and quicker. And he didn't think TPO could be held responsible for any failings of third parties in the transaction. Mr B disagreed.

As both parties couldn't agree to the findings and conclusions of the Investigator, Mr B's complaint has been passed to me to review afresh and to issue a decision. This is the final stage of our process.

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.

Where there's conflicting information about what happened and gaps in what we know, my role is to weigh the evidence we do have and to decide, on the balance of probabilities, what's most likely to have happened.

I've not provided a detailed response to all the points raised in this case. That's deliberate; ours is an informal service for resolving disputes between financial businesses and their customers. While I've taken into account all submissions, I've concentrated my findings on what I think is relevant and at the heart of this complaint.

I start by noting that Mr B has brought complaints against HL and Novia. I won't be looking at the acts or omissions of those parties in this decision.

I'm not upholding Mr B's complaint. I'll explain why I've arrived at my conclusion.

I've considered the extensive regulation around transactions like those performed by TPO for Mr B. The FCA Handbook contains eleven Principles for businesses, which it says are fundamental obligations firms must adhere to (PRIN 1.1.2 G in the FCA Handbook). These include:

- Principle 2, which requires a firm to conduct its business with due skill, care and

diligence.

- Principle 6, which requires a firm to pay due regard to the interests of its customers.
- Principle 7, which requires a firm to have due regard to the information needs of its clients and communicate information to them in a way which is clear, fair and not misleading.

So, the Principles are relevant and form part of the regulatory framework that existed at the relevant time. As such, I need to have regard to them in deciding Mr B's complaint.

Mr B says when offering him advice TPO should've raised an in specie switch of his pension funds as an option, instead of telling him to sell his investments to cash before the transfer took place. He thinks what it told him to do was wrong.

Mr B says TPO should've been aware that HL took in excess of thirty days to transfer funds. And that where a customer wants to take a UFPLS, Novia's processes are such the investment of funds transferred is delayed until this element of the transaction is complete. He says it should've at least provided him with an estimate of the time to transfer the funds.

TPO says there's no requirement in a suitability report to detail the reasons as to why a particular course of action has been discounted. But that when providing advice it considers all relevant options. For Mr B, it discounted recommending an in specie switch because it could've taken longer to have moved Mr B to Novia. During that time it wouldn't have had sight of his investments or an ability to effect changes to his portfolio, including the ring-fencing of cash and payment of his UFPLS.

TPO says the majority of Mr B's self-selected holdings on the HL platform were individual shares he'd selected for dividend yield, a strategy he wished to change. Since it couldn't advise on individual stocks retaining them for an unspecified duration during an in specie transfer was deemed unsuitable. Any dealings related to the transfer of assets on an in specie basis would've needed to be undertaken by Mr B.

In its suitability report to Mr B it told him:

"Your capital will not be invested while the recommended changes to your pension funds are being transacted. This means that you will not be exposed to market movements during this period of time and there is potential for loss of growth should the markets rise."

The Investigator asked both HL and Novia for their respective thoughts on conducting an in-specie transfer of Mr B's investments.

HL as the exporting SIPP provider said:

"We would have been able to facilitate an 'in-specie' (stock) transfer for the client at our side of the transfer if the client wanted to proceed via this method, however it would also depend on whether the receiving provider can also accept the transfer on an 'in-specie' basis..."

"If a receiving provider can accept 'an in-specie' transfer and this is the preferred method of transfer, we would typically require the receiving provider to request information on the existing plan, via a paper discharge form or electronically. We would then provide a valuation of the account to the other provider and await their acceptance of the transfer to proceed. If the transfer is not proceeding electronically but via paper format, we would also require the client to provide us with a completed copy of their discharge forms to proceed."

"Upon receipt of the new provider's acceptance, we would liaise with the new provider to agree the trade and settlement dates to initiate the transfer of any applicable equities. If any

funds (unit trusts) are to be transferred, we would liaise with the new provider and the relevant fund manager to initiate the transfer of these stocks. We typically expect 'in specie' transfers to complete within 6 weeks of us receiving acceptance from the new provider, and the client's discharge forms, but this will depend on the processing timescales of the relevant third parties involved. Re-registration of funds may need to be requested via paper documentation, which is one of the reasons why we suggest that 'in-specie' transfers can take longer to complete."

Novia as the importing SIPP provider said:

"To transfer a pension to the Novia platform from another provider, the registered adviser would submit a re-registration application through our online portal Adviser Zone. The adviser will subsequently send a re-registration transfer authority to Novia. Upon receipt, we will send the reregistration authority to the ceding scheme to initiate the transfer."

"The ceding scheme would then provide us with the valuation of funds/assets held by the client. Upon receiving the valuation, we will check if we can hold the assets on Novia's platform and we would issue an acceptance to the ceding scheme confirming the assets to transfer in-specie. If there are any assets that cannot be held, we will contact the adviser to discuss the options available including sale of the asset(s) to be transferred as cash."

"After Novia has sent their acceptance, the ceding scheme will instruct the relevant fund managers to transfer the units to Novia's nominee and once received, we will apply the units to the client's wrapper. As there are multiple parties involved, re-registration transfers typically take significantly more time than equivalent cash transfers as communication between ceding, receiving party and fund managers is involved."

"In the majority of cases, we would expect the in-specie transfer to take approximately 4-8 weeks from receipt of the re-registration authority. However there are a range of factors which can affect how long the transfer takes and we would not provide an estimate or timescale to an adviser or client on an in specie transfer. As much of the process is not completed by Novia, we cannot guarantee the timescale for an in-specie transfer."

"We could not advise whether Mr B could have had an in-specie transfer instead of a cash transfer as we do not know which assets were held in his Hargreaves Lansdown pension. Please note, Novia will not process a Benefit Crystallisation Event (BCE) until after the in-specie transfer is completed and all assets are transferred. Mr B's had a BCE processed on his Novia account on 14 December 2021."

I don't think Mr B's argument that TPO should've made him aware of the option to switch his investments in specie is without merit. I also think it would've been helpful to have given him an estimate of how long things might take. It should've discussed these things with him and it could've covered the position briefly in its suitability report.

Had TPO done a better job at recording its rationale for all elements of the switch of Mr B's pension, I think it would've set out the same arguments as it has to this Service about why selling down his investments to cash was a better option for him in his circumstances. Despite Mr B's current position on this matter, I think it's more likely than not at the time he'd have accepted TPO's advice. I say this because on average lay people tend to accept the recommendations of professional advisers.

My finding here is strengthened by the testimony provided by two other firms, which have indicated that usually in specie switches can take longer to execute. They've set out why this is the case, given the processes to be followed and the various parties involved.

Further, Mr B informed the Investigator of research he'd done which suggested in specie switches could take anywhere from 14 days to six months. So, it seems he could've found himself in a worse position than he ended up in.

I'm not persuaded by Mr B's assertion that TPO's recommendation for him to sell down his investments to cash before proceeding with the switch to Novia was wrong and led to his financial detriment. It wasn't clearly unreasonable advice. He hasn't done enough to show it was.

Mr B told this Service:

"Prior to TPO instructing me to transfer my pension investments into cash, a significant proportion of my pension investment with HL was in cash. The whole point of transferring out of HL to TPO was to get 100% invested. I was partially out of the market because I had lost confidence in my ability to invest. I was desperately keen to be fully invested and the profiling that TPO did will bear this out. Being out of the market was the last thing I wanted to be. This should have been borne in mind by TPO when deciding on the best way to proceed with the transfer."

I understand Mr B's argument. In hindsight he may've had too much of his funds in cash for too long during the period in question. But TPO's advice was about moving him to a different investment strategy. He was 63 at the time of the advice. He was hoping to slow down by the time he reached 70. So, he was investing for the medium term. Moving away from his prior focus on dividend yields to capital growth.

I'd note the old adage, "it's not about timing the market, but about time in the market". Research suggests those who stay invested over the long run in a well-diversified portfolio will generally do better than those who try to profit from turning points in the market.

Mr B says one option would have been for TPO to have provided him with details of its proposed portfolios so he could've re-invested within his existing HL SIPP and then carried out an in specie transfer. This would've been something he says he could've administered easily and quickly. He understood there would've then been significant administration in an in specie transfer for TPO, but that it could've proposed a fee for the service.

I note that the suitability report recorded Mr B saying his dividends had been cut by COVID leaving his pension plan "absolutely obliterated". He wanted a new investment strategy to be put in place in order to help achieve his retirement objectives. He'd previously managed the SIPP himself, but no longer had confidence in his own ability to look after it. Moving forward, he was happy for TPO to take over ongoing management of his pension.

I think the proposal Mr B now makes muddies the waters and is again somewhat in hindsight. And it's not clear to me that it would've left his arrangements or funds in a better position. Given his view of HL's processing performance, complications in terms of the availability of certain funds held in Novia's portfolios for access by his former HL platform and how he was feeling about the management of his SIPP at this time, I don't find the arguments he makes compelling.

TPO has previously identified and acknowledged a servicing issue which caused part of the delay to the switch and reinvestment of Mr B's pension funds. However, after conducting a loss assessment it found he hadn't suffered a financial loss because of this. It did award him £250 for the trouble and upset it caused. I don't require TPO to do anything further.

My final decision

For the reasons I've already set out, I'm not upholding Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 21 November 2022.

Kevin Williamson

Ombudsman