DRN-3462835

The complaint

Mr S' complaint is about AJ Bell Management Limited's role in the delays in transferring his Self-Invested Personal Pension (SIPP) from his original provider to a SIPP administered by AJ Bell.

What happened

I issued my provisional decision on this complaint on 12 April 2022. The background and circumstances to the complaint and the reasons why I was provisionally minded to uphold it were set out in that decision. I have reproduced the relevant sections of that decision here, and it forms part of this final decision.

Mr S had a SIPP with a pension company I will call Provider A. Mr S wanted to transfer his SIPP to a new SIPP that was in effect a joint venture between AJ Bell Management Limited (A J Bell) and another firm which I will call Firm B. AJ Bell provided the administration services. And Firm B provided investment services. However both firms were involved in the transfer process.

The Application Form for the SIPP was headed with both AJ Bell and Firm B's name. It said, amongst other things:

"This is an application form to establish a [Firm B] SIPP administered by AJ Bell Management Limited….

Under the terms of an agreement between AJ Bell Management Limited and [Firm B], AJ Bell Management Limited provides the pension administration services for your SIPP and [Firm B] provides the investment services for your SIPP.

In this Application Form, please note that when we refer to "We" or "Us" we are referring to [Firm B], AJ Bell and [the Trustees]."

Under "Important Notes" it said:

"4. For all transfers, please complete the Transfer Form(s) and then send the form to the address at the end of the declaration in Section 8. AJ Bell will then contact the transferring pension provider."

The Application Form was to be sent to:

"[Firm B] Share Dealing SIPP Administration Team

AJ Bell Management Ltd."

AJ Bell received the SIPP transfer form on 2 July 2019. The transfer wasn't completed until October 2020 – a period of approximately 16 months.

Mr S' complaint was considered by one of our investigators. In brief, he noted that AJ Bell

had accepted responsibility for some of the delays that had occurred, and had offered Mr S £150 compensation. He thought that the offer was fair given the extent of AJ Bell's role in the delays. However he thought that AJ Bell ought to have kept Mr S better updated through the process, and he recommended that it paid Mr S another £150 for the stress and anxiety caused by the lack of contact through the continuing delays.

Mr S didn't agree with the investigator's findings, and his complaint was referred to me to consider.

What I've provisionally 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.

The information provided to Mr S at the outset said a transfer usually took 6-8 weeks. In my experience this is a common timeframe often quoted by companies involved in the transfer process. But I think what's key is that a transfer is completed in an efficient and timely manner, and what's timely will depend on the specific facts of the transfer.

As set out above, there were four parties involved in the transfer: Mr S, AJ Bell, Provider A and Firm B. A lot of correspondence was exchanged between the parties over the period from 2 July 2019 to October 2020. I haven't repeated it all in detail here - the facts of the case don't appear to be in dispute; what information was provided to what party, when it was received, by whom and when. But a very brief summary of the events is:

- *AJ Bell received the application to transfer on 2 July 2019.*
- *There was an issue with the SEDOL codes, but Mr S provided them the next day.*
- *There was an issue about not being able to transfer two funds – but again that was addressed within days as Mr S said that he would sell those assets if needed.*
- *AJ Bell wrote to Provider A to initiate the transfer on 19 September 2019. Firm B cancelled the transfer process at its end on 20 September 2019 – as it hadn't heard anything from Provider A.*
- *However in the background AJ Bell were waiting on Provider A in any event until around 24 October 2019.*
- *There were further exchanges between AJ Bell and Firm B from 29 October to 27 January 2020 (again clarification was sought with Mr S about what he wanted to do with two assets that couldn't be transferred; again this only took a few days).*
- *On 27 January 2020 transfer instructions were sent to Provider A and it has acknowledged it received them on 29 January 2020.*

As I said above, the new SIPP was in effect a joint venture provided by AJ Bell and Firm B. The two firms had an agreement to offer this SIPP. But I don't think the transfer process should have taken significantly longer because of the administration process and communications between AJ Bell and Firm B.

However it appears to me that from 2 July 2019 to 27 Jan 2020 (approximately 29 weeks), AJ Bell and Firm B were processing the transfer. There were a couple of issues that needed to be ironed out with Mr S, but these only took a few days. And it appears that AJ Bell was

waiting on Provider A for about five weeks (19 Sept-24 Oct) – even though Firm B had cancelled the transaction at its end. So taking away this five-week period, the process was in AJ Bell/Firm B's hands for around 24 weeks up to the end of January 2020.

I've gone on to consider the period from February to October 2020. Although there was a problem with transferring one of the funds in September/October 2020, this was again resolved within a few days. I've seen no persuasive evidence of AJ Bell/Firm B being responsible for any material delays after January 2020.

Clearly AJ Bell and Firm B would need to work together to set up the SIPP. So this might have a slight impact on the time taken to set it up. But I don't think the arrangement between the two firms should have led to any material delays. I accept that the SIPP was high value and involved an in-specie transfer of assets. So that could have involved extra administrative steps which could lead to a longer transfer time. But as I have said, each transfer has to be considered on its own circumstances.

I think the question is, taking the particular circumstances into account, did AJ Bell and Firm B complete their part of the transfer in an efficient and timely manner during the period 2 July 2019 to 27 January 2020. Although there was the five-week period I have referred to above, there doesn't appear to be anything outside of both firms' control to explain why their part took 24 weeks. I don't think the processing was timely, efficient or reasonable, in the particular circumstances of the transfer. It appears the time taken was due to the administration processes between AJ Bell and Firm B. As I said, further information was required from Mr S on occasion, but he replied very promptly – this didn't cause any material delays.

Taking all this into account, I think AJ Bell should compensate Mr S for any losses flowing from the delays caused by it and Firm B's processing of the transfer.

In assessing Mr S' complaint, I am bound to follow the Dispute Resolution Rules (DISP Rules) that are set out in the Financial Conduct Authority's Handbook.
DISP Rule 3.6.1 provides that:

The Ombudsman will determine a complaint by reference to what is, in his opinion, fair and reasonable in all the circumstances of the case.

And DISP 3.6.3 provides that:

Where a complainant makes complaints against more than one respondent in respect of connected circumstances, the Ombudsman may determine that the respondents must contribute towards the overall award in the proportion that the Ombudsman considers appropriate.

In my view the SIPP was offered on a joint basis and this is consistent with the documentation provided to Mr S at the time. Although there are instances where AJ Bell itself caused a delay, I think it was the overall processing time that was unreasonable that was due in part to both firms' involvement. In my view it is therefore fair and reasonable to determine that AJ Bell contributes 50% of the award I intend to make to Mr S.

For the reasons outlined above, my provisional decision was to uphold Mr S' complaint. I went on to set out how I thought AJ Bell should calculate and pay fair compensation to Mr S.

I asked both parties to let me have any further evidence or arguments that they wanted me to consider before I made my final decision.

Mr S said, in summary, that he would like to see the evidence suggesting that AJ Bell/Firm B weren't responsible for any material delays after January 2020 as he didn't think it would ordinarily take a further 10 months to transfer the balance of the pension. He asked why interest would not be chargeable on the compensation given the loss was incurred some 34 months ago. Mr S also said he had Fixed Protection 2014 so any payment made into the pension would remove that protection. So he said any payment should be made to him direct. He also said he was a higher rate taxpayer and his financial adviser expected him to continue to be during retirement, so any compensation should take that into account.

AJ Bell said it accepted my provisional decision.

We sent Mr S copies of the evidence he had requested. In response to the points that Mr S had raised I said that AJ Bell and Firm B weren't the only parties involved in the transfer and from February 2020 they were waiting on Provider A to progress matters. I said that as Mr S has Fixed Protection I intended to direct AJ Bell to pay the compensation directly to Mr S. And that this should take into account Mr S will be a higher rate taxpayer – so a deduction at the higher rate will apply on 75% of the compensation (but not to the award for distress and inconvenience).

I also said that I agreed with Mr S that interest should be added to the amount of compensation calculated in 3 (in the provisional decision). I said I intended to award interest in line with that earned in the AJ Bell cash account from 16 June 2020 (16 weeks prior to the date the transfer was completed) to the date of the final decision.

Mr S responded to say that although he wasn't convinced e-mail was the best way of getting things done, he was willing to close the complaint in line with what I had recommended.

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 seen no reason to depart from the findings set out in my provisional decision as set out above – albeit with slightly amended compensation.

Putting things right

Mr S said that his SIPP with Provider A had higher fees than the SIPP with AJ Bell. As a result he would have paid lower fees if the transfer had been completed at an earlier date. He also said the interest rate on cash holdings in the SIPP with AJ Bell was higher than the SIPP with Provider A. And therefore he has lost out on interest that he would otherwise have been paid through an earlier transfer.

As I set out above, in my view AJ Bell and Firm B were effectively responsible for processing their part of the transfer for 24 weeks during the period 2 July 2019 to 27 January 2020. I also explained that in my view the time to process a transfer is fact specific and depended on the specific circumstances. However, in order to decide on fair compensation, I need to decide what a reasonable period would have been to process a transfer of this type and make an allowance for it in the 24 weeks. Given that AJ Bell and Firm B were on one side of the transaction, and Provider A on the other, I think a period of six weeks was reasonable for AJ Bell (and Firm B), as a proportion of a longer period to complete it overall (given some time would also be allocated to Provider A). So I order that AJ Bell Management Limited compensate Mr S on the following basis:

1. Calculate (with the help of Provider A) 18 weeks' worth of fees that Mr S paid on his

SIPP with Provider A. Deduct 18 weeks' worth of fees that he would have paid on the same value if invested in AJ Bell's SIPP.

2. Calculate the interest on cash holdings that Mr S would have earned in his SIPP with AJ Bell for 18 weeks. Deduct 18 weeks' worth of interest on those same cash holdings that Mr S accrued in Provider A's SIPP.

3. Compensation is 1 plus 2.

4. Interest at the rate earned in the AJ Bell cash account should be added to the amount calculated in 3 from 16 June 2020 (18 weeks prior to the date the transfer was completed) to the date of the final decision.

Additional interest at the rate of 8% simple per annum should be added from the date of the final decision to the date of settlement, but only if settlement isn't made within 28 days of Our Service notifying AJ Bell Management Limited of Mr S' acceptance of this final decision.

Mr S has Fixed Protection. Therefore AJ Bell Management Limited **shouldn't** pay the compensation into Mr S' pension plan – it **should** pay it direct to Mr S.

The compensation should be reduced to notionally allow for any income tax that would otherwise have been paid on it. Mr S has said he will be a higher rate taxpayer in retirement. So the reduction should equal the higher rate, but only on 75% of the compensation (but not to the award for distress and inconvenience).

AJ Bell Management Limited should also pay Mr S £150 directly for the distress and inconvenience I'm satisfied the delayed transfer caused, and over a prolonged period.

My final decision

My final decision is that I uphold Mr S' complaint.

I order A J Bell Management Limited to calculate and pay compensation to Mr S as I have outlined above under Putting things right. As I said, as Mr S has Fixed Protection the compensation should be paid to Mr S directly and not into his pension.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 13 June 2022.

David Ashley
Ombudsman