

The complaint

Mr K complains about the transfer of his self-invested personal pension (SIPP) to Halifax Share Dealing Limited (trading as IWeb).

What happened

Mr K complained that it had taken more than one year to transfer his SIPP. While he had been offered a good will payment of £250 for the delay, he said this wasn't sufficient to cover the additional fees he had to pay his more expensive previous provider. From October 2019 to May 2020 he had incurred SIPP fees with his transferring provider of just over £915.00. In contrast he would have incurred fees of just £45 per quarter with IWeb. Due to the delays he had paid about £780 of which the transferring company had offered £400. When added to the £250 offered this still left him short of the extra costs.

IWeb said it provided the investment/stockbroking services for the SIPP but administration was undertaken by a third party. IWeb said the delays were not its fault but offered £75.00 to restore Mr K's confidence. The administrator responded separately and said that the transfer could have started from 17 July 2019. Usually it took 3 working days to respond but had actually taken 7 but it didn't think that was unreasonable. On 15 April 2020 it confirmed it would send its transfer instruction to the transferring provider but due to human error the transfer was not initiated for 28 working days. It said that it was clear it had contributed to the delay but was not responsible for the main delays to the transfer. It did not receive a full list of assets until January 2020 and was unable to progress without it. There was a further delay between February 2020 and April 2020 where it was waiting for confirmation of the assets which could not be transferred. It had been proactive in the time from July to November 2020 in chasing the transferring provider. While it was not responsible for the main delays it offered an ex gratia payment of £250.

I issued a provisional decision in this case. I said the following.

Firstly considered whether Halifax Share Dealing Limited (trading as IWeb).was the correct party to this complaint. IWeb said it provides stockbroking services but the administrative aspects are performed by a third party.

While I had not seen a copy of Mr K's application to join the IWeb SIPP, nor seen any terms and conditions, I do think IWeb is the correct party. I say that because IWeb has responded to Mr K's complaint, rejecting it and saying that it didn't do anything wrong. For that reason it seemed clear that IWeb accept that Mr K is a customer and has reason to complain about matters connecting to his IWeb SIPP.

However IWeb disputed that it was responsible for the matters relating to the complaint and directed Mr K to deal with a third-party company that I understood provided administrative support for the IWeb SIPP. That third party had responded but is not a party to this complaint. It was my understanding that it is contracted to IWeb to provide those administrative services. IWeb is therefore able to hold it to account under the terms of that contract.

I had not seen any evidence to show that Mr K had any direct contractual relationship or agreement with the third party. It seemed to me that his only contract was with IWeb. It was up to IWeb how it delivered services under the contract with Mr K. If, as seems to be the case here, it had used a third party to do some of the administration that did not absolve IWeb from responsibility for performance of the contract with Mr K.

The law would say that the third party was performing those administrative functions as agent for IWeb and it remained wholly responsible to Mr K for that performance whether delivered by it or by the third party. It was possible that the terms of the agreement between IWeb and the third party apportion responsibility and liability for errors behind the contractual relationship. But that did not mean Mr K had to deal with the third party in a way that mirrors the contract between IWeb and the third party. I said that because he was not a party to it. For those reasons I think IWeb and not the third party was the correct party to this complaint.

If IWeb disagreed, then before I issued my final decision, I invited it to provide evidence that there was a contractual relationship between Mr K and this third party such that it was not responsible for the matters that were the subject of this complaint.

Secondly, I considered the complaint. It was clear to me that there was a considerable delay in the transfer of Mr K's SIPP from his current provider to IWeb. The process started in July 2019 but did not complete until November 2020. I had therefore considered what evidence there was that IWeb was responsible for all or part of that delay. There are four parties involved in the transfer, Mr K, IWeb, the third-party administrator and the transferring SIPP provider. While the third party administrator was not a party to this complaint (for the reasons given), it had responded to Mr K and I had therefore used its replies in considering this complaint and on the basis that IWeb was responsible for its actions or inaction as agent for IWeb. The transferring provider was not party to this complaint but this service had dealt with a complaint against it. This had enabled me to verify some aspects of what had been said based on the records we hold from the transferring provider.

For ease of reference I set out a timeline of events. This was based on the timeline supplied by IWEB in its reply to Mr K and also the timeline supplied by the administrator in its reply to Mr K. I had further added comments in italics which are items I had been able to validate from the transferring provider file. I had not repeated the timeline of events here as neither party disputed it.

From the evidence in the timeline it did seem there was a delay from July 2019 to January 2020. It seemed much of that initial delay was due to the transferring providing. The transferring provider said it issued a valuation to IWEB in November 2020. The transferring provider's file screenshot does show valuations produced in November 2019, April and June 2020. But IWEB and its administrator's timeline suggest it first received a valuation in January 2020. I have also seen a copy of the letter from the transferring provider sending out a valuation to the administrator under cover of a letter dated 15 January 2020.

So it seemed that IWEB, its administrator and transferring provider say a valuation was sent in January 2020. While the transferring provider file records a valuation was produced in November it does not record one being produced in December or January and nor had I seen a copy letter sending it out. It was possible that the valuation sent in January 2020 was the one produced in November 2019 but in the absence of a copy of that valuation I could confirm that.

Based on the evidence I had seen and the conflict within the transferring provider records I didn't think I had sufficient evidence to conclude that IWEB received a valuation in November or December 2020 nor that one was sent to them. But I did have evidence it received one in January 2020. For that reason I didn't think I could agree with the

investigators suggestion that a valuation was sent earlier than IWEB said it was. So I didn't think I had sufficient evidence to conclude it was responsible for any of the delays up to January 2020.

The next period where there appeared to be a delay was between 12 February 2020 and 14 April 2020. But it seemed that during this time IWEB was waiting for Mr K and his transferring provider to arrange encashment of the non transferrable investments. Even by April 2020 this still had not happened. So I didn't have evidence that IWEB was responsible for delay in that period.

However the administrator confirmed on 15 April 2020 it would send its transfer instruction to the transferring provider but admitted that due to human error the transfer was not initiated for 28 working days. So it was clear there was a delay of 28 days at this point for which IWEB was responsible as the administrator was acting as its agent.

I reviewed the remainder of the timeline after 15 April and couldn't identify any clear evidence of further delays by IWEB or the administrator.

In summary the administrator had accepted that it caused 28 working days of delays in April 2020. I therefore considered an award for financial loss and distress and inconvenience due to that delay.

Mr K said that the reason for his transfer was to save fees. The 28 days delay must therefore have meant he paid higher fees for an additional 28 days. I thought the measure of Mr K's loss was that he had to pay an additional 28 working days of fees that he would not otherwise have had to pay.

I therefore proposed that IWEB should pay Mr K for 28 days of fees incurred by him from 15 April to May 2020. It would assist if Mr K could produce copies of the amounts deducted from his SIPP account with the transferring provider for fees at that time. I could then state a specific amount to be paid in my final decision.

I also considered that Mr K lost the use of the money he had to pay to his transferring provider as fees at that time. I thought it was reasonable to compensate him for that loss of use of that money by making an award that IWEB should also pay interest on the fee amount from the date of deduction by the transferring provider to the date of payment by IWEB to Mr K at the rate of 8% per annum simple.

I considered an award for distress and inconvenience. Such an award was to reflect the impact on Mr K not to punish IWEB. I could see that the delays have been frustrating for Mr K.

I noted however that IWEB offered £75 and the administrator offered £250, so a total of £325. I thought this was fair and reasonable in the circumstances.

I proposed to uphold this complaint and direct that Halifax Share Dealing Limited (trading as IWEB) should pay Mr K:-

1. compensation for financial loss for fees on the basis set out above.
2. £325 for distress and inconvenience (but for the avoidance of doubt this payment shall be reduced if and to the extent that £75 has already been paid by IWEB and £250 by its administrator).

Before I issued my final decision I said it would assist if:-

1. IWEB provided evidence that there was a contractual relationship between Mr K and this third party such that it is not responsible for the matters that are the subject of this complaint.
2. Mr K could provide evidence of the fees paid to his transferring period during the 28 working days referred to above.

Mr K said that he found himself in a position where excessive delays in the SIPP transfer process have not been clarified in a way that the excess charges he had incurred are being compensated. He provided evidence of the fees he paid in April 2020 to his old provider (£84.06). He also referred to the IWEB website which said that a transfer was easy *'complete and return our transfer form and we will do the rest'*. He said this made clear IWEB took full responsibility for completion of the transfer commencing with receipt of the transfer form. He said I should take into account that IWEB had not lived up to its promise and in fact deflected responsibility back to him and their administrator on many occasions without taking an active role in the process. Based on its promise he felt IWEB should be responsible for the entire delay.

He said he had rejected a goodwill offer from the previous provider and my decision made no reference to that nor how to get it to honour this offer. He wanted my decision to include a direction to the old provider to make payment. It would be disappointing if as a result of this decision he ended up worse off.

IWEB did not comment.

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.

As IWEB did not reply it seems that they are the correct party to this complaint.

I note Mr K's comments that he feels he is out of pocket overall. But I can only make a direction for financial loss to the extent caused by the actions or inaction of IWEB and its agent. While I note Mr K's comments about IWEB *'doing the rest'* I have undertaken a detailed analysis of events to identify whether delays were due to it or not. Having done so and in the absence of any other evidence I have not changed my mind about the extent of the delay caused by IWEB and therefore my proposed award.

I also note his comments about the previous provider. This complaint is against IWEB so I cannot make a direction against the old provider who are not subject to this complaint. However having made enquiries I understand that the old provider did honour its offer of paying £400 goodwill and that amount had been credited to his account with that provider and had been utilised in part by Mr K, although he may not have been aware of that.

Putting things right

Mr K provided evidence to show he had paid his previous provider £84.08 in fees in 4 May 2020 so I will direct that this should be paid by IWEB plus simple interest thereon at 8% per annum.

Further I will direct payment of £325 for distress and inconvenience (but for the avoidance of doubt this payment shall be reduced if and to the extent that £75 has already been paid by IWEB and £250 by its administrator).

My final decision

I uphold this complaint.

I direct that Halifax Share Dealing Limited should within 30 days of this service notifying it that Mr K has accepted this decision, pay Mr K:-

1. £84.08 for additional fees paid to the previous provider plus interest at the rate of 8% per annum simple from 4 May 2020 to the date of payment to Mr K under this direction.
2. £325 for distress and inconvenience (but for the avoidance of doubt this payment shall be reduced if and to the extent that £75 has already been paid by IWEB and £250 by its administrator).

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 30 November 2022.

Colette Bewley
Ombudsman