DRN-4052742

The complaint

Ms M complains that Sterling ISA Managers Limited trading as Advance by Embark ("Sterling") failed to complete the transfer of her self-invested pension plan ("SIPP") to another provider in a timely manner.

What happened

I issued a provisional decision on this complaint in February 2023. In that decision I explained why I thought the complaint should be upheld and what Sterling needed to do in order to put things right. Both parties have received a copy of the provisional decision but, for completeness and so those findings form part of this decision, I include some extracts from it below. In my decision I said;

> *Ms M held pension savings in a SIPP that was administered by Sterling. In October 2021 she decided to transfer her pension savings to a new provider. The new provider sent the transfer instruction to Sterling in November 2021. Ms M requested that the transfer be made in-specie. That meant that her pension investments wouldn't be sold, but would be re-registered to the new provider. Ms M also asked that some ISA holdings were transferred to the new provider. But, in this decision, I am only considering what happened in relation to her SIPP investments.*
>
> *The information that Sterling has sent us about this complaint has been very limited. Despite a number of requests from our investigator, and her issuing her assessment, Sterling has failed to show any evidence of the steps it took to progress Ms M's request in a timely manner. So in deciding this complaint, like our investigator, I am largely limited to basing my findings on the time the transfer took. If, in response to this provisional decision, Sterling chooses to provide further details of its actions I will of course consider what has been said, and might need to alter my findings.*
>
> *The new provider regularly chased Sterling for updates on the progress of the transfer but appears to have received little in response. For example, on 10 February 2022, the new provider told Sterling that it was still awaiting receipt of eleven separate investments. It doesn't appear to have received a reply to that email request, despite two further emails, until 22 March. And that reply was simply to say that the request for information had been passed to the claims and complaints teams.*
>
> *Following Ms M's complaint, Sterling told Ms M in May 2022 that it continued to pursue the completion of her transfer, and one fund remained outstanding. But I understand that the final cash balance to complete the transfer wasn't received by the new provider until July 2022.*
>
> *When Sterling looked at Ms M's complaint it told her that it was upholding the complaint (although it didn't explain for what reason). It paid Ms M £100 for the trouble and upset she'd been caused.*
>
> *As I've said earlier, it is very disappointing that Sterling has not responded to the requests from our investigator to provide further details on how it managed Ms M's*

transfer. But, given the informal nature of this Service, I don't think it unreasonable to proceed on the basis of the information I currently hold. I haven't seen anything that makes me think Ms M's pension investments were particularly unusual or complex. And so I think it is reasonable to conclude that the transfer of those investments should have proceeded smoothly and in line with timescales that are generally accepted within the industry.

Ms M had asked for her transfer to be completed in-specie. That means that her pension savings remained invested at all times. So, any delays in the transfer, were unlikely to have seen her be exposed to market risks as would be the case if a transfer were made in cash. But that doesn't mean that Ms M was entirely isolated from the impacts of any delays. She has told us that the delay meant she was unable to take some income from her pension savings, and that she needed to pay two sets of SIPP fees – one to each provider. And it is possible that some of Ms M's pension savings were held in cash, and so not invested, for an extended period since normal practice is for cash holdings to be transferred last.

Sterling says it received Ms M's transfer request, for her pension savings, in November 2021. Whilst it is readily accepted that in-specie transfers will take longer to complete than simple movements of cash, I think the overall time taken was far too long. I think it would be reasonable to expect a transfer of this nature to complete within a maximum period of 12 weeks.

It is possible that some delays to that timescale might be outside the control of the sending firm. For example it would be reliant on external fund managers to complete a re-registration process for the investments. But any delays of that nature might be mitigated by the prompt and targeted chasing of progress. I haven't seen anything to make me think that Sterling undertook activities of that nature on Ms M's behalf.

Ms M's transfer of her pension savings ultimately completed in July 2022. That was eight months after the request had first been received by Sterling. I have seen no explanation for that delay that would suggest it wasn't the reasonable fault of Sterling, either through a failure to initially commence the transfer within a reasonable time, or by failing to actively monitor the progress of any requests.

Considering what I said earlier, about expecting a transfer of this nature to complete within a maximum of 12 weeks, I currently think it would be reasonable to conclude that Ms M's transfer should have been finalised by 21 January 2022 at the latest. And I further currently think that the delay can reasonably be considered to be the fault of Sterling. So I currently think that Sterling needs to follow the steps below to determine whether Ms M has lost out as a result of that delay, and if necessary pay her some compensation.

There is no doubt that the extended period of time that Ms M was without access to her pension savings would have caused her considerable inconvenience. And I have seen that Sterling's lack of communication caused her some distress as she found parts of her pension investments to be apparently missing from her accounts with both providers. I think those problems warrant a greater level of compensation than Sterling has already paid, and our investigator recommended. So I currently intend to direct Sterling to pay a further £400 (making a total payment of £500) to Ms M for the distress and inconvenience she was caused.

I invited both parties to provide us with any further comments or evidence in response to my provisional decision. Ms M has said that she accepts my provisional decision and has nothing further to add. Sterling has failed to respond to my findings.

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.

Given that neither party has provided me with any new evidence or further comments I see no reason to alter the conclusions I reached in my provisional decision. It follows that I think it would be reasonable to conclude that Ms M's transfer should have been finalised by 21 January 2022 at the latest. And I further think that the delay can reasonably be considered to be the fault of Sterling. So I think that Sterling needs to follow the steps below to determine whether Ms M has lost out as a result of that delay, and if necessary pay her some compensation.

Putting things right

I think Ms M's transfer should have completed by 21 January 2022 at the latest.

So, following the completion of that transfer I expect that Ms M's SIPP with Sterling would have been closed, and no longer liable for any administrative fees. Sterling should therefore refund to Ms M any fees it has taken since that date (that wouldn't have been taken if the transfer had completed by 21 January 2022). Sterling should add simple interest at a rate of 8% per annum to each of these amounts from the date they were paid to the date of settlement. HM Revenue & Customs requires Sterling to take off tax from this interest. Sterling must give Ms M a certificate showing how much tax it's taken off if she asks for one.

Should Ms M have been holding any cash balances in her SIPP as a result of any investment sales needed to facilitate the transfer she will have lost out on investment returns as a result. Sterling should compensate Ms M by paying her investment returns on those cash balances equivalent to the average returns of her other pension investments between 21 January 2022 and the date the cash was remitted to the new provider.

Sterling should pay an additional sum of £400 (making a total compensation payment of £500) for the distress and inconvenience the delays have caused to Ms M.

My final decision

My final decision is that I uphold Ms M's complaint and direct Sterling ISA Managers Limited trading as Advance by Embark to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms M to accept or reject my decision before 26 April 2023.

Paul Reilly
Ombudsman