

The complaint

Mrs M complains that Halifax Share Dealing Limited (trading as iWeb) have taken too long transferring her Self-Invested Personal Pension (SIPP) to Hargreaves Lansdown (HL).

Despite initiating the switch back in February 2021, Mrs M says Halifax are yet to transfer her remaining two stock holdings.

What happened

In February 2021, Mrs M decided she wanted to move her SIPP from Halifax to HL. The SIPP contained a mixture of five different equities, five pooled funds and a cash balance. Mrs M wanted the transfer to be completed on an in-specie basis meaning the stocks and pooled funds would be moved across to HL without having to be sold down first.

The pooled funds were all transferred to HL by 22 July 2021 and three of the five stocks were sent by 13 October 2021. However, the two remaining stocks - Novartis and Roche that were originally purchased on the German Xetra Stock Exchange proved problematic to switch. Halifax wanted to transfer them both to HL on that exchange, however HL explained they could only accept them on the Swiss market, Euroclear or Crest. In addition, Halifax explained to Mrs M they were no longer able to sell those two holdings on her behalf because they didn't have access to a market on which they could trade them.

On 31 August 2021 Mrs M decided to formally complain to Halifax. She said in summary, that despite starting the transfer process in February 2021, she considered it unacceptable that Halifax still hadn't moved all her pension assets over to HL. She also felt a letter Halifax had sent her on 18 August 2021, where they explained she should call them to sell her Swiss stock, gave inaccurate information. In addition, she explained she was unhappy Halifax were unable to sell or transfer two of her holdings – Novartis and Roche, as there didn't appear to be a market on which they could be traded that Halifax had access to.

After reviewing Mrs M's complaint, Halifax concluded they were satisfied they'd done nothing wrong. They also said in summary, as the two stocks that remained in Mrs M's SIPP were held on the Swiss market and they didn't have the ability to trade on that exchange, Halifax didn't believe they were at fault for the delays. They went on to explain that should Mrs M wish to sell the stocks, she would need to transfer them away to a foreign broker.

Mrs M was unhappy with Halifax's response so she referred her complaint to this service. In summary, she repeated the same concerns – explaining that she was unhappy with the length of time it took Halifax to process her transfer, combined with the fact she was never advised about the problems with her Swiss stock becoming untradable. She concluded by explaining she was unhappy at still having to pay charges on the Halifax SIPP as it couldn't be closed.

The complaint was then considered by one of our Investigators. She concluded that Halifax hadn't treated Mrs M fairly. She went on to say that she felt there'd been unnecessary delays

in the switch and that Halifax's letter of August 2021 had only served to confuse matters. Our Investigator felt Mrs M could've found out sooner about Halifax's inability to transfer her Roche and Novartis stocks. That's because HL had asked Halifax as early as June 2021 how those two stocks were being moved but Halifax didn't initially respond to their queries. Our Investigator determined that Halifax should pay Mrs M £250 for the trouble they'd caused her.

However, Mrs M disagreed with our Investigator's findings. In summary, she said that had Halifax alerted her that they were removing the facility to sell certain types of shares then she could have taken steps to sell her impacted equities before the new rules came into force. Unhappy with the outcome, Mrs M asked for her complaint to be referred to an Ombudsman.

After considering Mrs M's complaint, I issued a provision decision on the case. I explained that I was planning on upholding her complaint but I wanted to add wider context and reasoning to that of our Investigator. In addition, I also explained that I was planning on amending the redress that I believed Halifax needed to pay Mrs M to put things right. For completeness, I've included my provisional decision below.

My provisional decision

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

I have summarised this complaint in far less detail than Mrs M has and I've done so using my own words. I'm not going to respond to every single point made by all the parties involved. No discourtesy is intended by this, our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome. Instead, I will focus on what I find to be the two key issues here – and that's Mrs M's disappointment that the transfer took as long as it did and also the subsequent barriers she's encountered in trying to switch the final two equity holdings.

Having done so, I'm upholding Mrs M's complaint and for largely the same reasons as our Investigator. What's also important to note is this complaint is about the actions of Halifax rather than anyone else, so I'll only be focusing on any shortcomings from the service they've provided Mrs M. However, I should explain that whilst the SIPP is branded as an iWeb (Halifax) product, the administration on the pension is provided by a third party - AJ Bell - on Halifax's behalf. This means that Halifax is reliant on their administrator to help facilitate the transfer to HL. But that doesn't mean Halifax can absolve itself of any mistakes its administrator makes. I'll explain why.

I have not seen any evidence to show that Mrs M had any direct contractual relationship or agreement with Halifax's third party. It seems to me that her only contract is with Halifax. It was up to Halifax as to how services were delivered under the contract with Mrs M. If, as seems to be the case here, it had used a third party to do some of the administration, that did not absolve Halifax from responsibility for performance of the contract with Mrs M. The law would say that the third party was performing those administrative functions as an agent for Halifax and it remained wholly responsible to Mrs M for that performance whether delivered by themselves or by the third party. It was possible that the terms of the agreement between Halifax and the third party apportion responsibility and liability for errors behind the contractual relationship. But that did not mean Mrs M had to deal with AJ Bell in a way that mirrors the contract between Halifax and the third party. I say that because she was not a

party to it. For those reasons I think Halifax and not AJ Bell is the correct party to the specific points raised in this complaint.

As I've already explained, Mrs M asked for her pension to be moved on an in-specie basis. That meant Halifax would move her existing underlying holdings directly to HL without first selling them. That process typically takes longer because there's more work involved between both sides. Both Halifax and HL's respective websites suggest such transfers can take far longer than cash switches although definitive timescales are not given.

I've looked closely at the timeline from the point Mrs M informed Halifax that she wished to transfer to HL to the point at which all but two of her holdings were moved. I don't intend to repeat that timeline here because the facts are well known to both parties and our Investigator has already provided a detailed breakdown of what happened and when in her view on 20 September 2022. Instead, I've only focused on the various stages within that process where I think there were unnecessary delays. Importantly though, as the holdings were switched on an in-specie basis, that meant Mrs M's monies remained in the market throughout and therefore, she wouldn't have suffered a financial loss by the delays. I say that because, with the exception of two of her holdings, had she wanted to, Mrs M could've asked either Halifax or HL to sell any of her investments at any time during the switch process.

As I explained earlier, Mrs M's Halifax SIPP held five pooled funds and five different equities. When HL originally wrote to Halifax on 26 May 2021, they stated they wished to move four of her pooled funds and four of her separate stock holdings.

The transfer of Mrs M's pooled funds

Halifax originally wrote to Mrs M on 11 February 2021 to explain they'd received the transfer correspondence from HL. Two weeks later, HL sent that paperwork to AJ Bell who administer the SIPP for Halifax who then in turn tried to pass it to the Halifax on 3 March 2021.

It wasn't until 11 May 2021 that Halifax then sent the necessary valuation to HL – a total of 76 days after AJ Bell received the transfer paperwork. Whilst part of those delays were attributable to Halifax's third party administrator because an incorrect email address was used to contact iWeb, given AJ Bell act as agent for the Halifax (as I've already explained), I'm viewing any delays caused by their administrator as attributable to Halifax.

HL confirmed back to the Halifax on 26 May 2021 they accepted the transfer. Three of the pooled funds settled on 8 June 2021 and the fourth pooled fund settled nearly two weeks later on 21 June 2021. So that part of the switch process took just under 4 months. I find it more likely than not that had Halifax been more proactive in dealing with the switch – that is to say, responded in a timelier manner and the errors not occurred - the pooled funds could have been switched in no more than two months from the point at which HL had sent the transfer paperwork to Halifax's administrator.

The transfer of Mrs M's stock holdings

Mrs M's SIPP held five stocks; four of those were Microsoft, Abbvie, Roche and Novartis. On 25 June 2021, HL contacted Halifax for an update on the remaining holdings in Mrs M's SIPP. After chasing Halifax on three further occasions, it wasn't until 13 July 2021 (19 days later) that they proposed settlement dates for two of the holdings to HL.

HL had originally suggested a settlement date of 12 August 2021 and whilst Halifax was able to meet that deadline for the Microsoft holding, that date was missed for her Abbvie stock.

It appears Halifax made a number of attempts to transfer the Abbvie stock to HL. Despite not upholding Mrs M's complaint in their case investigation paperwork, Halifax have conceded their attempts to transfer the Abbvie stock on 3, 8 and 16 September and 1 October 2021 all failed because they were either too late inputting their instructions (so they'd be received in the US market on time) or they didn't input the instructions correctly. That stock was eventually settled into Mrs M's HL pension on 13 October 2021.

Despite the inputting errors, given both the Abbvie and Microsoft stocks were being transferred through the Depository Trust Company, I would've expected the transfer to happen simultaneously with the pooled funds rather than being dealt with after the pooled funds settled. It appears that from the point Halifax agreed a settlement date of the Microsoft stock (13 July), they were able to move it to HL within a month.

As I've already explained, there were several parties involved in this transfer and Halifax would only send the stock when a settlement date had been agreed with HL. But from the point at which Halifax and HL started initiating the stock transfer, from what I've seen, at least 82 days' worth of delays are directly attributable to Halifax (63 days for the period of 12 August to 13 October 2021 and 19 days covering the period up to 13 July 2021). So it seems that, even allowing for some delays, both Microsoft and Abbvie stocks could have been switched to HL within the same timescales as the pooled funds - that is to say, no more than two months.

Mrs M's Novartis and Roche holdings were the result of previous Swiss stock purchases made through the German Xetra Stock Exchange - both of which were purchased in March 2019. In June 2019, following the expiration of the equivalency agreement between the EU and Switzerland, Halifax were no longer able to trade on the Swiss Stock Exchange. In short, that change meant the Swiss authorities removed authorisation for Swiss share trading on EU venues. As Halifax didn't trade directly on the Swiss market, this removed their capability to arrange trading and settlement of Swiss shares, meaning they could no longer sell Mrs M's shares for her.

Based on what Halifax says, its inability to successfully transfer the Novartis and Roche shares arose from issues that were outside of its control. On balance, I'm persuaded by its explanation involving the EU and the Swiss exchange and that it simply couldn't transfer the shares. Halifax asked HL if they were able to accept a transfer of the two holdings to Mrs M's SIPP via the German Xetra exchange but HL could only facilitate a transfer via the Swiss exchange, Euroclear or Crest, something Halifax couldn't do.

Despite what Mrs M says about Halifax's obligations, I'm mindful that it provides an execution only service and therefore it isn't responsible for giving any advice. On balance, it could be argued that Mrs M (as a non-advised investor) ought to have known what was going on with the Novartis and Roche shares globally, rather than expecting or relying on Halifax to notify her. In addition, when deciding to proceed with a non-advised pension switch, it's up to the consumer to ensure the new scheme they're wishing to move into has the capability to accept those investments. And importantly, when Mrs M first started the transfer process, Halifax's email to her of 11 February 2021 explained that it was her responsibility to ensure the custodian of the receiving scheme was able to accept the assets she was wishing to transfer. So that meant the onus was on Mrs M to check before starting the process. However, I have seen evidence that she did just that and on 1 February 2021, HL explained to Mrs M that all the investments she wished to switch, were available on their platform. But, whilst all those stocks were available to purchase with HL, importantly the manner in which HL needed Halifax to transfer the stocks to them wasn't available to Mrs M. And, as I've already explained, HL couldn't accept those stocks in the format in which Halifax were able to send them. I don't think it's quite as simple as that though.

On balance, I think Mrs M should've been furnished with the correct and up to date information about her Novartis and Roche shares much sooner. Whilst they just provide an execution only service, I still think it's incumbent on Halifax to ensure Mrs M had all the information necessary to make balanced decisions. In doing so, Halifax would've managed her expectations better. In other words, Halifax should've made its position clear when it realised there could be a problem for investors in June 2019 rather than allowing Mrs M to find out by chance in August 2021. Had they done, Mrs M would've been in an informed position and a decision could've been made at that point on how she wished to proceed.

Halifax were asked by this service when they were made aware of the expiry of the agreement between the EU and Switzerland. Halifax's dealing team were unable to confirm the exact date they were informed. They did however go on to state they implemented a temporary short-term workaround that enabled customers to sell their Swiss holdings over the telephone after the restrictions came into place. Despite being asked on a number of occasions, Halifax has failed to explain how consumers were made aware of the short-term workaround and why Mrs M was also not informed of it at the time. I think it more likely than not, had Halifax highlighted the likely impending problems with her Swiss stocks, Mrs M would've sold them. I say that because Mrs M has on several occasions throughout her interactions with Halifax attempted to sell both stocks to facilitate the transfer.

HL flagged to Halifax on multiple occasions (three times in July 2021 and once in August 2021) that they wouldn't be able to accept the Novartis and Roche stock through the German market. So on 10 August 2021, HL explained to Halifax they would ask Mrs M if she wanted to transfer that stock as cash instead. I think it's at this point that Halifax missed an opportunity to speak to Mrs M and position the problem. On 12 August 2021, HL confirmed to Halifax that having liaised in with Mrs M, she was happy for those two stocks to be sold. Rather than explaining that they didn't have the ability to sell the stock, it's at this point Halifax wrote to Mrs M and asked her to contact their call centre to arrange for the two stocks to be sold. Despite then spending an hour on the phone to Halifax, she was then told they were unable to sell the stock and they'd have to be transferred away to a foreign broker.

I can well imagine Mrs M's frustration at spending the time she did on the telephone to Halifax trying to sell the Roche and Novartis shares after having received their letter from 18 August 2021 – especially when she would never have been able to do so given the restrictions in place. And, from what I've seen, despite her requests for updates on her switch to HL, Halifax failed to keep Mrs M abreast of what was happening. I also understand that Halifax told Mrs M they couldn't help her and for her to telephone AJ Bell - and then when she did call them, they were surprised to receive a call from her as they weren't aware of the situation. So it seems their approach wasn't joined up.

Mrs M's other investment holdings

As I've already explained, Mrs M's Halifax SIPP held five pooled funds and five different equities and a cash balance. So far, I've only covered what happened with four of each of them. When HL originally explained to Halifax on 26 May 2021 that Mrs M's holdings were to be transferred on an in-specie basis, they didn't include her THG shares or her Vanguard Gilt fund on the list of investments they wanted to be moved to themselves.

On 13 July 2021, Halifax made an assumption that the final two investments were to be moved in-specie and asked HL if they were able to accept both holdings nine days later. And, on 22 July 2021, both investments settled into her HL SIPP. So, it seems unreasonable to hold Halifax accountable for the fact that those two investments weren't switched until July 2021 as HL never originally positioned that those two investments were to be moved on an in-specie basis.

The time taken to transfer the SIPP cash balance

Turning to the £180,000 in cash that Mrs M says she'd not been able to invest since February 2021, I've thought about whether Halifax acted reasonably in respect of that element of her pension fund or whether they should've sent the monies to HL sooner. On 27 September 2021, Mrs M asked the scheme administrator to send that cash to her HL SIPP. Halifax sent the cash to the scheme administrator on 18 October 2021, who then sent those funds to HL on 22 October 2021.

I'm not persuaded that the business did anything wrong by not transferring the cash first at the outset before transferring the equities. That's because it's a common industry practice therefore Halifax hasn't done anything wrong by not doing so. In these circumstances I can't say they behaved unreasonably or that it treated Mrs M unfairly by not transferring the cash first. Halifax's letter of 11 February 2021 positioned that they'd take this approach.

I've seen nothing to suggest that Mrs M needed or wanted the money urgently to buy any specific shares. Even if she decided to use the money to buy shares in the future, in these circumstances that doesn't mean the business is responsible for her not being able to do so sooner or for any loss. In any event, Mrs M could've used the cash to purchase specific shares if that's what she wanted to do and then transfer them in-specie, but she made no effort to do so.

Whilst Mrs M may take the view that the delay deprived her of the opportunity to invest her cash, I can't blame Halifax for this. But once Mrs M emailed the scheme administrator to request the cash transfer, I note it took them nearly 4 weeks, or 26 days to be precise. I don't think that's reasonable – particularly when their letter of 11 February 2021 explained that when cash is transferred, it usually takes up to five working days.

Summary

I'm upholding Mrs M's complaint. As I've already explained, I think Halifax's actions resulted in the unnecessary delays in switching four of her five pooled funds, two of her stocks and her cash balance to HL. I think that had Halifax acted more proactively, her pension (aside from the Novartis and Roche stock) could've more likely than not been switched to HL within two months. Fortunately, for both Halifax and Mrs M, her investments were being moved on an in-specie basis so the financial impact is limited.

Whilst I've acknowledged that Halifax operates a non-advised service and I accept that they're unable to trade those two holdings (Novartis and Roche) through no fault of their own, Halifax didn't provide clear and accurate information to Mrs M when it would've been reasonable to do so. They failed to inform Mrs M of changes to their ability to trade her shares in 2019 (and specifically the workaround solution that was available to other consumers) and they also sent her an inaccurate letter in August 2021 that resulted in Mrs M wasting time trying to sell her shares when, by Halifax's own admission, she would've never been able to do so.

Had Halifax provided Mrs M with the same information it gave other consumers about the impending changes to the Swiss/ EU market, Mrs M would've had the choice on whether to sell her Roche and Novartis shares in June 2019.

Responses to my provisional decision

In summary, Mrs M explained that she wished to make the point that Halifax had allowed her to purchase stocks in March 2019 after the restrictions with Swiss trading had already come into force. And, they failed to inform her of any impending problems with the ability to sell

that Swiss stock on their platform until it was too late. She felt she'd not been treated fairly by Halifax because other customers were advised of the workaround they'd put in place to sell Swiss stocks but she hadn't been informed of that option.

Mrs M also explained that she felt the fees she'd paid to Halifax from the date she'd applied for the pension switch should be refunded.

Despite being prompted, Halifax didn't respond to the provisional decision. However, in response to a series of earlier queries raised about the consumer's inability to sell her Swiss stock and what steps Halifax had put in place when they learned that consumers wouldn't be able to trade their Swiss holdings, they did however explain that as an execution only service, Halifax isn't permitted to provide any information that could be construed as investment advice. In summary, they also said that in a fast-moving environment such as share dealing, such events wouldn't be communicated to consumers. Halifax also said *'monitoring such external factors and making changes to iWeb's offering based on them would not be practical. Instead, a temporary workaround enabling customers to sell their Swiss holdings over the phone was available after the stocks were restricted, so that iWeb could ensure its customers were not taken out of the market'*.

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 considered both sets of submissions, I'm not persuaded to alter the outcome of my original provisional decision. I'll explain why.

Whilst I understand the challenges that Halifax have described when faced with evolving regulation and changes, the issue at the heart of Mrs M's complaint (that of being unable to trade or switch her Swiss investments) wasn't just a 'normal' geopolitical issue – it was a significant change to consumers' ability to trade investments on their platform. And, despite what Halifax says about not making changes to their offering because of geopolitical events, they had to do just that because of the trading restrictions that came into place in 2019.

Whilst I've already acknowledged that Halifax operates a non-advised service, they didn't provide clear and accurate information to Mrs M when it would've been reasonable to do so. I don't agree that providing factual information about changes to the limitations of their service would've been construed as investment advice. They failed to inform Mrs M of changes to their ability to trade her shares in 2019 and specifically the workaround solution that was available to other consumers. The latter point meant Mrs M wasn't treated in the same way as other consumers. Halifax clearly knew there was an issue because by their own admission, they had to introduce a temporary workaround but that wasn't shared with Mrs M.

Mrs M explained that she felt the fees she'd paid to Halifax from the date she'd applied for the pension switch should be refunded. Having thought about this, I'm unable to support that view. That's because, whilst there's no doubt Halifax delayed switching her investments across to HL, they still provided a custodial service for her investments from February 2021 until they were eventually moved to HL in various stages. Once the investments arrived in the new pension, it's at that point that she started paying HL charges on those monies. And, whether the monies were at Halifax or HL, she would've incurred fees on those funds. I've looked at the fees Halifax charge compared to HL and the amount Mrs M had invested and I'm satisfied the difference in charges are modest in nature. Allied to this, I'm awarding Mrs

M £1,000 for the trouble and upset Halifax have caused her, so overall, I'm satisfied a fair outcome has been reached.

Halifax have now contacted this service explaining a workaround has been put in place and Mrs M would now be able to move her remaining Novartis and Roche stock to HL should she wish.

Putting things right

As I've already explained, I'm having to make a number of assumptions in reaching my conclusion and working out what should have happened and when isn't an exact science. The aim of this service is to resolve complaints quickly and informally for the benefit of both parties, but I think what I've decided is fair and reasonable.

I've thought carefully about the trouble and upset Halifax have caused Mrs M, and particularly the length of time it's taken to reach this point where a workaround has been offered and as such, I'm instructing Halifax to pay her £1,000. I'm satisfied that an award at this level recognises the significant inconvenience that Halifax have caused Mrs M not only in the delays she encountered in moving her pension to HL but also the inaccurate information Halifax provided to her. Importantly, it acknowledges their failure to inform Mrs M of the changes to their EU/Swiss trading functionality 'workaround' which would have then resulted in Mrs M being given the choice on whether she wished to either retain, trade or transfer those stocks elsewhere.

My final decision

I uphold the complaint and require Halifax Share Dealing Limited to take the action I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs M to accept or reject my decision before 17 August 2023.

Simon Fox
Ombudsman