

The complaint

Mr H complains that Invesco Fund Managers Limited (Invesco) delayed payment from his SIPP (self invested personal pension) which meant he was unable to make a planned investment. Mr H says Invesco should compensate him for his missed investment opportunity.

What happened

I issued a provisional decision on 27 June 2023. I set out the background to the complaint and my provisional findings. I've repeated those here.

'Mr H had a SIPP with Invesco. TM Trustees Limited were the SIPP trustees. On 7 October 2020 Mr H and two authorised signatories from TM Trustees Limited signed an instruction to close Mr H's investment in the Corporate Bond Fund. Invesco received the instruction on 14 October 2020 and processed it the same day. Invesco also acknowledged receipt of the instruction to TM Trustees Limited and provided a settlement figure of £26,365.10. Invesco said the payment would normally be made within three business days. But the proceeds of £26,365.10 weren't paid out until 12 March 2021.

On 26 April 2021 Mr H complained to Invesco about the delay. He said he'd had specific plans for the money and he'd lost out on a substantial profit he'd anticipated making from reinvesting the money.

Mr H explained that in early October 2020 his broker in the USA had advised him that investing in Moderna (the Covid vaccine producer) would provide an excellent return. Mr H agreed to sell another stock and purchase shares in Moderna, to which he'd add the funds, expected in a few days, released by the sale of the Corporate Bond Fund. As that money wasn't released he had to make a smaller share purchase in Moderna on 20 October 2020. The cost was just over \$72 per share at a total cost of \$11,469.48. Mr H made a further investment in Moderna on 21 January 2021. He bought an additional 335 shares at \$122.34 for a total of \$40,984.86. On 29 January 2021 he sold all his Moderna shares at a price of just over \$199 per share.

Invesco said they had anti money laundering (AML) and know your customer (KYC) requirements for TM Trustees Limited which had to be satisfied before the sale proceeds could be released. Invesco acknowledged they'd caused some minor delays and offered £50 compensation for inconvenience caused. Invesco didn't agree they were responsible for the investment losses Mr H had claimed.

Mr H referred his complaint to us. One of our investigators looked into what had happened. His main findings were:

- The AML regulations are important and businesses needed to comply. The investigator understood why Invesco had to run those checks. But if, in doing that, Invesco had made errors or caused delay then that would need to be put right.*
- Given what Invesco had said in its letter to Mr H on 1 April 2021 in response to a previous complaint, it wasn't clear if AML documentation was required in connection*

with encashing the Corporate Bond Fund.

- There were two instances where Invesco had already conceded they could've done things differently: first, when they requested the trust deed, they should've requested the structure chart at the same time; secondly, once Invesco had all the information they needed on 4 February 2021, they then took over a month to make payment. But TM Trustees Ltd had delayed things between 17 December 2020 until 13 January 2021 by in part misunderstanding Invesco's request for a structure chart.*
- The delay actually caused by Invesco was from 28 October to 17 December 2020 – one month and 19 days. And, once all the information was received on 13 January 2021, it had then taken Invesco until 12 March 2021 to pay out which was another two months delay. Just based on where Invesco had accepted they'd delayed matters meant a total period of delay of three months and 18 days with some allowance needed for Invesco to process the new information and the payment.*
- It wasn't possible to set an exact timeframe as there were too many variables. But a reasonable estimate could be made. The investigator suggested how Invesco should work out the date payment should've been made. The time between then and the actual date of payment (12 March 2021) was the period of delay in respect of which Invesco should compensate Mr H. The investigator set out how Invesco should calculate Mr H's loss.*

Mr H accepted the investigator's suggested outcome. Invesco made some further comments to which the investigator responded. Invesco then said it wanted to consider the matter further, especially the position regarding the Moderna shares.

When Invesco reverted to the investigator, Invesco accepted they'd delayed things. An exemption was made about AML but Invesco could've done that sooner. Had they acted correctly, the proceeds could've been paid out on 27 November 2020 instead of on 12 March 2021 which was a delay of 125 days. Invesco offered interest of £610. Invesco was also prepared to pay £2,000 for distress and inconvenience so, in total, £2,610.

The investigator explained to Mr H that Invesco had made an offer but it didn't follow the method the investigator had suggested. Mr H put his own calculations together based on the investigator's suggested methodology and which indicated a loss of £24,678. Mr H accepted that the timings weren't exact and the investigator had estimated the delay caused by Invesco. Mr H said Invesco's latest comments weren't new and he'd provided evidence to disprove much of their arguments. He reiterated that his SIPP had been in operation for many years, Invesco had previously dealt with situations within the SIPP without query, the bank account had been the same for many years and Invesco had, by its own admission, caused unnecessary delays.

As agreement hadn't been reached the investigator told Mr H and Invesco that the matter would be referred to an ombudsman to decide.

When I looked into what had happened, I asked Mr H for some further information, including if there was any contemporaneous evidence to show, had the money been released promptly by Invesco, it would've been used to purchase Moderna shares. I also asked about the timing of the purchases of Moderna stock on 20 October 2020 and 12 January 2021, where those funds had come from and details of any other sales and purchases around the same time.

In response Mr H referred to an email he'd already produced from his USA broker dated 16 May 2022. The broker had written:

'We spoke on October 20th, at which point we agreed to purchase 154 shares of Moderna at \$74.48 for a total of \$11,469.48. At that time, we also agreed that we would purchase an

additional \$34,000 of [Moderna] shares after you would finalize the released [sic] of funds from your SIPP Investment with Invesco.

As those funds were not released by Invesco, we were unable to make the additional investment in [Moderna] as originally planned.

We did purchase an additional 335 share at \$122.34 for a total of \$40,984.86 few months later, on 01/12/2021. About two weeks later, on 01/29/2001 we sold both investments for about \$199.10 per share.'

Mr H explained that most business was conducted by telephone, usually initiated by a call from the broker and time was always of the essence – deals were usually agreed and carried out the same day, as had been the case for the Moderna share purchase on 20 October 2020. Funds were available to make that purchase from the sale of a number of investments on the same day. Unless new funds were being transferred – which was the intention here – it was a case of 'sell to buy' to crystallise a gain or dispose of a poorly performing investment.

Mr H also provided a spreadsheet detailing the investments bought and sold during the relevant period. He said he hadn't told Invesco the money was needed urgently as he wasn't aware there was going to be any problem with the funds being released promptly, there not having been any issues previously. Mr H didn't feel the need to sell other investments earlier because he didn't anticipate getting money out of the bond was going to be other than straightforward.

Mr H also told us that on 20 October 2020 the broker advised disposing of the holdings and, because of the uncertainty in the global markets, purchasing 'safer' stocks. But he said that Moderna had just announced the development of a Covid vaccination which he thought might be a worthwhile investment of a riskier type and to help balance the portfolio. He said there was a window to invest when Moderna stocks wouldn't move much. The broker was right as Moderna stocks ranged from \$67 to \$72 over the next few weeks but rose by 23% in mid November 2020 and by 11 December 2020 stood at more than \$150. Later in December 2020 the broker felt that the heat in Moderna shares had dissipated somewhat. He looked for an opportunity and the next purchase at \$119 was made on 12 January 2021.

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.

As to whether Invesco did anything wrong, it took a very long time for the proceeds from the disinvestment of the Corporate Bond Fund to be released. Mr H's and the trustees' instruction was received by Invesco on 14 October 2020 but the money wasn't paid out until 12 March 2021, some five months later.

Invesco now accepts there was a delay on their part. Invesco says the money should've been paid out on 27 November 2020. Mr H's own loss calculations, based on what the investigator suggested, give a slightly earlier date, 18 November 2020. I think Mr H has assumed a month, as suggested by the investigator, for receipt of the AML documentation. But, as the investigator noted, Invesco would also need time to consider that and process the payment. And I think Mr H accepts what the investigator said about the timings being estimates only and not exact. On balance I don't think the date suggested by Invesco – just over six weeks – is unreasonable. That would mean the proceeds of the Corporate Bond Fund should've been released and available to Mr H for reinvestment on 27 November 2020.

I can understand why Mr H disagrees with what Invesco has said about not offering redress for missed investment opportunities. We award compensation for financial loss aimed at

putting the consumer back in the position they'd be in if everything had gone as it should've done. If we're satisfied that, but for a firm's errors or delays, money would've been released earlier, we'll award compensation for any financial loss that's been suffered in consequence of the consumer not having had the use of that money.

In that sort of situation, where someone has been kept out of their money, we might say interest (usually at 8% pa simple) should be paid. But that won't always be appropriate if the investment is held in a pension arrangement and the money can't be withdrawn. In that sort of situation we'd look at where the money would've been reinvested and what sort of return it is likely to have generated. Often it will be difficult to say exactly what the consumer would've done. Where, as here, the money was part of a SIPP portfolio, we might look at the overall return achieved by the SIPP during the period in question. Or we might use a benchmark or index commensurate with the investor's circumstances, including their attitude to risk.

But sometimes an investor will say that they'd have made a particular investment and so we'll consider if redress should be based on that. We don't look at things with the benefit of hindsight. We need to assess what's likely to have happened at the time. Where there's any dispute, we reach a decision on the balance of probabilities – that is what we consider is likely to have happened, based on all the available evidence and information and taking into account the context and wider circumstances.

There's sometimes contemporaneous written evidence which makes it clear what was intended to happen. In a case such as Mr H's that might be an email dialogue which dates back to October 2020 between Mr H and his broker confirming that Mr H was in the process of encashing another investment, the proceeds of which would be used to purchase Moderna shares but in the meantime he'd be buying a smaller number of shares.

But here Mr H has said that business was conducted mostly by telephone and usually on the basis that whatever was decided would be implemented on the same day. So there's no email chain or other contemporaneous evidence. But Mr H's broker has provided a statement confirming what he understood Mr H's plans at the time were – to buy an additional \$34,000 of Moderna shares once the release of funds from Mr H's SIPP had been finalised. So I accept that, as things stood on 20 October 2020, Mr H had plans to use the money from the Corporate Bond Fund, which he expected to be released at any time, to buy more Moderna shares.

As I've said, if Invesco had dealt with things as they should've done, the money wouldn't have been released until 27 November 2020. So I need to consider what Mr H is likely to have done if the money had been available then.

By late November 2020 the initial window of investment opportunity had passed and Mr H's views about investing more money in Moderna shares may have changed. When his first investment was made the share price was \$74.48. Mr H has said that the price ranged from \$67 to \$72 over the next few weeks but had risen by 23% in mid November 2020 and by 11 December 2020 stood at more than \$150. Against that background, I'm not sure, if the money had been available by towards the end of November 2020, that Mr H would've gone ahead with a further investment then. Mr H did buy more Moderna shares on 12 January 2021 but the price by then was around \$120 which Mr H may have considered a more attractive position, hence his decision to invest further.

But, and even if I'm wrong about that, we also look at the wider circumstances, which would include considering if Mr H could've mitigated his position – that is if, despite any failings on Invesco's part, he could've taken other steps to make sure he didn't lose out.

Mr H had lodged a request to encash his holding in the Corporate Bond Fund on 7 October

2020. Given what he's said about similar requests having been dealt with promptly in the past, Mr H might've expected to be in receipt of the proceeds by the time his conversation with the broker took place on 20 October 2020. But that wasn't the case. The Moderna stock was one of five purchases Mr H made on 20 October 2020, all of which were funded by the sale of twelve other holdings. The total proceeds of sale were \$113,977.75 with the five purchases on the same day costing \$114,466.85. The sum invested in Moderna was the smallest – \$11,469.48 – less than half of the amounts invested in the other four stocks.

If Mr H had thought his broker's instincts about how well the Moderna shares would do were right and that there was probably only a short window to invest before the stock would start to increase in price, the other investments Mr H made on the same day could've been adjusted. The sales raised sufficient funds for Mr H to be able to invest on 20 October 2020 the full amount in Moderna he was planning. He could've 'topped up' his other investments later once the proceeds of the Corporate Bond Fund were available. Doing things that way round would've allowed Mr H to take full advantage of the broker's 'tip' about the Moderna shares.

The fact that Mr H didn't do that might also suggest he was more comfortable with the smaller sum he was investing in Moderna. He's explained that his broker's advice was to move to less risky stocks and that the Moderna shares were included as an element of balance. Investing a smaller amount in Moderna than he did in the other stocks tends to suggest Mr H wanted to limit his exposure. And that he was happy to adopt a 'wait and see' approach before deciding whether to invest more.

And, although Mr H has said he didn't chase Invesco as throughout he was expecting the money to be released any day, the fact of the matter is that he'd requested the money in October 2020 and it wasn't forthcoming until March 2021, some five months later. I think during that period and if Mr H had wanted the money to make a specific purchase he should've made that clear to Invesco and that he'd hold Invesco responsible for any losses he sustained as a result of being unable to invest at the time.

Mr H did later buy more Moderna shares – he bought an additional 335 shares at \$122.34 costing in total \$40,984.86 on 12 January 2021. The proceeds of the Corporate Bond Fund still weren't to hand but Mr H was able to make a further purchase anyway. I think that indicates he was in a position, if he wanted to buy more shares in Moderna at any stage, to do so and he wasn't dependent on the release of the money from the Corporate Bond Fund.

All in all I think it's difficult to say Invesco should be responsible for Mr H being unable to purchase as much Moderna stock as he wanted on 20 October 2020. As I've said the money wouldn't have been released from the Corporate Bond Fund anyway until 27 November 2020. Given the change in the share price I can't say that Mr H would've bought more shares in Moderna than anyway. Further and in any event, Mr H had sufficient funds to buy the full amount of Moderna shares from the outset. And he later made a further investment which he could've done earlier.

Although I'm unable to say redress is due on the basis that he was unable to invest further in Moderna, I do think Mr H has lost out more generally as he was unable to invest the money – £26,365.10 – from 27 November 2020 to 12 March 2021.

I think a benchmark should be used to calculate Mr H's losses. It seems that at the time his overall strategy was derisking with a relatively modest investment in Moderna to add some balance and maintain some potential for growth. On the basis he was prepared to take some risk I think redress should be based on the FTSE UK Private Investors Income total return index. This index is a set of calculations that demonstrates performance of various asset classes. It's diverse, transparent, industry used and adjusted quarterly. But by using this, I'm

not saying Mr H would've invested into a stock market tracker fund – I'm just saying it's the sort of return he'd have got with some risk to his money. I think it's fair and reasonable in the circumstances of this case.'

I went on to set out the steps Invesco needed to take to put things right.

Invesco confirmed that it accepted my provisional decision and it provided redress calculations. Invesco asked us to confirm we were happy with the calculations and set out some further information needed.

Mr H was very unhappy with my provisional decision. He made detailed comments. I've summarised his main points:

- Through no fault of his own he was left in a position where he was unable to make an intended purchase of Moderna shares, resulting in a loss of profit of around £40,000. He failed to understand why I hadn't accepted the situation in its entirety unless it was suggested that he or his broker hadn't been truthful.
- He'd had discussions with his broker on 20 October 2020. It was agreed to sell all the holdings in his SIPP and purchase other stocks, including some Moderna shares, and make an additional purchase in Moderna as soon as the funds were released.
- The expectation was that the proceeds of the Corporate Bond Fund would be released on 20 October 2020 or within a few days of that as advised by Invesco. At the time there was no reason to believe the funds wouldn't be released accordingly.
- Invesco had ignored the investigator's request to produce a timetable and calculation and Mr H had to do that himself. He'd accepted the investigator's suggested timescale in an effort to compromise and as an exact dateline to a certain day would be difficult to work out. His calculations were fair and reasonable and included a few days for Invesco to make the necessary arrangements.
- Invesco had come up with the date of 27 November 2020 when the Moderna share price jumped to \$121.76, an increase of 22% (compared with the average price for the preceding week or so).
- It wasn't correct to say that he may not have purchased more shares on 27 November 2020. First, he disputed that was the correct date to use. Secondly, he'd purchased more shares on 12 January 2021 when the price was \$119.25 (not \$122.34 as his broker had said) so there can be little question he'd have purchased more shares (to the value of £34,000 as agreed with his broker). He'd accepted that TM Trustees Limited were responsible for some of the delay and he'd reduced his claim to about £24,000.
- He was disappointed with my comments that he could've bought more Moderna shares on 20 October 2020 by adjusting the amounts he invested in other stocks. His broker had suggested buying the other shares on 20 October 2020 because he felt it prudent to do so before those shares increased in price as market sentiment was moving towards safer stocks. It wasn't fair to use hindsight. And it wasn't the case that he was happy to adopt a '*wait and see*' approach.
- Saying he should've made it clear to Invesco that he'd hold them responsible for any losses ignored two salient facts: all contact with Invesco had to be through TM Trustees Limited and it was only at the end of the process that he was in a position to contact Invesco direct. TM Trustees Limited were continually chasing Invesco and keeping him informed. There was never a situation where he didn't expect the funds to be released imminently and so he wasn't in a position to intervene directly.
- Saying he could've bought more shares in Moderna assumes he'd ignore his broker's advice. He'd have had to sell other investments to buy Moderna shares. When he bought the further shares on 12 January 2021 that was on his broker's advice and he had to sell other shares to do so, again on the advice of his broker.

- His intention to buy shares as soon as possible after 20 October 2020 was well documented and depended entirely on the release of funds by Invesco which didn't happen. He didn't agree with the findings I'd reached, which dismissed the fact that his plans were already in place.
- What I'd said about putting things right seemed unnecessarily complicated. He was also concerned that any payment into his SIPP might fall foul of annual amounts that could be paid in when he had no earned income. A payment made directly to him shouldn't be subject to deduction of income tax and was likely to be treated as a capital gain.
- He failed to understand why investigators are employed when an ombudsman destroys all the work he and the investigator had done by arriving at a diametrically opposed conclusion.

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.

Mr H is clearly extremely unhappy with my provisional decision. I've considered very carefully all Mr H has said. But I haven't been persuaded to alter my decision. Although I've read and considered all Mr H's comments I'm only going to respond to what I see as key. Given that my views haven't really changed, I appreciate that Mr H will remain very dissatisfied.

I'd first make some general observations. Ours is a two stage process. Where a complaint can't be settled by the investigator, it's referred to an ombudsman who reviews the case in its entirety and comes to their own conclusions as to what the outcome should be. In many cases the ombudsman will agree with the approach taken by the investigator. But not always. If the ombudsman's view is different to what the investigator has said, the ombudsman will usually issue a provisional decision setting out their views.

Mr H may regard the investigator's involvement (and I note Mr H is appreciative of the efforts made by the investigator) as wasted, along with the time Mr H spent working with the investigator to come to an outcome. But, while we try to resolve cases without referral to an ombudsman, that isn't always possible. Where there's a change in outcome following a referral to an ombudsman, that's likely to be particularly disappointing for the party whose complaint had previously been upheld by the investigator. But the nature of our work is such that one party is likely to be disappointed, whether that's at investigator or ombudsman level.

Further, in a case such as this where something has gone wrong but the extent of the failing and its consequences aren't agreed, there's likely to be room for disagreement. Mr H has referred to not having a crystal ball and not being a mind reader. To some extent I can understand his sentiments in that it's never going to be possible to say definitively what should've and would've happened. In deciding those issues it may seem like I'm making assumptions but I reach my decision on the balance of probabilities, taking into account all the available evidence and the wider circumstances.

Turning now to the complaint itself, Mr H points out that the date, 27 November 2020, when Invesco has said the proceeds of the Corporate Bond Fund should've been available, coincides with a significant increase to the Moderna share price. I note all Mr H says about why he was prepared to work with the investigator's estimated timescale and why he considers his own calculations were fair and reasonable, especially as exact timings aren't possible. But Invesco (even if it had initially declined to provide a timescale) explained why that date had been selected. Essentially, although verification documents were required, Invesco accepted that the referral to the AML team could've been made earlier, on receipt of

the Trust Deed on 27 November 2020. I thought that was reasonable, hence I was prepared to adopt that date. I've revisited that and I still think it's fair and reasonable. So, in considering what Mr H likely would've done, that's the date I've used.

I agree that the situation which arose wasn't of Mr H's making. But I don't think the position is as clear cut as Mr H suggests. It isn't the case that I don't think he or his broker are being truthful. But it won't always be fair and reasonable to decide a complaint on the basis of what a consumer (or a business) says, after the event, would've happened and without examining the wider circumstances. Especially where, as here, there's no contemporaneous evidence. In saying that I know we've got the broker's evidence, and I don't discount that, but contemporaneous evidence like I mentioned in my provisional findings does carry significant weight. And looking at the wider situation may involve considering whether, even though a business may have clearly been at fault, the consumer could've taken steps to address the problem and mitigate any losses.

I accept that Mr H's expectation was that the money would be available on 20 October 2020 or shortly afterwards. Mr H has explained in some detail why all of the holdings he held in his SIPP were sold on that date and new stocks bought, including some Moderna shares. I accept Mr H was acting then (and throughout) on the advice of his broker who'd advised a move to what were perceived as safer stocks, the price of which the broker thought would increase. I'd said that Mr H could've purchased the full amount of Moderna shares on 20 October 2020 by adjusting the amounts he invested in other stock. But I accept that wasn't what Mr H's broker was advising. It seems the broker felt there was a window of opportunity to invest in Moderna which meant more shares could be bought once the proceeds of the Corporate Bond Fund were released. I also accept that the further purchase of Moderna shares in January 2021 was made on Mr H's broker's advice.

But, all that said, the funds didn't materialise within Mr H's expected timeframe – that is within a few days of 20 October 2020. In that situation and, if Mr H and his broker had thought the window of opportunity for buying Moderna shares was closing, I'd still expect to see some steps to try to address the delay. Such as contacting Invesco – whether direct or through TM Trustees Limited – to make it clear that the funds were urgently required. I don't think it's entirely fair and reasonable for Mr H to have relied on the trustees' continuing efforts and not flagged up, whether direct or via the trustees, that the money was urgently needed for a specific purchase. And I don't really see that Mr H was precluded from contacting Invesco direct, particularly in a situation where TM Trustees Limited didn't seem to be making any headway.

As the days and weeks went by, Mr H didn't get the money. He'd have known he was missing out on an investment opportunity. I understand that he wouldn't have acted other than on advice from his broker. But, when the money earmarked for the purchase of more Moderna shares wasn't released promptly and knowing that the investment window was closing, I don't think it's unreasonable to say Mr H could've reverted to his broker to see what could be done instead. That might involve selling other stocks if the broker's advice remained that buying more Moderna shares was a priority. So, although I accept what Mr H has said about his plans being formulated on the advice of his broker and relying on the timely release of funds by Invesco, when that didn't happen, it was up to Mr H to try to deal with that. Mr H may regard that as unfair when the problem wasn't of his making. But, as I've said, even where a business has clearly been at fault, we'd usually expect a consumer to try to mitigate their position. That's fair and reasonable and consistent with the legal position.

For the reasons I've explained, I'm unable to say Invesco is responsible for the loss Mr H has claimed. But Invesco did delay in paying out the proceeds of the Corporate Bond Fund and so needs to redress Mr H for any lost investment growth during the period of delay.

I note Mr H's comments about the redress I suggested. Compensation involving a pension can be complicated, largely because of the tax considerations. But compensation isn't treated as a capital gain. I think Mr H's concern about any payment into the SIPP is that he hasn't got any relevant earnings (broadly defined as earnings from employment or self employment in the UK) so the maximum tax relievable amount he'd be able to contribute is £3,600 pa. But the redress set out in my provisional decision allowed for the possibility, if payment into the SIPP conflicted with any existing protection or allowance, for a payment direct to Mr H.

As I've mentioned above, Invesco has supplied loss calculations and asked us to confirm they're correct. But we don't usually check redress calculations at this stage. It will be up to Invesco, if Mr H accepts my final decision, to ensure that redress is calculated and paid as I've set out.

But there are a couple of points I'd make. I'd said Invesco should pay the £2,610 offered if that was higher than the redress calculated using the methodology I set out. Invesco says that is the case. If that's right, then I think a cash payment direct to Mr H of £2,610 would be the easiest option. Invesco isn't (and correctly in my view) seeking to reduce the portion paid into the SIPP to reflect tax relief and will still pay £2,610 in total. But further details will be required from Mr H (as to his tax paying status) as well as from TM Trustees Limited, including verification details. If the payment is made direct to Mr H, if he wants to accept it, he'll just need to confirm to Invesco that the bank details it already holds for him are correct.

And, when Invesco made its offer, although £606.76 was for interest and £2,000 for distress and inconvenience (rounded up in total to £2,610), Invesco simply said, if Mr H accepted it, Invesco would arrange for it to be paid. There was no indication that separate payments into the SIPP and to Mr H would be made. So, although I understand why Invesco has followed the same approach as the methodology I set out, I think, especially as Mr H has expressed concern about the annual allowance, that a cash payment to Mr H would be easiest.

Putting things right

I've repeated here the redress I set out in my provisional decision but my above comments should be borne in mind.

To compensate Mr H fairly Invesco Fund Managers Limited should:

- Work out what the sum of £26,365.10 would've been worth on 12 March 2021 if it had achieved a return equivalent to the FTSE UK Private Investors Income Total Return index between 27 November 2020 and 12 March 2021. The difference represents Mr H's loss, if any, as at 12 March 2021. To bring that up to date the same benchmark should be applied to the loss from 12 March 2021 to the date of settlement.
- The compensation should be paid into Mr H's SIPP, to increase its value by the amount of the compensation and any interest. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the SIPP if it would conflict with any existing protection or allowance.
- If the compensation can't be paid into Mr H's SIPP, it should be paid direct to Mr H. But had it been possible to pay into the SIPP, it would've provided a taxable income. Therefore the compensation should be reduced to notionally allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount – it isn't a payment of tax to HMRC, so Mr H won't be able to reclaim any of the reduction after compensation is paid.
- The notional allowance should be calculated using Mr H's actual or expected marginal rate of tax at his selected retirement age. I think it's reasonable to assume

that Mr H is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Mr H would've been able to take a tax free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%. If either party disagrees about my assumption that Mr H is likely to be a basic rate tax payer in retirement they should say so in response to this provisional decision.

- In addition, Invesco Fund Managers Limited should pay Mr H £300 for the distress and inconvenience he's suffered as a result of Invesco Fund Managers Limited's poor handling of the matter. I know that Invesco Fund Managers Limited offered £2,000 for distress and inconvenience but that was on the basis that Invesco Fund Managers Limited was only prepared to offer interest of £610 whereas I've made an award for investment losses from 27 November 2020 up to date. In the event that redress calculated on the basis I've set out works out less than £2,610, Invesco Fund Managers Limited should pay the higher amount.
- Details of the calculation should be provided to Mr H in a clear, simple format.

My final decision

I uphold the complaint. Invesco Fund Managers Limited must redress Mr H as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 18 August 2023.

Lesley Stead
Ombudsman