

## **The complaint**

Mr H has complained that Interactive Investor Services Limited accumulated unpaid fees against his ISA without him being made aware of this.

## **What happened**

The background to this complaint and my initial conclusions were set out in my provisional decision, which I issued last month.

My provisional decision said:

### ***What happened***

*Mr H opened a Self-Invested Personal Pension (SIPP) with Interactive Investor Services Limited (II) in October 2018. He then opened an ISA with II in May 2019.*

*II took all fees for both Mr H's ISA and SIPP accounts from his ISA. In October 2019 Mr H emailed II to ask if all fees for his II account could be drawn from the cash balance held in his SIPP, and not from his ISA.*

*II replied to Mr H to say that this wasn't possible as his ISA was linked to his SIPP. II further explained that fees could only be taken from the SIPP if the SIPP was a stand-alone account.*

*Mr H asked II if this was a regulatory or a platform constraint and was told by II that it was a platform constraint. II also told Mr H: "You could open up a linked trading account at no extra cost to pay the fees from, this would stop any fees being taken from the ISA or, alternatively you could set up a direct debit".*

*In December 2019 Mr H withdrew all monies from his ISA. Mr H says that he did this so that all future fees would be taken from his SIPP.*

*In July 2021 Mr H deposited £5,000 into his II ISA. Mr H had £519.81 deducted from this deposit by II to pay for outstanding fees that had accumulated on his account.*

*When Mr H queried this with II he was told that even though he had withdrawn all of the cash held in his ISA in December 2019, he hadn't instructed II to close his ISA. Therefore, his ISA had remained open, even though there were no monies invested in it.*

*As Mr H had retained an open ISA with II, which was still linked to his SIPP, then II had not been able to take fees from the SIPP, so instead fees had been building up as a debt against Mr H's ISA. When Mr H paid money into his ISA in July 2021 the outstanding fees were collected by II.*

*Mr H complained to II as he said that he wasn't aware that outstanding fees were building up as a debt on his ISA and he had wanted fees to be taken from his SIPP, not his ISA. II replied to Mr H's complaint in December 2011. They said that they had informed Mr H that he was accumulating outstanding fees in his ISA and therefore didn't uphold the complaint.*

*Mr H wasn't happy with II's response, so he referred his complaint to the Financial Ombudsman Service.*

*An Investigator within the Financial Ombudsman Service reviewed Mr H's complaint. Their view was that II hadn't done enough to tell Mr H that outstanding fees were building up as a debt on his ISA. The Investigator therefore upheld Mr H's complaint and said that II should refund some of Mr H's ISA fees and also pay him £100 to cover the distress and inconvenience that he'd suffered.*

*II didn't agree with the Investigator's view so Mr H's complaint has been brought to an Ombudsman.*

### **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 took monies out of his ISA in December 2019 and then paid cash back into his ISA in July 2021, from which II deducted outstanding fees of £519.81. Unpaid fees had accumulated against Mr H's ISA between January 2020 and July 2021 inclusive.*

*In June 2019 II changed their fee structure, II sent an email to Mr H on 18 April 2019 to tell him about this fee change. This message was sent before Mr H had opened his ISA, but the new fee structure came into force after Mr H had opened his ISA.*

*II told Mr H that under the new fee structure they moved him to their "Super Investor" service. II say they did this because of the amount of activity on Mr H's account. The fee for the "Super Investor" service was a plan fee of £19.99 per month plus a SIPP fee of £10 a month, so a total of £29.99 a month. This service gave Mr H two free trades a month with trades in UK shares and ETFs and funds and investment trusts then charged at £3.99.*

*However, before II's new fee structure came into force in June 2019, II say that Mr H instructed that his account be downgraded from the "Super Investor" service to their "Investor" service. The cost for the "Investor" service was a plan fee of £9.99 together with a SIPP fee of £10, so a total of £19.99 a month. This service entitled Mr H to one free trade a month. All other trades in UK shares and ETFs and funds and investment trusts were charged at £7.99.*

*II has also said that between the May and June 2020 fee payment dates Mr H instructed them to upgrade his account to the "Super Investor" service. This meant that after the upgrade Mr H's monthly II fee increased from £19.99 to £29.99.*

*Both the "Investor" and "Super Investor" service plans gave Mr H access to a Stocks and Shares ISA and a General Trading Account.*

Therefore, for the period between January 2020 and July 2021, when Mr H was accumulating unpaid fees as a debt on his ISA, II applied monthly fees of £19.99 from January 2020 to May 2020 inclusive, and then £29.99 a month from June 2020 to July 2021 inclusive. These unpaid fees total £519.81.

II have said "we charge a service plan fee which would cover as many accounts opened by a customer, providing they are linked under the same customer. So 1 service plan fee covered features of Mr H's ISA and SIPP. As he held a SIPP, for which there is an additional charge he paid £19.99 in total. He upgraded to our Super Investor plan totalling £29.99. He then downgraded to his original service plan and has been charged £19.99 ever since. Had he closed his ISA in December 2019, he would still have paid a service plan fee and SIPP fee on either of the service plans available".

I think that II are saying that regardless of whether Mr H had closed his ISA or not in December 2019, he would still have paid monthly fees of £19.99 for the "Investor" service and £29.99 for the "Super Investor" for his II SIPP account. This would mean that Mr H didn't pay any extra fee each month because he kept his ISA open between January 2020 and July 2021 inclusive.

On 9 December 2019 Mr H emailed II again to say: "One last question, if there is no cash in my ISA would it take cash available from my pension or sell units in investments in isa to fund the charges? Looks currently like I have no alternative but to remove my funds from the ii Isa to ensure the charges are taken direct from the pension fund".

On 10 December 2019 II replied to Mr H to say: "Unfortunately, the fees will have to come out of the cash balance in the ISA. Fees are unable to be taken from a SIPP when there is a linked ISA. I have spoken to Payments who have advised that we would never take fees from the SIPP even if there was no money in the ISA. If fees were outstanding on the account for long periods of time our Credit department could look into selling units in your SIPP investments. You would always be notified of this".

I think that in their reply II said that fees would "never" be taken from Mr H's SIPP, even if there was no cash in his ISA. But II go on to say that if fees are outstanding for a long period of time then they could take fees from the SIPP by selling investments if fees are outstanding on Mr H's account for "long periods of time".

Fees on Mr H's II account were outstanding for 18 months and had built up to over £500. I think it reasonable for this time period to be considered "long periods of time".

On 28 January 2020 II sent a secure message to Mr H to tell him that he'd accrued unpaid fees on his account and to explain what he needed to do to correct this. In this message II said: "We're getting in touch to let you know that there is a balance outstanding on your account in relation to unpaid account administration fees".

Mr H has said that he did read this message at the time but he understood that the charge would come off my SIPP as he had cash in that account and thought that his ISA was closed.

Mr H has also said he did look at the monthly transaction charge on his ISA and saw the fee of £19.99 being both debited and the re-credited. Mr H says that there was nothing visible on the account to show accumulated outstanding fees. He has also said that he thought that the monthly debit and credit of fees was an attempt to take the same £19.99 fee.

In relation to fees being debited and re-credited on Mr H's ISA, II has said: "Regarding the ISA balance, the account fee was taken from the ISA but as there was no cash balance

*available, and as because an ISA cannot be in state of negative balance, the fee is returned to the account while the debt is recorded elsewhere internally. The customer can see what fees have bounced on their transaction history and outstanding fees are also visible on their online account under service plan details”.*

*I have seen a screenshot of Mr H's ISA account balance for July 2021, provided by II. From this I can see the monthly fee as both a debit and a credit, so that a net running balance of zero is shown.*

*Mr H has said that there was nothing visible on his account to show an accumulation of charges. I think it is reasonable that Mr H would've seen a net running balance of zero, which would I think would have indicated to him that there wasn't a debt on his ISA account.*

*II have also said that “outstanding fees are also visible on their online account under service plan details.” But I think that this meant that Mr H would've needed to click onto a different screen to see his service plan details, to then look at his online account.*

*Mr H has said his online account page showed the monthly cost for his plan, with a button to click to “view plan”. Mr H has said that he saw no reason to click the view plan button.*

*II had told Mr H in January 2020 by email that he had outstanding fees on his account and explained what action he needed to take to correct this. But II then didn't contact Mr H about outstanding fees during the whole period that unpaid fees were accumulating on his ISA.*

*II have also said: “As a self-managed investor, it is your responsibility to keep track of your outstanding account fees and investments, including any cash you may be holding. It is not part of our service to actively contact customers, reminding them of any assets they hold, customers are expected to keep track of their own accounts.”*

*Whilst I understand that Mr H was a “self-managed investor”, I don't think that it would have been unreasonable for II to have contacted Mr H more than once between January 2020 and July 2021 to tell him that he was continuing to accumulate unpaid fees on his account. I think that II would have been aware that Mr H hadn't taken any action following their email of January 2020 and that more and more unpaid fees were accumulating on his ISA.*

*On balance, therefore, I therefore think that it would have been fair and reasonable for II to have contacted Mr H again, after January 2020, to tell him that he was continuing to accumulate unpaid fees on his ISA and to inform him of the outstanding balance. As II only contacted Mr H once to tell him that he had outstanding fees on his account, then in spite of II's comments above, I don't think that II made adequate efforts to make Mr H aware of these outstanding fees, and that the outstanding fees were increasing month by month.*

*I also think that had II contacted Mr H again after January 2020 to tell him that he was accumulating unpaid fees on his ISA, as his ISA was still open, then it's likely that Mr H would've closed his II ISA.*

*I say this because Mr H then had no money in his ISA, and he wanted fees to be taken from his SIPP. I don't think that there was any benefit to Mr H in him keeping his ISA open between January 2020 and July 2021, and I therefore think he would have closed it if he'd known that unpaid fees were accumulating within his ISA instead of being taken from his SIPP.*

*If Mr H had closed his ISA, then, as I've said above, he would not have reduced the monthly fee that he was paying to II. This is because II have said that Mr H's monthly fee would have been the same, whether the ISA was closed or not.*

*However, if Mr H had closed his ISA then his monthly fees could have been taken from his SIPP, which is what Mr H had told II he wanted.*

*II have said that Mr H has always known he is obligated to pay a fee for the services they provided to him and that they communicated correctly with Mr H about the changes to their fee structure in 2019.*

*I think that this is right and I don't think it unreasonable that Mr H should pay fees to II for the services that he received between January 2020 and July 2021 inclusive.*

*This is because Mr H had full use of his SIPP throughout this period and II were providing safe custody for Mr H's SIPP assets. Mr H also changed his II account to the "Super Investor" service in May 2020, so made the decision to upgrade his II account at that time. Also Mr H didn't pay any extra fee to II because he kept his ISA open.*

*I therefore don't think that it would be fair and reasonable for II to refund any fees to Mr H. However, because I don't think that II made adequate efforts to make Mr H aware of his outstanding fees I think that Mr H wasn't able to have his fees taken from his SIPP, as he wanted, and he had outstanding fees unexpectedly deducted from the monies that he paid into his ISA in July 2021.*

*I therefore think it fair and reasonable that II should compensate Mr H for the inconvenience that he's suffered as a result.*

*I am therefore upholding Mr H's complaint as I think that II should have taken more action than they did to tell him that he was continuing to accumulate unpaid fees as a debt on his ISA.*

### **Putting Things Right**

*As I've explained above I think that Mr H suffered the distress and inconvenience of unexpectedly having unpaid fees being deducted from his ISA payment in July 2021 and being unable to have his monthly fees deducted from his SIPP, as he'd told II he wanted. I therefore think that II should now pay Mr H £200 compensation for the distress and inconvenience that he's suffered.*

### **My provisional decision**

*My provisional decision is that I uphold Mr H's complaint against Interactive Investor Services Limited and that Interactive Investor Services Limited now compensate Mr H as detailed above.*

### **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.

Both Mr H and Interactive Investor Services Limited (II) have responded to my provisional decision.

II has said that when Mr H asked if they could deduct fees from his SIPP, and not his ISA, they explained to him that as long he held a linked ISA then fees will come from the ISA. II have also said that when Mr H asked if fees would come from his SIPP if he withdrew the balance from his ISA, they explained that fees would still be deducted from his ISA.

II have also said that when Mr H withdrew cash from his ISA then his intention was to force them to deduct fees from his SIPP, but they had already told him that this wouldn't lead to the outcome he wanted. II have added that the reason they deduct fees in this way is not a constraint of their platform but is instead their service offering.

II have gone on to say that only as an absolute last resort would they look to sell assets in an ISA or SIPP. II have further said *"But if there was no cash balance, in either, this would be our only option"*.

II have also said that Mr H has admitted that he was aware of the fees being owed and that when they contacted Mr H to advise him of the debt Mr H still took no action to ensure he was fulfilling his obligations.

II have also said a customer can view various pieces of information on their website and that they don't think it unreasonable to expect a customer to navigate through their menus to access this information. II have added *"In this case, each "screen" takes two "clicks" to show the information required for Mr H to view his unpaid fees"*.

II have said that Mr H read correspondence advising him of unpaid fees and took no action to remedy the situation. II have also said that they don't agree that Mr H was unaware that he had debt accumulating against him or that *"the numerous times he was advised of potential and actual debt"*, were unreasonable. II say that they further advised that fees would remain outstanding until such time that they contacted him to advise that they would sell his assets if he continued to refuse to pay his fees.

I have considered all of the points made by II in their response. In my provisional decision I'd set out details of the email exchange between Mr H and II in 2019 when Mr H had enquired about having monthly fees deducted from his SIPP. However, in my provisional decision I'd said that I didn't think that II had taken sufficient action to tell Mr H about the unpaid fees that he was accumulating on his ISA after these unpaid fees had started to accumulate. Unpaid fees accumulated between January 2020 and July 2021 inclusive.

II have said that they don't think it unreasonable for Mr H to have navigated their online system to have seen information about outstanding fees. But Mr H has said that he didn't do this because when he looked at his ISA he saw a net running balance of zero.

In my provisional decision I'd said that I thought it was reasonable that as Mr H would've seen a net running balance of zero this indicated to him that there wasn't a debt on his ISA.

II had also said that *"outstanding fees are also visible on their online account under service plan details."* But as I'd said in my provisional decision, I think that this meant that Mr H would've needed to click onto a different screen to see his service plan details, to then look at his online account. But Mr H had said that his online account page showed the monthly cost for his plan, with a button to click to *"view plan"*. Mr H has said that he saw no reason to click the view plan button.

II have said in their response to my provisional decision that *"each "screen" takes two "clicks" to show the information required for Mr H to view his unpaid fees"*. But as Mr H has said, he saw no reason to click to see the relevant page. As Mr H's ISA was showing a net zero balance then I don't think that this was unreasonable.

If, however, II had contacted Mr H after January 2020 to make him aware that outstanding fees were continuing to accumulate on his account, then on balance I think it likely that Mr H would've checked further on his account to understand what fees were outstanding.

II have said that when Mr H withdrew cash from his ISA this was because he wanted fees taken from his SIPP. I think that this is correct, as I think that Mr H explained in his emails sent in 2019 that he wanted fees to be applied to his SIPP. In 2019 II told Mr H that they couldn't take fees from Mr H's SIPP if there was a linked ISA because of a platform constraint. However, in their response to my provisional decision II have said that this was because it was their service offering.

II have said that they would sell assets in Mr H's account to pay fees if he refused to pay his outstanding fees. But I have not seen any evidence to show that Mr H was refusing to pay his fees. Mr H has said that he expected to pay fees on his II account.

II have also said that Mr H was aware that he was accumulating unpaid fees on his account, but again I've not seen any evidence to show that he was aware of his outstanding fees. As I've said above, Mr H has said that he didn't log onto the relevant page on his II account to see details of the unpaid fees that were accumulating. Mr H has also said that when he saw the net balance of zero on his ISA then he also thought that no fees were outstanding.

II have also pointed out that they did message Mr H in January 2020 to tell him that his January fee was outstanding. Mr H has said that he did read this message at the time, but he understood that the fee would come off my SIPP as he had cash in that account and thought that his ISA was closed.

Mr H has also said he did look at the monthly transaction charge on his ISA and saw the fee of £19.99 being both debited and the re-credited. Mr H says that there was nothing visible on the account to show accumulated outstanding fees. He has also said that he thought that the monthly debit and credit of fees was an attempt to take the same £19.99 fee. I think that this meant that Mr H didn't see anything on his account to show that his monthly fees were outstanding.

II also told Mr H: *"If fees were outstanding on the account for long periods of time our Credit department could look into selling units in your SIPP investments. You would always be notified of this"*. As I've also said above, I think that II were saying that they would sell assets in Mr H's SIPP if fees had been outstanding for a long period of time. I said in my provisional decision that I think the period of 18 months over which Mr H accumulated unpaid fees could reasonably be considered to be a long period of time.

In their response to my provisional decision II also said *"Regarding the selling of assets, only as an absolute last resort would we look to sell assets in an ISA or SIPP. But if there was no cash balance, in either, this would be our only option"*. But Mr H has said that he did have a cash balance in his SIPP.

Mr H has also responded to my provisional decision. In his response, Mr H has questioned whether he would have paid the same level of monthly fee between January 2000 and July 2021 if he had closed his ISA in December 2019, as I'd said in my provisional decision.

However, when asked if Mr H would've paid the same monthly fee as he did between January 2020 and July 2021 if he'd closed his ISA in December 2019, II answered, as I've set out above, *"Had he closed his ISA in December 2019, he would still have paid a service plan fee and SIPP fee on either of the service plans available"*.

I am satisfied by II's response that Mr H did not pay any additional fee between January 2020 and July 2021 because his ISA remained open.

As I said in my provisional decision, I think that it would have been fair and reasonable for II to have contacted Mr H again, after January 2020, to tell him that he was continuing to

accumulate unpaid fees on his ISA and to inform him of the outstanding balance. I'd also said in my provisional decision that I didn't think that II made adequate efforts to make Mr H aware of these outstanding fees, and that the outstanding fees were increasing month by month until July 2021.

I'd also said in my provisional decision that had II contacted Mr H again after January 2020 to tell him that he was accumulating unpaid fees on his ISA, as his ISA was still open, then I think it's likely that Mr H would've closed his II ISA.

I've carefully considered all of the points made by II in their response to my provisional decision, but I have not seen any additional evidence or information that has persuaded me that I should change my view.

I have also carefully considered the points raised by Mr H. As I've said above, I don't think that Mr H paid any extra fee to II between January 2020 and July 2021 because his ISA remained open. I've also not seen any evidence to show why Mr H should not pay fees for the services he received from II between January 2020 and July 2021 inclusive, as I'd said in my provisional decision.

I am therefore upholding Mr H's complaint against II for the reasons set out in my provisional decision and II should now compensate Mr H for the distress and inconvenience that he suffered as a result of their actions.

### **Putting things right**

In my provisional decision I'd said that II should pay Mr H £200 as compensation for the distress and inconvenience that he'd suffered. I'd also set out details of the distress and inconvenience that I think Mr H suffered. But Mr H has responded to my provisional decision to say he thinks that the distress and inconvenience award of £200 undervalues the inconvenience that he's suffered. Mr H therefore thinks that the award should be much higher than the amount that I had recommended.

For me to consider a level of award in line with the amount that Mr H has said would be appropriate, I think that II would have needed to have caused Mr H sustained distress, potentially affecting his health, or severe disruption to his daily life typically lasting more than a year. I have not seen any evidence that this is the case.

I think that instead Mr H has suffered distress and inconvenience as a result of II's actions, as I'd described in my provisional decision. I therefore think that compensation of £200 is fair and reasonable for the level of distress and inconvenience suffered by Mr H.

I therefore think that II should now pay Mr H £200 compensation for the distress and inconvenience that he's suffered.

### **My final decision**

My final decision is that I uphold Mr H's complaint against Interactive Investor Services Limited and Interactive Investor Services Limited should compensate Mr H as I have 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 2 November 2023.

Ian Barton



**Ombudsman**