

## **The complaint**

Mr J complains that Evelyn Partners Investment Management Services Limited caused unnecessary delays in transferring both his Self-invested Personal Pension ('SIPP') and his Individual Savings Account ('ISA').

## **What happened**

On 18 October 2023 Mr J contacted Evelyn Partners Limited about moving both his SIPP and ISA from the financial adviser led platforms to Evelyn Partners' Best Invest (non-adviser) platforms. In correspondence Mr J confirmed that he wanted to start the transfer process at the end of October 2023. Evelyn Partners sent him the relevant forms which Mr J completed by 23 October 2023.

Evelyn Partners confirm that Mr J's SIPP funds (around £77,000) transferred in specie on 26 February 2024. A period of 18 weeks from application to completion. It says that the ISA transfer was also made in specie and that it was made on 9 April 2024. A period around 24 weeks from application to completion.

Mr J complained to Evelyn Partners in March 2024, asking how it would compensate him for the delay in processing his transfer request.

On 17 May 2024 Evelyn Partners sent Mr J its response to his complaint. It upheld Mr J's complaint and agreed that the service that he'd received had not been good enough. It identified a failure to process the ISA transfer request correctly leading to it taking much longer than it should have. Evelyn Partners apologised and offered Mr J £100 compensation for the inconvenience he'd been caused.

Mr J was unhappy with this response and asked for further clarification on the cause of the delays and asked Evelyn Partners what consideration it had given to the impact on his investments and to how it reached its figure of £100 in compensation.

Evelyn Partners responded with a further explanation about the cause of the delays and said that it did not consider that Mr J suffered any investment loss because the transfer was in-specie and he remained invested throughout. It considered what Mr J had said about the impact on him and increased its offer of compensation for the distress and inconvenience he had experienced to £250.

Mr J did not accept Evelyn Partners answer and referred his complaint to our service. Mr J explained to us that he thought compensation of £430,000 was appropriate for the serious breach in service level that he'd experienced. He explained that he considered that he had potentially lost investment returns of £100,000 in the time it took to transfer his SIPP and ISA based on certain alternative investment performances over that time.

Our investigator looked into Mr J's complaint and agreed that Evelyn Partners had caused unreasonable delays in executing Mr J's transfers. But he thought that the offer of £250 compensation was a fair way to put things right. Mr J did not accept this and the case has been referred for an ombudsman's decision.

## 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.

Our service exists to provide an alternative dispute resolution service to the courts. We are set up to provide a resolution based on what we think is fair and reasonable, and to provide that answer with a minimum formality. This is why, even though I have read and considered everything that both parties have said, I've concentrated on what I think is most directly relevant to the outcome of Mr J's complaint.

The first thing I would normally consider is whether or not I think that Evelyn Partners treated Mr J fairly. But I don't think this issue is in dispute. Mr J complains that it took too long to transfer his SIPP and ISA. And Evelyn partners agree that it did. It is therefore a relatively simple matter for me to confirm that I also agree. Evelyn Partners told Mr J that the transfer of the SIPP could take from 8 to 12 weeks yet it took 18 weeks. By Evelyn Partners' estimate the ISA should only have taken 6 to 8 weeks to transfer, yet it took around 24 weeks. These delays were unnecessary and caused by failures on the part of Evelyn Partners. So, like Evelyn Partners and our investigator, I uphold Mr J's complaint about the delays.

Having determined that Mr J has been treated unfairly by Evelyn Partners, I now need to say what I think it needs to do to put things right. Mr J has correctly identified that our service has an award limit of £430,000 here. But that exists to place a limit on the extent to which we can put things right, rather than as a guide to what our service will seek to award as compensation. In considering this case I need to determine whether Mr J has lost out financially or whether Evelyn Partners' failings caused Mr J to experience distress and inconvenience. And base my direction on that.

Taking the first of these I have given serious consideration to whether Mr J is likely to have lost out financially. But I will explain why I don't think that it's fair or reasonable to say that he has.

In this case, it is significant that his transfers were in specie. His funds were never out of the market so they received investment returns for the whole delayed period. The funds that they were invested in were the same ones that had been agreed with Mr J since 2022. And, from what Mr J said in his email to Evelyn Partners on 18 October 2023, I don't think he was dissatisfied with the fund's that he held. In that email he told his adviser "*I have been quite happy with your portfolio management strategy...*".

For me to reasonably decide that Mr J has lost out financially I need to be persuaded that Mr J was, on a balance of probability, transferring in order to have invested in a way that would have meant he would have received better returns. But his messages with Evelyn Partners prior to the transfer do not support that being the case. For example:

- On 27 November 2023 Mr J emailed Evelyn Partners and included the statement, "*once it's transferred to BI [Bestinvest] account, for now I will just invest in Bestinvest readymade portfolio; any initial advice will be greatly received if you have any*".
- During an online webchat on 13 December 2023, when Mr J was requesting an update to his transfer, he was asked whether he had requested a cash or in-specie transfer. He responded, "*it's not important either way because if they transfer cash I was going to invest it in BI [Bestinvest] managed fund anyway*".
- During an online webchat on 6 February 2024, when Mr J was again requesting an update, he was told that it didn't look as if the ISA transfer had been processed. He was told that would be chased. Mr J responded, "*it's not urgent for me because even on BI [Bestinvest] I will simply invest in your ready made portfolio*".

I base my decision on contemporary evidence where available. And here, that evidence persuades me that Mr J had no specific intention of changing his investment type or strategy once the transfer completed. Although I appreciate that he would have had the option to do so. Based on what Mr J had said, I don't think it's fair or reasonable to say that he would, on a balance of probability, have invested it in a materially different way if the transfer had completed sooner. So I don't think it is fair or reasonable to ask Evelyn Partners to compensate Mr J for any notional loss of investment opportunity.

I've also considered the distress and inconvenience that Mr J likely suffered. The tone of his webchat in February 2024 doesn't indicate that he was significantly impacted by the fact that his transfers were taking longer than they should have. And he wasn't, for instance, prevented from taking any income or accessing savings because of the transfer. But the impact of the delays, and having to chase up only to find that his ISA request had never been processed, is more than just a minimal impact. For this reason I think that an award of £250 is a fair and reasonable way to compensate for this level of frustration and annoyance.

### **My final decision**

I uphold Mr J's complaint and direct Evelyn Partners Investment Management Services Limited, if they haven't already, to pay him £250 compensation for the distress and inconvenience its service failings caused.

Evelyn Partners Investment Management Services Limited must pay the compensation within 28 days of the date on which we tell it Mr J accepts my final decision. If it pays later than this it must also pay interest on the date of my final decision to the date of payment at 8% a year simple.

If Evelyn Partners Investment Management Services Limited considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr J how much it's taken off. It should also give Mr J a tax deduction certificate if he asks for one, so he can reclaim the tax from HM Revenue & Customs if appropriate.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr J to accept or reject my decision before 23 April 2025.

Gary Lane  
**Ombudsman**