DRN-5466731

The complaint

Mr E complains about delays caused by Brooks Macdonald Financial Consulting Limited ("BM") in arranging an investment in his Self-Invested Personal Pension ("SIPP").

What happened

Mr E had a SIPP with a firm that I'll refer to as Firm C in this decision. He was advised by BM to open an account with an investment firm that I'll refer to as Firm W. The intention was that he'd use funds in his SIPP for investment with Firm W.

On 3 October 2023, Mr E returned completed forms for the investment to BM in its pre-paid envelope. However, the forms weren't received by BM. When Mr E chased this up, he was asked to re-send them - which he did on 13 November 2023.

BM confirmed receipt of the re-sent completed forms on 15 November 2023 and they were sent by BM to Firm W the same day for it to open an account and liaise with Firm C.

On 30 November 2023, Mr E had the original forms which he'd sent to BM on 3 October 2023 returned to him by Royal Mail. The note from Royal Mail said BM had "No EC Freepost Licence" which was the reason why the forms were returned undelivered.

Firm W and Firm C completed their steps in the transaction and Mr E's funds were invested on 10 January 2024. A complaint to Firm W was then made by BM on behalf of Mr E for its delays in completing the investment. Mr E was paid around £2,700 compensation by Firm W. The complaint wasn't referred on to our service.

Mr E complained to BM in July 2024. He said BM had caused a delay to the investment when it failed to ensure the pre-paid envelope it provided in October 2023 would be duly received by BM. He said this caused him loss because he'd lost the investment growth that he'd have earned had the investment been made earlier.

At around this time, BM also made a complaint to Firm C on behalf of Mr E about its role in delays in the completion of the investment. Firm C paid Mr E £50 compensation as a gesture of goodwill. The complaint against Firm C was not taken any further by Mr E.

BM upheld Mr E's complaint about delays it had caused. It said that it was looking into matters with Royal Mail as it believed that the postal costs were properly pre-paid. But it accepted that this was nothing to do with Mr E and that it should pay him compensation for any investment loss he'd suffered as a result of the delay. It said it should reasonably have received and actioned the investment forms on 5 October 2023 and so it offered to pay him compensation for any investment loss from that date until 15 November 2023 when BM actually sent the forms on to Firm W. It said it wasn't responsible for anything that happened thereafter between Firm W and Firm C and the completion of the investment. BM also offered £250 for the trouble caused by the delay. It later increased this to £500.

Mr E didn't accept BM's offer. He said that BM had used an implausible timeline and Firm W and Firm C wouldn't have been able to complete the investment on 15 November 2023 – it would have taken longer. Mr E said that using a more realistic date for the completion of the investment would result in a more realistic calculation of the investment losses he'd suffered from BM's delays. He estimated his losses to be around £44,500.

Mr E then referred the complaint against BM to our service.

One of our investigators looked at all the evidence and decided that additional time should be added to the loss calculation dates. He initially thought that BM should pay compensation by assuming that the funds would have been invested on 30 November 2023 if BM had not caused a delay. But, after receiving further submissions from BM, the investigator later changed this to say:

- It was reasonable to look at when the investment might reasonably have been completed if BM had received and actioned the forms on 5 October 2023.
- The complaint was only against BM and so he couldn't look into the precise acts of Firm W or Firm C. But both firms had accepted some responsibility for their part in the delay in making the investment.
- The Transfers and Re-registrations Industry Group ("TRIG") had issued guidance relating to industry good practice for pension and investment timescales. It said that ten working days was an appropriate time frame for businesses to complete an investment in cash assets where there were two counterparties.
- So if BM had received and actioned the investment form on 5 October 2023 it's reasonable to say the transfer should have been completed by 19 October 2023 (i.e. ten working days later) by Firm W and Firm C.
- The same approach should be taken to deciding what reasonably should have happened when BM actually submitted the investment forms on 15 November 2023. The investment should reasonably have been completed by 29 November 2023 (i.e. ten working days later).
- So BM was responsible for paying Mr E compensation for the period of the loss of investment between 19 October 2023 to 29 November 2023.

The investigator also said that BM's initial offer to pay £250 for the trouble caused to Mr E was fair.

BM agreed with the investigator's view. But Mr E didn't agree and he's asked me to make a final decision. He thinks the dates being used for the estimated/hypothetical investment completion dates don't realistically account for the losses he's suffered. He says (in summary):

- Firm W only accepted responsibility for a short delay of a few days – he'd only received compensation of around £2,700 for that delay. Firm C had not accepted responsibility for any delays and paid him only £50 as a gesture of goodwill. So he wasn't being "double compensated" – he wasn't getting fully compensated for the overall losses he'd suffered.

- The complaints against Firm W and Firm C had been instigated by BM and Mr E hadn’t seen the final response of Firm C until many months after the event.

- So either BM had not handled the complaint against Firm C very well or Firm C had not in fact caused a delay. And if the latter, it was reasonable to proceed on the basis that there was around a 23 working-day time frame to complete the investment once the forms had been sent to it from BM.

- The TRIG guidance was too optimistic as there were in fact multiple steps required to be undertaken between Firm W and Firm C and each step might require five working days to complete.

- At the very least, the upper end of 15 days set by the 2018 TRIG guidance should be used.

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.

BM accepts that it’s responsible for a period of delay caused when the investment forms that Mr E sent were not actioned on 5 October 2023 and instead only actioned later on 15 November 2023. So I need to decide what ought reasonably to have happened but for the delay as that will determine the compensation calculation dates and ultimately what BM is liable to pay Mr E.

BM had no further significant role in the investment after 15 November 2023. Other parties - Firm W and Firm C - were involved. No complaints have been referred to our service about Firm W or Firm C. And I understand that Mr E has been paid compensation by those parties. So I make no finding of fault against either Firm W or Firm C.

But I do need to ensure that BM is only liable for its role – not what happened between Firm W and Firm C. And that requires me to determine the time period within which the investment might reasonably have been completed after 5 October 2023 when the initial investment forms *should* have been actioned by BM.

The TRIG framework used by the investigator sets out industry good practice for transfers and investments involving pensions. It suggests a ten working day standard for simpler transactions such as cash payments between pension plans.

The investment in the account with Firm W by the use of cash in the SIPP with Firm C wasn’t a transfer between pension plans. But I think the circumstances here are *analogous* to the type of transfer set out in TRIG. The SIPP held cash that was to be transferred to Firm W. It wasn’t an occupational pension scheme and there were not multiple fund managers. So, in the particular circumstances of the complaint against BM (and based on what I’ve seen), I think it’s reasonable to use the TRIG ten working day timescale.

On that basis, I think it’s reasonable to say the investment should have been completed by 19 October 2023 (i.e. ten working days after 5 October 2023).

And applying the same approach, I think it's reasonable to also proceed on the basis that when BM actually actioned the investment forms on 15 November 2023, the investment should have completed by 29 November 2023 (i.e. ten working days after 15 November 2023). Doing this means that BM is not unfairly held accountable for matters beyond its role in the transaction when Firm W and Firm C were completing the investment.

So, I think BM is responsible for any losses Mr E has suffered from his SIPP funds not being invested with Firm W from 19 October 2023 to 29 November 2023. I think this is fair to both parties to this complaint.

Putting things right

BM will need to calculate the loss Mr E has suffered as a result of his funds remaining in his SIPP rather than invested with Firm W between 19 October 2023 and 29 November 2023.

Any loss should, if possible, be paid into Mr E's pension plan. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension plan if it would conflict with any existing protection or allowance.

If a payment into the pension isn't possible or has protection or allowance implications, it should be paid directly to Mr E as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid.

If Mr E has remaining tax-free cash entitlement, 25% of the loss would be tax-free and 75% would have been taxed according to their likely income tax rate in retirement – which I think it's reasonable to assume will be 20% - a point which I note neither party disputed after the investigator's view was issued. So, making a notional reduction of 15% overall from the loss adequately reflects this.

Overall, I'm also satisfied the increased £500 compensation BM has offered to Mr E for the distress and inconvenience caused is fair. He's clearly been inconvenienced by having to deal with the practical consequences of the delay. And he will have been concerned about the impact on his pension fund. BM hasn't paid this sum yet to Mr E but has confirmed that it is still willing to do so – and so I think it should.

My final decision

I uphold this complaint. Brooks Macdonald Financial Consulting Limited must pay Mr E the compensation set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 5 September 2025.

Abdul Hafez
Ombudsman