

The complaint

Mr W has complained to EBS Pensions Limited (EBS Pensions) that it didn't process a surrender request for one of the investments held in his self-invested personal pension (SIPP) quickly enough, which meant the intended dealing date was missed.

Trading in the fund was then suspended before the next available dealing date, preventing the transaction from going through. As a result, Mr W feels that he's suffered a financial loss.

What happened

The investigator who considered this matter set out the background to the complaint in his assessment of the case. I'm broadly setting out the same background below, with some amendments for the purposes of this decision.

Mr W holds a SIPP administered by EBS Pensions. Mr W has told us that in August 2023 he instructed it to surrender one of the investments held within the SIPP.

Then on 4 September 2023, EBS Pensions advised Mr W that all it required in order to process the surrender was a letter signed by him. Mr W provided this letter by email on the same day. However, it wasn't until 21 September 2023, around two and a half weeks later, that EBS Pensions advised Mr W that a completed surrender form was also required. Mr W completed and returned this form the same day.

Mr W says a further delay then followed. Around two and a half weeks later, EBS Pensions contacted him to confirm the reference number for the investment to be surrendered, explaining that it didn't have appropriate records detailing the investments held within the SIPP. Mr W provided the correct reference number on the same day as the request.

EBS Pensions subsequently submitted the surrender request in time for the November 2023 dealing date. However, it was advised that trading in the fund had been suspended with effect from that date. The fund in question only traded once a month.

Mr W has said that, had EBS Pensions maintained appropriate records and acted within a reasonable timeframe, the surrender would have been completed at the October 2023 dealing date, prior to the suspension of the fund. Mr W has also said that the investment consisted of 11,534.74 shares in the "ARC Time Freehold Income Authorised Fund A Gross Accumulation Shares".

This investment was managed by the UK-based investment manager firm called "Time Investments". Time Investments was a trading names of Alpha Real Property Investment Advisers LLP.

On 18 March 2025, EBS Pensions issued its final response letter addressing Mr W's concerns and it partly upheld his complaint. In summary, EBS Pensions said the disinvestment was prevented by the suspension of the asset on 13 November 2023. It added that there had been uncertainty about the correct designation of the investment and that clarification was required before it could proceed.

EBS Pensions said that Time Investments contacted it on 18 October 2023 to confirm whether designation "****19" was correct. It accepted that it should have contacted Mr W by 2 November 2023, but didn't do so until 7 November 2023.

EBS Pensions said that, although Mr W responded on the same day, the response didn't provide sufficient clarity to proceed with certainty. It added that, even if a clear response had been provided earlier, it would likely not have contacted Time Investment until 17 November 2023, which would have been after the asset suspension.

EBS Pensions also said that this part of the timeline was in line with its standard service timescales, but offered £100 in compensation to reflect that the delay wasn't in line with its service standards.

Unhappy with EBS Pensions' response, Mr W referred the complaint to our service for consideration.

Following referral of the complaint, EBS Pensions has said that Mr W requested the sale of the SIPP investment on 4 September 2023. It's accepted that, while clarification with the provider was required, this should have been completed before the fund was suspended on 13 November 2023. It's EBS Pensions' understanding that the fund remains suspended.

EBS Pensions also agreed that its original offer of £100 compensation was insufficient and revised this to £500. EBS Pensions has also committed to reviewing the final sale proceeds once the suspension is lifted and comparing these with the value that would have been realised immediately prior to the suspension, with the intention of ensuring Mr W doesn't suffer a financial loss. It's also said that it's willing to take a different view on the relevant date if appropriate.

EBS Pensions has noted that M W previously asked whether it could buy the holding directly. While EBS Pensions said that this wasn't something that it would normally do as a bare trustee, it was nevertheless willing to consider any proposals Mr W put forward as a potential resolution.

In response to this, Mr W said that EBS Pensions' administrative failures caused financial loss in two ways. Mr W said that the value of the investment fell following its suspension, resulting in a capital loss, and that he'd also missed out on growth that would have been achieved had the proceeds been reinvested as intended.

Mr W added that reinvestment with St James's Place would have produced growth of almost 38% since September 2023, which he estimated equated to around £38,000 in lost growth. This, he said, put EBS Pensions' compensation offer into context.

Mr W remained concerned that the fund was still suspended and the funds remained unavailable for reinvestment, with no clear indication of when the suspension will be lifted.

Mr W has proposed that EBS Pensions buy the holding at its value as at 13 September 2023. He said that this would allow reinvestment elsewhere and bring the matter to a conclusion, rather than leaving it exposed to an ongoing and uncertain loss.

Having considered the matter, our investigator thought that the complaint should be upheld, saying the following in summary:

- The evidence showed that, on 4 October 2023, Time Investments emailed EBS Pensions requesting confirmation of which designation the encashment request related to. In this email, Time Investments clearly set out three separate designations, each with a distinct investor ID:
 - Investor ID ***16: Hornbuckle Mitchell Trustees Limited Private Pension – [Mr W]
 - Investor ID ***112: Hornbuckle Mitchell Trustees Limited Private Pension – [Mr W]
 - Investor ID ***19: Hornbuckle Mitchell Trustees Limited and [Mr W] as Trustees of the Private Pension [Mr W]
- This information was provided to enable EBS Pensions to identify the correct designation against which the encashment should be processed.
- EBS Pensions responded on 13 October 2023 by providing a screenshot of a designation described as “Hornbuckle Mitchell Trustees Limited private pension – [Mr W]”. However, no corresponding investor ID or reference number was included. Given that more than one designation shared a similar description, this response didn’t clearly identify which designation EBS Pensions intended to proceed with, nor was this sufficient for Time Investments to reasonably progress the encashment.
- On 18 October 2023, EBS Pensions emailed Time Investments requesting an update. Time Investments responded by explaining that “the below designation has no holdings currently” and clarified that “the only one of the below that does is Hornbuckle Mitchell Trustees Limited and [Mr W] as Trustees of the Private Pension [Mr W] with investor ID is ***19”. Time Investments then asked EBS Pensions to *“please confirm if this is the correct designation to process the redemption on?”*
- While a copy of this email hadn’t been provided, there was nothing to suggest it wasn’t sent as described. It would have been reasonable for EBS Pensions to have responded to Time Investments’ initial request on 4 October 2023 within three working days. That would have meant providing clear confirmation by 8 October 2023. If EBS Pensions was uncertain as to the correct designation, it would have been reasonable for it to contact Mr W or his IFA at that stage to seek clarification. Based on the evidence available, Mr W or his IFA would have been able to provide that confirmation promptly.
- Despite this, EBS Pensions didn’t contact Mr W’s IFA directly for clarification until 7 November 2023, at which point it quoted the above email from Time Investments. By that stage, the opportunity to process the encashment at the October dealing date had been lost.
- Taking everything into account, EBS Pensions had sufficient information, or could reasonably have obtained sufficient information, to confirm the correct designation within a reasonable timeframe. Had this been done, the sale of the investment would, on balance, have proceeded at the October 2023 dealing date and before the investment was subsequently suspended.
- Based on the available evidence, it appeared that Time Investments required further clarification after the September 2023 dealing date had already passed. In those circumstances, it was clear that the encashment couldn’t have been processed in

September 2023. Instead, had EBS Pensions provided timely confirmation following Time Investments' email of 4 October 2023, the transaction would have been processed at the October 2023 dealing date.

- In those circumstances, the delay caused by EBS Pensions meant the sale didn't proceed at the October 2023 dealing date, which in turn resulted in the investment remaining in place and subsequently becoming subject to suspension.
- In terms of EBS Pensions' offer to resolve the complaint, while it had accepted responsibility for the delay and accepted that the deal should have proceeded prior to the suspension, its proposed resolution wasn't fair or reasonable in the circumstances.
- As a result of the delay, Mr W had been left in a position he shouldn't have been in. His funds remain tied up, and he'd been unable to access or reinvest them as and when he chose. That loss of control and choice was a direct consequence of EBS Pensions' actions.
- It wouldn't be fair to leave Mr W in an open-ended position where the resolution of his complaint depended on future events outside of his control. Even if the suspension were to be lifted at some point, that wouldn't address the fact that he'd already been denied the opportunity to deal on his pension funds at the time he intended to do so.
- An appropriate resolution should bring finality and place Mr W, as far as possible, into the position he would have been in had the sale proceeded at the October 2023 dealing date.
- EBS Pensions' offer didn't do this, as it left Mr W bearing ongoing risk and uncertainty that only arose because of the delay.
- In terms of putting things right, the investigator said his aim when awarding redress was to put Mr W, as far as reasonably possible, back in the position he would have been had things gone as they should.
- EBS Pensions should therefore calculate the loss by comparing the position Mr W was currently in, with the position he would reasonably have been in had the investment been disinvested at the October 2023 dealing date and the proceeds made available to him at that time.
- To do this, EBS Pensions should calculate the value of the investment as at the October 2023 dealing date and treat this as the notional sale proceeds. From that point until settlement, the calculation should then be based on how the funds would most likely have been invested during that period.
- From the evidence available, it appears Mr W intended to invest in the St James' Place Polaris 4 fund. This was a reasonable reference point. So EBS Pensions should use that evidence to benchmark the investment outcome.
- After establishing that notional value, EBS Pensions should then compare the alternative position at the date of settlement with the value of the investment Mr W currently holds. Any shortfall should be paid into Mr W's SIPP as a lump sum.
- If putting the funds into the SIPP would trigger any charges or fees for Mr W, EBS Pensions should also take those into account. The purpose of the redress was to put

Mr W back into the position he ought to have been in, not leave him worse off because of any charges linked to the correction.

- If the investment remained suspended and couldn't be realised, EBS Pensions should still make the redress payment now and take full ownership of the suspended investment position themselves. If EBS Pensions was unable to take ownership of the investment, it could instead require Mr W to provide an undertaking which confirmed that any future proceeds received from the investment, should it later become unsuspended, would be paid to EBS Pensions in full. EBS Pensions should receive any funds released. This was because Mr W would already have been put into the position he should have been in, had the disinvestment taken place at the correct time, so he wouldn't have received anything further on top of that.
- With regard to EBS Pensions' increased compensation offer of £500, this was reasonable and within the range of what the investigator would have recommended under the circumstances.

In response, EBS Pensions said the following:

- There appeared to be various asset classes within the St James's Place Polaris 4 fund, so it hadn't been able to identify the specific fund that had been alluded to.
- It requested the ISIN/SEDOL of the fund in which Mr W had said he would have invested, along with confirmation that suitable evidence had been provided that investment in this fund was Mr W's intention.

The investigator put these comments to Mr W, who responded as follows:

- The entire purpose of requesting the encashment was to add to his existing St James's Place investment. At the time, and to this date, he remained invested in the Polaris 4 fund through his St James's Place investment.
- EBS Pensions would have the history of his investment into that plan, as it had been managing regular monthly investments funded from the regular contributions being made to the EBS Pensions plan.
- Mr W also provided the ISIN code for the relevant investment.

The investigator put this to EBS Pensions, along with confirmation by way of his switch history of the movement into the Polaris 4 fund.

EBS Pensions didn't respond further, and as a resolution hasn't been agreed on the matter, it's been referred to me for review.

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.

And having done so, I've reached broadly the same conclusions as the investigator and for similar reasons.

There were avoidable delays here, and I agree with the investigator's position that Mr W ought to have been disinvested by the October 2023 dealing date and the proceeds made available to Mr W at that time.

And I think there's also credible evidence, as provided to EBS Pension, that had the funds been made available to him, Mr W would have reinvested them in the Polaris 4 fund.

Putting things right

As with the investigator, my aim is to place Mr W, as closely as possible, into the position he would now be in, but for the delays incurred. EBS Pensions Limited should therefore determine, as at the date of this final decision, the notional value of the amount which would have been transferred from the requested fund as at the dealing date in October 2023, had it instead been invested in the Polaris 4 fund as indicated above.

From this should be deducted the value, as the same date, of the corresponding investment still held within his SIPP. If no value can be attributed to that investment due to its illiquid nature, then it should be attributed a zero value.

If there is a positive difference, Mr W has suffered a financial loss. EBS Pensions Limited should ensure that Mr W's SIPP is made up by that loss amount, taking account of any unused and available tax relief, and any charges for doing so.

If for whatever reason it's unable to do so, or this would conflict with any protections or annual allowances, EBS Pensions Limited should make the payment directly to Mr W, but with a notional deduction for the income tax which he would pay in retirement on any post tax free cash amount at his marginal rate. Mr W has indicated that this is likely to be higher rate, at 40%. As such, the notional deduction if tax free cash was still available to Mr W would be 30%.

If the suspended investment within the SIPP is attributed a zero value, EBS Pensions Limited may take ownership of it. But if it's unable to do so, it could instead require Mr W to provide an undertaking (at EBS Pensions Limited's expense) which commits him to pay it any future proceeds received from the investment, should it later become unsuspending.

EBS Pensions Limited should make payment of any loss identified above within 28 days of it being notified of Mr W's acceptance of this decision. If it isn't, then simple interest at the rate of 8% pa should be added from the date of this decision to the date of settlement.

EBS Pensions Limited has already offered Mr W £500 in addition to the offer to determine any actual financial losses, and as with the investigator, this seems fair and reasonable under the circumstances.

My final decision

My final decision is that I uphold the complaint and direct EBS Pensions Limited to undertake the above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 15 May 2026.

Philip Miller
Ombudsman