

## **complaint**

Mr G's complaint is about the delays when transferring his Self-Invested Personal Pension (SIPP) he had with third party provider to Alliance Trust Savings Limited (ATS).

## **background**

Mr G requested his SIPP be transferred from a third party; I'll call Company H, to ATS on 31 August 2017. The request stated that where possible the assets of the SIPP should be transferred to ATS 'In-Specie'.

Company H, sent ATS a list of the assets on 6 October 2017 and asked them to confirm that they were acceptable, and if so to provide re-registration details. ATS say that they did not receive this email until it was resent on 31 October 2017. It transpired that the ATS SIPP could not hold all the assets that were held by the Company H SIPP, and so alternative arrangements had to be made regarding those assets.

ATS referred back to the financial adviser for instruction on how to proceed with the non-transferable assets on 1 November 2017. The financial adviser says that he did not receive this email. This was not discovered until 22 November 2017, when the adviser called for an update and was advised that ATS were awaiting his instruction. He gave an immediate response that the assets should be sold and transferred as cash.

The transfer then went ahead and the final transfer payment was made from Company H to ATS on 21 February 2018.

Mr G complained that this was an unacceptably long period to complete the transaction and that he had been financially disadvantaged as a result. ATS accepted that there had been delays and offered Mr G £250 as compensation for the trouble and upset caused.

Mr G felt that this was not sufficient redress and referred the complaint to this service. It's important to say Mr G also made a complaint about the transfer of another investment at around the same time. For the purpose of clarity, I'm just looking at this complaint with regard to Mr G's SIPP transfer. The complaint about the other investment transfer has been considered separately.

An adjudicator investigated the case and found that the email that Company H had sent to ATS on 6 October 2017 was sent to the email address provided by ATS for such correspondence. She said that if the email had not reached the intended recipient on that day it must be either because the email address they provided was wrong, or that the email was incorrectly filed on arrival at ATS; either way she felt that ATS were responsible for a delay of 17 working days between 6 October 2017 and 31 October 2017.

She also established that the email sent by ATS to the adviser on 1 November 2017 was sent to the correct address and so it should be assumed that the adviser in fact received it. She said, however, that she would expect ATS to follow up on this email, if they had not received a reply, after two weeks and therefore the fact that they did not resulted in additional 5 working days delay.

The adjudicator recommended that ATS should pay Mr G redress to compensate for a total of 22 days delay.

ATS did not agree with the adjudicator's opinion. They say the adjudicator has identified four delays and ATS are only responsible for two of those. They have apologised and offered Mr G redress of £250, which they feel, is fair and reasonable. ATS don't accept they should compensate Mr G for any loss he has suffered and so they asked for an ombudsman review.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I've looked at all the information provided by both parties afresh. Having done so, I'm in agreement with the adjudicators findings and for broadly the same reasons.

Where the information I've got is incomplete, unclear or contradictory, as some of it is here I have to base my decision on the balance of probabilities. That is to say, what I think is more likely to have happened.

Firstly, I've looked at the final response letter ATS sent Mr G's third party representative regarding the delays to the transfer of his SIPP. It reads:

*...." With regards to the length of time taken to transfer Mr G's SIPP, the timescale for completing transfers is 90 working days. The transfer of your clients SIPP was received on 12 September 2017 and completed on 23 February 2018, when the final payment of £1,819.13 was received and allocated, which is 24 working days out of our service level agreement. The service you received falls short of the standards we set ourselves and those Mr G should expect to receive and I apologise for the delay caused..."*

So, from what I can see ATS haven't disputed it was responsible for delaying the transfer of Mr G's SIPP. But, after Mr G brought his complaint to this service, ATS changed its position. It now feels the delay was for a significant shorter period than it originally agreed, and asserts the £250 compensation offered is sufficient and no further adjustment for any potential loss should form part of the redress.

I've looked at the timeline of events and the correspondence between ATS and Company H. I agree with the adjudicators view that there appear to be four key delays; two are attributable to ATS and two to Company H. As Mr C's complaint pertains to the delays caused by ATS I have only looked at the impact of these two delays.

ATS received the transfer application in September 2017. The first delay occurs between 06 October and 31 October. On 06 October, Company H sent their schedule of holdings to ATS following a letter issued by ATS on 4 October 2017. ATS chased a response to this on 31 October and maintain they didn't receive the email from Company H. I've checked the email address from the information available and it appears to be the correct address and is dated 6 October.2017 I'm satisfied the email response was sent in a timely manner and to the correct email address and although ATS say they didn't receive it, they also didn't chase it up until 31 October 2017. I'm persuaded, on balance, this delay is attributable to ATS.

The second delay is between 01 November 2017 and 22 November 2017 and similarly a mislaid email or lost email. This time from ATS to Mr G's IFA. I have again looked carefully at the email address and it appears to be correct. So, on balance I agree it was sent correctly and most likely mislaid or misfiled by Mr G's IFA. But, again, ATS didn't chase up the missing information for over three weeks. I'm not persuaded that's reasonable. I would expect to see some follow up within 14 days of a request for information failing to be received. I'm persuaded ATS are not responsible for all the delays here, but I agree ATS are responsible for some of this three-week delay in failing to chase the required information. I'm satisfied that 5 days of the overall delay should be attributed to ATS.

I'm satisfied then, that there is at least a 22 day delay that could have been avoided and which are attributable to ATS. This is two days less than ATS originally acknowledged in their final response letter to Mr G. It follows that had they not occurred it's reasonable to assume the transfer of the in-specie holdings and the majority of the cash transfer would have happened earlier.

The in-specie holdings were not bought or sold and so their actual value hasn't been affected by the date they were transferred. There is no financial disadvantage here and so no redress is required.

I have considered ATS's objection to the method of calculation. Where something has gone wrong, we look at the impact it's had and whether what the business has done to put things right is fair and reasonable. The usual remedy for redress where a delay has occurred would be to calculate if Mr G has suffered a loss because of that delay. If he has, then any loss should be corrected, to put Mr G back in the position he would have been in had it not occurred. I'm persuaded it's only fair and reasonable that calculation should take into consideration any financial loss from the time the transfer should have taken place to the current time, as any loss, if there is one, will be compounded over time and so I'm going to direct ATS to calculate if there has been a loss and if so compensate Mr G accordingly.

I understand this matter has caused Mr G trouble and upset. I have taken into account ATS were not responsible for all the delays in the whole process and so I'm satisfied the £250 ATS have offered is fair and reasonable.

### **my final decision**

For the reasons I have given I'm upholding this complaint and I direct Alliance Trust Savings Limited to:

1. Compare the current value of the holdings purchased by Mr G's SIPP using the cash amount transferred from Company H on 10 January 2018 with the notional value of those holdings if they had been purchase 22 working days earlier. If the notional value is greater than the actual value, there is a loss and compensation is payable. If the actual value is greater than the notional value, no compensation is payable as Mr G hasn't suffered a loss.
2. If there is a loss, ATS should pay it into Mr G's pension plan, to increase its value by the given amount. The payment should allow for charges and any available

- tax relief. Any compensation shouldn't be paid into the plan if it would conflict with any existing protection or allowance.
3. If there is compensation and ATS are unable to pay it into Mr G's pension plan they should pay it direct to him. Had it been possible to pay into the plan, it would have provided a taxable income and so any compensation should be reduced to notionally allow for any income tax that would have been paid.
  4. The notional allowance should be calculated using Mr G's actual or expected marginal rate of tax at his selected retirement age.
  5. For example, if Mr G is likely to be a basic rate tax payer at the selected retirement age, the reduction would equal the current basic rate of tax. But if Mr G would have been able to take a tax free lump sum, the notional allowance should be applied to 75% of the compensation.
  6. Provide the calculation to Mr G in a clear and simple format.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 2 August 2019.

Wendy Steele  
**ombudsman**