

complaint

Mr and Mrs W have complained that AXA Portfolio Services Limited (AXA) didn't follow their instructions when they transferred their SIPP to a new platform. One of the investments in the SIPP was sold and held in cash, instead of being transferred in-specie as they'd requested.

background

Mr and Mrs W held several investments with AXA on its Elevate Platform. They held a joint General Investment Account (GIA) and each individually held Pension Investment Accounts (PIAs) and ISAs.

In August 2015, Mr and Mrs W got in touch with AXA to request a transfer to another platform provider. They gave instructions (in a covering letter) to have all investments transferred in-specie, so that all that would be required was registration on the new platform. The aim was to hold their portfolio with the new provider as they had done with AXA. But AXA sold Mrs W's PIA and held the proceeds in cash.

Mr and Mrs W's representative complained on their behalf to AXA about the sale of the PIA.

AXA has said:

- The first documents received from the new provider confirmed the transfer was to be on an in specie basis. But there wasn't sufficient information for AXA to complete the required due diligence checks. So AXA asked for its discharge forms to be completed.
- When these were received the section for an in specie transfer had been left blank. And the form and covering letter didn't refer to the holdings being re-registered. As in specie transfer wasn't mentioned AXA sold the funds to complete a cash transfer – as the discharge form indicated.
- But the covering letter did refer to the previous correspondence. And the information given earlier conflicted with the discharge form. Contradictory instructions had been given – that should have been identified and queried.

To put things right, AXA suggested that it would transfer the cash holdings to the new provider and have it re-invested. It would then compare the difference in the unit holdings and any other out of market losses and pay redress of half of that amount to the new provider by way of an additional transfer payment.

AXA also offered to pay £250 for any distress and inconvenience suffered.

AXA was also prepared to pay a further £100. There'd been difficulties after the (cash) transfer had been made with sending the correct transfer discharge letter – which the new provider need to pay Mrs W's income. In the end her income payment wasn't delayed but AXA accepted she'd been worried and concerned.

Mr and Mrs W's representative didn't think it was fair for AXA to only meet 50% of the losses caused because the transfer hadn't been in specie.

One of our adjudicators looked at the complaint. She agreed with how AXA proposed to calculate Mrs W's losses. But she didn't think it was reasonable for AXA to meet only 50% of the losses.

She argued that if AXA had any doubts about Mrs W's instructions, it should have sought clarification as it had done with Mr W. The Pension Transfer Instruction signed by Mrs W dated 7 September 2015 indicated that she wanted her assets transferred in specie. If AXA had received that and the completed Transfer Discharge Form and seen that conflicting information was provided, clarification should have been sought.

The adjudicator also suggested that the losses should be capped up until the point where reinvestment of the PIA begun. She recommended a total of £500 be paid in recognition of any trouble and upset caused by AXA's poor customer service and administration of transfer.

AXA responded to the view saying that the receiving scheme was equally liable for confirming that the Transfer Discharge Form was complete and accurate.

As the adjudicator's view remained unchanged, the complaint was passed to me for 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. Having done so I agree with what the adjudicator's said. And the redress that she suggested.

I don't think there's any dispute about what's happened. The original transfer instruction (from the receiving scheme) specified an in specie transfer. AXA didn't have enough information and so asked for its discharge form to be completed. When it was returned AXA didn't refer back to the original request – which had said that the transfer was to be in specie.

AXA accepts that it's partly responsible for any losses that Mrs W's suffered by being out of the market. I can understand why AXA doesn't accept it should be responsible for all Mrs W's losses.

From AXA's position the receiving scheme (I've found references to the ceding scheme confusing) didn't complete the discharge forms properly or in full. Nor did the receiving scheme repeat in its covering letter that the transfer was to be in specie (although it did refer to previous correspondence). So I'd probably agree that the receiving scheme could have made things clearer.

But what I need to consider is what would have happened if AXA had dealt with the matter as it should.

If, when it got the discharge forms, AXA had looked back at the original instruction it would have seen that Mrs W had indicated that she wanted an in specie transfer. AXA should then have gone back to the receiving scheme to confirm that was still the case. And AXA could then have asked the receiving scheme for whatever further details were needed in order to carry out an in specie transfer.

That's essentially why I don't think it's unfair or unreasonable for AXA to meet the full amount of Mrs W's losses.

So AXA should calculate Mrs W's losses as it proposed in its final response letter dated 17 November 2015 and capped as the adjudicator suggested. AXA should meet the full amount of the losses by paying a top up transfer payment to the new provider.

AXA should also pay Mrs W direct £500 compensation for the distress and inconvenience she's suffered. That's also to compensate her for the problems which arose because the correct transfer discharge letter wasn't sent.

As I mentioned above, AXA has already offered to pay a total of £350. If any of that's been paid it should be deducted and the balance paid to Mrs W.

my final decision

I uphold Mr and Mrs W's complaint.

AXA Portfolio Services Limited should provide redress to Mr and Mrs W as I've set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs W to accept or reject my decision before 12 September 2016.

Lesley Stead
ombudsman