

complaint

Mr B says Alliance Trust Savings Limited (“ATS”) unnecessarily delayed transferring his Self-Invested Personal Pension (SIPP).

background

A brief summary of the circumstances leading to this complaint, and my initial conclusions, were set out in my provisional decision, a copy of which is attached and forms part of this final decision.

In short, Mr B had a SIPP with ATS. In August 2017 Mr B decided to transfer his SIPP to a different provider. Unfortunately there were delays in the in-specie transfer of some of Mr B’s assets to the new provider, so Mr B complained to ATS. ATS wrote to Mr B in October 2017 and compensated Mr B for the delays and service he experienced. However, further problems followed so Mr B complained again to ATS. This time ATS didn’t offer any financial compensation but it did offer to send Mr B a hamper. Mr B didn’t think this was enough.

Mr B brought his complaint to us. He wanted us to look into the delays, and poor customer service, he says he experienced between 1 November 2017 and 15 February 2018. This is the period between ATS’s initial (October 2017) responses to Mr B’s complaint and the date Mr B says his transfer was finally completed.

In my provisional decision I explained why I wasn’t intending to uphold Mr B’s complaint. I invited both parties to provide further comments. Neither party had anything further to add.

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’ve reached the same conclusion as set out in my provisional decision and for the same reasons.

In my provisional decision, I set out a timeline of events and concluded that the delay in the in-specie transfer wasn’t as extreme as Mr B thought. But I also concluded that ATS could have done better with the transfer and that it took slightly longer than the 90 days it would have usually expected. Despite this, I said compensation *wasn’t* warranted because Mr B’s assets remained invested throughout the transfer process so he was never “out of the market” and therefore didn’t suffer any financial loss because of time the transfer took. I also didn’t think there was any plausible evidence to say Mr B was prevented from taking any alternative action he said he might have wanted to take – such as adding to or selling his holdings – whilst the transfer was happening.

I went on to consider whether ATS should pay compensation for the trouble and upset it caused. I noted that it had already paid Mr B some compensation in cash, which he’d accepted, for its previous delays. I saw no good reason for an additional large cash award so I concluded ATS’s offer of a hamper was fair and reasonable. I noted that the hamper hadn’t been sent to Mr B.

I’ve considered everything again, and I’m satisfied with the conclusions I reached in my provisional decision. I’ve also taken into consideration the fact that neither party raised any objections to any of my provisional findings. With all this in mind, I don’t uphold Mr B’s complaint.

my final decision

For the reasons given above, my final decision is to not uphold Mr B's complaint.

Alliance Trust Savings Limited has offered Mr B a hamper which I think is fair and reasonable in the circumstances. If Mr B chooses to accept my decision, Alliance Trust Savings Limited should arrange to send the hamper to Mr B at a convenient time for him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 27 April 2019.

Christian Wood
ombudsman

COPY OF PROVISIONAL DECISION

complaint

Mr B says Alliance Trust Savings Limited ("ATS") unnecessarily delayed transferring his Self-Invested Personal Pension (SIPP).

background

Mr B had a SIPP with ATS. In August 2017 Mr B decided to transfer his SIPP to a different provider. I will refer to this other provider as "Y". Unfortunately there were delays in the in-specie transfer of some of Mr B's assets to Y, so Mr B complained to ATS. ATS wrote to Mr B in October 2017 and compensated Mr B for the delays and service he experienced. However, further problems followed so Mr B complained again to ATS. This time ATS didn't offer any financial compensation but it did offer to send Mr B a hamper. Mr B didn't think this was enough.

Mr B brought his complaint to us. He wanted us to look into the delays, and poor customer service, he says he experienced between 1 November 2017 and 15 February 2018. This is the period between ATS's initial (October 2017) responses to Mr B's complaint and the date Mr B says his transfer was finally completed.

Our investigator didn't uphold Mr B's complaint. She said, in summary, that the delays weren't necessarily all ATS's fault and that there had been no financial loss to Mr B anyway because the in-specie transfer meant his assets were always invested.

Mr B disagreed with our investigator's findings and asked for an ombudsman to look at everything again.

my provisional 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, my provisional decision is to not uphold Mr B's complaint. I explain why below.

Timeline of events

Mr B wrote to ATS on 3 August 2017 with a number of complaints. He also said he wanted to transfer to a different SIPP. ATS said it needed documents from the receiving organisation before the transfer could go ahead, which it received on 30 August. Mr B complained on a number of occasions thereafter about delays in transferring his assets. ATS responded with a formal complaint response on 5 October 2017 and with a new response on 31 October 2017. (The copy I have of the 31 October letter isn't dated but I can surmise its date from the rest of the documents on file. The exact date doesn't matter to my decision.)

In the 5 October letter, ATS said it was waiting for re-registration details from Y and this would take "around 2-3 weeks". It apologised for the delay and offered Mr B compensation. In its 31 October letter, ATS said Mr B's funds had left its platform on 6 October and that it wasn't aware of any problems with the funds being re-registered to reflect Y as the new SIPP provider. It said that the transfer had been completed within 38 days, which is the time between receiving the written instruction on 30 August and the date assets left its platform on 6 October. It says this was well within its expectation of 90 days and in line with other SIPP providers. ATS did, however, offer further compensation to Mr B because it had previously given him some misleading information.

Mr B says he was satisfied with ATS's responses at the time. However, there continued to be problems transferring three of Mr B's funds (his other two funds were transferred successfully in October). The delay in transferring these three funds prompted further contact between the parties between November 2017 and March 2018. Mr B says the transfer wasn't fully completed until

15 February 2018. He says this meant the transfer took 146 days. (This isn't strictly true – it would have taken 170 days if 15 February is the end date. The 146 days is what Mr B previously used as the end date, based on when he received a residual dividend payment on 22 January.)

It is this latter period, between November 2017 and February 2018, which Mr B is now complaining about. ATS issued further formal complaint responses on 16 January 2018 and 7 March 2018. It said the delays weren't entirely its fault, but the transfer of assets relating to the three 'problem' funds took place on 29 November 2017, so still within the 90 days it would have expected. In its 16 January response, it offered to send Mr B a hamper as full and final settlement. This wasn't sent. In its 7 March 2018 response, ATS said no further compensation was warranted.

My thoughts

First of all, I don't think Mr B is correct in using 15 February 2018 (or 22 January 2018) as the end date for the transfer. ATS says the transfer was completed on 29 November 2017, which is when it provided Y with all the information it needed. ATS's file notes dated 29 November and 7 December say it was "awaiting confirmation" that everything had gone through – but no such confirmation is recorded in their notes. So it is possible that there were further problems. But there are no follow-up notes until January, and the notes by then refer to closure of Mr B's account and payment to Y of residual payments (for example in relation to dividends and a refund of fees). So, on balance, I'm satisfied the funds were transferred at the end of November. Yes, there were some residual payments made to Mr B in 2018, so, yes, technically Mr B wasn't 'free' of ATS until then. But I think it would be a stretch to say the transfer hadn't been completed just because of these (relatively small) residual payments. It should also be noted that residual payments are common in in-specie transfers because the parties involved don't have control over when dividends are paid.

That said, I don't think ATS's end-date of 29 November 2017 tells the whole story either. First of all, using 29 November as the end date still means it took more than 90 days for the transfer to complete. By my reckoning, 30 August 2017 to 29 November 2017 is actually 92 days. It also looks like ATS has admitted to at least being partially responsible for the delays from November 2017 onwards because it said the following in its 3 November 2017 email to Mr B:

"We will liaise with the registrar to have any discrepancies rectified and this will ensure the re-registration process can proceed. I appreciate that this is not the information you had hoped to receive. My letter of 31 October stated there was no indication the re-registration of your shares had not been successful. In order to respond to your email I sought an update and we subsequently learned that we needed to provide the registrar with some additional information/documentation."

This suggests it was ATS's responsibility to provide further information and documentation – perhaps because it hadn't provided it previously. It's possible, of course, that ATS had been given incomplete and/or incorrect information by a different party (Y, for example, or Mr B's fund managers) so the incomplete information ATS forwarded on to the registrar may not be its fault. ATS has alluded to this, but it hasn't provided us with clear supporting evidence so it's difficult to make a finding about who was responsible for what. Either way, it doesn't make a difference to the outcome of the complaint, for reasons I will come on to later. But I can appreciate Mr B's frustration. By its own admission, ATS could have initially done better with the transfer – hence the compensation offers in October. There then appears to have been further delays relating to the re-registration of shares even after the issue had supposedly been sorted. ATS appears to have accepted at least partial responsibility for these problems. And, ultimately, the transfer took slightly longer than the 90 days ATS usually expects.

However, that doesn't mean I will be recommending ATS pay Mr B any further compensation. Our remit isn't to punish businesses for mistakes they make. Where a business does make a mistake, our role is to put the consumer back in the position they would have been in if the mistake hadn't happened. Often this will mean compensation to account for a financial loss that resulted from a business's mistake. But, in this case, there is no financial loss because Mr B's assets remained invested right the way through the process. So I won't be asking ATS to pay compensation.

Mr B makes the point that he couldn't see how his funds were performing at this time, and he couldn't add to or sell his holdings. However, I can only put consumers back in the position they actually would have been in if the business's mistake hadn't happened. There isn't any persuasive evidence that Mr B wanted to take a particular action, was prevented from doing so by mistakes at ATS, and suffered a financial loss as a result. So there is no loss as such, and notional losses are not something I will be asking ATS to compensate Mr B for.

Mr B does have a stronger case when he talks about compensation for the customer service he received. There were some failings on the part of ATS and I can see this did cause Mr B inconvenience and upset. However, as I said, our role isn't to punish businesses. So our awards tend to be modest in this area. I'm also aware that Mr B was told that his assets remained invested so he knew he wasn't losing out financially whilst all the above was going on. And I'm also mindful that some of the problems encountered by Mr B have already been compensated for, so I'm looking at the *additional* trouble and upset ATS caused. With all this in mind, I'm satisfied that ATS's offer of a hamper is fair and reasonable.

I understand the hamper hasn't been sent to Mr B. This was because he was on holiday when it was first offered, so ATS cancelled the delivery and asked Mr B to get back in touch with a convenient time for it to be re-sent. There's no further correspondence on the matter, and ATS subsequently said no further compensation was warranted. But if Mr B still wants the hamper and if it hasn't already been sent, ATS should arrange to send Mr B the hamper at a convenient time for him.

Finally, Mr B has asked us to determine what a fair timescale for an in-specie transfer should be. By way of illustration, he has provided us with details of a business that says it aims to complete in-specie transfers in no longer than six weeks (42 days, in other words). I recognise that other businesses may well operate more quickly than ATS, and may well have completed Mr B's transfer more quickly. But I can't reasonably uphold a complaint against a business just because its competitors happen to do something more quickly. To uphold a complaint, I need to be persuaded that a business has acted in a way it shouldn't have done and has caused financial loss as a result. For the reasons given above, I'm not persuaded that's the case here.

It follows that I don't intend to uphold Mr B's complaint.

my provisional decision

My provisional decision, subject to any more evidence or arguments I receive from either party, is to not uphold this complaint.

Christian Wood
ombudsman