complaint

Mrs S complains about the service she received from Interactive Investor Services Limited (Interactive Investor), [previously trading as TD Direct]. She believes that because it caused delays in the transfer of her self-invested personal pension (SIPP), and as she remained invested in cash – she's been financially disadvantaged for being 'out of the market'.

background

The background to this complaint, and my initial conclusions, were set out in my provisional decision dated 16 December 2019- a copy of which is attached and forms part of this final decision.

In my provisional decision I explained why I thought this complaint shouldn't be upheld and invited both parties to send any additional comments or evidence they wished to make.

In summary, I said that there was no evidence to show that Mrs S had provided Interactive Investor with the forms it needed to carry out her preferred option regarding her SIPP in 2017. I also said that, while it was possible that delays occurred in 2018 when Mrs S was trying to transfer her SIPP back to Interactive Investor, Mrs S then took 16 months to decide to invest her cash after it was eventually transferred. I said that I would have expected her to mitigate her position when the cash was available to her, and concluded there was no clear reason why Mrs S may have been prevented from investing her cash in that time.

I thought that the £50 Interactive Investor offered Mrs S was a fair and reasonable offer for any inconvenience it caused by not contacting her as promised.

Interactive Investor said it didn't have any further information for me to consider, but said it would provide recordings of the telephone conversations it had with Mrs S.

But Mrs S didn't agree with the provisional decision. She said she had been 'out of the market' for well over a year waiting for the transfer to complete, and during this period she'd been unable to access the cash within her SIPP. She also wanted me to confirm that I'd listened to all of the telephone conversations she'd had with Interactive Investor regarding her SIPP transfer – which she said outlined the delays she experienced.

my findings

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. I can assure Mrs S that I have listened very carefully to all the phone conversations she had with Interactive Investor in 2018. But, having done so, I see no reason to change the conclusions I came to in my provisional decision.

I understand the frustrations that Mrs S has suffered here and I've heard, through the content of her conversations, how she continued to chase up Interactive Investor regarding her transfer for a number of months in 2018. I've heard how she lodged her complaint in the first instance on 27 December 2017, so it took around seven months for the cash to be transferred back to a SIPP with Interactive Investor following the default move to a different provider in 2017.

So I think there were periods in 2018 when delays *may* have occurred and it's possible these delays could have been caused by any of the parties involved. But the telephone calls haven't provided any evidence to show that there were any underlying reasons involved here. They confirm Mrs S's frustrations and attempts to progress her transfer but they don't explain why, when the transfer did eventually take place in July 2018, Mrs S didn't invest the cash involved for a further 16 months.

Mrs S did express disappointment that she was unable to invest her cash for the period that her SIPP was undergoing the transfer and I understand why she might have taken that view. But when Mrs S had the opportunity to mitigate her position and invest accordingly she failed to do so. And in the circumstances it's difficult to conclude that she would have invested her cash while it was still held between the providers prior to being transferred, when she didn't take any action herself for nearly a year and a half after the transfer completed.

It is possible, on occasion, for investment to be put on hold until the outcome of a complaint is known, particularly where that outcome might affect the type of investment. But here Mrs S was told during our complaint process that she could undertake whatever investments she thought was necessary, and she wasn't presented with any reason not to invest her SIPP cash. So, in the circumstances I can't safely say that Interactive Investor is at fault for Mrs S's funds remaining in cash, when she took no action to mitigate her circumstances until many months after Interactive Investor made her aware that the cash had been transferred back to it and into her SIPP.

In my provisional decision I explained that there was no evidence to show that Mrs S had returned the forms that Interactive Investor needed to ensure she was put into her preferred position in 2017. So I didn't think it had done anything wrong in moving her SIPP to the default option when it hadn't received the information after the deadline it had set. I've not been presented with any evidence to change my view on that part of the complaint.

I've also been able to listen to the calls which Mrs S says showed the poor level of service she received from Interactive Investor over the transfer in 2018. I've heard how Mrs S didn't want to let Interactive Investor call her back as she said it had previously failed to do so on a number of occasions. It's clear that Mrs S was frustrated and didn't feel she was making any progress with her transfer despite chasing Interactive Investor many times.

As I've said above it's clear that Interactive Investor did make some errors and clearly didn't contact Mrs S on occasions when it said it would – which would have added to Mrs S's frustrations. But I think the £50 it's offered for the distress and inconvenience caused is a fair and reasonable offer in the circumstances.

my final decision

For the same reasons as I've already given in my provisional decision, I don't uphold Mrs S's complaint against Interactive Investor Services Limited, in so much as I think the £50 it's offered is fair and reasonable.

Interactive Investor Services Limited should pay Mrs S £50 if it hasn't already done so.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs S to accept or reject my decision before 17 April 2020

Keith Lawrence
ombudsman

copy of provisional decision

complaint

Mrs S complains about the service she received from Interactive Investor Services Limited (Interactive Investor), [previously trading as TD Direct]. She believes that because it hasn't been able to transfer her self-invested personal pension (SIPP), and as she remains invested in cash – she's been financially disadvantaged for being 'out of the market'.

background

Mrs S held a SIPP with TD Direct which was administered elsewhere. The SIPP was held in cash.

In May 2017 TD Direct advised policy holders that the administrators of the scheme would be changed in December 2017 and that they had the following choices as to how to proceed:

- keep the investment element of the SIPP with Interactive Investor and accept the change of administrators.
- Retain the existing SIPP administrator, and move the investment element of the SIPP to a nominated business.
- Transfer both the SIPP administration and investment elements of the SIPP to another provider.

Shortly after the letter was sent out TD Direct became part of Interactive Investor, so for the purposes of this complaint I'll refer to that business from now on as Interactive Investor.

Interactive Investor said that if it didn't receive the necessary paperwork to confirm an instruction by 30 September 2017, the SIPP would be transferred to the new investment service company but remain with the existing administrator from 1 December 2017.

Mrs S confirmed that she wished to transfer her SIPP to Interactive Investor (option three), and Interactive Investor emailed her on 3 July 2017 to confirm receipt of her request. Mrs S's form was returned to her because it wasn't signed or dated but on 11 July 2017 Interactive Investor called her to confirm it had everything it needed.

But that wasn't the case, and on 13 July 2017 Interactive Investor sent a secure message to Mrs S to confirm that in order to proceed it required "*transfer in*" forms. It then became aware that Mrs S hadn't read the secure message and so Interactive Investor said it telephoned her on 15 August 2017 to confirm the forms were still outstanding. During the call Interactive Investor also said it explained how Mrs S could reset her log in details so she could see the secure message.

But Interactive Investor didn't receive the completed forms by the deadline and so, by December 2017, Mrs S's SIPP was transferred to another business with the scheme administrator remaining the same.

Mrs S complained. She said she was unhappy with the service she'd had from Interactive Investor and was also unhappy about the way it had dealt with her complaint. But Interactive Investor didn't agree. It said Mrs S had chosen to transfer her pension to a new provider but hadn't supplied it with the necessary forms before the deadline. Therefore the default option had been used as Interactive Investor had previously said it would be – in its letter of 31 May 2017.

Interactive Investor explained to Mrs S how she could transfer her SIPP back – but this involved setting up a new plan. It also accepted that it hadn't been clear during its telephone conversation with Mrs S and hadn't called her back as promised. It offered £50 compensation for the distress and inconvenience caused by this. But Mrs S was unhappy with this outcome and brought her complaint to us.

One of our adjudicators considered the complaint and recommended it was not upheld. She said that she thought Interactive Investor had advised Mrs S by telephone and by email that further paperwork was required before the transfer could go ahead, and so it wasn't fair to hold it responsible for the delay.

She also said that once the transfer had completed it wasn't possible for this to be reversed without further paperwork. This had been requested from Mrs S on a number of occasions, however it hadn't been returned.

Mrs S didn't agree as she thought we hadn't considered the full extent of the mis- information Interactive Investor had given her, which she says directly led to her being out of the market for over a year. So as no resolution could be found the complaint has been passed to me for a review.

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. And while I agree with the adjudicators' conclusions it's for different reasons. I know Mrs S will be disappointed with that outcome, and I have some sympathy for her position here as she was 'out of the market' for close to two years after she was informed that the administration of her SIPP was being changed – so I'll explain my reasoning.

Mrs S has complained, in general, about being "*out of the market"*" and "*in cash"* for some time. So I've looked at her complaint – in two parts, over the period of 2017 and 2018 to date.

Was Interactive Investor responsible for the SIPP not being transferred in 2017?

In May 2017 Mrs S received a letter explaining the change of arrangements for both the management and investment services of her SIPP. The letter outlined the three options available and clearly set out that "*you need to let us know your decision by 30 September 2017"* and that "*if you do not respond or if we have not received the necessary forms for the transfer by 30 September 2017, option 2 will apply and the investments held in your SIPP will be transferred during the period October to December 2017".*

So I think Interactive Investor made Mrs S aware of what it intended to do and what she needed to do to ensure her SIPP was held by her preferred administrator and investment service. And Mrs S responded to say she wanted option 3, so I'm satisfied she received the letter and was aware of the various options – including the overall deadline for responding.

I've seen a copy of the secure message that Interactive Investor sent Mrs S on 13 July 2017 which confirmed receipt of her paperwork but requested completion of an application form – which was provided through an internet link. The message confirmed that it would proceed with the transfer process when the application was completed.

And I've also seen the call notes that followed when Interactive Investor was aware that Mrs S hadn't responded to the secure message. I've seen conformation that it spoke to Mrs S on 15 August 2017, where it was unable to verify her identity but did explain how she could reset her online details so that she could reply to the secure message. A call back option was also offered. So I'm satisfied that Interactive Investor made reasonable attempts to contact Mrs S in order to chase up its requirements for the transfer forms before the deadline – which had already been confirmed.

There's no evidence to show that Mrs S did provide Interactive Investor with the forms it required, so I can't say it acted unreasonably when it moved Mrs S's SIPP to the default 'option 2' position. That's what Interactive Investor said it would do – in its letter of May 2017 – if its requirements weren't met by the deadline. So I don't think Interactive Investor has done anything wrong there.

Post 2018 delays

But Mrs S's complaint went further than the problems in transferring following the changes to her SIPP provider. She has said that she was unable to access her funds and was out of the market for over a year (when she brought her complaint). So I've carefully considered the period after Mrs S's SIPP was transferred to another business, when the only way for her to achieve the transfer she originally wanted was to transfer the SIPP back to Interactive Investor as if it was a new plan. Mrs S says this process was delayed and caused her to lose out on investment growth because she remained in cash for that time.

The first part of the process was for Mrs S to complete a transfer request form for the new provider which needed to be completed and sent to Interactive Investor. The form was sent to Mrs S on 21 March 2018 and she sent it to Interactive Investor on 29 April 2018. Thereafter the transfer eventually completed when the cash was transferred back to Interactive Investor on 30 July 2018. So I think from when Interactive Investor received the forms and could reasonably be said to have all documents required to begin the process, the transfer took another three months.

I've looked carefully at the timeline of events between Mrs S, Interactive Investor and the previous SIPP provider during this time. And I've seen that there are some periods when it could be said that delays occurred.

However, I've also had to take into account that Mrs S was made aware the cash had been transferred to Interactive Investor in July 2018, but only invested it sometime after 7 November 2019 – this was around 16 months after the transfer took place.

And I've borne in mind that in an email from 19 December 2018 Mrs S said to our adjudicator that "*(I'd) like to remind you that until now I have not invested my cash awaiting the final outcome".* But she was told that ".*On the point about not investing your cash, please note that any actions you take on your SIPP won't prejudice the outcome here"*

So I think Mrs S was made aware that she could have invested her cash at any point during the complaint process without affecting the outcome. And I would have expected her to have mitigated any loss she believed she may have suffered as soon as was practically possible following the transfer. Of the period that Mrs S says she's been 'out of the market' since the initial default position of 2017, she's had the opportunity to mitigate her position and invest the cash for over 60% of that time. And so even if the delays hadn't been caused, I don't think the available evidence indicates that Mrs S would have invested her SIPP cash any sooner than she actually did.

Mrs S told us she's invested recently because the funds couldn't stay in cash any longer. And it's not clear what may have caused her to take up that position now. But, I think Mrs S was made aware at the latest in December 2018 that she could have invested her cash fund and I would have expected her to have done so shortly after that.

There may be some circumstances where uncertainty about, say, the suitability of an investment may prevent an individual from changing this until the outcome of a complaint is known. But the very essence of Mrs S' complaint here is the delay in investing cash in her SIPP. There's no clear reason, therefore, as to why Mrs S was reasonably prevented from investing her cash while we considered the complaint.

Mrs S also complained about the service she received from Interactive Investor in 2018 especially when she was trying to find out what she needed to do to transfer the funds back to Interactive Investor from the new SIPP manager. But Interactive Investor has acknowledged that it should have been clearer at that time and that it didn't call her back as promised. It offered her £50 compensation for any inconvenience caused. Looking at the impact that caused Mrs S, at a time when she was concerned about transferring her funds, I think that's a fair and reasonable offer in the circumstances.

my provisional decision

I’m currently minded not to uphold Mrs S’s complaint in as much as I think the offer of £50 for any distress and inconvenience caused is fair and reasonable in all the circumstances.

Keith Lawrence
ombudsman