

The complaint

Mr W complains that AJ Bell Management Limited unduly delayed the closure of his Self-Invested Personal Pension (SIPP) which resulted in 75% of the payment being significantly less than it would have been but for the delay.

What happened

Mr W had a Share Dealing SIPP. AJ Bell was the scheme administrator.

Mr W says he contacted AJ Bell on 10 January 2022 and told it he wanted to withdraw his whole pension pot. He says that by 14 January 2022, he'd sent the completed forms to it and asked for all his funds to be paid out. He heard nothing further and contacted AJ Bell again in March 2022. It asked him to complete another form. When he complained about this, he says AJ Bell confirmed to him that it would value his pension pot as at 12 January 2022 which was the date when it first received the forms.

Mr W sent a further set of forms to AJ Bell on 2 March. He says he subsequently received 25% of his pension pot as a tax free cash sum. This amount was based on the value on 12 January 2022 but the remaining 75% of his pot was valued as at the date of payment which was May 2022. Mr W says that by that stage there had been significant falls in market values.

Mr W complained to AJ Bell about what had happened.

AJ Bell investigated his complaint. It said it had reviewed the communications that had occurred and it was clear from the onset of the closure process that sufficient cash was needed to cover the benefit request. This was stated on the forms he'd completed and AJ Bell said it had also been included in emails it sent to Mr W. There was no evidence that he'd instructed disinvestment in January and in any event AJ Bell said it wouldn't have any input to the disinvestment process since it was an execution only provider.

AJ Bell said that once the SIPP was disinvested the closure was able to proceed. Although it had based the tax free cash amount on the SIPP value on 12 January 2022, it said it could not reasonably be expected to calculate the closing payment as of that date when Mr W hadn't disinvested the SIPP until May.

Mr W did not agree. He referred his complaint to our service. Our investigator looked into his complaint. He thought that Mr W's instruction to AJ Bell to withdraw the entirety of his SIPP carried the implication that the SIPP should be completely disinvested which should have been sufficient.

He thought that March 2022 was the relevant date since that was the date when the correct forms were returned. He thought AJ Bell should pay Mr W the difference between the value of the funds on 16 March 2022 and the date they were subsequently paid together with 8%

simple interest on that amount up to the date of settlement. He also thought AJ Bell should pay Mr W £300 for the distress and inconvenience he'd experienced at a time when he urgently needed funds to pay his mortgage.

AJ Bell did not agree. It said that under the arrangements in place for the Share Dealing SIPP, it had no involvement with the disinvestment aspect of the closure process. It also said it had made the terms and conditions clear to Mr W and he knew that he was responsible for issuing the disinvestment instructions. It said Mr W had previously given investment instructions and knew how the system worked.

Because AJ Bell disagreed, the complaint was passed to me to decide. I issued a provisional decision in which I said:

What I've provisionally 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. Having done so, I've provisionally decided not to uphold this complaint. I realise this will disappoint Mr W so I'll explain the reasons why I've reached that view.

The terms and conditions for the Share Dealing SIPP

I've looked at the terms and conditions for Mr W's SIPP. These are made up of several inter-related documents which I'll comment on:

The Share Dealing SIPP Service terms and conditions

These terms and conditions set out the contractual arrangements between Mr W and "H" which was the provider of the sharedealing SIPP service.

The first section of this document set out an explanation of how the Service worked.

It explained that AJ Bell was the administrator of the Scheme and was responsible for providing pension administration services. "H" provided the clearing, settlement, custody and brokerage services.

The terms and conditions also explained that the assets of the Scheme were owned by named Trustees – but these assets were held in trust for Mr W's benefit. Because the service offered was an execution only service, the Trustees had appointed Mr W as their agent for the purposes of giving instructions to H.

The AJ Bell terms and conditions

These terms and conditions reiterated that AJ Bell provided the administration and management services for the Scheme. It was an execution only service and Mr W had been appointed as the agent of the Trustees only for the purposes of giving investment instructions directly to H.

Mr W accepted these terms and conditions when he applied for the SIPP in July 2020.

Having read the terms and conditions, I think they did provide reasonable explanations about how the service worked. It was an execution only service and

Mr W himself was responsible for giving instructions about his investments directly to H.

AJ Bell has also pointed out that Mr W had given instructions directly to H on a number of occasions between July 2020 and May 2022. It has provided a listing which shows that Mr W provided both sale and purchase instructions during this period. So, I'm satisfied on balance that he was aware of how the SIPP worked and that it was his responsibility to give investment and disinvestment instructions directly to H.

Mr W's request to close his SIPP

I've looked at the sequence of events that happened after Mr W first contacted AJ Bell to close the SIPP.

Mr W initially completed the incorrect form. It's not clear what circumstances led to that form being completed but I can see that AJ Bell subsequently sent him the correct form in February together with a further leaflet about "Taking Benefits". This leaflet set out the process and the timelines that would apply to his application. Step 5 on the leaflet stated that he needed to fully complete and submit the benefit form. It also included the following paragraph:

"Please ensure you have sufficient funds in your SIPP cash account as your payment could be delayed if not."

Mr W completed the form and returned it to AJ Bell on 2 March. It appears that he subsequently contacted AJ Bell on 9 March to enquire about when he would receive his payment. He followed this up on 14 March with an email which started with the words:

"Please help me!!!"

AJ Bell responded:

"As per our correspondence sent to yourself on the 11/03/22 by my colleague it appears you still have funds invested within your SIPP. Please arrange for the funds to be fully disinvested and confirm when processed. If you haven't already done so, please arrange for the SIPP to be disinvested in full by calling the [telephone contact details]"

I can see that the correspondence dated 11 March had included a paragraph in bold which said:

"I note that funds are still invested. Please arrange for the funds to be fully disinvested and confirm when processed."

I've also noted that after Mr W appointed a representative, his representative was told on 24 and 29 March about the need to disinvest the funds to enable closure to go ahead. There was also further correspondence to Mr W at this time which reiterated the need for him to disinvest his funds.

So, I'm satisfied that if Mr W was in doubt about what he needed to do, AJ Bell took reasonable steps to clarify matters to both him and his representative.

When the funds had not been disinvested, AJ Bell wrote again to Mr W on 3 May reminding him about the need to disinvest the funds. It was only after this date that the funds were disinvested and the closure was able to proceed.

Having thought about the sequence of events here, it is the case that Mr W initially sought clarification and assistance about what he needed to do. But I'm satisfied that in response to his requests, AJ Bell did explain to him what he needed to do. It did that in a timely manner. I'm also persuaded that, based on the fact Mr W had previously placed investment instructions using the online service, he would've known how to disinvest the funds. He hasn't explained why he didn't do that as soon as AJ Bell made the position clear to him and his representative.

Mr W says that AJ Bell told him during a call in or about 1 March 2022 that it would value his pension as at the 12 January 2022. I asked AJ Bell for a copy of this call. It asked for further details about the call to help with tracing its records. Mr W provided details of a call on 28 February 2022 – but having listened to that call it doesn't include the conversation that he's referred to.

I can see that on 29 March 2022, AJ Bell told Mr W's representative that it had listened to the call dated 1 March 2022. AJ Bell said that during that call Mr W had been told that it would value the Post Commencement Lump Sum (sometimes referred to as the tax free lump sum) as at 12 January 2022 but there was no promise to pay out the whole SIPP value as at that date.

Having considered what both parties have said, I'm persuaded, on balance, that it's likely Mr W was told that AJ Bell would honour the tax free cash amount (based on the 12 January value). It has done that. AJ Bell says that the closing payment should be based on the closing balance. I'm also persuaded, on balance, having considered everything here, that the closing payment should be based on the closing balance.

Based on what I've seen so far, I don't think it's fair or reasonable to say that AJ Bell should be responsible for any financial loss Mr W suffered as a result of the delay in completing the disinvestment.

I'm satisfied, on balance, that Mr W could have disinvested the funds much earlier in the process. AJ Bell told him on 14 March to arrange for the SIPP to be disinvested in full. It had given him the telephone contact details to enable him to do that. I've also noted that it was over a month after AJ Bell told his representative that he needed to disinvest the SIPP before he proceeded to do that.

Having considered everything here, I've provisionally decided that AJ Bell has acted fairly and reasonably. I don't think it should have to do anything further to resolve this complaint.

My provisional decision

For the reasons given above my provisional decision is that I do not intend to uphold this complaint about AJ Bell Management Limited.

AJ Bell said that it agreed with the provisional decision and had nothing further to add.

Mr W did not agree with the provisional decision. He asked for a copy of a call he'd made initially to H which was then transferred to AJ Bell on 1 March 2022. He provided details of the time of the call. Our service asked AJ Bell to provide a call recording for that call - which it then provided. Our service sent a copy of the call recording to Mr W.

Mr W said that the call recording provided evidence to support what he'd said about AJ Bell confirming it would use the 12 January 2022 as the date it would value his payment. He said there was no discussion during the call about only using this date to value the tax free lump sum.

Mr W also made the following points, by way of summary:

- His complaint was that AJ Bell had not valued his SIPP as at 12 January 2022 for its full closure and withdrawal amount despite having said it would do so.
- The call recording clearly supported Mr W's statement that AJ Bell had told him it would value the whole of his SIPP at 12 January 2022. It had not done that.

So, I now have to make my final decision.

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.

I've listened carefully to the recording of the conversation, which has now been provided, between Mr W and AJ Bell on 1 March 2022. During this call Mr W stated several times that he wanted to take all of the money out of his SIPP. He commented on the fact that the value of his SIPP had fallen quite markedly and he just wanted to "take it out." He also explained that he was "struggling" and he needed the money. AJ Bell said it had looked through his file and acknowledged he'd been through a "long process." AJ Bell said it would value the SIPP as at 12 January 2022 (the date it had received the incorrect form). The value at that date was just over £29,000 whereas the value on the date of the telephone call was around £23,000.

Mr W asked for assistance to fill in the form he'd been sent on 9 February and AJ Bell talked him through the form. He posted the completed form to it that day and it was received on 2 March 2022.

It is the case that during the phone call on 1 March 2022, AJ Bell did tell Mr W that the payment would be based on the 12 January 2022 amount. And as Mr W points out, AJ Bell didn't distinguish between the tax free amount and the residual closing balance amount. Because of that, Mr W thinks AJ Bell should be required to honour the value of his SIPP as at 12 January 2022 - even though subsequent to the telephone call he didn't disinvest the SIPP until May 2022.

So, I've thought about whether it's fair and reasonable, given all of the circumstances here, to have expected AJ Bell to have honoured the 12 January 2022 value when the final payments were made in May 2022.

Mr W told AJ Bell on 1 March 2022 he was struggling and needed the money. He'd been informed in the letter dated 9 February (which included the benefit form he completed with

the assistance of AJ Bell on 1 March) he needed to have sufficient cash in his SIPP cash account otherwise the payment could be delayed. AJ Bell reiterated to him on 11 March, 17 March and 24 March he needed to disinvest his SIPP before the payment could be made. AJ Bell also informed his representative of this on 24 March and 29 March 2022.

After that date Mr W took no further action until AJ Bell sent him an email on 3 May. He responded by contacting AJ Bell to say that his representative would be completing the disinvestment. Subsequently the funds were disinvested.

As mentioned above, when thinking about how a complaint should be resolved our service considers whether a business has acted fairly and reasonably in all the circumstances of the case. In my provisional decision I set out the reasons why I was satisfied, on balance, Mr W was aware of how the SIPP worked and that it was his responsibility to give investment and disinvestment instructions directly to H. I remain of that view. I also set out the sequence of events that had happened here and explained why I thought AJ Bell had provided Mr W with enough information, in a timely manner, to enable him to take the actions he needed to take to enable the payment to proceed.

Having looked at the sequence of events again, I've noted that despite having been advised several times, both before and after 1 March 2022, that he needed to disinvest his SIPP before AJ Bell could comply with his instructions, Mr W didn't disinvest the SIPP until May 2022. Given what he'd said about needing the money, I'd have expected Mr W to have taken action to disinvest the SIPP as soon as AJ Bell made clear to him what he needed to do.

Mr W didn't disinvest the SIPP in March 2022 despite being told he needed to do that and he doesn't appear to have taken any action in April 2022 either. He only took action after AJ Bell sent him a further email at the start of May. Mr W hasn't provided any explanation for the delay in disinvesting the SIPP.

In these circumstances, I've thought about whether it is fair and reasonable to expect AJ Bell to have continued to honour the value as at 12 January 2022 at the point in time when Mr W disinvested the SIPP – around 4 months later. Having done so, I'm not persuaded, on balance, AJ Bell has acted unfairly and unreasonably here when it didn't calculate the closing value of the SIPP as at 12 January 2022.

During the telephone call on 1 March AJ Bell had acknowledged the lengthy process Mr W had already been through - because he'd been sent an incorrect form. However, he was sent the correct form together with the relevant instructions on 9 February. He was given assistance with completing that form on 1 March and both Mr W and his representative were given several reminders during March about the need to disinvest the funds before the payment could proceed. But Mr W didn't take the necessary action until May 2022, and only after being prompted by AJ Bell.

Having considered all the circumstances here, I don't think it's fair or reasonable to have expected AJ Bell to continue to stand over the 12 January 2022 value when Mr W didn't do everything I'd have expected him to have done to expedite the payment. Mr W didn't take action to put enough funds into his SIPP cash account until May 2022. AJ Bell made the payments he'd requested shortly after that. As I said in my provisional decision, I think it's reasonable to have expected Mr W to have acted much earlier in the process to have disinvested the SIPP. I remain of that view.

AJ Bell did calculate the tax free lump sum payment based on the value at 12 January 2022 – but not the residual amount. Although I know Mr W will be disappointed I've decided, on balance, after considering everything again, that AJ Bell has acted fairly and reasonably here. I don't require it to have to do anything more to resolve this complaint.

My final decision

For the reasons given above I do not uphold this complaint about AJ Bell Management Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 4 December 2023.

Irene Martin
Ombudsman