

## The complaint

Mr B complains about the fees charged by his Self Invested Personal Pension (the 'SIPP' or 'plan') provider Suffolk Life Pensions Limited ('SLP'), which he says have been applied unfairly.

SLP is part of Curtis Bank Limited. Much of the communication between Mr B and SLP has come from Curtis Bank. However, it has been confirmed that Mr B's SIPP is with SLP. For ease of reference, I will refer to SLP throughout this decision.

## What happened

I issued a provisional decision letting both parties know that I'd reached a different outcome to that of the investigator who had recommended upholding the complaint. The background to this complaint was set out in my provisional decision as follows:

*Mr B originally set up his SIPP with another business called European Pensions Management Scheme ('EPML') which ceased trading in, or around, 2016. SLP took over the SIPPs that were previously administered by the latter business. And in a letter dated 9 November 2016 (the '2016 letter'), SLP wrote to Mr B explaining that due to EPML's situation, his SIPP would be transferred to one of its (SLP's) plans which operated under the name of the 'MasterSIPP'.*

*A SLP transfer pack was sent to Mr B with the 2016 letter including its key facts document; a schedule of its fees; its terms and conditions; and other relevant documents. In terms of the ongoing fees the letter said: "The Suffolk Life MasterSIPP annual administration fee for 2016 is £545+VAT. We will apply a permanent discount of £375 to our annual administration fee. This reduces your initial annual administration fee to £170+VAT." And that: "Depending on how you use your plan, other fees may be charged and the overall fees may be higher or lower than those charged for your current plan."*

*This letter went on to say under 'Next steps': "I [SLP] have enclosed a pre-populated transfer application form ready for you to check, sign, and return to us. Please check and amend any incorrect information. And that: "If we don't hear anything by 5 December 2016 we will consider this as your deemed consent to start the process of transferring your plan to Suffolk Life."*

*The transfer was completed on 27 November 2017 and Mr B was notified of this. At this point, SLP told him the total value of the investments to be held in his SIPP was £4,906.43. It also noted in this letter that in order to get the most out of his SIPP, Mr B needed to complete the transfer application form. SLP explained this would allow the account to be fully active.*

*Mr B was sent a letter from SLP dated 27 August 2019 (the '2019 fees letter') headed (bold SLP's emphasis) "**An important update to your SIPP investments and fees**". This informed him that because the cost of administering SIPPs in general had increased including due to regulatory fees, SLP said it would no longer offer former EPML clients a discount. A guide was enclosed which provided an explanation of the changes SLP was making and what this would mean for Mr B. SLP also explained to him that he could find a copy of its updated schedule of fees on its webpage and provided a link to this site.*

The 2019 fees letter under the heading “**SIPP Fees, with effect from 1 October 2019**” (bold SLP emphasis) said: “Currently your annual SIPP fee is £185. From the next anniversary date of your plan, your new annual fee will be £560. As mentioned earlier, the discount to your SIPP’s annual administration fee will no longer apply. However, you may find that switching to Your Future SIPP [a SLP SIPP product] provides better value for you.”

In a letter dated 18 August 2020, SLP wrote to Mr B about the outstanding fees, which, at that point, stood at £813.39. Another letter was sent about the outstanding fees on 22 September 2020, giving him various options on how to settle the debt which included choosing to sell some of his investments. The letter said if Mr B did not take any of the options available to him, an ‘Order of Disposal’ would be issued which would allow SLP to dispose of some of his investments to pay the outstanding balance. The letter set out which holdings would be sold if nothing was done by 26 October 2020. And on that date, as the fees remained unpaid, SLP issued a ‘funds request’ form to its internal team giving it instructions to disinvest the relevant number of shares to realise the value of £813.39.

In a letter dated 10 December 2020, SLP informed Mr B that from 1 February 2021, the SIPP administration fees would increase by £140 to £720. It went on to say that a pro-rata amount would be added to cover the increase to the next policy date. The letter also said that if Mr B wanted an illustration of his plan, he could obtain one from SLP. Further, it told him that if he did not want to be subject to the new fees, he could transfer to another provider without any exit charges. In order to transfer to another provider, SLP requested Mr B complete and return a discharge form by 14 March 2021.

In May 2021, SLP sent Mr B a letter noting the outstanding fees at that point was £1,797.39. Again the letter said he needed to make an arrangement to pay this amount, otherwise an order of disposal would be issued to sell some or all of his investments to settle the outstanding amount. A letter about the same amount was sent on 4 August 2021.

Mr B contacted SLP by phone on 17 August 2021 asking about the fees. SLP confirmed how much was outstanding and Mr B said he would arrange to pay these fees. The recorded phone note said that Mr B mentioned he wanted to transfer out but before doing so, he wanted to research it more.

Further correspondence between Mr B and SLP ensued. Mr B said that he didn’t think it was fair that SLP were charging the level of fees given how small his pension was. And in an email dated 9 February 2022 to SLP, Mr B said (emphasis by Mr B): “I have previously mentioned that I am happy to pay SOME account management fees as I understand the work that goes on in the background for these products. But to liquidate a portfolio to pay the fees is just ludicrous. If an arrangement can be made for a reduced fee to be paid so I am left with some assets to transfer to another provider then that would be great.”

Shortly after this, SLP received a transfer request from another provider dated 9 February 2022, which was signed by Mr B’s on 1 February. At around this time, Mr B complained.

SLP rejected Mr B’s complaint. It said all fees had been charged correctly and in line with the terms and conditions of the account. SLP explained its fees are fixed and are charged at the same rate to all its clients regardless of the amount held in their respective SIPP. It added that SLP undertook a review of its fees covering all its products in 2019. Mr B was advised that as a result of this review, fees would increase. And he was given the option of either transferring his SIPP to another product within SLP, or to another pension provider. SLP had told him it would waive its usual transfer fees. As SLP did not hear from Mr B, his SIPP continued to be charged at its standard rates.

Mr B remained unhappy and referred his complaint to the Financial Ombudsman Service ('us' 'we' 'our'). He made several points including:

- He was unhappy with the level of fees he was being charged for a very small portfolio.
- He'd argued the fees with SLP from the start as it would mean his portfolio would automatically be worthless within three years (from 2019).
- He was being asked to pay £2,850 by SLP, which amounted to nearly the full value of funds held in his SIPP and he didn't think this was fair.
- As he hasn't signed the new contract with SLP he doesn't think its fees apply to him.

Our investigator recommended upholding the complaint. He didn't think SLP had acted fairly in line with what was expected of it by the regulator (the Financial Conduct Authority). He also didn't consider SLP had treated Mr B fairly in light of the amount he held in his account and the significant increase it made to its fees in 2019. Our investigator recommended that SLP switch Mr B to a lower charging product and refund the difference between what he (Mr B) would've been charged at a lower fee and what he was actually charged.

SLP disagreed. In summary, it said:

- It was an execution only service so it was for Mr B to decide on the best course of action. It could not, within its regulated permissions, move Mr B to a lower charging SIPP, because it did not have the necessary permissions to do so.
- When the fees increased, he was given 30 days' notice and during that time he could have changed providers so long as he completed the transfer forms within 90 days. And SLP had offered to waive its fees on several occasions if Mr B decided to transfer out.
- Section 25 of SLP's terms and conditions, make it clear that it can make changes to products, fees, and the service it offers so long as it gives written notice to clients. And Mr B is subject to SLP's terms and conditions under 'deemed consent'.
- While Mr B considers the fees are disproportionate compared to the value of investments he holds, SLP has a flat-rate fee, so the clients' pension plan value has no bearing on the fees it charges.
- SLP confirmed that Mr B's transfer request received in February 2022 did not go ahead because of the outstanding fees that were owed.
- SLP referred to a number of other cases dealt with by us and said the investigator's view was not in line with these other cases.

When the matter was passed to me for a decision, I asked both parties for further information.

Mr B responded as follows:

- The address he currently lives in is different from the address where the letters in 2017 and 2019 were sent by SLP. Mr B said whilst he wasn't living at the address these letters were sent, he did receive them. He notified SLP of the change of address on 13 December 2021.
- He did not respond to the 2017 letter because as the fees weren't changing, he didn't think he needed to do anything.
- In terms of the fee increase from 2019, whilst the fees were expensive he didn't think it would impact his pension that much. He said the fees are now more than double than that stated in 2019. He added: "[He] did start looking for other providers, and probably should of transferred to another provider [name of provider], however, I almost felt stuck as I couldn't leave without paying the extortionate fees."

- *Although Mr B had said that he had raised concerns from the start, in response to our further enquiries, he confirmed he only started contacting SLP about the fees in, or around, September 2021. Mr B provided an email he sent to SLP in February 2022, which noted he had asked it to rectify the fee situation in October 2021.*
- *Mr B provided us with a statement showing his investments. However, this statement seems to be from another (investment) trading account.*

*SLP responded as follows:*

- *It provided us with statements showing what investments were held in the SIPP. SLP confirmed that there were no 'impaired assets' that would have prevented Mr B from transferring away. SLP said that Mr B had no non-standard assets but there was an investment which had no value and was marked as a 'non-standard asset' for this reason.*
- *Mr B confirmed during a call in August 2021, that he would look to pay the outstanding fees and transfer away but that he wanted to research this further before doing so.*
- *Also in 2021, Mr B indicated he wanted to transfer away but SLP did not receive any request to do so until 11 February 2022. A 'Pension Transfer' form from another provider was given to us by SLP which showed Mr B had signed this form on 1 February 2022. SLP said by this point, because of the outstanding fees, the transfer could not go ahead until these were paid.*
- *SLP provided an 'Order of Disposal' dated 26 October 2020 giving instructions to disinvest sufficient funds to return £813.39 to cover the fees owed. Mr B was informed this would happen in letters it (SLP) sent in August and September 2020.*
- *As of 8 February 2023, Mr B owed SLP £3,966.99. SLP said it is proposing to sell the remaining assets held in Mr B's account to partially settle these fees but it would not pursue him for anything outstanding.*

In terms of my provisional decision, in summary, I concluded SLP had acted fairly and reasonably in its dealings with Mr B. Mr B disagreed. He reiterated what he had said before and that he didn't think it was fair SLP's fees were set at a level where they'd depleted his pension funds. He said that he was disappointed with the outcome given the investigator had reached a different conclusion to that of the Ombudsman.

As no agreement could be reached, the matter has been passed back to me for a 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.

Having re-considered everything, I'm not upholding this complaint. I have taken on board the further comments Mr B has made. And I appreciate his frustration with the change of view from that of the investigator's. But I did obtain further information which I set out above. I took this and all the other evidence and arguments into account in reaching my decision.

In terms of Mr B's further comments, I don't consider he has added any substantive information such that it has changed my mind. I appreciate Mr B doesn't agree with the level of fees he was being charged by SLP as compared with his previous provider. But as I said in my provisional decision, I considered, overall, SLP had communicated with Mr B in a clear, fair and not misleading way such that he could make an informed decision about what he wanted to do with his pension funds if he was unhappy with SLP's terms and conditions.

I also considered there were no apparent barriers such as having impaired assets in his SIPP, which would have prevented Mr B from transferring away to another SLP product or another pension provider. So, for these reasons and those set out in my provisional decision which I've set out again below, I am not upholding this complaint. The reasons for my decision are therefore as follows:

*Before I explain my reasoning, I will begin by saying that I know SLP has referred to other cases where we have not upheld complaints about its fees. But as it will be aware, when a case is referred to us, we are required to consider each case on its individual merits.*

*As a starting point, I know Mr B considers SLP are acting unfairly because its charges are disproportionate to the value of the investments/assets he holds in his SIPP. But, as he has been informed by SLP, it has a flat-rate charging structure. Our Service doesn't generally look at whether the level of fees and charges being applied by a provider are commensurate with the service being offered. Rather, we look at whether the fees have been applied correctly, in line with the terms and conditions of the plan, and that they have been applied fairly looking at all the circumstances of the case.*

*Because this is a pension, it is subject to very strict rules. It is not like other financial services products such as a bank account or an insurance policy. In particular, it's difficult to end a pension arrangement altogether. It is possible to transfer from one provider to another but not easy to draw the whole thing to an end. Amongst other things, this means that when EPML got into difficulties, its business would inevitably be transferred to another SIPP administrator so that the SIPPs could continue. In the event, it was SLP that took over. It took over as administrator of the SIPPs and the SIPPs themselves continued on the same terms in relation to the fees up until 2019.*

*When Mr B became subject to the SLP terms and conditions, the agreement was that he would be subject to pay charges on a fixed charge basis, not on the basis of the amount held in the SIPP. So, whilst Mr B had a relatively small pension pot, the amount that could be charged by SLP wasn't based on this. This is clearly set out in the terms and conditions, which were sent to Mr B by SLP when it informed him of the increase and why this increase was necessary. So, whilst I think he considers it is unfair of SLP to charge so much for a relatively modest amount, this is the charges it has considered are necessary to manage the type of SIPP he has since the change of providers.*

*That said, SLP is a regulated business and is subject to High Level Principles in the regulator's rule book, one of which is Principle 6: "A firm must pay due regard to the interests of its customers and treat them fairly." And I note at the start it did say that it would apply a 'permanent' discount to its SIPP fees when it wrote to Mr B and other clients in 2016. I think the letter from 2016 was misleading in that it said the discount would apply 'permanently'.*

*Nonetheless, I can see that although SLP made a commercial decision to remove the discount to bring the charges in line with its standard fees, it also made a fair offer to Mr B. That was the option to switch to another SIPP either with SLP or to transfer to another provider with no exit costs. He had 30 days to request a transfer out, and then a further 90 days to return a transfer form in order to have the exit fees waived. It also kept the discount in place for three years. And it did provide reasons why the increase was necessary.*

*When asked why he didn't change providers at this time knowing the discount would be removed, Mr B said he thinks he should've done but he felt 'stuck' due to the fees that SLP were charging. However, at this point (2019), he had no or very little fees outstanding. From what I can see the first increased payment, which was £813, wasn't applied until 31 January*

2020. So, whilst Mr B says he was 'stuck' I can't see this was the case when he was first told about the increase of the fees in August 2019.

Mr B has also said he didn't transfer as he didn't realise the impact the fees would have on his investments. But by February 2020, he was invoiced £813 and was subsequently chased later in that year for payment. Again, he didn't contact SLP about this issue. Further, in early December 2020, he was told about another increase. And SLP offered to provide him with an illustration which would have shown him the impact of the fees on his investments. So, whilst Mr B may not have realised the impact the fees would have, he did have the opportunity to find out. And given the information he had received from SLP up until this point, I consider he had sufficient information to make an informed choice about whether or not he wanted to be subject to SLP's terms and conditions or transfer to another provider.

Mr B says he raised the issues about the fees from the start, but the first record SLP has of him contacting it about this issue was in 2021. A call note from August 2021, shows he did make enquiries about the fees. By this point, he owed just over £1,797 for the periods 2020 and 2021. It seems, from what he said during the call, that he wanted to do more research before deciding whether or not he wanted to change providers. And it wasn't until 2022 that he tried to transfer to another provider by which point another annual fee had been added.

Mr B raises the point about not agreeing to the terms and conditions of SLP and therefore, it follows he was not subject to its fees structure. I understand this point of view, but he was subject to 'deemed consent' as he was told by SLP on several occasions. So, I can't agree that he wasn't subject to SLP's fee structure in line with its terms and conditions.

I know Mr B has moved address since his account switched to SLP and that he only notified the business of the move in 2021. But he has confirmed that he did receive the 2017 and 2019 letters. So, I think it's likely that he also received the other letters sent to him by SLP.

All in all, I think SLP has acted fairly and reasonably in Mr B's case. It has clearly explained the reasons for the increases to its fees; it gave him the required notice period before making the changes; it acted in line with the terms and conditions that were sent to him; it provided him with the opportunity to either move to another one of its other products or to transfer out without applying its exit fees; and on the face of it, there was no reason, such as having impaired assets in his SIPP that prevented Mr B from moving his account elsewhere.

The situation now is that there are more fees owing than can be paid from the liquidation of Mr B's investments. I sympathise with him about his situation. And I know he has said he is worried he will be chased for the remaining balance. However, SLP has said, in writing, that once the investments are sold, the account will be closed and Mr B will not be pursued for any remaining balance.

For all the reasons set out above, I'm not upholding the complaint.

### **My final decision**

I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 18 October 2023.

Yolande Mcleod  
**Ombudsman**