

## **The complaint**

Mr H has complained about the delays he experienced when transferring his SIPP to Interactive Investor Services Limited ('II') from another platform provider.

## **What happened**

Mr H held his SIPP account with another platform provider who I shall refer to as 'Company A' in this final decision. He requested that his SIPP be transferred to II but experienced delays during the transfer process.

Mr H complained to II. In its response of 14 October 2022, it didn't uphold Mr H's complaint. It said;

- The original transfer request, the completed transfer and discharge forms were received by II on 28/30 April 2021 and they were passed to its pension administrator for review.
- The transfer request was sent to the ceding platform on 11 May and the portfolio valuation was received by II on 17 May.
- Three of the investments held weren't supported by II's platform and Mr H was emailed on 18 and 24 May for instructions about how to proceed. Mr H called II on 2 June and advised he would provide his transfer instructions the following week, but nothing was heard so a further email was sent to Mr H on 8 June.
- II sent Mr H a secure message on 17 June to say it had spoken with the ceding platform to confirm the unsupported investments could be sold and cash transferred but it still needed Mr H's instruction to do this.
- II received confirmation from Mr H on 18 June and it instructed the ceding platform on the same day. Trades and settlement dates were agreed as 21 June, the three investments settled on 25 June with a cash payment of £206,084.37 being received by II on 7 July and the transfer was complete.
- II couldn't find that it was responsible for any delays experienced.

Mr H wasn't happy with the outcome so brought his complaint to the Financial Ombudsman. Our investigator who considered the complaint didn't think it should be upheld. He said;

- He outlined the timings as provided by II.
- He thought the transfer was completed within a reasonable timeframe and the delay experienced was while II was waiting for instructions from Mr H about what action he wanted taken with the unsupported assets.

Mr H didn't agree with investigator. He asked that his complaint be reconsidered by an ombudsman, so was passed to me. I issued my provisional decision explaining that I had provisionally reached the same conclusion as the investigator but wanted to give both parties the opportunity to provide any further evidence or comment for my consideration if they wished before I issued my final decision. Here's what I said;

'The crux of this complaint is about the delays experienced during the transfer of the underlying assets of Mr H's SIPP. II has said the delay was due to it awaiting Mr H's instruction about what was to be done with the three unsupported assets.

For completeness I shall clarify the assets that were to be transferred from Company A to II. According to Company A's valuation Mr H's pension account held the following;

Aviva Insured Funds Property S14  
Baillie Gifford Managed B Acc  
Legal & General Multi-Index 5 I Acc  
Legal & General Multi-Index 6 I Acc  
BMO Universal MAP Growth C Acc  
Aviva Insured Funds Smooth Managed S14  
Witan Investment Trust PLC Ord 5p  
Cash of £544.96.

The above timeline of events provided by II makes clear that the majority of the delay in the transfer of the SIPP was between 18 May and 18 June when II was awaiting instruction from Mr H. II has told us Mr H had been informed that there were three assets held within his SIPP account held with Company A which weren't supported on II's platform. Those assets were the two Aviva funds and the BMO fund.

Instruction was needed about what action was to be taken with those three funds. Mr H has said he didn't receive any email messages on 18 and 24 May and 8 June about the three unsupported assets. He had only been informed about the two of those assets – the two Aviva funds – in a secure message received on 17 June. Prior to that he was only aware of the unsupported BMO fund which was contained within both his SIPP and ISA account.

But I see there is a file note from II on 2 June to say, 'customer contacted me via phone and told that they will give instructions next week'. We asked II for a copy of the call recording of 2 June but even though it was able to send some call recordings, unfortunately this wasn't one of them. After that the notes suggest that Mr H was emailed on 8 June and a secure message was sent on 17 June which detailed the three unsupported assets and resulted in Mr H sending a secure message to II on 18 June instructing the sale of the three unsupported assets.

Mr H told us that the email address that was used by II was actually his 14-year-old son's email address. Mr H didn't use that email account and wasn't aware of any emails that had been sent to him. Mr H has said he didn't receive those emails and II should have contacted him via the secure message account or have called him when it didn't receive any response to the three emails it had sent. Mr H has said that it was only when he was phoned by II and subsequent to that call was sent a secure message on 17 June that he was aware of the unsupported assets within his SIPP. He gave his instruction for the go ahead to sell those assets on the next day.

II has been able to give us a copy of the phone call that took place on 17 June and that call suggests to me that the concept of II not being able to accept certain fund classes but that they can be switched into a different fund class. Mr H makes clear that he is aware about different classes of shares as he discussed the different charges they can incur. But it's clear from that call that the three unsupported funds are discussed and ISIN numbers and values are given.

It's very clear from that call that Mr H is frustrated by the delays. It's discussed that II can instruct Company A to sell his assets even if Mr H wasn't able to as his assets with Company A were frozen pending the transfer. The three unsupported assets are discussed and ISIN numbers are given.

I asked II about the origin of the email address that it had for Mr H's SIPP account as I note it's not the same address as was used for some of his other accounts with II. In response it provided us with a screenshot of Mr H's account application. Amongst other details it's recorded that the email address is the address that Mr H has told us was for his son's account who held a junior ISA account with II.

II further clarified that it would not apply or update an email account address without a client's instruction. And while it was apparent that Mr H's son may have had an account as well, this would not affect Mr H's application. I have asked the investigator to send a copy of the application onto Mr H along with this provisional decision so he can review that evidence for himself.

Mr H has said that as the emails sent to him contained something important then II should have called rather than send a secure message. But I think it was fair and reasonable for II have to rely upon the information that he gave as a method of communication with him. As the information given to II by Mr H was incorrect, I can't find that II is responsible for the delays.

Mr H thought his ISA and SIPP would be transferred simultaneously and not sequentially and he wasn't informed it would be dealt with in that way. The SIPP was transferred first. I don't think it was II's intention to sequentially transfer the two accounts. But Mr H had given II two separate sets of transfer instructions – one for the ISA and one for the SIPP held with Company A so I don't agree they would necessarily be transferred together. They were dealt with by different teams at II. And I think it's clear from the history of the SIPP transfer that I have detailed above, that II wasn't necessarily responsible for any of the delay. II had asked for Mr H's input via what I consider to be a reasonable method of communication – the email address he had given – about the three unsupported assets and was pending his response. So, I don't see that the transfer of the SIPP account could have gone ahead any earlier than it did pending a reply from Mr H about what action was to be taken.

Mr H has said he wasn't told how the transfers would proceed. But by him completing the transfer request documents and authority there was nothing further for Mr H to do pending the transfer, albeit with II's request for instruction about what action it should take with regard to the unsupported assets. Quite simply Mr H had given an instruction – to transfer the SIPP – and II was acting upon that instruction in the way I would expect it to.

Mr H told us he wanted both his ISA and SIPP complaints to be looked at together and not in isolated timeframes as otherwise it failed to illustrate the problems and difficulty as well as the frustrations, he encountered engaging with II. He said the transfers needed to be looked at from a layman's point of view. But Mr H's two transfers from Company A related to two separate accounts with their own timelines and actions to be taken. So, I don't find it unreasonable for the transfers to be looked at in isolation. Information or requests for one of the accounts didn't impact on the other as they were separate accounts holding their own particular underlying assets.

Mr H says the communications with II weren't good. He should have been better assigned transfer numbers and a single point of contact. II didn't do this. Mr H had to

deal with different people. He should have been able to deal with the ISA and SIPP at the same time. This was important as they both had funds in common and similar named funds.

Mr H was given a transfer number ending number 814. He has said it was reasonable for him to have assumed that transfer number related to both of his accounts. However, that transfer reference only referred to his ISA account and he said he only became aware of the different transfer number for the SIPP months later. I have seen the messages headings for different transfer updates and note they all include the TR reference unique for each account (ending 969 for the SIPP). And messages I have seen finish with 'If you wish to contact us the easiest way is by secure message....quote your Transfer Ref: CS-TR-\*\*\*969 in the title of the message'. It has told us the TR codes were also referred to by both II and Company A as well as on the transfer request forms Mr H was provided with and which was uploaded to the account on II's website.

And as Mr H had given II two separate instructions for his SIPP and ISA accounts, I don't think it was unreasonable to assume that they would be given their own account or transfer numbers. Mr H was transferring a total of five accounts and I wouldn't expect either party to the transfer to be using one account/transfer reference for all five accounts as that just wouldn't be practical or fit for purpose as it would cause confusion with allocation of the underlying assets.

Mr H has referred to the BMO fund which was held in both his ISA and SIPP accounts. He has said the secure message he sent on 18 June 2021 should have resulted in the BMO funds being sold in both the ISA and SIPP. But this didn't happen to the SIPP, only the ISA sale went ahead. I note the secure message sent on 17 June detailed the three funds held in the SIPP account and even without a transfer reference – which I note it did – should have been identifiable to Mr H as the number of units held was included as were the ISIN numbers which Mr H had been given during his phone conversation on 17 June.

Mr H has referred to an instruction he sent to II on 21 June. The message includes all of the five accounts Mr H (and his wife) were transferring from Company A to II. So, the one message was sent from one account and related to five different transfers for two different people plus one business. Several of those accounts held stocks in common or similar stocks and I don't think II was being unreasonable when II made clear in its response that it needed more of a breakdown of what investments were to be sold from which account plus the amount of the holding to be sold. Mr H has said that the ISA and SIPP teams within II should have communicated together.

But I think by now the waters had been muddled and the instruction had become confused. It changed from being an in specie transfer for all of the assets in April, to a sale of some of those assets. The message of 21 June also included an instruction to sell the three unsupported funds held within the SIPP. But he had already given that instruction on 18 June so I can understand why there was confusion about what action Mr H wanted as II was already in receipt of part of that instruction. And I also understand that because of regulatory issues the business account couldn't be transferred at all in any event.

I accept that the contact at II confirmed receipt of the message and that it was being passed onto the relevant teams. But it was after that – on 7 July – after the message had been fully reviewed that II responded saying it needed more information and effectively clearer instructions and for which account.

Mr H has said if he had known he could stop and change the original in specie transfer request and sold to cash, he would have done. He should have been offered this. But I don't agree. The transfer itself was in process at this time and instructions had been given. So, I wouldn't have reasonably expected II to have proactively contacted Mr H to inform him that he could alter his instructions at any time. I just don't think that would have been practical or would have helped with speeding up the transfer process.

Mr H has said he was entitled to change his mind about the transfer. And I agree he was entitled to do so – they were his assets. But Mr H had already put instructions in place for the transfer from Company A and then given instruction on 18 June for the three unsupported assets plus a further instruction on 21 June – for all five of the accounts – two weeks later which caused confusion and needed clarification.

Mr H has said that around £206,000 was transferred on 7 July 2021 but this figure should have been around £467,000. He asked what the discrepancy was here. That amount refers to the cash proceeds of the sales of the three unsupported assets. And while I don't have a valuation at the July date Mr H has referred to, I do have one for November 2021 and that shows a value of just over £503,000 which is around the level that Mr H was expecting to receive so I can't see that assets are missing.

Mr H has referred to the SIPP cancellation notices he received dated 13 July and 30 November and which he told us he wasn't sure what SIPP fund/s these related to. The 13 July notice related to the transfer from Company A which was completed on 7 July and the 13 November notice related to the transfer from another business which completed on 29 November.'

I concluded by saying that I didn't think that II had done anything wrong.

Mr H didn't agree with the conclusions I had reached in my provisional decision. I've précised what he said;

- The complaint had been brought due to unclear communication from II which added to the confusion.
- The transfer dragged on until November/December and wasn't completed on 7 July 2021 as I had said.
- Secure messaging should have been the preferred method of communication and should have been used consistently.
- When he didn't respond to the three emails sent II should have tried a different method of communication. The use of the wrong email address (his son's) wasn't a valid excuse for the delay.
- Mr H didn't recall discussing the two Aviva funds during the call of 2 June, only the BMO fund. While the call of 2 June might not be available others might be.
- The first Mr H was aware of the three unsupported assets was on 17 June during a phone call.
- The transfer reference number ended 969 wasn't used until 17 June 2021. Mr H assumed the transfer reference ending 814 referred to in secure messages was the reference for both his SIPP and ISA transfer.
- It should have been explained to him how the transfers were to proceed plus progress reports. The time difference between the transfer of his SIPP and ISA

should have been a lot shorter. He would have expected them to have completed around the same time and with collaboration.

- The TR (transfer reference) numbers were used in communication without any reference to the ISA or SIPP transfer. Any queries to Mr H should have had clearly defined reference number to whether it referred to the SIPP or ISA and using the TR number.
- Mr H said I had confused his ISA and SIPP complaints.
- The BMO fund Mr H held was common to his SIPP and ISA and the same sale instruction should have applied to both accounts. His instruction to sell this and the other two holdings was on 21 June and II's response on 7 July was vague and confused.
- II should have liaised with Company A as per Mr H's instructions given on 21 June.
- The secure message of 18 May didn't have any reference on it other than 'valuation' and asked Mr H to contact the counterparty which he did on 16 June. A substantial and specific response was needed from II.
- Mr H was told his message of 21 June was passed to the case handlers dealing with his ISA transfer, and he wasn't contacted if there were any queries as he should have been. Mr H should have been invited to provide clarification if it was needed. His instructions were ignored.

II didn't provide me with anything further for my consideration.

### **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.

After doing so, I remain of the opinion that II doesn't need to do anything more. I shall explain why.

While Mr H has brought several complaints, I am satisfied that I haven't confused his complaint with the complaint he has made about his ISA. That has been dealt with under a separate complaint reference, and while there might have been some crossover, as the transfer instructions were given at the same time, I have focused on the SIPP transfer in this decision.

### **The three unsupported assets**

I've seen various timelines from II as well as the transfer audit which is a contemporaneous record of II's actions during the transfer period. It's clear that on 18 May the three unsupported assets were identified, and Mr H was emailed on 18 May and then again on 24 May. Mr H called II on 2 June and the phone note II has given us says 'customer contacted me via phone and told that they will give the instructions next week'.

I am satisfied that it is more likely than not – when taking into account the previous actions on the account – that this referred to the three unsupported assets. I appreciate that Mr H doesn't recall this as being part of his discussions with II, and it's unfortunate that a call recording isn't available, but I don't find this to be an unreasonable conclusion for me to reach.

Mr H has said he didn't receive any of the emails prior to his call of 2 June so I can only assume that he instigated the call for another reason. But I think the recorded comment

about the call makes clear that the unsupported assets were discussed, and Mr H said he would instruct shortly.

So, I maintain that II didn't do anything wrong. It was made aware by Company A of the three unsupported assets on 18 May. It emailed Mr H via the email address that he had provided on the same day and then chased for a response less than a week later. And by Mr H advising that he would give those instructions in the call of 2 June, there was nothing that would lead II to think the email address he had provided was incorrect. And I can't ignore the fact that Mr H was most likely aware of the unsupported assets on 2 June and he didn't give any instruction on those assets until two weeks later on 18 June.

Mr H then sent a secure message on 18 June – over two weeks after the call – advising that the three funds should be sold and moved over as cash. II sent acceptance to the ceding platform on the same day advising the three funds were to be transferred plus one CREST transfer and the remaining three funds to be sold. Company A processed trades/transfer the instruction on 21 June and the trades' settlement was completed on 25 June.

In the meantime, Mr H had sent via secure message different instructions on 21 June – 'Customer sent in large list of instructions' – which I am still of the opinion would have caused confusion with the transfers. That message included the three assets which it had already been agreed should be sold and which the ceding platform had been advised about on 18 June.

And the instruction to the ceding platform given on 18 June included instruction for all of the other assets held within the SIPP as well. And this was all after the original instruction to transfer in specie on 28 April. So, I can understand why II didn't act on the instructions given on 21 June as it had already sent the transfer acceptance/sale instructions to Company A three days earlier. The trade and settlement dates had already been agreed between Company A and II by the time II received Mr H's different instructions given on 21 June.

I asked II about the delay between 21 June and Mr H being contacted about those instructions on 7 July – 12 working days. It told us that there may be times of high volumes of emails and secure message received which, as it works on them in date and time order, can sometimes take longer than its standard response time. While Mr H was disappointed with the lack of contact sooner than 7 July I've also borne in mind that as the transfer instructions had already been given by II to the ceding business on 18 June I don't think a quicker response by II would have made a difference as the sales/transfer process was already agreed between the parties and was in progress.

#### The commonly held fund

Mr H has said that any instruction for the commonly held unsupported asset – the BMO fund – should have applied to both his SIPP account and his ISA. But I don't agree. The different types of account – a SIPP and ISA – could potentially hold different assets. And from listening to the recording of the call Mr H had with II on 17 June 2021 it's clear Mr H was aware of the unsupported assets as these were discussed. And it was explained during that call that assets which are acceptable within an ISA may not be acceptable within a SIPP, so I'm satisfied that separate instructions were needed for the two different types of account.

#### Communication

I've been provided with a correspondence timeline and can see that between 28 April and 7 July Mr H was sent 11 emails by II which included emails about the;

'Important information regarding your transfer (Ref:#CS-TR-244969-ClientInfoRqd), Acknowledgement Email' on 28 April and through to;

'Important information regarding your transfer (Ref:CS-TR-244969-UT) SIPP Transfer Update – Transfer Complete' sent on 7 July.

So, if Mr H hadn't been receiving these emails because of the incorrect email address given, it may answer why Mr H complains that he wasn't being kept informed as those emails included transfer update information. It's clear that the TR reference is used in the headings of those messages and it equally may be why Mr H wasn't aware of the transfer reference – the TR number – sooner than 17 June.

I asked II about the use of the TR number being used and it confirmed that it didn't communicate via secure message about the SIPP transfer using that reference until 17 June further to the phone call Mr H had due to his lack of reply to previous email communications. It said its main communication methods for all transfers in and out is via email. However I do accept that in secure messages they do say 'If you wish to contact us the easiest way is by secure message....quote your Transfer Ref: .... in the title of the message'. But I don't think that supersedes the fact that II had instigated the transfer via email.

And that wasn't II's error. That all stemmed from Mr H providing the incorrect email in the first instance for which I can't find II at fault. And I remain of the opinion that it wasn't an unreasonable method of communication for II to have used.

I also asked II about Mr H's comment that TR numbers were used in communication without any reference to whether the message was about the ISA or SIPP transfer. It told us that upon the initiation of the transfers it sent Mr H an email which clearly outlined the transfer reference and which product it related to. It said Mr H should have been able to easily cross reference this as all the information was available, had the correct email been provided from the outset.

So, in conclusion, Mr H's comments about the communication with II seem to stem from the email address used. If that had been the correct address, I think its likely many of the issues Mr H is complaining about wouldn't have arisen.

#### The SIPP transfer completion

Mr H has said that the SIPP transfer didn't complete on 7 July 2021. To clarify, the three unsupported assets were sold and settled on 25 June 2021. II subsequently received a cash amount of £206,084.37 on 7 July 2021 for those sales. The other assets had already been transferred on 28 June 2021. There's nothing to suggest the transfer wasn't completed. And the email records show that II informed Mr H of this on 7 July.

I note from the email records that Mr H was also transferring another SIPP from a different product provider (TR number ending 651) and that the email correspondence for that transfer continued through to the end of November. But I haven't seen anything to evidence the SIPP transfer reference 969 didn't complete on 7 July.

Taking all of the above into account I can't agree that II has done anything wrong and it follows that I don't uphold Mr H's complaint.

No doubt Mr H will be disappointed with the outcome as its clear he feels very strongly about his complaint and has made a lot of effort in bringing it. But I'd like to assure Mr H I have carefully considered his submissions – and I'd like to thank him for those – but I hope I have been able to explain the reasons for reaching the conclusion that I have.



**My final decision**

My final decision is that I don't uphold Mr H's complaint about the transfer of his SIPP to Interactive Investor Services Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 5 October 2023.

Catherine Langley  
**Ombudsman**