

Ombudsman's Determination

Applicant	Mr A
Scheme	Salvus Master Trust (the Scheme)
Respondents	The Trustees of the Scheme (the Trustees)

Outcome

1. I do not uphold Mr A's complaint and no further action is required by the Trustees.
2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mr A has complained that there were delays in transferring a personal pension plan he had with Halifax Financial Services (**Halifax**) to the Scheme, and that he has incurred out of pocket expenses because of the delays whilst trying to resolve the matter. He has also been subject to considerable stress over the matter.

Background information, including submissions from the parties

4. Mr A had a personal pension with Halifax and as he approached retirement he wanted to transfer the value of his personal pension into the Scheme. The transfer took some eight months to complete.
5. Mr A complained to the Trustees of the Scheme regarding the delay via the Internal Dispute Resolution Procedure (**IDRP**). In its first stage response to the IDRP the first stage decision maker accepted that:
 - there were delays by the administrators, HS Admin, throughout the transfer process and these were outside of the normal service levels;
 - the service that Mr A received was unsatisfactory;
 - there was a difference of £139.47 in the transfer value quoted to Mr A at the start of the transfer process in April 2016, and the amount transferred in November 2016; and
 - Mr A had suffered stress and inconvenience due to the transfer process.

6. To put matters right the decision maker agreed that HS Admin should pay £140 into Mr A's account to make up for the loss on transfer. HS Admin should also pay Mr A £500 for the distress and inconvenience he had suffered and for the expenses he had incurred.
7. Mr A accepted the top up of £140 to increase the transfer value but did not accept the offer of £500 for distress and inconvenience. Mr A believed that he was due additional compensation and drew up a list of what he thought should be paid as follows:

Depreciation on the original Fund Value	£139.47
Missed Pension (116 days)	£773.32
5% interest on Principal Sum for 116 days	£377.41
Incidental Costs - internet café, postage, loss of earnings, transport, stationery.	£267.10
Stress & Inconvenience	£500.00
Goodwill	£0.00
Total	£2,057.30

8. Mr A raised a second stage IDRPs complaint which was considered by the Trustees. Under the second stage of the IDRPs, the Trustees rejected Mr A's counter-claim for compensation, and the complaint was referred to the Pensions Advisory Service (**TPAS**) initially, then this organisation for investigation.
9. Mr A says that he has identified from TPAS' timeline chart that there was a total of 116 days of cumulative delay.
10. The Trustees say that there were other parts of the process that were outside of the control of HS Admin, namely the completion of the Discharge/Acceptance form which was sent to Mr A on 11 July 2016 and not returned until 30 August 2016. Furthermore, most of Mr A's investment (95%) was in Aegon's Cash Fund and this fund produced a negative return throughout 2016.

Adjudicator's Opinion

11. Mr A's complaint was considered by one of our Adjudicators who concluded that no further action was required by the Trustees. The Adjudicator's findings are summarised briefly below.
12. The Trustees have agreed that there were delays in the transfer process and the level of service was not at the level expected from HS Admin. The Trustees have agreed that HS Admin top up the value of Mr A's account by £140 so that he receives the equivalent transfer value that would have been payable if the problem had not occurred, and offered £500 as compensation for the distress and inconvenience.

13. Mr A has argued that he should receive a larger compensation payment and set out a list of how the compensation should be made up. The Adjudicator had the following comments on Mr A's claim:
- Mr A has made a claim for £773.32 which he says is the lost pension over 116 days. But TPAS' timeline of events shows that the TPAS adviser had calculated the delay caused by HS Admin amounted to only 67 days. The Adjudicator considered the TPAS adviser's timeline to be accurate and the delay was equivalent to 67 days and not the 116 days that Mr A has claimed. Furthermore, Mr A has not drawn any benefits from the Scheme and the funds remain invested. Therefore, there has been no financial loss as the full amount of Mr A's fund remains available to draw on as he chooses.
 - Similarly, Mr A has claimed for a 5% interest payment on the principal sum over the 116 days of delay. However, the Trustees have pointed out that if the transfer had been processed correctly Mr A would have invested the majority of the amount in the Cash Fund and this has achieved a negative return. The Adjudicator did not consider that there were sufficient grounds to award Mr A interest on the amount and not at the rate of 5% a year. Our normal approach is to award interest at the rate provided by the reference banks which over the past few years has been at 0.5% or lower. Even if it were considered that HS Admin should pay interest on the transfer amount in at the rate provided by the reference banks over 67 days of delay, the estimated interest would be £19.28.
 - Mr A has also asked that his incidental costs be compensated and he has listed these as including the costs of using an internet café, transport, stationery, postage and loss of earnings. It is not our usual practice to compensate individuals for dealing with their own affairs and the Adjudicator did not understand why dealing with this matter would have led to a loss of earnings. Although Mr A may have incurred some out of pocket expenses by having to use an internet café and sending letters by recorded delivery, these are accounted for in the distress and inconvenience payment.
14. The Trustees have offered a distress and inconvenience payment of £500 which is in line with our guidelines for payments of this nature. It is not necessary to increase this amount as it encompasses the incidental costs that Mr A has incurred. If Mr A wishes to take up this offer he should contact the Trustees direct.
15. Mr A did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr A provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mr A for completeness.
16. Mr A says irrespective of whether the delay was 116 days or 67 days he went without a pension income for that period of time. The Trustees should have informed the Adjudicator as to why he cannot take a 25% tax free lump sum. He did make

enquiries with the Pensions Manager about taking a regular pension income. If the matter had been progressed correctly he would have been in receipt of a regular pension income and he would have invested some of this in investments paying 5% or in his Santander bank account which was paying 3% at the time.

17. Mr A also says he does not see why he should be out of pocket for his incidental costs and loss of earnings. His job was as a casual stock-taker on a zero hours/minimum pay contract. Notification of a job could be one week, one day or one hour and could involve working unsociable hours. The unofficial policy was that if an employee was unavailable for work twice in one week then no further jobs would be offered for the following two weeks. As the internet café was open on an irregular basis he had to make himself unavailable for work on that day in order to correspond with the Trustees, hence his loss of earnings for that day.
18. Mr A's also notes from the Ombudsman's website that the Ombudsman can award up to £1,000 for distress and inconvenience. Mr A has asked that I consider a more equitable balance between the Trustees offer of £640 and his claim for £2057.30.

Ombudsman's decision

19. I have noted that some of the delay in the transfer process was caused by Mr A's request to transfer his Halifax fund to the Scheme after he had taken a tax free cash sum of 25% of the fund value. However, the Scheme does not accept partial transfers and could only accept a full transfer of his Halifax fund. I do not consider this to be unreasonable and it would have been possible for Mr A to realise a tax free lump sum after the transfer was completed. But Mr A has continued to leave the fund invested and as such has not attempted to mitigate any perceived loss. Mr A has, therefore, not lost out financially as the full fund remains available to provide a benefit as and when he chooses. Furthermore, I do not find there are any grounds to award compensation for hypothetical investments.
20. Mr A has explained how his correspondence with the Trustees has led to a loss of earnings. But I do not consider it was necessary for Mr A to have taken time off, he could have corresponded with the Trustees by post or used a different internet café or a library (most libraries provide an internet service at low cost) where the hours are more regular.
21. Finally, Mr A has asked me to consider increasing the award for distress and inconvenience to £1,000. I would generally only consider awarding such a sum if there were a number of administrative errors or other factors which caused the distress and inconvenience suffered to be significant. I have reviewed Mr A's complaint and I do not find the level of inconvenience that Mr A has experienced to be significant. The Trustees accepted that there had been delays in the transfer process at the first stage IDRP and that the service had fallen below the standards that they expected. The Trustees readily agreed to top up the value of his transferred fund to its original value and pay Mr A £500 for the inconvenience caused. However,

PO-16896

Mr A has prolonged the complaint by refusing to accept TPAS' view on the matter and bringing the complaint to this office. Mr A should contact the Trustees direct if he wishes to accept their offer.

22. I do not uphold Mr A's complaint.

Anthony Arter

Pensions Ombudsman
18 April 2018