

Ombudsman's Determination

Applicant	Mr H
Scheme	HSBC Bank (UK) Pension Scheme (the Scheme)
Respondents	Aegon; and Willis Tower Watson (WTW)

Outcome

1. Mr H's complaint is upheld and to put matters right Aegon and Willis Towers Watson shall:-
 - establish whether the delay in investing Mr H's funds has meant that fewer units were purchased in Mr H's account than he would have otherwise secured, had the funds been invested on 17 August 2020;
 - within 14 days of receiving confirmation from WTW of any shortfall in Mr H's units, equally split the cost of purchasing any additional units required to make up the shortfall; and
 - pay Mr H £500 for distress and inconvenience. Aegon and WTW shall each pay Mr N £250.

Complaint summary

2. Mr H has complained about the time taken to invest his funds after his funds were transferred into the Scheme from a scheme administered by Aegon. The funds were transferred on 6 August 2020 but were not invested until 26 August 2020. Mr H says:-
 - As a result of the delay, WTW purchased units at a higher price causing him a financial loss.
 - He would like to be put back in the financial position he would have been had the funds been invested on 10 August 2020.

Background information, including submissions from the parties

3. The sequence of events is not in dispute, so I have only set out the salient points.
4. On 11 May 2020, WTW sent Aegon a letter requesting the necessary information in order to transfer Mr H's pension into the Scheme.
5. On 16 June 2020, WTW sent Aegon notification of Mr H's request to transfer his pension into the Scheme. The letter requested that the funds be paid by BACS and that the reference number needed to be quoted in the first seven digits of the payment reference. WTW provided Aegon with the completed transfer documents.
6. Aegon said that it did not receive this request until 8 July 2020.
7. Between 9 July 2020 and 31 July 2020, Aegon corresponded with WTW via email to obtain the required information to action the transfer.
8. On 31 July 2020, Aegon began the process of selling down Mr H's funds.
9. On 6 August 2020, Aegon transferred £531,804.15 to WTW by CHAPS quoting the reference number. Aegon also sent letters to Mr H and WTW to confirm the transfer had completed. However, the transfer letter it sent to WTW confirmed the payment had been sent by BACS.
10. WTW said it did not receive the letter from Aegon and on the same day, it sent Aegon an email requesting an update on the pension transfer.
11. On 20 August 2020, Mr H contacted WTW to confirm whether it was in receipt of the transferred funds. WTW responded the same day advising that it had contacted Aegon for an update.
12. On 21 August 2020, WTW informed Mr H that it had not received any correspondence from Aegon. It asked Mr H to forward the confirmation of transfer letter he had received from Aegon.
13. On 23 August 2020, Mr H sent WTW a copy of the letter he had received from Aegon confirming the funds had been transferred to WTW.
14. On 25 August 2020, Aegon confirmed to WTW the transfer amount and the date the funds were transferred. On the same day WTW, located the payment and Mr H's funds were invested on 26 August 2020.
15. On 16 September 2020, Mr H raised a complaint with Aegon.
16. On 22 October 2020, Aegon provided its final response to Mr H not upholding his complaint.
17. On 28 April 2021, Mr H invoked the Scheme's Internal Dispute Resolution Procedure (**IDRP**).

18. On 17 June 2021, WTW provided its IDRPs stage one decision. It did not uphold Mr H's complaint about the delays but offered £500 for the poor service he received following his funds being invested.
19. Mr H remained dissatisfied and requested for the complaint to be investigated under IDRPs stage two.
20. On 20 September 2021, WTW issued its IDRPs stage two decision. It concluded that Aegon did not follow the correct payment instructions and that it was not at fault for the delayed investment.
21. On 21 September 2021, Mr H raised a new complaint with Aegon.
22. On 9 November 2021, Aegon responded to Mr H's complaint. It said WTW did not advise that it could not accept payments made by CHAPS transfer. WTW did not uphold the complaint.
23. **Mr H's position: -**
 - The delay in investing his funds resulted in him purchasing units at a higher price and he would like to be awarded the difference in units had his funds been invested sooner.
 - He completed the complaints process for both parties and they each said the other was at fault.
24. **Aegon's position: -**
 - It acknowledged there was a delay when it disinvested H's funds. However, it completed a loss assessment and Mr H had not been financially disadvantaged because the value of his funds increased by £1,100.78.
 - It sent WTW a letter on 6 August 2020 to confirm the payment had been sent by BACS. However, the payment was sent by CHAPS because the transfer was over £250,000 and despite this, the funds were sent to the correct bank account.
 - It does not accept it caused the delay in WTW investing Mr H's funds because it followed WTW's instructions when making the CHAPS transfer and it used the correct reference number.
25. **WTW's position: -**
 - It did not receive Aegon's letter of 6 August 2020 confirming that the funds had been transferred, and it contacted Aegon on 6 August 2020 and 20 August 2020 to request an update on the transfer.
 - It reconciles its accounts monthly and would expect the ceding scheme to confirm that the payment had been made. It was unable to purchase units until the transfer was confirmed on 25 August 2020 and the funds were invested on 26 August 2020.

- Its usual timescale for processing transfer payments is five working days and the fact that it took 13 working days does not mean it is necessarily liable for any financial loss.

Adjudicator's Opinion

26. Mr H's complaint was considered by one of our Adjudicators who concluded that Aegon and WTW were equally at fault for the delay in investing Mr H's funds. The Adjudicator's findings are summarised below: -

- Aegon and WTW could have both done more to assist in completing the transfer and are equally liable for Mr N's losses incurred as a result of the delay.
- Although WTW said that it did not receive Aegon's letter of 6 August 2020, WTW should have been looking out for the transfer in respect of Mr H. WTW ought to have been aware that the transfer was imminent, because in July 2020, it provided Aegon with all the necessary information to complete the transfer. Aegon paid the funds into the correct bank account using the reference number it was asked to use, the transfer was for a relatively large amount which was unlikely to have gone unnoticed if WTW had been proactive in monitoring its account and looking out for the transfer.
- On 25 August 2020, Aegon confirmed the transfer amount and the date that the transfer was made. WTW located the payment that same day and reinvested it the following day. It appears that WTW was able to locate the funds relatively quickly on 25 August 2020 which suggests that it could in the same vein have located the funds earlier if it had adequate monitoring procedures in place in relation to its account.
- WTW should have also chased Aegon for a response to its email of 6 August 2020. On 6 August 2020, WTW sent an email to Aegon seeking an update on the transfer. Aegon did not respond to the email until 25 August 2020, but it appears that WTW did not chase Aegon and did not do so even after Mr H contacted WTW on 20 August 2020 to seek an update on the transfer.
- Aegon did not cause or contribute to the delay merely because it used a different payment method, but in its notification of transfer to WTW which was not adequate in the circumstances. Aegon did not respond to WTW's email of 6 August 2020 chasing an update until 25 August 2020. Had Aegon responded to the email of 6 August 2020 without delay, WTW would most likely have had the opportunity to locate the funds at an earlier date.
- Aegon may have considered that it did not need to respond to the email of 6 August 2020 since it had sent a letter to WTW notifying it of the transfer and it is unlikely that Aegon would have known that WTW would not have received the letter. However, given the potential financial consequences of a delay in a transfer process and given that it seems that WTW and Aegon had been corresponding by

email rather than by post, Aegon should have promptly responded to WTW's email of 6 August 2020 giving notice that the transfer had been completed.

- On this basis, Aegon and WTW both contributed to the delay which amounts to maladministration on the part of both parties. Aegon did not correspond adequately with WTW which contributed to the delay in investing Mr H's funds once the transfer payment had been made. WTW, on the other hand, ought to have been looking out for the transfer.
- WTW said that it usually takes five working days to process transfer payments. The funds cleared in WTW's account on 7 August 2020 and WTW made the investment on 26 August 2020. Five working days from 7 August 2020 is a reasonable timeframe within which WTW should have located the funds from proactively monitoring its account. This would have been by 14 August 2020 and was also a reasonable timeframe within which Aegon should have responded to WTW's email of 6 August 2020.

27. Mr H did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr H provided his further comments in response to the Opinion. In summary he said: -

- Pensions administrators owe a duty of care to their clients to execute transactions as soon as possible. WTW should have invested the funds at the earliest convenience to minimise the time the funds were out of the market.
- WTW should have been checking its bank account daily. It is not necessary to notify any recipient of a bank transfer that the payment has been made by letter, as the payment reference in the bank transfer is the notification.
- WTW invested the funds on the next working day once it eventually located the payment. Therefore, the funds should have been invested on 10 August 2020 because five working days was an unreasonable amount of time.

28. I note the additional points made by Mr N, but I agree with the Adjudicator's Opinion.

Ombudsman's decision

29. Mr H has complained about the delay in investing his funds after the funds were transferred to the Scheme. The funds cleared into WTW's bank account on 7 August 2020 and were not invested until 26 August 2020.

30. I find that the delay in investing Mr H's funds was avoidable and Aegon and WTW both contributed to the delay. Given that by July 2020, WTW had provided Aegon with the necessary information to complete the transfer, it is reasonable to expect that WTW should have known that the transfer was imminent, and it could have looked out for the transfer in its accounts. It did not do so and therefore it did not invest the funds within its usual five day timescale for processing transfers. I find that this amounts to maladministration by WTW.

31. I find that Aegon also contributed to the delay, because it did not respond to WTW's email of 6 August 2020 within a reasonable period of time. WTW said that it did not receive Aegon's letter of 6 August 2020 which gave notice that the transfer had been made and it contacted Aegon on 6 August 2020 to request an update on the transfer payment.
32. I acknowledge that Aegon may have considered that it did not need to respond to the email of 6 August 2020 since it had sent a letter to WTW notifying it of the transfer and it is unlikely that Aegon would have known that WTW would not receive the letter. However, given that WTW and Aegon had been corresponding mostly by email rather than by post, Aegon should have promptly responded to WTW's email of 6 August 2020, giving notice that the transfer had been completed. Aegon's timely response could have acted as a prompt for WTW to take action in respect of the transfer. I find that Aegon did not respond to WTW's email of 6 August 2020 within a reasonable period of time which, I find, amounts to maladministration.
33. Having found maladministration, I need to consider the date by which WTW it would have been reasonable to have invested Mr H's funds. Mr H has said that the funds should have been invested by 10 August 2020, because five working days is an unreasonable amount of time, and he would incur financial loss if the funds were invested later than 10 August 2020.
34. Pension administrators usually have timescales or service level agreements within which certain tasks or transactions are to be completed. There is no indication that Mr H had asked WTW to invest the funds by a certain date. On the evidence presented, I find that it would have been reasonable for WTW to have processed the transfer and made the investment within its usual five working days timeframe, that is by 14 August 2020 which is five working days from 7 August 2020, when the transfer was paid into its account.
35. In relation to Aegon, WTW sent Aegon an email on 6 August 2020 at 11:15 am, seeking an update on the transfer. I find that five working days was also a reasonable period of time for Aegon to have responded to WTW's email which was sent at 11:15am and would be deemed served that day.
36. I uphold Mr H's complaint.

Directions

37. To put matters right, Aegon and WTW should within 28 days of this Determination:-
 - establish whether the delay in investing Mr H's funds has meant that fewer units were purchased in Mr H's account than he would have otherwise secured, had the funds been invested on 14 August 2020;

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- within 14 days of receiving confirmation from WTW of any shortfall in Mr H's units, equally split the cost of purchasing any additional units required to make up the shortfall; and
- pay Mr H £500 for distress and inconvenience. Aegon and WTW shall each pay Mr N £250.

Anthony Arter CBE

Deputy Pensions Ombudsman

25 November 2024