

The complaint

In his complaint, Mr C said iPensions Group Limited ('iPensions') continues, unfairly, to charge administration fees for his Forthplus Self-Invested Personal Pension ('SIPP') despite the SIPP's investments having failed. He also says iPensions has unreasonably refused his request for a partial transfer (out) from the SIPP, including a cash holding in it.

iPensions disputes the complaint.

It says Forthplus went into administration, after which it (iPensions) took over the SIPP; that the SIPP still holds illiquid suspended assets and must remain open; that it must therefore continue to discharge regulatory administration and reporting duties in it, hence application of the administration fees; that additional fees for holding non-standard assets in the SIPP are also applicable, but as a gesture of goodwill it has waived this fee in Mr C's case; that he has already taken his full Pension Commencement Lump Sum ('PCLS') from the SIPP, so no further partial withdrawal is permitted by HMRC; and that an alternative could be removal of the suspended assets and their re-registration in his name, but he would need to take independent financial advice on that.

What happened

Two of our investigators looked into this complaint. Both concluded it should not be upheld.

The first investigator broadly endorsed iPensions' position in the matter, and its reasons (as summarised above).

Mr C disagreed with this outcome. He stressed the need for a meaningful response to his repeated queries about the valuation of his SIPP and about precisely what iPensions does for his SIPP, and what it does to justify the fee. He queries the latter given his views that the SIPP is essentially a failed pension (with failed underlying investments) and that there is nothing more for iPensions to do other than receive periodic confirmations that the investments remain suspended and issue statements to the effect, statements he can access directly online anyway. He also reaffirmed his desire to transfer out the cash holding in the SIPP.

The second investigator reviewed the case and put additional enquiries to both parties. Mr C previously pursued a separate complaint against the firm that advised him in the SIPP's investments. That case was referred to the Financial Services Compensation Scheme ('FSCS'), was successful and yielded compensation through the FSCS. However, the investigator understood from his response to her question about his complaint issues that his claim against iPensions extends to the sale of and due diligence for the SIPP.

She put this to iPensions. It explained that it undertook and is responsible for only the ongoing administration of the SIPP, so it has no responsibility for Forthplus, none for claims against Forthplus and none for Forthplus' sale of the SIPP, or for any due diligence it applied at the outset.

iPensions also provided the investigator with information about the SIPP's current state and

value, and an explanation of its need to retain £5,000 from the cash holding, if it is to be transferred out, in order to cover around 10 years of the SIPP's administration fees. It said until the SIPP's suspended and illiquid investments are liquidated, they remain in it, so it has to remain open and administered, and there is no present indication of when the investments are likely to be liquidated.

The second investigator conveyed this information in her view on the complaint. She mainly referred to – the cash holding amount in the SIPP; the three illiquid fund holdings within it (and their total value); iPensions having no responsibility for Forthplus or for Forthplus' due diligence at the outset; iPensions' fee schedule confirming the applicable fees and its discretion to retain cash to facilitate the payment of fees/charges; and confirmation that the administration fees applied to the SIPP are correct.

She also considered it reasonable for iPensions' to retain £5,000, if the SIPP's cash is to be transferred out, for future fees; noted the inability to know if or when the situation on the SIPP's illiquid investments will change; referred to the alternative that iPensions previously suggested (and the taking of independent advice in considering that alternative); and shared information with Mr C about the FSCS accepting claims against Forthplus if he wished to pursue such a claim on the due diligence issue.

Mr C disagreed with this outcome too. He restated his arguments and said he still had not received an answer to his enquiry about what, in the SIPP's present state, iPensions does to deserve the fees it applies. In response the second investigator referred to her previous explanations about iPensions' administration of the SIPP and the purpose of the fees.

She also asked iPensions about options available to Mr C for closure of the SIPP. In response, it said the SIPP could not be closed whilst the illiquid investments remained within it, but if he could find a new provider to transfer it to that might be an option – dependent on finding a provider willing to accept it in its present state. The investigator fed this information back to Mr C.

Mr C asked for an Ombudsman's 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 done so, I have reached the same conclusions expressed by the investigators, for broadly the same reasons they gave. I do not uphold Mr C's complaint.

The complaint is only about his objection to iPensions' fees and his pursuits to access and withdraw what he can from the SIPP, and to terminate it.

The second investigator looked into the mis-sale and due diligence issues that she inferred from his clarification of the complaint, but these matters do not appear to be iPensions' responsibility.

Administration of the SIPP passed to iPensions subsequent to Forthplus encountering its problems, but that does not automatically mean the former undertook past responsibilities of the latter. I have not seen evidence that such past responsibilities were inherited by iPensions. Both iPensions and the second investigator have highlighted to Mr C that he can consider a claim to the FSCS about Forthplus if he wishes to, and Forthplus is not the respondent in this complaint. For these reasons, I do not address any issues about mis-sale or due diligence related to Forthplus and the SIPP.

iPensions has nothing to do with the SIPP's contents, so the matter of its suspended and illiquid investments is also outside its responsibility. I note that Mr C has exhausted his FSCS claim against the adviser who recommended the investments, so that aspect appears to be closed. Unfortunately, in terms of the SIPP, the continuing existence of those investments within means the continuing existence of the SIPP itself.

The SIPP is the legal owner of its investments, whilst Mr C is their beneficial owner. The SIPP's administrators – iPensions – is obliged to safeguard those assets, so there is an ongoing matching obligation to administer and report on them.

I understand Mr C's argument in this respect, given the current state of the investments. He essentially says there is nothing for iPensions to do in relation to the failed investments, so there is no justification for its administration fees. However, a distinction must be drawn between non-existent investments and investments that have been suspended, or have failed, and are yet to be liquidated. The SIPP's assets are in the latter category. They still exist. Due to their illiquidity they remain in place, unsold/unliquidated. iPensions cannot simply ignore and neglect them because of their current state, they are still assets of the SIPP, albeit illiquid assets, and its responsibility to administer them continues.

Evidence shows that iPensions' administration fees is not linked to the value of investments within the SIPP. They apply for as long as the SIPP holds investments that it is obliged, by law and regulations, to administer and report on. It is worth noting that the fees also cover the running of the SIPP itself, and maintaining its compliance with HMRC rules. Providing that maintenance, administration and reporting service comes at a cost. iPensions cannot reasonably be expected to do so for any and all of the SIPP's it administers free of charge – and it also cannot reasonably be expected to do so, free of charge, for any and all of the SIPP's it administers that hold suspended and/or illiquid investments.

The above findings are intended to assist Mr C in properly understanding why the administration fees for the SIPP remain reasonably due and payable, despite the suspended and illiquid funds in it. On this basis, I do not find that iPensions has done anything wrong in applying the fees. It appears, and is noteworthy, that iPensions could also have applied an additional fee for the non-standard assets within the SIPP, but it has chosen to waive this as a gesture of goodwill.

The next matter to address is about the handling of the SIPP's contents. The second investigator's helpful enquiries have enabled confirmation of precisely what is in the SIPP, and their respective status and values. There are three investment holdings which are all yet to be liquidated, and a cash holding of around £17,800.

Mr C has been made aware of the option to transfer the SIPP and its contents to another provider. It is for him to consider this, take independent advice on it if he wishes and, if he also wishes, to explore an alternative provider prepared to accept the SIPP.

iPensions' complaint response letter to him set out other options he could consider. The letter referred him to take independent financial advice on removing the investments from the SIPP and re-registering them in his name; and to the option of requesting a drawdown of the SIPP's cash, but it is in this respect that iPensions insists on retaining £5,000 in the SIPP to cover future administration fees (for the SIPP and for the illiquid assets left behind). The letter also confirms that because Mr C has already taken the PCLS from the SIPP, HMRC rules do not permit a partial transfer out from it. The investigators have also restated these options to him.

Overall and for the above reasons, I am satisfied that Mr C is well informed of the options he

can explore further, and take advice on, with regards to accessing and/or handling the SIPP's contents, if he does not wish to maintain the status quo. Neither iPensions nor this service can reasonably be expected to do more than reflect his options and refer him to consider taking independent advice on them.

I have considered iPensions' reference to retaining £5,000 if a drawdown of the cash holding is pursued. The SIPP's annual administration fee is around £540, so at this rate the £5,000 covers around nine to ten years. It stands to reason that once there is no SIPP to administer there will be no ground to apply the fee, and there will be no fee. As such, this is essentially a projection by iPensions of what it considers reasonable to retain in the SIPP in order to capably cover its administration fees up to when it can be terminated – and based on the assumption that termination occurs within the next nine to ten years.

By definition, illiquid assets are those that cannot be readily sold because there are presently no buyers for them in the market. This can also create difficulty in determining an accurate value or sale price for them. Sometimes funds put plans in place to address this and sometimes they do not. In any case, it is rarely possible to predict how and when circumstances will change and such assets can and will eventually be resolved.

In this context, it is difficult to say that the assumption of a resolution – for Mr C's SIPP's illiquid assets – within the next nine to ten years is unreasonable. It is not uncommon for illiquid assets to remain as such for long periods of time, and I have not seen evidence on which to conclude that iPensions should assume a shorter time period. In any case, at any time that the assets are resolved and/or the SIPP terminated, no further fees will be applicable. If this happens within less than nine to ten years, then any remainder of the retained £5,000 will naturally be returned.

Overall, on balance and for the reasons given above, I am not persuaded to uphold Mr C's complaint.

My final decision

For the above reasons, I do not uphold Mr C's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 10 April 2024.

Roy Kuku
Ombudsman