

The complaint

Mr C says Charteris Treasury Portfolio Managers Limited (Charteris) is responsible for a delay in the switch of funds from his Self-invested Personal Pension (SIPP) to a different pension provider. He says this caused him financial detriment and distress.

What happened

Mr C decided to consolidate his pension by switching from his Embark Option SIPP to a plan with Royal London. On 10 March 2023 his SIPP administrator sent a password protected request to encash his investments to Charteris, which managed his SIPP portfolio.

After being chased for an update on 21 March 2023, Charteris took action the same day to execute the instruction. I understand Mr C decided to retain certain assets in his SIPP. The value of those sold was around £219,000.

Mr C was unhappy about what had happened. He complained to Charteris summarising his case in the following terms:

"...Embark issued a disinvestment instruction...on the 8th March 2023 and this was then sent to Charteris on the 10th March 2023. At this point no action was taken until [my financial adviser] contacted Charteris on 21 March 2023 asking what was happening. This was chased and eventually on the 21st March 2023 disinvestment instructions were issued."

"On the 10th March 2023 the portfolio was valued at £221,069.14 and on Monday 13 March 2023 the valuation was £220,367.53. Final settlement showed a nett position of £216,904.71 thus if the disinvestment had been actioned on the 10th March the final loss to client would be £4,164.43 and if delayed until the Monday 13th March 2023 the loss is £3,462.82. Royal London did not receive the monies until the 18th April 2023 some 5 weeks after disinvestment, again any opportunity for investment gain has been lost."

Charteris confirmed Embark's instruction had been received late on 10 March 2023 (Friday) but had unfortunately gone into a spam inbox. This hadn't been seen until the chaser on 21 March 2023. It accepted responsibility for the delay but said because it wasn't provided with a password the transaction couldn't have been actioned until 13 March 2023 (a Monday). It said had this been the case Mr C would've received an additional £1,135 and it offered to make this payment as a gesture of goodwill.

Mr C rejected the offer made by Charteris. He said the valuation was £221,069 on 10 March 2023 when the request was sent and this was the fair price. And that even if taking 13 March 2023 as the transaction date, the value of his funds then was £220,904.

Mr C brought his complaint to this Service. An Investigator considered his case but initially didn't uphold it. While he agreed Charteris had been responsible for a delay, he thought the compensation it had offered was right.

Mr C disagreed and raised several points. He questioned the status of the individual who had responded to his complaint from Charteris; he said his complaint hadn't been handled properly; he was sceptical about the instruction ending up in a spam file and questioned the

processes in place if this had happened; and he questioned the approach used to assess his financial detriment.

The Investigator considered Mr C's remarks and issued a second view, in which he upheld his complaint. This was because on reflection he concluded Charteris hadn't compensated Mr C using the correct methodology. I can't see that Mr C responded to this second view. Charteris sought some clarification of the redress methodology.

As both parties couldn't agree to the Investigator's view, Mr C's complaint was passed to me to consider afresh. I issued my provisional decision in June. As neither party has responded, I see no reason to depart from my initial findings and conclusions.

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.

Where there's conflicting information about the events complained about and gaps in what we know, my role is to weigh the evidence we do have and to decide, on the balance of probabilities, what's most likely to have happened.

I've not provided a detailed response to all the points raised in this case. That's deliberate; ours is an informal service for resolving disputes between financial businesses and their customers. While I've taken into account all submissions, I've concentrated my findings on what I think is relevant and at the heart of this complaint.

I'm upholding Mr C's complaint. I'll explain why.

The first thing I've considered is the extensive regulation around transactions like those performed by Charteris for Mr C. The FCA Handbook contains twelve Principles for businesses, which it says are fundamental obligations firms must adhere to (PRIN 2.1.1 R in the FCA Handbook). These include:

- Principle 2, which requires a firm to conduct its business with due skill, care and diligence.
- Principle 6, which requires a firm to pay due regard to the interests of its customers.

So, the Principles are relevant and form part of the regulatory framework that existed at the relevant time. They must always be complied with by regulated firms. As such, I need to have regard to them in deciding Mr C's complaint.

There's broad agreement between the parties about what happened in this case. Charteris has accepted that it was responsible for the delay in executing an instruction to sell certain pension funds from Mr C's SIPP. The disagreement is about how things should be put right.

In his second view the Investigator said:

"In its initial response to this complaint, Charteris explained that it believes it should have carried out Mr C's sell instructions on 13 March 2023. [It] has provided the sell instruction email, which was originally lost, and I can see it was sent around 3pm on 10 March 2023. Therefore I'm satisfied it's reasonable to say that Charteris would have been able to execute Mr C's instructions on 13 March 2023 (a Monday)."

"However, I'm not satisfied with Charteris' methodology for calculating the loss. In this instance, Charteris has simply compared the valuations from Mr C's portfolio from 13 March

2023, the day the portfolio should have been sold, with the valuation from 21 March 2023. The difference between these two values is £1,135.67, according to [it].”

“At this service, we would base a loss calculation on the actual values that Mr C received. But in following its own method, Charteris has compared two notional figures that Mr C was never going to receive...”

“...In addition to this, we know that Mr C transferred his pension to Royal London after selling with Charteris. Mr C delayed this transfer until 13 April 2023 – I have asked him why this delay took place, but I have had no answer. Therefore the redress I propose below should also take into consideration the potentially reduced value of Mr C’s Royal London pension, as the loss shown by Charteris would have been invested in the Royal London pension and received a rate of return which should also be taken into consideration...”

I’m in broad agreement with the Investigator’s proposals. I’ve made a minor adjustment to these as set out below and in doing so have tried to address questions from Charteris about the approach on redress.

I’m upholding Mr C’s complaint, so he needs to be returned to the position he’d have been in now, or as close to that as reasonably possible, had it not been for Charteris’s failings.

Putting things right

To compensate Mr C fairly I require Charteris Treasury Portfolio Managers Limited to:

- Obtain the transfer value of those funds within the scope of this complaint (so, for example excluding those assets Mr C decided to retain), had the instruction been carried out on 13 March 2023 and not 21 March 2023. It should also account for any fees he would’ve paid in selling.
- Establish what Mr C’s pension would be worth at the date of calculation had the value been held in his SIPP until 13 April 2023 and then switched to his Royal London plan on that day and invested in the same funds in the same proportions, at the prices available. This is the fair value A.
- Then assess Mr C’s equivalent funds as they stand at the same date of calculation, so for example, making adjustments for any additional contributions or withdrawal of monies that he’s made, so as to arrive at a like for like comparison. This is current value B.
- If value A is greater than value B, Mr C has suffered a financial loss. Charteris is required to make good this sum, less any redress it has already paid. It will need to do so within 28 days of being notified that Mr C has accepted my final decision. After this it will need to add 8% simple annual interest on the outstanding sum.
- If value B is greater than value A, Mr C hasn’t suffered a financial loss and Charteris will just need to give effect to my provisions for distress and inconvenience (as set out below).
- If there is a loss, Charteris should pay into Mr C’s pension plan, to increase its value by the amount of the compensation and any interest. Charteris’ payment should allow for the effect of charges and any available tax relief. It shouldn’t pay the compensation into his pension plan if it would conflict with any existing protection or allowance.
- If Charteris is unable to pay the compensation into Mr C’s pension plan, it should pay that amount direct to him. But had it been possible to pay into the plan, it would’ve provided a taxable income. So, the compensation should be reduced to notionally allow for any income tax that would otherwise have been paid. This is an adjustment

to ensure the compensation is a fair amount – it isn't a payment of tax to HMRC, so Mr C won't be able to reclaim any of the reduction after compensation is paid.

- The notional allowance should be calculated using Mr C's actual or expected marginal rate of tax at his selected retirement age. It's reasonable to assume that he is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Mr C would have been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.
- Charteris should provide Mr C with a breakdown of the redress calculations in a clear and simple format.

When I'm considering a complaint like Mr C's I think about whether it's fair to award compensation for distress and inconvenience. This isn't intended to fine or punish a business – which is the job of the regulator. But when something's gone wrong, recognition of the emotional and practical impact can make a real difference.

We're all inconvenienced at times in our day-to-day lives – and in our dealings with other people, businesses and organisations. When thinking about compensation, I need to decide that the impact of a firm's actions was greater than just a minor inconvenience or upset. It's clear to me that this was the case here.

Charteris Treasury Portfolio Managers Limited accepted it got things wrong for Mr C. The Investigator awarded him £150 for the distress and inconvenience this caused him. I think that award is fair in the circumstances of this case.

My final decision

For the reasons I've already set out, I'm upholding Mr C's complaint. I now require Charteris Treasury Portfolio Managers Limited to put matters right in the way I've outlined.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 6 August 2024.

Kevin Williamson

Ombudsman