

The complaint

Mrs C complains that St James's Place UK plc ("SJP") failed to process a transfer of her pension savings in a timely manner.

What happened

I issued a provisional decision on this complaint in June 2022. In that decision I explained why I thought the complaint should be upheld and what SJP needed to do in order to put things right. Both parties have received a copy of the provisional decision but, for completeness and so those findings form part of this decision, I include some extracts from it below. In my decision I said;

Mrs C held pension savings with SJP. She was provided with investment advice, and servicing support, on those pension savings by an appointed representative (otherwise known as a partner) of St James's Place Wealth Management plc ("SJPWM"). Whilst sharing a common parent company, SJP and SJPWM are separately regulated businesses. Mrs C's husband ("Mr C") also held similar pension savings with SJP. Whilst Mr C also made a similar transfer request to that made by Mrs C, this complaint only relates to Mrs C's transfer. Although I will, at times, reference both their requests.

In March 2020 Mr & Mrs C discussed transferring their pension savings from SJP to a Qualifying Registered Overseas Pension Scheme ("QROPS"). Mr & Mrs C asked their SJPWM partner for information about the timescales that would apply to a transfer to a QROPS. The information they were given was that, should everything be in order, the funds would be sent to the new provider after three working days during which time their pension savings would be uninvested. At that time financial markets were experiencing significant volatility due to the onset of the coronavirus pandemic. So Mr & Mrs C decided to delay their transfer until later in the year.

SJP received a transfer request from the QROPS on behalf of Mrs C on 20 May 2020. It also received a similar request on behalf of Mr C. SJP says that its expected service standard for dealing with a transfer of this nature was three business days for the processing activity followed by a further three business days for the funds to reach the new provider.

But SJP says Mrs C's transfer was delayed. First, SJP needed to seek guidance from its technical team about whether any taxation liability would be incurred by the transfer. Those enquiries added four working days to the processing period. But then SJP sought clarification from the QROPS of its banking details. Those enquiries added a further two working days to the time it took for Mrs C's transfer to be completed.

SJP told Mr C that the start of his transfer had been delayed due to an income payment that was planned. But ultimately the request for advice from the technical team and the payment of the funds to the QROPS were completed at the same time

for Mr C's transfer as for Mrs C. So Mrs C complained that it appeared that her transfer had been delayed so both could be progressed at the same time.

SJP didn't agree with Mrs C's complaint. It said it had been a coincidence that both transfers had been completed on the same day. It said its initial processing of Mrs C's transfer had been in line with its service standards. But it agreed that its request to the QROPS for clarification of its banking details was unnecessary – it already held that information. So it paid some interest to Mrs C to reflect the two day delay it had caused in the transfer being completed.

I think I should first look at what I can, and can't, consider in this complaint. It is clear that Mrs C was given some information in March 2020 by her SJP partner about the likely timescales for the completion of her transfer. What is less clear to me is where that information first originated – whether it was provided by SJP, SJPWM or by the partner firm itself. I would expect that, if the information had originated from SJP it would reflect the servicing standards that we have been provided with. The information SJP provided to us was dated 26 March so whilst it is possible those standards changed in the following days, on balance I'm not persuaded that was the case. And so I think it more likely the information originated from SJPWM, or the partner itself.

As I explained earlier, SJPWM is a separately regulated business. So it wouldn't be appropriate, in this decision to consider any failings by that firm, or by its appointed representative. So if Mrs C was given incorrect information about the processing timescales, it wouldn't be something that I should address here. In this decision I will base my consideration of the processing timeline, on what SJP has told us about its expected service standards. And those were that transfers would take three business days to be processed, followed by a further three business days for the funds to be received by the new pension scheme.

When looking at the time it took for Mrs C's transfer to be processed there are two aspects for me to consider. Firstly, when did SJP disinvest Mrs C's pension savings in preparation for the transfer? And secondly, when those funds were actually received by the QROPS? Both those dates will impact upon a consideration about whether any delays occurred, and if Mrs C has lost out as a result.

SJP received Mrs C's transfer request on 20 May. It says its terms and conditions state that the sale of the pension investments, in preparation for the transfer, would take place the following business day. And, although it might not have started processing Mrs C's transfer immediately, and so the sale of the investments was delayed, I can see that SJP says it used a backdated price of 21 May. So it seems to me that the disinvestment of Mrs C's pension savings took place as it should have.

But the difficulty that then created for Mrs C was that, from that point until the transfer was completed, her pension savings would not benefit from any investment returns should the markets perform well. And that was undoubtedly a key concern of Mrs C throughout the transfer discussions, and most likely the main reason the transfer request wasn't submitted in March. So I can understand her desire for the remainder of SJP's transfer process to be completed as quickly as possible.

I think that the processing "clock" started when SJP received a valid instruction from the QROPS on Mrs C's behalf on 20 May. And so, if everything was in order, Mrs C could have expected her funds to have arrived at the new provider within six business days. But SJP has told us that it needed to undertake some additional enquiries before it could make the transfer. And so the expected time was increased.

Mrs C has said that she had been clear from the start of her discussions with SJP that she wanted to transfer her pension savings to a QROPS. So she says that SJP should have been prepared for that request beforehand. But I don't agree. The transfer request will provide SJP with specific details about the proposed transfer, the timing of that transfer, and details of the QROPS itself. A transfer to a QROPS will cause a benefit crystallisation event requiring the pension savings to be tested against the lifetime allowance. That isn't something that can be done in advance given the value of pension investments will fluctuate from day to day.

So I don't think it was unreasonable that SJP referred the transfer to its technical team for further consideration before it was completed. I have seen that referral took four business days – the referral was made on 27 May 2020, and the transfer was ready to proceed on 2 June. I don't think that period was unreasonable, and so I would conclude it should be added to the overall processing service standard.

So, in total, I would have expected Mrs C's transfer to take ten business days if SJP met its service standards. As I said earlier, the request was received on 20 May, and the funds were paid to the QROPS arriving on 11 June. That is an elapsed time of 15 business days. So I think that SJP failed to meet its published service standards when completing Mrs C's transfer request.

I don't think it is necessary for me to explore the reasons for that delay. To a degree I share Mrs C's scepticism that it was just coincidence that her transfer, and that of her husband, were referred to the technical department on the same day. But given I have looked at Mrs C's transfer in isolation, and found it took too long, I don't think any further comparison is necessary.

As I said earlier, SJP has already paid compensation to Mrs C in respect of two days' delay in transferring her pension savings. But I'm not persuaded that compensation has been fairly calculated. SJP paid Mrs C interest (after the deduction of basic rate tax) at a rate of 8% simple. That is the compensation methodology that I would apply should a consumer have been deprived of the use of funds by, for example, the late payment of income from their pension. But that isn't what happened here. By delaying the transfer, Mrs C's subsequent investment in the QROPS was delayed. So that means, if the markets had risen, the holdings within her QROPS might be less than they would have been had the funds been available earlier. So as I set out below, I think SJP needs to recalculate the compensation that is due to Mrs C.

In summary I currently think that the transfer of Mrs C's pension savings to the QROPS took place five business days after it should have been completed. So I currently intend to uphold this complaint and direct SJP to put things right.

I invited both parties to provide us with any further comments or evidence in response to my provisional decision. SJP has said that it accepts my provisional decision and agrees it is a fair outcome. Mrs C has said she is satisfied that her complaint has been upheld, but she has provided further clarification on some of the matters I discussed. Although I am only summarising here what was a comprehensive and well considered submission from Mrs C, I want to reassure her I have read, and carefully considered, her entire response.

Mrs C says that the SJPWM partner told her that the information it passed on about processing timescales had been provided by the SJP administration centre. So she considers SJP should be held responsible for any misinformation about the likely processing time. Mrs C accepts that it would be unreasonable for SJP to have started work on her

transfer before a formal request was received. But she does think that any additional work caused by a QROPS transfer should have been factored into any processing estimates.

Mrs C notes that her portfolio was identical to that held by her husband. So she can determine that her portfolio rose in value by £922.31 in the time before it was actually disinvested by SJP. She says that excess has been retained by SJP and isn't consistent with treating a customer fairly. And Mrs C notes that SJP's processing actually took eight days longer than the timescale I thought was appropriate – but the end to end timescale was improved by a quicker than expected banking transfer. So she thinks the compensation should be based on an eight-day, rather than five-day, delay.

Mrs C notes that the fall in the value of financial investments over the past year is likely to reduce, or potentially eradicate, any compensation that SJP needs to pay her. And she notes that, as I've explained above, SJP has profited from the sale of her pension investments. She doesn't think it right that the cost to SJP of restoring her financial position should be a lottery.

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.

I've thought carefully about the additional comments made by Mrs C. But they haven't caused me to change my mind from the findings I set out in my provisional decision. However I would like to comment further on the matters Mrs C has raised.

I don't think I need to determine what was the ultimate source of the information Mrs C was given about the processing timescales. I don't think the timescales I have used as my reference point are out of line with the information she was given. The three days for the processing of the transfer appears to be consistent. And I don't think a further three days for the banking transfer of the funds to the new administrator is unusual. So I'm content that it is reasonable to base my decision upon a normal end-to-end processing time of six business days.

But of course, in my provisional decision, I explained why I thought that timescale should be extended – to allow for the further technical analysis that SJP required. I might agree with Mrs C that additional time should be accounted for in any processing estimates if the referral to the technical team was required on every transfer. But I'm not persuaded that is the case. Each transfer is different, and some might need more attention than others. So I think it reasonable that processing estimates (and I must stress that the terms and conditions do not provide any definitive timescales) are based on a vanilla type transfer. More complex situations, such as Mrs C's QROPS transfer, might reasonably take longer.

I accept that the additional time SJP took to process the transfer was longer than the five day delay I've concluded should form the basis of Mrs C's compensation. But I don't think it unreasonable for SJP to benefit from any time saved in the payment being made to the QROPS administrator. I don't know whether the payment was quicker because of, as Mrs C suggests, the efficiency of the banking system. It is entirely possible that, aware of the delays, SJP chose to use a more costly, but quicker, method of transferring the funds. But I think it fair that I consider the end-to-end timescale when looking at how long the transfer took to complete. And, as I explained in my provisional decision, that was five days longer than I think would be reasonable.

I accept that it is likely that SJP has benefitted from its decision to backdate Mrs C's disinvestment to the day after her instruction was received. But I don't think there's any indication here that SJP was attempting to achieve a higher value by delaying the disinvestment. And had the value of the funds dropped, SJP would have still needed to pay the higher value. I think it more important that SJP acted in line with its published approach, and treated Mrs C's pension savings as if they had been disinvested on the day after her valid instruction was received.

A general fall in the value of investments, such as we have seen in the first part of this year, might mean that the compensation SJP ultimately needs to pay to Mrs C is less than if the complaint had been settled earlier. But for similar reasons as I've given above, SJP might have been required to pay more if the value of the investments had risen. I don't think the structure of my redress means Mrs C won't have been put back into the position in which she would have been. Regardless of whether SJP had made an error, the value of her pension savings would have fallen over the past year.

In summary, I think that the transfer of Mrs C's pension savings to the QROPS took place five business days after it should have been completed. So SJP needs to put things right.

Putting things right

For the reasons explained above, and in my provisional decision, I think that Mrs C's pension transfer should have been received by the QROPS five days earlier than it was. That means the investments that she made in the QROPS of those pension savings are likely to have been delayed by a similar time.

SJP should liaise with Mrs C and the QROPS administrator to understand whether the investments Mrs C ultimately made would have been different if they had been made five days earlier. Changes in the price of assets might mean that Mrs C would now own more, or less, of individual funds. SJP should ensure that Mrs C is compensated to ensure that the investments she now holds in her QROPS are equivalent to what she would have held if the transfer, and subsequent investments, had taken place five days earlier.

The compensation should ideally be paid into Mrs C's QROPS. The amount paid should allow for the effect of charges and any tax relief. Compensation should not be paid into the pension plan if it would conflict with any existing protection or allowance, or the rules regarding payments into a scheme of this nature.

If SJP is unable to pay the total amount into Mrs C's QROPS, it should pay that amount direct to her. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore the total amount should be reduced to notionally allow for any income tax that would otherwise have been paid.

The notional allowance should be calculated using Mrs C's actual or expected marginal rate of tax at her selected retirement age, taking into consideration her likely country of residence at that time. If the rules of the scheme allow Mrs C to take a sum free of tax, any reduction should only be applied to the remaining proportion of the compensation.

As I noted in my provisional decision, SJP has already paid some compensation to Mrs C in respect of part of the delay. SJP may deduct that amount from any compensation it calculates above that is due to Mrs C. Or alternatively, at Mrs C's choice, she may return the compensation to SJP, so that the entire compensation receives the appropriate treatment in terms of payment to the QROPS and any tax deductions.

My final decision

My final decision is that I uphold Mrs C's complaint and direct St James's Place UK plc to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 16 August 2022.

Paul Reilly
Ombudsman