

The complaint

Miss G complains that St James's Place Investment Administration Limited (SJP) poorly administered her pension plan over a long period, including making a large payment to her without warning her of the tax consequences. She would like compensation for the extra tax she has paid and the inconvenience.

What happened

Miss G's pension plan with SJP was split between crystallised funds, where some benefits had been taken and uncrystallised funds where they hadn't. In August 2020 Miss G wrote to SJP requesting a net monthly withdrawal of £900 from her crystallised fund. She says this income level would be inside her personal tax allowance. Miss G didn't hear from SJP, so she called it on 14 September 2020. It said it couldn't process the request without being told what gross income was required, which it couldn't advise her about, and it suggested she speak to her financial adviser.

Miss G called SJP back on 18 September 2020 and instructed a gross withdrawal of £1,125 per month. On 23 September 2020 it replied confirming the details and asked Miss G to agree she accepted the risks of making the withdrawals, which she confirmed on 28 September 2020 and a payment was made on 5 October 2020. In November 2020 Miss G says she received a payment of £1,350. So, she called SJP to ask why. It said this was due to an income tax rebate following HMRC providing a new tax code for her.

Following the payment on 7 April 2021 Miss G's new financial adviser called SJP to query the tax position as the income required was £900 net. It said the income requested was £1,125 and a new application would be required to alter this. On 12 April 2021 Miss G wrote requesting a net monthly withdrawal of £900. On 26 April 2021 SJP emailed her back asking what gross figure she required. Miss G says she responded by email, but SJP say this wasn't received. Miss G called again on 7 May 2021 as she'd been paid £1,125 not £900. It confirmed that the gross figure would now be £900, and this payment was made on 3 June 2021.

On 9 June 2021 Miss G says she emailed SJP with a query about withdrawing all of her funds. On 18 June 2021 it made a payment to her of around £12,180 having deducted around £5,000 in tax from the crystallised element of her fund. Miss G says she was shocked by this as she'd expected SJP to send her further documentation for her to accept before making the payment. She says she wouldn't have proceeded if she'd known how much tax would be payable. Her adviser contacted SJP the same day and stopped the encashment of the remainder of the plan.

Miss G complained to SJP on 28 June 2021. She raised a number of concerns including matters she'd previously complained about. She said there were problems with SJP's secure email system as it wasn't receiving her emails. And each time she requested a withdrawal she got a response asking for the gross payment was, which was:

"not good at all, although this was irrelevant as this was my only income which I kept telling you and that I did not pay tax."

She said she now needed to reclaim income tax from HMRC which was inconvenient and a lot of extra work. She said she believed that she'd only enquired about withdrawing all her funds rather than requesting it be done. And that the money should not have been sent to her without SJP sending her a letter informing her about the risks of withdrawing the funds, as it had done in the past. She said SJP *"never get anything right"* and had *"yet again failed to look after my account"*.

SJP accepted Miss G's complaint in part, agreeing its service had been poor. It offered her £250 in compensation for this. But it said it was unable to accept any request for a net payment figure and required the gross income amount. It said it operated PAYE in line with HMRC requirements. It said Miss G had emailed to request a full withdrawal which it had processed, but that the risk warning letter normally sent before a withdrawal hadn't been issued due to *"an administrative error"*. It said she would need to contact HMRC to reclaim any tax.

Miss G says she spoke to HMRC who said she needed a P45 from SJP in order to claim back excess tax deducted on the full withdrawal and she asked SJP to send it. After a delay SJP said it would be sent, but then, after several months more delay, advised it couldn't provide a P45 because there were still funds in the plan. Miss G says she decided to transfer her plan to another provider in order to trigger the production of a P45. She says the transfer was also delayed due to poor service from SJP. But, once the transfer was completed in April 2022, SJP said the P45 still wouldn't be issued until May/June 2022.

Miss G had referred her complaint to our service and our investigator looked into it, and he upheld it in part.

Our investigator said SJP were responsible for some delays in processing Miss G's income requests. But he said SJP were the administrator of Miss G's pension and not her adviser. This meant it wasn't responsible for calculating the gross income withdrawal required to provide the net income she wanted after any tax. He said SJP had paid the gross income Miss G had requested until she changed her instruction in April 2021. And if different amounts were paid to her this was due to tax adjustments or rebates which were not the responsibility of SJP.

Our investigator said Miss G had made a clear request to withdraw all her pension and SJP were entitled to act upon her instruction. He didn't think the failure to issue the risk warning letter was relevant. As it wouldn't contain any information she wasn't already aware of, as this had been provided previously and she'd confirmed she was happy with the risks. And the letter wouldn't have given any information about the actual tax liability but that it was fair to say that Miss G knew tax would be paid on the withdrawal.

But he said SJP should have advised Miss G sooner about not being able to issue a P45 until all her pension funds had been transferred. And that poor communication with her and her financial adviser subsequently had caused a delay in the transfer being completed, in part because SJP was using an encrypted email system with known problems. He said the situation had been more stressful than it should have been for Miss G, who suffered from poor health, as it had taken more than a year for the documents needed to reclaim the tax to be provided.

In view of the poor service over the previous two years our investigator said SJP should increase the compensation it had offered from £250 to £500, provide the P45 and ensure Miss G had received it.

Miss G responded to our investigators view in detail. In summary she said:

- SJP had misled her about the amount of monthly withdrawal required and it should have explained things properly. She disagreed that SJP couldn't advise her about the amount of withdrawal needed as SJP were receiving:

“ongoing adviser charge and were ... responsible for Regulated Advice and servicing my account”.

- She believed she hadn't emailed SJP requesting a withdrawal of all the funds but rather how to go about doing this.
- She said the risk letter should have been sent, so she wasn't warned of the consequences of making the withdrawal and wouldn't have gone ahead if it had been issued. She said SJP was required to communicate risk warnings clearly and prominently and had failed to do so.
- She said SJP had constantly misled her about the availability of the P45, taking more than five months to admit it couldn't be issued.
- She said SJP's service had been poor for more than two years and despite ongoing adviser servicing charges it had *“provided me with no service or ongoing advice at all.”*

Our investigator said our service could only consider her complaint about issues following her request for a regular income payment in August 2020. He said SJP wasn't responsible for providing her with advice. He said the two SJP advisers she had dealt with belonged to a separate entity, so any matters relating to advice hadn't been considered in this complaint.

Miss G said the advisers did *“come under SJP”* as they'd been referred to in the final response letter about her complaint. She said her request for a regular income had been a *“nightmare”* with just one correct payment and this wasn't being considered. She said the large withdrawal shouldn't have been made without the risk letter. And she felt like she had wasted her time as SJP wasn't being held *“accountable”*.

As Miss G doesn't agree it has come to me to decide.

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 am upholding the complaint in part.

The role of our service is to resolve complaints impartially, we don't regulate financial businesses, which is the role of the Financial Conduct Authority. That means I can't tell SJP or other financial services firms to change administrative procedures or impose sanctions on them if I think there have been failings. What I can consider is whether a business's mistakes caused someone a financial loss and/or distress and inconvenience and, if so, what the business needs to do to put things right.

I've taken account of all the points Miss G has made. I think she was caused inconvenience by SJP's poor service over a long period of time. It delayed payment of the initial income withdrawal by not responding to her. And I think it should have clarified timeframes for the issue of the P45, dealt with enquiries regarding the transfer of the pension more efficiently and addressed the ongoing problems with emails much sooner than it did. But I don't think it made any errors in respect of the tax applied on the withdrawals Miss G wanted and I think it processed her instruction to withdraw all her funds fairly.

Miss G has raised a point about advice and service in return for an ongoing adviser charge taken from her plan. Miss G was dealing with SJP directly rather than through SJP advisers, who operate through a separate legal entity and I know this distinction has caused some confusion. As the advisory arm is a different business, I'm unable to consider this point in this complaint. However, if Miss G has concerns in this area, she can raise these directly with the relevant part of SJP. If she is unhappy with its response, she can refer the matter to our service.

The regular withdrawal requests

As, SJP was administering the plan and not providing financial or taxation advice, it wasn't required to confirm what level of gross withdrawal was needed to provide the net income Miss G wanted. So, it hasn't treated her unfairly here and I haven't seen anything that indicates SJP "*mised*" Miss G about the payment required. It suggested she take advice having initially referred the matter to her former SJP adviser. He replied that he was no longer acting for her as she "*has switched off her ongoing advice.*" So, I think it acted reasonably here.

Whilst Miss G says the income level she wanted was within her available personal tax allowance because of the way PAYE operates some tax might initially be deducted before HMRC issues a notice of coding. After which any initial over or underpayment of tax is adjusted going forward. SJP had to operate PAYE on the withdrawals as required by HMRC and it appears to have done so and I haven't seen anything to suggest SJP made any error here.

As SJP wouldn't know the exact tax position, asking Miss G for a gross rather than a net figure isn't unreasonable. It isn't clear how Miss G arrived at the gross figure of £1,125 - although it is £900 grossed up for 20% income tax. The November 2020 payment to Miss G of £1,350, was the refund of tax deducted the previous month of £225 added to the requested withdrawal of £1,125, following HMRC issuing the coding notice.

The gross withdrawal could have been adjusted at that point to £900. Whilst Miss G was paid more income than she wanted, no income tax was payable on the withdrawals she received between October 2020 and March 2021. For the tax year 2021/2022 beginning in April 2021 HMRC issued a new notice of coding and some income tax would be deducted as the total income for the year at £1,125 gross per month would exceed the personal tax allowance.

As SJP wasn't responsible for calculating the impact of taxation or providing advice about it I don't think it has made any error here and didn't treat Miss G unfairly. But it did cause delays in arranging the withdrawals.

The full withdrawal

SJP has provided a copy of the email Miss G sent through the secure mailing system on 9 June 2021, which I understand she isn't able to access due to problems with how the system works. In her email she said:

"I would like to withdraw the whole of both accounts as you cannot seem to pay the correct amount and keep taking tax off. I believe that you need to send me a form

with a valuation for my signature and I would be grateful if you would do this as soon as possible. It has been prior agreed that I can withdraw these accounts without any charges. I look forward to hearing from you urgently.”

This does request the full withdrawal of her pension funds, there's no reference to any concern about risks or tax consequences and I think the phrasing is clear that Miss G wanted the matter expedited. Miss G had been provided with the risk warnings previously in respect of the same type of withdrawal and responded by email to SJP on 28 September 2020:

“I know all about the risks and I accept them”

So, I don't think SJP providing a further letter setting out the same risk warnings again would have changed her decision. There wouldn't be any new information and, significantly, no indication of the amount of tax payable on the withdrawal. I think Miss G knew there would be tax. And because of the way PAYE operates excess tax was deducted and would need to be reclaimed from HMRC separately. So, I don't think SJP treated Miss G unfairly here and merely processed her request.

The P45 and other delays

It isn't clear to me why a P45 was required to reclaim the excess tax deducted on the withdrawal. But having contacted HMRC Miss G understood that it was. And whilst SJP wasn't providing her with advice I think SJP's failure to clarify the situation regarding the availability of the P45 did delay her reclaiming excess tax paid on the withdrawal.

The delays here along with the other administration failings caused Miss G distress and inconvenience over many months. Miss G initially requested the P45 on 2 September 2021 and despite several further requests, it was more than three months before SJP advised a P45 couldn't be issued as she still had benefits in the plan.

There were also delays in providing information about the plan to facilitate its transfer, although some of this was not the fault of SJP as Miss G's adviser moved firms during this time. Once the transfer was completed in April 2022 SJP said it would generate the P45 in three days. But then advised more than a month later that the P45 wouldn't be issued until the end of May 2022 at the earliest.

Together with the other problems and delays I think SJP's poor service caused Miss G distress and inconvenience over a long period, and she continually had to chase SJP for responses to her queries and requests. I think it's fair that it pays her compensation for this.

Putting things right

I don't think SJP made errors over the taxation of the withdrawals or in processing the full encashment. But it was responsible for repeated delays in part due to communication problems caused by the email system, and the provision of the P45 and information about the plan necessary for the transfer.

SJP has offered Miss G £250 in compensation for the problems and delays before the issues with plan information and the production of a P45. These subsequent problems caused her further distress and inconvenience. So, I think it's fair that SJP should pay a further £250 in addition to the £250 it has already offered to give £500 in total as compensation for this.

My final decision

My final decision is that I uphold the complaint against St James's Place Investment Administration Limited.

I direct St James's Place Investment Administration Limited to pay Miss G a further £250 to give £500 in total in compensation for the distress and inconvenience suffered.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss G to accept or reject my decision before 6 December 2022.

Nigel Bracken
Ombudsman