

The complaint

Mr G has complained about the transfer of his self-invested personal pension ('SIPP') to The Swift Trading Pension Scheme ('STPS') – an occupational pension scheme ('OPS') in October 2017. Mr G says the investments subsequently made now appear to have little value and he has lost out financially as a result.

Mr G, with the help of a professional representative has complained about Jarvis Investment Management Limited ('JIML') and that it failed in its responsibilities when dealing with the transfer request. He says that it should have done more to warn him of the potential dangers of transferring, and undertaken greater due diligence on the transfer, in line with the guidance he says was required of transferring schemes at the time.

What happened

Mr G held a 'Jarvis SIPP', which was set up in May 2017. The terms and conditions of the SIPP said the HMRC registered scheme administrator and FCA authorised operator of the scheme was Gaudi Regulated Services Limited ('GRSL'), while also referring to the 'scheme' as the GRSL SIPP. Gaudi Trustees Limited was named as the trustee to the scheme. The terms also said that JIML was the provider of the chosen investment platform for the Jarvis SIPP.

On 29 August 2017, Park View Administration Ltd wrote to the provider of the Jarvis SIPP enclosing an application on behalf of Mr G to transfer his pension benefits to the STPS. The address used for the letter was GRSL's registered address at the time. Swift Trading Limited was the 'principal company' of the STPS. And Swift Trading Trustees Limited was the trustee. The STPS had been registered with HMRC in March 2017.

On 1 September 2017, a letter was sent to Mr G. This was noted as being sent by the Jarvis SIPP administration team. The address for which was again GRSL's registered address. Indeed, all correspondence that bore the name 'Jarvis SIPP', both to and from it, used GRSL's registered address.

The letter to Mr G said it was sent to 'flag' the provider's concerns over the validity of the receiving scheme and highlight the possible tax penalties that might apply if it was later found that the receiving scheme was not a bona fide pension scheme. It said it required signed documentation from Mr G confirming that his understanding was he was transferring to a bona fide scheme and he wasn't receiving any kind of unauthorised payment for joining the scheme. Enclosed was a declaration for Mr G to complete confirming these things and that he had read and understood the 'Pension Liberation insert' that had been enclosed with the letter.

Mr G signed the declaration on 23 September 2017 and returned this.

On 13 October 2017 a further letter was sent from the Jarvis SIPP to Mr G, confirming the transfer of his SIPP to Park View Administration had been completed and a payment of £80,019.48 had been sent.

Mr G emailed the Jarvis SIPP in September 2020, enquiring what had happened to the money in his account. It replied confirming he'd closed his plan and transferred the money to the STPS in 2017.

In April 2021, Mr G complained to 'Jarvis SIPP Administration Ltd'. I note that there is (or was) no UK company of that name registered at Companies House. The address used for the letter of complaint was that of GRSL. Mr G said the transfer had been made without appropriate checks and due diligence being carried out about the receiving scheme. His representative said Park View and Swift Trading were not registered with the FCA, which the ceding scheme should have checked. And they said the failings within the transfer process meant the ceding scheme should be liable for Mr G's losses.

A reply from the Jarvis SIPP said it didn't uphold the complaint. The letter included details of both GRSL and JIML in the footer. It said the Jarvis SIPP was a non-advised execution only product. And the application to transfer was signed by Mr G and included the relevant forms. It also said it had expressed concerns in its letter to Mr G, but he'd indicated he wanted to proceed. And it said it believed 'Swift Trading' was registered with the FCA at the time.

Mr G referred his complaint to our Service saying he still thought the SIPP provider, 'Jarvis', was careless in facilitating the transfer. The complaint was established against JIML.

One of our Investigators looked into the complaint and said they thought it should be upheld. They noted that the product's terms and conditions referred to the administration company being able to grant a transfer of behalf of the scheme trustee. But they needed to have regard for the Pension Regulator's ('TPR') 'Scorpion' guidance and the Pension Scams Industry Group ('PSIG') Code of Good Practice. And the Investigator didn't think sufficient due diligence had been carried out by JIML. The Investigator was unable to resolve the dispute informally, so the matter was referred for an Ombudsman's decision.

I reviewed the file and asked our Investigator to clarify with JIML its role. It confirmed that it was only the investment platform provider and while the SIPP bore the name Jarvis, it was not the provider of the SIPP. Rather GRSL was both administrator and provider of the pension product and it had forwarded correspondence relating to the complaint to GRSL, with GRSL being that party that had provided responses.

GRSL has entered an insolvency process. Companies House indicates it is in administration. And the Financial Services Compensation Scheme ('FSCS') is investigating whether it can accept claims.

We informed Mr G's representative that the subject of the complaint seemed to relate to GRSL's actions and that he may wish to therefore raise a claim with the FSCS. The representative has provided evidence that they have contacted the FSCS. But that claim has not yet progressed.

I've considered the complaint we've been asked to look into against JIML and I issued my provisional decision in December 2024 explaining that I didn't intend to uphold Mr G's complaint. Below are extracts from my provisional findings, explaining why, which form part of my final decision.

In February 2013, The Pensions Regulator ('TPR') issued its Scorpion guidance to help tackle the increasing problem of pension liberation, the process by which unauthorised payments are made from a pension (such as accessing a pension below minimum retirement age). In brief, the guidance provided a due diligence framework for ceding schemes dealing with pension transfer requests and some consumer-facing warning materials designed to allow members to decide for themselves the risks they were running

when considering a transfer.

I note that JIML is authorised and regulated by the FCA, and the FCA endorsed the Scorpion guidance. But that didn't change the fact that this guidance was directed at those who were administering the pension scheme itself.

In March 2015, the PSIG Code of Good Practice was launched. The intention of the PSIG Code was to help pension providers achieve the aims of the Scorpion campaign in a streamlined way which balanced the need to process transfers promptly with the need to identify those customers at material risk of scams. It was voluntary. In its own words, it set a standard for dealing with transfer requests from UK registered pension schemes.

All of this however applies to the ceding pension provider. But the information available indicates that JIML was not the pension provider here.

It is true that Mr G's SIPP was named the 'Jarvis SIPP'. The majority of the written correspondence I've seen purports to be from the 'Jarvis SIPP'. And the letters provide details of GRSL and JIML, specifically in the footer. But the address in the letter head from the 'Jarvis SIPP' is that of GRSL.

The SIPP terms and conditions are also clear that GRSL is considered both the HMRC registered scheme administrator and FCA authorised operator of the scheme. And the scheme is referred to within those terms as the GRSL SIPP. JIML is referenced. But only as the provider of the chosen investment platform for the Jarvis SIPP.

I also note that the FSCS says on its website that it understands GRSL "provided or administered 'white label' SIPPs which could be branded and modified to suit another firm (referred to as a 'business partner')".

Taking all of this into account, it appears here that GRSL was the provider of Mr G's SIPP. While it was branded as 'Jarvis SIPP' this seems to be consistent with a 'business partner' relationship, as referred to by the FSCS. And none of the evidence I've currently been provided indicates that JIML's role went beyond that of providing an investment platform for the SIPP.

So, I'm satisfied JIML was not the ceding pension provider in the circumstances of this complaint. I'm fortified in this conclusion by the fact that this firm does not hold the FCA permission of establishing, operating or winding up a personal pension scheme – GRSL had those permissions. There is also no firm by the name of 'Jarvis SIPP Administration Ltd', which I've also said was never a UK incorporated company, on the FCA register. And having reviewed the terms and conditions of the SIPP, I haven't seen anything that suggests JIML or another Jarvis entity was to act on the providers behalf. As such, the Scorpion guidance and PSIG Code didn't extend to a Jarvis entity. And it was not required to carry out due diligence on the application to transfer Mr G's pension benefits to another provider.

JIML was subject to the FCA Handbook and under that to the Principles for Businesses ('PRIN') and to the Conduct of Business Sourcebook ('COBS') which required, amongst other things, it to act with due skill, care and diligence, pay due to its customers interests and act in accordance with their best interests. But in its capacity simply as the platform provider, it didn't deal with or have involvement in the application to transfer. And, given GRSL, another FCA regulated business was the pension provider, I can't reasonably say JIML was required to take any action as part of the transfer or carry out any due diligence. So, it follows that I don't think it has made an error.

Responses to my provisional decision

I gave both parties an opportunity to make further comments or send further information before I reached my final decision.

JIML said it didn't have a great deal to add. It did note though that the SIPP was actually opened through another FCA regulated business - Shard Capital Partners LLP ('SCP'). And it was SCP that had the relationship with Mr G. It repeated that it solely provided the trading platform and said that the account was not a 'Jarvis SIPP' but rather a GRSL SIPP.

Mr G's representative said that he did not accept my provisional decision. They said both GRSL and JIML were "involved with the resulting "scam" and therefore equally culpable". And adequate consideration hadn't been given to Mr G's position – that he'd raised complaints with both us and the FSCS but had not had his pension funds returned.

His representative said they believed the complaint should continue against JIML and that it should be upheld. And they also said that the FSCS had stated GRSL wasn't in default.

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 considered what JIML has said about the SIPP that Mr G held not actually being a 'Jarvis SIPP' and about SCP being the business with the relationship with Mr G. But I don't think this is supported by the information that I've been provided.

The SIPP application form names Mr G's financial adviser at that time as Omega Financial Solutions Ltd, another regulated firm; not SCP. Omega also certified Mr G's identification documents when the SIPP was initially applied for. So, I can't see that the information supports that SCP was the business that helped Mr G open the SIPP. The application form also confirms that the product being applied for is a 'Jarvis SIPP'. The SIPP terms and conditions we've been provided, by GRSL, were for the 'Jarvis SIPP'. And the letter confirming the SIPP had been opened also specifically names this as a 'Jarvis SIPP', with the letter coming from the 'Jarvis SIPP Administration Team'. So, I think it was the 'Jarvis SIPP' which Mr G held.

Again though, all of the information I've seen, including several of those documents I've just referred to, are consistent in saying that the 'Jarvis SIPP' was administered and operated by GRSL. All correspondence from the 'Jarvis SIPP' and 'Jarvis SIPP Administration Team' came from GRSL's registered office. The SIPP application names JIML as the investment manager. In effect, this was a 'white labelled' version of GRSL's SIPP for use where JIML was the investment manager. And the terms and conditions refer to JIML as the provider of the investment platform. But there isn't any information that supports that its role went beyond this. And I'm satisfied that GRSL was the pension provider.

Mr G's representative has said that both GRSL and JIML were equally culpable for the resulting scam. But I don't agree. Firstly, Mr G's complaint relates to what has happened to his pension after it was transferred away from the SIPP – with the indication being that the receiving pension was potentially a scam. But neither GRSL nor JIML had any involvement in operating the receiving pension that Mr G transferred to.

The ceding pension scheme operator ought to have carried out due diligence before allowing the transfer away from the SIPP. And it needed to have regard for the relevant rules that I've already mentioned. But again, this complaint is about JIML. And I'm satisfied that JIML was not the SIPP operator, rather its role was that of investment platform service provider. The transfer was made in cash. So JIML wasn't negotiating a re-registration of ownership of any

assets directly with another receiving pension platform. As a result, JIML was not responsible for carrying out due diligence in respect of the transfer that Mr G is complaining about. So, I don't agree with his representative that JIML is 'equally culpable' in respect of the complaint he has made.

I understand that this is likely to be frustrating to Mr G. But for the reasons I've explained, I can't reasonably say that JIML has done anything wrong here.

His representative has said that the FSCS has not found GRSL to be in default and that we should therefore consider the complaint against GRSL instead. But that isn't supported by the information it has provided. I've seen a copy of an email the FSCS sent to Mr G's representative. This said JIML was a live firm, still authorised by the FCA and it was outside the FSCS's remit to consider claims against JIML. At the same time though it confirmed it was open to claims against GRSL, but these were on hold as they were being investigated. The FSCS' website repeats similar information in respect of GRSL - that it is still investigating. So, I don't agree that the FSCS has said it won't proceed to investigate claims at some point. But more importantly that is entirely a matter for the FSCS.

It's possible that the FSCS may have wanted to ensure that Mr G had exhausted any claim he may have had against the related firm (JIML) before it was willing to comment further on his GRSL claim – as I'm aware this is an approach the FSCS commonly takes. So, I hope that this decision will provide the certainty Mr G may need in being able to continue with his FSCS claim.

My final decision

For the reasons given above, I don't uphold Mr G's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 7 February 2025.

Ben Stoker
Ombudsman