

The complaint

Mr B complains that Succession Wealth Management Ltd ('SWM') deposited his pension funds into the wrong bank account.

What happened

Mr B met with an adviser from SWM in July 2022 with a view to making a net withdrawal of £100,000 from his personal pension plan. A pension access report was drawn up by the SWM adviser in August 2022, advising Mr B against withdrawing funds from the plan.

Mr B decided to go ahead with the withdrawal. In mid-September 2022, he emailed SWM and asked it to accept his instruction to complete the withdrawal and provided details of a bank account in his sole name.

In early October 2022 Mr B's pension provider, who I'll refer to as Company A, made a gross pension payment of £154,475, of which £57,438.31 was paid directly to HMRC. The remaining £97,036.69 was paid directly into the bank account listed by Company A as Mr B's account – a joint account held by Mr B and his former wife.

The following day, Mr B contacted SWM to let it know he hadn't received the payment into his sole account and confirmed the bank details he had provided in mid-September 2023.

After looking into the matter, SWM discovered it had not passed on Mr B's sole bank account details to Company A, and so the money hadn't been paid to the account requested by Mr B in September 2022.

SWM approached Company A and asked if the payment could be returned by the receiving bank, but this couldn't be done. Although Mr B told SWM that the account was frozen, that was not the case. The account was active. This meant any transfer from the account had to be approved by both account holders and this approval was not forthcoming.

Mr B was unhappy that the funds hadn't been paid into his sole account and complained to SWM.

SWM responded and acknowledged that it didn't change Mr B's bank account details with Company A until after Company A had made the payment into the joint bank account. It said its usual service standards weren't met on that occasion. SWM confirmed it contacted Company A to try and clawback the payment, but Company A weren't able to retrieve the funds, as this would need to be signed off by both joint account holders. SWM apologised to Mr B and offered £250 compensation.

Mr B remained unhappy and brought his complaint to this Service. He told us that he was relying on the withdrawal from his pension funds, as this was his only source of income. He told this Service that not being able to access the money had a significant impact on his daily life. He asked for the funds to be paid to him and for compensation for the stress and upset caused by SWM's error.

Our Investigator said he thought SWM had made an error when it didn't pass Mr B's sole bank account details to Company A, and as a result of this error the money was paid into the wrong account.

When looking at how to put things right, our Investigator said that as the funds had already been paid into an account in Mr B's name, SWM did not have to pay the funds for a second time. However, he thought SWM should assist Mr B in recovering the funds from the joint account and should cover the cost of any legal fees incurred by Mr B in the recovery of those funds. Our Investigator also said, given Mr B's circumstances, that if the funds were considered as part of the division of property in divorce proceedings, then SWM would not be liable for any costs relating to the division of assets. He also thought SWM's offer of £250 compensation was fair.

Neither party agreed with what our Investigator said, so this came to me for a decision.

I issued a provisional decision on 10 June 2023. I said I intended to partially uphold Mr B's complaint and tell SWM to pay him compensation totalling £750. I also said I didn't intend to ask SWM to take any further action in relation to Mr B getting access to the pension funds in the joint bank account. I gave both parties the opportunity to respond.

Mr B responded and said he thought the provisional decision was factually inaccurate, although he wasn't specific about what the inaccuracies were. Mr B also asked for more information about Company A, which was sent to him.

SWM responded and agreed to make the further compensation payment to Mr B.

I am now in a position to issue a final 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.

I want to be clear what I'm looking at here. Mr B has mentioned to our Investigator that he wants SWM to continue acting for him and to process requests made by him regarding a regular monthly drawdown from his pension. For its part, SWM has said it disengaged Mr B as a client at the start of 2023. This is not the issue I am looking at here. If Mr B wants to pursue this matter, he will first of all need to formally complain to SWM. If he is unhappy with its response, then it's at that stage he can bring this matter to this Service.

My decision will deal with Mr B's complaint about the single payment from his personal pension plan of £97,036.69 that was transferred to his joint bank account rather than to his sole bank account.

The payment into Mr B's joint bank account was made by Company A and not by SWM. SWM's role was limited to advising Mr B about the withdrawal and then providing Company A with any necessary documentation and instructions to carry out the transaction. I can see that Mr B sent an email to SWM in September 2022 and he asked it to carry out his instructions and provided it with his sole bank account details. Regardless of the correspondence that then followed between Mr B and SWM – Mr B was somewhat reluctant to sign a declaration that SWM asked him to sign – I think SWM had a responsibility to pass the new bank account details onto Company A. So I think it's fair to say that the payment was incorrectly made into the joint bank account as a result of an error made by SWM.

I know that Mr B would like SWM to now pay the full amount into his sole bank account, as he said he doesn't have access to the money in the joint account. But I don't intend to ask SWM to do that. This is because although the money was paid into an account that Mr B didn't want it to go into, Mr B is one of two account holders on the joint account and so the money has, in fact, been paid to him. It's the case that access is limited until, I believe, Mr B and his wife deal with the division of assets following their divorce, or until each of them agree that they can both have access to the account. But, as I said, the money has been paid to Mr B, albeit into an account of his that he didn't want it paid into.

From what I can see, SWM quickly looked at trying to have the money returned so that it could be redeposited into Mr B's sole account. It approached Company A, who in turn approached the relevant bank. I believe the payment couldn't be clawed back as the account was open and active, and had no restrictions placed on it by the bank. So it's my understanding that the money didn't need to be clawed back by the bank, it just needed the authority of both account holders for a transfer to be made. What this means is that I'm not asking SWM to do anything else to try to get the relevant bank to return the money to Company A, as it seems to have already done all that it can in this respect.

I've then looked at whether, as suggested by our Investigator, SWM should assist Mr B in recovering the funds from the joint account and should cover the cost of any legal fees incurred by Mr B in the recovery of those funds. But I don't think it would be fair to ask SWM to fund any legal costs. I'll explain why I say this.

As I said, the money has been paid into an account held by Mr B. The issue here is that he can't withdraw the money unless both he and the other account holder authorise the withdrawal. It's my understanding that each of the joint account holders are refusing to authorise withdrawals for the other, and this is the reason why Mr B – as well as the other joint account holder – do not have access to funds in that particular account at this point in time.

From what I can see, access to the account will either be gained by both parties making the decision to authorise one another's transactions, or the matter will in time be dealt with when the courts, or another appropriate body, formally deal with the division of assets following the divorce. Given this, I don't think it would be possible to take legal action to deal in isolation with the question of just allowing Mr B to have access to the account. I also think this dispute between the joint account holders is not a matter that SWM can fairly be asked to get involved in. So I am not asking SWM to take any further action in relation to assisting Mr B to gain access to the pension funds that are now in the joint bank account.

I've then considered whether the amount of £250 compensation already offered by SWM is fair, and I don't think it is.

I can see that Mr B intended to use the pension funds as income, so he said he's been caused a great deal of inconvenience by not being able to access the funds. He said it's had a significant negative impact on day to day life. I want to assure Mr B that I've taken everything he's said about the distress and inconvenience he's experienced into consideration, and I think a fair and reasonable amount of compensation in these circumstances is £750, as suggested in my provisional decision.

I know that Mr B said he intended to use the pension funds to pay off significant legal fees and credit card debts. And as a result of not having access to the money, he's left paying, for instance, significant interest charges on his credit card. I appreciate that Mr B had earmarked the money for paying off some debts, and while it's certainly fair to say that SWM are responsible for the money being paid into the wrong account, it is not responsible for the ongoing difficulties both account holders have with accessing the funds in the account. I

believe there are further steps Mr B could take to release the funds in the joint account more quickly. So I will not be asking SWM to take any further action in relation to the outstanding debts that Mr B said he's unable to pay, but had intended to use the money to pay, at this point in time.

I know my decision will disappoint Mr B, but I am not asking SWM to pay the withdrawn pension funds into his sole account, or to take further action to recover the funds. But I am asking it to pay a total of £750 compensation for the distress and inconvenience its error has caused Mr B.

My final decision

It's my final decision that I partially uphold Mr B's complaint and require Succession Wealth Management Ltd to pay £750 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 25 July 2023.

Martina Ryan
Ombudsman