

The complaint

Mrs C complains that St James's Place UK plc ("SJP") caused delays when she claimed her late husband's pension and she's suffered loss as a result.

What happened

Mrs C's husband passed away in 2022. He had a pension drawdown account with SJP and he'd been making annual withdrawals from that account up to the date of his death, to help with household bills. Mr C's pension was subject to the terms of an asset preservation trust which he'd arranged. Under the terms of that trust Mrs C was the sole beneficiary. After her husband passed away there were two surviving trustees of the trust.

Mrs C says she had a meeting with an Appointed Representative of SJP (I'll refer to the Appointed Representative as "the AR") in early October 2022. She's not certain of the exact date but she says she provided the AR with a copy of her husband's death certificate and asked him to arrange for the pension proceeds to be paid to her. She says the AR told her this would take about six weeks.

Mrs C says she heard nothing further despite having at least two further meetings with the AR. She complained about the delays and she says that her claim wasn't dealt with until August 2023. At that time, the funds from her late husband's pension account were transferred to a Retirement Account in Mrs C's name and after that she was able to access the funds. Mrs C says that during the period up to August 2023 she needed extra money each month to meet her day to day living requirements and she was forced to access her savings account. She says the delays and lack of information caused stress and anxiety.

SJP investigated her complaint. In its final response letter it said it was sorry that the process took longer than it should have done. It said it hadn't been able to complete its process until all its requirements had been met. However, it acknowledged it "caused delays in gathering all the required information." By way of compensation it offered to pay Mrs C £750 for the upset and frustration she'd been caused.

Mrs C did not think this was enough compensation for what happened. She referred her complaint to our service.

Our investigator looked into her complaint. He thought SJP had not acted fairly. He said that the process should have been completed within six weeks of the date when he believed it was likely the meeting with the AR had taken place. He thought the meeting most likely took place no later than 10 October 2022. That meant the claim should have been processed by 21 November 2022. In these circumstances, to resolve the complaint he thought SJP:

- should have valued Mrs C's funds as if her Retirement Account had been set up on 21 November 2022 rather than 18 July 2023. If the value on 21 November 2022 was greater, he said SJP should pay that amount into Mrs C's Retirement Account; and
- subject to Mrs C providing evidence of when she'd accessed her savings and what rate of interest she'd been receiving, SJP should compensate her for any loss of interest which she'd suffered.

Our investigator considered the amount of compensation SJP had offered to pay Mrs C for distress and inconvenience. He thought, on balance, £750 was fair and reasonable.

Mrs C responded to what our investigator said. She pointed out that during the period since her husband had passed away SJP had applied charges to his account. She thought this hadn't been taken into account.

SJP has not responded to what our investigator said. So, the complaint was passed to me to decide. I issued a provisional decision in which I said:

What I've provisionally 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.

First, I wish to offer my condolences to Mrs C on the death of her husband.

At the outset, I'd also just point out that SJP has not provided any response to requests, from this Service, for information relating to this complaint. It did provide us with an alternative email address to contact it – but despite several subsequent requests, we have not received anything. For that reason I have had to consider Mrs C's complaint based only on the information she has provided to us. That information included copies of the final response letter sent to her by SJP dated 30 August 2023 and copies of the information she received from SJP pursuant to a data subject access request she sent to it. I am obliged to Mrs C for providing this information.

There is no dispute that SJP caused delays in this case. It has already accepted that in its final response letter. The crux of Mrs C's complaint is that it has not offered to do enough to put things right. So, I've thought about what happened here and whether SJP needs to do more.

When could Mrs C's claim have been processed if SJP hadn't caused delays?
I agree with our investigator when he said Mrs C's claim should have been processed within six weeks of the date when she first met with the AR after her husband passed away. Her recollection is that this meeting took place at the start of October 2022. She says she provided the AR with a copy of her late husband's death certificate at that meeting and was told that it would take around six weeks to process her claim. I do not doubt Mrs C's recollection of events and I've not been provided with any evidence to the contrary.

Although Mrs C can't recall the exact date of this first meeting, our investigator believed it probably took place no later than 10 October 2022. I think that's a fair and reasonable assumption. And I also agree with our investigator it's fair and reasonable to say the claim should have been settled within six weeks of that date (which would be 21 November 2022) - since that was the timescale the AR provided.

When reaching that view I've taken into account the fact that the funds in Mrs C's husband's pension were subject to the terms of a trust. That meant the trustees had to confirm that the money could be paid direct to Mrs C. The trustees were not contacted until around May 2023. But I've noted that once they were contacted the necessary paperwork was signed without any delays.

I've also taken into account that Mrs C wanted to be able to access the funds from her late husband's pension account on a monthly basis. The AR appears to have discussed this with her at a meeting on 20 June 2023 and he sent her a personal recommendation on 21 July 2023. No reason has been provided for this delay and it appears that the meeting may have been arranged in response to the fact that Mrs C made a formal complaint to SJP in April 2023.

The AR recommended that she open a Retirement Account with SJP from which the monthly withdrawals could be arranged. The personal recommendation included an illustration which assumed that the Retirement Account had commenced on 18 July 2023. It's not clear if that was the date the Retirement Account was opened. Mrs C says she didn't receive any withdrawals from the Retirement Account until August 2023.

Having thought about the various steps that needed to be completed, I'm satisfied, on balance, that all of these matters – including obtaining the trustees' consent and providing the personal recommendation to Mrs C - could've been concluded and the money transferred to Mrs C's Retirement Account no later than 21 November 2022.

It appears that the funds were not transferred to Mrs C's Retirement Account until around July 2023 - with the first drawdown monies being sent to her bank account in August 2023.

What I've provisionally decided needs to be done to put things right?

When thinking about what needs to be done to put things right our Rules provide that we can make a money award for such amount as we consider to be fair compensation for one or more of the following:

- financial loss (including consequential or prospective loss);*
- pain or suffering;*
- damage to reputation;*
- distress or inconvenience*

whether or not a court would award compensation.

There is further information available on our website setting out what our service takes into account when deciding what amount of compensation would be fair overall to put right the impact a mistake or as here, a delay, has on a complainant.

Mrs C has complained about the financial loss she says she's suffered as a result of the delay in arranging the monthly drawdowns she'd requested. She's referred to the fact that SJP continued to apply charges to her late husband's account during the period. She's also complained about the distress and inconvenience she's experienced. So, I've considered each of these in turn.

Financial Loss

For the reasons set out above, I've provisionally decided that, but for the delays which SJP acknowledges it caused, the Retirement Account could've been opened by 21 November 2022. So, at that date, I think Mrs C's husband's pension account could've been closed and the funds transferred to Mrs C's Retirement Account. I'd just point out that if that had happened no further charges would've been applied to Mrs C's husband's pension account.

So, to compensate Mrs C for her financial loss, I've decided that SJP should take the following action:

- SJP should carry out a loss assessment. It should reconstruct Mrs C's Retirement Account as if it had been opened with the proceeds of the late Mr C's drawdown plan, on 21 November 2022. This should take into account the charges which Mrs C would have paid on the Retirement Account from that date.

I've then considered the fact that Mrs C says she had to access her savings account during this period. Our investigator asked Mrs C to provide evidence to support what she'd told us about this and he said SJP should compensate her for any interest she'd lost on her savings as a result.

Having thought about this matter, I'm persuaded that SJP should pay Mrs C an additional amount in respect of this. But I'm satisfied that to avoid the need for SJP to calculate the interest Mrs C lost out on, in addition to interest on that loss, and for the sake of resolving this matter as quickly as possible for Mrs C, this can fairly be encompassed in an additional payment in respect of the overall trouble, distress and inconvenience this matter caused her.

Distress and Inconvenience

I've thought about the distress and inconvenience Mrs C experienced over, what SJP accepts, was a prolonged period of time. It was almost a year after her husband passed away before she was able to access his pension savings. This delay occurred at a time when Mrs C had experienced the loss of her husband.

Mrs C's told us she needed to access the pension savings to help pay day to day household bills. I accept what she says about that. In the personal recommendation which the AR provided, he referred to the fact that Mrs C's late husband had also accessed his pension savings in this way. It's also the case that Mrs C's late husband had made arrangements with SJP regarding how his pension savings were to be handled in the event of his death. This was no doubt done by him in an effort to make things as straightforward as possible for Mrs C in the event of his death.

So, I think it's fair and reasonable to say that the AR would've known, when Mrs C first met with him in October 2022 and provided him with her husband's death certificate, she'd need to be able to access his pension savings for day to day living expenses.

Having considered everything here, including the arrangements Mrs C's husband had put in place, I think she reasonably would've expected to be able to access his pension savings without undue delay. And I think, in these circumstances SJP should have done more to have supported and guided her through the process that needed to be followed and to have done so without delay.

It is fortunate that Mrs C was able to access her savings in the way that she did. She shouldn't have had to do that – and certainly not for the prolonged period of time that happened here. I can understand why this would have added to the stress and inconvenience she was feeling. So, as I've set out above, I've taken this into account when considering what is a fair amount of compensation for distress and inconvenience.

I've noted that Mrs C says she met the AR three times during this period but she felt these meetings had been "fruitless." She raised a formal complaint in April 2023. She says she did so with some reluctance. However, the fact that she did raise a formal complaint speaks to the distress and frustration she was experiencing at the time.

I've also taken into account the time and effort Mrs C has had to spend to progress her complaint.

SJP has offered to pay Mrs C £750 by way of compensation for the distress and inconvenience she experienced. I'm satisfied on balance that the impact of what happened here was significant. And taking into account all of the evidence available, including our general guidelines about compensation for distress and inconvenience, I've provisionally decided that SJP should pay Mrs C £1,000 for distress and inconvenience. I think that's fair and reasonable in all the circumstances that applied here.

My provisional decision

For the reasons given above my provisional decision is that I intend to uphold this complaint about St James's Place UK plc. I intend to require it to take the actions as set out above.

SJP responded to my provisional decision. It said it agreed with my provisional decision and had carried out a loss assessment in line with what had been indicated. It compared the value of the pension amount that had been transferred to Mrs C's Retirement Account on 8 August 2023, after the withdrawal of £5,000 which it said was for property improvements, against the value that would have been transferred had the transfer taken place on 21 November 2022.

SJP said the loss assessment showed that no financial loss had been incurred as a result of the delays since the value transferred on 8 August 2023 was greater than what would've been transferred on 21 November 2022. The number of units that had been purchased on 8 August 2023 and added to Mrs C's Retirement Account was therefore greater and Mrs C would receive the ongoing value and benefit of these additional units.

SJP also said it agreed, in the interests of resolving the complaint as quickly as possible, it was happy to accept that the compensation payable to Mrs C for distress and inconvenience should be increased to £1,000 (in total).

SJP's response and its calculations were referred to Mrs C for comment. She said she'd taken the lump sum of £5,000 as a back payment to help her cope financially. She said it hadn't been for home improvements. She didn't make any further comments.

So, I now need to make my 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.

Having considered the responses to my provisional decision, I've not been provided with any new information or further arguments that causes me to change my view that this complaint should be upheld.

SJP has completed the loss assessment which I provisionally decided it should carry out.

I can see that the funds remained invested in the late Mr C's account throughout the period up to the date when the transfer to Mrs C's retirement account took place. The funds increased in value during that period. As a result SJP says the value which was transferred to Mrs C on 8 August 2023 was greater than the value which would've been transferred to her if there'd not been any delay.

SJP has also noted that the number of units which Mrs C was able to purchase, in her chosen investment, on 8 August 2023 was greater than the number of units she could've purchased if the transfer had proceeded on 21 November 2022. The reasons for that included the fact that the amount transferred was greater and also because the price of the units had decreased.

A copy of SJP's response to my provisional decision has been sent to Mrs C.

Mrs C has indicated she didn't use the £5,000 lump sum to make home improvements – she says she needed it to help her cope financially and she hasn't been in the fortunate position that she could use it for home improvements.

I've noted Mrs C's comments. But, although I can understand why she's pointed out that the lump sum wasn't used to make home improvements, it is the case that when she met the AR in June 2023 the notes record that she intended to use the lump sum for this purpose. This was confirmed to her in a letter from the AR dated July 2023. So, I think it's fair and reasonable for SJP to have taken this into account in its loss assessment.

Having reviewed the loss assessment carried out by SJP and considered Mrs C's comments, I'm persuaded, on balance, she didn't suffer any financial loss as a result of the delay that happened here. In these circumstances, I'm satisfied, on balance, SJP shouldn't have to pay Mrs C compensation for financial loss.

SJP agreed with my provisional decision that a notional amount for interest Mrs C lost on her savings, during the period of the delay, could fairly be encompassed in an additional payment for the overall trouble distress and inconvenience she'd been caused. It accepted it should pay Mrs C £1,000 (in total) for distress and inconvenience.

So, to resolve this complaint, I've decided SJP should be required to pay Mrs C £1,000 (in total) for distress and inconvenience.

My final decision

For the reasons given above I uphold this complaint about St. James's Place UK plc.

I now require it to:

- Pay Mrs C £1,000 (in total) by way of compensation for the distress and inconvenience she experienced as a result of what happened here.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs C to accept or reject my decision before 7 May 2024.

Irene Martin
Ombudsman