

## **The complaint**

The trustees of the Mr & Mrs W Investment Bond Trust have complained about the delays experienced with St James's Place UK plc ('SJP') during the assignment of assets and release of contracts from the Trust's Investment Bond.

For ease of reference, in my decision I will refer to Mr W senior (the settlor and original trustee) as 'Mr W1' and Mr W junior – one of the current trustees and complainant – as 'Mr W2'. I also refer to Mr W2's son in my decision so I will refer to him as 'Mr W3'.

As Mr W2 is the representative of the trustees, I will mostly be referring to him in my decision.

## **What happened**

In March 2016 Mr and Mrs W1 set up an Investment Bond for the benefit of their three grandchildren and held within a Trust. By August 2022 a total of £36,000 had been invested and held within in ten 'contracts'. In November 2022 a Deed of Assignment was completed so that Mr W2 along with his wife could act as trustees for the Bond and in January 2023 Mr W2 tried to withdraw a third of the assets for the benefit of his eldest son, Mr W3 who was turning 18 years of age, which were to be sold.

Despite SJP being chased, the proceeds from the sale of the underlying funds weren't received until July 2023 and were less than expected. In the meantime, SJP had confirmed the proceeds had been sent to a non-existent account.

The delays experienced during the transfer meant that Mr W3 had to change his plans as well as causing Mr W2 a substantial amount of his time and stress. The delays in the funds being received meant Mr W2 had incurred costs for his son's school fees and he had had to use his overdraft facility which incurred further costs.

Mr W1 complained to SJP who issued its final response to the complaint 16 August 2023 – I don't have a copy of that letter – and again on 4 September 2023. Mr W2 wasn't happy with the outcome so bought his complaint to this service. Our investigator who considered the complaint thought it should be upheld. He said;

- SJP hadn't responded to several information requests he'd made, but the rules allowed this service to try to reach a decision on limited information.
- The investigator was persuaded that Mr W2 had tried to withdraw funds for the benefit of Mr W3 in January 2023.
- He was also persuaded that despite SJP stating that the Deed of Assignment was dated 19 May 2023, no evidence had been provided for the withdrawal form and there was no explanation for the cause of the delay.
- SJP had previously admitted giving incorrect information to Mr W2 regarding the assignment of the bond and the investigator was basing his view on what he considered plausible.

- SJP had said Mr W2 had been given incorrect information over the phone that the funds had been assigned to someone else. But it was clear from an email of 17 July 2023 that the Deed of Assignment was dated 10 January 2023 and there was no evidence or explanation about what had happened between then and July 2023.
- To put the matter right he thought Mr W2 should be paid £500 for the distress and inconvenience caused. He couldn't make an award for the Mr W2's daily professional rate as our awards don't correlate with earnings. And Mr W2 hadn't evidenced his overdraft fees incurred. As Mr W1 wasn't an eligible complainant, he couldn't make any further award.
- As there was no evidence about what had happened, he said SJP should calculate the value of the funds at the withdrawal date in January 2023 compared to the actual withdrawal date in July 2023 and pay this to Mr W2 if a loss had been incurred.

SJP didn't reply to the investigator. As the complaint remained unresolved, it was passed to me for a decision. After consideration, I was thinking of coming to the same conclusion as the investigator and broadly for the same reasons but wanted to provide more detail in how the matter should be put right. So, I issued a provisional decision to allow the parties the opportunity to provide any further information or evidence they wanted me to consider before I issued my final decision. Here's what I said;

'In the absence of information from SJP, I shall outline a timeline of events which is clear from the information that is available and what Mr W1 and Mr W2 have told us;

- 18 August 2022 – SJP emailed both Mr W1 and Mr W2 to confirm the plan to transfer three of the ten investment bond contracts held within the trust to Mr W3 in December 2022 as he was turning 18 years of age so he could encash the contracts if he wanted to. Information was given about the Early Withdrawal Charges and confirmation that Mr and Mrs W1 were to retire as trustees of the Trust in favour of Mr and Mrs W2. A Deed of Retirement of Trustees was to be drawn up.
- November 2022 – Mr W1 told us that a 'Deed to Transfer' was arranged for Mr and Mrs W2 to take over the role of trustees.
- On 10 January 2023 Mr W2 requested a withdrawal of a third of the Investment Bond's assets – three of the ten contracts – for the benefit of Mr W3. Mr W2 'frequently followed up for progress with St James's Place and H.M.R.C. without success and no assistance'
- 17 July 2023 – SJP emailed to Mr W2 with an update, and I refer to this further below.
- 19 July 2023 – SJP wrote to Mr W2 to confirm that three of the contracts had been assigned to him.
- 20 July 2023 – SJP sent Mr W1 confirmation the Deed of Assignment dated 19 May 2023 had been received and the transfer of ownership of three of the contracts to Mr W3 had been completed. The accompanying Investment Certificate confirmed that the trustees held seven of the remaining contracts.
- My understanding is that Mr W2 sold the investment contracts for the benefit of Mr W3.

As referred to above SJP has provided a copy of its email to Mr W2 on 17 July 2023;

‘....

I have spent the better part of this morning trying to get some answers from Admin Centre.

Apparently, there was an issue and in their words:

‘As the Deed of Assignment is dated 10/01/2023 a transaction correction opened 04/07/2023 to reverse transactions that have happened after this date to allow notation of the deed. This will take 15 working days from 04/07/2023 and from then you should expect the assignment and withdrawal to be able to be completed’

‘15 working days is the timescale for the transaction corrections. From then the work on assignment and withdrawal can be completed. Assignment is 5, withdrawals is 3 which include the CHAPS transfer clearing timescale.’

While it’s not completely clear from the above, what did happen, I’m satisfied it’s clear that the Deed of Assignment received by SJP was dated 10 January 2023, and that some transactions had taken place in error, and which needed to be corrected SJP has provided a copy of only one of the calls between Mr W1 and SJP on 21 July 2023.

During the call Mr W1 confirmed that in November/December 2022 there was to be a transfer of the trust from Mr W and Mrs W1 to Mr W2 and that Mr W2 wanted to withdraw a third of the funds in December. Mr W1 said that on 19 July 2023 Mr W2 had been told by SJP the reason for the delay was because of the Inland Revenue but had also been told in error that in May 2023 the bond had been split and transferred to the wrong client.

Clearly, I can’t know for sure what was discussed between Mr W2 and SJP during the earlier call of 19 July as I don’t have a copy of the call, but I don’t think it’s unreasonable for me to assume that during the call I have listened to of 21 July that Mr W1 was referring, in good faith, to Mr W2’s recollection of his conversation with SJP. And no doubt this would have caused considerable concern – they had been chasing for the assignment as well as the withdrawn funds – and were now being told the Investment Bond’s assets had been split elsewhere.

I appreciate that in SJP’s letter to Mr W2 of 4 September 2023 it said that incorrect information had been given during the July 2023 calls for which it apologised, confirmed that this had been fed back to the teams and had already offered £200 in respect of this. SJP has also confirmed to us that no other person held the three segments or were notified as such.

So, the three segments remained in the original account until they were assigned to Mr W2, but this misinformation must no doubt have caused concern.

However, referring back to the call of 21 July, Mr W1 recalls that the Investment Bond was to be transferred to his son at the end of 2022 and three of the ten contracts held within the Investment Bond were to be sold for the benefit of Mr W3. This hadn’t been completed and he was concerned about the fall in value of the Trust’s underlying funds since January 2023.

It's not quite clear from the call what had happened, but SJP's representative confirmed that a Deed of Assignment had been received and which requested three of the ten Bond segments be assigned to Mr W2 which was the reason the remaining seven segments were still showing in Mr W1's name.

The assignment of three of the segments had been done but with the 'wrong prices' and had to be reversed pending the correct prices which needed to be done before withdrawal could proceed. This isn't very clear to me – as far as I am aware, an assignment would only need a transfer of the asset itself and nothing to do with the prices of the assets being transferred. But it could have been that SJP were trying to price the sale contracts at an earlier correct date.

In any event SJP's correspondence says that;

- 19 July 2023 – SJP wrote to Mr W2 to confirm that three of the segments had been transferred to him.
- 20 July 2023 – SJP confirmed to Mr W1 that further to the Deed of Assignment dated 19 May 2023 it had transferred ownership of three of the segments to Mr W3. However, I think this is incorrect as the transfer was to Mr W2 so he could sell the three segments for the benefit of Mr W3 which is what I understand happened. And the accompanying Investment Certificate referred to segments one to seven remaining in the trust.
- 24 July 2023 – SJP wrote to Mr W1 further to the 'the recent Bond split'.

I should explain that when there is conflicting or missing information and evidence, I have to base my decision on what I think most likely happened. So, on the balance of probabilities.

On 22 March 2024 SJP told us that the transfer request was received along with the Deed of Assignment on 21 June 2023 and that it should have taken five working days for the Deed of Assignment and a further 11 working days 'for the transfer'. But in SJP's email of 17 July 2023 referred to above it says the timings were;

'Assignment is 5, withdrawals is 3 which include the CHAPS transfer clearing timescale'.

And the Deed of Assignment as being dated 10 January 2023, some six months earlier than it being referred to by SJP as being received on 21 June. So, it's not clear where that Deed of Assignment was during that six-month period. But I think it more likely that the Deed of Assignment was signed by the trustee(s) and sent to SJP for processing in January 2023.

I say this because the dates Mr W1 and Mr W2 have referred to tie in with the meetings held towards the end of the 2022 during which time its recorded both Mr W1 and Mr W2 expressed their wish to transfer the Investment Bond to Mr and Mrs W2 in their roles as trustees – and for a third of the Investment Bond assets to be transferred to Mr W3 as he would reach the age of 18 at Christmas. Logically, I can't see any reason why either the Mr W1 or Mr W2 would have delayed these requests to June 2023. I think their intention was clear.

So, I think the Deed of Assignment should most likely have taken place in January 2023 shortly after 10 January 2023. But this didn't happen until later in July 2023 after which the assets were sold. Because of this delay, I think Mr W2

wasn't in the position to distribute the Trust's assets to Mr W3 as beneficiary until much later. And I think this needs to be put right as outlined below.

We know that something went wrong during the processing at SJP but it's not clear what actually did go wrong and for what reason. And in the absence of further information, I think stress and inconvenience has been caused and needs to be addressed. And in the circumstances of the complaint, I think an award of £500 is a fair reflection of the inconvenience and disruption caused and that took a lot of effort to be sorted out.

Mr W2 has said he had to use his overdraft at an interest rate of 29.9% during this period and had problems in paying his son's school fees. But I haven't seen any evidence of the overdraft being used or the interest costs that would have been incurred. As such, in the absence of such evidence that Mr W2 should have had use of those funds but incurred costs because he didn't have use of the funds, I can't make an award for this as I haven't seen anything to persuade me that Mr W2 did incur those costs and charges.'

I concluded by saying that based on SJP's guidelines that the trades would have been carried out on 20 January 2023 and settled on 24 January 2023. If those sale proceeds would have been more than when the assets were actually sold that should be paid to Mr W2 along with interest. And SJP should pay £500 to the trustees for the distress and inconvenience caused.

Mr W responded to say that he was satisfied with the proposed outcome. We didn't hear anything from SJP.

### **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.

As Mr W2 on behalf of the trustees has confirmed he is content with my provisional decision and SJP hasn't provided anything further for me to consider, I see no reason to depart from my provisional decision. So, I confirm those findings and I uphold Mr W's complaint. And SJP needs to put the matter right.

### **Putting things right**

I think the Deed of Assignment was most likely dated 10 January 2023. So, the assignment could have been completed much sooner and Mr W2 would have been able to sell the assets and distribute the funds to Mr W3 as beneficiary more quickly. I don't have details of the actual sale date of the assets, or the proceeds received. But to put the matter right SJP should assume;

- That the Deed of Assignment dated 10 January 2023 was received shortly afterwards on 12 January 2023.
- In line with its guidelines quoted above – that it took five working days for the Deed of Assignment to have been completed, so 19 January 2023.
- Again, within its stated guidelines – that the trades were carried out on 20 January 2023 and settled on 24 January which is three working days. If the settlement proceeds would have been more than was received when the assets were sold later, then the difference should be paid to Mr W2 for distribution.

- Mr W2, on behalf of the beneficiary, was out of pocket during this time so if any redress is due that should be paid along with interest at 8% simple from the date of the assumed settlement date – 24 January 2023 to the date of payment.

- SJP should pay £500 to the trustees for the distress and inconvenience caused.

If SJP doesn't pay the trustees the sum above within one month of receiving from us notification of the trustee's acceptance of my decision, SJP must also pay the trustees simple interest on the outstanding amount at the rate of 8% per year from the date of my decision until the date that amount is paid.

### **My final decision**

For the reasons given, my final decision is that I uphold the trustee's complaint and St James's Place UK plc should put the matter right as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs W2 to accept or reject my decision before 20 September 2024.

Catherine Langley  
**Ombudsman**