

## **The complaint**

Miss B complains about Armstrong Watson Financial Planning Limited ('Armstrong Watson'). She says that some withdrawals were made from an investment without her authorisation. This was a joint investment, and the other policyholder made the withdrawals without her consent. She says she has suffered a loss due to these withdrawals.

## **What happened**

Our Investigator thought that the Financial Ombudsman shouldn't consider this complaint. Miss B disagreed with the Investigator's opinion. The complaint was then passed to me.

I issued my provisional decision saying that Miss B's complaint should be upheld in part. A copy of the background to the complaint and my provisional findings are below in italics and form part of this final decision.

## **What I said in my provisional decision**

*Miss B has explained that she has been in a relationship with Mrs A since 2002. They were married in 2015 but have now separated. Miss B and Mrs A owned a joint open ended investment company ('OEIC') that had a value of around £60,000.*

*Miss B says she recently approached Armstrong Watson to see if she could access any of the money held in this joint investment. She says that when she did this, she was informed that Mrs A had made four withdrawals, without her consent, in mid to late 2023. Miss B says she was unable to access the remainder of the money invested as she was told that authority from both the investors was required before she could do this.*

*Miss B complained to Armstrong Watson about this. I've not seen her original complaint correspondence but the response to the complaint says Miss B complained on the basis that Armstrong Watson assisted Mrs A to make these withdrawals without her consent but changed its process when she tried to make withdrawals herself. And in some later correspondence Miss B said that even though Armstrong Watson has said it should not have assisted Mrs A to make the withdrawals it has concluded that she has not suffered a loss. But she has never been asked about this and says this isn't right.*

*Armstrong Watson upheld this complaint. In its response letters (I've seen there were two responses to the complaint) it said that the withdrawals in 2023 were made with the authority of only one of the investment owners. It said this may have happened as the investment manager could accept an instruction from a financial adviser. It said it was normal practice to have authority from all the owners of joint investments in cases such as this, but it would appear this didn't happen in 2023.*

*It did say that its process should have been that authority would be needed from both parties before making changes to a jointly held investment and it would do this going forward. Armstrong Watson said it would cease to provide advice about this joint investment until it was established who it should be given to.*

*Armstrong Watson also said it didn't think that Miss B had suffered a loss as it understood that she did benefit from the withdrawals, as some of the money was forwarded to her.*

*Miss B didn't agree, and she brought her complaint to the Financial Ombudsman Service.*

One of our Investigators didn't think we should consider this complaint. This is because we didn't have all of the potential complainants joined on to the complaint.

Miss B didn't agree and said it was established that Armstrong Watson had made an error when it allowed Mrs A to access their joint funds without her approval. And Mrs A would not join the complaint as she has not suffered a loss. She thinks that Armstrong Watson should pay compensation as it has failed to protect her investment.

Our Investigator didn't change their opinion about the complaint, and it has been passed to me to consider.

### **What I've provisionally decided – and why**

I've considered all the available evidence and arguments to provisionally decide what's fair and reasonable in the circumstances of this complaint.

I'll firstly say that I don't think this complaint should be dismissed and I agree that Armstrong Watson has acted in error here. That said, the circumstances of this situation mean that I don't think it would be right to award the compensation that Miss B wants. I'll explain why below.

Our Investigator thought that we shouldn't consider this complaint. This is because it is a complaint that potentially might involve more than one eligible complainant. In this case the second eligible complainant would be Miss B's ex-partner Mrs A, as she is the joint owner of the investment complained about.

Whilst I can see why our Investigator took this approach, I don't entirely agree with it. This is because, as Miss B has recognised herself, it's not clear if it's reasonable to say that Mrs A would be an eligible complainant.

To make a complaint a person does need to think something has gone wrong, and in the case of joint consumers their complaints should be 'aligned' as far as possible. Miss B's complaint is that Armstrong Watson prevented her from making a withdrawal from a jointly held investment while it allowed Mrs A to do this. But Mrs A wasn't prevented from making a withdrawal and so she can't, or won't, make this complaint. And Miss B says she has suffered a loss due to this.

But as Mrs A has (I'm assuming she has at least some of) the withdrawn funds she again can't, or won't, be able to make this complaint as she hasn't suffered this loss. Because of this I don't think it would be reasonable to say that Mrs A would be an eligible complainant. So, I don't think Miss B's complaint should be dismissed for this reason.

With this in mind, I have considered the merits of this complaint as far as I can. It's clear that Armstrong Watson shouldn't have facilitated Mrs A's withdrawal request. As far as I can see its involvement was instrumental in Mrs A being able to access these funds. Armstrong Watson has accepted that this was wrong, and it has upheld the complaint on this basis. And so, as a starting point, Miss B's complaint should succeed as Armstrong Watson has made this mistake.

But even though I think this is the case, what I don't think I can do is reasonably decide how to put this right. I'm conscious that I don't have a lot of information about this investment, how it came about, and what both the owners' circumstances were over time. And I think I would need this information to be able to say what Miss B's loss actually is. For example, whilst the investment is in joint names, it may not be right to say that 'half' of the amounts withdrawn should rightfully be considered as Miss B's. To properly consider this I'd need to consider both Miss B and Mrs A's circumstances and possibly the advice they were given. I don't think I can do this without some input or agreement from Mrs A to look at this. And it's established that this won't be possible.

And there is already some uncertainty in what loss Miss B has suffered in that Armstrong Watson has said that she benefitted from the withdrawals that were made. Again, I don't know if this was the case or not.

*Perhaps most importantly at the heart of this dispute is Miss B's relationship with Mrs A. And the withdrawals were made by Mrs A and she has, or had, this money. And Miss B says that she has started divorce proceedings. Again, I don't know how far these have progressed (if at all). But this process would generally consider the whole of Miss B and Mrs A's circumstances and would come to either a mutually agreed, or court determined, resolution as to how their financial assets should be split.*

*I therefore think it's reasonable to assume that this process would take into account this investment and the withdrawals that have been made from it. And this process will take place with the support (or at least involvement of) all the relevant parties, which I can't do here.*

*I don't think there is any prospect of me being able to fairly determine what should be done to put this right without the full involvement of both Miss B and Mrs A. So, I'm not planning to make an award on the basis that Miss B should be compensated as if she should have received, or have had access to, the part of the investment that was withdrawn without her knowledge.*

*That said, it's clear that Armstrong Watson has caused Miss B some distress and inconvenience. And I think she should be paid compensation for this. Given what she has said I think £250 is reasonable for this part of her complaint.*

*Miss B should bear in mind when she considers this compensation that if she accepts my final decision it would be legally binding on both parties and she may not be able to pursue court action later, if that is what she wanted to do. This is a complicated situation, and I don't have enough information to say whether this would be right for Miss B or not. Miss B may wish to take her own advice before deciding whether to accept any final decision I may make in the future.*

## **Developments**

Armstrong Watson, and Miss B received my provisional decision. Armstrong Watson agreed with what I said.

Miss B didn't entirely agree with my provisional decision. She did agree that the complaint should be upheld but she didn't agree with the compensation I proposed. She, said that:

- She didn't benefit from the withdrawals and any suggestions that she has done came from Mrs A and Armstrong Watson. Miss B was not aware of the withdrawals.
- She may not be able to receive these funds back in the future, even if a court goes on to consider some of the issues she has raised.
- Armstrong Watson has not apologised to Miss B and continues not to acknowledge it has made a mistake here.
- Miss B has found this very distressing and thinks much higher compensation would be reasonable.

As no agreement has been reached, I've gone on to issue my 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 think it's fair to say that whilst I have read what Miss B has said she didn't raise any new points after receiving my provisional decision. So, I've reached the same conclusions I reached before, for the same reasons.

I do accept that Armstrong Watson has made a mistake here, and they clearly should have made sure both policy owners were fully informed about, and agreed with, the withdrawals that were made from this policy. But again, whilst I note what Miss B has said, I still don't

think I can properly award compensation for any losses Miss B may have suffered without the involvement of Miss B, Mrs A and Armstrong Watson. And it is clear Mrs A won't be part of this process.

Overall, I've no reliable way to know whose what would have happened if Armstrong Watson had acted correctly and how these withdrawals should have been properly administered. So, I'm not changing the conclusions and award I made in my earlier decision. I'm sure this will be a disappointment to Miss B, and I hope this doesn't cause her any undue distress.

I uphold Miss B's complaint and my final decision is that Armstrong Watson should pay compensation of £250.

And I'll reiterate that Miss B should bear in mind when she considers this compensation that if she accepts my final decision, it would be legally binding on both parties and she may not be able to pursue court action later, if that is what she wanted to do. This is a complicated situation, and I don't have enough information to say whether this would be right for Miss B or not. Miss B may wish to take her own advice before deciding whether to accept this final decision.

### **Putting things right**

My decision is that Armstrong Watson should pay Miss B £250 for the distress and inconvenience its mistake made.

### **My final decision**

For the reasons I've explained, I partly uphold Miss B's complaint.

[Armstrong Watson Financial Planning Limited should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 27 September 2024.

Andy Burlinson  
**Ombudsman**