

## The complaint

Mr P has complained that he has suffered a financial loss as St James's Place UK plc (SJP) has made mistakes when actioning the transfer of some of his pension benefits to another provider (Scheme A).

He would like to be compensated for any financial loss he has suffered as well as the distress and inconvenience that this has caused him.

## What happened

I issued my provisional decision in August 2024. the relevant parts of which are reproduced below and forms part of my decision:

*Mr P held a Retirement Account with SJP. On 12 July 2023, he requested that the full amount of his pension benefits be transferred to Scheme A. SJP subsequently transferred c£109,000 to Scheme A by BACS on 21 July 2023. The transfer value was equivalent to the full value of Mr P's policy, less c£1,900 as an early withdrawal charge made under the terms and conditions of Mr P's policy with SJP.*

*Prompted by Mr P, on 24 July 2023 Scheme A contacted SJP asking it to conduct a partial, rather than a full, transfer of benefits of c£68,000 to avoid the early withdrawal charge.*

*SJP should have told Scheme A that as the full amount had been sent by BACS on 21 July 2023 it was too late to cancel the transfer. SJP should have requested that Scheme A should return the full transfer value amount to SJP so it could then action the partial transfer of c£68,000 to Scheme A Mr P had requested so he would not need to pay the early withdrawal charge.*

*Instead, however, it told Scheme A that it would cancel the transfer and instead action a request for a partial transfer.*

*Scheme A received the full transfer value of c£109,000 from SJP on 26 July 2023. Scheme A credited this full amount, less its own initial adviser fee of c£1,600 to Mr P's personal pension account.*

*The following day, on 27 July 2023, Scheme A agreed with SJP to return the full transfer value it had received back to SJP to enable the partial transfer to take place. It returned c£107,500 on 15 August 2023 and a further c£1,600 on 25 August 2023. In total, Scheme A returned some £112 less than SJP had originally transferred to it. This discrepancy arose as Scheme A had automatically invested some of the funds it had received, before reversing the transaction. There was a loss on this transaction of some £112.*

*SJP held the returned funds into a holding account which paid no interest and was not invested in any way. SJP subsequently told Scheme A and Mr P that it couldn't proceed with the partial transfer or reinvest the money into SJP funds until the remaining £112 was returned to it.*

*Mr P raised a complaint against both Scheme A and SJP on 25 September 2023 relating to the pension transfer.*

*SJP responded to Mr P's complaint on 13 October 2023. In its response SJP said of the call it had with Scheme A:*

*I did note that [Scheme A] called our offices on 24 July 2023 and requested we cancel the transfer as you did not wish to incur the Early Withdrawal Charge (EWC). The colleague that [Scheme A] spoke with did incorrectly confirm we could still cancel the transfer; however, as the funds had already been released there was nothing further we could do until the funds were returned to us.*

*I would like to apologise for the incorrect information provided during this call. We have of course fed this back to the relevant team manager to ensure this does not reoccur in future.*

*It did not address Mr P's concerns about his financial loss or mention whether or not it felt it had any responsibility for any financial loss.*

*SJP went on to say also said it was still waiting for the outstanding amount of £112 to be transferred back from Scheme A before it could action the partial transfer. It noted that it had contacted Scheme A on 11 October to reiterate this to it.*

*Unhappy with the response, Mr P referred his complaint about SJP, and his complaint about Scheme A, to this Service for consideration.*

*Our Investigator reviewed all the evidence in this case and formed the view that SJP had not treated Mr P fairly. They considered that SJP should compensate Mr P for any financial loss he has suffered alongside a payment of £300 in respect of the distress and inconvenience its mistakes have caused him. SJP did not respond to their view and so the complaint has been passed to me to make a final decision.*

*Mr P replied accepting my provisional decision. SJP did not reply so I will issue my final decision now.*

### **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.*

*In my provisional decision, I said:*

*Having done so, I have reached the same conclusion as our Investigator and intend to uphold this complaint. I have however, reached a different conclusion on how SJP should put things right, so I think it's fair and reasonable to give both Mr P and SJP the opportunity to comment or provide further evidence before I issue my final decision.*

*I will explain now how I have reached my conclusions.*

*Firstly, I think it's important to reflect upon the role of this Service. Our role is to impartially review the circumstances of a complaint and make a decision on whether a business has made errors or treated a customer unfairly. Where it has, we expect a business to compensate a customer for any financial loss and distress and inconvenience they have suffered as a result. Consequently, I would need to find it fair and reasonable that any financial loss Mr P has suffered results from errors made by SJP.*

*To do this, I will look not only at the evidence that Mr P and SJP have provided in response to this complaint, but also evidence that I find relevant from Mr P's complaint about Scheme A.*

*Firstly, I do not think that either party disputes that Mr P requested that SJP transfer all his pension benefits to Scheme A. I note that Mr P states that he did this as he was unaware of the early withdrawal charge he would incur as a result. I cannot agree with his view in this respect, as I can see that SJP made him aware of the basis on which this charge would apply in a letter it sent to him on 15 May 2023.*

*Having said this, it's clear to me that when Mr P requested that the transfer should be cancelled and a partial transfer be made instead, SJP made a significant error when it informed Scheme A that the transfer could be cancelled. SJP's notes of this call state:*

*The receiving scheme [Scheme A] was advised that the transfer was in progress, and they asked for this to put on hold. The reason for this is that client wanted the transfer to be free of any EWC.*

*The scheme then went on to ask how this should be resubmitted. The call associate told them to speak to the Partner to help determine how much can be transferred charge free.*

*The scheme confirmed that this is what they will do.*

*They were told the transfer could be cancelled and there is an indication that we would arrange this...*

*Scheme A has provided information to show that once funds are received, they are automatically invested according to an investor's selected fund strategy and to stop this requires a manual intervention.*

*Scheme A was expecting the transfer to be cancelled, so it did not set up the manual intervention to prevent the funds being invested. Once this was discovered, it acted to prevent any more funds being invested and to reverse the investments it had already made. Unfortunately, this led to the loss of £112 which SJP says prevented it from actioning Mr P's subsequent request for a partial transfer and partial reinvestment.*

*Given this, I think it's fair and reasonable to assume that SJP is responsible for any financial loss Mr P has suffered, as Scheme A relied upon the information SJP gave it and consequently took no steps to intervene to stop the funds from being invested automatically when they were received.*

*I now have to decide what dates should be used for calculating whether Mr P has suffered a financial loss. I have done this on the basis of what I think is a reasonable timeline based upon evidence provided by both Scheme A and SJP.*

*I can see that it took three working days for Scheme A to receive the pension funds from SJP. If Scheme A took two working days to initiate the return of funds to SJP and the funds took another three days to arrive, I consider that SJP should have received these by 2 August 2023. If SJP took two working days to initiate the partial transfer to Scheme A, this would have been achieved by 4 August, I think Mr P's partial transfer of funds would have been received by Scheme A on 9 August 2023 and would have been invested into his selected funds by 11 August. I conclude that 11 August is the correct date to use when calculating Mr P's loss due to the partial fund transfer of c£68,000 not being enacted.*

*For the remaining funds, I find that SJP should have been in a position to reinvest these into Mr P's original investments by 4 August 2023. This is the date that should be used for any loss calculation owing to Mr P's retained funds with SJP remaining uninvested in the holding account.*

*In terms of the distress and inconvenience Mr P has suffered as a result of SJP's mistakes, I have considered the evidence provided by both parties as well as the guidance our service has published to ensure consistency and fairness of compensation levels. I have concluded with our Investigator's view that £300 is appropriate in the circumstances of this complaint.*

## **Putting things right**

It is my intention and the aim of this service that any compensation for financial loss should seek to put Mr P back into the position he would have been in were it not for SJP's error.

To compensate Mr P fairly, SJP must:

- Compare the actual performance of Mr P's funds during the calculation period with the notional value if they had been invested as he requested i.e. the partial transfer to Scheme A had taken place as Mr P had requested and the remaining funds were reinvested in the original funds held with SJP.

To calculate the notional value of the funds that should have been transferred to Scheme A, SJP will need to approach Scheme A for the notional value of Mr P's funds if Scheme A had received the correct amount of the partial transfer from SJP on 9 August 2023 and began investing in accordance with his investment strategy on 11 August 2023 until the date of my final decision.

To calculate the notional value of the funds that should have remained with SJP, calculate the value of Mr P's benefits that should have been retained after the partial transfer if they had remained invested in the original SJP funds prior to the transfer taking place. This should use the fund values in force on 4 August 2023.

Compare the actual value of Mr P's benefits with the sum of the notional values of the funds that should have been transferred to Scheme A and the funds which should have remained invested with SJP, calculated as above.

If the actual value is greater than the notional value, no compensation is payable. If the notional value is greater than the actual value, there is a loss and compensation is payable.

- If there is a loss, SJP should calculate the amount required to purchase the number of units Mr P's pension with Scheme A would have been able to purchase on 11 August 2023. This amount should then be transferred into Mr P's pension with Scheme A to increase its value by the amount of the compensation and any interest due. The amount paid should allow for the effect of charges and any available tax relief. Compensation should not be paid into the pension plan if it would conflict with any existing protection or allowance.
- SJP should, in addition, reinvest the funds that should have remained with SJP into Mr P's SJP pension, using the values in force on 4 August 2023.
- SJP should add interest to these amounts at the rate of 8% per annum simple from the date of my final decision until the date of settlement.

- If SJP is unable to pay the compensation into Mr P's pension plan, it should pay that amount direct to him. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore the compensation should be reduced to notionally allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount – it isn't a payment of tax to HMRC, so Mr P won't be able to reclaim any of the reduction after compensation is paid.
- The notional allowance should be calculated using Mr P's actual or expected marginal rate of tax at his selected retirement age.
- It's reasonable to assume that Mr P is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if Mr P would have been able to take a tax free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.
- If either SJP or Mr P dispute that this is a reasonable assumption, they must let us know as soon as possible so that the assumption can be clarified and Mr P receives appropriate compensation. It won't be possible for us to amend this assumption once any final decision has been issued on the complaint.
- Provide details of all calculations to Mr P in a simple, easy to understand format.
- Pay Mr P £300 in respect of the distress and inconvenience SJP's errors have caused him.

Income tax may be payable on any interest paid. If SJP deducts income tax from the interest, it should tell Mr P how much has been taken off. SJP should give Mr P a tax deduction certificate in respect of interest if Mr P asks for one, so he can reclaim the tax on interest from HM Revenue & Customs if appropriate.

If the information about the funds Mr P would have invested in with Scheme A is not available, SJP shall use the benchmark of the FTSE UK Private Investors Income Total Return Index.

### **Actual value**

This means the actual amount payable from the investment at the end date.

### **Notional value**

This is what the investment would have been worth at the end date had it produced a return using the comparison with Mr P's investment strategy with Scheme A or the benchmark.

### **My final decision**

For the reasons given above, I uphold Mr P's complaint.

St James's Place UK Plc should pay Mr P the sums calculated above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 28 October 2024.

Bill Catchpole  
**Ombudsman**