

The complaint

Ms B and Mr B complain that Mattioli Woods Limited (MW) unfairly settled the death benefits under their late father's pension plan.

Ms B and Mr B are represented in their complaint. But I'll only refer to them in my decision.

What happened

In September 2013 the late Mr B took out a Self-Invested Personal Pension (SIPP). He nominated his two children as his beneficiaries on 20 September 2013, using an Expression of Wish (EOW) form.

I'll refer to the late Mr B as the SIPP holder throughout my decision to avoid confusion with one of the complainants.

In April 2023, the SIPP holder's partner notified MW that the SIPP holder had died.

On 18 June 2023, Ms B and Mr B completed a death notification form.

Ms B and Mr B's representative emailed MW on 23 June 2023 to ask it about the death benefit process. MW called him to discuss the situation. MW's note of that call recorded the following:

"As there was no will in place, [the representative] also thought it best to follow what the EOW on file says, as that is the most appropriate formal document that we have of [the SIPP holder's] wishes."

On 7 July 2023, MW asked Ms B and Mr B's representative to confirm if either of them was financially dependent on the SIPP holder. He replied the same day to say that neither of them was.

On 24 July 2023, Ms B and Mr B's representative called MW for an update on the trustees' decision. MW said that the trustees had agreed to follow the EOW on file, which stated Ms B and Mr B as joint beneficiaries of the SIPP. MW said that once the trustees had reached a formal outcome, he'd let everyone know,

The SIPP holder's partner contacted MW on 25 July 2023 to ask the trustees to consider her as dependent. MW told the SIPP holder's partner that she'd need to provide evidence of how she and the SIPP holder had shared finances to apply to be a dependant.

On 13 August 2023, the SIPP holder's partner provided MW with detailed information about why she felt she was dependent on the SIPP holder. She provided further evidence on 16 August 2023.

Later that month, MW wrote to the SIPP holder's partner to say that the trustees had asked for further information to help with their decision-making process. It explained what it needed. The SIPP holder's partner provided the requested information.

On 31 August 2023, Ms B and Mr B's representative confirmed to MW that the SIPP holder had left no will. He also provided the solicitor's details.

In September 2023, the SIPP holder's adviser confirmed that the SIPP holder and his partner had met with him in August 2020 to discuss their financial planning. He said he was aware that they had lived together since 2016.

On 3 January 2024, MW emailed Ms B and Mr B with the outcome of the trustees' decision.

It said the trustees had decided that they would each get 25% of the SIPP death benefits, and that the SIPP holder's partner would get 50%.

Ms B and Mr B were unhappy about the trustees' decision and how long it'd taken to make it. So they raised a complaint on 20 January 2024. They said MW had told their representative that they would inherit the pension in full.

Ms B and Mr B didn't feel that the SIPP holder's partner was dependent on the SIPP holder. They made a number of detailed points about what they felt was the wealth of that partner, noting that she owned the house she'd shared with their father and was also a director of his limited company. And said that although their father had been with his partner for around ten years, he hadn't written a will. But he had completed the EOW in their favour.

Ms B and Mr B also noted that their father had another pension, from which his partner had been able to claim the dependant's pension, whereas they'd each only received around £8K.

After receiving the complaint, MW agreed to review the trustees' decision. On 19 February 2024 it wrote to Ms B and Mr B to tell them that the trustees were carrying out further investigations so they could provide a second opinion.

MW emailed the SIPP holder's partner on 20 March 2024 to ask for further information from her. She provided the requested information.

MW emailed Ms B and Mr B with the trustees' decision on 12 April 2024. It said that as the original decision had been disputed, its group technical team and another trustee reviewed it again. It said the second review had reached the same conclusion as the first on the 50%/25%/25% split.

MW apologised for initially stating that it expected a 50/50 split between Ms B and Mr B. It said this was before a final decision had been made by the trustees, and had been based on the EOW it had on file. It said it should've said that this could be subject to change if any additional claimants were identified.

MW said that after several months of the SIPP holder's partner providing evidence that she was a dependant of the SIPP holder, its trustees had agreed that she was a financial dependant of the SIPP holder due to their living arrangements and shared finances.

Ms B and Mr B didn't agree with MW's decision. They felt it ignored their father's wishes and had been made without a full investigation of the facts.

Ms B and Mr B said that the SIPP holder's partner had already claimed the income – which I understand to be around £7K a year - from his final salary pension. And that she'd been the sole director of his limited company since his death. They therefore didn't consider she was a legitimate dependant.

Ms B and Mr B's representative had a call with MW on 25 April 2024. MW's notes recorded

that MW didn't want to issue a final response letter to the complaint until it'd reviewed the latest information Ms B and Mr B and their representative had provided. And that it would take steps to ensure that its trustees didn't miss any important information.

MW issued its final response to the complaint on 26 April 2024. It said it'd considered the information Ms B and Mr B had recently provided. But confirmed the decision it'd notified them of on 12 April 2024, stating that the trustees and group technical team had made their decision in line with the scheme rules. It also stated that the "*extensive additional review by our group technical team and another trustee to give their second opinion*" had drawn the same conclusion.

Unhappy, Ms B and Mr B brought their complaint to this service through their representative. He questioned whether MW had taken into account when deeming the SIPP holder's partner dependent, the final salary pension she was receiving, as well as her income from his limited company and her own income. It felt the final salary pension and the continued income the SIPP holder's partner was receiving should cover any financial dependency, noting that this was the reason MW had given for changing its initial decision.

The representative also felt that MW should pay Ms B and Mr B compensation for the unnecessary stress it'd put them through.

Our investigator didn't uphold the complaint. She felt that MW had distributed the death benefits fairly, and in line with the scheme rules. She also felt that MW had taken reasonable steps in using its discretion to pay the death benefits. And that the trustees had considered all relevant factors and asked the correct questions before they'd decided how to distribute the death benefits.

Ms B and Mr B didn't agree. They made the following points:

- They acknowledged that MW had the right to overrule the EOW. But didn't feel that it'd come to its decision with all of the available facts. They felt that the SIPP holder's partner had misled MW and influenced its incorrect decision.
- They felt that although MW had concluded that the SIPP holder's partner: "*shared many financial responsibilities*", these were now being covered by the final salary pension and the continued income from the limited company. They also felt that the SIPP holder's partner had other income and savings which meant she shouldn't have been deemed dependent.
- They felt that this service should assess how MW had determined dependency.

As agreement couldn't be reached, the complaint has come to me for a review.

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 looked at all the evidence, I'm not going to uphold it. I'll explain why.

Ms B and Mr B believe that MW didn't distribute the death benefits from their father's SIPP fairly. They feel his wishes had been clearly expressed in his September 2013 EOW. But MW feels it correctly distributed the benefits after taking all relevant factors into account.

So the question that I need to answer is whether or not MW fairly and reasonably discharged

its duties in terms of how it decided to distribute the death benefits owed from the pension plan.

It's clear that Ms B and Mr B feel strongly about what happened and that the subject matter of this complaint is emotive. Whilst I've taken into account everything that their representative has submitted about the background to this situation, my decision focuses on what MW did.

Pension plans aren't part of an individual's estate. So MW, as the administrator of this pension plan, had the responsibility or discretion of deciding who received the death benefits.

In exercising its discretion, MW could take into account - but didn't have to follow – Ms B and Mr B's father's wishes. These were detailed on his September 2013 EOW.

The death benefit nomination states: *"The nomination is not binding on the Trustee but will be taken into account if any benefits are paid in the event of your death prior to a lifetime annuity being purchased."*

I consider this wording to be clear in explaining that MW retained discretion on how death benefits would be distributed. But I would only expect MW to exercise any discretion after a thorough investigation.

So, MW needed to properly investigate the position in respect of potential beneficiaries.

Although Ms B and Mr B dispute that MW properly investigated the SIPP holder's partner's dependency, I'm satisfied that it did. I say this because the evidence shows that the SIPP holder's partner did share many financial responsibilities with the SIPP holder.

I also say this because I can see that MW correctly followed its stated decision-making process, which its trustees follow when determining the correct beneficiaries. This states:

"The trustees will carry out a full investigation into the deceased members circumstances prior to their death before arriving at a decision."

...

Whilst not bound by the late members expression of wish, the trustees will, where appropriate, endeavour to ensure the members wishes are followed as closely as possible, provided their circumstances have not changed since the EOW form was completed.

The date of the expression will also be taken into consideration by the trustees. If made a long while ago, the trustees will undertake additional investigation in order to consider whether there has been a change in the late members circumstances. In such a situation the trustees will consider life events such as divorce, marriage, birth of a child, death of a family member or a change in the financial position of the beneficiary that has been nominated, a will or codicil made after the nomination form."

The evidence shows that the trustees did carry out a full investigation. And that this showed that the SIPP holder's circumstances had changed since he completed his EOW more than ten years ago. It showed that he'd been living with his partner since 2016, and that his partner was financially dependent on him, while his children were not.

In this case, the EOW form was completed when the SIPP was started in 2013, and hasn't been updated since. At the time it was signed, Ms B and Mr B were teenagers. But they're

both adults now and neither was dependent on the SIPP holder at the time of his death.

I understand that the SIPP holder moved in with his partner around 2016 and that they'd been living together in her house, sharing costs, since then. I'm satisfied that on the basis of the evidence the SIPP holder's partner provided to MW, and the shared house, that it was reasonable for MW to conclude that she did meet the definition of a financial dependant of the SIPP holder.

I can see that Ms B and Mr B felt that MW had reached its dependency decision without all of the available facts. But in April 2024, they shared with MW all of the information they felt it hadn't had from the SIPP holder's partner. I can also see that their representative spoke to MW later that month. And that it said it would ensure that its trustees reviewed the latest information provided. I consider that this shows that the trustees were fully informed when they made their final distribution decision. I also note that MW's final response letter stated that it'd considered the information Ms B and Mr B had recently provided. But it hadn't changed its mind.

Overall, I'm satisfied that MW had all of the information Ms B and Mr B were concerned that the SIPP holder's partner may not have already shared with it before it made its final distribution decision. And on its second review of that information, it still came to the same decision. Therefore I'm satisfied that MW came to its decision fully informed.

I finally considered whether MW should pay Ms B and Mr B any distress and inconvenience compensation for the loss of expectation it caused them when it told their representative on 24 July 2023 that they would be joint beneficiaries.

Loss of expectation

Although Ms B and Mr B's father's partner had already notified MW of their father's death in April 2023, it was Ms B and Mr B who completed MW's death notification form on 18 June 2023.

There is a section on this form which states:

"In order for the Trustees to make an informed decision, please confirm any other details that may be relevant, such as whether there have been any changes in personal circumstances (marriage, divorce, co-habiting, children, etc)."

Ms B and Mr B simply noted that their father had divorced. They didn't mention at this stage that he'd lived with his partner for several years since around 2016.

If they had, I think it's more likely than not that MW wouldn't have told Ms B and Mr B's representative on 24 July 2023 that the trustees had agreed to follow the EOW on file. I say this because I'm satisfied that if the death notification form had recorded Ms B and Mr B's late father's partner's details, MW would've already been considering whether she should be a beneficiary under the SIPP at the time it spoke to the representative on 24 July 2023.

The SIPP holder's partner didn't present herself as a possible dependant until 25 July 2023.

Therefore, although I can see that there was a period of almost six months from the point that MW told Ms B and Mr B's representative that it was likely to decide that Ms B and Mr B were joint beneficiaries of their late father's SIPP, to the point when it first confirmed that their late father's partner would be the majority beneficiary, I can't fairly consider loss of expectation compensation. I say this because I'm persuaded this situation could've been avoided if the death notification form had been completed correctly.

I do understand what a difficult time this must've been for Ms B and Mr B, so it's not surprising that some information was omitted from this form. But without it, I can't fairly hold MW responsible for giving an incorrect update to the representative on 24 July 2023.

I understand that Ms B and Mr B, and their representative, feel strongly about this and that this outcome will come as a disappointment. Whilst I sympathise with their position, I can't fairly and reasonably uphold the complaint.

I'm very sorry for Ms B and Mr B's loss. But I don't think that MW did anything wrong when it distributed the benefits from the SIPP holder's plan in the way it did. So I don't uphold the complaint.

My final decision

For the reasons set out above, I don't uphold Ms B and Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms B and Mr B to accept or reject my decision before 20 February 2025.

Jo Occleshaw
Ombudsman