

## **The complaint**

Mrs I complains about St James's Place UK Plc's (SJP) handling of her pension transfer request.

## **What happened**

Mrs I held a pension with SJP.

She told SJP she wanted to transfer her pension to a Qualifying Recognised Overseas Pension (QROPS). The process initially started much earlier but was discontinued as SJP said it didn't receive all of the information it needed to consider the transfer. SJP told Mrs I in August 2022 that if the transfer was still to go ahead, it would require a new transfer request to be made.

Around 20 October 2022, SJP received a new request for an up to date transfer value and transfer forms on Mrs I's behalf.

SJP sent the necessary paperwork on or around 8 November 2022 and it received completed transfer forms on or around 9 December 2022.

In the meantime, the receiving scheme that Mrs I wished to transfer to drafted a letter to SJP dated 17 November 2022 confirming that it was able to accept the transfer in of Mrs I's pension.

On 12 December 2022, SJP wrote to Mrs I for further information that was needed as part of the checks it was required to conduct. It received additional information from her around 19 December 2022.

According to an internal note added on 3 January 2023, SJP was minded to agree that the transfer could go ahead, pending confirmation that the evidence of Mrs I's overseas residency was deemed sufficient to complete the process. It received confirmation on 5 January 2023 that the evidence was sufficient to allow the transfer to go ahead.

SJP wrote to Mrs I on 24 January 2023 confirming that it had sent a payment of £587,786.21 to her receiving scheme on 17 January 2023. It said that value was based on unit prices as at 20 December 2022.

Mrs I queried how the fund had been valued and from which date. She wasn't happy that SJP 'froze' her funds but didn't transfer them until a month or so later. She complained to SJP about this.

SJP issued a complaint response on 25 April 2023. It said, amongst other things, that it received the completed transfer forms on 9 December 2022, which it then had to check to make sure all of the relevant requirements had been met before the request was actioned. As Mrs I wanted to transfer her pension to a QROPS, further information was required in order to proceed. It wrote to Mrs I on 12 December 2022 advising what was required. It then received additional information on 19 December 2022, which also had to be checked. Final

approval was given on 5 January 2023 that the evidence was sufficient (and that no overseas tax charge should be applied). As per the usual SJP procedure, it then processed the payment using unit prices as at 20 December 2022, which was the day after it received all the relevant paperwork. The transfer value was calculated at £587,786.21 and payment was released on 17 January 2023. SJP wrote to Mrs I on 24 January 2023 to confirm the steps it had taken.

Mrs I wasn't happy with SJP's response, so she complained to the Financial Ombudsman Service. One of our Investigators was assigned the complaint. In summary, whilst accepting that SJP had to complete various checks and that funds might be disinvested for a short period, he felt the period was too long in Mrs I's case. The Investigator noted that SJP still had to check whether it could accept Mrs I's residency documents as proof that there would be no overseas tax charge. As this wasn't confirmed until 5 January 2023, the Investigator thought 6 January 2023 was a more appropriate date from which to work out unit prices. He therefore recommended that SJP should complete a loss assessment based on unit prices as at 6 January 2023, in order to establish whether Mrs I had suffered a financial loss. In addition, he felt that SJP's actions had likely caused Mrs I some worry due to the potential loss of investment growth, so he recommended that it pay her compensation of £200 to recognise that.

Mrs I accepted that the Investigator had given a fair and reasonable summary, although she queried again the period that her funds were out of the market. She added that she didn't think it fair to disinvest funds until all of the administrative procedures had been met. SJP didn't respond, so the complaint was referred to an Ombudsman. It's been passed to me to decide.

### **My provisional decision**

I sent Mrs I and SJP my provisional decision on 2 October 2024. I've included the relevant extracts below.

*"Mrs I's position is that it wasn't fair for SJP to disinvest her funds until all of the administrative procedures associated with the transfer were concluded. In contrast, SJP says it takes unit prices on the day after its 'requirements' were met. I've thought about both positions very carefully.*

*In general terms, I can see why SJP might use unit prices on the day after its 'requirements' have been met. That's because, generally speaking, that's likely to be the first point at which it can complete the transfer, because it believes it has all of the necessary information with which to do so.*

*However, based on the evidence and the particular circumstances in this case, I don't think it was fair and reasonable for SJP to use 20 December 2022 as the date from which it would work out unit prices when calculating the transfer value. I'll explain why.*

*Mrs I wanted to transfer her SJP pension to a Qualifying Recognised Overseas Pension (QROPS). With that transfer, SJP was required to complete a number of important checks as set out in the guidance prepared by The Pensions Regulator (TPR) in the wake of the Occupational and Personal Pension Schemes (Conditions for Transfers) Regulations 2021 and other guidance that was in place across the industry.*

*The guidance requires providers like SJP to carry out due diligence to ensure that the transfer request meets certain conditions. They're also expected to look out for signs that the member's pension might be at risk. When the member is intending to transfer their pension to a QROPS, (as Mrs I was) one of the things that the provider needed to satisfy itself of was*

*that there was sufficient evidence of an overseas residency (or employment link). The guidance says that if the provider isn't satisfied they've received a substantive response to a request for evidence, they can send a reminder. And if they then receive insufficient evidence following a reminder, that in itself might be treated as a red flag. If, on receipt of further evidence when checking an overseas residency (as SJP was here), the provider has reason to believe it's not sufficiently demonstrated, the guidance says that would constitute an amber flag, which would likely require the provider to take further steps before approving the transfer.*

*I've noted that SJP appears to have received a lot of the supporting evidence it needed from Mrs I on or around 19 December 2022, following a request sent to her on 12 December 2022. According to its records, it then sent those documents for additional quality checks as it's required to do. However, according to its notes, it seems it still needed to ascertain whether the overseas residency information Mrs I had supplied was sufficient to approve the transfer. And if it wasn't, as I've outlined above, SJP may well have been required to take additional steps in order to satisfy the guidance and its regulatory responsibilities.*

*Given that, it seems to me that it was by no means certain that the additional evidence Mrs I supplied would have been sufficient to enable the transfer to proceed. And until such time as SJP could be satisfied about that, it's not clear to me why it would have disinvested Mrs I's funds. Indeed, it's entirely possible that SJP would have felt it necessary to request additional evidence from Mrs I or direct her to take additional steps as the guidance suggests. Had that happened, Mrs I's funds may well have been disinvested for an even longer period.*

*SJP received the required confirmation from its technical team on 5 January 2023 that the residency evidence could be accepted and the transfer could go ahead. So, it would have been fair and reasonable for SJP to work out the value of the fund as at 6 January 2023. That was the first day after it knew it had everything it needed - and the required authorisation - to complete the transfer. In my opinion that was a more appropriate date from which to calculate the transfer value based on unit prices at that point.*

*It's possible that Mrs I has lost out financially as a result of SJP basing the transfer value on unit prices as at 20 December 2022, rather than the later date of 6 January 2023. In addition, there may be other associated losses. I've set out below what I'm intending to direct SJP to do about this now.*

*I've provisionally decided that SJP needs to do the following to put things right:*

- Calculate the difference between the transfer value as at 20 December 2022 (£587,786.21) and what it would have been had it been based on unit prices as at 6 January 2023. If the value as at 6 January 2023 would have been higher, then this is Mrs I's potential loss on the date of transfer. If it would have been lower, then there's no loss.*
- Then calculate the notional investment loss from the above step (if applicable) from the date of transfer until the date that SJP is told about Mrs I's acceptance of my final decision. SJP should do this by establishing from Mrs I's new provider the amount of growth that would otherwise have been achieved had the additional amount been invested from the date I've specified. If SJP can't get this information, it should seek evidence from Mrs I/her adviser about how she invested and use an appropriate benchmark reflective of those investments. If there's a loss, SJP should pay the total amount (from steps one and two) to Mrs I's new pension provider as compensation for the administrative issues I've identified within this decision.*
- SJP should explain its calculations in a clear format to Mrs I.*

- *I think the thought of having potentially lost some investment growth on her pension would likely have caused Mrs I some worry. So, I'm intending to ask SJP to pay her £200 compensation to recognise the impact of that".*

## **Developments**

SJP accepted my provisional decision without making further comments.

Mrs I said that the points I'd made in my provisional decision were fair. She added that she agreed with the compensation method for the period between 20 December 2022 and 6 January 2023. However, she said that SJP took too long to release the funds to her new provider, so she felt she'd missed out on an additional period of investment growth. Mrs I thinks there should be a further period of redress from 6 January 2023 (the date I concluded SJP should have used when working out the transfer value, rather than 20 December 2022) to 17 January 2023 when the funds were released to the new provider. She's asked me to think about that point further.

Given that, along with SJP, Mrs I appeared to accept the substance of my provisional decision and my proposed method of redress, I contacted her in the following terms:

Noting that she'd worked out her funds were out of the market for an additional 13 days, I explained that, as far as I could see, it equated to around eight working days. And, accepting that in a transfer of this kind there will likely be some time out of the market, I said in order to uphold this particular point, I'd need to be satisfied that there had been unreasonable delays on SJP's part during that time. I explained that, so far, I hadn't seen such persuasive evidence. For instance, I could see that in the period up to 17 January 2023, SJP was completing additional checks, including because of the high value of the transfer. I didn't think that was unreasonable or unusual, so, in the absence of any other evidence to suggest otherwise, I explained that my findings were likely to be along the lines set out in my provisional decision.

Mrs I has since responded making the following additional points.

- Neither her nor the new scheme were aware of any additional checks being carried out by SJP.
- Mrs I maintains that SJP's delays were unacceptable and unsatisfactory – particularly as it didn't keep her or the new scheme updated. And she said it only sent notification of the funds being released to the new scheme a week after that actually happened.
- She provided comments from her new scheme indicating that it hadn't received any contact from SJP between 6 and 17 January 2023 – for instance to check its bank details.
- She also provided a copy of the letter dated 24 January 2023 (referred to earlier) to show that there was a delay in SJP notifying the new scheme of the transfer.

## **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 particular, I've carefully considered the additional points Mrs I asked me to reflect on. But, on balance, I'm not persuaded that those points would cause me to change what I said in my provisional decision (or in writing to Mrs I since) or that Mrs I has given me any new evidence to rely on.

As I explained to Mrs I, it's likely that with a transfer of this kind, there will be some time out of the market. And whilst I appreciate that Mrs I and her new scheme wouldn't necessarily know what internal checks were being done, I'm satisfied from the evidence I've seen that SJP was taking further steps – largely, it seems, due to the high value of the transfer. I remain of the opinion that wasn't unreasonable or unusual. I can see it then took additional steps to process the payment. In total this all took about eight working days. I think that's a reasonable timeframe for SJP to take the further action necessary. Overall, I've seen no persuasive evidence to suggest that SJP unreasonably delayed things during that time. And whilst I take Mrs I's point that there was a gap between a payment being made and her and the new scheme being notified, I'm satisfied that didn't cause Mrs I any further loss.

So, my decision remains as set out in my provisional decision and as I've repeated below.

### **Putting things right**

My aim in setting out the redress below is to try to put Mrs I back into the position she would have been in (or as close to that position as possible) had it not been for the issues I identified in my provisional decision.

The steps that St James's Place UK Plc should now take to put things right are as follows:

- *Calculate the difference between the transfer value as at 20 December 2022 (£587,786.21) and what it would have been had it been based on unit prices as at 6 January 2023. If the value as at 6 January 2023 would have been higher, then this is Mrs I's potential loss on the date of transfer. If it would have been lower, then there's no loss.*
- *Then calculate the notional investment loss from the above step (if applicable) from the date of transfer until the date that SJP is told about Mrs I's acceptance of my final decision. SJP should do this by establishing from Mrs I's new provider the amount of growth that would otherwise have been achieved had the additional amount been invested from the date I've specified. If SJP can't get this information, it should seek evidence from Mrs I/her adviser about how she invested and use an appropriate benchmark reflective of those investments. If there's a loss, SJP should pay the total amount (from steps one and two) to Mrs I's new pension provider as compensation for the administrative issues I've identified within this decision.*
- *SJP should explain its calculations in a clear format to Mrs I.*
- *I think the thought of having potentially lost some investment growth on her pension would likely have caused Mrs I some worry. So, I'm intending to ask SJP to pay her £200 compensation to recognise the impact of that”.*

### **My final decision**

I uphold this complaint. St James's Place UK Plc should now take the steps I set out in my provisional decision and as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs I to accept or reject my decision before 13 December 2024.

Amanda Scott  
**Ombudsman**