

## **complaint**

Ms P complained about the length of time it has taken to transfer her self-invested personal pension (SIPP) from Corporate & Professional Pensions Limited (C&PP) to a new provider.

## **background**

The background of this complaint was detailed in my provisional decision of 28 April 2016 which forms part of this final decision. I asked both parties to let me have any further comments by 27 June 2016.

C&PP responded on 29 April 2016 and accepted my decision.

Ms P's representatives responded on 29 April 2016 stating;-

- That I would have noted from the stock transfer forms, that the shares would have been held in the name of Ms P's late husband despite his death sometime earlier. The new SIPP provider therefore had to firstly have the deceased name removed as well as arranging re-registration of the assets from one scheme to another. This should have been dealt with by the previous scheme administrators.
- Furthermore, the shares I had said could have been sold in August 2013 would have been worth £195,000, was factually incorrect and provided details indicating that the value was in fact £127,351.43.
- It referred to the duties of the trustees and administrators of the original scheme and said that they had relied on a grieving widow to provide information, they were responsible for.
- It is not disputed that C&PP were not responsible for the loss of the share certificates however they were the only people who could arrange replacements as the shares were by this time in their name as scheme trustees.
- I had said that the shares could have been sold on 19 March 2013 had instructions been given to do so. Only C&PP could have sold the shares at that stage, the decision was made to re-register them with Transact prior to sale was due to the high level of charges C&PP would have levied.
- They disagreed that C&PP tried to resolve the matter before a complaint was sent to this service. They considered that C&PP were obstructive and defensive throughout.
- Transact were not able to sell any shares until the whole transfer had been completed.
- The number of shares in question is nothing like 2.5 million.
- A further significant proportion of the portfolio was held in cash, which was not transferred until 26 February 2014. They had been told by C&PP that this could not be transferred until all of the other assets had been successfully re-registered. However it was transferred long before the other assets were re-registered. It felt that

it should have been transferred on 22 August 2013 as deemed by our service. Had it been invested until 26/2/2014 it would have grown by 4.75% - £3,135.

- In any event, Transact have previously confirmed that it is not their policy to implement any dealing instruction until a transfer is complete. C&PP's assertion that this was the new adviser's decision is therefore incorrect and therefore in its view the methodology behind the original compensation remains correct as no shares could be sold until the final assets were re-registered.

It was therefore requested that I review my decision in view of the above comments.

### **my findings**

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I have not been persuaded to alter my decision from that expressed in my revised provisional decision of 28 April 2016.

I have been provided with evidence that following the death of her husband, Ms P inherited his SIPP and decided to arrange for this to be transferred with advice being provided by her advisers. The SIPP investments were considered too high risk for Ms P by her advisers and they were intending to sell them and then reinvest the proceeds in more cautious funds in line with Ms P's attitude to risk.

The request to transfer was made by letter on 12 February 2013.

C&PP passed the certificates it had been provided to Transact on 19 March 2013.

Unfortunately some certificates were misplaced by various parties and issues arose in respect of the re-registration of Rolls Royce and JPM Asian shares where it was established that an indemnity would have been required.

I understand that at the time the transfer was requested the shares were held in the name of Ms P's late husband. Ms P's representatives have told us that Transact would not accept any dealing instructions until the full transfer and re-registration of the assets was completed. I requested that the adjudicator should verify this with Transact and establish if this was the case.

The adjudicator asked Transact

*"The complaint relates to the transfer of a SIPP pension fund to portfolio ref no, ..... Pension funds were transferred in specie, and were derived from a fully crystallised pension. There were delays due to complications in the re-registration of the shares transferred. The process started in March 2013 and concluded in November 2014. The shares were moved to Transact at different times. What I need confirmed is whether or not you would have accepted instructions to sell any of the shares once they were received in the above portfolio, before the transfer of all of the shares and cash had been completed".*

Transact have replied and advised us that

*“I write to confirm that provided shares are trading, (which I understand at the point of transfer all shares in question were) Transact are able to action sell instructions at the point of receipt of any re-registered shares”.*

Unfortunately, due to problems that had not been foreseen at the time the transfer was initiated, the re-registration process and therefore the completion of the transfer took substantially longer than would have been anticipated.

In my opinion having initiated the transfer of the funds to Transact, Ms P's adviser's would have been aware that the shares would need to be re-registered which would have resulted in some delays. I also understand from the copy of letter from Ms P dated 12 February 2013 that she had a cautious attitude to risk and therefore was not comfortable to remain invested in equities. It therefore seems reasonable to have expected her new advisers to have arranged for the shares to re-invested in assets more appropriate with her stated attitude to risk at the earliest opportunity.

It now appears that Transact could have taken instructions to deal in the shares on receipt of the re-registered shares. Therefore once the decision was made not to sell the shares within the original SIPP prior to transfer but to transfer on an in-specie basis there was going to be an additional risk of delay due to the re-registration process. However the shares could have been switched to alternative investments on receipt by Transact which would have mitigated some of the losses due to changes in the share prices. Having said that, it would appear that only three of the holdings fell significantly over the period, the biggest losses being Tesco and Rolls Royce. The Tesco losses could have been avoided had they been sold earlier but the Rolls Royce shares were subject to the lengthy delay due to the indemnity being required. Other holdings made marginal gains over the period.

In respect of the transfer of the cash holding, I can understand the concern about the delay, I also appreciate that C&PP would want to be sure it had funds to cover costs associated with re-registration of the shares. These costs would have been deducted from the cash held in the original SIPP. Bearing in mind, Ms P confirmed in her letter of 12 February 2013 had a cautious outlook to investment, it does not seem unreasonable that this was held in cash until the equities, which she had no appetite to maintain were dispensed with.

With regards to the comments in respect of the Rolls Royce “C” shares I apologise for any misunderstanding. On reviewing the file, I note that Transact confirmed in its e-mail of 9 September 2013, that the “C” shares would have been sold within 6 weeks of the shares being issued. Therefore, the certificates held were defunct and of no value.

As I have said it is my view that the issues that arose particularly in respect of the indemnity could not have been foreseen. C&PP have accepted that perhaps it could have initiated the indemnity process quicker but struggled to find the appropriate financial institution to complete this transaction, and has accepted that it should pay £100 for the inconvenience caused.

### **my final decision**

I uphold this complaint in part and I direct Corporate & Professional Pensions Limited to pay Ms P £100 for the inconvenience caused and I make no further award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 27 June 2016.

Adrian Hudson  
**ombudsman**

**Copy of revised provisional decision**

**complaint**

Ms P complained about the length of time it has taken to transfer her self-invested personal pension (SIPP) from Corporate & Professional Pensions Limited (C&PP) to a new provider.

**background**

Ms P inherited her SIPP upon the death of her husband. She was advised to transfer to a new provider and was provided with new investment recommendations in January 2013 as it was considered by her advisers that the existing SIPP shareholdings were too high risk for Ms P who had a lower attitude to risk than her late husband. The transfer was instructed during February 2013.

The existing share portfolio was to be re-registered with a new provider. Once this was completed, the new investment recommendations would be followed and the existing shareholdings would be sold.

Originally the portfolio had been held in a Small Self-Administered Scheme for the benefit of Ms P's late husband and he had been allowed by C&PP to look after the share certificates. When the plan was converted to a SIPP in his name, C&PP continued to allow him to keep the share certificates although this was not their normal practice for a SIPP.

It is a requirement before the shares could be transferred and or sold that the share certificates were provided. Ms P provided what share certificates she could find to C&PP to facilitate the transfer.

The new provider lost one of the share certificates. They admitted their fault and took steps to rectify the situation.

Ultimately it transpired that the certificate for the largest holding in the portfolio was not the most recent certificate. It was necessary to get an indemnity to obtain a new one. As the amount involved for this stock was in excess of £50,000 it was necessary to obtain a third party to countersign the indemnity. It took C&PP several months to establish who could and would sign such an indemnity.

Ms P's advisers complained to C&PP in December 2013. As they were not satisfied with C&PP's response to the complaint in February 2014, they brought the complaint to the Financial Ombudsman Service.

After investigation, one of our adjudicators issued a view upholding the complaint on the grounds that in their opinion most of the delay had been caused by C&PP. The adjudicator had allowed for a total time of six months for the transaction to be completed to reflect the fact that the new provider had caused delays as well. The adjudicator made reference to the fact that a broker who could provide a solution to the indemnity issue was found by him within ten minutes of looking on the internet. The adjudicator recommended that C&PP should compensate Ms P for the difference between the value of the fund and what it would have been worth had it been transferred when the adjudicator thought it reasonably should have been.

C&PP responded disagreeing with the adjudicator's assessment because:

- They confirmed the transfer was still not complete on 22 September 2014, although they expected it to be finalised within the next week.
- They disputed that they were slow to respond to requests.
- They stated that the registrars had lost a certificate and that the new provider had also lost a certificate.
- They also referred to the large stock certificate which was found to be incorrect.
- They suggest that the adjudicator's comment regarding the finding of a specialist broker was with the benefit of hindsight.
- They stated that it was not their normal practice to allow policyholders to keep certificates.
- They stated that they provided the necessary information to the SIPP provider at the beginning of the transaction.

- The suggested redress would result in a no loss calculation.
- They disputed the use of 8% simple interest.
- They disagreed with paying £300 for the trouble and upset caused, as Ms P had not got on well with her late husband.

The adjudicator contacted C&PP and tried to explain how the redress calculation should be considered. During this call C&PP also said they were not responsible for two thirds of the delay and that they would be prepared to offer £100 for trouble and upset caused.

The adjudicator later responded saying:

- The transfer had taken in excess of 1 year 6 months.
- There appeared to be no urgency in C&PP dealings with this transaction or the complaint.
- The delays caused by the other parties had been recognised in the issued opinion letter, however it was still the adjudicator's opinion that C&PP were mainly responsible for sorting out the problem with the large stock indemnity which caused the longest delay.
- It was not expected that the redress calculation would present a no loss result.
- The use of 8% simple interest in redress calculations was in line with what the courts would award.
- There was no relevance in the statement C&PP made in relation the amount suggested for trouble and upset caused.

The matter was then referred to an ombudsman for consideration and I issued a Provisional Decision in January 2016 in which I stated that I was minded to uphold the complaint awarding redress in line with the method set down by the adjudicator.

On 16 March 2016 C&PP made a detailed submission following receipt of the provisional decision. It argued that:

- It had hoped to resolve the matter before the complaint was referred to an ombudsman
- It had only received a copy of the file in February 2016 despite several previous requests and it could not make a submission before it had seen the papers.

Having received the files the firm, has put forward arguments why it considers the conclusions that I reached in my initial provisional decision were incorrect and that the proposed redress was also wrong.

The firm states that the stock transfer forms were sent to the new SIPP provider on 19 March 2013. Further letters were sent in May and June 2013. The copies of the correspondence enclosed showed that the new provider did get the share certificates. Two certificates were then lost between the new provider and the registrars.

The intention was that after re-registering the certificates in Ms P's name they would be sold. This did not happen immediately and C&PP Ltd did not consider that they can be held liable if a decision was taken by the new advisers to wait while all the certificates were received before selling them.

If the shares had been sold after six months in August 2003 the firm has determined that they would have been worth approximately £195,000. In November 2014 when the shares were sold they had fallen in value by approximately £25,000.

#### **my revised provisional findings**

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

The business has supplied copies of the stock transfer forms that were sent to the new SIPP provider on 19 March 2013. Further letters were sent on 5 May 2013 and 4 June 2013.

It is apparent that two of the certificates that were sent to the new SIPP provider were then lost at some time later.

The business has argued that it sent the share certificate for the largest number of shares to the new SIPP provider as this is what it had received from Ms P. It is also apparent that the new adviser was planning to sell the shares as soon as they were re-registered.

This instruction was not sent to the new SIPP provider. The new SIPP provider received the 4 share certificates for most of the holdings on 19 March 2013 and in my opinion could have sold them then if it had been instructed to do so by Ms P and her adviser.

The business has argued that there was no reason why if the intention was to sell the holdings that these could not have been sold after they were re-registered in Ms P's name.

I initially upheld the complaint in full against C&PP arguing that it had caused the problems. I have now having reviewed all the new paperwork I am of the opinion that the C&PP did do all of what it was required to do. I agree that the shares should have been sold when the new provider received the share certificates. The new adviser had agreed that they were too high risk for Ms S. There was no reason to delay the sale of the shares or to require that they were all sold at one time.

Whilst C&PP were the administrators they had to maintain the records of the holdings in the SIPP. However the loss of the share certificates that occurred and the fact that Ms P sent in an old certificate for one of the holdings was not the fault of the business. Whilst the loss of these certificate may not have been the fault of the business I am minded to conclude that it should have been possible to find someone who was willing and able to sign the required indemnity forms faster than actually occurred.

I have considered the letter from C&PP in February 2014 explaining the issues that it had with trying to get an acceptable form of indemnity. Whilst I note that the firm states that it had approached several banks all of whom had declined to provide the required indemnity, I am minded to agree with the adjudicator that further research would have highlighted that specialist brokers do exist to provide this service. Had this been completed sooner the transfer of the shares could have also occurred much sooner than it did.

Whilst I appreciate that the firm states that it was faced with a problem that it had not experienced in the past I am of the opinion that the further research should have been given the highest priority. This would then have resulted in the identification of a new provider of indemnities that the firm could have approached. The issue is that the shares for which incorrect certificates were held fell in value.

In my opinion the new advisers could indeed have sold the shares in the major investment when the five certificates that were available were received by them. These covered over 2.5 million shares. Whilst there were a few missing certificates these were for a tiny number of shares in comparison. Had C&PP investigated the matter of the indemnity more thoroughly I agree that some of the inconvenience suffered by Ms P would have been avoided.

I understand that the firm has offered £100 for the inconvenience caused and in my opinion this is appropriate in the circumstances.

**my revised provisional decision**

I am minded to uphold this complaint against Corporate & Professional Pensions Limited. For the reasons above I consider that an award of £100 is appropriate and I am minded to direct that Corporate & Professional Pensions Limited pay Ms P £100.

Adrian Hudson  
**ombudsman**