

## Complaint

Mr O complained about charges applied to his Pilgrim self-Invested Personal Pension (SIPP) since City Trustees Limited were appointed as the scheme administrator. More specifically, the charges relating to the non-standard investments held within his SIPP.

## Background

In 2012, City Trustees Ltd (part of Mattioli Woods Plc group) were appointed scheme administrators of the Pilgrim SIPP.

City Trustees contacted Mr O on 1 April 2015. They told him that in line with the regulator's increased capital adequacy requirements they had reviewed the charging structure for clients that held non-standard investments. City Trustees introduced an annual fee of £500 (plus VAT) for each such holding. They also notified Mr O there was an additional fee for members who held more than one asset in the SIPP.

City Trustees wrote again to Mr O on 29 May 2015 informing him the pricing structure would be changed from 1 July 2015. This fee schedule confirmed the following charges per annum, before VAT:

- Core administration fee £420.
- Multiple or bespoke assets fee £400.
- Non-standard investment administration fee £500 per asset.

Mr O's annual invoice was sent to him in September 2015 and he complained the charges were too high. He also notified City Trustees that one of his original four non-standard holdings had gone into liquidation. Over the years that followed Mr O complained the fees were too high and also wrong; as one or more of his non-standard holdings had failed. It's said Mr O went on to inform City Trustees in October 2017 that a further holding had been liquidated and that left him with two non-standard assets held within the SIPP. Mr O didn't think City Trustees reflected failures in his invoices.

On 3 August 2018, following correspondence, City Trustees wrote to Mr O apologizing for any alarm caused by previous communications. They set out more information on the non-standard investment fee and the background to it. They said they would *"carry out a review and try to ascertain the value of the scheme holdings at a minimum on an annual basis. However, with non-standard investments, it can often be difficult to obtain this information. It may, on occasion, be necessary to provide [Mr O] with a historic value of an asset when all avenues of enquiry have been exhausted. If this does occur, we will notify [Mr O] of this"*.

They told Mr O they had refunded one non-standard asset charge from the last three invoices and that from then on, Mr O would only be charged for two non-standard holdings, along with the core administration fee and the multiple asset fees. City Trustees went on to say:

*"With regard to the fees charged, we appreciate that these have now culminated to a large amount and as a gesture of goodwill and in an effort to assist you, we have completed a part refund towards each of the outstanding invoices. We have refunded one non-standard asset charge from each of the invoices, plus an additional charge from the 2017 invoice in recognition of the liquidated sterling holdings. This represents a total reduction of £2,412"*.

They said they proposed the future annual charges be restricted to the core administration fee, the multiple asset fee and two non-standard investment fees. I previously set out that it wasn't clear to me if this could be accurately described as a gesture of goodwill, or rather was simply summarizing what they were entitled to charge for.

Mr O came to this service. He told us he didn't know what to do with the non-standard investments as they are illiquid and have a nil value. He didn't think he could sell them. He referred to the arrears in fees of £9,572 that had built up and that the business said they had reduced fees by £2,412. Mr O thought this only happened because he'd told City Trustees that one of the assets had liquidated and so the fees were adjusted accordingly. He said the business would keep charging until they had official notification the investment has failed. He thought three further investments were *'in limbo'*.

He went on to send us copies of documents from City Trustees and tell us:

- The charges for the first 3 years and 3 months (the years 2013 to 2015) total £2,190
- The charges for the next three years (the years 2016 to 2018) total £10,572

He thought these charges and future ones were unacceptable and too high. He said he accepted the single charge for non-standard equity holdings in addition to the core administration charge. But didn't think the additional charge for each holding was justified.

He doesn't think the non-standard holdings involve any extra work and are more or less worthless and illiquid. And he thinks it's wrong that despite informing City Trustees that one of the three holdings went into liquidation in 2015; they'd refused to accept this until he complained to this service. It was only at this time they credited his account for the charges on this holding, back dated to 2015.

He said he only had two remaining holdings (Greenkote and Lognet); and he told us a little more about his understanding of the problems being experienced by these holdings. He accepted he needed to continue to pay £492 (plus VAT) a year for having two non-standard holdings, but told us he strongly objected to paying a further extra charge of £816 a year total per holding.

City Trustees didn't accept the complaint and told us they had reduced their non-standard investment fee to only two costs of £500 from August 2018 as Mr O only had two holdings that were non-standard from that point. However this information is inconsistent with other submissions made.

One of our adjudicators investigated, but didn't think the complaint ought to be upheld. The adjudicator thought City Trustees had charged Mr O in accordance with the updates he had been given advance notice of in each case.

Mr O did not agree with the adjudicator's view and said he was complaining that the charges were unreasonably high and still being applied when *"the non-standard equity holdings have next to no value"*. Mr O requested that an ombudsman decide the matter.

### Provisional decision

I issued a provisional decision in this matter on 11 March 2020. In it I indicated that I intended to depart from the view expressed by the adjudicator. I accepted that there was nothing to suggest City Trustees had applied charges incorrectly; and that it was a matter for

them to set their charging structure. But I set out why I intended to conclude City Trustees hadn't done all they could have done, nor had they acted in a timely way in relation to certain actions. I thought this had caused Mr O additional uncertainty, frustration and inconvenience. So I thought City Trustees ought to pay Mr O the sum of £250. I also set out some areas where I required further information and clarification.

#### Responses:

I received a number of responses and there have been further communications arising from the additional information and submissions we have shared between parties. I hope it will be understood that I am only summarizing here.

In general terms Mattioli Woods on the part of City Trustees suggest Mr O mis-understands the nature of their relationship. They have provided further information and clarification on matters raised by myself and Mr O; this has been shared with Mr O. They indicated their willingness to pay the £250 I'd recommended.

In summary they have added:

- There has been no material change to the fee model applied since 2015 and they think it's the impact on Mr O's overall fund value that is making this feel harder. They say the only change is the RPI increase, as set out in the notes on the final page of their fee menu.
- Their fees are flat rate and don't take into account the value of the holdings. There is no percentage fee (based on the valuations as at the original purchase price).
- Their role is purely administrative, it can't be and isn't advisory.
- They have struggled to obtain information and up to date valuations relating to the non-standard holdings; receiving no reply from the fund managers.

Where this happens they caveat each valuation. Historically they have valued some assets at cost where they could not obtain confirmation of the current value; and this was communicated to Mr O.

- They continue to submit it isn't sufficient for them to update their records to a nil value based solely on information from Mr O that he believed his holdings were worthless.

City Trustees say that when they were able to make contact with the fund manager the value of Mr O's non-standard holdings were found to not all be worthless; only the Sterling asset had been liquidated.

They say that as soon as they were aware of this, this was acknowledged to Mr O and they reduced all previous fee invoices by one lot of 'non-standard investment' fees; and they also confirmed the positive value position on the other non-standard holdings.

Mattioli Woods also provided further detail on how they came to be appointed and the nature of their relationship and the registration of assets. They say they will assist him if a buyer is identified for the holdings.

Mr O remains dis-satisfied. He considers he is left in an arrangement that is expensive when looking at the value of his holdings. Mr O believes the flat rate is being applied inappropriately. Mr O takes issue with the application of a multiple asset charge being used and the regulator's capital adequacy requirements where his holdings have little or nil value. He doesn't think he can dis-invest and feels frustrated.

## 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 don't intend to alter my decision overall to that set out in my provisional decision. So Mattioli Woods will need to pay Mr O £250.

Having considered everything provided, I accept City Trustees kept Mr O informed about the changes in their charging structure and how that would affect him. In general terms, they charged Mr O in line with this.

I understand the real thrust of Mr O's complaint is that he feels the charges are too high, particularly given the values placed on some of his holdings. But the charges are applied on a flat rate, rather than reflecting the actual valuations; so although I understand Mr O's disappointment, this is a dis-satisfaction with the level of charges and performance of holdings, neither of which I think are something that I can consider here.

There has been some suggestion of a limited recovery, at least in respect of certain holdings; albeit I understand Mr O doesn't accept this has any meaningful impact. I appreciate my decision will disappoint Mr O, and I've seen a number of his investments have significantly fallen in value. But there's nothing to make me think City Trustees are responsible in any way for Mr O's investments or that they weren't entitled to change their charging structure in the way they did.

I previously indicated I understood Mr O might face some difficulty if he wished to transfer to an alternative provider, because of the position with his non-standard holdings. So I understand why Mr O feels frustrated and unhappy that his costs have increased at a time when these holdings have failed.

The change in charging structure took place following the regulator's capital adequacy rules. The change in charging structure is primarily why Mr O's future fees appear significantly higher than his past fees. I've seen one holding has been liquidated and is no longer generating an additional fee. In relation to non-standard holdings that haven't failed, City Trustees are entitled to apply the charge they introduced in 2015. It isn't for me here to interfere with the charging structure introduced, and I accept it was properly communicated at the time. I understand why Mr O has felt this structure was imposed on him, leaving him with little option, but again I don't think this is due to any failure on the part of City Trustees; it reflects how they came to be involved and the wider circumstances at the time. My understanding is that City Trustees think they have applied a deduction they didn't need to apply.

Mr O continues to feel the charges are disproportionate, but I don't think this is something for me to comment on. Mr O has asked for further information that may enable him to pursue the sale of his holdings, and I understand this is something City Trustees will be able to provide information about.

I previously reflected on whether City Trustees had done enough as part of their overall service (that for which they have been charging Mr O); as it doesn't appear to me to have been wholly satisfactory.

I said this particularly having looked at the time it appeared to have taken City Trustees to have acknowledged and updated values; particularly in respect of one of Mr O's holdings liquidated in 2015. Based on what I've seen it doesn't appear it was until late 2018 that City Trustees accepted this information from Mr O and applied the relevant deduction to his account, backdating it to the time of liquidation in 2015. Their letter confirming this used the phrase that this was done as "*a gesture of goodwill*", but it seems to me, this was what they were required to do; it was not a gesture of goodwill per se.

When City Trustees first introduced their new charging structure they said:

*"The regulator has had an increasing focus on the nature of assets that are held in SIPPs, particularly investments they deem to be of a very non-standard nature.*

*As a result of these changes the obligations on SIPP operators have increased to such an extent that additional reconciliation, due diligence and on-going reviews are required for any investments of this nature.*

*This allows us to make sure we have a robust structure in place so that we are able to continually review the assets held on your behalf. Therefore, we propose to charge an annual fee of £500 plus VAT, and an initial fee of £995 plus VAT for the review of any new investments that do not meet the FCA standard investment criteria. The annual fee will cover our work required to review such assets, to ensure they are still suitable".*

I accept, as City Trustees set out to Mr O in their letter of August 2018, that up to date information on non-standard holdings can sometimes take longer to obtain and there may be some difficulties experienced. But I continue to think City Trustees have a duty to act and obtain information under their own duties as well as the service for which they are charging Mr O.

Here, for City Trustees to have taken three years to act on information from Mr O, and to understand that Mr O's holding had been liquidated doesn't appear to me to be consistent with their undertaking that this additional fee was to reflect the "*additional reconciliation, due diligence and on-going reviews*" required or the continual review they undertook to provide.

Overall I find it hard to accept that City Trustees did all they ought to have done firstly in reviewing and obtaining the information available on the relevant holdings in a timely manner. I accept there can be (and were) difficulties but it seems there was sufficient information available here at an earlier time. I have also previously explained my confusion about the accuracy and inconsistency within several emails and the extent to which City Trustees had acted on the assistance they had sought from Mr O. Whilst it may not have been wrong for the valuations to have appeared as they did for an ongoing period, it did add to Mr O's frustrations and distress, for a longer period than perhaps it might.

I think there is still some ongoing confusion about the Greenkote holdings. In June 2018 City Trustees told Mr O he held Greenkote ordinary shares and Greenkote A class shares (previously loan notes); and have recently repeated, the Greenkote investments, were purchased, and thus charged as two separate non-standard holdings. Although I think this

position hasn't been consistent over the years. And Mr O doesn't think the Greenkote holdings ought to be considered as two separate holdings. Based on what I've seen, I understand why they have been considered and dealt with separately, but as I understand that City Trustees say that *"in July of 2018 in an attempt to resolve the situation [they] agreed to only charge two non-standard investment fees going forwards and raised credit notes against previous years fees to reflect this deduction"* I don't intend to say anything further on this.

Overall City Trustees set and applied charges in the way that was explained to Mr O it would be done. I haven't seen anything that suggests to me they acted outside of the way they were entitled to act in setting charges. I understand why they will feel expensive to Mr O due to the performance of his holdings, but that doesn't mean City Woods were wrong to apply the charges. Since they are applied on a flat rate, the actual value of the holdings and delays in updates didn't increase the charges. But I don't think City Trustees did all they could have done, nor in a timely way, particularly in relation to obtaining updated valuations. I think this caused Mr O some additional uncertainty, frustration and inconvenience. For this reason City Trustees ought to pay him the sum of £250.

### **Final decision**

So for the reasons given, I uphold Mr O's complaint about Mattioli Woods PLC in part. Mattioli Woods will need to pay Mr O the sum of £250 to reflect his inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 14 June 2020.

Louise Wilson  
**ombudsman**