

## Ombudsman's Determination

Applicant	Mr S
Scheme	SJP Wealth Account ( <b>the Pension Plan</b> )
Respondent	St James's Place Wealth Management ( <b>SJP</b> )

## Outcome

1. Mr S' complaint is upheld and, to put matters right, SJP shall pay him: (i) redress in respect of the lost units he has identified; (ii) interest from date of surrender to date of payment; and (iii) £500 in respect of significant distress and inconvenience.
2. My reasons for reaching this decision are explained in more detail below.

## Complaint summary

3. Mr S' complaint against SJP concerns the issues he experienced when he transferred his Pension Plan benefits to a Small Self-Administered Scheme (**SSAS**) with Hartley. He says there was a discrepancy between the value of the Pension Plan benefits and the benefits transferred to the SSAS. He also says SJP has failed to provide evidence that the correct number of units are present, and that no financial loss has occurred.

## Background information, including submissions from the parties

4. Originally, Mr S took out the Pension Plan with SJP. He had four policies: (1) 47B69R49, (2) 48C90L90, (3) 70B43D14 and (4) 96C80X10.
5. In October 2017, due to poor administration and other issues, Mr S requested a full transfer of his Pension Plan benefits, to the SSAS.
6. In November 2017, the transfer completed.
7. In December 2017, having received no further information from SJP, Mr S requested a record of the transactions carried out prior to the transfer. He chased SJP for this several times.

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8. In January 2018, having still received no further response from SJP, Mr S referred his complaint to this Office. In summary, he had asked SJP to provide “a financial record of the transactions” it carried out prior to the transfer, namely redemption of funds, prices and dates, but it had failed to do so. As a result, he did not know whether SJP had carried out the transfer correctly and was concerned that it might have acted in error. To resolve the matter, he requested a “fully detailed record of the transactions”.
9. In April 2018, SJP responded to Mr S’ complaint. It explained that when it receives a transfer-out request, a calculation is produced to ascertain how much to transfer. The prices given are the day after receipt of the request; and, when the transfer proceeds, it applies automatic rounding. There was a difference between the amount transferred (£600,201) and the amount quoted Mr S (£600,202.90) due to rounding. It apologised for any confusion caused, included a breakdown of the units cancelled under each of the policies and offered £50 as a gesture of goodwill.
10. Following this response, Mr S contacted this Office. He said: “[SJP] have completely ignored the other issue I raised about the disappearance of units... I have no choice now but to write another letter asking why they have ignored my main complaint?”
11. In May 2018, Mr S contacted SJP again. He outlined the difference in units between four funds in policy 47B69R49, as at 22 October and 27 October 2017 as follows:-
  - Global Equity: (i) 189.975 & (ii) 169.958.
  - Schroder Managed: (i) 538.516 & (ii) 478.673.
  - Axa Framlington: (i) 435.926 & (ii) 390.597.
  - Global Managed: (i) 435.938 & (ii) 390.602.
12. In August 2018, SJP wrote to this Office. It said the main point of Mr S’ complaint was that there was a difference of £1.90 between the pre-transfer quotation and the sum actually transferred. It enclosed a copy of its final response letter, which included a breakdown of the number and value of units cancelled.
13. Some days later, Mr S contacted this Office again. He said SJP had again ignored his main complaint, and just repeated its answer to the minor part of his complaint.
14. In September 2018, SJP contacted this Office and said:-

“I am sorry this was not picked up in my earlier response to you. On further investigating the points raised, [Mr S] mentioned a difference in units between 22 October 2017 and 27 October 2017. The difference was due to an error on our part which means we should have sent an additional payment of £653.67.”

## Adjudicator's Opinion

15. Mr S' complaint was considered by one of our Adjudicators, who concluded that further action was required by SJP. His findings are summarised below:-

- SJP's letter of September 2018 said an error was made, and the sum transferred from the Pension Plan to the SSAS should have been about £650 higher. In consequence, the Adjudicator said that the complaint should be upheld.
- In order to put matters right, SJP should, first, obtain a loss calculation from Hartley and pay Mr S any difference between (a) the number of units Mr S bought in the SSAS with the sum actually transferred, and (b) the number of units Mr S would have bought in the SSAS with the sum that should have been transferred. SJP's calculations should assume investment in the same funds and in the same proportions.
- Second, SJP should provide Mr S with further information in relation to the transfer, in order for him to ascertain that the transfer was carried out correctly. He should be able to see that the correct number of units was sold and transferred.
- Third, SJP should pay Mr S £500 in respect of non-financial injustice. He had asked about the difference in units three times, in November 2017, March and May 2018. In the Adjudicator's view, Mr S was entitled to an explanation, with supporting evidence, much sooner; the fact he had not yet received this would have caused him significant distress and inconvenience.

16. SJP accepted the Adjudicator's Opinion and provided no further comments. Mr S did not and provided the following comments:

"Thank you for your letter dated 12<sup>th</sup> October containing your adjudication which I received this morning. May I just say that although I'm pleased that you have decided to uphold the complaint, I am worried that as this copied email outlines, I am concerned about the accuracy of the record keeping of SJP over the lifetime of these policies, given the number of units they managed to 'lose' in the only 5 day period I checked their accuracy in 16 years of holding the investments.

I do not see strong action with regard to SJP to provide proof that ALL transactions and contributions over the 16 years of the products have been accurately calculated. They do not seem to have processes in place to detect 'lost' units as I had to point out their error which it then took them a year to recognise.

I believe the only way to establish credible financial integrity is to provide evidence of all transactions on the account over the period of my holding them."

17. The Adjudicator contacted SJP and asked it to provide transaction histories for the four policies from inception to date of transfer out.

18. In February 2019, SJP responded. In addition to providing transactions histories for the four policies, it said:

“I have also included 47B69R49 however this is the plan with the error therefore the file is incorrect. We have been unable to trace exactly why the error occurred and as the plan is no longer in force we are unable to correct the file. To resolve the complaint we are happy to pay [Mr S] the difference in the units quoted in his letter of 2 May 2018 using the prices of 27 October 2017 which is a difference of £740.31. We would also add interest to the payment of 8% from the original surrender date to the date the payment is being produced.”

19. The Adjudicator sent the transaction histories to Mr S. He explained that he thought SJP’s proposed offer was reasonable. He also said:

“I am sorry it has not been possible to get to the bottom of what happened to the units in the 47B69R49 account. However, since SJP is unable to provide a further explanation, I think it is only reasonable for it to give you the benefit of the doubt, i.e. redress you as if you had the units you identified at 22 October 2017. I appreciate you are concerned that other units in your plans may have been lost, and that SJP may have a wider issue here. However, unless a further loss can be shown, I do not believe that the Ombudsman would require SJP to take further corrective action in this case. In addition, our powers limit us to looking at individual complaints; we are unable to take action against financial businesses which may be operating inadequate systems, which is the prerogative of the regulator.”

20. Mr S responded and provided the following comments:

“Thank you for your continued patience in this matter. I find the response of SJP wholly inadequate for the following reasons

1) SJP's system administers hundreds if not thousands of millions of FUM. For them to just say "We lost some units and we don't know how" is completely inadequate. I think their system or administration of the system is non-compliant and they need to determine how the units were lost.

2) After waiting 16 months for them to produce documentation to show they have not been constantly "losing" units only for them to produce this garbled list of inexplicable transactions without any commentary or explanation of the figures is laughable. I was expecting, as you know, a list of investment transactions with valuations over the life of the products. What they have sent is gobbledegook and isn't even in a format I can manipulate or check.

3) Their response gives no comfort that they do not have systematic administration failures and that their system is accurate or compliant. The amount of time their response has taken also indicates an unwieldy system which does not lend itself to clarity and accuracy.”

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21. As Mr S did not accept the Adjudicator's view that SJP's offer was reasonable, and did not agree that his case could close, the complaint was passed to me to consider. Mr S provided his further comments, which do not change the outcome. I agree with the Adjudicator's Opinion, except in respect of the award for maladministration, and will respond to the key points made by Mr S for completeness.

### **Ombudsman's decision**

22. My Office has powers to deal with complaints about how pensions schemes are run. It includes situations such as a pension scheme: taking too long to do something without good reason; failing to do something it should have done; failing to follow its own rules or the law; or, giving incorrect or misleading information.
23. If I find that something has gone wrong, I will decide what needs to be done to put matters right. This might include: telling a respondent to make good a financial loss; directing it to take a certain action; or, directing it to pay an award for any non-financial injustice, such as distress or inconvenience.
24. I can usually only consider whether there has been any harm to the individual who has come to us with a pensions issue. There are exceptions, for example if money has been paid out of a pension scheme in breach of trust at a loss to the scheme. However, I cannot make trustees, managers, employers or scheme administrators change their general working practices, although, I can report such failings to the appropriate regulator. I find that Mr S' complaint falls under this category.
25. Whilst SJP admits it has lost some units in one of Mr S' policies and has been unable to explain how and why this happened, it has agreed to remedy the resulting loss and to pay interest, together with an award of £500 for the significant distress and inconvenience which Mr S has suffered. I find that this is appropriate except the level of award for maladministration.
26. SJP were not immediately forthcoming in responding to the concerns which Mr S had raised concerning the administrative errors, and it was only after further investigation by my Office that they responded and admitted the error. This has caused Mr S serious distress and inconvenience, therefore, £1,000 is an appropriate award in the circumstances.
27. As the Adjudicator explained, it may be that SJP has operated, and is still operating, inadequate systems, which make it difficult or impossible for it and scheme members to identify any lost units. However, if that is the case, it is for the regulator to take any further appropriate action and I will be sending a copy of my Determination to the Financial Conduct Authority.
28. Therefore, I uphold this complaint.

**Directions**

29. Within 21 days of the date of this Determination SJP shall:

- (i) pay Mr S, using the unit prices as at 27 October 2017, for the difference in the number of units as at 22 October 2017 and the units as at 27 October 2017. The difference being:
  - Global Equity: 20.017 units.
  - Schroder Managed: 59.843 units.
  - Axa Framlington: 45.329 units.
  - Global Managed: 45.336 units;
- (ii) add simple interest at the rate of 8%, (as offered by SJP) from the original surrender date to the date of payment; and
- (iii) pay Mr S £1,000 in respect of serious distress and inconvenience he has suffered.

**Anthony Arter**

Pensions Ombudsman  
19 March 2019