

## Ombudsman's Determination

Applicant	Mrs S
Scheme	AJ Bell Platinum SIPP ( <b>the SIPP</b> )
Respondent	AJ Bell

## Outcome

1. I do not uphold Mrs S' complaint and no further action is required by AJ Bell.

## Complaint summary

2. Mrs S has complained that AJ Bell delayed calculating her available tax free cash, otherwise known as a pension commencement lump sum (**PCLS**), from the SIPP.
3. Mrs S has argued that this delay forced her to take an income payment from the SIPP instead, which resulted in an unnecessary tax charge.

## Background information, including submissions from the parties

4. On 12 July 2018, Mrs S contacted AJ Bell by email. She said:

“Can you confirm based on the SIPP valuation how much cash can be drawn to complete the 25% tax free draw down. I previously withdrew £140,000. I am selling one of the properties and want to understand my tax free options on withdrawing cash.”

5. On the same date, AJ Bell responded with the following information:

“As at 15 July 2017 the crystallised / uncrystallised split of your SIPP is as follows:

Uncrystallised - £146,257.05

Crystallised - £415,329.07

Please note that the above figures are a rough guide.

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The current balance of the SIPP cash account is £2,586.85. Should you decide to crystallise further funds held within your SIPP, you will need to ensure that cash is available to pay the tax free cash.”

6. On the same date, Mrs S responded to say she did not understand the figures provided. She believed the two properties, held within the SIPP, were valued at a total of around £700,000 and that she had only crystallised approximately £150,000. She also repeated that one of the properties would be sold in the next few months.

7. On the same date, AJ Bell responded:

“Please find attached a copy of last year’s accounts of [sic] which the figures are based on.

The year-end date for your SIPP is approaching (15 July) of [sic] which we will be obtaining a full value of the SIPP and completing a fund split calculation to determine the split between crystallised and un-crystallised funds.

I have had a quick look at the values that we currently hold for the assets of your SIPP and confirm the following approximate figures:

Uncrystallised - £183,835.24

Crystallised - £522,040.61

Total: £705,875.85

Please note that the above figures are a rough guide.”

8. Notably, AJ Bell’s comments aligned with section 5.3 of the Key Features document for the SIPP, which stated, “We will send you an annual valuation of your SIPP”.

9. On the same date, Mrs S responded:

“Hi. Sorry.

I can’t understand.

I know the properties ate [sic] worth £700000

before I chrytalised [sic] there was surplus cash of £146.000

So if [sic] want to know the 25% value isn’t it based on those above figures and then I deduct the amount already taken?”

10. The evidence indicates AJ Bell did not respond and Mrs S did not chase a response to this specific email.

11. On 28 November 2018, Mrs S emailed AJ Bell to inform it she intended to sell one of the properties within the SIPP (**Property 1**). She said:

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“On 10th December I am selling one of the properties and will take a cash draw down from the fund.

The property will be [sic] sold at £330,000 and I wish to take out £80,000 as soon as possible. In preparation can you please confirm the process and provide the relevant documents to me by email please.”

12. On 29 November 2018, AJ Bell responded:

“Please find attached our sales letter detailing our general requirements for the sale of the property.

Please could you confirm which property you are planning to sell and whether you have found a buyer or are just marketing the property?

Once I have a better understanding of the proposed sale I will be checking our rent reconciliation records for any rental arrears due on the property.

Furthermore, I would be grateful if you could please forward the details of your appointed solicitor so that I can contact them with our requirements.”

13. On the same date, Mrs S responded to say, “[AJ Bell representative] has been involved in this from the beginning so I’m confused by your email. Can you speak with him and let me know what else you require please.”

14. On 3 December 2018, AJ Bell emailed Mrs S. It said:

“My understanding is that you wish to withdraw a tax free cash lump sum once your property has been sold.

To access these benefits, we will require you to complete the attached benefit form & return this to us in the post.”

15. On 5 December 2018, Mrs S emailed AJ Bell:

“Can I confirm the following please

There should be funds available in the SIPP account on 12th December

You should receive this signed document on Monday 10th

I will need to have a same day transfer into my account with available funds on 13th December

Can you confirm this is ok please?

I am in India and can only post the original to you on Friday and hence no delivery to you until Monday.

I will scan the original for your review tomorrow. Please confirm dates as I am making a purchases [sic] and need the funds no later than the 13<sup>th</sup>.

You can see from this email chain, I sent the original request over 2 weeks before receiving this form and as such am experiencing tight deadlines.”

16. On 6 December 2018, AJ Bell received a partially completed SIPP Benefits Form from Mrs S. In particular, Mrs S did not include the value she wished to crystallise, the amount of PCLS she wanted to take or the amount of income she wished to draw down.

17. On 7 December 2018, AJ Bell emailed Mrs S. It said:

“Please could you confirm your requirements.

I have seen that you would like to withdraw £80,000 from your SIPP, however would you like to take this with tax free cash or purely as taxable income?

If you require the funds as only taxable income we will not require a form to be completed, once the cash is available you would simply need to send an email stating how much you require as taxable income and that you require it via same day transfer (CHAPS) and we will send the funds.

However if you do require part of the payment as tax free cash you would need to complete and return the form my college [sic] previously sent to you.

The issue with this would be your time constraints, our usual timescales for tax free cash are 5 to 10 working days from the date we receive all outstanding information including any documents, original forms, transfers or valuations.

Therefore if you do require the payment as tax free cash I cannot guarantee we will be able to make payment by the 13th if we receive your form on the 10th.

Please confirm which you require.”

18. On the same date, Mrs S responded by email. She highlighted that she had requested information on her available PCLS some time previously but did not receive a response. She gave this as the reason she had not filled out the form fully.

19. On the same date, Mrs S also telephoned AJ Bell to say she was purchasing another property. The evidence indicates she was not making this purchase through the SIPP. AJ Bell’s telephone note stated:

“Client called to confirm she could get her payment in time for a property purchase on Friday.

I explained that she had asked for a pcls payment and explained the timescales. She said she would take an income payment if this meant she would get her cash.

I told her that I could not guarantee that she would be paid straight away but that we would do our utmost [sic] as long as there was cash available to make the payment.

She told me she would be calling for an income payment on Friday for around £75,000 and she believes that the cash from her property sale will be in the account.

She told me that she would also like a crystallisation of £200,000 in order to receive £50,000 in tax free cash. This will be completed separately.”

20. AJ Bell has said that on this date it also asked Mrs S to provide an updated valuation of the other property she held within her SIPP (**Property 2**), so it could calculate her available PCLS. However, it has not sent any evidence to support this.
21. On 10 December 2018, AJ Bell emailed Mrs S to confirm that it had received her benefit application form, and it understood she had requested to crystallise £200,000 from the SIPP to receive a tax free lump sum of £50,000. In addition, it noted that she had chosen not to receive an income payment at that time. AJ Bell also informed Mrs S that it had not been able to verify her bank account, so it asked her to provide a recent bank statement.
22. On the same date, Mrs S emailed AJ Bell back to say that she also wanted to take an income payment of £50,000 net, in addition to the £50,000 PCLS, and she asked AJ Bell to confirm the gross amount she would need to request. She then asked if she needed to complete a new form for AJ Bell with the additional request, and when payment could be made to her.
23. On 11 December 2018, AJ Bell emailed Mrs S. It said:

“We now understand that you wish to withdraw a tax free cash lump sum of £50,000, thank you for confirming this. Please note that this may not be achievable due to your uncrystallised value of your SIPP being worth approximately £152,696.02. Once we have received the outstanding property valuation & calculated the benefits available we will be in a position to confirm the amount of tax free cash available to you. Based on this, can you confirm if you would prefer to fully crystallise your SIPP which will provide you with the maximum tax free cash available?”

In regards to withdrawing taxable income payments, this can be done via email. You will simply need to confirm to us the amount you wish to be paid as well as whether you wish for the payment to be sent by BACS or CHAPS (CHAPS will incur an additional fee of £25 +VAT). We always aim to release these payments within 3 working days from when the request is received. You may also request a net amount in your request for taxable income.

The gross payment will be £68,778.60 as shown below (granted the funds credit the account before the 6 January)”.

24. On 12 December 2018, Mrs S telephoned AJ Bell. The call note recorded:
- “[Mrs S] rang up in desperate need for funds on Monday. She has been going through a PCLS application and this is taking longer than first thought. She requires a £50,000 NET payment (£68,778.6 gross) on 17/12/2018 via CHAPS for a property purchase. She has no bank details on our systems so I took her through verification which she passed. Informed her she would need to request the payment via CHAPS if it were to go same day. She will send in an email outlining her requirements. Informed her that the cash will need to reach the [SIPP] account before payment cut off on Monday if we were to make the payment that day.”
25. On the same date, AJ Bell also requested a copy of the valuation for Property 2. The valuation, which was dated 19 September 2017, was received by email on the same day.
26. On 13 December 2018, Mrs S emailed AJ Bell. She said:
- “This email is specifically to arrange a taxable income payment to be made on Monday 17<sup>th</sup>.
- On this day the sale proceeds will be deposited from [Property 1].  
Approximately £328,000.
- I require a **CHAPS NET** payment of **£100,000** to be paid to my validated bank account....
- ...On receipt of this email can you please confirm this payment will be made subject to the funds being available in the account.
- Please note the deposit needs to be in my account on the 17<sup>th</sup> [sic] and must be made as a **faster payment** please confirm” [original emphasis].
27. On 14 December 2018, AJ Bell responded to say it would make the payment once the sale proceeds from Property 1 had cleared in the SIPP’s cash account.
28. On 18 December 2018, Mrs S’ solicitor confirmed the sale of Property 1 had been completed, and the sale proceeds were received. AJ Bell paid Mrs S a net payment of £100,000, with the gross payment being £154,904.50.
29. On 19 December 2018, Mrs S emailed AJ Bell acknowledging receipt of the income payment and asked for confirmation of when the PCLS would be paid, and what amount this would be.
30. On 20 December 2018, AJ Bell emailed Mrs S to say that it required an updated valuation for Property 2. It said it required a valuation no more than 6 months old. Mrs S responded to highlight that AJ Bell had already been sent a valuation, to which AJ Bell confirmed it would proceed with calculating the PCLS.

31. On 21 December 2018, AJ Bell realised its mistake in confirming the 2017 valuation was acceptable. It contacted the surveyor directly to request an updated valuation of Property 2.
32. On the same date, Mrs S requested a net payment of £40,000 to be paid from the SIPP by CHAPS. AJ Bell paid Mrs S a net payment of £40,000 from the SIPP, with the gross payment being £80,000.
33. There followed a series of emails, in which Mrs S queried the rate of tax which had been applied to the two income payments she had received. AJ Bell confirmed her tax code and told her to contact HMRC if she felt it was incorrect.
34. On 31 December 2018, Mrs S raised a complaint, saying she had paid unnecessary tax as a result of AJ Bell's errors. In particular, she said that if AJ Bell had dealt with her request to calculate her PCLS quicker, she would not have had to draw down as much taxable income from the SIPP.
35. Mrs S also complained that her PCLS entitlement had been reduced, as a result of it being calculated after she had drawn down the two taxable income payments.
36. On the same date, AJ Bell confirmed her complaint would be investigated.
37. On 8 January 2019, AJ Bell received a response from the surveyor with an updated valuation for Property 2. At this point, AJ Bell had all the information it needed to calculate Mrs S' uncrystallised benefits and available PCLS.
38. On 10 January 2019, AJ Bell calculated that Mrs S had an available PCLS of £27,787.93, and paid this amount to her by CHAPS.
39. On 12 January 2019, Mrs S emailed AJ Bell. She said:

"Hello I'm really concerned

You have paid me a tax free amount but I didn't want this as I had to take the income payment because you had made errors.

To be clear my original plan was to take £100000 [sic] income and a tax free payment of £40,000

Instead I had to take £140,000 as income and had to pay £100,000 tax. Only due to your errors.

I am claiming the £50,000 tax from you as compensation for your error.

You have now paid me £27,000 for what? Is this compensation or the original tax free request.

I am depleting my pension through your lack of process.

Can you confirm.

1. What the payment you made to me is for
2. If it is not compensation what is the status of my complaint
3. If it is a tax free sum please send me the calculations
4. Confirm I can send this payment back to my SIPP
5. Confirm where my SARS request is

This is urgent as I cannot make any investment activity on my SIPP until you sort this out.”

40. On 14 January 2019, AJ Bell emailed Mrs S to confirm that the payment had been paid further to her PCLS application. It said it had made the payment following receipt of an updated valuation for Property 2 and asked her to confirm when she had cancelled the PCLS application, if she believed she had. It also explained how she could still cancel the PCLS if she wished.
41. On 25 January 2019, AJ Bell provided its response to Mrs S’ complaint. It explained that the taxable income payments Mrs S had received had been provided from her crystallised benefits. As such, they had not affected her PCLS, as that was calculated from the benefits that were previously uncrystallised.
42. AJ Bell did acknowledge that it could have requested an updated valuation for Property 2 sooner than 20 December 2018. It said it had requested valuations on the SIPP’s loan accounts on 10 December 2018, and it ought to have requested the updated valuation for Property 2 on the same date.
43. AJ Bell noted that it took nine working days to receive the updated valuation for Property 2, from the request for it. Once it was received, it took a further two working days for the PCLS to be calculated.
44. Applying the same timeframes, AJ Bell said it could have calculated the PCLS by 27 December 2018, had it requested the updated property valuation on 10 December 2018. However, it said that this was after Mrs S had requested and received both her income payments, and so it would not have made a difference in any event.
45. Nevertheless, AJ Bell offered Mrs S an award of £75 to recognise its delay in requesting the updated valuation. AJ Bell provided Mrs S with a form to complete if she wished to accept the offer in full and final settlement of her complaint.
46. Mrs S rejected AJ Bell’s offer.

### **A summary of Mrs S’ position**

47. Mrs S says she informed AJ Bell in early 2018 that she intended to sell a property from the SIPP in late December 2018 and that she would want to take a PCLS. She has expressed her frustration with AJ Bell for the delay in calculating her PCLS. In



particular, she highlights that the request for an updated valuation for Property 2 came too late.

### **A summary of AJ Bell's position**

48. AJ Bell says Mrs S contacted it in July 2018 to ask what her available PCLS was. It informed Mrs S of her crystallised/uncrystallised benefits and highlighted the figures were a guide only. It also informed her that she would need to crystallise further funds if she wanted to have sufficient cash in the SIPP for a PCLS payment.
49. On 28 November 2018, Mrs S said she wished to take £80,000 from the SIPP. However, when she returned her Benefits Form on 6 December 2018, it was incomplete and it was unclear how much of a PCLS she wished to take.
50. On 6 December 2018, Mrs S telephoned it to say she wanted to crystallise £200,000 and take a PCLS of £50,000. This was the first time Mrs S informed it of the PCLS amount she wanted to take.

### **Adjudicator's Opinion**

51. Mrs S' complaint was considered by one of our Adjudicators who concluded that no further action was required by AJ Bell. The Adjudicator's findings are summarised below:-
  - AJ Bell has referred to a telephone call from 6 December 2018, but the telephone note is dated 7 December 2018. In addition, the evidence indicates that it requested an updated valuation for Property 2 on 21 December 2018; not 20 December 2018. Notwithstanding these events, the timeline is not in dispute.
  - Mrs S requested information in July 2018, and AJ Bell could have done more at that time. In particular, Mrs S enquired how a PCLS might be calculated and AJ Bell did not respond to this. It also did not take steps to carry out a SIPP valuation, despite the fact it told Mrs S that it would, and an annual valuation was due.
  - AJ Bell's errors amounted to maladministration. However, the Adjudicator did not consider that Mrs S had suffered a loss resulting from the maladministration.
  - The Adjudicator was not satisfied that it would have made a difference, had AJ Bell done more.
  - When Mrs S did not receive the response she wanted from AJ Bell in July 2018, she did not chase it. The evidence indicates that this was because her plans were still being finalised and so she did not know what PCLS she would want later in the year.
  - In November and December 2018, when Mrs S requested payments from the SIPP, she still was not clear about the figures she required. First, she requested

£80,000 without specifying whether she wanted this as taxable income or a PCLS. Next, she said she would withdraw £75,000 initially and later take £50,000 as a PCLS. Then, she said she wanted £50,000 as taxable income and £50,000 as PCLS. In the end, she required net payments of £140,000 in total. So, her requirements changed significantly within a few weeks.

- Importantly, the payments were taken from Mrs S' crystallised benefits, and so they did not affect her PCLS. Furthermore, Mrs S would have always had to pay tax on this money, as they were drawn down from crystallised, taxable benefits.
- If Mrs S had been able to take the PCLS in time for her property purchase in December 2018, she would have not paid tax on £27,787.93. However, she will now not pay tax whenever she does take the PCLS of £27,787.93.
- Without knowing Mrs S' long-term tax position, it is impossible to conclude that she could ever have accessed her benefits from the SIPP in a more tax efficient way. On balance, she has not suffered a loss.

52. Mrs S did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mrs S provided her further comments which do not change the outcome. I agree with the Adjudicator's Opinion and note the additional points raised by Mrs S.

### **Ombudsman's decision**

53. AJ Bell could not have provided a full answer to Mrs S' initial queries in July 2018. She enquired how much PCLS she could take, but she had not liquidated Property 1 at that time so a PCLS calculation could not take place.
54. In July 2018, AJ Bell could have explained how a PCLS was calculated. However, even had it done so, this information would not have been useful to Mrs S until she knew the net proceeds she would receive from the sale of Property 1.
55. In short, only after the sale of Property 1 completed, would there be funds on which to calculate a PCLS.
56. The sale of Property 1 did not complete until 18 December 2018. By this time, Mrs S needed the first net payment of £100,000 immediately, and so AJ Bell would have had no time to calculate the PCLS for this payment.
57. Mrs S needed the second and final net payment, of £40,000, on 21 December 2018. This was just three working days later.
58. It would have been reasonable for AJ Bell to have acquired an updated valuation for Property 2 before December 2018. This was because Mrs S had indicated it would be needed as she planned to take a PCLS and it ought to have completed this for the annual valuation in any event.
59. However, it was not clear to AJ Bell that Mrs S still required a PCLS payment until 19 December 2018.

60. Up until 18 December 2018, Mrs S had changed her requirements several times. However, her most recent request was for a total of £100,000, and she had already said that she would take the payment as taxable income if she had to. So, when AJ Bell paid Mrs S a net amount of £100,000 as taxable income on 18 December 2018, it would have reasonably believed her requests were satisfied.
61. On 19 December 2018, when Mrs S queried a further payment, I find that AJ Bell was put on notice that she still wanted a PCLS.
62. It may have been possible for AJ Bell to make the PCLS payment by 21 December 2018. However, I note that a CHAPS payment would have had to take place in order for the payment to have arrived with Mrs S on the same day. This would have needed to have occurred by 3:30pm; giving AJ Bell less than two working days from receiving the request.
63. In addition, the PCLS would not have provided her with the full £40,000 she needed, and so further time may have been required to arrange for this to be made up from her crystallised benefits.
64. In any event, as the Adjudicator has outlined, it is likely that Mrs S has not suffered a loss even if she could have taken her funds in a more tax-efficient way in December 2018. Her available PCLS has not been affected and in the long-term her overall financial position is likely to balance out.
65. I do not uphold Mrs S' complaint. Mrs S should contact AJ Bell directly if she wants to accept its offer.

**Anthony Arter**

Pensions Ombudsman  
01 March 2021