

Ombudsman's Determination

Applicant	Mr N, Mr E and Mrs E (the Applicants)
Scheme	The Old Boy Trust (the SSAS)
Respondent	Hartley Pensions Ltd (Hartley)

Outcome

1. The Applicants' complaint is upheld in part, and to put matters right Hartley shall:-
 - 1.1. Complete a loss calculation to establish if the Applicants have suffered a financial loss because of the delay of the sale of the Woodford Patient Trust Fund (**the Woodford Fund**).
 - 1.2. Complete a loss calculation to establish if Mr N has suffered a financial loss because of the delay in his transferred funds being reinvested.
 - 1.3. Complete a loss calculation to establish if Mr E and Mrs E have suffered a financial loss because of the delay in them being able to transfer their investments in-specie to an alternative pension arrangement.
 - 1.4. Pay the Applicants £500 each, for the significant distress and inconvenience this situation has caused them.

Complaint summary

2. The Applicants have complained that they have incurred financial losses, following their request for the sale of the Woodford Fund, because of delays that occurred.

Background information, including submissions from the parties

3. The Applicants were member trustees of the SSAS. Hartley was the administrator of the SSAS.
4. On 7 March 2019, Mr E and Mrs E met with a financial adviser (**the FA**) to discuss the reinvestment of their proportion of the SSAS. During this meeting, Mr E and Mrs E informed the FA that they were taking steps for Mr N to transfer his share of the SSAS into a separate pension arrangement, and for him to retire as a trustee of the SSAS.

5. On 3 April 2019, an independent financial adviser acting on behalf of all three Applicants (**the IFA**), sent Hartley an instruction, signed by the Applicants, to sell 100% of their holdings in the Woodford Fund (**the Instruction**). Around the same time, the Applicants also requested some of their other investments in the SSAS be encashed.
6. On 5 April 2019, Hartley incorrectly sent the Instruction to Woodford Administration Centre (**the Centre**). It should have been sent to Link Asset Management (**Link**), as Link was the administrator of the Woodford Fund and responsible for its sale.
7. On 8 April 2019, the Centre contacted Hartley and informed it that it did not administer the Woodford Fund, but it would find out who did and return the Instruction to Hartley.
8. On 23 April 2019, Hartley received the returned Instruction and sent it to Link on the same date.
9. On 26 April 2019, the IFA contacted Hartley for a valuation of the SSAS and, as agreed, Hartley sent the valuation to the IFA within one week.
10. On 3 May 2019, following receipt of the valuation and noticing that the Woodford Fund had not been sold, the IFA asked Hartley for an update on its sale.
11. On 8 May 2019:-
 - 11.1. Hartley telephoned Link for an update on the sale of the Woodford Fund.
 - 11.2. Link informed Hartley that the Instruction had not been received. It suggested completing the Instruction online which Hartley agreed to do.
 - 11.3. Link informed Hartley that it could not deal with Hartley as it did not have a letter of authority (**LOA**) to do so.
 - 11.4. Link also informed Hartley that “the original share certificate” (**the Certificate**) was required to complete the sale.
12. On 9 May 2019, there were exchanges between the IFA and Hartley concerning the LOA. The following date, Hartley sent the LOA to the IFA, who then forwarded it to the Applicants for them to sign and return.
13. On 15 May 2019, Hartley received the signed LOA. The following date, Hartley sent the LOA, a further Instruction and the Certificate to Link.
14. On 23 May 2019:-
 - 14.1. The IFA telephoned Hartley for an update.
 - 14.2. Hartley telephoned Link for an update and Link informed it that it had not received the documents sent on 15 May 2019.

15. Between 4 and 5 June 2019 inclusive:-
 - 15.1. There were exchanges between Hartley and Link concerning the sale of the Woodford Fund.
 - 15.2. The IFA asked Hartley not to complete the sale, to prevent the Applicants incurring a loss, as the value of the Woodford Fund had “drastically” reduced.
 - 15.3. Link confirmed that the sale had been completed and could not be undone.
 - 15.4. The IFA raised a complaint with Hartley, on behalf of the Applicants, about the delays and the loss the Applicants had incurred.
16. Between 19 June and 29 July 2019, there were exchanges between the IFA and Hartley concerning:
 - 16.1. the cash balance of the SSAS’ bank account (**the Account**);
 - 16.2. an update on the Applicants’ complaint;
 - 16.3. the proceeds of the Woodford Fund being credited to the Account;
 - 16.4. valuations of the Applicants’ other investments; and
 - 16.5. the value of the SSAS.
17. On 5 August 2019, Hartley made a formal complaint to Link concerning the delay of the sale of the Woodford Fund and the forwarding of the proceeds from the sale.
18. On 6 August 2019, the IFA received, by email, Hartley’s response to the complaint the IFA had made on the Applicants’ behalf. The complaint response letter was dated 29 July 2019, and said in summary:-
 - 18.1. After considering the timeline of events, it was clear that Hartley had acted promptly in requesting the sale of the Woodford Fund and it had gone to great lengths to ensure the sale was completed.
 - 18.2. In the IFA’s complaint letter, the IFA had alluded to difficulties Hartley had experienced in dealing with Link. Hartley felt that Link was the cause for any delay in completing the sale.
 - 18.3. It had raised concerns with Link and had complained to it about the service it had received, and ongoing administrative issues it had experienced.
 - 18.4. It had recently discovered that the Certificate had been misplaced by Link, so it suggested the IFA raise concerns about the Applicants’ potential financial loss with Link.
19. On 14 August 2019, the IFA responded to Hartley and said in summary:-

- 19.1. It was disappointed with the outcome of the complaint. The Applicants had lost thousands of pounds. While Link was partially at fault, there were several occasions where Hartley had not acted in a timely way in relation to the Applicants' requests.
- 19.2. Hartley needed to act on the Applicants' behalf and liaise with Link, to compensate the Applicants for the losses they had incurred. It was not the IFA's responsibility to do so, as Hartley had suggested.
- 19.3. The Applicants' complaint was with Hartley, who had not acted in their best interest. Any dealings with Link were done through Hartley and were Hartley's responsibility.
- 19.4. It took 23 days for the Instruction to be processed. The IFA had to chase Hartley twice before finding out there were additional requirements for Hartley to be able to speak to Link regarding the sale. It had only taken two days for the IFA to obtain signatures from the Applicants and return the relevant paperwork to Hartley for processing.
- 19.5. Hartley did not contact Link to confirm that the sale had been completed, after it had sent the documents. Hartley only became aware that the sale had not gone through after the IFA had chased for an update. During this period there were significant losses.
- 19.6. Following the sale of the Woodford Fund, the IFA made four requests to Hartley for the cash balance of the Account, but on each occasion it did not receive a response.
- 19.7. On 24 July 2019, the IFA was sent a copy of correspondence containing the letter and Certificate that were sent to Link. Link confirmed that the Certificate was lost. The documents were addressed to Capita rather than Link.
- 19.8. It would like the complaint reopened because matters had remained unresolved.
20. Between 15 and 30 August 2019, there were further exchanges between Hartley, the IFA and Link. On 30 August 2019, Hartley replied to the IFA's email of 14 August 2019. In summary it said:-
 - 20.1. Its original decision stood. It did not accept liability for the delay in completing the sale of the Woodford Fund.
 - 20.2. From its record, it took 10 working days rather than 23 days for the Instruction to be processed. Within this time frame, it had corresponded with the Centre to establish the correct address for the administrator of the Woodford Fund. The Instruction was sent to Link on 23 April 2019.
 - 20.3. The documentation the IFA had returned had been forwarded to Link one day after it was received, along with another Instruction and request to disinvest.

- 20.4. The delay the IFA had referred to was the delay between 23 May and 5 June 2019. The IFA felt this was an unreasonable amount of time to wait before chasing the disinvestment, but Hartley disagreed. It did not feel that a turnaround of nine working days, having already placed the request three times, was unreasonable.
- 20.5. It felt that it had taken every action and effort necessary to resolve the issue. It understood that the Applicants were dissatisfied. This was why it had raised a complaint on the Applicants' behalf with Link, which was something that was outside its remit as the administrator of the SSAS.
- 20.6. Its role was to act upon instruction, which it had done at every opportunity. It did not have service level agreements (**SLAs**) that determined how often to chase disinvestments and it was not liable for external delays.
- 20.7. It had provided the IFA with details in order to make a complaint directly to Link on behalf of the Applicants. However, the IFA had chosen not to complain to Link. Consequently, it was keeping the IFA informed of the complaint it had raised with Link.
- 20.8. It would continue to try to resolve all issues and complete the request as quickly as possible and in the best interest of the Applicants.
21. On 4 September 2019, the IFA raised a complaint with Link. Link did not respond.
22. On 11 September 2019, Link replied to Hartley and upheld its complaint. A summary of its response is detailed below, in paragraphs 23 to 35.
23. Link understood that Hartley had been corresponding with it prior to selling the Woodford Fund and that Hartley had sent the Instruction on 23 April 2019. Unfortunately, it had not received this and it informed Hartley when Hartley telephoned on 8 May 2019.
24. Link also informed Hartley that it needed an LOA. Subsequently, Hartley sent the Certificate with the other documentation by recorded delivery. This was received on 18 May 2019 and signed for by its Share Dealing department two days later, after being passed from another department. At that stage, each document should have been logged on a spreadsheet but there was no mention of the Certificate.
25. On 23 May 2019, Link informed Hartley that it had the necessary information to facilitate the sale of the Woodford Fund. However, it needed Hartley to complete a manual form as the request was deemed to be a large trade.
26. Unfortunately, the Hartley representative did not pass the personal information and identity check. But, during the same telephone call, the Hartley representative had asked for clarity on the process, as Link had not been in touch since it had received the documentation on 20 May 2019.

27. Link incorrectly told the Hartley representative that the onus was on Hartley to contact it after Hartley had sent the documentation. Link had an SLA and should have contacted Hartley within two working days from receipt of the paperwork. So, Link should have telephoned Hartley on or before 22 May 2019. It apologised that this had not happened.
28. Link had tried to telephone Hartley back on the same date, within the agreed time frame of three hours, but the Hartley representative was not available. Link left a message with a Hartley receptionist, explaining the reason for telephoning and providing contact details. However, no one contacted Link until 5 June 2019, when all details were checked and cleared, and the Woodford Fund had been sold.
29. Subsequently, the Certificate was erroneously filed separately from related paperwork and placed with outstanding documents for unrelated trades. So, it was untraceable for three months following the sale. The Certificate was not found until 5 September 2019.
30. The share price of the Woodford Fund on 5 June 2019, was 0.675 per share. This gave proceeds of £48,683.70, less charges such as the levy and commission. Link had written to Hartley on 12 June 2019 and informed Hartley that it was still awaiting documents needed to settle the trade. Hartley then sent the CREST transfer form (**the Form**). Due to its backlog of work, Link did not acknowledge receipt of the Form until 8 July 2019. On the same date, Link had written to Hartley and informed it that it still needed the Certificate, as it was unaware that it had been misfiled.
31. Subsequently, there were further exchanges between Link and Hartley concerning the whereabouts of the sale proceeds and the Certificate. This resulted in Hartley raising a complaint.
32. On 15 August 2019, Hartley telephoned Link to discuss the sale proceeds. Hartley was informed that the trade could not be settled without the Certificate, and that it was also necessary to await the outcome of its complaint. Link suggested that Hartley pay an indemnity for the lost Certificate.
33. Link apologised for the further frustration that this caused, as the Certificate should have been located, irrespective of the timing of its investigation into the complaint.
34. Factoring in the one-day delay caused by Link not contacting Hartley by 22 May 2019, it conceded that the sale of the Woodford Fund could have been completed on 4 June 2019, at a price of 0.71 per share. This would have given sale proceeds of £50,620.56, after deduction of charges. So, there was a financial disadvantage of £2,400.36, due to a difference in share price. It agreed to reimburse that amount.
35. Had the shares been traded on 4 June 2019, the proceeds would have been settled on 6 June 2019. However, due to the Certificate being mislaid, settlement was not processed until 5 September 2019. Link had calculated a loss of interest over this period of £1,009.64. So, it was also reimbursing this amount, along with half the sale commission that was paid, which amounted to £232.25. This was in respect of the

efforts and inconvenience Hartley had experienced, caused by the misinformation given during some of its telephone calls.

36. On 6 September 2019, the proceeds from the sale of the Woodford Fund were received into the Account.
37. Following this, there were further exchanges between Hartley and the IFA, concerning the Account balance, the loss that the IFA believed the Applicants had incurred, and the reasons why Hartley believed it was not responsible for any losses.
38. On 10 September 2019, Mr E and Mrs E instructed the FA to proceed with starting its advice process in relation to their investments in the SSAS.
39. On 26 September 2019, following receipt of a statement of the Account, the IFA became aware that the sale proceeds of the Woodford Fund had been credited to the Account on 6 September 2019.
40. Subsequently, there were further exchanges between Hartley, the IFA and Mr N.
41. On 28 November 2019:
 - 41.1. the cash in the Account was transferred to Mr N's self-invested personal pension (**SIPP**); and
 - 41.2. the FA issued letters of authority to Hartley to obtain "Know Your Customer" information on behalf of Mr E and Mrs E and the SSAS.
42. On 4 December 2019, the FA received a written reply to its enquiries from Hartley, which included a valuation of Mr E and Mrs E's assets in the SSAS.
43. On 12 December 2019, the FA wrote to them and provided details of the investments he was recommending they reinvest their sale proceeds into (**the Investment Proposal**).
44. On 20 December 2019, the FA requested the relevant forms from Hartley in order to remove Mr N as a trustee of the SSAS.
45. On 8 January 2020, Mr E and Mrs E went on holiday to New Zealand. They returned on 19 February 2020.
46. On 23 February 2020, Mr E and Mrs E returned to Hartley the signed forms to remove Mr N as a trustee of the SSAS.
47. On 4 March 2020, Hartley informed the FA that Mr N had been removed as a trustee of the SSAS.
48. On 11 March 2020, Mr E and Mrs E had a telephone conference call with the FA. At that meeting it was agreed that, due to the volatility of the markets as a result of the Covid 19 Pandemic (**the Pandemic**), Mr E and Mrs E would transfer their funds in-specie.

49. On 9 June 2020, the in-specie transfer of Mr E and Mrs E's investments commenced, and the process was completed on 26 October 2020.

The Applicants' position

50. They had requested the sale of the Woodford Fund on 3 April 2019. Due to a number of failings by Hartley, the sale request was not processed until 4 June 2019. During this time, they were also trying to transfer the SSAS, so the sale of the other investments in the SSAS was also requested. Because of the time the sale of the Woodford Fund took to complete, the proceeds from the sale of the other investments remained uninvested for a long period of time.
51. Link was responsible for selling the Woodford Fund. It admitted some fault in the delays and offered compensation to them. So, they have not held Link further responsible for this issue. Hartley failed to follow up with Link, which delayed the process of the sale of the Woodford Fund.
52. Without the delays by Hartley, the IFA believed the Woodford Fund would have been sold by 17 April 2019. The price of a share in the Woodford Fund at that date was 0.822. Their total loss from the delayed sale of the Woodford Fund amounted to £11,065.75.
53. The money from the sale of their investments, totalling approximately £400,000, remained uninvested from April 2019 to November 2019. There had been a significant gain in the investments they would have reinvested in since this period of time.
54. When the proceeds of the Woodford Fund were received into the Account, they were not reinvested by Mr E and Mrs E. They were used to facilitate Mr N's exit from the SSAS.
55. The cash in the Account was transferred to Mr N's SIPP on 28 November 2019. It was subsequently transferred from Mr N's SIPP to Platform One on 5 December 2019, and commenced being invested on 9 December 2019. The investments were completed on 12 December 2019.
56. Due to the delays by Hartley, it was not possible to establish a valuation of the entire SSAS in order to facilitate the split of the assets between Mr N, Mr E and Mrs E.
57. The IFA spent a significant amount of time chasing and collating information for this complaint.
58. As a result of the delays by Hartley, Mr E and Mrs E could not instruct the FA to commence the work they wished to undertake, in relation to their proportion of the SSAS, earlier than they did. Mr E and Mrs E could not instruct the FA until Mr N had been removed as a trustee from the SSAS.
59. Mr E and Mrs E had originally intended to sell the investments held in the SSAS and they asked the FA to provide advice on investing the proceeds. The FA's original

advice to them was to transfer each respective share in cash to an individual SIPP. However, due to the delays and the Pandemic restrictions, Mr E and Mrs E were advised to retain their investments in a SSAS because of the volatility in the markets being caused by the Pandemic, rather than encashing them. Mr E and Mrs E agreed that the best course of action was to transfer their investments in-specie.

60. The process to remove Mr N as a trustee of the SSAS started in December 2019.¹ As Mr E and Mrs E were going to be overseas from 8 January 2020 until 19 February 2020, the FA had asked Hartley to ensure that the necessary forms were in their possession for their signature before their departure.
61. This did not happen, and the forms were not signed and returned to Hartley until after 23 February 2020.
62. The in-specie process is “slow and clunky.” The FA was at the mercy of the ceding firms and the platform / custodians. It is not unusual for in-specie transfers to take six months or more.

Hartley’s position

63. It does not have a formal documented SLA for the SSAS. The Instruction was sent by post on the same date as it was received in the post from the IFA. The Instruction was initially sent to an incorrect address. As this was a certificated investment there was no documentation in relation to the administrator’s address. It believes the administrator’s address was located online and not from its records.
64. The Instruction was returned to it 12 working days later and sent to Link on the same date. There was a further delay of nine working days, between sending the Instruction and its telephone conversation with Link, who stated that it had not received the Instruction.
65. The delays were not of Hartley’s making. Link also admitted where things went wrong in its response to its complaint.
66. The other investments in the SSAS were being sold, as the Applicants intended to transfer out of the SSAS. It was not instructing these disinvestments, as it only acts on a client or their adviser’s instructions.
67. The SSAS itself could not be valued and the asset splits calculated until such time as the proceeds of the Woodford Fund had been received. Hartley also said that as the fund was also crystallised, a partial transfer would not have been possible.

Adjudicator’s First Opinion

68. The Applicants’ complaint was considered by one of our Adjudicators who concluded that further action was required by Hartley. In summary, based on the information that

¹ Mr and Mrs E provided specific dates in relation to the process of having Mr N removed as a trustee of the SSAS, and these are detailed in the Actual Timeline of Events which is in the Appendix.

had been provided by the Applicants at the time², the Adjudicator concluded that Hartley was responsible for the delay in the sale of the Woodford Fund, and it was also responsible for the delay in the transfer of Mr N's funds to his alternative pension arrangement.

69. Hartley and Mr N accepted the Adjudicator's First Opinion but Mr E and Mrs E did not. In response to the First Opinion, Mr E and Mrs E provided further information, as detailed in paragraphs 58 to 62 above.
70. Subsequently, the Adjudicator issued a Second Opinion still upholding the Applicants' complaint, but on a different basis. The Adjudicator's findings in the Second Opinion are summarised below, in paragraphs 71 to 88.

Adjudicator's Second Opinion

71. The Applicants and Hartley had provided detailed timelines of the events that occurred following the Applicants' request for the Woodford Fund to be sold. Based on the timelines, it was the Adjudicator's view that there were two periods of delay in relation to the sale of the Woodford Fund and receipt of the sale proceeds.
72. It was also the Adjudicator's view that there were two further periods of delay. These were:
 - 72.1. the delay in relation to the reinvestment of Mr N's funds after the proceeds of the sale of the Woodford Fund were received into the Account; and
 - 72.2. the delay in Mr E and Mrs E transferring their investments in-specie to their chosen alternative pension arrangement.

Delays after the Instruction was sent to Hartley

73. It was accepted that Hartley had initially sent the Instruction to the incorrect administrator. In the Adjudicator's view, doing so amounted to maladministration. The Applicants argued that Hartley's maladministration resulted in them incurring a financial loss.
74. The Adjudicator created a revised timeline, as detailed in the Appendix, to establish the earliest date that the Woodford Fund would have been sold, had Hartley correctly sent the Instruction to Link, following receipt of the Instruction on 5 April 2019. The Adjudicator noted that Hartley did not have an SLA with the SSAS for chasing disinvestments. So, the revised timeline was based on what, in the Adjudicator's view, would have been a reasonable time.

² Mr E and Mrs E had originally said that the funds that were eventually received on 27 November 2019 were not invested by them, these funds were required to facilitate Mr N's exit from the SASS, allowing him to transfer his share of the SSAS to a SIPP and that they remained invested in the SSAS.

75. Based on the revised timeline, it was the Adjudicator's view that the earliest date the Woodford Fund would have been sold, had Hartley sent the Instruction to the correct administrator initially, was 26 April 2019. Because of this, the Adjudicator concluded that this element of the Applicants' complaint should be upheld.
76. So, Hartley should complete a loss calculation to establish whether the Applicants had suffered a financial loss as a result of its maladministration in sending the Instruction to the incorrect administrator, which resulted in the sale of the Woodford Fund being delayed.

Delays subsequent to the sale of the Woodford Fund

77. The Woodford Fund was sold on 5 June 2019. However, because of Link's maladministration in mis-filing the Certificate, the proceeds of the sale were not received into the Account until 6 September 2019. This resulted in Mr N not being able to transfer and reinvest the sale proceeds for several months. It also delayed Mr E and Mrs E being able to transfer their investments in-specie.
78. The Applicants had said that the sale proceeds of the other investments in the SSAS remained uninvested while they were awaiting the proceeds from the sale of the Woodford Fund. They asserted that approximately £400,000 was uninvested while they awaited receipt of the sale proceeds of the Woodford Fund, so they had incurred a loss because of this delay.
79. The Adjudicator appreciated that the Applicants believed that Hartley should compensate them for any losses they incurred during the period the proceeds from the sale of the Woodford Fund were not credited to the Account, as their other funds remained uninvested during that period. However, it was the Adjudicator's view that the delay during this period did not occur because of any maladministration by Hartley. So, Hartley was not responsible for any losses the Applicants incurred during this period.
80. The Applicants also believe that Hartley could have acted more promptly in relation to the sale of the Woodford Fund and its receipt of the sale proceeds. However, it was the Adjudicator's opinion that even if Hartley had chased Link more frequently, in relation to the sale and receipt of the sale proceeds of the Woodford Fund, it is more likely than not the transfer of the sale proceeds to the Account would still have been delayed. The Adjudicator noted that Link had accepted its maladministration in relation to the sending of the sale proceeds of the Woodford Fund to Hartley. It completed a loss calculation and provided redress to the Applicants.
81. The Adjudicator noted the Applicants' comments that the IFA had spent a significant amount of time chasing and collating information for this complaint. However, the Adjudicator explained that the Pensions Ombudsman (**the PO**) does not, as a matter of course, make awards for costs incurred by professional advisers to the applicant. Consequently, were this complaint to be considered by the PO, it was the Adjudicator's view that it was highly unlikely that the PO would direct Hartley to reimburse any costs incurred by the IFA.

82. Because of this, it was the Adjudicator's view that this part of the Applicants' complaint should not be upheld.

Delays in relation to the reinvestment of Mr N's transferred funds

83. It was the Adjudicator's view that, had there been no maladministration by Hartley initially, in relation to it sending the Instruction to the incorrect administrator, Mr N's funds would have been reinvested at an earlier date.
84. Based on the Adjudicator's revised timeline, it was the Adjudicator's view that Mr N's funds would have commenced reinvestment on 8 July 2019 and would have been fully reinvested by 11 July 2019. Consequently, Hartley should complete a loss calculation to ascertain if Mr N has incurred a financial loss, in relation to his reinvested funds, because of Hartley's maladministration.

Delays in relation to the in-specie transfers of Mr and Mrs E's investments

85. It was the Adjudicator's view that, had there been no maladministration by Hartley initially, in relation to it sending the Instruction to the incorrect administrator, Mr E and Mrs E's investments would have been transferred in-specie at an earlier date.
86. Based on the Adjudicator's revised timeline, it was the Adjudicator's view that Mr E and Mrs E's in-specie transfers would have commenced on 4 November 2019, and would have been fully transferred by 20 March 2020. Consequently, Hartley should complete a loss calculation to ascertain if Mr E and Mrs E had incurred a financial loss, in relation to the delay of their in-specie transfers, because of Hartley's maladministration.
87. The Adjudicator appreciated that, had there been no delays by Hartley and had Mr N been removed as a trustee from the SSAS by 14 August 2019 (see the Adjudicator's revised timeline in the Appendix), the FA may have continued to advise Mr E and Mrs E to convert their investments to cash and reinvest into individual SIPPs. However, the Adjudicator had not been provided with any evidence regarding the specific SIPPs they would have held or what specific investments they would have purchased in their respective SIPPs. So, the Adjudicator was unable to recommend that any loss calculation in relation to the delay of Mr E and Mrs E's investments, should be based on them selling their investments and reinvesting the sale proceeds into individual SIPPs.

Non-financial injustice

88. It was the Adjudicator's opinion that the delays caused by Hartley caused the Applicants distress and inconvenience. Based on the guidance published on non-financial injustice on the The Pensions Ombudsman website,³ it was the Adjudicator's

³https://www.pensions-ombudsman.org.uk/sites/default/files/publication/files/Updated-Non-financial-injustice-September-2018-2_0.pdf

view that the delays by Hartley caused the Applicants to suffer significant distress and inconvenience for which they should receive an award.

89. Following the Adjudicator's Second Opinion, Mr E and Mrs E provided details of the Investment Proposal they had received from the FA concerning what SIPP's they should reinvest their cash into.⁴
90. After reviewing this additional information, the Adjudicator did not change her view on how Mr E and Mrs E's loss calculation should be completed. This was because, while the Adjudicator appreciated that the FA had provided recommendations of what investments they could purchase once their investments in the SSAS had been disinvested and they had received the cash, the FA had also said in his report:
- "This is an indicative illustration of your proposed portfolio. The actual composition will be determined by our view of the markets and funds at the time of investment and therefore may differ from the above..." **(the Disclaimer)**
91. The Adjudicator explained that it was not known how long each investment would have taken to disinvest. It was also not known what alternative investments the FA may have advised Mr E and Mrs E to invest in, had the FA's view of the markets changed by the time all their investments had been disinvested. So, the Adjudicator was unable to recommend that Hartley completes a loss calculation for Mr E and Mrs E using the information in the Investment Proposal.
92. Hartley did not accept the Adjudicator's Second Opinion. It requested that the PO issued a Determination, as there had been too many Opinions on this case.
93. Mr E and Mrs E also did not accept the Adjudicator's Second Opinion. A summary of their response is detailed below, in paragraphs 94 to 102.
94. All three Applicants were equally impacted by Hartley's maladministration, which was acknowledged by the Adjudicator on several counts in the Second Opinion. In March 2019, all three Applicants were advised by their individual FAs to disinvest from the SSAS and reinvest their respective proportion of the SSAS assets into SIPP's. The advice from the FA remained constant and consistent throughout the period from March 2019 onwards.
95. The Adjudicator clearly acknowledged there was a period of maladministration up to the end of November 2019, when eventually an accurate valuation was provided by Hartley, allowing the process for the three Applicants to commence moving into SIPP's.
96. Mr N was able to disinvest with immediate effect, as all three Applicants were legally in place to authorise this process. There then followed a further period of maladministration by Hartley, during which it failed to remove Mr N as a trustee of the

⁴ Mr and Mrs E provided a copy of the FA's investment proposal that was sent to them in December 2019, for the reinvestment of their funds in the SSAS.

SSAS, at the time he disinvested his investments. This created a delay in Mr E and Mrs E being able to disinvest from the SSAS and reinvest into individual SIPPS.

97. They have provided evidence of the FA's advice to invest in AJ Bell SIPPs, along with the detailed investment portfolio the available funds would have been invested in.
98. The Adjudicator said that it was not possible to use the Investment Proposal to establish a loss calculation because of the Disclaimer. However, the Disclaimer is a standard disclaimer used by all FAs.
99. They lacked the financial investment expertise to have even considered changing the Investment Proposal. They paid an FA for advice to establish the best investment portfolio to meet their needs.
100. The Adjudicator also implied that it was not possible to create a timeline to establish when Mr E and Mrs E would have disinvested their assets from the SSAS and reinvest the sale proceeds into individual SIPPs. They were unable to accept this. This was because, as detailed in the Adjudicator's revised timeline, the PO has a series of reasonable periods of working days for certain processes to take place, as demonstrated by the timeline created for Mr N's reinvestment into a SIPP.
101. Hartley failed to remove Mr N as a trustee of the SSAS, and this was the only reason why Mr E and Mrs E could not reinvest into individual SIPPs at the time. The financial markets destabilised due to the Pandemic, resulting in them being obliged to accept revised advice from their FA, not to encash their investments and transfer the proceeds to individual SIPPs, but to remain invested in a SSAS administered by Hartley.
102. As Hartley, Mr E and Mrs E did not accept the Adjudicator's Second Opinion, the complaint was passed to me to consider. I note Hartley and Mr and Mrs E's comments but find that they do not change the outcome. I agree with the Adjudicator's Second Opinion.

Ombudsman's decision

103. The Applicants have complained that they have incurred financial losses as a result of Hartley's maladministration, which delayed the sale of the Woodford Fund. This delay had a knock-on effect on the subsequent transfer of their other investments in the SSAS.
104. There is no dispute that Hartley's maladministration, resulting in the delayed sale of the Woodford Fund, had an impact on the Applicants' ability to reinvest or transfer their assets in the SSAS to alternative pension arrangements.
105. It has been accepted that loss calculations should be completed to establish if the Applicants have incurred financial losses because of Hartley's maladministration. However, Mr E and Mrs E do not agree with the loss calculation the Adjudicator has

recommended, in relation to the delay in them being able to transfer their investments from the SSAS to alternative pension arrangements.

106. Mr E and Mrs E have commented that Hartley failed to remove Mr N as a trustee of the SSAS, and this was the only reason why they could not reinvest into individual SIPPs at the time. However, Mr N not being removed as a trustee would not have prevented Mr E and Mrs E from commencing the disinvestment process of their other assets in the SSAS. They could have started disinvesting their assets, while completing the process to remove Mr N as a trustee.
107. I have considered the Investment Proposal that the FA gave to Mr E and Mrs E in December 2019. Noting that it is a 'proposal', it not only detailed the investments the FA was recommending Mr E and Mrs E reinvest their SSAS assets sale proceeds into, but it also contained the Disclaimer.
108. It is not known how long Mr E and Mrs E's disinvestments from the SSAS would have taken. I appreciate that the Adjudicator used what, in their opinion, was reasonable timescales in the revised timeline for certain periods, as detailed in the Appendix. However, I do not consider that I can determine that the disinvestment of Mr E and Mrs E's investments in the SSAS would have been completed by a specific date. This is because these disinvestments would have been dependent on third parties and the third parties' SLAs. It is also difficult to say if the third parties would have experienced any delays, following Mr E and Mrs E's instructions to disinvest.
109. Similarly, I cannot reasonably conclude whether the FA would have provided an alternative investment proposal for Mr E and Mrs E, if their disinvestments took longer to complete than was initially anticipated. Rather, without the certainty of the specific date Mr E and Mrs E's investments in the SSAS would have been fully encashed, and ready for reinvestment into their individual SIPPS, I find that I can only conclude that it is possible the FA would have changed the investment proposal for them.
110. I note Mr and Mrs E's comments concerning their lack of financial investment expertise to have considered changing the Investment Proposal. However, they had instructed an FA to provide them with advice that was appropriate for their circumstances. So, had the FA amended the Investment Proposal, I find it more likely than not, that Mr E and Mrs E would have accepted the FA's amended advice.
111. Therefore, I find that it is reasonable for Mr E and Mrs E's loss calculation in relation to the delayed transfer of their investments, to be based on their in-specie transfers.
112. I consider that this situation has caused the Applicants significant distress and inconvenience for which they shall receive an award.
113. The Applicants' complaint is upheld in part.

Directions

114. Within 28 days of the date of this Determination, in relation to the delayed sale of the Woodford Fund, Hartley shall:
- 114.1. 'A' – Establish what the sale proceeds of the Woodford Fund would have been, had it been sold on 26 April 2019.
 - 114.2. 'B' – Establish what the sale proceeds of the Woodford Fund were at the date it was sold (see paragraph 34 above).
 - 114.3. If 'A' is higher than 'B' Hartley shall pay the difference minus the £2,400.36 already received from Link by the Applicants, along with simple interest at the base rate for the time being quoted by the Bank of England, from 26 April 2019, until the payment is made to the Applicants.⁵
 - 114.4. If 'A' is less than 'B' then there is no loss and no further action will be required from Hartley.
115. Within 28 days of the date of this Determination, in relation to the delayed reinvestment of Mr N's transferred funds, Hartley shall:-
- 115.1. 'C' – Establish the number of units Mr N held in his chosen investments in his SIPP (**the SIPP Investments**) on 12 December 2019.
 - 115.2. 'D' – Establish the notional number of units Mr N would have held in the SIPP Investments on 11 July 2019, had he invested the transferred funds between 8 July 2019 and 11 July 2019 inclusive, in the same proportions that he did between 9 December 2019 and 12 December 2019.
 - 115.3. If 'C' is lower than 'D', Hartley should establish the cash value of the difference and pay this amount to Mr N for him to reinvest as he deems appropriate.
 - 115.4. If 'C' is higher than 'D' there is no financial loss, and no further action will be required from Hartley in this regard.
116. Within 28 days of the date of this Determination, in relation to the delayed transfer of Mr E and Mrs E's in-specie transfer of their investments, Hartley shall:-
- 116.1. 'E' – Establish what the total value of the investments Mr E and Mrs E transferred in-specie from the SSAS was, as at 26 October 2020.
 - 116.2. 'F' – Establish what the total notional value of the investments Mr and Mrs E transferred in-specie from the SSAS would have been, as at 20 March 2020.
 - 116.3. If 'E' is lower than 'F' Hartley should pay the difference to Mr E and Mrs E, for them to reinvest as they deem appropriate.

⁵ It appears that the SSAS is no longer with Hartley so Hartley would need to discuss with the Applicants where the redress, if any, should be paid.

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116.4. If 'E' is higher than 'F' there has been no loss and no further action will be required from Hartley in this regard.

117. Hartley shall also pay the Applicants £500 each for the significant distress and inconvenience they have experienced.

Dominic Harris

Pensions Ombudsman
4 December 2023

Appendix

Actual Timeline of events between 5 April 2019 and 5 June 2019

3 April 2019	IFA sent Instruction to Hartley.
5 April 2019 (two working days later)	Hartley incorrectly sent the Instruction to the Centre.
8 April 2019 (one working day later)	The Centre contacted Hartley and informed it that it did not administer the Woodford Fund. It said it would return the Instruction to Hartley.
23 April 2019 (11 working days later)	Hartley received the returned Instruction from the Centre. Hartley sent the Instruction to Link.
Between 26 April 2019 and 3 May 2019 inclusive.	There were exchanges between the IFA and Hartley concerning the valuation of the SSAS and the sale of the Woodford Fund.
On 8 May 2019 (three working days later)	Hartley contacted Link for an update on the sale. Link informed Hartley that the Instruction had not been received. It suggested completing the Instruction online which Hartley agreed to do. Link informed Hartley that it could not deal with Hartley as it did not have a LOA.
9 May 2019 (one working day later)	There were exchanges between Hartley and the IFA concerning the LOA.
10 May 2019 (one working day later)	Hartley sent the LOA to the IFA who then forwarded it to the Applicants for them to sign and return.
15 May 2019 (three working days later)	Hartley received the signed LOA.
16 May 2019 (one working day later)	Hartley sent the LOA to Link.
23 May 2019 (five working days later)	The IFA telephoned Hartley for an update. Hartley telephoned Link for an update.

4 June 2019 (eight working days later)	The IFA telephoned Hartley for an update and was informed the sale has not been completed.
5 June 2019 (one working day later)	Further exchanges between Hartley and Link. The Woodford Fund is sold.
6 September 2019 (43 working days later)	The sale proceeds of the Woodford Fund is credited to the Account.
26 September 2019 (14 working days later)	Hartley informed the IFA that the Woodford Fund sale proceeds had been received into the Account.
27 September 2019 (one working day later)	The IFA asked Hartley for an up to date valuation for the SSAS/ Account.
1 October 2019 (two working days later)	Hartley sent the valuation to the IFA.
11 October to 31 October 2019	Further exchanges between the IFA and Hartley. During this period the IFA informed Hartley no to transfer Mr N's funds until the IFA had received confirmation to go ahead with the transfer from Mr N.
19 November 2019	IFA met with Mr N.
20 November 2019 (36 working days after 1 October 2019)	IFA requested Mr N's funds be transferred to Mr N's SIPP/Platform One.
25 November 2019 (three working days later)	Hartley informed the IFA that it had not actioned Mr N's transfer request.
26 November 2019 (one working day later)	IFA sent fax authorisation to transfer Mr N's funds.
28 November 2019 (two working days later)	Funds received by Mr N's SIPP. Mr and Mrs E's FA issued letters of authority to Hartley to obtain "KYC" information on behalf of Mr and Mrs E and the SSAS.
4 December 2019	Mr and Mrs E's FA received a written reply to its enquiries from Hartley, which

	included a valuation of Mr and Mrs E's assets in the SSAS.
5 December 2019 (five working days later)	Funds transferred to Platform One
9 December 2019 (two working days later)	Transferred funds commenced being invested in Mr N's chosen funds.
12 December 2019 (three working days later)	Completion of Mr N's investment.
20 December 2019 (six working days later)	The FA request the relevant forms from Hartley to remove Mr N as a Trustee of the SSAS.
8 January 2020	Mr and Mrs E go to New Zealand.
19 February 2020	Mr and Mrs E return from New Zealand.
24 February 2020 (44 working days after 20 December 2019) ⁶	Mr and Mrs E return the signed forms to remove Mr N as a Trustee of the SSAS, to Hartley.
4 March 2020 (seven working days later)	Hartley informs that FA that Mr N has been removed as Trustee of the SSAS.
11 March 2020 (five working days later)	Mr and Mrs E verbally agree with the FA to transfer their investments in the SSAS in specie.
19 March 2020 (six working days later)	The FA sent written confirmation of amended advice to Mr and Mrs E.
9 June 2020 (fifty-eight working days later)	Mr and Mrs E's investments commence being transferred in specie.
26 October 2020 (ninety-nine working days later)	Transfer of Mr and Mrs E's in specie transfers completed.

⁶ Mr and Mrs E said that they signed the forms to remove Mr N as a Trustee of the SSAS on 23 February 2020 and returned the forms immediately to Hartley. As the 23 February 2020 was a Sunday, I have used 24 February 2020 as the date on which Mr and Mrs E would have returned the forms to Hartley.

Adjudicator's Revised Timeline of events between 5 April 2019 and 5 June 2019

3 April 2019	IFA sent the Instruction to Hartley.
5 April 2019 (two working days later)	Hartley correctly sent the Instruction to Link.
12 April 2019 (five working days later)	Hartley contacted Link for an update on the sale of the Woodford Fund. Link informed Hartley that it had not received the Instruction and suggested Hartley complete the Instruction online. Link requested a LOA from Hartley.
15 April 2019 (one working day later)	There were exchanges between Hartley and the IFA concerning the LOA.
16 April 2019 (one working day later)	Hartley sent the LOA to the IFA who then forwarded it to the Applicants to sign.
19 April 2019 (three working days later)	Hartley received the signed LOA from the IFA.
22 April 2019 (one working day later)	Hartley sent the LOA, a further Instruction and the Certificate to Link.
24 April 2019 (two working days later)	Link received documents and they were filed correctly.
26 April 2019 (two working days later)	Link telephoned Hartley to discuss its requirements to complete the sale of the Woodford Fund. Hartley passes the requirements. The Woodford Fund is sold.
29 April 2019 (two working days later)	Proceeds of the Woodford Fund credited to the Account.
30 April 2019 (one working day later)	Hartley informed the IFA that the proceeds of the Woodford had been received into the Account.
1 May 2019 (one working day later)	The IFA asked Hartley for an up to date valuation of the SSAS.
3 May 2019 (two working days later)	Hartley sent the IFA the valuation.

24 June 2019 (36 working days later)	IFA requested Mr N's funds be transferred.
25 June 2019 (one working day later)	Hartley completes the transfer.
27 June 2019 (two working days later)	Funds received into Mr N's SIPP.
4 July 2019 (five working days later)	Fund transferred to Platform One.
8 July 2019 (two working days later)	Transferred funds commenced being invested in Mr N's chosen funds.
11 July 2019 (three working days later)	Investment of Mr N's transferred funds completed.
19 July 2019 (six working days later)	The FA request relevant forms from Hartley to remove Mr N as a Trustee of the SSAS.
30 July 2019 (seven working days later)	Hartley sent relevant forms to the FA.
1 August 2019 (two working days later)	The FA sends Mr and Mrs E the relevant forms to sign.
5 August 2019 (two working days later)	Mr and Mrs E return signed forms to Hartley.
14 August 2019 (seven working days later)	Hartley inform the FA that Mr N has been removed as Trustee of the SSAS.
4 November 2019 (58 working days later)	Mr and Mrs E's in specie transfers commence.
20 March 2020 (99 working days later)	Mr and Mrs E's in specie transfers completed.