

Ombudsman's Determination

Applicant Mr E

Scheme AJ Bell Youinvest SIPP (the SIPP)

Respondent AJ Bell

Outcome

 Mr E's complaint against AJ Bell is partly upheld, but there is a part of the complaint I do not agree with. To put matters right, for the part that is upheld, AJ Bell shall pay Mr E £500 for the significant distress and inconvenience caused.

Complaint summary

- 2. Mr E has raised a series of concerns about the way AJ Bell has administered the SIPP, including:-
 - (a)The misreporting of investment valuations.
 - (b)The calculation of his maximum income.
 - (c)The taxation of income payments.
 - (d)The method of calculating the SIPP's crystallised and uncrystallised fund split.

Background information, including submissions from the parties

- The SIPP funds are in capped drawdown from which Mr E takes intermittent income and pension commencement lump sum (PCLS) payments. As such it is part crystallised and part uncrystallised.
- 4. The first Benefit Crystallisation Event (**BCE**) occurred in November 2014, at which time Mr E took a PCLS, and an income payment in December 2014.
- 5. In March 2016, Mr E took a further PCLS and income, resulting in another BCE.
- 6. On both occasions a fund split was undertaken by AJ Bell.

- 7. In January 2017, Mr E decided to crystallise further funds, taking another PCLS and income payment. Following this, AJ Bell confirmed that the fund split was 74.64% uncrystallised and 25.36% crystallised.
- 8. Also, in January 2017, Mr E raised concerns over the March 2016 fund split. Upon investigating, AJ Bell acknowledged that an error had occurred, and the crystallised element of the fund was overstated by £7,000.
- 9. In February 2017, Mr E queried the fund split calculations from November 2014 and the revised March 2016 fund split. AJ Bell responded and clarified the process of calculating the fund split. In its response it said:

"I have attached my calculations on this, the figures may be a few pounds different from those quoted previously as the spreadsheet calculations are the most basic form whereas the database [internal software] performs the same calculations just including much more data. I have previously quoted the figures produced by the database but have no way of confirming these to you for [Mr E] to review so the spreadsheet is the next best option."

- At this point, the database showed a post March 2016 BCE fund split as 79.86% uncrystallised and 20.14% crystallised. The spreadsheet that AJ Bell referred to showed the fund split at the same date as 79.88% uncrystallised and 20.12% crystallised.
- 11. In October 2017, after further correspondence, AJ Bell provided additional comment on the fund split issue, saying:

"As mentioned in an earlier email, when it comes to calculating and making payment our system [internal software] will produce slightly different figures, in the case of the most recent BCE, the figures altered the uncrystallised and crystallised funds by £23.50 respectively – this is a variable of 0.0038% of the total fund value in comparison with the manual figures.

We're not able to show the workings of our system. The closest we can get is to produce the figures manually using our own in house spreadsheet tool. The spreadsheet was designed by an actuary here at AJ Bell and has been used by our staff for well over 15 years."

- 12. In December 2017, Mr E took a further PCLS and income payment, resulting in a BCE and further fund split.
- 13. On 13 January 2018, AJ Bell wrote to Mr E providing a schedule of benefits in relation to the December 2017 PCLS and income payment. This letter provided the following information taken from the software that AJ Bell utilises:

"Total fund value before BCE	£681,241.90
Uncrystallised	£508,373.45
Crystallised	£172,868.45"

- 14. The pre BCE fund split on the basis of these figures was 74.62% uncrystallised and 25.38% crystallised.
- 15. The difference between the fund split provided in January 2017, detailed in paragraph 8 above, and that communicated in January 2018, paragraph 14 was raised by Mr E.
- 16. On 8 March 2018, AJ Bell commented on the difference, saying:

"There is no legislation which outlines how pension providers are expected to calculate a fund split, and there is no standard industry method for doing so. Fund splits can be calculated in different ways depending on a number of factors. Each approach is valid; however, they can give slightly different results.

Following your January 2017 BCE we confirmed your fund split was 74.64% uncrystallised and 25.36% crystallised. The fund split values confirmed in our letter dated 13 January 2018 worked out as a split of 74.62% uncrystallised and 25.38% crystallised; a difference of 0.04%.

As [AJ Bell employee] has confirmed, this difference is due to the method used to calculate your fund split. It is reasonable that there is some variation in the figures when different methods of calculation are used, and I am satisfied the information we have provided is correct."

- 17. Mr E was dissatisfied with the responses he received to the complaints and referred the matter to us for investigation.
- 18. In the course of the investigation AJ Bell acknowledged errors in relation to its administration of the SIPP and offered Mr E £500 in recognition of the distress and inconvenience in respect of the first three complaints, (a), (b) and (c). Mr E has provisionally accepted that offer, however, in respect of his complaint (d), he has outstanding concerns about the calculation of the SIPP's funds split.
- 19. AJ Bell's position in relation to complaint (d) is:-
 - It uses proprietary software to calculate the fund split which is business sensitive. That software is subject to frequent and rigorous testing. It is satisfied that the method used is correct and consistent with all clients.
 - There are various ways to calculate a fund split depending on a number of factors, which can give slightly different results, however they are all valid. The method is not prescribed and varies across the industry.
 - Mr E's calculation matches the outcome provided by an internal spreadsheet AJ Bell uses, created by one of its actuaries. AJ Bell is confident that despite the difference, both the spreadsheet and software are accurate and robust.
 - In the case of the software, it takes account of each transaction that occurs, and fund growth, and apportions this between the crystallised and uncrystallised funds

as appropriate. Mr E's calculation and AJ Bell's spreadsheet cannot take this into account as it does not contain that data, and instead uses an estimated overall investment return. It is because the software uses much more detailed information which has resulted in the discrepancy.

- The difference between Mr E's calculation and AJ Bell's software is 0.04%, which it considers to be a reasonable difference; a result of the different methodology used.
- The SIPP is a product which relies on automation to a large extent, keeping costs low and reducing possible human error. There is no option for it to be by-passed and the Financial Conduct Authority requires it to apply consistent processes to all clients. Therefore, whilst Mr E may have concerns over the use of the software, it cannot make an exception in his case.
- 20. Mr E's position is:-
 - His concerns over the fund split arose due to the March 2016 error that AJ Bell has acknowledged was incorrect. This demonstrates that the software is obviously fallible and therefore how can AJ Bell have confidence in the software.
 - Following that error, he has monitored the fund splits that have been provided to him, and which have never exactly matched his calculations.
 - In the course of his complaint he has received various explanations from AJ Bell about the discrepancies, but it admits that it does not have access to the software code or methodology. Given it does not have access to that information, how can its explanations be meaningful or reliable.
 - AJ Bell should be under an absolute obligation to justify its reliance on the software where it produces materially different results to its internal spreadsheet and his own results.
 - In the absence of such justification Mr E considers its explanations as simply wrong.
 - In these circumstances it would be very disappointing for the Ombudsman to accept the explanations provided.
 - Compensation is not the motivation for Mr E and would forego the offered £500 if AJ Bell appointed an independent actuary to investigate the matter.
 - The factors relied upon by AJ Bell to distinguish between the results are not a satisfactory explanation. Since Mr E went into drawdown, he has made no contributions and there are only two events that require a recalculation of the fund split, payment of a PCLS, triggering a BCE, and an income payment.
 - Mr E considers that the spreadsheet calculation is reliable and contains all the necessary data to calculate the correct fund split. AJ Bell has relied upon this

when revising his fund split, and therefore it clearly is possible to by-pass the system.

Adjudicator's Opinion

- 21. Mr E's complaint was considered by one of our Adjudicators who concluded that some further action was required by AJ Bell. The Adjudicator's findings are summarised below:-
 - The wider complaints brought by Mr E, complaints (a), (b) and (c), warranted a distress and inconvenience award of £500. On the Adjudicator's suggestion, AJ Bell had offered this to Mr E and the Adjudicator thought that was appropriate.
 - Regarding the fund split, the Adjudicator accepted that AJ Bell's response was not as detailed as Mr E would like, and that the response was not transparent.
 - However, the Adjudicator could not justify recommending AJ Bell appoint an independent actuary to consider the variance between the spreadsheet and the software.
 - The Adjudicator considered that the discrepancy was within an acceptable range and was of the view that different methodologies could produce different outcomes, but there was no reason to say one was less legitimate than the other.
 - The Adjudicator took the view that because of the proprietary nature of the software the Ombudsman would be unable to achieve the outcome Mr E sought, being a definitive explanation of why the calculations differ.
- 22. Mr E did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr E provided his further comments (summarised at paragraph 20 above) which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mr E for completeness.

Ombudsman's decision

- 23. I agree with the principle Mr E asserts that when pension calculations are made, they should be reliable, and it would be reasonable for pension companies to provide their methodology. In this instance, Mr E has provided his calculation on what the fund split should be, and this accord's with AJ Bell's internal, manual spreadsheet, but not its software. He has also highlighted an initial, more significant error from March 2016 which has since been corrected, but in his view shows that the system is flawed.
- 24. Whilst I agree with the principle, I am mindful that in circumstances where there is no prescribed calculation on a particular issue, there may be different methodologies used which are nevertheless legitimate. In this instance AJ Bell's software has produced an outcome which is what I would consider to be marginally different to the internal spreadsheet and Mr E's calculations.

- 25. AJ Bell is unable to explain the specific reason for the difference because the software it uses is proprietary, and it doesn't have access to the internal workings. Whilst this is disappointing and frustrating for Mr E, in order to uphold the complaint I would need to conclude that there has been maladministration on the part of AJ Bell. From what I have seen, whilst there is a divergence between the figures, given that there is no fixed methodology that I am aware of as to how to determine a fund split, I cannot say there has been maladministration.
- 26. It would, of course, be preferable for AJ Bell to provide a breakdown of how the software has calculated the fund split, but given the marginal difference, I am not persuaded that would be a proportionate direction. The software is being used consistently across all of the SIPPs AJ Bell administers and so I cannot say Mr E is treated unfairly in this respect.
- 27. Additionally, I am not persuaded that Mr E has suffered a financial loss as his fund value has always been correct. It may be that an overstated crystallised portion of the fund might deny Mr E an element of PCLS, however, the difference is marginal to the extent that on the basis of a loss of 0.02% of uncrystallised funds, Mr E might pay income tax on a quarter of that. In these circumstances, and in the absence of any demonstrable maladministration I find that the variable is within an acceptable range.
- 28. Mr E has said that the £500 offered in respect of complaints (a), (b) and (c) is acceptable, and so I see no reason to make an additional direction.
- 29. Therefore, I uphold complaints (a), (b) and (c), but I do not uphold complaint (d).

Directions

30. Within 21 days of the date of this Determination, AJ Bell shall pay Mr E £500 for the significant distress and inconvenience caused.

Anthony Arter

Pensions Ombudsman 17 September 2019