



Emily McAlister &lt;emilym@pensionpractitioner.com&gt;

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**FW: R01936 26 Tor Hill Road R01969 1 & 1A Magdalene Road - request for information**

5 messages

**Travis Consultancy** <travisconsultancy@btinternet.com>

29 March 2021 at 16:25

To: Gavin &lt;gavinm@pensionpractitioner.com&gt;, Emily McAlister &lt;emilym@pensionpractitioner.com&gt;

Hi Gavin/Emily

Further to my previous email have just received the following email!

Kind regards

Stuart

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**From:** JH Property Partnership <[PropertyPartnership@jameshay.co.uk](mailto:PropertyPartnership@jameshay.co.uk)>**Sent:** 29 March 2021 14:41**To:** Travis Consultancy <[travisconsultancy@btinternet.com](mailto:travisconsultancy@btinternet.com)>**Subject:** RE: R01936 [26 Tor Hill Road](#) R01969 1 & 1A Magdalene Road - request for information

Dear Mr Travis

Thanks again for your email.

To be clear the current position in respect of the properties is already recorded from a Compliance as well as a Taxation stand point given the previously highlighted concerns over the handling of the rental and the potential need to report the concerns raised to HMRC.

If I can attempt to separate the various points raised starting with the mortgage and how this should have been repaid.

As the mortgage was secured over a property held within a SIPP investment the repayment of this lending had to be undertaken from cleared , legitimate SIPP funds and not, as suggested, by using personal monies from outside of the pension fund. The use of personal money to settle this debt has benefitted ,and inflated, the value of the pension fund and the sum paid by you personally to redeem the loan needs to be repaid from the Pension Scheme to rectify this position.

Moving on to the question of what funds you are able to drawdown any such request must be undertaken through the formal drawdown process and not through the personal retention of rental personally in lieu of what you feel you entitled to claim. Your entitlement to drawdown must be calculated through James Hay, as Scheme Administrator, and any monies due paid to you from the Scheme assets as part of your permitted benefit drawdown.

Lastly the position on the rental does require , and permit , the transfers to be placed on hold given that the information received is that the surplus monies on the external account ,along with the rental for the last six months have been paid to your personal bank account and not in to the Scheme Bank account. As previously stated the rental money is due solely to the Scheme and cannot be retained by an individual beneficiary personally. Whilst these rental monies may go on to form part of the cash benefits made to you as the beneficiary of the SIPP the rules do not permit you to retain the money directly or the matter would be considered an unauthorised benefit.

As requested the link to HMRC regulations is <https://www.gov.uk/hmrc-internal-manuals/pensions-tax-manual/ptm121000>

In summary I would again reiterate that I, nor anyone else at James Hay, wishes to delay the transfers of these properties any longer that is required however we cannot just allow the issues raised above to be unresolved before any transfer is concluded given the potential tax sanctions that the matters would carry.

If it assists I am happy to discuss any of the above further with you but for now we do need clarity on how the monies you have used to pay the loan can be returned to you and confirmation that all rental money you hold personally will be paid over to the SIPP.

Regards

Sean Burke

Property Technician

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**From:** Travis Consultancy <[travisconsultancy@btinternet.com](mailto:travisconsultancy@btinternet.com)>

**Sent:** 25 March 2021 14:53

**To:** JH Property Partnership <[PropertyPartnership@jameshay.co.uk](mailto:PropertyPartnership@jameshay.co.uk)>

**Subject:** RE: R01936 26 Tor Hill Road R01969 1 & 1A Magdalene Road - request for information

Dear Mr Burke

Thank you for your email. I suggest you refer the matter to your Compliance Officer. I have paid over £25,000 by way of a loan into the Fund, thus I am entitled to withdraw that sum tax free. This is fact, please get off the fence and in to reality, your view of the situation is incorrect. Unless the transfer is executed within seven days you will be reported to the FCA. I will inform HMRC of your conduct and legal proceedings will commence. I have a legal right to repayment of my loan, which I made at your behest. A note of the HMRC SIPP regulations you are trying to implement would assist, as I see it you have no right to retain assets.

Regards

Stuart Travis

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**From:** JH Property Partnership <[PropertyPartnership@jameshay.co.uk](mailto:PropertyPartnership@jameshay.co.uk)>

**Sent:** 25 March 2021 10:19

**To:** Travis Consultancy <[travisconsultancy@btinternet.com](mailto:travisconsultancy@btinternet.com)>

**Subject:** RE: R01936 26 Tor Hill Road R01969 1 & 1A Magdalene Road - request for information

Dear Mr Travis

Many thanks for your email the content of which is noted.

Having noted the content however I cannot see any information within your email that will allow this matter to progress as you request.

Whilst not wishing to put any barrier in place to the transfer we cannot permit the transfer to proceed whilst the rent position is unresolved given that the position indicated would suggest that sanction charges may need to be raised. Whilst you may be happy to "face HMRC" the position is that should the sanction charge need to be raised James Hay need to ensure sufficient assets are retained to cover the payment that we would be required to make to HMRC.

Given that the investment is regulated, and that the information to allow the transfer to complete is required from you following your self-management of the asset, I am unclear what form any legal proceedings, or referral to a regulatory body, would achieve as the information that we are requesting is in line with the SIPP regulations expected of us by HMRC.

If you could please reply to the points raised in my previous email in respect we can look to progress this, record the rental position and complete the transfers however, at this stage, until the position we cannot instruct the transfer as requested.

Regards

Sean Burke

Property Technician

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**From:** Travis Consultancy <[travisconsultancy@btinternet.com](mailto:travisconsultancy@btinternet.com)>

**Sent:** 23 March 2021 12:37

**To:** JH Property Partnership <[PropertyPartnership@jameshay.co.uk](mailto:PropertyPartnership@jameshay.co.uk)>

**Subject:** RE: R01936 26 Tor Hill Road R01969 1 & 1A Magdalene Road - request for information

Dear Mr Burke

I am conscious that time is marching on and legal costs are mounting regarding the transfer. I am having to meet these costs as well, currently over £4,000. It has been going on for over six months.

Your stance and reluctance to execute the transfer is ill conceived and I am quite happy to face HMRC having now loaned over £21,000 to the Fund and am faced with a legal bill amounting to close on £5,000. You insisted on using your Solicitors, duplicating costs, and also insisted I paid off the mortgage on the premises. Unless the transfer is executed within the next seven days I will have to reluctantly institute legal proceedings against your firm and report your conduct to the FCA.

There are exceptions to every rule and this is one of them, it is time common sense prevailed.

Yours sincerely

Stuart Travis

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**From:** JH Property Partnership <[PropertyPartnership@jameshay.co.uk](mailto:PropertyPartnership@jameshay.co.uk)>  
**Sent:** 11 March 2021 10:22  
**To:** Travis Consultancy <[travisconsultancy@btinternet.com](mailto:travisconsultancy@btinternet.com)>  
**Subject:** RE: R01936 26 Tor Hill Road R01969 1 & 1A Magdalene Road - request for information

Dear Mr Travis

Many thanks for your further reply.

Unfortunately this does bring up more problems than it solves from a compliance perspective.

As the rental forms part of your pension fund all monies must be held in a designated Scheme account to avoid any issues with HMRC.

Given the above any residual balance held in the external account, and all ongoing rental received, should have been paid into the Santander account held here in order that these monies form part of the transfer to your new provider. The fact that these monies appear to be in a personal account would imply that you are retaining these monies personally which HMRC does not allow.

In order to rectify this pre transfer we would require confirmation of where any closing balance on the former account was paid and that this amount , along with the rental amounts received since, are then paid into the Santander account here.

In respect of the reduced payments is it the intension that the Tenant will repay the withheld money or are you making an investment decision to accept the reduced amount, if you can confirm this point it will then enable us to hand off the exact rental position to the new Provider correctly on the date of transfer.

I trust you find the above to be in order and that you will now arrange payment of the above amounts into the SIPP ban accounts so we can progress the transfers in a compliant manner.

Regards

Sean Burke

Property Technician

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**From:** Travis Consultancy <[travisconsultancy@btinternet.com](mailto:travisconsultancy@btinternet.com)>  
**Sent:** 24 February 2021 15:52  
**To:** JH Property Partnership <[PropertyPartnership@jameshay.co.uk](mailto:PropertyPartnership@jameshay.co.uk)>  
**Subject:** RE: R01936 26 Tor Hill Road R01969 1 & 1A Magdalene Road - request for information

Dear Ms Bennett

Thank you for your email. We have a problem, the scheme bank account was closed when I paid off the mortgage in November when the saga of the transfer began. As matters stand now both tenants are in arrears due to Covid, and paying half the rent. I attach my property management statement with the relevant payments highlighted.

Kind regards

Stuart Travis

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**From:** JH Property Partnership <[PropertyPartnership@jameshay.co.uk](mailto:PropertyPartnership@jameshay.co.uk)>  
**Sent:** 23 February 2021 14:01  
**To:** Travis Consultancy <[travisconsultancy@btinternet.com](mailto:travisconsultancy@btinternet.com)>  
**Cc:** Amanda Read <[AmandaRead@coffinmew.co.uk](mailto:AmandaRead@coffinmew.co.uk)>  
**Subject:** FW: R01936 26 Tor Hill Road R01969 1 & 1A Magdalene Road - request for information

Dear Mr Travis

Many thanks for you emails, I apologise for our delay.

To be clear on the current position we still require you, as the appoint property manager for this investment, to provide full details of the rental position to enable us to conclude our reconciliation. Amanda has recently sent us 3 leases that I note we were not included as Trustee on or even mentioned anywhere. We will compare the lease payment dates to the bank statement and providing they match we will authorise completion. Whilst we do not wish to delay the transfer we do need to have an accurate record of the rental position given that the investment is regulated.

Kind regards

**Charlotte Bennett**

Service Executive

James Hay Partnership

[propertypartnership@jameshay.co.uk](mailto:propertypartnership@jameshay.co.uk)

☎ 03455 212 414

Dunn's House, St Paul's Road, Salisbury, SP2 7BF

[www.jameshay.co.uk](http://www.jameshay.co.uk)

Please note my working hours are Tuesday – Friday, 9 – 5pm and I am currently working exclusively from home.

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**From:** Amanda Read <[AmandaRead@coffinmew.co.uk](mailto:AmandaRead@coffinmew.co.uk)>

**Sent:** 18 February 2021 13:57

**To:** JH Property Partnership <[PropertyPartnership@jameshay.co.uk](mailto:PropertyPartnership@jameshay.co.uk)>

**Subject:** RE: R01936 [26 Tor Hill Road](#) R01969 1 & 1A Magdalene Road - request for information

Hi Charlotte

I have attached the copy leases supplied to me by the member.

Kind regards

Amanda



Amanda Read, for Coffin Mew LLP

Partner

Commercial Property

Telephone: 023 8048 3787

Mobile: 07341 127918

Cumberland House, 15-17 [Cumberland Place](#), Southampton, SO15 2BG

**Coronavirus – protecting our staff and clients**

To ensure the safety of our clients and staff during the pandemic, we have taken the decision to operate the firm remotely and we are recommending clients instruct/communicate with us using our telephone, email and video conferencing facilities. However, we have taken steps to ensure our Portsmouth, Southampton and Newbury offices are COVID-19 safe and a limited number of essential client meetings can take place in these locations by prior appointment. [Click here to read more.](#)

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**From:** JH Property Partnership [<mailto:PropertyPartnership@jameshay.co.uk>]  
**Sent:** 17 February 2021 16:37  
**To:** Amanda Read <[AmandaRead@coffinmew.co.uk](mailto:AmandaRead@coffinmew.co.uk)>; JH Property Partnership <[PropertyPartnership@jameshay.co.uk](mailto:PropertyPartnership@jameshay.co.uk)>  
**Subject:** RE: R01936 26 Tor Hill Road R01969 1 & 1A Magdalene Road - request for information

Hi Amanda

Our finance team have now asked for a copy of the current leases to reconcile the rent – do you have these? I apologise for the delay.

Kind regards

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**From:** Amanda Read <[AmandaRead@coffinmew.co.uk](mailto:AmandaRead@coffinmew.co.uk)>  
**Sent:** 02 February 2021 09:50  
**To:** JH Property Partnership <[PropertyPartnership@jameshay.co.uk](mailto:PropertyPartnership@jameshay.co.uk)>  
**Subject:** RE: R01936 26 Tor Hill Road R01969 1 & 1A Magdalene Road - request for information

Hi Charlotte

Is there any update on this please? I am being chased.

Many thanks

Amanda



Amanda Read, for Coffin Mew LLP

Partner

Commercial Property

Telephone: 023 8048 3787

Mobile: 07341 127918

Cumberland House, 15-17 [Cumberland Place](#), Southampton, SO15 2BG

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**From:** Amanda Read  
**Sent:** 08 January 2021 19:05  
**To:** 'JH Property Partnership' <[PropertyPartnership@jameshay.co.uk](mailto:PropertyPartnership@jameshay.co.uk)>  
**Subject:** RE: R01936 [26 Tor Hill Road](#) R01969 1 & 1A Magdalene Road - request for information

Hi Charlotte

Sorry to be emailing you on this one already. The member is chasing me regarding completion for this Property. He has advised the rents are all up to date and so he does not understand the delays. Could I have an update please?

Kind regards

Amanda

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**From:** JH Property Partnership [<mailto:PropertyPartnership@jameshay.co.uk>]  
**Sent:** 30 December 2020 11:19

**To:** Amanda Read

**Subject:** RE: R01936 [26 Tor Hill Road](#) R01969 1 & 1A Magdalene Road - request for information

Dear Amanda

Many thanks for your emails. Currently our finance team are reconciling the rental for both properties and once this is resolved I will confirm regarding completion.

Kind regards

**Charlotte Bennett**

Service Executive

James Hay Partnership

[propertypartnership@jameshay.co.uk](mailto:propertypartnership@jameshay.co.uk)

☎ 03455 212 414

Dunn's House, St Paul's Road, Salisbury, SP2 7BF

[www.jameshay.co.uk](http://www.jameshay.co.uk)

Please note my working hours are Tuesday – Friday, 9 – 5pm and I am currently working exclusively from home.

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**From:** Amanda Read

**Sent:** 18 December 2020 11:08

**To:** JH Property Partnership

**Cc:** 'Travis Consultancy'

**Subject:** RE: R01936 [26 Tor Hill Road](#) R01969 1 & 1A Magdalene Road - request for information

Good morning Charlotte

Thank you for your email confirming that Stuart may arrange to pay our invoice for this matter. Stuart – I have attached a final draft for your approval.

Charlotte – what else is required for you to be able to authorise us to complete please?

Kind regards

Amanda



Amanda Read, for Coffin Mew LLP

Partner

Commercial Property

Telephone: 023 8048 3787

Mobile: 07341 127918

Cumberland House, 15-17 [Cumberland Place, Southampton, SO15 2BG](#)

***Season's Greetings and a Happy and Prosperous New Year from all the team at Coffin Mew.***

*The offices of Coffin Mew will close for Christmas at 5pm on Wednesday 23rd December. We will reopen on Monday 4th January 2021 at 9am for normal business hours.*

**Coronavirus – protecting our staff and clients**

To ensure the safety of our clients and staff during the pandemic, we have taken the decision to operate the firm remotely and we are recommending clients instruct/communicate with us using our telephone, email and video conferencing facilities. However, we have taken steps to ensure our Portsmouth, Southampton and Newbury offices are COVID-19 safe and a limited number of essential client meetings can take place in these locations by prior appointment. [Click here to read more.](#)

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When sending monies to us electronically, please ensure that you obtain verbal confirmation from us of any bank account details given to you by e-mail. If you do not follow this procedure you may be deceived into transferring funds to a fraudster's bank account.

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**\*COVID-19 UPDATE\*** We've taken all the necessary and appropriate steps to protect our colleagues, and most are now working from home with remote access to our systems. We know our customers rely on us, so we're working as hard as we can to ensure that as normal a service as possible is provided. We respectfully ask for your patience as we do our best to support you through this challenging time.

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**Travis Consultancy** <travisconsultancy@btinternet.com>

29 March 2021 at 17:09

To: JH Property Partnership <PropertyPartnership@jameshay.co.uk>

Cc: Gavin <gavinm@pensionpractitioner.com>, Emily McAlister <emilym@pensionpractitioner.com>

Dear Mr Burke

I have read your email and cannot agree with its content. The £25,000 is not a contribution it is a loan to the fund and the repayments are not subject to HMRC taxation rules. You have still omitted to quote the relevant section of HMRC rules which you are relying on.

I have read the rules and cannot find anything relevant. Your staff told me I must pay off the mortgage, there was no stipulation on how it was to be carried out, there were no funds in the Bank to facilitate this and the SIPP could not repay it. Also what about the legal costs?

As regarding the value of the fund, a substitution of a personal loan for a mortgage, the fund retains its value. If I had opted to make a contribution, that would have been another story.

May I please have the name of your contact with HMRC and that will settle the matter. The loan was made jointly by myself and my wife.

[Quoted text hidden]

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**JH Property Partnership** <PropertyPartnership@jameshay.co.uk>

6 April 2021 at 12:13

To: Travis Consultancy <travisconsultancy@btinternet.com>

Cc: Gavin <gavinm@pensionpractitioner.com>, Emily McAlister <emilym@pensionpractitioner.com>

Dear Mr Travis

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**From:** Travis Consultancy <[travisconsultancy@btinternet.com](mailto:travisconsultancy@btinternet.com)>

Many thanks for your email.

Whilst noting the content I think the points raised in relation to the two issues requiring action , namely the mortgage and rental, have become confused in relation to which is an HMRC issue and which is not.

Starting with the mortgage , the borrowing undertaken was in the name of the SIPP to facilitate the purchase of property within the SIPP as such the repayment of the mortgage, whether through the monthly payments or lump sum repayment, had to be funded through funds held in the SIPP.

To be clear the issues here are that the Scheme rules only permit borrowing from a regulated Bank or Building Society, so we need to ensure that this position is corrected and also to ensure that the SIPP value is not, as is currently the case, over stated by the old loan having gone and the new loan not being appropriately recorded.

Given the above we need to know how much you paid off exactly and then arrange for this amount to be reimbursed to you from the SIPP to remedy the breach of the permitted borrowing party and the inflated SIPP valuation this action has caused.

In respect of this matter overall there was no need for the loan to be repaid as stated so I am unclear why you believe you were advised differently. Having reviewed the file here I cannot trace any correspondence stating the loan must be repaid before the transfer completes.

Moving to the second point the retention of the rental is an issue that would breach HMRC regulations and it is in relation to this point that I referred you to the potential need to report a potential unauthorized benefit.

To reiterate all rental due in respect of the properties, whilst held in the SIPP, must be paid into the SIPP bank accounts. This would then see this cash form part of your overall SIPP value and allow benefits to be correctly calculated and paid based upon the total SIPP value in accordance with HMRC regulations.

The position we currently have is that since the external bank account was closed all monies have been paid into your personal account directly and have not been accounted for within the SIPP value as should be the case. If you wish to draw benefits from the SIPP you need to request these by way of permitted drawdown methods not by retaining monies personally that you have no direct right too. For clarity by direct right I mean you have no claim to the rent personally as the SIPP is the Landlord so , whilst you are the beneficiary, all rent has to go to the SIPP and then be paid out as benefits within your permitted annual limits.

In respect of HMRC we have no direct contact as both these matters are within the control of the James Hay to oversee and ensure are undertaken in a compliant manner.

I trust this clarifies the two issues further however if you require any further information then please contact me further however we do require both of these matters to be resolved , as previously stated , before the transfer proceeds.

Regards

Sean Burke

**Sent:** 29 March 2021 16:09

**To:** JH Property Partnership <PropertyPartnership@jameshay.co.uk>

**Cc:** Gavin <gavinm@pensionpractitioner.com>; Emily McAlister <emilym@pensionpractitioner.com>

[Quoted text hidden]

[Quoted text hidden]

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**Travis Consultancy** <travisconsultancy@btinternet.com>

6 April 2021 at 13:29

To: Gavin <gavinm@pensionpractitioner.com>, Emily McAlister <emilym@pensionpractitioner.com>

Hi Gavin/Emily

I attach the latest correspondence from James Hay plus all their correspondence. I am getting nowhere with this and would seek your intervention please.

Kind regards

Stuart

[Quoted text hidden]

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**Emily McAlister** <emilym@pensionpractitioner.com>

8 April 2021 at 14:46

To: Travis Consultancy <travisconsultancy@btinternet.com>

Hi Stuart,

Thank you for forwarding all information to us.

Gavin is going to work on this asap.

Thanks

Emily

[Quoted text hidden]

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Kind Regards

Emily McAlister  
Administrator

*Please note our new administration and post processing centre:*

Pension Practitioner

Office 12  
Venture Wales Building  
Pentrebach  
Merthyr Tydfil  
CF48 4DR

T: 0800 634 4862  
F: 020 8711 2522

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