The complaint

Mr A complains the advice St. James's Place Wealth Management Plc ("SJP") gave him to invest in an ISA was unsuitable, the fees were high and not properly explained and it wasn't made clear he was receiving restricted advice. He has said he lost out because the advice persuaded him not to invest his ISA in a low-cost tracker fund that performed better.

Mr A has been represented in his complaint by a relative. When referring below to things said by Mr A, I refer to things said by him or on his behalf by his representative.

What happened

Mr A's complaint was considered by one of our investigators. In brief, our investigator concluded there was nothing impermissible about the charges made on the ISA and that the information SJP gave to Mr A outlined these sufficiently. Also it adequately outlined that SJP's advice was restricted advice – meaning products it recommended would come from a limited number of providers rather than from across the whole market.

But our investigator concluded SJP's advice was unsuitable because SJP recommended Mr A invest in funds that invested too heavily in shares. Our investigator thought the ISA should have been invested instead so as to have less exposure to shares. Our investigator said Mr A wanted capital growth but with only a small risk to capital.

In reaching that view our investigator noted Mr A was a student in his mid-twenties who would start a job in two years. Also he had no food or accommodation expenses and had spare income (from a bursary) of around £850 per month, so he had some scope to make up investment losses. But Mr A had said he might use the invested funds towards a house deposit in future. So our investigator thought Mr A would've wanted some security with it and wouldn't have wanted to gamble. Also Mr A had no investment experience. Our investigator thought Mr A's objectives could have been met without investing so much in shares and this is what he ought to have been advised to do given his lack of investment experience.

So our investigator thought SJP should compare what Mr A got when he cashed in his ISA with what he would've got on the same date if he'd invested in less risky investments as represented by a benchmark half made up of the FTSE UK Private Investors Income Total Return Index return and half made up of a fixed rate bonds return.

SJP responded to say that our investigator had accepted that Mr A had no specific aim for his investment and an agreed timeframe of 5 to 15 years, but appeared to have incorrectly concluded that Mr A's decision to cash in the ISA after two years was something SJP knew would happen or supported. This wasn't the case so it shouldn't affect the case outcome.

SJP noted that the invested funds were a gift from relatives and so would have no immediate impact on Mr A's financial circumstances. Also he had a job lined up in two years and in the meantime had annual earnings leaving him with net disposable income.

SJP noted the investigator had concluded that Mr A wanted growth to beat cash returns and keep pace with inflation and the potential to achieve better longer-term returns and that Mr A was *“comfortable with most of his monies being invested in equities and property, with some overseas”* and was *“seeking to expose his monies to equities and for diversification… to achieve as much growth as possible over the medium term”* and *“understood there may be significant falls in the value of his investment.”* In view of this, and given the investigator had concluded Mr A was a “*medium risk investor”,* it wasn’t clear to SJP why the investigator thought the recommended funds were too risky for Mr A or had too much in shares – given also both funds were medium risk, as *“classified and ratified by the FCA”* according to SJP.

SJP said Mr A’s lack of investment experience didn’t in itself make a recommendation to invest for medium to long term growth in a medium risk portfolio inappropriate. Also the investigator had agreed the recommended investment would’ve helped Mr A achieve his objective of more capital growth and was in line with how he wished to diversify his investment portfolio. The fact the investigator felt Mr A’s aims could’ve been satisfied by an investment holding less in shares, doesn’t mean the recommended investment carried too much risk for Mr A – the recommendation was still suitable even if other recommendations might also have been suitable. The funds were reputable and recognised medium risk funds and SJP didn’t accept they held too much in shares or were a gamble for Mr A.

Mr A responded to say it still wasn’t clear what charges he had paid. He said what SJP had given wasn’t adequate to explain these, or the restricted advice service, to an inexperienced investor like him. He said the £16,842 he had invested had lost money and would’ve done much better had he invested it where he’d initially planned. He also said SJP was to blame for him cashing in the SJP investment, due to the relationship with SJP breaking down after he complained, and he shouldn’t be blamed for cashing in the investment early.

Mr A also made and referred back to a number of other points he’d previously made and asked that all this be referred to and considered by an ombudsman.

Our investigator’s view remained unchanged, so our investigator invited the parties to make any final points they wanted to make before a final decision was made. SJP had indicated earlier that it might make more comments relating to redress. We didn’t in fact receive any more points from either party. As the complaint couldn’t be resolved informally, it has been passed to me for a final decision.

What I’ve decided – and why

I’ve considered all the available evidence and arguments to decide what’s fair and reasonable in the circumstances of this complaint.

Having done so, I’ve arrived at the same conclusion as our investigator and for broadly the same reasons.

I’d mention the investigator’s point about Mr A not seeing the investment’s full potential due to cashing it in after two years, wasn’t a criticism of SJP’s advice but an observation to give Mr A some context to the return he was complaining about. It wasn’t, as I understood it, a reason being given for the advice being unsuitable. The decision to cash in the ISA appears to have been brought about as a result of what followed from Mr A’s complaint issues being raised with SJP. So it was related to his dissatisfaction with how the investment was going rather than to any specifics of Mr A’s circumstances that SJP might have anticipated.

SJP has told us the investment advice was initially requested with a view to beating a cash ISA return of 2.3% a year over a period of around five years. That same exchange said Mr A *“may want to buy a property at some time”* with the funds *“but we have no idea when”.* But it contrasted Mr A’s funds with other funds that *“can stay where they are for the long term”*.

Similarly the August 2018 advice letter said the investment term was *"over the medium term (minimum 5 years)"*. When giving reasons as to why it was appropriate for Mr A to invest his funds, it referred to Mr A having no short-term requirement for the funds. The July 2018 adviser notes said Mr A's funds were *"likely to be used to fund property purchase"* with this happening once Mr A had finished his studies *"and settled into his career"*. His studies had only two years to go, so again this doesn't suggest much more than that the term would be more than two years and perhaps medium term, meaning five or approaching five years.

The August 2018 advice letter said Mr A *"may wish to use the fund for a deposit on a house at some point in the future".* It went on to suggest this meant an investment term of up to fifteen years, saying *"you don't anticipate requiring the funds… while you finish your studies"*. But Mr A's studies had only two years to run so the idea that he wouldn't need the funds while he was studying clearly doesn't support anything like a fifteen year investment term. There are various other references in the notes and advice letter to the investment being potentially long term. But in my view where Mr A's actual situation and circumstances are referred to, what is said rather supports a shorter investment term as I've outlined above.

The notes and letter refer to Mr A having no specific purpose for the funds, but it was clear they might be used for property purchase. So there was a particular purpose for the funds, and this needed to be borne in mind. The exact timing was not known. But not knowing the term exactly is not the same as having an open-ended or long investment term. Rather the letter and notes suggest Mr A had no plans to use the funds in the very short term, until he stopped his studies and started work, so there was a reasonable expectation that a five-year investment horizon might be achieved before the funds came to used.

So potentially the available investment term was at the shorter end of what would be suitable for risk investments like the funds Mr A was recommended. Also the timing of access would be driven by the timing of Mr A's property purchase rather than by investment conditions and funds would likely be withdrawn as a lump sum. So flexibility to postpone access to the funds if markets were negative could be limited by these factors – as opposed to an open ended or long-term situation where access could be varied in response to market conditions.

With all this in mind, I agree with our investigator that all other things being equal this would mean Mr A would want the investment to provide a degree of security that was absent from the selected funds due in particular to the relatively high exposure to shares. I note that their August 2018 factsheets said the funds *"may not be appropriate for investors who may wish to withdraw their money in the short to medium term"* and the funds invested around 70% in assets other than cash or bonds and mainly in shares.

This isn't to say that the funds were not in keeping with a medium risk approach as defined in the description. Rather I'm not satisfied that approach was suitable for Mr A's objectives and circumstances – or that the risks to Mr A's objectives in his circumstances were properly considered and discussed. For example the advice letter notes a fall in the investment value in the short term wouldn't significantly impact Mr A's standard of living. But there's no mention of what impact that - or the significant falls in the value the medium risk description said were possible with the investments – would have on his objective of property purchase.

I accept the advice letter says Mr A wanted as much growth as possible but in my view it is implicit that what was wanted was the highest growth consistent with what was suitable for his risk attitude, objectives, experience and investment timeframe.

I say this bearing in mind that the advice letter says the investment was made with no specific growth target in mind. So the level of risk recommended wasn't dictated by a need for a particular and high growth figure that needed to be achieved by a certain point.

The specific growth objectives that are mention in the letter and notes are that Mr A wanted his capital to keep up with inflation and he wanted to better cash returns. Trying to beat cash returns and keep up with inflation requires exposure to risk assets. But it does not require as much exposure as the funds SJP recommended to Mr A had.

The adviser's July 2018 notes had said Mr A *"has no experience investing in anything other than cash"*. The advice letter noted Mr A's lack of prior investment experience but said Mr A 'fully understood' *"the nature of equity investments and the balance between risk and reward"*. It didn't detail how he'd gained this full understanding. In my view Mr A's lack of experience was rather another factor lending itself towards a lower risk approach than the one recommended to him by SJP.

With all I've said above in mind, I conclude that the degree of risk posed by the funds SJP recommended to Mr A was unsuitably high for him in his circumstances and taking into account his objectives.

I appreciate the recommended funds were not dissimilar to the 80% equity tracker fund Mr A says he was considering investing in as an alternative. But the adviser's role was to consider the suitability of the investment risks for Mr A's circumstances and objectives, rather than to go along with a particular path that he may have had in mind to start with. I say this bearing in mind that Mr A had no previous investment experience so if, as he claims but SJP's adviser disputes, he had a particular investment in mind at the start, this doesn't mean that investment or approach was suitable for him or that he understood its risks properly.

I approach the advice letter's comment that Mr A felt a *"medium risk investment"* like SJP was recommending *"is the most suitable setting for the potential of growth over that which could be currently achieved in cash accounts"* with that in mind. Likewise the adviser's notes said: *"Mr A feels that a stocks and shares investment would give his funds the best chance of significant growth above inflation"*. That may have been so, but for the reasons I've given I'm not persuaded that approach was suitable for Mr A in his circumstances or that its implications and risks were sufficiently explored or explained.

In light of all I've said above, my view is the benchmark proposed by our investigator represents a suitable asset mix for Mr A in his circumstances. I think using a benchmark to assess what loss if any Mr A has suffered, in accordance with our standard approach, is appropriate here. I've not seen enough to identify a particular alternative suitable fund or funds that Mr A more likely than not would've invested in had he received suitable advice.

Mr A thinks SJP fell short in the information it provided about the status of its advice and charges. I've already decided the investment advice was unsuitable and that the result should be compared with the performance of a suitable benchmark. If Mr A's investment decision was also adversely affected by a fault on SJP's part as regards its disclosure of charges or of its status, the remedy would still be to compare the resulting unsuitable investment with a suitable benchmark – so my conclusion and award would still be the same. So I won't discuss these matters in detail here. But I think it likely SJP gave Mr A paperwork that included the necessary detail. I'm not sure how far this was discussed with Mr A, although he could've raised it if anything in the paperwork was of concern to him.

In line with the guidance flagged by our investigator, the *fair value* in the loss calculation is to be calculated from the £16,842 Mr A invested with SJP, rather than a net of charges figure. No separate calculation is needed for the fees SJP charged for the unsuitable investment.

If Mr A wishes any redress amounts to benefit from ISA tax treatment or to be held within his ISA, he can pay it to his ISA. Doing so would use part of his ISA allowance but given his circumstances I can't see that this would be an issue for him or that he is likely to lose out significantly in tax terms as a result of the redress being outside the ISA in the meantime. With this in mind and in light of the necessarily broad-brush approach taken overall – and bearing in mind neither party has raised any points or claims relating to this specifically - I've not discussed this further here or made a separate allowance for it.

Our investigator didn't suggest that SJP pay Mr A anything for distress or inconvenience its error may have caused him. So I've considered this. I note his complaint was raised by his representative. I note that Mr A did decide to cash in his investment. I note what he was said about being caused anguish, but I'm not persuaded he suffered distress or much in the way of material inconvenience as a result of SJP's error. So on balance I conclude an award for this isn't warranted here.

Putting things right

Fair compensation

In assessing what would be fair compensation, I consider that my aim should be to put Mr A as close to the position he would probably now be in if he had not been given unsuitable advice.

I take the view that Mr A would have invested differently. It is not possible to say *precisely* what he would have done differently. But I am satisfied that what I have set out below is fair and reasonable given Mr A's circumstances and objectives when he invested.

What must St James's Place Wealth Management Plc do?

To compensate Mr A fairly, St James's Place Wealth Management Plc must:

- Compare the performance of Mr A's investment with that of the benchmark shown below and pay the difference between the *fair value* and the *actual value* of the investments. If the *actual value* is greater than the *fair value*, no compensation is payable.

- St James's Place Wealth Management Plc should also pay interest as set out below.

Income tax may be payable on any interest awarded.

Portfolio name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
ISA investment	No longer in force	For half the investment: FTSE UK Private Investors Income Total Return Index; for the other half: average rate from fixed rate bonds	Date of investment	Date ceased to be held	8% simple per year on any loss from the end date to the date of settlement

Actual value

This means the actual amount paid from the investment at the end date.

Fair value

This is what the investment would have been worth at the end date had it produced a return using the benchmark. This should be based on the actual investment amount, as I've stated above, and not a net of charges figure.

To arrive at the *fair value* when using the fixed rate bonds as the benchmark, SJP should use the monthly average rate for one-year fixed-rate bonds as published by the Bank of England. The rate for each month is that shown as at the end of the previous month. Those rates should be applied to the investment on an annually compounded basis.

Why is this remedy suitable?

I have decided on this method of compensation because:

- Mr A wanted Capital growth with a small risk to his capital.

- The average rate for the fixed rate bonds would be a fair measure for someone who wanted to achieve a reasonable return without risk to his capital.

- The FTSE UK Private Investors Income total return index (prior to 1 March 2017, the FTSE WMA Stock Market Income total return index) is a mix of diversified indices representing different asset classes, mainly UK equities and government bonds. It would be a fair measure for someone who was prepared to take some risk to get a higher return.

- I consider that Mr A's risk profile was in between, in the sense that he was prepared to take a small level of risk to attain his investment objectives. So, the 50/50 combination would reasonably put Mr A into that position. It does not mean that Mr A would have invested 50% of his money in a fixed rate bond and 50% in some kind of index tracker fund. Rather, I consider this a reasonable compromise that broadly reflects the sort of return Mr A could have obtained from investments suited to his objective and risk attitude.

My final decision

For the reasons I've given above, I uphold Mr A's complaint.

My decision is that St James's Place Wealth Management Plc should put things right by paying the amount calculated as set out above.

St James's Place Wealth Management Plc should provide details of its calculation to Mr A in a clear, simple format.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 5 December 2022.

Richard Sheridan
Ombudsman