

The complaint

Mrs N complained as she thought she'd suffered financial loss as SJP hadn't acted in the way she thought they ought to have done.

What happened

Mrs N had an existing relationship with the adviser, who was an appointed representative of SJP about whom she complains.

In the autumn of 2019 Mrs N met with the adviser and it's said there were discussions about Mrs N's financial circumstances and future requirements. Mrs N had a number of pension plans with different providers and she signed letters of authority to enable the adviser to obtain the information on these plans.

Mrs N wanted to transfer and consolidate her arrangements to facilitate flexi-access drawdown and to obtain the tax-free lump sum in July 2020 when she reached the required age. Mrs N had plans for this money.

In late October and 11 November 2019, the various providers returned the plan information for Mrs N's arrangements to the adviser. On 3 and 11 December 2019 there were meetings between Mrs N and the adviser.

Mrs N says she discussed moving her pensions funds and keeping a sum in cash, in the 3 December 2019 meeting, but she wanted to discuss this with her husband and so a further meeting was arranged when Mr N attended too.

A fact find was completed at the 11 December meeting. This recorded Mrs N's priority was to access her tax-free lump sum at the age of 55. It also indicated the intended investment plan for her amalgamated pension funds.

Mrs N says she signed lots of documents at this meeting. I previously indicated I didn't think we'd seen anything signed and dated by Mrs N from this date. Mrs N suggests the adviser didn't do anything with what she signed. Our understanding is that Mrs N initially thought she had completed instructions at this date. She says it was only later she was told she hadn't completed instructions and nothing had been done.

On 23 January 2020 the adviser proposed a meeting with Mrs N at her office on 28 January 2020, however Mrs N wasn't available. Mrs N says nothing was discussed on 23 January 2020; SJP don't disagree.

On 28 February 2020 in an email to Mrs N's husband, the adviser asked about Mrs N's availability to meet. Mr N replied the next day, copying in Mrs N, to arrange a meeting between himself, his wife, and the adviser.

Mrs N contacted the adviser on 12 March and said:

'Can we organise to see you sooner rather than later, need to ensure my pension pot is protected at least until July?'

Meeting dates were arranged initially for 18 March 2020 and then moved to 19 March 2020 (which it's suggested was conducted by way of a telephone call). I have seen Mrs N refers to having seen the adviser at her home on 18 March 2020 and not the next day. However nothing turns on this. Mrs N says it was when she spoke to the adviser at this time, she discovered nothing had yet happened with her pension plans and they had not been moved from their original providers. Mrs N says she had not known this before. She says the adviser let her know she could arrange to move them, but she and her husband queried why they would do this, now the values had reduced.

Mrs N went on to contact the adviser the next day. She let the adviser know she no longer wanted him to act on her behalf. She said she was disappointed the adviser had not acted on her instructions in January to transfer her funds into cash to secure the lump sum she required in July 2020. Mrs N said the fund was 13% less in value compared to January and she now intended to wait for the value to rise and withdraw at that stage; and she didn't think that would be likely to be in July. At this stage she referred to considering the adviser was liable for a loss of around £5,000 based on his failure to implement instructions in January. There have also been references to other sums, up to a total loss of £14,000 being suggested.

It's understood Mrs N went ahead and consolidated her pension arrangements with and took the tax-free cash as had been intended.

SJP provided a response to Mrs N's complaint. They said there had been no instructions in January, and a stage had not been reached when formal and regulated advice on transfer had been provided. SJP did not accept their adviser had done anything wrong, and there had not been any delay. They indicated that their appointed representative adviser didn't have the necessary permissions to advise on this switch/ transfer. SJP stressed their adviser had only provided forms that were completed in respect of giving the pension providers permissions to provide their adviser with information Mrs N's arrangements. SJP didn't accept there was information that established that a fund switch had been completed or that one had been instructed to proceed.

Mrs N didn't agree and referred the matter to this service.

An investigator considered what was said. He concluded there had been misunderstandings. These included around understanding what needed to be completed prior to transfer. He concluded there had not been any formal recommendations or a suitability report prepared by the time Mrs N dispensed with the services of the adviser. The investigator thought the timeline demonstrated the usual process was being followed by the adviser generally. He didn't think the necessary advice and instruction had been provided to proceed with any transfer. He acknowledged there would have needed to be compliance checks and cost agreements for example. Overall he concluded any fall in the value of the pension funds was not something that could have been avoided, nor did he consider SJP ought to be liable for any purported loss.

However he didn't think the adviser had been as prompt and expeditious in following up meetings with Mrs N, in particular after 11 December 2019 and from 23 January until 28 February 2020. For this reason, he thought SJP ought to pay Mrs N £100 to represent this inconvenience.

Both Mrs N and SJP made further submissions and comments in response to the investigator's view and recommendation. A point was reached where SJP accepted the

recommendation, but Mrs N did not. The case was then referred to an ombudsman for a decision.

Mrs N stressed to the investigator after he'd issued the view that she'd dispensed with SJP's services once she said she'd discovered the initial instruction hadn't been actioned. She was also unhappy she'd been told by SJP that the adviser couldn't do what she said he'd undertaken to do. Mrs N said she was concerned this was the real issue.

Provisional decision

I issued a provisional decision on this case on 10 May 2022. This was not because I disagreed with the investigator, but I wanted to share my thinking. Whilst I didn't think some things had been done as well as they could have been or ought to have been, overall I indicated I intended to make the same recommendation as the investigator, that SJP ought to pay Mrs N a sum of £100 to reflect what had gone wrong here.

Responses to provisional decision

SJP didn't have anything further to add. Mrs N let us know that she feels this experience and the loss in the value of her funds (which she continues to feel are the responsibility of SJP), have made her very unwell and unhappy. She can't understand why SJP aren't being asked to pay her a sum to reflect the fall in the value of her investments.

Mrs N has reiterated that she was under the impression her pension was being transferred to cash, and it wasn't. She trusted the adviser and had no idea he was unable to complete the actions for her. Mrs N referred to her husband, I am only looking at a complaint made by her against SJP and the service they provided to her.

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.

I am sorry this will disappoint Mrs N, but I haven't changed my thinking from that set out in my provisional decision. Whilst there are steps that could have been completed better, more clearly and/ or more expeditiously by the adviser, overall I don't think there is any financial loss that can be sufficiently or reasonably linked to any omissions or errors on the part of the adviser. I don't consider any delay to have been unreasonably significant and I consider the sum of £100 is in-line with what's fair here. SJP will need to pay this sum to Mrs N.

I have considered everything said and provided with real care. I have looked at the timeline of events and meetings. I have taken into account what would need to be completed, to enable an advised transfer of the arrangements Mrs N had in place, into a new arrangement, to enable drawdown in due course. I have also considered whether the time taken in this matter might be considered reasonable or not. I have seen that not all of Mrs N's identified pension arrangements had been held in personal pension plans in late 2019.

Mrs N says she believed the adviser had switched or transferred her various pensions held with other providers, and this had been agreed with him. So she is unhappy he failed to act in the way she says he ought to have done.

In support of her thinking on this, she stresses the email she sent on 18 March 2020 to the adviser where she said:

"I suppose the saving grace is we ring fenced the cash as discussed in January so we've at least secured the cash lump sum".

It might be said the email Mrs N sent the week before, on 12 March 2020, could tend to suggest Mrs N knew matters hadn't yet been progressed:

"Can we organise to see you sooner rather than later, need to ensure my pension pot is protected at least until July?"

I accept this email can be read in different ways. I also accept Mrs N has been consistent throughout, in her complaint that the adviser failed to arrange the transfer she believed had been agreed; and which she says she'd thought had been done.

The transfers didn't happen. The adviser and SJP had not completed the necessary steps to enable any transfer or switch to be completed. I accept from the fact find document this was very much at the centre of what was being looked at. The fact find clearly sets this out as what was wanted and why. But that doesn't mean the adviser had reached the stage where he (or any other SJP adviser) was able to go ahead and arrange any transfer.

If this particular adviser didn't have the necessary permissions to advise and complete the transfers, as SJP say, this doesn't mean SJP would not have been in a position, once further stages and agreements were reached, to be able to facilitate this.

It appears to me there was a failure in communication between Mrs N and the adviser in December 2019 and January 2020. I haven't seen anything that makes me think this was deliberate on the part of the adviser, or that he had set out to mislead Mrs N. I am not persuaded on balance, the adviser understood at these times, Mrs N thought he was already arranging the transfers.

I would be surprised in the circumstances if the adviser had positively undertaken to progress the switches and transfers on Mrs N's behalf himself and at this early stage; he would not have been able to do so, and the adviser would know this. Further steps needed to be completed administratively and to meet regulated requirements on such advice and activities; and another adviser would potentially have needed to become involved.

There would have been no advantage to the adviser to mislead Mrs N. The adviser did not have the requisite customer authority to go ahead, and Mrs N had not indicated in writing to her providers that she wanted her arrangements moved. In addition, it appears this adviser didn't have the regulatory permissions, and this would have needed to be dealt with by someone else at SJP. I haven't seen there was any receiving arrangement in place or agreed, for Mrs N's funds (albeit I accept I've seen there were plans around how her funds were to be invested in the short to medium term).

Based on everything I've seen, it is more likely than not that Mrs N and the adviser understood what Mrs N wanted to do and why, but there wasn't a shared understanding about what needed to be done and the likely timescales. I don't see this as an error that can be considered the responsibility of the adviser here.

The requisite further steps to be completed would have taken some further time. But there's nothing to suggest the time that was likely to be required, would have prevented Mrs N achieving her aim of accessing funds when she reached 55 in July 2020, had matters remained with SJP. Based on what I've seen the adviser was attempting to progress Mrs N's interests, albeit I accept, not as expeditiously as he might have done.

The adviser could have done more, after the contact in mid-December 2019 up to 23 January 2020, and then in particular from 23 January 2020 to the 28 February 2020, to offer and arrange further meetings.

Equally it might be said that had Mrs N felt any personal drive to progress matters faster, she could have contacted the adviser for an appointment. I accept she says she thought her plans had been moved, however I'm not entirely clear on why she thought the further appointments were needed if she considered her plans had been transferred and an amount placed in cash. Given the fact find recorded the intention for 25% to be left in cash to be accessed in July 2020 and the other 75% to be invested into a managed fund, it might be thought, based on what Mrs N says, that if she considered matters discussed in December 2020 had been actioned, there was nothing left to complete.

I've previously indicated I wasn't entirely clear why Mrs N had referred to saying the adviser had been instructed to complete her wishes in January 2020, as I didn't think I'd seen anything to demonstrate contact between Mrs N and the adviser in January 2020, save the attempts to arrange a meeting. Mrs N's email of 18 March 2020 also refers to discussions having taken place in January 2020. As I previously indicated I don't think anything turns on this, as Mrs N also seems to have referred to thinking the adviser had been instructed in December 2019.

For completeness, Mrs N told SJP their adviser had failed to do what he said he'd do, and the email trails would confirm this. I don't think the email trails do demonstrate this.

Mrs N noted she'd sent emails that demonstrated to the adviser, she'd thought the adviser had done what she believed him to have done, and he'd not corrected her. In particular this seems to refer to the email of 18 March 2020. Whilst I understand Mrs N's point, and it appears the adviser didn't correct her in any email response, it's clear that when they spoke shortly after this email was sent, Mrs N was aware or made aware no pension arrangements had yet been moved. On balance, it might be thought, this email demonstrates the misunderstanding at most.

As I've explained even if there had been some misunderstanding, there's nothing here that makes me think it was deliberate on the part of the adviser, or that the adviser was or ought reasonably to have been aware Mrs N might be operating under a misapprehension as to what was happening, until potentially 18 March 2020.

However SJP's adviser could have done better in the service provided when it came to arranging meetings; and in respect of the inconvenience caused to Mrs N. SJP will need to pay Mrs N £100 to reflect this.

I don't conclude SJP and their adviser ought to, or were able to, have transferred or switched Mrs N's pensions in January 2020, or at any time before she dispensed with their services. There wasn't any substantive error or delay meaning SJP ought to be considered liable for any drop in the value of her funds prior to transfer. Mrs N's plans weren't moved, but nor were they likely to have been able to be moved before the fall in value. I don't consider there is any significant link that can be established between a failure or delay on SJP's part and any financial reduction in Mrs N's pension funds that was likely to have otherwise been avoided.

I've seen Mrs N will be disappointed with my decision and that she has shared with us how she has felt impacted here. I accept things could have been done better, but I don't think that even if meetings had taken place sooner in 2020 it's likely on balance, the transfers would have been completed prior to the changes in value Mrs N is unhappy about; nor do I think it

would be reasonable here, to conclude SJP ought to be liable for the impact of the changes in value on Mrs N's funds.

Putting things right

SJP will need to pay Mrs N the sum of £100 within 28 days of being informed of Mrs N's acceptance of my decision.

My final decision

For the reasons given I uphold Mrs N's complaint against St. James's Place Wealth Management Plc in part. They are required to pay Mrs N the sum of £100 within 28 days of being informed of Mrs N's acceptance of my decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs N to accept or reject my decision before 24 June 2022.

Louise Wilson
Ombudsman