DRN-5128289

Financial Ombudsman Service

The complaint

Mr T complains that St. James's Place Wealth Management Plc (SJP) are responsible for a reduction in the value of his pension fund, due to the charges they've applied and their fund performance. He also complained they didn't make him aware they only invested within SJP funds and they should not have applied an Early Withdrawal Charge (EWC) when Mr T moved his funds because they hadn't performed as well as he'd hoped.

What happened

The investigator set out the background to the complaint in her recommendation, I've included an amended copy below for context:

On 18 September 2018 Mr T met with an adviser from SJP and a Confidential Financial Review document was completed that recorded details about his circumstances and objectives.

A suitability report was produced which documented SJPS's advice based on that fact find. It said he'd been provided with a "Services Costs and Disclosure Document" (SCDD), an illustration and a guide to understanding the balance between risk and reward. The advice was to transfer Mr T's Lifetime SIPP fund to a St James's Place Retirement Account (RA).

Mr T accepted that advice and SJP's terms of business, signing a Client Registration Form on 30 October 2018.

On 16 October 2019 Mr T had a review meeting with the adviser which was documented in a letter of the same date. It explained he'd discussed the performance of his plan and attitude to risk (ATR). Mr T's ATR remained Lower Medium, as it had been initially, so as a result of the meeting the portfolio was rebalanced within that risk profile.

On 31 December 2019 SJP sent Mr T a Wealth Account Summary which showed the value of his funds had grown from £75,000 to £80,000 over a year.

On 2 December 2020 Mr T met the adviser for an annual review. On 4 December 2020 he emailed a summary of the discussion, which had covered the performance of the fund and Mr T's goal of minimising volatility through diversification in the portfolio. The adviser recommended Mr T switch 50% of his funds from a Conservative to a Managed Funds Portfolio for greater potential growth. Mr T took some time to reflect on that recommendation and decided not to accept it.

On 31 December 2020 SJP sent a Wealth Account Summary. It showed the fund had grown to just over £81,1000 and had an encashment value of just over £77,000. On 25 October 2021 SJP provided Mr T with a performance report showing the value of his fund at each quarterly interval from March 2019 to September 2021 along with a breakdown of the cumulative returns achieved over different periods.

On 26 October 2021 SJP provided an annual Wealth Account Summary. It showed the value of Mr T's fund had grown to just under £84,400 and had an encashment value of just under

£81,000.

On 29 October 2021 Mr T had an annual review meeting with his adviser. He emailed a summary of the meeting which noted it had discussed the performance and risk level of Mr T's current portfolio. He recommended a switch of funds from the Conservative to the Managed Portfolio for greater equity content.

On 31 December 2021 SJP sent Mr T a Wealth Account Summary which showed the value of his fund as just over £84,300 and the encashment value as just under £80,900.

On 29 September 2022 Mr T had an annual review. The adviser confirmed by email that the outcome was no changes were recommended in the investment strategy for capital growth.

On 31 December 2022 SJP sent the annual Wealth Account Summary which showed the value of the fund had dropped to just over £75,800.

In the first week of July 2023 Mr T had a review with the adviser. On 10 July 2023 he emailed a summary which confirmed they'd discussed the £60,000 Mr T was holding in cash and had decided to retain on deposit rather than invest it in his pension because of the interest rate he could achieve.

By July 2023 Mr T replied to say "*having reflected on it and considering the performance of SJP since we invested a number of years ago, given inflation and the marginal increase in value this money has effectively become worth less over time so I am not inclined to invest more with SJP as any tax benefits are than outweighed by the negative performance and inflation effects*."

In October 2023 Mr T raised a complaint. He said SJP should forgo all withdrawal charges if he transferred his fund because they'd earned fees every year although the fund performance hadn't met expectations. The adviser confirmed that wasn't possible and a charge would apply if Mr T moved.

On 31 December 2023 SJP sent Mr T's annual Wealth Account summary which showed the value of his plan had grown to just over £83,200 and it had an encashment value of just over £81,500.

Mr T transferred his fund to another provider in January 2024. The transfer value was £81,748 following the deducting of the Early Withdrawal Charge of £1668. Mr T then brought his complaint to this service for independent investigation.

On 7 May 2024 SJP provided their final response to the complaint. They didn't uphold it. In summary they said whilst the fund performance had disappointed Mr T, they'd applied the charges as agreed to and weren't at fault.

Our investigator looked into matters but didn't uphold the complaint as she felt SJP hadn't done anything wrong. She explained:

- That at outset SJP had disclosed that the advice service was restricted, wouldn't be from the whole market and the annual reviews and wealth statements each year showed the funds were all within SJP portfolios.

- Poor performance alone wasn't a reason to uphold the complaint. She could see that the portfolio's matched Mr T's ATR. And Mr T wasn't comfortable with increasing his equity-based investments as recommended by the adviser to benefit from the uptick in markets.

- The charges had been taken in line with the disclosed charges accepted at outset.

- The early withdrawal charge was taken in line with the agreed terms of the plan. And was included on each annual wealth account with a running total – it decreased each year. So SJP were correct to deduct this figure as Mr T transferred within the early withdrawal charge period.

Mr T disagreed with the investigator he said in summary:

- Whilst SJP may have told him at outset that the advice was restricted to their own funds. It had an ongoing obligation to remind him annually of the restricted nature of the investments.

- He had trusted that SJPs advice would be in his best interests. It should've pointed out to him that he was restricted to their funds and that they were performing poorly.

- The fees he was charged were excessive and this was made worse by the fact the funds underperformed.

- SJP did not contrast their performance with the market norms. He believes SJP has a duty to provide reasonable levels of performance especially given the high fees charged.

- It had been overlooked by the investigator that SJP had not met the eight week timescale to respond to his complaint. He felt this showed the service leant towards protecting the industry rather than the customers it was meant to serve.

The investigator responded to these points, she said:

The Financial Conduct Authority (FCA) sets the rules about what the business needs to tell a customer before giving advice. Those rules say they have to explain their services before charging for advice however Mr T didn't take any further advice (the ongoing service he paid for was for reviews of the original advice). So there wasn't a trigger for making another disclosure after 2018. They'd also need to tell Mr T if their service changed however it didn't. So as neither of those things happened there wasn't a reason for them to get in touch about it again. Although they weren't required to send reminders, the adviser did send Mr T a copy of the service disclosure on 4 December 2020 by email when he recommended his partner start contributing to an SJP plan. So I can't see they were unclear about the service Mr T was receiving or that they unfairly failed to issue reminders.

In respect of comparisons with other providers, SJP didn't offer independent advice. So they couldn't do that because they weren't authorised to advise Mr T on how to view funds from other providers.

Complaint handling processes are dealt with by the regulator (FCA) rather than this service. We're tasked with looking into how SJP carried out the regulated activity of advising Mr T on investing, so how they handled the complaint wouldn't usually form part of our investigation which is why she didn't comment on that.

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.

And having done so I agree with the findings of the investigator and for broadly the same reasons.

I appreciate Mr T is very disappointed with the performance of his funds whilst they were held with SJP but that alone is not a reason to uphold a complaint. Funds can go up and down. As Mr T paid for ongoing advice, we'd expect a firm to carry out the agreed services for the fees it had charged. And SJP did do this, it provided annual reviews and considered whether Mr T's portfolio met his ATR and objectives. Performance couldn't be guaranteed and SJP made no guarantee. So I cannot hold SJP responsible for not meeting Mr T's expectations, given it provided the agreed service and made no guarantees about performance.

As the investigator set out SJP did tell Mr T at outset about the restricted nature of its advice, and it didn't have to provide annual reminders of this. Mr T's main concern appears that he was restricted to SJP funds but the annual reviews and statements provided a reminder that his funds were only within its portfolios, in any event.

With regards to the charges, Mr T agreed to these charges at the outset. And SJP set out in the illustration how the charges would affect performance as it was required to do. So I don't think SJP did anything wrong here.

Ultimately, I understand why Mr T might be disappointed with the performance of his pension and I think this is the crux of the complaint. Whilst the other factors complained about will have influenced the performance of his plan, these were made clear at outset. And had the funds performed well for Mr T, I don't think he would've been unhappy with these aspects. Poor performance isn't a reason to uphold a complaint unless the business did something wrong that had an impact on this. And I've seen nothing to suggest here that SJP did something wrong.

My final decision

For the reasons explained above, I am not upholding this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 16 January 2025.

Simon Hollingshead
Ombudsman