

## **The complaint**

Mr B complains he was misled about the fees charged by St. James's Place Wealth Management Plc (SJP) on his pension account

## **What happened**

Mr B said despite trying very hard to get clarity on the amount of SJP's charges they turned out to be different to those he was told would apply at the outset. He was told they would be 1.86% with transaction charges of 0.18%. He was not aware that they would vary. Had he known this he would not have transferred to SJP.

SJP said:-

- The papers did explain the position but accepted the Financial Adviser (FA) had said the charges were 1.86% plus 0.18%. The amount listed in its statement of charges differed in August 2022 and 2023 and showed annual charges with transaction costs. The transaction costs were not paid to it but part of the fund manager charges but were reported to help demonstrate them and aid awareness.
- The 1.86% was correct at the time but was made up of 1.46% annual management charge and 0.46% external management charges that could vary and was confirmed in the terms and conditions and illustrations. It noted that the FA didn't mention this at the time.
- It accepted that it could not be certain an annual review took place in 2022 and agreed to refund the Ongoing Advice Charge for that period which was around £2,626.43 and would add simple interest at 8% per annum simple from the relevant plan anniversary to date paid.
- It offered £250 for distress and inconvenience and £100 for complaint handling.

## *My Provisional decision*

I issued a provisional decision on this case. In summary I said the following:-

Firstly I should note that at the time of the original advice in 2021 Mr B was advised by a firm of financial advisers who were appointed representatives of SJP and as such due to regulatory rules, it was responsible for their actions and inactions in relation to this matter. It was for that reason that this complaint was against SJP but I referred to the individual who gave the advice as the financial adviser or FA.

## *Charges*

Mr B transferred around £568,000 of which around £275,000 was from his personal pension and £293,000 from his capped drawdown fund in late 2021.

It was not disputed that at the time of the original advice the financial adviser (FA) confirmed Mr B's understanding of the charges. The FA did not suggest that these would vary. It was

clear that Mr B said he relied on that confirmation in deciding to go ahead with the transfer to SJP. I said that because I could see from the papers that he signed the acceptance papers after the confirmation was provided and he was clear that he wanted to be certain about the actual charges.

In effect Mr B was given incorrect information. The law says that where something is misrepresented the person receiving that misrepresentation is entitled to be put back in the position they would have been in had the correct statement been made not the position that was incorrectly presented. In this case that would mean that the position is as set out in the papers not as was confirmed at the time by the FA.

I had reviewed all the papers I had been supplied with from the time Mr B entered into the agreement. I could see from the papers and in particular the terms and conditions that the fund management charges were explained and it said that the charges may increase if required to reflect costs. So it did seem that there was always an ability to vary the charges and this had not been disputed.

However I noted that Mr B would say that he acted in reliance on the statement from the FA and acted to his detriment by entering into the agreement with SJP. I think Mr B did rely on the representation. I said that because he went to the trouble of asking specifically about charges before deciding to go ahead. Having done so he then proceeded to sign the papers.

However I also needed to consider whether it would have made a difference had Mr B known the correct position. While Mr B said that he would not have gone ahead, I noted that:-

- he wanted to transfer as the report from the time noted that he was unhappy with the existing performance of his funds and
- he also wanted more support with investment than was currently provided to him,
- he wanted to move into flexi access drawdown and
- to move away from the life styling investment in one of the existing funds
- when he questioned the charges he said he would have a tough decision not that he would definitely not go ahead.
- he said he believed that while the costs were significantly higher than his existing providers he thought the funds would be better managed and give improved performance that would more than repay the higher charges.
- when he discussed the charges in 2021 he quoted expected costs of around £10,500 per annum. The information supplied by SJP shows that they were around £10,000 in 2022 and 2023 so in reality the actual amounts paid have matched with the expectations Mr B had, though I accept he would not have known that in 2021.

While Mr B could have looked for another provider that supplied similar services it wasn't clear that they would have been at better rates. He could have transferred to another provider with less support but that did not seem to be what he wanted at the time. Both options would have taken further time to arrange.

It wasn't possible to be 100% certain what Mr B would have done at the time so I am required to make a decision based on the evidence presented. This included that he said he would not have transferred had he known the correct position.

On balance having considered all the evidence I thought that even if Mr B had fully understood the correct position he would still have gone ahead with the transfer. I said that as there were clearly many reasons to go ahead and he had invested a lot of time and energy. Further the actual charges broadly reflected what he anticipated, even if the percentage figures did not.

On that basis while there has been a loss of expectation there was no financial loss, so I couldn't make an award or direction that SJP should apply the fixed rates quoted or waive the early exit fees. I had however taken into account the loss of expectation in my proposed award for distress and inconvenience.

#### *Annual reviews*

With respect to the annual reviews Mr B said that he was not provided with any review between December 2021 and April 2023 but was still charged annual charges. Further contact was only made because he chased the financial advisers at the time. Following exchanges about charges a meeting was held with a new FA on 2 August 2023. The meeting summary presented it as an annual review with no reference to the discussion about charges. Mr B says he had never discussed changing his fund. Mr B said the meeting was not an annual review.

I can see that the initial terms are clear that there would be an annual review of drawdown arrangements and how the fund is performing and other factors such as withdrawals and inflation. However there was no review in 2022.

The position in 2023 was less clear as by this time Mr B was actively asking questions about the charges and says most of the meeting was spent on this. However I can see that follow up papers were sent containing review information and further Mr B didn't question this at the time. So while the discussion may not have been what he expected he was sent relevant information for his review and this would have enabled him to ask further questions had he wished to.

With respect to the 2024 review Mr B does not currently have an adviser appointed to complete that review and so far as I am aware is not paying an adviser fee for that. Further that issue post-dates his original complaint so I have not considered it further here.

I thought that the offer from SJP to refund the ongoing adviser fees for the 2022 missed annual review (plus 8% per annum simple from the plan anniversary in 2022 to the date of actual payment) was fair and reasonable in the circumstances.

#### *Distress and inconvenience*

The purpose of an award for distress and inconvenience was to reflect the impact on Mr B and not to punish SJP.

Mr B said he felt anxious and that he had been lured into a financial trap with significant penalties if he transferred to a new provider. This was compounded by the lack of support in 2022. The review in 2023 left him feeling ignored and increased his lack of trust. He had broken with the firm that provided the initial advice and was currently without a appointed financial adviser to support his SJP retirement account. I noted that SJP had removed the firm and suspended the ongoing adviser fee.

I could see that this must have been distressing and that despite his best efforts he had suffered loss of expectation. The experience has battered his confidence in his relationship with both financial advisers and SJP. I can see that getting clarification has taken some time

and this matter has dragged on for many months.

I thought the mistake had caused Mr B considerable distress, upset and worry. For all those reasons I thought that an award of £750 would be fair and reasonable in all the circumstances.

I proposed to uphold this complaint in part.

I proposed to direct that within 30 days of this service notifying St. James's Place Wealth Management Plc that Mr B has accepted my decision it should:

1. To the extent it has not already done so, pay Mr B £750 for distress and inconvenience.
2. Pay Mr B £2,626.43 plus interest at the rate of 8% simple per annum from the date of his plan anniversary in 2022 to the date of actual payment pursuant to this direction.

SJP said it was prepared to accept my decision to resolve the complaint.

Mr B said my summary of events was clear and concise but with the following inaccuracies that he disagreed with: -

1. I said that at the time, he didn't dispute the Annual review letter dated 3rd Aug 2023. He did dispute this at his earliest convenience by email saying

*"The letter did not reflect the overall content of our meeting at all as it didn't mention our overriding discussions on charges which was the sole purpose of our meeting".*

2. I stated that he had not incurred any financial loss. However, he disagreed and would always feel aggrieved about the monetary difference of over £6,000 between the percentage charges he was told to the actual percentage charges further there were the Annual review charges for 2023.

3. Once again, my decision was based on an assumption that he would have gone ahead if he had been given accurate information on variable charges. He could understand my rationale for this as probably most people may have gone ahead, however, he was in the minority and I could probably see from his consistency and perseverance in pushing for clarity that with his stubborn personality he definitely wouldn't have gone ahead, as he had other options at the time.

All that said, he was now very worn down with fighting this losing battle for what is right. He was very disappointed and felt well and truly trapped with a £15,000 penalty if he were to leave SJP, and faced ongoing charges higher than what he was told.

However, due to his current health he reluctantly accepted my provisional decision to put an end to this saga, and he would unfortunately just have to accept the consequences, as he was due to retire shortly.

### **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.

Firstly while both parties have accepted my decision I want to say that I note Mr B's further comments. In particular about my assumption as to what he would have done and about the 2023 annual review and financial loss.

I note he says he issued a letter challenging the nature of the 2023 annual review. Even though that was the case, as I said in my provisional decision, he was sent information at the time of the review. So even though I was wrong to say he didn't challenge the review at the time, it hasn't affected my overall conclusion on that issue.

I understand his frustration but haven't changed my mind for all the reasons set out in my provisional decision.

### **Putting things right**

As I have not changed my mind I think SJP should put things right in the way I proposed in my provisional decision.

### **My final decision**

I uphold this complaint in part.

I direct that within 30 days of this service notifying St. James's Place Wealth Management Plc that Mr B has accepted my decision it should:

1. To the extent it has not already done so, pay Mr B £750 for distress and inconvenience.
2. Pay Mr B £2,626.43 plus interest at the rate of 8% simple per annum from the date of his plan anniversary in 2022 to the date of actual payment pursuant to this direction. If SJP feels it has to deduct tax from the interest payment it should provide Mr B with a certificate in respect of any tax deducted.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 24 February 2025.

Colette Bewley  
**Ombudsman**