

The complaint

Mrs K with the help of a claims management company (CMC), has complained about the advice she was given by St James's Place Wealth Management Plc ("SJP") in 2018 to invest in an SJP Retirement Account ("RA"). She has said the advice was unsuitable for her because it exposed her to too much risk, the term she had to hold the investments for to avoid incurring withdrawal charges was unsuitable for someone in her position and the charges of the recommended advice were not explained to her properly. She has also said that despite paying ongoing advice charges ("OACs") all the reviews were not carried out and when they were, they were inadequate.

What happened

In February 2018 Mrs K met with an adviser from a firm that was an appointed representative of SJP. While Mrs K only ever met with this adviser I will refer to SJP throughout this decision for ease of reading.

Mrs K was looking to invest funds for growth for use in her retirement. She was investing cash savings into the plan. A Confidential Financial Review completed at the time by SJP and Mrs K set out the following as her circumstances at the time of the initial advice:

- She was 57 years of age.
- She was retired.
- Her net monthly income was just over £700, and she received around £9,000 annually in the form of rental income.
- She had no liabilities.
- She held around £15,000 in cash accounts and had personal assets excluding property of around £20,000.
- Her monthly expenditure was calculated at £400, which meant she had around £300 net disposable income a month.
- She had around £45,000 emergency funds available.
- She held a final salary pension scheme.

The Suitability Letter sent to Mrs K after the initial meeting in February 2018 stated that her key area of focus at the time was retirement planning and that she wanted to make *affordable contributions* to a pension plan to help her in the future. And that in giving the recommendation, the adviser took into account, amongst other things, Mrs K investing in the most tax efficient way possible. She confirmed she was looking for an investment that offered a broad spread of investment opportunities coupled with simple investment administration. And that she wanted to leave everyday management decisions in the hands of relevant fund managers. However she would make decisions on fund switches which would be discussed at the annual review meetings.

In terms of where and how to invest it was recorded that Mrs K wanted the flexibility to move from equity-based funds to lower risk funds. And that she had no wish to fund for a specific target but preferred to make contribution she felt were affordable for her.

The risk factors of accepting the recommendation and investing in the way that was suggested were also set out in this letter as were discussions around the other options available to Mrs K.

In terms of Mrs K's risk profile the adviser assessed her as a medium risk investor, meaning that she wanted to invest a proportion of her overall wealth in higher risk assets with the potential for higher returns; and that she understood the additional risks of investing in overseas markets and she was comfortable with investing some capital in these markets. It was also confirmed that she was investing for ten years or longer and recognised that she may experience significant falls in the value of her investments.

In light of Mrs K's needs and objectives and understanding of investing the adviser recommended Mrs K invest in two SJP managed portfolios called the Managed Funds Portfolio and the Strategic Growth Portfolio, which she accepted with one amendment - she replaced the Japan fund within the Strategic Growth Portfolio with the International Equity fund. The final breakdown of the fund selection is shown below:

• Diversified Bond	2.5%
• Investment Grade Corporate Bond	3.8%
• Multl Asset	11.3%
• Global Equity	11.3%
• Global growth	7.6%
• International Equity	7.5%
• AXA Framlington Managed	11.3%
• Schroder Managed	10.7%
• Strategic Income	11.3%
• Strategic Managed	11.3%
• Greater European Progressive	3.8%
• Asia Pacific	1.3%
• Global Emerging Markets	2.5%
• North American	3.8%

Overall, the risk rating of this specific portfolio was medium and provided Mrs K with the diversity she wanted and the greater potential to receive capital growth.

Further details of the specific funds held within the portfolio were set out in the illustration and Key Facts documents which were given to Mrs K at the same time as the suitability letter.

These additional documents also confirmed the costs and charges involved in accepting the advice - the initial cost for the advice and service would be 4.5% of her investment - and these costs covered expenses incurred in providing, checking and guaranteeing the suitability of the advice. She would have ongoing advice to review her investment and ensure it remained appropriate, for which she was charged 0.5% of her total investment each year

The illustration document also set out further details about the charges Mrs K would incur if she made contributions and also specifically made it clear that there would be a 6% early withdrawal charge in the first year which would reduce each year until the sixth year when the early withdrawal fee would be 1% and thereafter there would be no charge for withdrawal.

Mrs K agreed with the recommendation and set up the plan.

A few months later Mrs K met with the adviser again as she wanted to make another cash contribution to the RA. Her details were recorded in another Confidential Financial Review and summarised in another Suitability letter. However, it appears she decided not to go ahead with this advice and she invested the money elsewhere.

In July 2024 Mrs K, through her CMC, complained to SJP about the advice and the applicable charges. SJP investigated the complaint but didn't uphold it because it felt the recommendation was suitable for her. It also stated that information about all applicable charges and costs were set out very clearly in all the documents that had been provided to Mrs K and that it felt it had fulfilled its duties in terms of the regular annual reviews.

Mrs K didn't agree with SJP's findings so she referred the complaint to this Service where it was assessed by one of our investigators who felt the complaint should be upheld in part. He explained why he felt the advice in 2018 was suitable for Mrs K and that information about the charges had been made clear to her in all the documents she had been provided with.

However, he also found that three annual reviews had not been carried out by SJP – namely 2019, 2021 and 2022 – and so all fees Mrs K had paid for these should be refunded. This was regardless of the fact SJP wasn't able to get any response from Mrs K about the reviews that should have taken place in 2021 and 2022.

In response to the assessment SJP provided clear information, set out below, that the 2019 review was carried out and was a full review of Mrs K, her circumstances and her investments:

- An SJP Retirement Account Illustration for a single contribution of £3,600 gross invested 75% Managed and 25% Adventurous dated 8 April 2019;
- An SJP Retirement Account Illustration for regular contribution of £150 gross per month invested 75% Managed and 25% Adventurous dated 9 April 2019;
- An email from the adviser saying nice to speak to you earlier and providing performance figures to date for Mrs K's pension dated 29 April 2019;
- Email exchanges between the adviser and Mrs K asking if she would like to go ahead with the proposed contribution. She replied that she had decided to go with NFU and would review again, next year, dated 3 June 2019.

So it didn't agree that it should refund the fees Mrs K had paid for the 2019 review. However, it did agree to refund the fees for the missed reviews in 2021 and 2022, equating to a refund of fees from May 2020 to September 2022.

The investigator was satisfied with the evidence SJP had provided in relation to the review in 2019 and so amended his assessment to be that SJP must refund the charges paid for the missed reviews in 2021 and 2022. He put SJP's agreement to pay these to the CMC but the CMC didn't agree with the assessment and remained of the view that the advice was unsuitable.

As no agreement could be reached, the complaint has been passed to me to decide.

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've taken into account relevant: law and regulations; regulatory rules; guidance and standards; codes of practice; and (where appropriate) what I consider to have been good industry practice at the relevant time.

Where the evidence is incomplete or inconclusive, (as it is here), I've reached my decision based on the balance of probabilities – in other words, on what I think is more likely than not to have happened given the available evidence and wider circumstances.

Mrs K's complaint is twofold – the suitability of the advice overall including the clarity of the charges and the OACs she has paid and whether she has received the required services in relation to them. I will deal with each point separately, below.

Suitability of the advice and clarity of charges

From the information I have it seems Mrs K met with SJP of her own volition as she wanted to invest cash lump sums to help provide for her in the future. As above, she was 57 years of age and already retired. So initially taking out a personal pension plan to invest surplus cash doesn't to me seem unreasonable. In fact, it seems to be a prudent decision which allowed Mrs K to take advantage of some tax benefits.

It was also recorded that Mrs K wanted an investment which offered access to a broad spread of investment options but which also had simple investment administration and that she wanted to leave the everyday investment decisions in the hands of the fund managers. And in my view investing in the suggested portfolios and adopting the management approach offered by SJP met this objective.

As well as this, she didn't have a specific growth target in mind as she just wanted to achieve as much growth as possible. So again, SJP's RA seems to align with her objectives.

In terms of the risk Mrs K was willing to take, she was categorised as a medium risk investor meaning she was willing to invest a proportion of her overall wealth in higher-risked assets with the potential for higher returns. Given Mrs K was investing surplus cash this doesn't seem unreasonable. The cash wasn't being taken from any other existing investment nor was it impacting on her income or leaving her short. So she seemed to be in a position where she could risk this cash to a degree and if the worse happened and she lost it it wouldn't impact her daily living. Furthermore, given she wanted her money to grow it was necessary for some higher risked assets to be included in the portfolios to give her the best chance of her investments growing.

Having said that, however, I would expect the higher risk posed by some assets within the portfolio be balanced by those with a more conservative/low risk level, and in looking at what Mrs K was advised to invest in I think the advice was largely in line with this. She chose two managed portfolios and seems to have chosen herself to replace a Japan fund from within one of the portfolios with an International Equity Fund. So her spread of assets was between some low/medium risked assets such as bonds and equities representing a medium level of risk. And some higher risked funds in the overseas and international assets. Thereby balancing out the portfolio to an overall medium level of risk when looked at as a whole.

In considering the term of the investment, a pension plan was always going to be of a longer nature. And while Mrs K was 57 and already retired this doesn't automatically exclude her from taking on a longer-term investment if her circumstances allowed, which in my view they did. I say this because she was investing surplus monies that she held thereby making use of the funds she wasn't otherwise utilising. Furthermore, the minimum term of holding the investment was six years – this would have allowed her to weather any fluctuations of her investment and avoid any early withdrawal fees and this also would have taken her to the age of 63, an age where she would still be able to make good use of the extra monies built up in the plan.

So overall I think the funds into which she invested and the advice she was given in general was suitable for her and aligned with her level of risk, taking account of her investment objectives and her circumstances at the time.

I have also considered how transparent the information about all the applicable charges were in the documentation provided to Mrs K at the time given she has said that the charges were not made clear and she wasn't aware of the early withdrawal charges. However, I am satisfied with the details of the charges that was provided to Mrs K through the illustration documents the key facts documents and other document. As explained earlier in this decision, it was clearly set out in these documents what charges applied to Mrs K's RA, showing a breakdown of advice and product charges on a single contribution basis, initial charges and then the ongoing charges for the uncrystallised and crystallised plans per annum. They also showed the expected annual cost of making and maintaining the investment for the specific funds chosen, as well as the effect of advice and product charges on the same basis as set out above. There was also clear information in a number of documents about the application of an early withdrawal charge and when that would apply, as detailed above. I am therefore satisfied that the information about charges was made clear to Mrs K throughout her time with SJP and at inception of the RA.

The OACs

Mrs K has said she didn't receive the annual reviews she was paying for and those that she did receive were inadequate. However, the information provided confirms that reviews did take place and for those that didn't, the reason was because Mrs K didn't respond to the invitations.

The RA was set up in February 2018 so I would have expected the first review to have been roughly 12 months later, so February 2019. However, Mrs K met with the adviser again in April 2018 as she wanted to make another contribution to the plan. Given the short amount of time between the initial meeting and the second one in April I am satisfied that the first review therefore should have been around 12 months from this date so around April 2019.

I have seen information that confirms a review took place with Mrs K on 8 April 2019. Illustrations were provided following the discussion taking account of the advice that was given and it's reasonable to say these wouldn't have been produced had a review not taken place and recommendations not made. So, I am satisfied that a review did take place at the correct time after the initial set up of the plan in 2018. I have also seen that a review took place in April 2020, April 2023 and October 2023 when a fund switch was actioned.

For the reviews due in 2021 and 2022 I have seen that invitation letters were sent to Mrs K in May 2021 and April 2022. The addresses are correct so there is no reason why these weren't received, yet it seems Mrs K didn't respond to these letters and therefore the reviews for these dates didn't take place. This doesn't seem unreasonable to me as a review can really only take place with the presence of the investor.

In addition, having looked at the way the reviews were carried out I am satisfied they were carried out in the correct manner despite Mrs K feeling they were inadequate. In my view the adviser looked back over Mrs K's investments and circumstances over the previous year and also asked her about what, if anything, she had planned for the upcoming year in terms of investments going forward. So, I don't agree that the reviews fell short of any standard expected.

So I am satisfied that reviews of Mrs K's investments were carried out by SJP at the correct times except for 2021 and 2022, so I am of the view that SJP has met its obligations and fulfilled its ongoing advice obligations.

It is worth noting, however, that for the reviews that didn't take place, while I am satisfied that it was reasonable why these reviews didn't take place, SJP has already offered to refund the charges Mrs K has paid for these specific missed reviews. I understand this offer still stands. So upon receipt of this final decision I would expect SJP to pay Mrs K what it has offered accordingly.

Overall, therefore, for the reasons set out above I am satisfied that the advice given to Mrs K in 2018 to take out the RA investments was largely suitable for her given her needs and objectives at the time. I am also satisfied that SJP carried out the annual reviews correctly that Mrs K paid for and for those that didn't take place the offer made by SJP is a reasonable one in the given circumstances.

Putting things right

My intention is to put Mrs K, as close as possible, into the position she'd have been but for SJP's actions. In this case that means putting her SJP RA into the position it would have been in had the fees not been taken in the years stated above. The SJP RA would be higher by the value of those fees and any investment returns that those fees would have gone on to benefit from. SJP should repay the adviser's fees, adjusted for growth had the fees remained in the existing investment funds, from the date the fees were paid to the date of settlement.

- SJP should pay into Mrs K's pension plan, to increase its value by the amount of the compensation and any interest. The payment should allow for the effect of charges and any available tax relief.
- SJP should take account of any withdrawals or additions to the RA when carrying out these calculations to ensure the values it is using reflect the actual growth the fee would have received, had it not been deducted. I consider that each advice meeting is paid for by the twelve-months' worth of fees that are paid prior to that meeting, so SJP should keep that principle in mind when deciding on the start date for the calculations.
- If SJP is unable to pay the compensation into Mrs K's pension plan, it should pay that amount direct to her. But had it been possible to pay into the plan, it would have provided a taxable income. Therefore, the compensation should be reduced to notionally allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount – it isn't a payment of tax to HMRC, so Mrs K won't be able to reclaim any of the reduction after compensation is paid.
- The notional allowance should be calculated using Mrs K's actual or expected marginal rate of tax at his selected retirement age.
- It's reasonable to assume that Mrs K is likely to be a basic rate taxpayer at the selected retirement age, so the reduction would equal 20%. However, if she would have been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.

SJP must provide the details of the calculation to Mrs K in a clear, simple format.

My final decision

My final decision is that I uphold this complaint but only in part. As per its offer, I direct St. James's Place Wealth Management Plc to pay Mrs K the refund of charges she's paid for the missed reviews of 2021 and 2022, using the calculation method set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 15 September 2025.

Ayshea Khan
Ombudsman