

## The complaint

Mrs E, represented by a claims management company (CMC), complains about the suitability of investment advice provided by St. James's Place Wealth Management Plc ("SJP") and further, that she didn't receive the annual ongoing advice reviews she paid for.

## What happened

Mrs E first received advice from SJP in 2001 to invest £15,000 into a unit trust. Some years later in 2013 she received further advice to take out an annuity. At the time of the initial advice, she was aged 52 but there's no fact find or suitability letter available to give more detail of her objectives or circumstances.

By 2013 she was aged 65 and the documentation available for that advice recorded that she was divorced, in good health and retired, receiving employer and state pensions and rental income. She had unencumbered property valued at £260,000, a £14,000 emergency fund and just over £8,000 in the unit trust.

Mrs E had a stakeholder pension plan valued at just over £68,000 and with no transfer penalties, market value reduction or guaranteed annuity rates. Her objectives were recorded as: *"Maximize the available income from her remaining pension in order to supplement her current pension income Have a guaranteed income and maximize the income available now"*

Mrs E was recommended an annuity with a new provider that gave her a tax-free cash lump sum of £17,000 and an annual gross income of just over £3,000. Alternatives such as drawdown, phased retirement and investment-linked annuities were discussed but discounted as Mrs E wanted an immediate guaranteed fixed income. Her existing provider pension provider could only offer a lower level of income of around £2,600.

The following was recorded about Mrs E's health: *'You are currently in good health and so this option is suitable. As you are in good health you would not be able to purchase an enhanced annuity. We discussed your health and you confirmed that you were not a heavy smoker or suffering from any medical condition that would reduce your life expectancy. We do not believe therefore that you would qualify for enhanced annuity rates that can be available in these circumstances'.*

Our investigator considered the complaint but didn't think it should be upheld. She acknowledged there was limited documentation available regarding the 2001 advice but concluded on balance that the recommendation to invest in the unit trust was likely to have been broadly suitable, as it gave the potential for growth, diversification by holding shares and different asset classes, and the expertise of professional investment managers. She noted that although there was no attitude to risk information available for Mrs E, having looked at the funds invested in, they appeared to be broadly suitable for many investors.

In respect of the 2013 recommendation to purchase an annuity the investigator noted the CMC's view that Mrs E should've been asked to complete a health questionnaire to determine whether she would qualify for an enhanced annuity.

The investigator highlighted that the fact find of November 2013, in the section 'health and occupation details' recorded Mrs E as in good health, a non-smoker and not suffering from any known medical conditions. The suitability letter of December 2013 also confirmed Mrs E was in good health, so it seemed likely an enhanced annuity wouldn't have been available. The letter also confirmed the discussions that had taken place around Mrs E's health and that she did not suffer from any medical conditions. The investigator felt that if Mrs E had any health conditions, she would likely have raised these with the advisor at the time but there was no evidence to show she did so.

She also noted that the CMC hadn't provided any evidence to show that Mrs E had any health conditions at the time of advice that would've impacted her qualification for an enhanced annuity. As such, she didn't think the recommendation of the annuity had been unsuitable or that Mrs E was likely to have been able to obtain an enhanced annuity.

Lastly, regarding the ongoing advice charges, the investigator explained that as the initial advice had been provided in 2001, well prior to the implementation of the Retail Distribution Review (RDR) in 2012, there'd been no separate charge for ongoing advice and no commitment from the adviser to provide ongoing advice.

And in respect of the annuity this wouldn't attract any ongoing advisor charges as there was no fund value for the charge to be deducted from. The suitability letter didn't say Mrs E would be paying for a review service, because an annuity purchase was a one-off transaction. Once in place, it couldn't be amended or cancelled. So, there wouldn't be anything for the advisor to review on an ongoing basis.

Mrs E's CMC didn't accept the investigator's view. It acknowledged the point regarding the ongoing advice charges but remained of the opinion that both instances of advice had been unsuitable. It said, in brief, that despite the lack of documentation it was unlikely the unit trust recommendation would've been suitable, not least because of the high charges associated with it. And it stressed that in any event Mrs E should've been recommended an ISA before anything else. Regarding the annuity, the CMC didn't feel that the enquiries made regarding Mrs E's health by the adviser had gone into sufficient detail and properly considered influencing factors beyond existing health conditions.

In response, the investigator wasn't persuaded to change her view. She noted some additional evidence provided by SJP that showed that Mrs E had in fact invested in an ISA at the same time as investing in the unit trust.

The CMC nevertheless requested the matter be referred to an ombudsman. It felt the ISA evidence demonstrated SJP's inadequate fact finding and record retention policies and it also didn't explain why the full ISA allowance had not been utilised. Further, it felt the charges would've made accepting the associated risks not worthwhile.

### **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 come to the same conclusions as the investigator and for broadly the same reasons. Where the evidence is incomplete or inconclusive, I've reached my decision based on the balance of probabilities. That is, what I think is more likely than not to have happened in light of the available evidence and a consideration of the wider circumstances.

As noted, the issue of reviews not being carried out and ongoing advice charges has been conceded.

In respect of the two instances of advice, I find no basis on which to conclude, on balance, that either was unsuitable. Clearly, the absence of documentation relating to the 2001 advice makes it difficult to determine with any certainty what happened. But given the limited documentation that is available, alongside a consideration of the wider circumstances, there's nothing that stands out to me as a particular issue.

The unit trust recommendation was accompanied by an ISA investment and while there's nothing to confirm Mrs E's attitude to risk, given her age and the diversity of the recommendation, with the £15,000 split equally across four funds, I don't think there's sufficient evidence to conclude it was unsuitable.

In respect of the annuity, the documentation from the time supports a detailed consideration of Mrs E's circumstances and objectives, and how they might be achieved, being carried out. In respect of the CMC's point regarding the potential for Mrs E to have obtained an enhanced annuity rate, again this appears to have been covered off through a discussion with Mrs E of issues relating to life expectancy in which she confirmed her good health.

There may have been specifics that could've been discussed/documented in more detail, but from what I've seen I don't think there's sufficient evidence to conclude that the adviser acted incorrectly. I see no reason why Mrs E would've failed to alert them to any health issues and no evidence has been provided to suggest there were any influencing factors at the time.

### **My final decision**

For the reasons given, my final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs E to accept or reject my decision before 24 July 2025.

James Harris  
**Ombudsman**