

The complaint

Mr M has complained about the advice he received from St. James's Place Wealth Management Plc ('SJP') to transfer the benefits held in a former employer's occupational pension scheme ('OPS') to a pension with SJP. He's also complained that he paid for annual reviews which were not received.

What happened

Mr M was referred to a business, which was a representative of SJP, by his ex-partner in 2020 to talk about his pension. It appears the first meeting (not in person) took place on 20 October 2020. By this time, Mr M tells us he had taken voluntary redundancy from his employment, after suffering a serious injury in April 2020. Mr M was concerned that he might not be able to work again, though he didn't consider himself to be retired.

SJP recorded that Mr M was aged 55 and had started to take his pension from a defined-benefit OPS he had with his former employer. He was also receiving rental income on a property – Mr M has explained that this was his home, but as he was living with his then partner at the time, he was renting it out. SJP noted that Mr M's pension benefits and rental income was sufficient to meet his outgoings. It further noted Mr M had another defined-benefit OPS held with another former employer which would pay benefits at age 60. SJP's notes show that Mr M held a defined-contribution OPS held with Aviva which he was interested in reviewing. And he was interested in making a contribution to his pension from funds he had received as a result of his redundancy in order to benefit from tax relief.

SJP ultimately recommended that Mr M should open a Retirement Account (a type of personal pension) with SJP. It recommended that he should transfer the benefits held in his Aviva pension and make a contribution of £25,000 (gross) to the Retirement Account. SJP recommended that Mr M's pension monies should be invested in a range of managed funds in line with his 'medium' attitude to risk. SJP said it would provide Mr M with ongoing advice, for which he would pay ongoing advice charges ('OACs') to ensure the arrangements remained suitable for him. The advice was summarised in two recommendation letters dated 16 November 2020 and 8 December 2020. A further recommendation letter was issued on 26 January 2021, which explained that Mr M wanted to make two separate contributions of £12,500 (gross) to the Retirement Account instead.

Mr M accepted the advice, signing the client declaration on 26 January 2021. The Retirement Account was opened in February 2021; Mr M made two contributions of £12,500 in February and March 2021 and the transfer value of his Aviva pension (around £71,000) was paid into it in April 2021.

In February 2022, SJP recommended that Mr M transfer a remaining sum of Additional Voluntary Contributions ('AVCs'), which had been attached to his defined-benefit OPS, to his Retirement Account.

Mr M was in contact with SJP throughout 2022 as his circumstances had changed. He explained he was looking to purchase a new property and was exploring how he could use his pension funds to achieve this.

After delays with paperwork, SJP received the AVC funds into the pension in September 2022.

By October 2022, Mr M had decided that he would withdraw his pension funds in full to put towards the purchase price of his new home.

Mr M contacted SJP in February 2023 to arrange the full withdrawal of his pension monies. SJP produced a recommendation letter on 3 February 2023 advising him to take an uncrystallised funds pension lump sum ('UFPLS'). Mr M's Retirement Account was subsequently closed.

Mr M made a complaint to SJP in December 2023. He said the advice he received to transfer his pension to SJP was unsuitable and he hadn't received the reviews he'd paid for.

SJP didn't agree the advice was unsuitable and said Mr M had received reviews before he went on to fully withdraw his pension funds in February 2023. However, SJP noted that when Mr M transferred his AVCs in 2022, he lost a guaranteed benefit so it carried out a loss calculation to determine Mr M's financial loss as a result of the transfer. It also added a payment to compensate him for the distress and inconvenience caused. SJP offered Mr M £332.31 in total to resolve his complaint.

Mr M remained unhappy and referred his complaint to the Financial Ombudsman Service.

The Investigator considered the complaint and found that the advice Mr M received wasn't unsuitable for him given that he wanted to benefit from ongoing advice.

Mr M didn't agree, saying that SJP had made mistakes in the fact-finding process, for example, incorrectly referring to the property he was receiving rental income on as a 'buy-to-let', which was used to justify his attitude to risk. Mr M explained he had moved in with his partner during the pandemic and as he couldn't work following his accident, he decided to rent out his own home, so it wasn't an investment property. He added that he only ever saw his Aviva pension as a mortgage clearing fund, not a pension he was looking to invest for future retirement. Mr M also said he wasn't aware that the adviser he was dealing with could only recommend SJP products. Ultimately Mr M believed he should've been advised to leave his pension with Aviva as he didn't want to take any risk with his 'mortgage clearing funds'. Mr M didn't think the Investigator hadn't taken the representations he'd made about the many inaccuracies into account before reaching his view.

The Investigator wasn't persuaded to change his opinion. He thought Mr M would've been provided with documentation explaining that SJP could only advise on SJP products. He was also satisfied Mr M had received the reviews he'd paid for. Mr M didn't accept the Investigator's findings. He maintained the advice was unsuitable because he was risk-averse and referred to publicity surrounding SJP's ongoing advice services, which showed SJP had a case to answer.

As no agreement could be reached the complaint has been passed to me to make a decision.

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 first wish to say that I understand Mr M suffered a very serious accident in 2020, which impacted his life significantly at the time and ultimately led to him accepting redundancy from

his employer. I also appreciate that this occurred at the same time as the global pandemic and this would've also added to his distress. I've borne this in mind when considering the complaint.

Having carefully considered everything provided by both Mr M and SJP, I'm not upholding the complaint. I appreciate this will be disappointing for Mr M.

Suitability of the original advice

I think it is important to note that Mr M approached SJP for advice, having been referred to the adviser by his partner at the time. Mr M doesn't recall exactly why he was interested in moving his Aviva pension to SJP, but has explained that this was likely following discussions with his then partner who had held investments and a pension with SJP for years.

SJP noted Mr M had taken voluntary redundancy from his employer following his accident and he had recently taken his DB pension benefits and wanted to look into his retirement provisions as a whole. SJP also recorded that Mr M was looking to make a further contribution to his pension in order to benefit from tax relief while he still could. SJP also noted that Mr M wanted to benefit from ongoing advice throughout his retirement.

With these objectives in mind, SJP recommended that Mr M open a Retirement Account with SJP, transfer the value of his Aviva pension to it and make a further (net) contribution of £20,000. SJP had assessed Mr M's attitude to risk as 'medium' and recommended he invest his funds in a bespoke portfolio in line with his attitude to risk.

Having considered Mr M's representations carefully, I'm satisfied the advice he received was suitable for him. Mr M says that he could've achieved his objectives by remaining in his existing arrangements. But Mr M had decided to use the advised service provided by the business which was a representative of SJP. This meant that when recommending solutions to Mr M's objectives, this would result in him taking an SJP product, because SJP could only recommend SJP products and provide ongoing advice on SJP products.

I'm satisfied that Mr M wanted to make further contributions to his pension and wanted to receive advice going forwards to ensure all of his pension funds were being appropriately managed. As such, I think recommending the Aviva pension should be transferred to the SJP Retirement Account and making contributions to the Retirement Account met his objectives. And it allowed SJP to provide Mr M with ongoing advice thereafter. I appreciate that by accepting the recommendations, Mr M would pay more for his arrangements going forward. But I think SJP made him aware of this in simple terms in the recommendation letters he received in December 2020 and January 2021. And in return for the higher fees, Mr M would receive ongoing advice, which I think he would benefit from and specifically wanted at this stage of his life.

I note that Mr M says he was never made aware that the adviser he was speaking to could only recommend SJP products. He says he thought the adviser was independent. But I'm satisfied Mr M was aware that the adviser was a representative of SJP and could only recommend or advise on SJP products. SJP's letter of 26 January 2021 states that Mr M had been given the Services and Costs Disclosure Document, which set out that the adviser could only advise on and recommend SJP products. I also note that the adviser's letters clearly stated in the footer that it was an appointed representative and represented only SJP for the purpose of advising solely on the SJP Group's products.

Mr M says that SJP was fully aware that he considered the Aviva pension to be his mortgage clearing funds, not a vehicle for providing retirement benefits. But in the December 2020 recommendation report, SJP said:

“You have an outstanding interest only mortgage on your investment property, of which you are repaying in monthly instalments. You understand that you will still owe the capital at the end of the mortgage term; however, you plan to sell the property at the end of the term to repay it. You do not wish to make overpayments at present, but this is something we can keep under review and discuss when we next meet.”

So, SJP recorded that Mr M intended to sell his property to clear his mortgage rather than using his pension. Mr M signed the client declaration which accompanied the December 2020 recommendation report confirming the contents of the report had been explained and he'd considered everything. As such, if the information within the report wasn't accurate, I think Mr M would've likely said so rather than signing his agreement to proceed.

I've seen evidence that Mr M emailed SJP on 2 May 2022 requesting a meeting, and here he referred to his pension as his mortgage clearing fund. However, this was over a year after he received the initial advice from SJP. I also think that Mr M was likely viewing his pension funds differently by this point given his living situation had changed and he thought he'd need to use his pension to help him buy a new home.

I also understand that Mr M feels SJP didn't accurately assess his attitude to risk, meaning that SJP advised him to take more risk than he was comfortable with. But having considered the information gathered by SJP, I'm satisfied the attitude to risk assessment it made was reasonable.

While Mr M wasn't an experienced investor, I think he had some capacity for loss such that he was able to take a medium level of risk with this pension. Mr M told SJP that his income covered his outgoings, and he was due a further income from another DB pension when he reached age 60. He was also expecting to receive the full state pension. As such, SJP was satisfied that Mr M already had sufficient provisions to meet his needs in retirement. SJP also noted that in addition to the money he'd received following his redundancy, Mr M had savings of around £52,000 (held mostly in premium bonds). Mr M also told SJP that he didn't intend to touch this pension until age 65, around 10 years later. So, I think Mr M had a sufficiently long investment horizon such that he could tolerate some fluctuations in value. I'm also satisfied SJP made it clear that it considered he was a medium-risk investor and what this entailed.

I note that in the same email I've referred to above, Mr M said he would not describe himself as a medium risk investor and he would never have been willing to risk any significant loss. But again, Mr M had the opportunity to correct SJP's understanding of his risk appetite if he wasn't comfortable with the possibility for losses, but he chose to proceed.

It seems to me that following a significant change in Mr M's circumstances, and world events that led to investment losses generally, Mr M found that the advice he'd taken no longer suited his plans. I appreciate that when Mr M withdrew his pension funds in full in February 2023, he received less than he invested and I understand why he is unhappy about this. However, I don't think that means the advice he initially received was unsuitable. Based on what I've seen from the original time of the advice, Mr M intended to invest his pension funds for around 10 years before he thought he would start to make withdrawals. However, because of his change in circumstances he needed to access the funds much sooner, meaning the early withdrawal charges (as well as short-term investment losses) affected the value he received.

SJP also recommended that Mr M should transfer the remaining AVCs held with his former employer. As SJP accepts the advice Mr M received here wasn't suitable (because it resulted in Mr M losing a guarantee that it didn't draw to his attention), I'm not going to

address this further as SJP has already offered what I consider to be fair redress. However, I would expect SJP to recalculate the interest offered on the difference in fund values on the date the AVCs would have been surrendered so as to bring the offer up to date.

Ongoing advice/reviews

Although Mr M received the advice from SJP in December 2020 and January 2021, his contributions were made in February and March 2021 and his OPS funds were not received into the Retirement Account until late April 2021. So, the OACs wouldn't have been collected until the funds had been received. As such, I think Mr M's first annual review would have been due around March/April 2022 and around the same time each year thereafter. However, I don't think it would be unusual for reviews to take place a bit early, or a bit late, based on the customer's circumstances and availability.

SJP has provided us with copies of emails, fact-finds and recommendation letters that show a significant amount of contact between Mr M and SJP during the relationship. And overall, I'm satisfied that Mr M received the ongoing advice service he paid for during this time.

By the time Mr M's first annual review was due around March/April 2022, his circumstances had changed and he thought he was likely to need to use his pension to help him purchase his new home. A meeting was arranged and took place on 10 May 2022 via a video call. Over the next few months Mr M received advice, via email and in a further meeting in July 2022, relating to how much he would receive if he withdrew the pension in full, and in respect of how his funds were invested, as he was concerned about experiencing any losses in the meantime.

Mr M was given some options on how to protect the value of his funds and also received some advice in respect of taking regular withdrawals. However, Mr M's plans depended on what mortgage he could take, so there was quite a bit of back and forth between Mr M and SJP before he decided in October 2022 to start taking a regular income from the pension to support his mortgage application. A further meeting was arranged in October 2022 to go through things further and the withdrawals were arranged. As such, I'm satisfied that Mr M received the ongoing advice service due to him in 2022.

By the end of October 2022, Mr M had decided he would be withdrawing his pension in full to pay towards the cost of his new home. SJP was aware of Mr M's plans and was prepared to provide him with advice on this once his house purchase had progressed to the point where he needed the funds to be released.

There was a break in contact between November 2022 and February 2023 whilst Mr M was sorting out the sale of his home and purchase of a new property. However, Mr M called SJP on 1 February 2023 to explain he was ready to withdraw his funds and SJP went over its recommendation in the call. SJP then provided Mr M with a recommendation letter dated 3 February 2023 setting out its advice to take a UFPLS. As such, I'm satisfied that Mr M received the ongoing advice service he was paying for in 2023 up to the point he withdrew his funds.

I appreciate that it was Mr M's contact that prompted a lot of the meetings and reviews that took place with SJP. However, SJP wouldn't have provided the advice it gave him if he hadn't been paying an OAC. And if Mr M hadn't been in touch because of his change in circumstances then I still think SJP would've likely been in touch to provide his reviews.

My final decision

For the reasons set out above, I think St. James's Place Wealth Management Plc has already made a reasonable offer to put Mr M's complaint right. And it should pay Mr M the compensation offered to him in the final response letter of 26 July 2024.

However, the interest awarded by St. James's Place Wealth Management Plc on the difference in fund values of 8% simple per year (less tax if properly deductible) should be recalculated from the date the AVCs would've been surrendered to the date of settlement.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 5 January 2026.

Hannah Wise
Ombudsman