

The complaint

Mrs W has complained that St. James's Place Wealth Management Plc ('SJP') advised her to defer taking her defined-benefit ('DB') occupational pension scheme benefits and did not provide her with accurate advice about her state pension entitlement. She is also unhappy with the performance of her Individual Savings Account ('ISA') and that she wasn't told about alternative investment products earning high interest rates.

What happened

In 2007 Mrs W opened a Stocks and Shares ISA and a Unit Trust ISA Feeder Account with SJP, with the funds transferred to be invested in line with her medium attitude to risk. Mrs W took SJP's ongoing advice service for which she paid ongoing advice charges ('OACs') as part of the overall fees collected by SJP.

Mr W is also a customer of SJP but as this complaint concerns Mrs W's investments, I won't detail Mr W's SJP products here. I also won't go into any detail about the separate complaints he's made.

Mrs W had periodic reviews with SJP in relation to her investments.

Mr and Mrs W had their annual review meeting in June 2023, where they raised several concerns with the adviser. SJP wrote to Mrs W to confirm what was discussed. It said that Mrs W didn't think she was seeing the benefits of her investments and the performance was discussed. It also said that Mrs W told SJP that she needed to make a withdrawal from the investments to fill missing state pension years. SJP suggested that Mrs W use her cash reserves to do this to allow the investments more time to grow and recover from the recent market challenges. But SJP noted Mrs W wanted to take the funds from the investments instead.

In July 2023 Mr and Mrs W complained about several issues affecting various products they held, which they said had been raised in the meeting of June 2023 but were not detailed in the letters that followed it. In respect of Mrs W, she complained that in 2014, SJP had advised her not to take her DB scheme pension income but when she retired in 2016 and took benefits, she missed out on two years of income. Mrs W also complained that she had identified a four-year national insurance contribution shortfall, affecting her state pension entitlement. Mrs W explained she had to make this up using her investment funds but SJP should have been able to identify this issue sooner. Mrs W also complained about the poor performance of her ISA, and queried why she hadn't been told she could open other accounts to take advantage of the interest rates being offered on cash ISAs. Mrs W also questioned why she had received different advice to Mr W in respect of her pension.

In November 2023 SJP explained that because of the concerns highlighted about the service provided by the SJP adviser, they would seek to appoint a new one and in the meantime the adviser charges would cease.

SJP issued final response letters to Mr W and Mrs W on 22 March 2024. SJP explained why the advice Mrs W received differed to the advice Mr W received. SJP considered that Mrs W

had raised her concerns about her DB scheme too late under the Regulator's Dispute Resolution ('DISP') rules as her complaint had been made more than six years after the event and more than three years after she ought reasonably to have been aware of her cause for complaint. SJP said that Mrs W hadn't made the adviser aware of any issue with her state pension entitlement and in any event, this was only something the Department for Work and Pensions ('DWP') could help her with. With regard to investment opportunities outside of SJP, SJP said that it wouldn't be able to recommend such investments because SJP partner advisers can only advise on SJP products.

SJP offered Mrs W £30 as a previous offer of flowers to compensate her for a prior complaint did not arrive. It also suggested that Mrs W seek out a new SJP partner adviser given she considered the relationship with their previous adviser had broken down. It also offered a further £250 as a gesture of goodwill for the issues encountered and a further £300 for the time taken to respond to her complaint. In total, SJP offered Mrs W £580.

Mrs W did not feel that SJP had adequately addressed her concerns about her DB pension and state pension. Mrs W said she had raised concerns about the advice not to take her DB scheme pension income with the adviser in 2016. With regard to her state pension, Mrs W said the SJP adviser had obtained forecasts which were included in the fact-finds from 2014, 2016 and 2019. She also considered that she should have been advised to open additional ISAs so that cash reserves could be invested. Mrs W's complaint was referred to the Financial Ombudsman Service in May 2024.

Mrs W contacted SJP in July 2024 as she was concerned that no new SJP adviser had been appointed and the annual review was due.

On 25 July 2024 SJP issued a further final response letter to Mrs W. It provided a detailed explanation of how global events since 2020 had affected her ISA investment returns, but noted that Mrs W's ISA had grown around 4.9% in the last year. It said it had considered evidence Mrs W had provided about her DB pension in 2016 but wasn't persuaded that SJP had provided any advice to defer taking her benefits. SJP noted that it had taken longer than expected to find Mr and Mrs W a new SJP adviser, but said it understood Mr and Mrs W had a meeting scheduled with their new adviser in August 2024. It offered Mrs W an extra £200 for this. And said that the OACs charged since November 2023 would be refunded. When added to the compensation offered in March 2024, SJP said its total offer stood at £1,001.75.

Mrs W raised additional concerns about the OACs charged as she thought that some annual reviews had been missed. This was raised as a new, separate complaint with SJP which was also referred to this Service. I have not considered this aspect of the complaint here.

Our Investigator considered the information provided by both sides but ultimately found that Mrs W's complaint about the advice she said she'd received in 2014 to defer taking her DB scheme income had been made too late under the DISP rules. This was because Mrs W had complained in July 2023, which was more than six years after the event and more than three years after she became aware in 2016 that she had lost two years of income, which would've given her awareness of her cause for complaint. The Investigator noted that there had been a discussion with SJP about this in 2016 but he didn't consider that Mrs W had made a complaint at the time. The Investigator added that he didn't think he could consider this complaint in any event because he didn't think advising Mrs W not to take her DB scheme benefits amounted to a regulated activity. He also didn't think that advising on the state pension shortfall amounted to a regulated activity.

The Investigator noted that Mrs W was unhappy with the performance of her ISA but he hadn't seen evidence to persuade him that this was a result of unsuitable investments. He

didn't think SJP was obligated to tell Mrs W about alternative ISAs on the market and in any event, he thought the evidence suggested that Mrs W preferred to build her cash reserves rather than reinvest them. The Investigator noted that SJP had delayed finding Mrs W a new SJP adviser, but didn't consider that she had lost out given the funds had remained invested and he considered it unlikely that any changes would have been made to her investments whilst the search for a new adviser was ongoing. Overall, he thought the compensation offered by SJP was fair.

The Investigator originally missed that SJP had increased its compensation offer to Mrs W but this was clarified in further exchanges with Mrs W and the Investigator maintained the total sum offered in total by SJP was fair and reasonable.

Mrs W didn't agree with the Investigator's view. She thought that SJP had agreed not to time bar her complaint about the DB scheme income and she also didn't consider the Investigator had properly taken account of her exceptional circumstances, which included several bereavements.

As no agreement could be reached, the complaint was referred to me to make a decision.

After reviewing the complaint, I asked the Investigator to inform Mrs W that I thought I could consider her complaint about the state pension entitlement. This was because although advising on the state pension was not a regulated activity in its own right, it could be considered as ancillary to the investment advice she received at the time and I'd noted reference to her state pension entitlement in several of the fact-finds. However, the Investigator explained that I wasn't intending to uphold this aspect of the complaint as I wasn't persuaded that Mrs W asked for advice on this issue or that SJP provided it.

Mrs W responded, pointing out that SJP had said in its final response letter of 25 July 2024 that the adviser would have sought her written authorisation to get a projection from the DWP so that she could ascertain her predicted state pension income.

Mrs W said that she believed her state pension entitlement had been considered as part of her current and future income and as such, informed the investment advice provided. Mrs W also stated that SJP received her permission to obtain the forecast from DWP and used this forecast in the discussions she had with the adviser. Mrs W said that as she understood it, an adviser could have advised her on her state pension entitlement, for example, how to address missing contributions. But SJP hadn't told her that it couldn't advise her on this – Mrs W said that if it had, she could've approached DWP herself and sorted things out sooner.

Mrs W added that there was also a general lack of clarity about the adviser's role and what she was paying for.

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.

The parties to this complaint have provided detailed submissions to support their position and I'm grateful to them for doing so. I've considered these submissions in their entirety. However, I trust that they won't take the fact that my decision focuses on what I consider to be the central issues as a discourtesy. To be clear, the purpose of this decision isn't to comment on every individual point or question the parties have made, rather it's to set out my findings and reasons for reaching them.

Furthermore, it is evident that Mrs W has made further representations and raised additional concerns following SJP's second final response letter dated 25 July 2024. However, I will not be considering those issues as part of this complaint.

Having considered everything provided by each side, I think that SJP has made a fair and reasonable offer to put things right for Mrs W, so I'm not asking SJP to make a further offer. Instead, I would expect SJP to pay the sum it offered to Mrs W in its letter of 25 July 2024.

Mrs W has raised several issues and I will address each in turn.

Advice to defer to taking benefits from Mrs W's DB occupational pension scheme

The Investigator considered that this aspect of Mrs W's complaint had been made too late under the Regulator's DISP rules. DISP 2.8.2R says that, where a business doesn't consent, I can't consider a complaint made more than six years after the event complained of, or if later, more than three years after the complainant was aware, or ought reasonably to have been aware, of their cause for complaint unless the complainant referred the complaint to the respondent or to the Ombudsman within that period and has a written acknowledgement or some other record of the complaint having been received.

The rules don't say that Mrs C needs to know exactly what's gone wrong to bring a complaint – only that she needs to have a reasonable awareness something might have gone wrong.

If a complaint is brought outside of the time limits set out in the rules, we'd only be able to consider it if SJP has consented – which it hasn't – or if the complaint was brought late due to exceptional circumstances.

Mrs W says that SJP agreed to waive the time bar. I can see that in the final response letter of 25 July 2024, SJP said:

"I appreciate that the FDL stated, 'As you started to receive your occupational pension over six years ago and the annual review in July 2019 above took place over three years ago, we consider this element of your complaint should be time-barred in accordance with the FCA guidelines,' The FDL also invited you to advise us of any mitigating circumstance for why a complaint was not raised earlier. Thank you for providing this information and I am sorry to hear about the passing of your close family members. I would, like to clarify, that although SJP consider the complaint could have been time barred, we have not chosen to do so, nevertheless, your complaint regarding your pensions has been investigated and declined. If you remain dissatisfied with this decision you do have the right to escalate this to the Financial Ombudsman Service (FOS), further details on how to do this will be referenced at the end of this letter."

However, I don't think that SJP was expressing here that it consented to *our Service* considering the complaint should we determine it was made too late. Rather, SJP was explaining to Mrs W that it could have told her the complaint was time-barred and not investigated it but instead it had considered the complaint and declined it.

SJP confirmed to me that it did not consent to us considering this aspect of the complaint. So, I have to determine whether or not it was made in time.

There is reference to Mrs W's DB occupational pension scheme in the fact-find completed in June 2014. This noted:

"[Former Employer] deferred DB pension for retirement at 29/09/2014 however, [Mrs W] likes her work and plans to work on until she feels ready."

So, I think this is most likely the point in time when Mrs W says the advice was given not to take her pension income. As such, I think June 2014 is the date of the event complained of here. And under the six year part of the rule, Mrs W had until June 2020 to refer this complaint to SJP or the Financial Ombudsman Service.

Mrs W says she realised that she had lost out on two years' worth of income that she was entitled to through the DB scheme in 2016. And I've seen the email correspondence from 2016 about this issue. It seems that Mr W contacted SJP on Mrs W's behalf in March 2016 to tell SJP that Mrs W hadn't received an increase to her pension income that she had been expecting after deferring her benefits. So, I think this demonstrates that Mrs W was aware of her cause for complaint in March 2016.

Mrs W says that these emails also show that she complained to SJP about this at the time. But I don't think they do. In SJP's email of 22 March 2016, the adviser explained that she thought it was the change to the state retirement age, which meant the increase Mrs W would've been due would now not apply until she reached state retirement age. Mr W's email on 29 March 2016 asks whether this meant that Mrs W would get back the money at a later date or whether she'd lost it completely. It appears that a phone call took place on 5 April 2016 and SJP followed this up by email asking for some further information.

Based on what I've seen I don't think a complaint was made here. It's possible that a complaint could have been raised during the phone call, but if that were the case I'd have expected this to be mentioned in the follow-up email. And as I've said above, the rules require a written acknowledgment or some other record of the complaint having been received. It doesn't appear that there was any further correspondence relating to this issue. So, I haven't seen sufficient evidence to persuade me that a complaint was made about this or that it was received by SJP in 2016. I also think if Mrs W had made a complaint she would've likely followed this up at the time.

In light of this, I don't think Mrs W's complaint about the advice she says she received about deferring her DB pension was made until July 2023. Under the six-year part of the rule, Mrs W had until June 2020 to make this complaint and this time limit isn't extended by the three-year part of the rule as I think Mrs W was aware of her cause for complaint in March 2016.

Mrs W's complaint in July 2023 was more than six years after the event complained of in June 2014 and more than three years after Mrs W became aware of her cause for complaint in March 2016. So, I think this aspect of the complaint was made too late.

Mrs W has said that she suffered several bereavements over the years and these should be considered as exceptional circumstances. I am very sorry to hear about the loss of Mrs W's family members – I don't doubt that these were difficult times for her. But the rules under which we operate ask me to consider whether the delay in referring the complaint within the time limits was due to exceptional circumstances. So, it is the circumstances themselves that would have prevented the complaint from being raised – the example given in the rules is incapacity.

Mrs W engaged with SJP each year about her pension. And she was also specifically discussing the issue with SJP (via Mr W) in 2016. So, I think that she would have been

capable of raising the complaint with SJP at this time or at any review she had between June 2014 and June 2020. So, I don't think that the bereavements Mrs W has told us about explain why she couldn't have referred this complaint to SJP or us in time.

Incorrect advice relating to Mrs W's state pension entitlement

The Investigator told Mrs W that he couldn't consider this aspect of the complaint as advising on a customer's state pension entitlement isn't a regulated activity.

It is correct to say that advising on a customer's state pension entitlement isn't a regulated activity in its own right. But this Service can consider some unregulated activities, if the unregulated activity was ancillary to a regulated activity, such as investment advice. So, I've thought about this further.

I can see that there is reference to Mrs W's state pension entitlement in the fact-finds completed as follows.

2014

"They are more than confident that their income would cover their expenditure in the event of [Mrs W] retiring as their income would be 1,716 minimum for [Mr W] with state pension adding to this in 2015 of 137.64 per week plus 919 net per month from [Mrs W's] pension (11,284 per annum) plus state pension and [Mrs W's] other pension in years to come. For the short term even if [Mrs W] retires they would have minimum 2,635 coming in each month with total outgoings of 2,500."

2016

"[Mrs W] retired 31/03/2016 and is now in receipt of her company pension. They have completed a detailed analysis of their expenditure and now find themselves with an income shortfall of £355 per month and have decided that they will look to take a natural income from their existing portfolio which based on current yields will produce an income of approx £800 per month which will far exceed their needs."

"[Mrs W's] income will increase in 2020 when her state pension commences of £119.30 per week (+42 qualifying years)"

"[Mrs W] is retiring 31.03.16 and on retirement there will be a shortfall between their income and expenditure. They plan to commence a natural income from their investments in order to cover this shortfall and based on the current yield this will more than exceed their shortfall. [Mrs W's] income will also increase in 2020 when her state pension commences."

2019

"[Mr W] and [Mrs W] are both retired and in receipt of their pension incomes. At their last review (Dec 18) they decided to stop the natural income from their Unit Trusts. They felt that with such a small amount of income being received and with the majority of the income coming from their ISA's they would just continue with the ISA income which was tax free."

Their income more than covers their outgoings

"[Mrs W's] income will increase in 2020 when her state pension commences of £119.30 per week (42 qualifying years)"

So, SJP made notes about Mrs W's state pension entitlement in records of several reviews, though it appears the information in the 2019 fact-find was simply a repeat of the information recorded in 2016. And I think, on balance, that recording Mrs W's state pension entitlement was an ancillary activity to the investment advice SJP was providing her at the time.

But even though I think this can be considered as ancillary to a regulated activity, I don't think that SJP advised Mrs W on what her state pension entitlement was. And I haven't seen sufficient evidence to persuade me that it misled her about this either. It's clear the adviser noted down what it understood Mrs W's state pension entitlement to be, but I don't know where that information came from. Mrs W says that she gave the adviser permission to obtain a forecast from the DWP, so it's possible the adviser received this direct from DWP. But there isn't any evidence of this having taken place; SJP doesn't have any record of information the adviser may have received from DWP, so it's also possible this information came from Mrs W. Ultimately, I haven't seen enough evidence to make a finding on this either way.

In any event, it seems to me that the adviser was under the impression that Mrs W was entitled to the full state pension, given that in 2016 it noted she had 42 qualifying years and as I understand it, an individual of Mrs W's age needed 35 years of National Insurance contributions to receive the full state pension. So, I haven't seen sufficient evidence to persuade me that the adviser ought to have been aware at this point that Mrs W had any missing contributions. And although this wasn't updated in the 2019 fact-find, I think it would've been reasonable for the adviser to continue to assume that Mrs W was still entitled to the full state pension based on their earlier understanding.

In summary, I think the adviser was under the impression that Mrs W was entitled to the full state pension and as such, could not have reasonably foreseen the issue she later encountered. And ultimately I haven't seen sufficient evidence to persuade me that a mistake was made such that SJP was responsible for the issue Mrs W experienced with her missing contributions. So, although I think that I can consider this aspect of Mrs W's complaint insofar as it is ancillary to another regulated activity, I don't think that SJP provided her with any advice or misled her about this issue.

Mrs W also questioned what she was actually paying SJP for if it couldn't advise her on her state pension. Mrs W didn't have any pension products with SJP; she had an ISA and a Unit Trust ISA Feeder Account. So, the ongoing advice charges she paid specifically related to the ongoing suitability of those products for her needs. Mrs W's state pension income, as well as the income she received from her DB schemes, was information that the adviser would take account of when advising her on her investments, but it couldn't advise her on the specifics of those pensions and how they met her needs as this wasn't a service she was paying for.

Investment performance

Mrs W has expressed dissatisfaction with her investment performance. I appreciate that Mrs W would've hoped for a better performance over the last few years, but as she no doubt understands, investment returns aren't guaranteed and since 2020 in particular, investment returns have been significantly affected by global events. In its final response letter of 25 July 2024, SJP provided extensive information explaining how the various global events had affected her investments over the last few years and I don't think there is anything else I can meaningfully add to this.

Mrs W says that the Investigator didn't adequately address her complaint about the performance of her ISA between July 2018 and July 2023. But as I've said above, performance isn't guaranteed so this isn't something I would ask to be remedied unless

I thought that SJP had treated Mrs W unfairly, such as by investing her funds in an unsuitable portfolio. As I understand it, Mrs W's funds were invested in line with her 'medium' attitude to risk, so I'm not persuaded that the poor performance has resulted from her funds being invested in something unsuitable.

Failure to notify Mrs W of alternative investments available to Mrs W outside of SJP

In the complaint letter of 1 July 2023, Mrs W said that at the meeting in June 2023 with Mr W, they had asked whether they could open additional ISAs and the adviser told her they could. Mrs W complained that they ought to have been told this before as they could have placed their cash reserves in ISAs and accrued interest. Mrs W expanded on this in her letter of 25 March 2024 where she said opportunities had been missed to invest surplus cash funds with their bank's high-interest savings accounts, ISAs and investment accounts.

It is important to note that as a representative of SJP, the adviser could only recommend SJP group products. When Mrs W became a customer of SJP in 2007, it provided her with a copy of its 'Key facts about our Services' document which would've made this clear – the recommendation letter of 16 October 2007 confirmed this had been provided to her. And I note that Mrs W would've received further copies of this document, for example, the June 2014 recommendation letter also confirmed this had been provided to Mrs W.

SJP does not provide a cash ISA, so it would've only been able to recommend that Mrs W invest any surplus cash in her SJP Stocks and Shares ISA, subject to the annual limits. It would not have been able to recommend that Mrs W invest monies with another provider. Mrs W was free to open alternative products with her bank if she wished, but her SJP adviser would not have been expected to introduce her to other products available on the market.

Issues finding a new adviser

Following the complaint having been made, SJP thought it would be best that Mrs W and her husband find an alternative SJP adviser. Mrs W doesn't believe that this was something she asked for and the delay in finding another adviser has caused distress and inconvenience, particularly as their annual review approached in June 2024.

Given the concerns that Mrs W raised about the adviser, such as recording things incorrectly in meetings, not providing information and the concerns I've addressed above, I don't think it was unreasonable that SJP suggested that a new adviser was found. I appreciate, however, that it took longer than necessary for SJP to find a replacement adviser. But I think that SJP has made a reasonable offer of compensation to put things right for Mrs W, including a refund of OACs from November 2023 to July 2024.

I understand that Mrs W was due to meet her new adviser in August 2024 but it appears that other problems have since arisen. However, as I've said above, this isn't something I am considering in this complaint.

Compensation offered

SJP has made Mrs W a total offer of compensation of £1,001.75. This can be broken down as follows:

March 2024 final response letter

- £30 for flowers that were promised but didn't arrive;
- £250 in recognition of Mrs W being a valued customer of SJP and
- £300 for the delay in responding to her complaint of 1 July 2023.

July 2024 final response letter

- £121.75 for a refund of OACs;
- £200 for the delay in finding her a new SJP adviser and
- £100 for the delay in responding to her appeal of the March 2024.

Overall, I think the compensation offered by SJP for the concerns raised by Mrs W is fair and reasonable in the circumstances, particularly as apart from the delay in sourcing a new adviser, I have not found SJP to be at fault here. I understand SJP hasn't yet paid the compensation to Mrs W as she didn't accept it and instead referred her complaint to us. As such SJP should pay Mrs W £1,001.75 to settle this complaint.

My final decision

St. James's Place Wealth Management Plc has already made an offer to pay £1,001.75 to settle Mrs W's complaint and I think this offer is fair in all the circumstances.

So, my decision is that St. James's Place Wealth Management Plc should pay Mrs W £1,001.75.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 23 October 2025.

Hannah Wise
Ombudsman