

## **The complaint**

Mr P complains that St. James's Place Wealth Management Plc ('SJP') gave him unsuitable advice to invest regular monthly contributions into an investment-based Individual Savings Account (ISA). He also says that, despite being charged an Ongoing Advice Charge (OAC), he didn't receive the annual reviews SJP promised.

## **What happened**

The following is a summary of the key events and background leading up to this complaint.

Mr P first had contact with SJP in 2012 in relation to a discussion about protection products and investing but he wasn't in a position to proceed with investing at this stage. Things were picked up again in July 2013 and SJP completed a fact-find to capture Mr P's circumstances and objectives. The key details recorded here are as follows:

- Mr P was aged 64, in good health, married, with 2 dependent children.
- He was working full-time and planned to work until age 70.
- His monthly disposable income was £465, he had £10,000 in cash-based savings as an emergency fund, and he had an existing Self Invested Personal Pension (SIPP.)
- He would receive his state pension in 2014.
- He had no employer pension scheme but with new legislation this was going to be offered, which he'd join.
- His objective was to save £170 a month for the medium to long term for capital growth with access to the whole amount whenever he might need it.

SJP also carried out an assessment of Mr P's attitude to risk referring to its 'Understanding the balance between risk and reward brochure.' I've not been provided with a copy of this, but SJP assessed Mr P's risk appetite as 'medium' risk. This was described in the suitability report of 26 July 2013 as:

'This means that you want your capital to keep pace with inflation and are comfortable with your capital being invested in equities and property, some of it overseas. You realise that there is a risk that there could be significant falls in the value of your investments, and that accepting this risk gives you the potential to achieve better long-term returns.'

SJP recommended Mr P invest £170 a month into an investment ISA investing in a balanced portfolio. It referred to the amount being affordable and with Mr P having an emergency fund above that recommended, he had capacity for loss as any losses would not impact his standard of living. The balanced portfolio was broadly made up of 50% pure equity funds, 10% multi-asset, 10% alternative, 20% bond and 10% property.

The suitability report referred to other documentation including an illustration document and a key facts document, both of which referred to the charges for the advice and investment, including the OAC of 0.5%.

About the ongoing advice service, the suitability report said:

'I strongly recommend that we conduct a review of your circumstances at regular intervals. I will write to you each year on the anniversary of your plan to provide you with an annual statement in respect of your investments so that we can arrange for a review.'

Mr P accepted the recommendation and the investment commenced in September 2013.

In May 2014, Mr P approached SJP because he wanted to increase his regular contribution. SJP updated its fact-find noting no material changes to his circumstances. And it recommended he increase his contributions to £245 a month investing in the same fund. It said its reasons for the recommendation remained the same as those in 2013. It referred to the previous key facts document provided to Mr P in 2013.

In December 2015, Mr P withdrew all of his funds from his ISA.

Mr P complained to SJP in October 2024 using the services of a professional complaint representative. In summary he said he believed the advice was unsuitable because he wasn't a medium risk investor, he had no prior experience, he should have been advised to direct his money to a pension instead, and he had cash savings which SJP should have advised he maintain and sought out the best interest rate for. He also said that he didn't get the ongoing advice and annual reviews he paid for.

Because SJP didn't provide its final response within the allotted time, Mr P referred his complaint to us.

SJP subsequently provided its response to the complaint. In summary it said the advice it gave was suitable as set out in the suitability report Mr P was provided with. And it said his complaint about the lack of ongoing advice /reviews had been brought out of time – more than six years from the events complained about and more than three years from when Mr P knew, or ought reasonably to have known, he had cause for complaint.

Because Mr P remained dissatisfied, he asked us to look at the matter. One of our investigators looked at things and they concluded the advice Mr P received was suitable. They said the investment was affordable, a medium attitude to risk was appropriate in the circumstances and the investment recommended was in line with the approach Mr P was willing to take. They also agreed with SJP that Mr P's complaint about the ongoing advice had been brought too late, so they couldn't consider this element of his complaint.

Mr P, through his representative disagreed. He said that he never received an annual review and so wasn't aware what constituted a review – as such he didn't know he had cause for complaint. He said he only became aware he had cause for complaint following his representative's advertising about OACs. He also said that he didn't think he should have understood that a missed annual review would be grounds to raise a complaint and ask for a refund especially when the fees were not clearly disclosed.

Mr P said that in relation to the suitability findings, he believed SJP's fact finding about his attitude to risk was inadequate. He said there was no need for him to take risk with his money especially given the impact of the charges and that he was unlikely to maintain the investment in the future when he retired, and his circumstances changed.

Because the investigator wasn't persuaded to change their opinion, the matter was 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. And where the evidence is incomplete or inconclusive 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.

#### The applicable rules, regulations and requirements

As a regulated firm, SJP had many rules and principles that they needed to adhere to when providing advice to Mr P. And these can be found in the Financial Conduct Authority (FCA) handbook under the Conduct of Business Sourcebook (COBS) and Principles for Businesses (PRIN) as they were at the time of the advice.

Having considered all of this and the evidence in this case, I've decided to reach the same conclusions as the investigator and for broadly the same reasons. I'll explain why.

#### **OAC element of the complaint.**

I'd firstly like to deal with the ongoing advice element of Mr P's complaint.

I don't have free rein to consider every complaint brought to the Financial Ombudsman Service. The rules by which we operate are set out in the DISP section of the FCA handbook. The relevant rule in this case is DISP 2.8.2R. This says that unless a firm agrees:

'The Ombudsman cannot consider a complaint if the complainant refers it to the Financial Ombudsman Service:

- (1) more than six months after the date on which the respondent sent the complainant its final response, redress determination or summary resolution communication; or
- (2) more than:
  - (a) six years after the event complained of; or (if later)
  - (b) three years from the date on which the complainant became aware (or ought reasonably to have become aware) that he had 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;

unless

- (3) in the view of the Ombudsman, the failure to comply with the time limits in DISP 2.8.2 R or DISP 2.8.7 R was as a result of exceptional circumstances;'
- And in this case, SJP has not agreed to us considering the complaint.

The events being complained about – the missed reviews on or around 2 September 2014 and 2 September 2015 – both happened more than six years ago. So, I need to go on to consider when Mr P knew, or ought reasonably to have known, he had cause for complaint to see if this extends the six-year deadline.

Mr P, through his representative, says that he first became aware he had cause for complaint following his representative's advertising about the issue and specifically about the FCA's instruction to SJP to carry out a review of the ongoing advice service they provided to their clients. But I think Mr P ought reasonably to have known he had cause for complaint sooner.

This is because I think the paperwork Mr P received from SJP at the outset in 2013 made it clear to him that he was signing up to an annual advice review service and that there was a cost involved in this service. And importantly, as clearly set out in the suitability report, that Mr P could expect to hear from his SJP adviser on the anniversary of his plan with an annual statement to arrange a review. So, from this, I think Mr P reasonably understood what would happen and when in relation to annual reviews.

Mr P's representative has said that because he never received a review and so didn't know what constituted a review, he had no cause for complaint. And says that he would not have understood that a missed annual review could be grounds to complain and demand a refund of his fees paid. But as I've outlined above, I think Mr P ought reasonably to have understood that he was paying something extra to have an ongoing review service, as clearly set out in the illustration and key facts documents he was given, and how that service would be offered to him and when. So, when that didn't happen as he was told would be the case on or around 2 September 2014 (and again on or around September 2015) he ought reasonably to have understood that something had gone wrong and so had cause for complaint. Even if he didn't appreciate *all* that might have gone wrong.

Because Mr P's awareness was more than three years ago, this doesn't extend the six-year deadline for Mr P to bring his complaint. So, Mr P needed to bring his complaint about the missed reviews by 2020 and 2021, respectively (each missed annual review is a separate event.) Mr P didn't bring his complaint until 2024, so he's out of time under our rules.

I can still consider the complaint if there are exceptional circumstances, which reasonably explain the late referral. But I've not been provided with anything to show this is the case here.

This means I cannot consider Mr P's complaint about the missed ongoing advice reviews because it's been brought out of time – I simply don't have the power to consider it.

### **Suitability of advice**

Turning to the suitability of the advice Mr P received – I agree with the investigator's conclusions here. And there's not much more I feel I can usefully add to what Mr P has already been told.

Firstly, I think Mr P's attitude to risk assessed by SJP as being 'medium' was reasonable in the circumstances. And it's apparent from what's recorded in the suitability report, that this was discussed with Mr P with the level of detail and explanation that I think was reasonable, and as such Mr P ought reasonably to have understood the level of risk he was taking. I've not seen anything to support Mr P's representative's argument that SJP's fact-finding around this was inadequate.

Mr P wanted to invest on a regular monthly basis using some of his surplus income, so it appears to have been affordable. Mr P had around £10,000 in cash-based savings as an emergency fund, so his capacity for loss was in my view good. This means I think Mr P could afford to take some risk, and at the level agreed, with his investment.

Mr P intended to continue working to at least 70, so the term of his investment was reasonable. I can see that it was recorded Mr P wanted to have control or access to his investment if needs be, so I think it was reasonable that SJP discounted Mr P investing via a pension instead.

By making regular contributions, Mr P was in control of his investment and he could cease or pause contributions if he wanted or if his circumstances later demanded it – albeit there was nothing within his documented circumstances to indicate this was likely. I think Mr P's objective of wanting to seek growth on his money was reasonable – he didn't need to generate additional income (he was going to receive his state pension within the near term thus boosting his income) and given the low-interest rate environment at the time, returns on cash-based savings were typically low.

So, I think Mr P's objectives and rationale for investing were reasonable in the circumstances.

Looking at the recommended investment portfolio, given its make-up in terms of asset class as I set out in the background section above, I think this was in line and suitable for Mr P's stated risk appetite.

In summary, I'm satisfied SJP's recommendation to Mr P was suitable. I've seen nothing to show that it acted unfairly or unreasonably towards him in this regard.

### **My final decision**

For the reasons above, I've decided the following:

- Mr P's complaint about the missed ongoing advice annual reviews is out of time, so I cannot consider this element of his complaint.
- Mr P's complaint about the suitability of the investment advice St. James's Place Wealth Management Plc gave to him in 2013 is not upheld, so I make no award in his favour.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 22 August 2025.

Paul Featherstone

**Ombudsman**