

The complaint

Mr C, with the help of a claims management company (“CMC”), has complained about the suitability of advice given to him by St. James's Place Wealth Management Plc (“SJP”) to set up an SJP Retirement Account (“RA”). He has also said that despite paying ongoing advice charges (“OACs”) he hasn't received the annual reviews that he should have done.

What happened

In 2020 Mr C met with an adviser from a firm that was an appointed representative of SJP. While Mr C only ever met with this adviser I will refer to SJP throughout this decision for ease of reading.

A financial review was completed with Mr C in January 2020 where his personal and financial circumstances were recorded as follows:

- He was married with no dependents.
- He was 56 years of age.
- He was employed on a full-time basis.
- He was in good health.
- His annual salary was in the region of £34,000.
- He had net disposable income of just under £800 per month.
- He owned his own home with a mortgage which had three years remaining on the term.
- He held around £5,000 in available emergency funds.
- Held no other assets apart from his home and a cash-based bank account.

In the suitability report that followed the completion of the financial review, dated 24 January 2020 it was recorded that Mr C's objective at the time was investing for his retirement. He had no pension arrangements in place as he had encashed an old pension when he was made redundant and used the funds to repay part of his mortgage. He expected to work until the age of 67 at which point his state pension would be paid.

It was also noted that Mr C's employer offered an auto enrolment scheme (NEST) but also offered to pay contributions to a personal pension of his choice. The proposed level of contributions was 6% and Mr C was aware this level was double the minimum 3% that the government had imposed on companies so he felt he shouldn't turn this offer down. Mr C also confirmed that he was happy to contribute £70.83 net into his newly set up pension plan and SJP would claim the tax relief on Mr C's behalf to add to the pension totalling £88.24 gross.

From the document it also appears that Mr C was interested in the ongoing service and advice SJP offered given the complexity of investing for retirement benefits. And that the personal approach offered would give him peace of mind knowing someone was looking after him and was easily contactable. He confirmed that he was looking for a hands-on

approach with the management of the retirement portfolio and that he was willing to pay a reasonable fee for the peace of mind provided by the ongoing monitoring /review service.

The document also confirmed that discussions around Mr C's attitude to risk took place at the meeting and his objectives, investment experience, term of investing and capacity for loss was discussed. It was agreed that Mr C was a medium risk investor meaning that he wanted his capital to keep pace with inflation and was investing for at least five years. It also meant he wanted the potential to achieve better long-term returns and was comfortable with most of his capital being invested in equities and property, some of it overseas. It was also confirmed that Mr C understood there could be significant falls in the value of his investments.

Mr C was advised to set up an SJP RA and to make regular contributions into it. The RA would also receive the contributions from his employer. The RA was to be invested in the Managed Funds portfolio that SJP offered which SJP said was suitable for a medium risk investor and therefore, was appropriate for Mr C as it offered a good level of diversification and risk appropriate for his objectives. The specific split of the funds within the portfolio were as follows:

Balanced Managed	15%
Diversified Assets	5%
Global Equity	15%
International Equity	10%
Managed growth	15%
Multi Asset	15%
Strategic income	10%
Strategic Managed	15%

In terms of the charges of the new advice, the illustration document that was given to Mr C at the time of the advice set out that the cost of the initial advice would be £698 and this covered all expenses incurred in providing, checking and guaranteeing the suitability of the advice. It also explained that SJP would provide ongoing advice to review the investment advice and the ongoing contribution levels and ensure they remained appropriate. The cost of this was 0.5% of the total investment and so would increase as the investment grew.

This document also detailed the effect of the advice and product charges on the investment broken down into uncrystallised and crystallised investments. And the early withdrawal charge was also recorded as 6% for the first year after the contribution was made and then would reduce each year until the sixth year where the withdrawal charge would be 1% and then 0% thereafter.

In terms of the performance of the RA compared to the NEST scheme it seems the auto enrolment scheme had charges of 0.3% per annum but the RA had charges of 1.9% per annum. So this meant that the RA would need to grow by 1.65% more per annum, or £28 in the first year, than the NEST scheme in order to match the fund Mr C could have had if he invested there instead. But despite this Mr C seemingly accepted the advice as he wanted to benefit from the ongoing advice SJP offered.

In July 2024 Mr C, through his CMC, complained to SJP about the suitability of the advice saying that Mr C had no existing investment experience or knowledge and SJP hadn't demonstrated how it established his investment risk profile or his capacity for loss; the higher charges including the initial advice charge, ongoing advice charges and exit fees of the new product were not given appropriate consideration; the charges were not adequately explained; no annual reviews were carried out so SJP failed to ensure the RA remained

suitable and was sustainable for Mr C; and that had it not been for the advice from SJP Mr C would have retained and increased contributions to the NEST scheme.

As SJP failed to provide the required final response letter after eight weeks the complaint was referred to this Service where it was assessed by one of our investigators. He was of the view that the advice given to Mr C in 2020 was suitable for him. However, he found that SJP hadn't carried out the annual review for the year 2023. So he said that SJP should refund the fees paid for this missed review by calculating the lost investment return Mr C would have experienced from the date the fees were deducted by SJP to the date of settlement and then pay the total loss into Mr C's RA if possible.

SJP accepted the investigator's findings and agreed to refund fees for the missed review in 2023. However, it proposed a different form of settlement – to add 8% simple interest to each fee rather than work out the loss on the investment as it felt that this was a more pragmatic way of resolving the matter.

The CMC on behalf of Mr C didn't agree with the assessment and remained of the view that the advice Mr C received in 2020 was unsuitable for him.

The investigator responded to the CMC's additional points but wasn't persuaded to change his initial outcome.

So as no agreement could be made 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, 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 CMC in this complaint has made many detailed comments in response to the investigator's assessment. I've considered everything the CMC has said. However, our rules don't require me to address or respond to each and every point raised. We're an alternative to the court not a substitute for it. As such my role is to decide how a complaint should be resolved with minimal formality. And I aim to present my conclusions in as clear and as concise a manner as I can. In doing so I focus on the key issues and the reasons that are crucial to my decision making. So, if there's something I haven't mentioned, it isn't because I've ignored it. It's because I'm satisfied I don't need to comment on it to be able to reach what I think is a fair and reasonable outcome in the circumstances of this complaint

Transparency, consideration and explanation of charges

As I have detailed above it seems clear that the applicable charges and the effect on the investment compared to the NEST scheme were satisfactorily set out and communicated to Mr C via the documents that he was provided with at the time the advice was given.

The annual management charge for the NEST scheme was set out in the suitability letter as was the charge for the advised RA plan. The letter also made it clear that the SJP RA was

1.65% more expensive than the Nest plan. But this included the 0.5% charge for ongoing advice so if the two plans were compared on a like for like basis the SJP plan was only 1.15% more expensive than the NEST plan. Given Mr C appears to have specifically wanted the ongoing advice and contact with SJP, something that wasn't offered by the NEST scheme it doesn't seem unreasonable to me that he accepted the advice. The illustration also explained the impact of the charges on the recommended plan and again as can be seen from the details set out above much information was provided around this issue. This document also highlighted the initial and ongoing charges as well as the exit fees, so I am satisfied that the impact of the charges were considered by SJP and were explained to Mr C at the time of the advice and that he was happy to accept these terms and proceed with the advice.

Suitability of advice

In deciding whether the advice provided in 2020 was suitable for Mr C it's important to point out that my role is not to decide what the best or most perfect advice would have been for Mr C, or any consumer. My role is to look at the advice and the recommendations given and decide whether, from the information in front of me, what was recommended was in line with the consumer's needs and objectives at the time taking account of his personal and financial circumstances. So while there may have been other options available to Mr C at the time of the advice rather than switching his pension I can only look at the advice Mr C accepted and assess the suitability of that – I cannot state or decide what else Mr C should or could have done.

As a regulated firm, SJP and its appointed representatives had many rules and principles that it needed to adhere to when providing advice to Mr C, namely the FCA handbook under the Conduct of Business Sourcebook (COBS) and Principles for Businesses (PRIN), as they were at the time of the advice.

Furthermore, given the complaint concerns a switch of a pension I must also have in mind the relevant guidance provided by the FCA and its predecessor, the Financial Services Authority ("FSA"). And of particular relevance for this complaint is the report the FSA published in 2008 on the quality of advice on pension switching. This report identified four main areas where they considered advice to be unsuitable:

- The switch involved extra product costs without good reason.
- The fund(s) recommended were not suitable for the customer's attitude to risk and personal circumstances.
- The adviser failed to explain the need for or put in place ongoing reviews when these were necessary.
- The switch involved loss of benefits from the ceding scheme without good reason.

As well as this, in deciding whether the advice was suitable I have considered what obligations SJP had when providing that advice and in conducting its suitability exercise. In doing this I expect to see that a business has obtained necessary information regarding the consumer's knowledge and experience in investing, their financial situation and any investment objectives – essentially enough information to understand the most important facts of the consumer so that the recommendation meets the consumer's investment objectives. These considerations also include their attitude to risk, the purpose of investing and how long they want to invest for; whether the consumer can financially withstand the investment risk; any potential future changes to their circumstances (financial and personal); the extent of their regular income, assets, cash holdings, investments, property liabilities and regular financial commitments.

The advice Mr C received was to open an RA in order for his employer to pay the contributions that it had offered him, plus for Mr C to also contribute an amount himself to maximise tax benefits.

From the information above it is clear that the charges for the NEST scheme were less than the recommended RA. However, I cannot ignore that it was recorded in the documents from the time of the sale that Mr C wanted his plan to be monitored and looked after, along with regular provision of advice and suitability monitoring. Given SJP offered this service and the NEST scheme didn't it doesn't seem unreasonable to me that the SJP plan had higher charges because Mr C was getting extra services and in light of his recorded needs and objectives it doesn't seem that it was unsuitable for Mr C to be advised to open the RA as this would have allowed his objectives to be met. I am satisfied that Mr C was made aware of this and was something he willingly agreed to.

In terms of affordability, the majority of the investment into the RA weren't coming from Mr C's earnings. The majority of his investment into the RA came from his employer contributions and Mr C was advised to contribute around £71 per month into the RA. Given he had just around £800 net disposable income a month I am satisfied that the advice at that point in time was affordable for Mr C and wasn't depriving him of regular income thereby leaving him short for his normal daily living expenditure. Mr C had also indicated that he didn't anticipate any change to his circumstances in the future so I am satisfied that SJP considered the sustainability of this advice as well.

Turning now to Mr C's attitude to risk assessment and the funds he was recommended to invest in, Mr C was 56 years of age at the time of the advice. He was in a fair financial position and had some disposable income left on a monthly basis. However, he was several years away from retirement (wanting the plan to run until he turned 67 years of age) and as I have said above, he was investing employer contributions for his retirement which was a sensible thing to do. He also wanted to invest for growth and so it's logical that he would have wanted to build up his pension as much as he could comfortably do to ensure he was in the best position possible upon retirement. So his risk categorisation being medium doesn't seem unsuitable to me as this allowed him to invest in a mixture of safe and riskier assets, balanced out by each other, which in turn allowed the potential for some growth. In addition to this given how long he was away from his chosen retirement age he was in a position of being able to invest over a long period of time and to weather any fluctuations in the markets over the years thereby increasing the growth potential of the fund.

Looking at the actual funds Mr C was recommended to invest in, I am satisfied they were diverse enough for someone of his medium attitude to risk – they were split, for the most part, between equities and bonds/fixed interests which reflects his attitude to risk – it allowed for some safety while also providing a way the funds could potentially grow in value. And while I appreciate there was a significant proportion in equities this would have been to provide Mr C with the best potential for growth. And even though some of the equities were overseas the majority were placed in UK based equities which balanced out the higher levels of risk posed by the overseas equities.

It's also worth noting that at 56 years of age he had limited pension reserves so investing in a medium risk portfolio would provide him with the potential to grow his pension over a shorter period of time without taking on too much risk.

As well as this, looking at the investment option available through the NEST scheme the funds offered were categorised as Ethical, Shariah, Higher Growth and Lower Growth. Mr C hadn't expressed a preference to invest in Ethical or Shariah investments, so the only two options left open to him were the Higher and Lower Growth funds. However, the Higher Growth fund had an asset allocation of around 82% equities and property – this sat around

the higher end of the risk spectrum so doesn't seem to have been suitable for Mr C. The NEST Lower Growth fund had an asset allocation of around 100% bonds and cash which sat towards the lower end of the risk spectrum which again doesn't seem suitable for Mr C given his objective of growing his investment as much as possible to provide his retirement benefits. So in addition to the other reasons why I think the advice from SJP was largely suitable it also seems that investing in the NEST scheme wouldn't have met with Mr C's needs and objectives as he expressed at the time of the initial advice.

In addition, I haven't seen that Mr C would have lost any benefits from his existing scheme by switching to the RA.

Overall, therefore, having looked at Mr C's circumstances and the details of the advice he was given I am satisfied that it was largely suitable for him taking account of his needs and objectives at the time.

OACs

As explained earlier in this decision the investigator upheld this part of the complaint and SJP agreed, following the investigator's assessment, to refund the fees for the missed reviews. So there is little point in me repeating the details and making any further findings. All I will say is that I am in agreement with the investigator's outcome that given the dates between the reviews in 2022 and the one in November 2023 (some twenty two months later) this does indicate that this really should have been classed as the 2024 review thereby meaning that the review was missed for the year 2023, so it is fair and reasonable that SJP refund the fee Mr C has paid for this missed review.

In terms of the offer SJP has made, again as previously explained the calculation of the refund isn't directly in line with the methodology the investigator set out in his assessment. However, Mr C's CMC has confirmed it is willing to accept the calculation methodology SJP has proposed as it is agreed by all parties that this is the most pragmatic way of resolving this part of the complaint.

My final decision

My final decision is that I don't uphold this complaint. However, St. James's Place Wealth Management Plc has already made an offer to settle the complaint, outlined above, 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 the redress amount once the calculation has been finalised.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 6 October 2025.

Ayshea Khan
Ombudsman