

The complaint

Mr R opened an Individual Savings Account ('ISA') with St. James's Place Wealth Management Plc ('SJP') in 2007. In 2017 he followed SJP's advice to transfer his two ReAssure pensions into an SJP Retirement Account ('RA'). The ISA and the RA included SJP's Ongoing Advice Service ('OAS'), for which Mr R paid fees, and a main feature of the OAS was annual suitability reviews.

Overall, Mr R says he has been deprived value for money from the OAS, especially since between 2014 and 2017 (and at least until 2023), as he never received any meaningful ongoing advice (or any advice at all) on ensuring that his ISA and RA achieved the objectives that SJP undertook to achieve for him. He complained in 2004. SJP disputes the complaint on merits. It also says part of the complaint is out of time and outside our jurisdiction.

What happened

Mr R says he was persuaded to engage in SJP's products and services, especially at the point of opening the RA, by prospects of the high level of investment performance it said it could deliver. He asserts that SJP's task was to optimise his investments, that it failed to do so and that, consequently, his ISA and RA have underperformed.

In the above context, his complaint submissions included the following expressions of dissatisfaction –

"My pension performance ... appears to be c. 60% below industry medium-risk expectation since 2017 i.e. 4.47% compound growth compared to 6.5% worst-performer and 12% upper quartile ..."

"My ISA performance ... has faced the same issues since 2014. I have never received or been offered formal investment advice from my SJP adviser, I just get an annual call or email inviting me to invest more. Overall, my ISAs [sic] achieved 6.25% growth ... again weak compared to industry median and top performers."

"I have no record of receiving investment fund selection or related advice during my relationship with SJP except:

- a. On transfer-in, in 2017*
- b. Recently, on 1st Nov 2023 when switching to Polaris"*

"Any recommendations I received during the entire engagement to date (excepting initial fund selection) were with a view to investing more funds into SJP, and not advice that might improve my investments' performance. Fund switch was not suggested or offered for this purpose."

Mr R has also shared with us his comments on SJP's responses to his complaint issues. In the main, SJP's responses (and Mr R's comments) included the following –

- SJP – Mr R had a new SJP partner in 2013 who advised on the ISA, and the same partner

advised the 2017 transfer to the RA; there is record of a total of around 15 occasions over the relevant years in which ongoing investment advice was given to him; each involved a suitability assessment and Suitability Letter ('SL') issued to him; each was based on completion and/or updating of its Confidential Financial Review ('CFR') for him (which recorded the facts of, and reviewed, his circumstances at each point); each included illustrations related to any new investment recommendation; and each also included the provision of investor information for the investments (and/or reference to such information where previously provided); upon delivery of all these services Mr R was given all the information he needed, at each point, to consider the advice he was given.

(Mr R – this amounted to no more than a 'tick-box' exercise, devoid of any meaningful advisory service that was focused on growing his ISA and RA; it also did not reflect the fact that SJP had been appointed because of the prospects it sold to him, in terms of delivering top quartile performance; only at two points did SJP focus on pursuing growth for him, at the outset and in November 2023 when a fund switch to the Polaris fund was advised/implemented.)

- SJP – benefits to Mr R associated with the OAS it delivered to him included the fact that recommended contributions into the RA increased his investments for retirement but, as they were made by the company he owns, they also achieved corporation tax relief (for the company) for each contribution; and the ISA utilized his annual allowance in a tax-free environment.

(Mr R – neither point is relevant to his complaint about SJP's failure to pursue growth for him, and the resulting underperformance in his assets.)

- SJP – *"The past few years have been particularly volatile for investments but when investing with SJP, our philosophy is one of 'time in the market' rather than 'timing the market'. This means we recommend investments are held for the medium to long term, to allow them to ride out the short term volatility that occurs from time to time. Trying to time your investment brings increased risk and is more in line with speculating or short-term trading. The investor is, in our opinion, more likely to achieve their goals by investing in a well diversified portfolio, that meets their attitude to risk, over an extended period of time."*

(Mr R – the above was repeatedly stated by the partner over time, and he accepted it on good faith; however, the medium to long term that SJP refers to has elapsed in his case; and it is his assets' underperformance *after* that term that he is complaining about.)

- SJP – Each time the partner recommended an investment she *"... updated her records and discussed [Mr R's] situation and objectives with [him]. This also included discussing [his] Attitude to Risk and whether the funds [he was] invested in remained appropriate for [him]. It was therefore deemed there was no requirement for any fund switches on [his] ISA or RA until 2023 when [he] moved into the Polaris 3 fund on [his] ISA and a mix of Polaris 3 and 4 on [his] RA. This has been followed up when [he] switched everything into Polaris 4 on both plans."*

(Mr R – this illustrates the key failure by SJP; until 2023 it never recommended a fund switch; his risk profile went towards defining the funds that could be suitable for him; but it did not preclude SJP from reviewing existing fund investments, in the face of their underperformance, and recommending switches to other equally suitable funds that were performing better; it never did this during the relevant period; so an ongoing advisory service was non-existent, as it gave no ongoing advice in this respect.)

- SJP – in terms of ongoing advice and new advice, Mr R “... *received advice and/or reviews in 2013, 2014, 2017, 2018, 2019, 2020, 2021, 2022, 2023 and 2024. I have found no evidence of any reviews or meetings with [the partner] in 2015 or 2016 although I note you corresponded with her in these years.*”

SJP also says part of the complaint is out of time, specifically the reviews missed in 2015 and 2016 and/or Mr R’s claim that SJP failed to give him advice in these years. It says his 2024 complaint happened more than six years before 2015 and 2016, so any complaint issues arising from both years are outside the regulator’s six years time limit (beginning from the complaint event(s)). It also says any such complaint issues are outside the regulator’s three years time limit (beginning from when a complainant knew or ought to have known of cause for complaint). It argues that Mr R would have known long before, and more than three years before, his 2024 complaint that the reviews in both years were missed, so the complaint happened more than three years after he knew of cause for complaint.

On this point, Mr R says SJP’s argument seems to be partly misguided because his complaint is not about missed reviews in 2015 and 2016, instead it is about the absence of a meaningful OAS and the resulting underperformance of his ISA and RA. With regards to the timing of his complaint, he said the following in his comments –

“A relative ... in 2023 advised me to look closely at my funds’ actual underlying performance and not let the “long-term” advice obscure the reality.

Consequently, I became fully aware of under-performance (gained knowledge of the issue in FSC terms), and the clear cause in late 2023 – less than 12 months ago. I concluded my analysis in March 2024 and submitted my complaint.”

He also referred to professional circumstances, between 2017 and 2022, that, he says, occupied him significantly and compromised his attention performance of his ISA and RA.

One of our investigators looked into the complaint. He concluded that the entire complaint is in time and in our jurisdiction, but he was not persuaded that the complaint should be upheld.

With regards to our jurisdiction, the investigator recognised that performance was a deciding factor for Mr R in terms of pursuing his complaint; that he was informed of his ISA’s and RA’s valuations over time, but he also made many contributions into them over time; so it would not have been straightforward for him to determine performance from the valuation information alone; it would have been tricky for him to know where growth had resulted purely from performance and where it had been influenced by the contributions; this was relevant to his awareness of cause for complaint; so the full period should be considered in the complaint.

In terms of merit, he mainly said – there is ample evidence that SJP delivered the OAS Mr R paid for over the years; he maintained a medium risk profile throughout the relevant time period and there is no evidence that this was the wrong profile for him; the purpose of the OAS was to ensure previous investment recommendations were under ongoing review and that they remained suitable for him and his circumstances; until the 2023 change, his ISA and RA were wholly invested in the Managed Funds Portfolio (‘MFP’); the characteristics of the MFP made it suitable for a medium risk profile and it was an actively managed fund of funds using different investment funds under monitoring by SJP’s investment committee; the fact that there were other funds equally suitable for Mr R’s risk profile did not mean the MFP was unsuitable; it also did not mean fund switches should have been conducted where there

was no cause to do so; performance was never guaranteed to Mr R; fund switches in pursuit of better performance could have resulted in the opposite [and the investigator gave an example of this]; and the MFP did not become unsuitable for him by its performance alone.

Mr R disagreed with this outcome and asked for an Ombudsman's decision.

He strongly objected to the notion that SJP had done nothing wrong in the following – providing him with a standard investment product (the MFP) that, in its approach, warranted no further work or advice thereafter; receiving significant ongoing fees from him for an OAS that he expected to be tailored to his specific objectives and needs; and fees for an OAS that he expected to involve an active ongoing pursuit by SJP of the top level performance he wanted and that it professed to being able to deliver (the prospects of which, as sold by SJP, he was induced by); but delivering no such ongoing service.

He also said –

“SJP could have offered different fund blends (or investments) but they didn’t attempt this. In my view, a competent expert adviser should have been able to identify a flatlining investment and recommend changes to remediate that condition in a way that maximises performance, given my ATR. Why else would I buy advice if not to protect the value of my investment? I paid them to avoid the exact risks (losses) to which I became exposed due to their lack of advice.”

“... performance is the main reason I contracted with SJP – top-quartile growth ... They therefore failed to satisfy my most fundamental needs and expectations.

Advice was sold to me without restriction within the context of my investment with SJP – it did not explicitly exclude and absolutely included - investment advice. I relied 100% on them to advise me in how to maximise the value of my investment with them in line with my ATR. They have failed to do this.

In summary, I paid for investment and other advice appropriate for my needs. I did not get it, yet I was charged for it. I am significantly worse off as a result.”

The matter was referred to an Ombudsman.

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 have reached the same conclusions expressed by the investigator (on jurisdiction and merit) for broadly the same reasons he gave.

Jurisdiction

SJP considers any complaint issue arising from 2015 and 2016 to be out of time. I disagree, and I find that the entire complaint is in time.

The regulator’s *Handbook* contains rules on the time limits for complaints. They are set out in the Dispute Resolution section of the Handbook. The rules say we cannot consider a complaint referred more than six years after the complaint event or (if later) more than three years after the complainant knew or ought reasonably to have known there was cause for complaint – unless the complainant has written (or some other) record that shows a

complaint was received in time.

Mr R has helpfully been clear, and consistent, on the nature of his complaint. It is essentially about the performance of his ISA and RA. For the former he alleges underperformance since 2014, and for the latter since 2017. Within this basis for his complaint, he also alleges that the underperformance was caused by a fundamental failure in SJP's OAS for both assets, because it did not provide the type of ongoing advice (in pursuit of top level growth) it was supposed to provide, and that he paid for.

This context shows that Mr R has a point in saying SJP's view on our jurisdiction seems to be partly misguided. His complaint is not about whether (or not), in strict terms, annual reviews were conducted or missed in each relevant year. Those reviews are an important part of my overall approach to the complaint and I address them later in dealing with the complaint's merits (in the next section sub-section). However, the complaint that Mr R has presented relates to SJP's overall service over the relevant years, as a whole, not about isolating each year's annual review service.

In terms of the time limits, the March 2024 complaint covers all complaint events/issues going back to March 2018 under the six years time limit, so those aspects need not be considered any further in terms of our jurisdiction. As I said above, Mr R has referred to matters dating back to 2014. The cause for complaint in his case was/is performance – there is more than sufficient evidence of this across his complaint related submissions. In other words, whether (or not) annual reviews were missed in 2015 and 2016, the task in applying the three years time limit – to consider if the events/issues between 2014 and 2018 are in time for the 2024 complaint – is to identify when he was aware, or ought reasonably to have become aware, of cause for complaint about the performance of his ISA and RA (and the alleged OAS failure associated with the complaint).

The investigator's observations about the periodic wealth reports and asset valuations that were sent to Mr R over the years is a fair one. Whilst it is not impossible to distinguish, within them, between growth from performance and growth from contributions, it is indeed not straightforward to do so. I have also noted the point Mr R made about repeatedly being told by the partner, over time, to judge performance over the medium to long term – something that SJP's complaint submissions have broadly echoed – and his reference to the circumstances in which he was prompted to review his assets' performance (as I quoted above). Those circumstances arose in 2023, around nine years after the year in which he says the ISA began to underperform, and around six years after he says the same about the RA. These were roughly the medium to long term periods he was encouraged to use in making judgments on his assets.

On all the above grounds, I am satisfied that Mr R first knew of cause for his complaint (including all issues/events in it) in 2023 and I do not find that he ought reasonably to have been aware of such cause earlier. This captures the issues/events between 2014 and 2018, and his 2024 complaint happened within three years of his 2023 awareness, so the complaint about these issues/events are in time.

Merit

We do not normally address complaints about investment performance in isolation. As the investigator said, performance was not guaranteed by SJP to Mr R. There is enough evidence in its dealings with him and in the facts of the case to show that he was fully aware of the risks inherent in investments and aware that those risks applied to his ISA and RA under SJP's OAS.

I understand his point about the top level performance he expected from SJP's service, and

about the prospects of such performance inducing him to engage its service. However, in the absence of a performance guarantee and in the presence of the information he received (in the SLs and on the MFP) showing that investment risks still applied to his assets, the point to note is that he was always aware – and/or that he ought reasonably to have been always aware – that he might or might not achieve the performance he hoped for in the ISA and RA.

Investment performance can be influenced by suitability of a firm's investment advice and/or the outcomes of a firm's investment management, but they alone do not fully dictate how an investment will perform. That performance cannot really be predicted with certainty. Circumstances such as the nature of and events in the immediate and wider markets relevant to an investment, geo-political events, and even unexpected and/or random world events can and often have significant bearings on how an investment performs. These elements are outside an adviser's or manager's control, so, unless particular facts show otherwise, it would commonly not be fair to hold either responsible for them.

For the above reasons, I will not address Mr R's complaint about performance in isolation. However, I can and will deal with it in relation to his allegation that there was a failure in the delivery of SJP's OAS, because it did not provide the type of advice it should have provided to him.

There is nothing wrong with him expecting suitable advice to give his assets a good chance of surviving events that might impact their performance. He was entitled to that, and SJP does not dispute his entitlement to suitable advice. There is also nothing wrong in his argument that suitable advice should include equally suitable reactions to problems with existing investments. I also do not get the impression that SJP disputes this, instead it appears to stand by the suitability of its advice in this respect too. At the core of Mr R's complaint is the fact that his assets remained invested in the MFP until fund switches happened in 2023/2024, and he says fund switches should have happened much earlier.

The partner's March 2014 SL confirms that the MFP was recommended for the ISA in that year, then the ISA remained invested in it until around 2023. The partner's February 2017 SL confirms that the MFP was recommended for the RA in that year, then the RA also remained invested in it until around 2023.

As the investigator summarised, SJP's OAS to Mr R (and his assets) included ongoing annual reviews from which new recommendations were made. This included ISA contribution advice in March 2014 and January 2017; the February 2017 pension transfer advice, and pension contribution advice in June 2017; pension contribution advice in 2018 and 2019; ISA and pension contribution advice in 2020; pension contribution advice in July and December 2021; the same type of advice in March and December 2022, August 2023 and January 2024; and ISA contribution advice in February 2024. The ISA and RA were the focus of SJP's advice throughout these events.

In the above context, whilst it is true that reviews were missed in 2015 and 2016, I consider it reasonably clear that they were made up for in the three engagements between the parties in 2017, in addition to the multiple intra year engagements that took place in 2021 and in 2022. There is also available information about ongoing contacts between the parties throughout the relevant years. I acknowledge that 'new' advice from SJP was distinct from the ongoing review of previous advice, but there is evidence in the SLs and CFRs for the years mentioned above showing that both happened alongside each other.

For these reasons, and for the sake of completeness, I am not persuaded that there is a wrongdoing to find in SJP missing the 2015 and 2016 reviews, and I do not find that there is any evidence of SJP not delivering the OAS to Mr R.

Next, I address his allegation that SJP did not give the type of ongoing advice it was supposed to give, or did not give suitable ongoing advice, within the OAS.

Mr R says a competent adviser would have recommended suitable fund switches in response to indications that the MFP was underperforming, and/or underperforming at a level that mismatched his objective for top level performance.

The MFP was/is an SJP fund of funds, diversified across over 10 sub-funds with management from over 10 third-party investment managers (including some prominent managers in the sector). SJP has highlighted how this approach, overseen and ultimately controlled by its investment committee, achieves added diversification in terms of exposures to funds and fund management – in contrast to funds wholly or mainly consisting of in-house managers. I do not propose to give a general appraisal of this approach, but I recognise that such diversification can potentially lend itself towards good or even better risk management.

It was/is rated as a medium risk profile fund with the following objectives – *“The portfolio seeks to provide capital growth over the medium term, i.e. a period of at least five years. It invests primarily in a wide range of global equities, but will also hold fixed interest and cash assets, and is spread across a wide number of managers each with a different investment style. The broad spread of different assets and different investment managers helps to reduce risk, but there may be significant fluctuations in value, particularly over the shorter term.”*

It had/has around 60% exposure to equities (mainly North American, then the remainder in European, Asian, UK and International equities), around 23% exposure to global fixed interest securities, around 14% exposure to alternative assets and around 3% in cash. On balance, I am satisfied that this asset mix did not mismatch Mr R's objective for exposure to the prospects of a good level of growth, whilst observing his medium risk profile. Overall, I also do not consider that the MFP was unsuitable for him and his assets.

I do not wish to stray into investment performance, for the reasons already given, but it might be worth mentioning – in terms of Mr R's expectation that SJP ought to have maintained mindfulness of his desire for top level performance – that the MFP appears to have been benchmarked against the ARC (or Asset Risk Consultants) Steady Growth PCI (or Private Clients Index), a benchmark that could be described as being at level three (in a range of one to four) of ARC's PCIs ranked on the basis of their relative risk to world equities. This could, in turn, be interpreted as being a PCI around the medium risk profile level that also reflected as much exposure to growth potential within that level. Overall, I do not consider it would have been an inappropriate benchmark for the fund recommended to Mr R.

Based on the factsheet for the MFP its cumulative performance was better than the above PCI over a couple of years up to 2014, and it continued to outperform the PCI from then and up to 2024. If, as is possible (if not probable), this was one of the considerations SJP applied to its view on holding the MFP in Mr R's portfolios each time they were reviewed over the years, until the fund switches, it would not appear to have been an unreasonable consideration.

Mr R disagreed with a point made by the investigator about the unfairness in considering matters with the benefit of hindsight. I am persuaded by the point. Throughout the time over which SJP's view, in conducting its OAS, was to hold the MFP it did not have the vantage point Mr R was able to use in 2023/2024, when he could look back on the MFP and look back on past performances of any comparator fund(s) that had done better over the same period, and that he would have preferred to invest in.

I do not say or suggest that SJP would not have been aware of other funds that were

outperforming the MFP during its reviews, but, as the investigator's example illustrated, if it had recommended fund switches solely to chase performance on the basis of another fund's 'past' performance (which would not have come with a guarantee to repeat past performance) the outcome could not have been predicted. As in the example, a negative outcome could have been the result.

It goes without saying that if holding the MFP had yielded results Mr R was pleased with, its decision to do so would likely be viewed by him as the correct decision. I take his point that SJP was obliged to react with suitable advice during reviews in which performance problems were identified. In such situations, the options are generally limited to holding, liquidating to cash or fund switching, and each is a form of *reaction* in itself. In the present case, I have not seen enough evidence to conclude, on balance, that SJP's ongoing views to hold the MFP in the ISA and RA, until the fund switches, were unsuitable. As I noted above, available evidence is that the MFP was outperforming what appears to have been its benchmark during these periods, and there were no changes in Mr R's circumstances that made its retention no longer suitable for him, so these would have been reasons in support of its ongoing views.

Overall, on balance and for all the reasons given above, I am not persuaded that SJP failed to provide Mr R and his assets the OAS he paid for, and I am not persuaded that it failed to give him suitable ongoing advice during the provision of the OAS.

I note a point raised in one (or more) of Mr R's submissions about the partner's alleged omission to inform him about the limitations of coverage in the protection afforded by the Financial Services Compensations Scheme. SJP disputes this, but I have not dealt with it because I do not consider that it is a part of the complaint Mr R wishes to be addressed. It strikes me as merely a comment he made in the course of *setting out his stall* for the complaint. As I said above, he has been clear and consistent on what his complaint is mainly about, and it is mainly about the issues I have dealt with above.

My final decision

For the reasons given above, I do not uphold Mr R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 28 July 2025.

Roy Kuku
Ombudsman