DRN-5709484

Financial Ombudsman Service

The complaint

Ms R complains that St. James's Place Wealth Management Plc (SJPWM) gave her unsuitable advice to switch her existing pension plan to a SJP Retirement Account.

What happened

Ms R received advice from SJPWM in September 2023 to transfer her existing pension to a SJP Retirement Account (RA), and to invest that fund, and regular contributions, in line with a medium attitude to investment risk. In addition to the transfer, Ms R agreed that SJPWM would provide her with an ongoing advice service.

The transfer completed in November 2023.

In October 2024, SJPWM met with Ms R again. In that meeting it reviewed her RA, and advised her on establishing a stocks and shares Individual Savings Account (ISA).

In December 2024 Ms R complained to SJPWM via a claims management company. That complaint, in summary alleged that the advice to transfer the pension was unsuitable, that SJPWM had failed to provide the ongoing advice that it agreed to, and that the advice to start the ISA was unsuitable.

Our investigator considered all of the elements of the complaint and he explained why he didn't think that it should be upheld. Mr R's representative accepted that SJPWM's advice to start the ISA was not unsuitable and agreed that there had been ongoing advice. But didn't agree that the advice to transfer was unsuitable.

This case has therefore been referred for an ombudsman's decision on the remaining issue in dispute. Which is whether SJPWM's advice to switch the pension in September 2023 was unsuitable for Ms R's objectives and circumstances.

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.

When considering what is fair and reasonable, I take into account relevant laws and regulations as well as the regulator's rules, guidance and standards. Where appropriate I also consider what was good industry practice at the time of the advice. Having done this, I have reached the same finding as our investigator for similar reasons.

The Financial Conduct Authority (FCA) publishes a set of rules in its Handbook. This includes the Conduct of Business Sourcebook (COBS). In this, COBS 9 sets out the rules that are relevant to the provision of the suitability of advice in a case like this. In addition to this there is relevant guidance from the regulator that our investigator already explained. This refers to a report that the FSA published in 2009 about the quality of advice given on pension switching, which is still relevant. That identified the following main areas where consumers could lose out:

- Being switched to a pension that is more expensive than their existing one(s) or a stakeholder pension (because of exit penalties and/or initial costs and ongoing costs) without good reason.

- Losing benefits in the pension switch without good reason.

- Switching into a pension that does not match their recorded attitude to risk (ATR) and personal circumstances.

- Switching into a pension where there is a need for ongoing investment reviews, but this was not explained, offered or put in place.

Then, as part of wider guidance in April 2012, the FSA revisited the suitability of replacement business. It found that some businesses were:

- Failing to consider the impact and suitability of additional charges, either by not considering the costs of the existing scheme or not making a comparison of those with the new one in a way the client was likely to understand.

- Recommending switches based on improved performance prospects but providing no supporting evidence to show that these performance prospects were likely to be achieved.

- Failing to collect adequate information on the existing investment or to consider the features and funds available within the existing scheme.

- Not identifying or challenging advisers on these failings, by having risk management systems and controls in place to mitigate the risk of unsuitable client outcomes.

SJPWM obtained information from the ceding scheme and provided a clear comparison of the costs of its RA with that scheme. This demonstrated that the transfer would result in slightly higher overall charges, by 0.62% a year. And this was highlighted to Ms R. So I think that she was aware of this downside. Yet accepted the advice to transfer in spite of that. So here, I will refer to the first point above. Which cautioned firms against recommending a transfer to a more expensive plan without a good reason. So I have considered whether there was a good reason to recommend the transfer.

SJPWM set out Ms R’s objectives as:

- Invest for retirement.
- Access ongoing advice.
- The SJP Investment Management Approach.
- Addressing concerns about existing adviser.

I am not particularly persuaded that the first three of these would amount to a good reason to incur additional costs via a transfer. I say that because the ceding pension already allowed for investing for retirement, and the option to pay for ongoing advice through the scheme. In fact, Ms R was already paying an adviser an ongoing advice charge through that pension. And I am not persuaded that Ms R was likely to be so sold on the idea of the SJP ‘Investment Management Approach’ as to call it an objective prior to seeking advice. I say that because I am not convinced that Ms R was sufficiently knowledgeable to make a judgement on whether SJP’s investment approach was any better or worse than any other firm.

Which brings me to the last of the above objectives. SJPWM recorded in its fact find with

Ms R, and set out clearly in its recommendation letter, that Ms R actively wanted to change her advice firm. And I am persuaded that was a genuine objective. I say this because it was clearly spelled out as a reason for the transfer and, were that not the case, I would expect Ms R to have challenged that at the time. And there is no evidence that she took issue with that objective. So the transfer did allow her to switch her adviser.

Ms R explains that she was in contact with SJPWM following a referral. If she was not looking to move to a new advice firm, then I don't think she would have met with SJPWM. Nor would she have entered into the advice process. So I think that she wanted SJPWM's advice. And given she had experience of ongoing advice, I also think she went into this agreement wanting the benefit of that.

There was an extra cost to her for getting the ongoing advice from SJPWM that she wanted over the existing advice that she had become dissatisfied with. SJPWM were not giving her independent advice. It was tied advice, so it could only make a recommendation to transfer to the SJP RA or not to transfer. Setting aside the increase in annual costs of 0.62% for the moment, SJP's RA was otherwise suitable for her objectives.

SJPWM did not give Ms R any expectation regarding the likelihood of her RA being able to sufficiently outperform her ceding scheme to make up the difference in charges. Our investigator highlighted this issue and considered whether or not SJPWM ought to have considered, or recommended, that there was a likelihood that the recommended investments could outperform her existing pension. So he compared the funds that SJPWM recommended (which were its Polaris 3 fund and its Sustainable and Responsible Equity fund) with the ceding schemes investment. He found that the Polaris 3 fund had outperformed the existing investment over the previous 10 months where there was available data, and the Sustainable and Responsible Equity Fund had outperformed the existing investment over the previous five years.

Past performance is, of course, no guarantee of future performance. But such analysis, had it been performed and shared with Ms R would likely have added weight to the recommendation SJPWM made.

I note that Ms R's representative points out that ten months of past performance would not be a reasonable time frame for an adviser to make a comparison. And I tend to agree. But would point out that SJPWM didn't actually make that comparison. It limited the basis of its recommendation to the objectives that I set out above. And I think that it met those. And I think that Ms R's desire to obtain what she hoped would be improved ongoing financial advice was, in this case, a good reason to recommend the transfer.

In addition to setting out the percentage difference, SJPWM informed Ms R how much in monetary terms her pension would need to outperform the ceding schemes investments. If that wasn't achieved, then it would be clear to Ms R that she was paying a premium for the choice to move from her existing adviser to the SJPWM adviser. I conclude that she was aware and was prepared to make that choice for the advice that she, more likely than not, wanted.

I have also considered whether Ms R was switched into a pension that matched her attitude to risk. And I think that she was. She had been assessed as having a medium attitude to investment risk. And the funds that were recommended matched that risk. I have seen no evidence that assessment of her attitude to risk was incorrect. It was explained to Ms R and, whilst she wasn't necessarily an investor with a high level of knowledge, her ceding pension had been advised on and in existence since 2009. So I think that she was aware of the impact of investing in line with that attitude to risk. Given her overall circumstances, Ms R had a suitable capacity for loss to invest in that way. Her fund was a reasonable size and

regular contributions of £1,500 a month was affordable for her. Her term to retirement was given as being around nine years. So the term meant that she had the capacity to recover from a degree of losses prior to retiring. In terms of exposure to investment risk however, the switch doesn't appear to have altered Ms R's position in any meaningful way.

My final decision

For the above reasons I am not upholding Ms R's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 9 April 2026.

Gary Lane
Ombudsman