The complaint

Mr P complains that St. James's Place Wealth Management plc (SJP) failed to inform him he could make personal contributions into his pension account up to his 75th birthday and he's suffered financial loss as a result.

What happened

Mr P opened a Retirement Account with SJP in 2018. At that time, SJP advised him to transfer an existing pension arrangement into the account. It also agreed to provide him with ongoing advice.

Mr P says he wasn't informed he could make personal contributions into his pension account up to his 75th birthday until 2022 when SJP appointed a new adviser. After that date he made the maximum contributions into his retirement account and got the appropriate tax relief. Mr P says he would've made similar contributions in the tax years after he first contacted SJP, if he'd been correctly informed and advised. He complained to SJP.

SJP investigated his complaint. It said its adviser had issued a suitability letter in 2018. It acknowledged there was no recommendation at that time to make any additional investments. It said the reason for this was because Mr P had indicated he wanted to hold his cash savings in deposit accounts as he was considering a potential property investment.

SJP pointed out that Mr P had been provided with a Key Facts Illustration at the time which confirmed that tax relief would be given on contributions to the retirement account of up to £3,600 per year - where an individual had no "relevant" earnings. SJP said it had emphasised the importance of reading and understanding the documents. Mr P hadn't raised any questions, and it thought it was fair to conclude the letter accurately reflected what was discussed.

SJP said it had issued a further recommendation on 15 April 2021 when it had recommended an investment into an Individual Savings Account (ISA). The suitability letter issued at that time included a statement that the potential of contributing into the pension had been discussed but Mr P said he didn't want to commence another pension as he was retired. Mr P had confirmed that his current income was sufficient for his needs and he was unlikely to require access to his retirement account. SJP said its recommendations met Mr P's disclosed requirements at the time of the advice.

Mr P did not agree. He referred his complaint to our service. Our investigator looked into his complaint. She thought Mr P's objectives in 2018 were to transfer his pension to the retirement account and to avail of the active management and ongoing advice SJP was offering. She also noted that the Key Facts Illustration had included details about making personal contributions to the retirement account. However, she didn't think there was an objective, at the time, to make additional contributions into the retirement account. Mr P had said he wanted to keep a high cash balance because of a potential property purchase.

Our investigator also considered the suitability letter issued in 2021. It had mentioned a discussion about making contributions to the pension as an alternative to investing in the ISA but also recorded that Mr P did not wish to commence another pension. Mr P hadn't contacted the adviser further to query what had been said or to indicate he did want to look into contributing to his pension. In the circumstances she didn't think SJP had done anything wrong.

Mr P responded to what our investigator said. By way of summary, he said:

- In 2018, he'd decided to consolidate his investments.

- He'd made clear in 2018 that his main objective was capital growth and consolidation. His pension was not in his thoughts at the time – but he did decide to transfer it as he wanted all his financial matters "dealt with and tidy."

- He'd never received a suitability letter dated 15 April 2021.

- He'd made clear to SJP he needed help to understand and make his investments simpler. He expected SJP to have supported him to understand the opportunities and to tell him, in simple terms, specifically what the greatest gains were.

- He'd paid SJP to give him personal, face to face advice. But it hadn't given him the information he needed to make an informed decision about making contributions into his pension. If he'd known he could make such contributions and get tax relief he'd have done that.

Our investigator considered what Mr P said but she didn't change her view. So, the complaint was passed to me to decide. I issued a provisional decision in which I said:

> ***What I've provisionally 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.*
>
> <u>*What were Mr P's objectives in 2018?*</u>
>
> *After SJP met with Mr P it completed a Financial Review form with him which contained information about his financial and other circumstances. It then issued its suitability letter dated 4 April 2018 and a Key Facts Illustration dated 5 April 2018.*
>
> *The purpose of the suitability letter was to set out SJP's advice and to explain how it met Mr P's preferences, objectives and other characteristics. The letter stated that he had agreed his objectives which included the following:*
>
> - *Invest for his retirement;*
>
> - *Access ongoing service and advice; and*
>
> - *Address concerns about his existing provider.*
>
> *SJP noted that Mr P was looking to achieve capital growth for his future pension provision – although he didn't have a specific target income in mind. Mr P had said it was unlikely that he'd need to access his pension before he reached age 75 and he wanted to leave the pension funds invested for as long as possible. SJP also noted that Mr P had cash savings which were greater than what it would have recommended. However, Mr P had confirmed he may wish to purchase a new home and wanted to retain this level of contingency.*

Mr P says that at the time his main objective was "capital growth and consolidation."

Having reviewed the recommendation that was made I can see that he was advised to transfer his pension into the SJP Retirement Account and SJP also provided advice, separately, about other investments which he had. The suitability letter stated that the fund selection for the retirement account which had been selected aimed to provide capital growth for investments of at least five years. So, I'm not persuaded that the advice in 2018 did not address what Mr P has indicated was his "main objective" at the time. He hasn't referred to any objective to contribute to his pension and I've not seen anything in the documentation provided which indicates that was an objective at the time.

I have also looked at the Key Facts Illustration which SJP provided to Mr P in April 2018. I've noted it included details of the amount he was transferring from his existing provider to his SJP Retirement Account. Immediately below this there was information in a shaded box which stated:

> *"There is no limit to the amount you can contribute annually to your pension plan. However, there will be a tax charge on contributions made by you, or on your behalf which exceed an annual allowance set by HM Revenue & Customs. The Annual Allowance for 2017/2018 is £40,000. Tax Relief will be granted on personal contributions up to 100% of earning or the Annual Allowance if less. If your contributions have been less that the Annual Allowance in the last three years, unused amounts may be used in this tax year. For individuals whose earnings are below £3,600 or are nil, relief will be given on contributions up to £3,600."*

The suitability letter explained it was important that Mr P should read all the documentation and if he had any questions about the letter or the documents he'd been sent he should contact the adviser. Mr P didn't raise any queries with SJP.

So, although there's no record that SJP spoke to Mr P about contributing to his pension in 2018, as I've said above that was not something he'd said was an objective. And there's no indication Mr P raised any queries about the information set out in the Key Facts Illustration or that he expressed any interest in finding out more about making contributions to his pension at the time.

Having considered everything I'm persuaded, on balance, and given that it was not one of his objectives, SJP did enough in 2018 to make Mr P aware he could make contributions to his pension if that was something he was interested in doing.

<u>The advice given after 2018</u>

Mr P received ongoing advice from SJP after 2018. I can see notes made updating the Financial Review information. For example, in April 2020 there is a note which states

> *"..very happy with his SJP plans and there (sic) performance. He has maximised his ISA in 20/21 and now wishes to max for the 21/22 tax year …[he] is retired and has no relevant income for pension purposes."*

In April 2021 there is a note stating that Mr P was not contemplating moving home "any time soon" and although he'd thought about this in the past he had "no intention at present." However, he still wanted to retain a "high emergency fund" - "just in case he changes his mind." There's also reference to other spending he was considering *at the time – including changing his car and repairing properties he owned. His day-to-day spending was recorded as low.*

Having looked at the notes, I can see that there is some reference to making contributions to the retirement account – however it is noted that Mr P had "no relevant earnings" for these purposes. That was correct. However, he could still have made an annual contribution of up to £3,600 (gross) and been able to avail of tax relief. There's no record in the notes concerning that. Although it is the case that, as the notes record, Mr P had made clear he wanted to retain his cash savings, even though the balance was much higher than SJP said it would have recommended.

I have also noted the suitability letter dated 15 April 2021. At that time SJP provided advice concerning an investment into Mr P's ISA. The letter stated:

> *"Alternatives to Investment.*
>
> *We discussed the option of potentially contributing to a pension, rather than my Recommendation confirmed above, however this was discounted because you have retired and do not wish to commence another pension. Additionally, due to the tax- efficiency provided by the ISA, it is advisable to retain the maximum permitted sums in ISAs before considering alternative investments therefore there were no other products considered suitable."*

The letter also detailed the fact that Mr P still retained large cash savings because he hadn't yet decided whether or not to purchase a new home. There was no indication that Mr P wanted to use these funds to make contributions to his pension at the time or that he sought advice about alternative ways to invest his cash savings.

Mr P says he didn't receive the letter dated April 2021. However, I can see it was addressed to him at the correct address and after he'd had discussions with SJP. He also proceeded to make the investment that was recommended. So, I'm persuaded on balance, it's likely the letter was sent to him. And, although the letter says that contributing to a pension was discounted because Mr P didn't want to "commence" a pension, I think this indicates that the matter was discussed with him and it wasn't something he wanted to consider at the time – or which was one of his objectives.

<u>The advice in 2022</u>

In his complaint to our service, Mr P explained that when a new SJP adviser was appointed in 2022, he was given information and advice about making contributions to his pension.

So, I asked SJP to provide further information about the advice Mr P was given in the period after the new adviser was appointed in 2022. It is the case that in April 2022 Mr P was advised to make annual contributions to his pension of £3,600 (gross) up to his 75^{th} birthday. And he did make those contributions. So, I've looked at why the information and advice he was given about making pension contributions after 2022 was different to what he'd been given prior to that date.

In April 2022, Mr P met with the new SJP adviser, and she reviewed his current circumstances and his objectives. A suitability letter was issued which indicated that Mr P wanted to use some of his savings to make contributions into his Retirement Account. He had expressed concerns that his savings were not keeping pace with inflation and he wanted to consolidate some of this within his annual pension allowance and move it to a portfolio whereby it would be managed on his behalf.

In relation to the savings in cash accounts which Mr P held, the suitability letter records that he had decided not to move home at this time and had no immediate plans to do so.

SJP noted that Mr P had told it he liked to shop around for the highest interest rates and was aware that inflation was rising. In these circumstances, he agreed to use some of his cash savings to make contributions to his retirement account. And he also agreed that he would look at options, at a future review date, in relation to the large cash deposit balances which he still retained.

Having read the suitability letter, I can see that Mr P was expressing concerns that his cash savings were not keeping pace with inflation. At the time inflation had started to rapidly increase. For example, in the period after April 2021 it increased from around 1.5% to around 9% by April 2022. So, I can understand why Mr P would've been concerned that his savings were not keeping pace. I think that explains why he started to think more about his cash savings and talked to SJP about whether he could do something different to get a better return.

Up to this point, April 2022, SJP's records stated that Mr P had been happy to retain the high savings cash balance – even though SJP had told him it was significantly higher than it would have recommended. However, in April 2022 Mr P made clear he had no immediate intention to move home and he was open to discussing how to invest his cash savings.

Having considered everything, I'm not persuaded on balance that SJP did anything wrong when it didn't advise Mr P to contribute to his pension in the period prior to 2022. As stated above, up to that point he'd been happy to leave his savings in cash deposits. And there's no indication that one of his objectives in the period prior to April 2022 was to make pension contributions.

For the reasons set out above, I'm persuaded Mr P's objectives did change in 2022 because of his concerns about the impact of increasing inflation on his cash deposit savings. He'd also made clear he had no immediate intention to use the cash savings to purchase a new home. I think these factors may explain why he was advised at that time to use some of his savings to make contributions to his pension. And may also explain why the suitability letter records he was open to discussing options regarding his cash deposit savings more generally in the future.

So, although I know it will disappoint Mr P, I've provisionally decided I don't require SJP to have to do anything further to resolve this complaint.

My provisional decision

For the reasons set out above, my provisional decision is that I do not intend to uphold this complaint about St. James's Place Wealth Management plc.

SJP did not respond to my provisional decision.

Mr P did respond to my provisional decision. He made some additional points. By way of summary, he said:

- The provisional decision had not taken into account the Financial Conduct Authority (FCA's) consumer duty principle which he said required SJP:
  - to communicate in a way customers could understand;

    - act in good faith, avoid foreseeable harm, and enable customers to meet their financial objectives - which he had made clear was always growth; and
    - ensure fair value and safeguard outcomes, particularly for vulnerable customers.

  Mr P referred to failings to explain or make him aware of certain product options; incorrect assumptions about his objectives; and failing to provide necessary explanations to verify assumptions.

- He had paid for a personalised service and there'd been a lack of fair value.

- The provisional decision had not recognised that Mr P was a vulnerable customer. He said this meant SJP should have taken additional care.

So, I now need to make my decision.

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.

In his response to my provisional decision Mr P has referred to the FCA's Consumer Duty principle which he says has not been taken into account. I'd just comment that the Consumer Duty is a new standard for firms which was introduced by the FCA and it came into effect for open products on 31 July 2023 (31 July 2024 for closed products). It is not applied retrospectively. So, it wouldn't apply as regards anything that happened before that date.

Mr P's complaint is about advice he was given prior to 31 July 2023 – so the Consumer Duty principle doesn't apply here.

I would however assure Mr P that SJP has always been subject to the FCA's Principles and rules – which were essentially to act in his interests and treat him fairly.

In my provisional decision, I set out the actions SJP had taken in the period prior to April 2022. For example, I pointed out that it had provided Mr P with a suitability letter in 2018 which set out his objectives and the reasons why SJP made the recommendation it had made. I also looked at the advice he was given after 2018 and before 2022 and I explained why I was satisfied on balance that the matter of making contributions to his pension had been discussed with him and it was not something he wanted to consider at that time. I explained why I thought his objectives had changed in 2022 and he was given advice at that time to make annual contributions to his pension.

I was persuaded, on balance, SJP had done enough to make Mr P aware that he could make contributions to his pension if that was something he was interested in doing. Having looked at everything again, I've not been provided with any new or additional information that causes me to change that view or the reasons for that view.

Mr P has also referred to the fact that he paid for a personalised service. As mentioned above, and in my provisional decision, I am satisfied that Mr P was provided with initial advice in 2018. At that time, he met with SJP and was given a suitability report setting out his objectives and SJP's recommendations. He was given a key facts illustration – based on that recommendation and his personal details. I was also satisfied that Mr P had received ongoing advice after 2018 and that his financial review information had been updated. So, I'm persuaded, on balance SJP did take into account his individual objectives and personal circumstances when it provided the service to him.

I've then considered what Mr P has stated about his personal circumstances (he says he was a vulnerable customer) and why he considers that SJP should have taken extra care.

In February 2021 the FCA published "Guidance for firms on the fair treatment of vulnerable customers" (FG21/1). The guidance reiterated that the FCA required firms to treat customers fairly and it set out the actions it expected firms to take to achieve good outcomes for vulnerable customers. This included making sure all communications and information about products and services were understandable for consumers in their target market. Firms were also required to consider how they communicated with vulnerable customers taking into consideration their needs.

Mr P says he should have been treated as vulnerable due to his age and health conditions.

A vulnerable customer is someone who, due to their personal circumstances is especially susceptible to harm – particularly when a firm is not acting with appropriate levels of care. So, I've looked again at the levels of care SJP took during the periods between 2018 and 2022 – given what it knew about Mr P's age and health.

I can see that SJP met with Mr P in 2018 and completed a financial review with him. It provided a suitability report and a key facts illustration. In my provisional decision, I set out the wording that was contained in the key facts illustration. This included information about making contributions to the pension and the tax relief that was available.

Mr P was given time to consider these documents, and he was told that if he had any questions about the information he should contact the adviser. I'm satisfied that the information in the key facts illustration was clear, and I'm not persuaded there's anything to suggest Mr P wouldn't have been able to understand the information he was provided with. He didn't raise any questions at the time about making contributions to his pension and he didn't indicate that was something he was interested in doing.

In the period after 2018 up to 2022, there was ongoing advice and the financial review was updated. In particular, in April 2021 his financial review was updated again and a further suitability letter was issued. It referred to discussions that had taken place where it said the subject of making contributions to the pension had been discounted. Although Mr P said he didn't get this letter, I explained why I was satisfied, on balance, it was likely it had been sent to him. If Mr P had any queries he could have raised them - but there's no evidence, he did query this.

So, having thought about everything again, I'm satisfied on balance SJP acted with appropriate levels of care, taking into account Mr P's age and health, and that it has acted fairly and reasonably here. I don't require it to have to do anything further to resolve this complaint.

My final decision

For the reasons set out above, I do not uphold this complaint about St. James's Place Wealth Management plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 16 October 2025.

Irene Martin
Ombudsman