

## The complaint

Mrs T complains that St. James's Place UK PLC (SJP) has changed its charging structure, and she does not consent to the changes. She also complains that SJP will not transfer her pension to another provider without applying Early Withdrawal Charges (EWCs).

## What happened

Mrs T has a Retirement Account with SJP. She opened the account in 2014. She makes both lump sum and regular contributions to the account. In July 2025, SJP informed her it was going to make changes to its charging structure. She says it was forced to do this because of the introduction of "Consumer Duty." However, she says the new charging model does not meet her needs and as a result of this and other service issues she's lost faith in SJP, and she wants to transfer her pension to another provider.

Mrs T says that SJP has not provided her with a "natural break" to exit the Retirement Account. Instead, it has told her that she must pay EWCs. She doesn't think this is fair since she feels it leaves her locked into retaining her account with SJP. If she does a partial transfer, even though no EWCs would apply in this circumstance, she says she'd end up with two providers and two sets of fees. She complained to SJP.

SJP investigated her complaint. It said it had given her enough information to make her aware of the EWCs that applied to her account. By way of summary, it said:

- SJP had not provided her with advice when she transferred her pension to it in 2014 or when she set up a regular contribution in June 2018 (and which was subsequently updated in November 2018).
- She made a lump sum payment in February 2020 and set up a regular premium in March 2020. At that time, she'd been provided with documentation setting out the fees which would apply – including the EWCs. She'd acknowledged that she'd been given these documents at the time.
- She'd made further lump sum contributions in March 2021 and November 2022 and had set up a regular premium in November 2022. At that time, she'd been given a suitability letter, service and costs disclosure documents, a key features booklet and an illustration. All of these documents had clearly explained the EWCs.
- She'd been sent at least 27 documents via her Online Account which confirmed the EWCs payable on her account.

Mrs T did not agree. She said SJP had not addressed the Consumer Duty point which she had raised. It was still going to apply the EWC even though it had now moved to a new pricing model. She said SJP had made it impossible for her to decline its new pricing model without incurring foreseeable harm. She was left with three options – transfer and pay the EWCs; remain and be forced to accept the new pricing model - which she did not like - and continue to incur higher costs than she felt she could obtain with other providers; or have multiple advisers – with all the associated additional cost and inconvenience. These were all unreasonable outcomes with arguably poor value – contrary to the principles of Consumer Duty. SJP did not change its view. Mrs T referred her complaint to our service.

Our investigator looked into her complaint. He thought SJP had made Mrs T aware of the EWCs that applied to her account – including the fact that EWCs applied to regular contributions.

He said that Consumer Duty was a new standard for firms which was introduced by the Financial Conduct Authority (FCA), and it applied to events from 31 July 2023. The EWCs on Mrs T's plan related to payments that commenced before that date. In any event, our investigator said that the application of EWCs was a contractual right and the FCA did not require SJP to give this up. He referred to the FCA's Finalised Guidance on Consumer Duty published in July 2022 (section 3.18) which stated that firms were not expected to give up any vested contractual rights such as pre-existing contractual rights to which a firm already had legal entitlement and right to payments falling due on the occurrence of a contractually specified event (e.g. exit charges).

Our investigator also considered what Mrs T had said about the cost of the EWCs. Mrs T had said that the EWCs were applied as a percentage and therefore didn't represent the cost of administering her exit from the account. Our investigator thought the EWCs had to be considered in the context of the overall charging strategy which SJP applied. He said there was a broad range of advice charges in the market - but overall, he did not think SJP's charges made it a market outlier. Having considered everything, he did not think SJP should be required to take any further action to resolve the complaint.

Mrs T did not agree. She said SJP had told her it was impossible to transfer out the portion of her funds not subject to the EWC. She did not think this was reasonable.

Because Mrs T did not agree her 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.

At the outset I'd just comment that I thought St. James's Place UK PLC (SJP) was the correct respondent in this case. I said that, mainly because the terms and conditions stated that the contract was between Mrs T and SJP – except for advice. Mrs T had made clear she was not making a complaint about the advice she'd received. Rather she was complaining about the charging structure. SJP has now accepted that it is the correct respondent in this case and so it is responsible for dealing with Mrs T's complaint.

#### **1. The introduction of a new charging structure by SJP**

SJP wrote to Mrs T on 14 July 2025 to inform her about the changes to its charging structure. The changes took effect from 22 August 2025.

Before the changes took effect, Mrs T's charging structure had been set out for her in several documents including suitability letters, Key Facts documents, Key Features documents and the terms and conditions for her account. These documents all contained the same information about the charges that would apply.

By way of illustration, I've looked at the Key Facts document which was issued in November 2022. At that time Mrs T's employer made a single contribution and agreed to make new regular contributions to her pension. Mrs T was already making regular contributions to her pension at the time and had previously also made single contributions. The document detailed the advice and product charges which applied to both regular contributions and single contributions. By way of summary:

- There was an initial advice charge (4.5% of the amount invested in years one to five) and an initial product charge (1.5% of the amount invested in years one to five).
- There was an ongoing advice charge of 0.5% and an ongoing product charge of 1%. However, for all contributions made in years one to five the document stated that the ongoing product charge was effectively waived for the first six years that the contribution was invested for.
- There was a Product Early Withdrawal Charge of 1% which applied “for the first six years that each contribution made in years one to five is invested.”
- There was also an annual cost for managing and maintaining the investments – which varied depending on the fund selected.

Included in the Key Facts document was a table which set out the combined effect of the advice and product charges for the new contributions.

The Key Facts document also included a table which set out what the current EWC was in respect of previous contributions Mrs T had made to her pension. And it said: “We will optimise the way withdrawals are taken to minimise the EWC you pay.”

In its letter dated 14 July 2025, SJP said that in future its customers would pay an advice charge, a product charge and a fund charge. EWCs would not apply to new investments. SJP said it had reviewed the level of each charge and as a result its advice charges would increase. However, SJP said this did not result in an increase to the total charge a customer would pay because of the other changes it was making.

There was a section in the booklet which accompanied the letter which dealt with accounts where an Early Withdrawal Charge might still apply. This stated:

*“For accounts with an Early Withdrawal Charge (EWC)*

*Recent contributions to your pension may be subject to an EWC if you take money from your account within the EWC period. Where this applies we will move your investment to the revised charges once the EWC period ends (usually 6 years after the contribution was made).*

*Each contribution you have made will be assessed individually. It will then be moved to the lower charge as soon as the EWC period ends for that contribution, even if one still applies to more recent contributions.*

*This also applies to regular contributions and any increases for the first five years, even if they are made after [22 August 2025]. So, for example, if you started a regular contribution in March 2025, contributions made until March 2030 would be subject to an EWC if they are withdrawn within 6 years of being made...”*

The booklet included tables setting out, in relation to each fund, what the total ongoing charge would be, after the pricing review, within the EWC period and also what it would be outside the EWC period.

Mrs T doesn’t think it’s fair that she should still have to incur any EWCs for regular contributions made after 22 August 2025 simply because she started making them prior to that date.

I’ve thought about what Mrs T has said here. It is the case that when she started making regular contributions into her pension she agreed to the charging structure which applied at that time. So, specifically she agreed that she would pay the initial advice charges, ongoing charges and EWCs as set out above. That meant she agreed to pay the EWC in the event that she made an early withdrawal (such as by transferring her pension). And she agreed

that the EWC would apply “for the first six years that each contribution made in years one to five is invested.”

SJP has not changed the terms and conditions which Mrs T made in relation to the EWCs that would apply to the contributions she agreed to make to her pension prior to 22 August 2025.

Mrs T thinks SJP should have abolished EWCs – for all investments.

SJP says it has not switched clients/assets invested within the EWC structure straight into the new charging structure because investments within the applicable six-year EWC period benefit from the existing ongoing product charge being waived. It says it wouldn't be in the interests of clients to transition their investment into the new charging structure where an ongoing product fee would then apply. Having considered everything, I think the explanation SJP has given here is fair and reasonable.

So, even though Mrs T says she doesn't agree to the changes to her terms and conditions, I'm not persuaded on balance that means the agreements which she's already entered into, and the charges which she's agreed would apply, should be set aside. If Mrs T wants to transfer her pension to another provider, the terms she's already agreed to will apply and the applicable EWCs are payable.

2. Mrs T says she should be allowed to reject the changes to the terms and conditions and move her pension to a new provider without incurring any EWCs.

Mrs T says she is frustrated that no matter what charges SJP apply she is effectively forced to accept them or incur the EWC. She thinks this is unreasonable. She says that her existing monthly contributions would be under the original contract and last until her planned retirement which is in 20 years' time. That means she says she'd be effectively “stuck paying EWCs until 2051”.

First, I'd just comment that I'm not persuaded, on balance, Mrs T would have to pay EWCs until 2051. I'd refer her to the wording in the booklet which SJP sent to her:

*“This also applies to regular contributions and any increases for the first five years, even if they are made after [22 August 2025]. So, for example, if you started a regular contribution in March 2025, contributions made until March 2030 would be subject to an EWC if they are withdrawn within 6 years of being made...”*

As I've stated above, it is the case that for any regular contributions started prior to August 2025, Mrs T agreed that EWCs would apply in the circumstances set out. And that has not changed. The changes SJP are making relate to any new agreements Mrs T enters into regarding future investments into her pension – so any new single contributions and any new regular contribution arrangements.

Mrs T says that she does intend to make future single contributions to her pension. She says that means she has to agree that the new terms and conditions will apply to any future single contributions. She doesn't agree to those terms and conditions. She has specifically mentioned the changes to transaction fees which she says will increase. Mrs T says that means she either has to transfer her pension to another provider to make future single contributions (incurring EWCs) or she has to operate two separate pensions (with two separate sets of fees and charges) which she doesn't want to have to do.

I've thought about what Mrs T has said here.

SJP says the changes it is making will mean there will not be an increase to the total charge a customer pays. So, although Mrs T says she disagrees with the changes being made, I'm not persuaded the charging structure as regards any new investments she makes, such as a single contribution, will mean she would be worse off had there not been any changes. And she won't incur any EWCs for new investments she makes after August 2025.

SJP is permitted to make changes to its terms and conditions. It can do that "to respond to changes in regulation." It says that's why it made the changes that apply from August 2025. Where, as here, SJP's terms and conditions allow it to make changes to those terms and conditions, it doesn't need Mrs T's express consent before the changes take effect. If Mrs T doesn't agree to the changes she is free to transfer her pension to another provider and she can do that without incurring any extra charges. But I don't think it's fair or reasonable for her to expect SJP to permit her to transfer her pension without incurring the charges which she's already agreed should apply.

3. Mrs T says the EWCs are a "penalty" and she shouldn't have to pay them.

Mrs T has referred to the principle at common law which states that a "penalty" in a contract is unenforceable.

Our service was set up as an informal and free alternative to the courts. We make decisions on the facts and evidence available in each case and on the basis of what we consider to be fair and reasonable in all the circumstances. In doing so, we take into account the law, relevant rules, regulations, codes and good practice. So, when thinking about what Mrs T has said here, I've taken these matters into account. But, ultimately whether a particular clause in a contract should be construed as a "penalty" is a matter for a court to determine.

The Consumer Rights Act 2015 included a list of the type of contractual provisions that may be regarded as "unfair". This included a term which has the object or effect of requiring a consumer who fails to fulfil his/her obligations under the contract to pay a disproportionately high sum in compensation. This can include disproportionate termination or exit fees.

In the Key Facts document I've referred to above, SJP explained what the cost of the initial advice and its services would be. It explained that this cost covered "*all of our expenses incurred in providing, checking and guaranteeing the suitability of your advice. The remuneration of your Partner's practice is only one element of this cost from which they meet their own business expenses.*" It also explained what its ongoing advice charges covered.

SJP would have carried out the tasks listed – providing, checking and guaranteeing the suitability of the advice - when it set up the plan. But it didn't take all its charges for that work at once – it spread them over the first six years of the term of the plan. As I've mentioned above the Key Facts document included a table which set out the combined effect of advice and product charges. So, for regular contributions this amounted to an annual management charge of 1.5% and an EWC which applied to each contribution made in years one to five of 6% (reducing to 1% in the sixth year). SJP has explained that this would have helped the investment growth of the plan.

It isn't for me to comment on commercial decisions that a business makes. SJP did explain, in the Key Facts document, the effect of the decision it made regarding the structure of its charges. It did that when it stated how it would recover those charges – within the first six years, using the EWC.

So, having considered everything, I'm not persuaded the EWC was a charge designed to cover the administrative and other costs that would necessarily be associated with an early exit from the pension arrangement. But rather the EWC here was a charge to cover services

that had already been carried out – but where the full initial cost of the work involved hadn't been taken. The application of the EWC was to allow those costs to be recouped later on if Mrs T decided to transfer her benefits within the six-year period.

In these circumstances, and in thinking what's fair and reasonable here, I'm not persuaded SJP did anything wrong when it said it would apply any EWC, that might be payable, should Mrs T decide to transfer her benefits elsewhere.

#### 4. Mrs T says the application of EWCs is a breach of the FCA's Consumer Duty Principle

It is the case that SJP has always been required by its regulator to have due regard to the interests of its customers and to treat them fairly.

For the reasons set out above, I'm satisfied SJP did provide sufficient information to Mrs T about the EWC and when it would apply. And, having considered everything here, I'm not persuaded the introduction of the Consumer Duty Principle meant that SJP was required to retrospectively change Mrs T's terms and conditions in respect of when an EWC was payable. I'll explain why.

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.

Our investigator referred to the FCA Finalised Guidance for firms on the Consumer Duty (FG22/5). I've set out extracts from that guidance below:

*"3.18 Firms acting to address potential harm for existing customers in a product or service are not expected to give up any vested contractual rights – although they are free to do so.*

*3.19 For these purposes, vested rights include pre-existing contractual rights to which a firm already has legal entitlement (e.g. annual fees that are due) and rights to payments falling due on occurrence of a contractually specified event (e.g. exit charges)...*

*3.21 Where there is a vested right, firms should consider alternate ways to prevent harm for existing customers. Appropriate actions would depend on the context. Firms might be able to take actions that do not require any contractual changes or to make changes to contracts that do not alter vested rights to remuneration or interfere with pre-existing rights to charge an exit fee.."*

SJP has changed the terms and conditions which apply to Mrs T's pension. But the changes it has made do not alter its vested rights to remuneration and do not interfere with its pre-existing rights to charge the EWC.

In these circumstances, I'm not persuaded SJP has done anything wrong here when it changed the terms and conditions but did not change its right to charge EWCs for agreements already entered into.

#### 5. Mrs T says she has been prevented from making a partial transfer to a new provider.

After the complaint came to our service, Mrs T said she wanted to transfer that part of her pension where no EWCs would be applied, to a new provider.

I asked SJP to comment on what Mrs T had said. Its response was:

*“The admin centre has confirmed they have not received a request to transfer any funds to Mrs T. On 20 March 2025, they received an email from her IFA asking for details of costs and charges. The Admin Centre has advised they can do a partial transfer of the account but they must be told the amount to take, they will not work that out for the client.”*

Having considered the response from SJP I'm satisfied, on balance, it has not received a request for a partial transfer of Mrs T's pension. It has confirmed it can facilitate a partial transfer if it receives a request, but it must be informed of the amount of the partial transfer. I think that's fair and reasonable.

Mrs T will need to work with her financial adviser to calculate how much she wants to transfer. In turn, SJP has already indicated on the Key Facts document that it will “optimise the way withdrawals are taken to minimise the EWC you pay.” But that doesn't mean it is obliged to determine the amount of any partial transfer she wishes to make.

Having considered everything here, although I know it will disappoint Mrs T, I think SJP has acted fairly and reasonably. 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 UK PLC.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs T to accept or reject my decision before 19 November 2025.

Irene Martin  
**Ombudsman**