

## The complaint

Mr K and Mrs K complain that St. James's Place Wealth Management Plc (SJP) provided incorrect advice, and they have suffered financial loss as a result.

## What happened

Mr K and Mrs K obtained financial advice from SJP in 2022. They received separate financial advice in relation to their pension arrangements.

SJP advised Mrs K to transfer several of her existing personal pensions into a retirement account with SJP. There is no dispute concerning this part of the advice. However, SJP also advised Mrs K to make a lump sum payment into the SJP retirement account. It recommended that she invest £46,134 (gross) with 20% tax relief from HMRC. Mrs K says SJP informed her she would also receive a further 20% tax relief via self-assessment. But when she completed her self-assessment she only received £371 tax relief rather than the £9,226.80 she'd been expecting. She says that if she had known she wouldn't receive the higher rate tax relief she would have preferred to wait. Mr K and Mrs K say they would have paid the amount into Mr K's pension in a subsequent year. They complained to SJP.

SJP investigated their complaint. It acknowledged that its explanation of how higher rate tax relief could be claimed was incorrect. It was only available to the extent that higher rate or additional rate tax had been paid. It apologised for its error. But it said that although less tax relief was received than expected Mrs K had not incurred any financial loss since she was never entitled to the higher rate tax relief.

SJP considered what Mr K and Mrs K said about delaying the contribution until a later date. However, it said this was not something it would expect to recommend. Its reasons were:

- Potentially missing out on growth if the funds were left in a deposit account rather than invested;
- Circumstances could change in terms of future income; and
- Legislation could change.

SJP then explained that during the course of its investigation it had noted an error it made when advising Mr K in March 2024. It had incorrectly calculated his annual allowance calculation. As a result, it had recommended that he should make a contribution to his pension which caused him to exceed the annual allowance. It said he would incur a tax liability as a result. SJP apologised for its error and said it would cover the annual allowance tax charge and also reimburse any associated reasonable professional fees should he choose to engage an accountant in connection with this matter.

SJP also offered to pay Mr K and Mrs K £300 by way of compensation to reflect the distress and inconvenience caused.

Mr K and Mrs K remained dissatisfied with what SJP had said. They also said they had lost all trust in SJP and wanted to be able to end their relationship with it - without incurring any exit fees.

SJP looked into their complaint again. It didn't change its view. Mr K and Mrs K referred their complaint to our service.

Our investigator looked into their complaints. By way of summary, he said:

- The complaint about the advice given in 2022

SJP had acknowledged it made an error when it told Mrs K she would receive higher rate tax relief. The question to be decided was what would she have done but for the incorrect advice. Having considered everything our investigator thought it was likely Mrs K would have delayed her contribution. He thought the tax considerations would have outweighed other considerations such as growth, potential change in circumstances and possible changes in legislation.

He then looked at what he thought would have happened if she had delayed her contribution and the funds had instead been paid into Mr K's pension. He noted that Mr K had no scope in tax year 2023/24 to make further contributions to his pension but he thought there was scope in tax year 2024/25. So, he thought it was likely the contribution would instead have been made into Mr K's pension in 2024/25.

Setting aside any growth in the amount invested in 2022, our investigator thought it was fair and reasonable to ask SJP to pay Mr K the difference between the amount of higher rate tax relief Mrs K expected to receive after she made the contribution to her pension in 2022 and the amount of higher rate tax relief she had received – £8,855.80 (being £9,226.80 less £371.00).

- The complaint about the error in the Annual Allowance calculation in March 2024

Our investigator thought SJP's offer to indemnify Mr K for the error it had made in the annual allowance calculation was reasonable. He didn't think it needed to do anything further to resolve this part of the complaint. But he thought that SJP should pay Mr K £600 as compensation for distress and inconvenience caused.

Our investigator also said he didn't think it was reasonable to waive the exit fees should Mr K and Mrs K decide to close their accounts with SJP. He thought this was a matter for the terms and conditions of their policies and was separate from the issues they'd experienced.

SJP did not agree with everything our investigator said. By way of summary, it made the following points:

- It doubted if Mr K had sufficient annual allowance in tax year 2024/25 to have made the contribution of £46,134 (gross) to his pension. It said it didn't know how much he had contributed during that tax year to his employer's pension scheme or what his earnings had been.
- A pension is a long-term savings plan to provide regular income in retirement. Tax relief is not the only reason, or the primary reason, to contribute to a pension. Mrs K had a clearly identified need to contribute to her pension in tax year 2022/23. Mr K and Mrs K wanted to contribute the maximum they could at the time based on the available allowances. Mrs K had fully funded her contribution for the relevant tax year following the advice given and she did receive tax relief – albeit not the higher rate tax relief. SJP didn't believe it was appropriate to delay making the contribution until future tax years.
- Mrs K had not suffered any financial loss. There had been a loss of expectation - but SJP didn't think it was appropriate to look at this retrospectively and presume what the clients would have done differently.

Our investigator considered what SJP said but he didn't change his 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.*

- 1. The contribution Mrs K made to her pension in tax year 2022/23.*

*There is no dispute that SJP provided incorrect information to Mr K and Mrs K. In March 2022 following a meeting with SJP Mr K sent the following query:*

*“We talked about tax relief on pension in particular lump sums and that you could claim higher rate tax relief on all contributions.... even if you only just made it into the higher rate tax band by £1. Am I recalling this correctly?”*

*SJP responded to say:*

*“A higher rate tax payer (it doesn't matter how much they earn) can claim pension tax relief at 40% on all contributions made to a pension plan, subject of course to the 100% of earnings and Annual Allowance caps.”*

*SJP acknowledges that this was incorrect. Mrs K did pay higher rate tax – but only on a relatively small part of her earnings. So, she could only claim higher rate tax relief on contributions to her pension to the extent that higher rate tax had been paid. And although Mrs K believed, as a result of the incorrect information she'd been given in March 2022 she would receive just over £9,000 by way of higher rate tax relief in her self-assessment – she wasn't entitled to that amount. She only received £371.*

*When a business makes an error, we look to see whether the consumer has experienced a financial loss as a result of that error.*

*Despite what SJP had told Mr K and Mrs K, it is the case that Mrs K was not entitled to higher rate tax relief on the whole contribution. So, she has not suffered any financial loss.*

*I've then thought about whether Mrs K might have acted differently but for the information SJP had given her about her entitlement to higher rate tax relief.*

*It's not possible to be certain what would have happened in tax year 2022/23 if Mrs K had been given the correct information concerning the tax relief available to her. So, I've had to consider what I think, on balance of probability, in light of all the other information that she had at the time, she would likely have done had she not been given the incorrect information in March 2022.*

*Although I know it will disappoint Mr K and Mrs K, I've provisionally decided that I'm not persuaded Mrs K would have acted differently – even if she'd been given the correct information. I'll explain why.*

*SJP issued its suitability report to Mrs K in June 2022. I've looked specifically at what it said about the single lump sum contribution – which is the subject matter of this complaint. The report set out what Mrs K's objectives were, based on the information that had been provided by her to SJP.*

*SJP noted that Mrs K wanted to invest for her retirement. The report stated that even after implementation of its recommendations, it was unlikely she would have enough to meet her needs in retirement and so it was likely she would have to review her arrangements again in the future.*

*SJP noted that Mrs K had told it she liked the tax efficiency and benefits of the pension wrapper, in particular the greater flexibilities now offered by pensions, the tax-free growth received on funds held in a pension wrapper, the tax-relief received on each contribution and the tax-free cash of 25% received when accessing benefits.*

*There was discussion about her current pensions and SJP recommended that certain of her pensions should be transferred into a SJP Retirement Account.*

*Mr K and Mrs K had considerable cash holdings. SJP recommended that she make a single lump sum contribution of £46,134 (gross) into her pension “in order to continue to build up your existing pension provision and to maximise your Annual Allowance in the current tax year as well as some of your unused annual allowance from previous years.”*

*The report also set out SJP’s reasons for its recommendations.*

*Specifically in relation to the single lump sum contribution SJP recommended that Mrs K should make a contribution of £46,134 (gross). SJP set out its reasons for that recommendation which included the following:*

- Mrs K wanted to make contributions to her pension that were affordable. She did not wish to fund for a specific target income. SJP was satisfied that the proposed contribution was affordable.*
- SJP noted that, allowing for her other arrangements, the recommended level of contribution was unlikely to be sufficient to meet her needs in retirement and so the level of funds and contributions would need to be regularly reviewed in the future.*
- There would be tax relief from the Government at a rate of 20% and she may be able to claim further tax relief from HMRC via self-assessment (although as noted above SJP had already told her she’d get higher rate tax relief through her self- assessment).*
- She would maximise her annual allowance in the current tax year and “mop up” some of her unused annual allowance from previous years.*
- She would receive the benefit of tax-free growth and 25% tax free cash when she came to access her benefits.*
- The SJP retirement account permitted maximum flexibility when she was able to access her pension.*

*Having looked at the suitability report, I can see that there were several reasons why SJP recommended the single lump sum contribution. And although tax relief was a factor, I’m not persuaded, on balance, that the availability of higher rate tax relief was the reason why Mrs K was advised to make the investment that she did.*

*As set out above, Mrs K’s objective was to invest for her retirement. SJP identified that she needed to increase her pension savings to meet her needs in retirement. It was agreed that Mrs K wanted to maximise the use of her annual allowance. And by making the recommended contribution she was able to do that as well as “mop-up” some previous years’ unused annual allowance. The contribution she made was affordable. She also got 20% tax relief on the whole amount she invested.*

*Mrs K's contribution to her pension has been able to avail of other tax benefits such as tax-free growth since the date of the investment. And under the current rules, she can get 25% tax free cash when she accesses her benefits at retirement.*

*So, I'm provisionally satisfied on balance, that even if SJP had not given Mrs K incorrect information about the higher rate tax relief, it's likely she would still have decided to make the lump sum contribution into her pension. I'm not persuaded, on balance, she would instead have waited until Mr K's financial circumstances were such (based on his future income and annual allowances) that he could invest this amount into his own pension in order that he could obtain higher rate tax relief on the investment.*

*When reaching that view, I've also taken into account other factors such as the potential for a change in legislation and the fact that at the time when Mrs K decided to proceed, there was no certainty about what Mr K's future income and annual allowances would be in future years and whether (or when) an opportunity might arise for him to make the contribution into his pension instead in order to receive the higher rate tax relief.*

*In the event, he says that the earliest opportunity he would have been able to make the contribution to his own pension would have been the 2024/25 tax year – which was two years later. During that year there had been some changes to his circumstances. Mr K has provided information about his earnings and his pension contributions during that tax year. And it appears there would have been scope, within the available annual allowance, for Mr K to have made further contributions to his pension of just under the amount that Mrs K contributed to her pension in 2022. He would also have been able to avail of higher rate tax relief on the contribution.*

*However, Mr K and Mrs K did not have that information when the contribution was made in 2022. So, I don't think it's fair or reasonable to use that information, with the benefit of hindsight, to presume that Mrs K would have decided not to make the investment that she did in 2022 but instead wait until the 2024/25 tax year and invest the funds into her husband's pension.*

*Having considered everything, I'm satisfied, on balance, Mrs K would still have been advised to make the contribution she did make into her pension. And I'm also satisfied, on balance, she would still have proceeded in the way that she did.*

*I'll comment further below about the loss of expectation she experienced as a result of having been given incorrect information about her entitlement to higher rate tax relief.*

## *2. The error in the Annual Allowance calculation for Mr K in March 2024.*

*When SJP was investigating this complaint, it realised it had made an error in the annual allowance calculation it had completed for Mr K in March 2024. It acknowledged this error and explained that it meant Mr K was likely to have paid more in the 2023/24 tax year than he would be able to claim tax relief on. In order to put things right it said it would cover the amount of the annual allowance tax charge when HMRC confirmed the amount that was payable. It also said it would cover the associated reasonable professional fees should Mr K choose to engage an accountant.*

*Having considered the offer made by SJP, I've provisionally decided it's fair and reasonable in all the circumstances that apply here, since it seeks to put Mr K back*

*into the position he would probably now be in if the error had not happened. So, I don't intend to require SJP to do anything further regarding this aspect of the complaint.*

### *3. Distress and Inconvenience*

*As stated above, although I've provisionally decided Mr K and Mrs K have not experienced a financial loss as a result of what's happened, I am satisfied they have experienced a loss of expectation. They expected Mrs K to receive just over £9,000 by way of higher rate tax relief.*

*In addition, SJP has accepted it made a further error in the advice it gave Mr K about his annual allowance.*

*SJP has offered to pay Mr K and Mrs K £300 by way of compensation for distress and inconvenience they experienced as a result of the errors it made.*

*The impact of the errors made by SJP have caused considerable upset and inconvenience. There has been a loss of expectation in terms of the higher rate tax relief available and Mr K will now have the added inconvenience of having to engage an accountant to help him complete his own self-assessment – albeit SJP has agreed to pay the associated reasonable costs. I have noted however that it was SJP which brought this matter to Mr K's attention as soon as it realised the error had been made and it also offered to take action to try to put things right at that time.*

*In all the circumstances that applied here, and having regard to our guidelines for awards for distress and inconvenience, I don't think £300 is sufficient compensation. Instead, I've provisionally decided that SJP should pay Mr K and Mrs K £750 (in total) by way of compensation for distress and inconvenience.*

### *4. Exit Fees*

*Mr K and Mrs K say they have lost all trust and confidence in SJP. They think they should be allowed to exit the arrangements they've made with SJP without incurring any exit charges.*

*Whilst I can understand why Mr K and Mrs K have complained about being given incorrect information I agree with our investigator when he said he didn't think it was reasonable to ask SJP to waive charges it was entitled to receive under the terms and conditions that applied to the policies/accounts.*

*So, I've provisionally decided that it's not fair or reasonable to require SJP to waive any exit charges it may be entitled to under the terms and conditions.*

### **My provisional decision**

*For the reasons set out above, I've provisionally decided to uphold this complaint. I intend to require St. James's Place Wealth Management Plc to take the following actions to resolve this complaint:*

- pay Mr K and Mrs K £750 (in total) by way of compensation for distress and inconvenience.*
- upon receipt of confirmation from HMRC of any annual allowance charge which Mr K has to pay for the tax-year 2023/24, reimburse this amount to him and pay the associated reasonable professional fees he incurs should he*

*choose to engage an accountant in connection with this matter.*

Mr K and Mrs K responded to my provisional decision. By way of summary they said:

- they were happy to accept the provisional decision around the error in the Annual Allowance calculation for Mr K in March 2024 and the exit fees.
- They did not agree with what I'd said about the contribution Mrs K made to her pension in tax year 2022/23. They said –
  - the provisional decision had been based predominantly on the suitability report provided to Mrs K and had not taken into account the fact that the retirement and financial planning advice had been considered as a couple.
  - tax efficiency was an important element of their decision making as demonstrated by the fact that Mr K had sought confirmation of the information given to them about the tax status of the investment.
  - whilst Mr K agreed it would have taken two years to complete the contributions to his pension instead of Mrs K's pension, he felt that the certainty of a 20% return (by way of tax relief) outweighed the difference between expected returns in a pension compared to other investments
  - Mr K maintained that he would have waited and made the contributions to his own pension if he'd been given the correct advice by SJP.

SJP also responded to my provisional decision. It said it still believed that the offer it had made of £300 was commensurate with the amount of distress and inconvenience Mr K and Mrs K had experienced. However, if an award of £750 was enough to settle the complaint provisionally it would be willing to update its offer.

Since both parties to the complaint have not accepted the provisional decision, I now need to issue my final 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.

Mr K and Mrs K have accepted my provisional decision except for what I said concerning the contribution Mrs K made to her pension in tax year 2022/23. They have pointed to the fact that they received advice from SJP as a couple. But, having looked again at the advice which they each received at the time (June 2022), I've not changed my view about how this complaint should be resolved. I'll explain why.

Mr K and Mrs K received separate letters in June 2022 setting out SJP's recommendations. It is the case that their objectives were substantially the same. SJP noted that they wanted to invest for their retirement. SJP considered their current pension arrangements and made recommendations about transferring some of those pensions to SJP. In addition, it considered the fact that Mr K and Mrs K had "a large sum in cash holdings." SJP noted that Mr K and Mrs K did not require access to some of this cash in the long term. And there was discussion about this in the context of their objective to invest for their retirement. SJP recommended that Mr K should invest an amount into his pension which allowed him to maximise the use of his annual allowance and use his unused allowances from the previous three tax years. Mrs K was also advised to invest an amount into her pension which maximised the use of her annual allowance for the 2022/23 tax year and also "mopped up" some of her unused annual allowances from previous tax years.

SJP's recommendation to both Mr K and Mrs K detailed how they could utilise their cash holdings to invest for their retirement. SJP set out how they could maximise their contributions to their pensions by utilising the available annual allowances. The

recommendations were in line with the objectives which SJP had outlined in the suitability reports for both Mr K and Mrs K.

In my provisional decision I set out the reasons why SJP had advised Mrs K to invest the amount recommended into her pension. And whilst tax relief was an important factor – it was not the only or main reason why SJP made the recommendation that it did. As I pointed out in my provisional decision, the single lump sum contribution was to build up Mrs K's pension for her retirement. That consideration also applied to Mr K. Both Mr K and Mrs K said they wanted to maximise the use of the available allowances. They also found the tax free growth and the availability of tax free cash when the benefits were taken as attractive. And, although Mrs K didn't receive higher rate tax relief on the whole contribution that she made, she did receive 20% tax relief on the contribution. So, having considered the advice again, in the context of the advice being issued to Mr K at the same time, I'm still not persuaded they would have done anything different even if SJP had not incorrectly told them in March 2022 that Mrs K would receive higher rate tax relief on the whole contribution.

Mr K acknowledges that the earliest opportunity he would have been able to make the contribution to his own pension (instead of Mrs K's pension) would have been two years later. But, as I pointed out in my provisional decision, he wouldn't have known in 2022 that his circumstances would change in 2024 in the way that they did. And he couldn't have been certain that there wouldn't be changes to the legislation concerning pensions and available tax allowances. So, I'm not persuaded, on balance, it's fair or reasonable, with the benefit of hindsight, to presume that Mr K would have waited until the 2024/25 tax year to instead invest the funds in his own pension.

For the reasons set out in my provisional decision, I explained why I thought SJP should compensate Mr K and Mrs K for the loss of expectation they'd experienced as a result of what happened here. SJP has said that it thinks £300 is sufficient compensation – albeit in the interests of settling the complaint it would be willing to increase that offer to £750. Having reviewed everything again and considered the considerable upset and inconvenience caused to Mr K and Mrs K as a result of the errors made by SJP, I'm not changed my view that SJP should be required to pay them £750 (in total) by way of compensation for distress and inconvenience.

### **My final decision**

For the reasons set out above, I uphold this complaint about St. James's Place Wealth Management plc. I now require it to take the following actions to resolve this complaint:

- pay Mr K and Mrs K £750 (in total) by way of compensation for distress and inconvenience;
- upon receipt of confirmation from HMRC of any annual allowance charge which Mr K has to pay for the tax-year 2023/24, reimburse this amount to him and pay the associated reasonable professional fees he incurs should he choose to engage an accountant in connection with this matter.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K and Mr K to accept or reject my decision before 9 February 2026.

Irene Martin  
**Ombudsman**