

The complaint

Mr B is unhappy with the service he has received from St. James's Place Wealth Management Plc ('SJP').

What happened

Mr B says he met a financial adviser through a mutual associate in 2015. When the adviser joined SJP they reached out to Mr B which led to an initial meeting. This was followed by a number of emails offering him some services including a pension review.

Mr B had a final salary defined benefit scheme ('DB scheme') with Firm A, he received a cash equivalent transfer value ('CETV') from Firm A on 14 June 2018.

A suitability letter was issued on 30 August 2018 from Morrison Wealth Management ('Firm M'). Firm M were an appointed representative ('AR') of SJP at the time the advice was given.

Mr B explained that he had a number of meetings with the SJP adviser and bought into the idea of consolidating his pensions. He says he didn't meet an adviser from Firm M until 11 September 2018. This was the only time Mr B says he met with anyone from Firm M. He also says that Firm M didn't provide him with any advice. Instead, Firm M's presence at the meeting was explained as being to satisfy compliance when opening an account with SJP.

The suitability letter recommended that Mr B transfer his DB scheme to an SJP Retirement Account ('RA'). Mr B's needs and objectives were set out as:

- Having no immediate need for income or lump sum benefits.
- Aspiring to retire in nine years at the age of 60, five years before Mr B's DB scheme's normal retirement age.
- Wanting to secure death benefits, the DB scheme provided a 50% spouse's pension and a lump sum of £582,000. Mr B was not married and had no dependants at the time of advice.
- To be able to flexibly access the pension fund upon retirement.
- Receive active management of the funds.

About SJP's approach to investment management the adviser stated:

"At St. James's Place, we do not employ our own investment managers, but select managers who we believe may achieve the returns our clients are seeking. I also described the role of our independent experts, Stamford Associates, Redington and other respected independent consultants in the selection, monitoring and, when necessary, changing of these managers.

...

The reason that I am recommending this approach is that as our client you gain peace of mind knowing that the individuals that are responsible for managing the funds are monitored by full-time professionals. The committee have the obligation to

retain and discard managers as per their performance and therefore only successful managers remain. This means that all funds are given the best opportunities for growth by being managed by successful managers.

...

You will now receive the service and ongoing advice that I am able to offer with your transferred funds. It is important to you that your funds are professionally managed. You are attracted to the way St. James's Place operate their funds through the selection of external global fund managers, coupled with the benefits of the Investment Committee and Stamford Associates.

...

It is my recommendation that as a minimum we conduct an annual review of your arrangements.”

Some potential disadvantages of the transfer advice were set out as:

- Higher charges compared with Mr B's DB scheme.
- Early Withdrawal Charges apply to the Retirement Account on funds encashed within 6 years of being invested. The charge will be 6% if encashed in the year after the investment is made, reducing by 1% p.a. to 1% in the 6th year, and 0% thereafter.
- Due to the value of Mr B's DB scheme and other pensions he was likely to have funds above the lifetime allowance at retirement. An estimated tax charge of £17,543 is detailed.

Mr B's risk rating was set as medium, the Managed Funds Portfolio was recommended. The fund is described as likely to exhibit higher volatility and lower diversity than the Balanced Funds Portfolio. But with more flexibility for the fund managers to have greater control over the asset allocation and composition.

The charges are set out on page 20 as 1.5% for an Annual Management Charge and 0.41% for an External Management Charge.

Mr B received various other documents from SJP including a transfer value analysis report and illustration. Within the illustration about charges, it sets out:

Annual Management Charge (Uncrystallised) – 1.5%

Annual Management Charge (Crystallised) – 1.5%

Early withdrawal Charge

- In the first year – 6%
- Reducing each year until, in the sixth year – 1%
- Thereafter – 0%

Firm M's terms of service document set out the fee Mr B would be charged for its advice. An amount of 4.5% of the amount invested is quoted as the cost of initial advice. The document goes on to explain that if regular pension investments are made then 4.5% of any further investment will be charged for the first 5 years.

Mr B opened an RA and transferred his DB scheme into it. He was in contact with an SJP adviser more than once per year from its inception to the date he raised this complaint.

Mr B raised a complaint about the service he had received from SJP, in summary he said:

- The SJP product was described as fulfilling his objectives and creating a flexible, diversified portfolio. Being actively managed and able to support a 4% drawdown in retirement earlier than his DB scheme would.
- The 1.5% management fee was high, but Mr B was told that was to reflect the active management.
- He was told additional fees would not apply for drawdowns, the only trigger for an extra cost would be a transfer to another provider.
- The lock in period was disclosed as five years, but now Mr B has been told it's six years.
- There has been a lack of active management which is evident by a lack of communication and in particular:
 - January 2020 Mr B says he contacted SJP to express concern about the effects of Covid and asked for the funds to be switched to cash. This was only partially done. The cash was not reinvested until the end of the year.
 - In 2022 Mr B says he contacted SJP again and asked for his funds to be moved to cash due to the unrest in Ukraine. He was advised to let the fund managers monitor the funds.
 - At the end of 2022 Mr B emailed to ask for a meeting but was initially only offered his annual review in around July 2023.
- He wasn't receiving any updates or newsletters from SJP.
- In order to resolve the complaint Mr B said he would like reimbursement of SJP's fees, losses to his portfolio due to lack of active management and the discrepancy with the lock in period to be addressed.

SJP took a long time to consider his complaint and so Mr B referred it to this service. He made the above submissions and set out that had he known all the details about the charges and actual service he would receive in respect of the RA, it's likely he would not have gone ahead with the transfer.

In October 2023 SJP explained in a letter to Mr B that they would calculate any losses Mr B had suffered due to the advice he had received. Mr B raised concerns that SJP had taken his complaint on a tangent and were not answering his original complaint. He explained that the original transfer had only been called into question due to the lack of management of his RA, which he said had resulted in underperformance.

SJP issued their final response letter, in summary they said:

- They didn't think the advice given in 2018 was suitable due to Mr B's financial circumstances at the time and his objectives. As such they carried out a redress calculation as set out by the regulator (the Financial Conduct Authority, 'FCA') as if the transfer had not occurred. The calculation resulted in no loss to Mr B, which meant he had gained from the transfer and so no redress was payable.
- SJP's investment approach was agreed by Mr B at the time of the advice. SJP don't employ their own investment managers, instead they use external fund managers who are monitored by SJP's in house analysts guided by their investment committee.
- Mr B had received advice on how to adjust his initial portfolio on a number of occasions.
- Mr B had received annual reviews from SJP until 2024, so the service that he was paying for had been provided. As no review was provided in 2024 SJP offered to refund the ongoing advice fee for that year. In addition, they said they would add 8%

simple interest per annum to the charges from the date they were charged to 28 June 2024.

- £150 compensation was offered to Mr B by way of an apology.

Mr B was unhappy with this response, he set out in summary:

- He wasn't aware his SJP adviser was unable to provide DB transfer advice until he received SJP's final response. And he didn't meet the DB adviser when the final response set out that he did. Had he known the SJP adviser could not provide this advice to him he may have decided to use a different adviser or leave his pension within the DB scheme.
- The SJP adviser presented a forecast of 4% per annum drawdown which would last 40+ years upon his retirement. But, when Mr B retired the adviser changed this to 2% which would only last 27 years. So, he questioned the suitability of the product that had been recommended.
- He expected to see a review of his investments as market circumstances changed, rather than annually. When he contacted SJP during periods of market volatility there was little engagement with him.
- He was only offered annual reviews which were catch ups rather than ongoing investment advice. Mr B referenced the FCA's perimeter guidance (PERG) specifically 8.28. Outside of the reviews contact with SJP was instigated by Mr B.
- The charges SJP have taken amount to around £108,500 – this is not fair or value for money as set out by the FCA.
- The fee structure of the product is not clear – even though Mr B has requested explanations. There is a transaction charge which hasn't been explained.
- Mr B would like the annual management charges refunded plus interest and 15% growth provided on the original investment amount. Mr B has calculated 15% by comparing his fund growth to that of similar pension providers over the same period.
- He says he has suffered distress and inconvenience, particularly when SJP changed the drawdown forecast from 4-2% and from 40+ to 27 years. He would like to be compensated by comparison to other pension products available at the time, rather than a comparison to his original DB scheme.

An Investigator issued their assessment, they said that the offer SJP had made was fair and so they didn't suggest SJP do anymore. In summary they set out:

- SJP didn't make it clear to Mr B what his payment of an ongoing advice charge meant. But, based on the evidence, they would expect SJP to have provided an annual review and assisted Mr B when he approached them. Which the investigator said SJP provided, up until 2024.
- SJP have offered to refund the ongoing advice charge for 2024, which is fair.
- The communications around the 2020 covid pandemic and Ukraine unrest were reasonable.
- The early withdrawal charge was made clear within the suitability report, and SJP have explained why the transaction costs were visible to Mr B in his 2022 statement.

Mr B didn't agree with the assessment and asked for the complaint to be reviewed by an Ombudsman. The Investigator provided Mr B with the evidence they had relied on when forming their view. Mr B added some further comments, which I have summarised below:

- Any advice seemed to be just a repeat of what Mr B had said, rather than thought through advice. The internal notes provided by SJP only record the SJP adviser's recollections after the meeting and don't reflect Mr B's recollections of the meetings.

- Meetings were catch ups which would not always be pension focused with limited market views given.
- The general market updates provided were not received by him. His email address is incorrect on the internal notes. This might be why he's never received any newsletters or updates from SJP.
- Mr B wasn't expecting a full discretionary service, rather he was expecting a full advisory service. But what he received was restricted with only SJP funds to choose from. This is not in line with the FCA's guidelines.
- No one has been proactively monitoring his investments or managing risk.

Mr B provided comments about the meetings he had with SJP based on his own notes, he said that:

- 2019 – he met with SJP three times, one of these times for an annual catch up in August.
- 2020 – a meeting was held in February; this was followed up by SJP with a recommendation. Which was a repeat of what Mr B says he suggested to the adviser.
- 2021 – in March Mr B asked for a meeting to discuss his retirement options at 55.
- 2022 – Mr B contacted SJP due to concerns about rising tensions in Ukraine. Later in the year Mr B wanted to begin drawing down his pension, this is when he was asked to only draw 2%, rather than the 4% previously projected.
- 2023 – Mr B received a review in January, following which a complaint was raised.

I issued my provisional decision, in summary I partially upheld Mr B's complaint and directed SJP to refund the fees Mr B had paid in 2021 and 2024. SJP didn't agree, they said they had provided extensive notes from the adviser which confirmed meetings took place in 2021. A copy of the following was provided again:

- Handwritten jumbled notes dated 5 and 7 January 2021 and May 2021.
- A handwritten undated note.
- Screen shots of meetings – none of which have the box ticked for a suitability letter having been provided.

Mr B responded to my provisional decision, he said in summary:

- SJP admitted that the adviser that recommended the transfer did not have the required regulatory permissions. This means the initial advice was not suitable.
- The ongoing service has not been demonstrated outside of SJP's own recollections.
- SJP are in breach of the consumer protection principles within the Consumer Protection from Unfair Trading Regulations 2008, which establish that firms can't profit from mis-sold financial products. At a minimum SJP ought to refund all the ongoing advice fees.
- SJP claim that comparing the DB scheme against the performance of Mr B's pension shows no loss but that doesn't consider that Mr B could have been invested elsewhere.
- Mr B presented evidence for consideration which included a list of the meetings he had with SJP and various communications with SJP.

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 am partially upholding Mr B's complaint. I appreciate this will likely come as a disappointment to Mr B. My reasoning is largely the same as set out within my provisional decision, so much of the below is a repeat of the contents of my provisional decision.

I've considered all the points made by the parties and thank them for providing detailed submissions. I have not however responded to all of them below; I have concentrated on what I consider to be the main issues.

I'm required to determine this complaint by reference to what I consider to be fair and reasonable in all the circumstances of the case. When considering what is fair and reasonable in the circumstances, I need to take account of relevant law and regulations, including those Mr B has specifically mentioned, regulator's rules, guidance and standards, codes of practice and, where appropriate, what I consider to have been good industry practice at the relevant time.

I will go on to explain my reasoning in detail below, but will first address some of the points raised by the parties in response to the provisional decision.

SJP have sought to evidence that an ongoing service was provided to Mr B in 2021 by providing handwritten notes. I would expect there to have been a recommendation or at least written communication to Mr B setting out what had been discussed. I haven't been provided with evidence that occurred and so I'm not persuaded ongoing advice was given to Mr B in 2021.

Mr B has said that the adviser that recommended the transfer away from his DB scheme was not regulated to do so. And so, the advice was unsuitable. However, he has sought to restrict the consideration of this complaint to the performance of the product he transferred into – the RA. SJP have already considered the advice given to Mr B to be unsuitable – the outcome of which is that Mr B's RA has performed better than his DB scheme would have, including payment of the ongoing advice fees, and so he has not suffered a loss.

Mr B has said that this calculation does not consider that Mr B could have invested elsewhere. But, if advice to transfer away from the DB scheme was unsuitable, and that advice should never have been given to Mr B by the adviser he says provided it to him, then the funds would never have been transferred away from the DB scheme. So, it follows that the loss calculation would be to consider the DB scheme performance against that of the RA.

As set out above, there has been some back and forth about what the crux of Mr B's complaint is. With Mr B suggesting that SJP took his complaint on a tangent when they considered if the original advice given – to transfer his DB scheme to an RA with SJP was suitable for him. Mr B has sought to clarify that he is complaining about the way that the product recommended has performed. Even though he does at times throughout his complaint suggest that had he understood how the RA product worked he would likely not have transferred at all and in response to my provisional decision has again raised issue with the original advice to transfer away from the DB scheme.

I have considered Mr B's comments and explanation about what he is complaining about and focussed my decision on the product recommended, rather than the advice given to transfer away from Mr B's DB scheme.

Mr B has explained that he wanted a product whereby his funds were actively managed, but has clarified that he didn't expect discretionary fund management. I understand from Mr B's submissions that he understands that SJP were unable to make changes to his funds without his permission.

It's important to set out the service I would expect SJP to have provided to Mr B. Within the suitability letter the adviser explains that there would be an annual review of Mr B's RA alongside the SJP's Approach to Investment Management. That approach is described as having a layered management of the funds that were recommended. Whereby the investment fund managers are overseen and proactively monitored by an independent third party.

I've not seen anything to suggest that the fund Mr B's pension monies was invested into was not being managed in this way. By an investment fund manager who was selected and overseen by a committee. Investment fund managers are responsible for making wholesale changes to funds within the parameters set for that fund. My understanding of the role of the committee is to monitor the performance of the investment managers.

I have therefore gone on to consider if Mr B was receiving the regular reviews he ought to have been expecting. Mr B has said that PERG 8.28 is important when considering if what he received amounted to ongoing advice. PERG 8.28 sets out that for a communication to amount to advice it needs to have an element of opinion. It can't simply be the passing of factual information. I have taken relevant guidance and regulations into account when reviewing the contact Mr B has had with SJP throughout the life of the RA.

There were a number of incidences of contact between Mr B and SJP from the RA being set up until this complaint was raised. That contact was back and forth with Mr B asking for SJP's opinion on a variety of market changes and annual reviews. I won't list each contact event individually here. Mr B has let this service know that he received an annual review in August 2019, in February and December 2020 SJP emailed Mr B with recommendations which were the adviser's opinion on what he should do with his pension funds. I've not seen enough evidence to show that SJP carried out an annual review in 2021.

In April 2022 a full suitability report was provided as Mr B's objectives had changed – he wanted to take early retirement. The adviser recommended Mr B leave his other pension plans held outside of SJP where they were, begin flexible drawdown with phased crystallisation and leave the remaining funds within the RA invested as they were. In January 2023 Mr B received a review of his arrangements, this was followed by an email from SJP to summarise, this set out that Mr B's objectives and circumstances had been reviewed, and recommendations were made to make changes to his funds.

SJP have agreed they did not provide Mr B an ongoing advice service in 2024 and so have offered to refund the associated charge, I think this is a reasonable offer to have made due to the lack of review in this period.

Based on the above, the evidence I have seen and the testimony of Mr B, I'm satisfied that SJP did provide him with advice, in line with the FCA's guidance of what advice ought to look like, apart from during 2021, up to 2023. And that service was in line with what I would have expected SJP to provide, based on the way it was described to Mr B when the product was recommended.

I appreciate that Mr B has said he's felt that his opinions have been repeated back to him, but he's also said that on a number of occasions his suggestions were not carried out. I have considered all of the evidence provided and I can't agree that the adviser was simply repeating Mr B's suggestions to him. I can see from the correspondence that on a number of occasions, outside of the annual reviews, the adviser provided their advice to Mr B. An example of that was in early 2020 when Mr B suggested his full fund be held in cash, the adviser emailed Mr B to suggest an alternative solution and provided their opinion on why the alternative would be better.

Mr B has said that he would likely not have gone ahead and transferred into the RA had he understood the service that he would be provided with. Instead, he says he would have transferred to a different product that provided more active management of his funds. But, as set out above, I think Mr B has received the service that was set out to him at the time of the advice. As such I can't agree. Mr B made the decision to open an RA based on the investment management SJP set out to him – and as that is the service he has received, I can't conclude that he would have invested differently. I can't agree that the RA was mis-sold to Mr B and so I'm not suggesting SJP refund all of the ongoing advice fees that have been charged or that they carry out a loss calculation comparing the performance of Mr B's RA to a benchmark or other investment option.

Other complaint points

- Projection change, from initial advice.

Mr B has said that he was initially told he would be able to draw 4% of his pension fund for more than 40 years via drawdown from his RA. But, when he let SJP know that he wanted to retire this changed to a lower percentage and the funds lasting for a shorter time. I've not seen any documents which suggest that Mr B can drawdown 4% per annum with the fund value lasting for 40 years plus.

SJP provided a transfer value analysis report at the time of the initial advice, on 13 August 2018. This document set out some illustrations based on assumptions and predictions to enable Mr B to compare what he was guaranteed with his DB scheme to the recommended RA. This document set out that Mr B's typical life expectancy was 88 years, for him to draw an annual income in line with what his DB scheme would have provided, if he retired at 60 years old, the annual investment return would need to be 3.62% for the funds to last to age 88.

The report continues and at B.3 there is a table which provides an estimate as to when Mr B's fund may run out on the basis of three different investment return percentages – Low, 1.4% - age 79, Medium, 4.4% - age 93 and High 7.4% - above age 100. If he was to start drawing funds at age 60. In the explanation of terms at the end of the report it states:

"It must be emphasized that actual returns can vary significantly depending on the performance of the funds you decide to invest in and the market environment generally."

Due to a change of Mr B's circumstances he needed to retire earlier than planned, at age 55. The required level of income per annum from the RA was quoted as £45,816 within the suitability report of 2022. The level of income set out as being needed per annum from the RA by Mr B in 2018, at the time of the original advice, was £25,000 from the age of 60, which would reduce to £11,618 following receipt of the state pension. It's not possible for there to be a guaranteed level of income from the type of pension Mr B transferred to. Because it is dependent on the value of the funds at the time of retirement. And that value is dependent on investment decisions and market fluctuations throughout the life of the product.

It's clear from the change in circumstances between 2018 and 2022 that Mr B required a higher level of income, earlier, than he thought he would need to at the time of the original advice. Whilst I've not seen the specific information Mr B says he was told by the adviser, I think it's understandable that there would have been a discrepancy between what he was told about how long the funds would last in 2018 compared to 2022 because the circumstances were different. So, I can't agree there was anything wrong with the adviser telling Mr B that the fund would run out sooner than it would have done had less been drawn per annum starting at a later date.

As set out I've not considered the suitability of the original advice to transfer away from the DB scheme. I'm only considering the suitability of the product recommended. However, if Mr B wanted to guarantee a level of income in retirement, then suitable products would have been either to remain with his DB scheme, or purchase an annuity. It's clear from the transfer analysis report that to purchase the guaranteed level of income Mr B's DB scheme would provide to him as an annuity, would require the RA to grow annually at a rate above which the FCA felt was 'High' at that time. It's unlikely that the fund would grow consistently at that rate and so it wouldn't have been suitable for SJP to advise Mr B to transfer in order to purchase an annuity.

- Five or six years '*lock in period*'

Within Firm M's terms of service, it sets out that if Mr B was to make regular investments, then they'd charge a fee on those additional investments. They collect 4.5% of the amount invested for the initial advice and then 4.5% of any further investments made over the first five years for pension advice.

Separately to this there is an early withdrawal charge, this is set out within the suitability letter. This charge starts at 6% of withdrawals above 7.5% of the total investment and decreases by 1% each year. So, in effect, after six years of investment there is no longer an early repayment charge.

I have considered the documents provided to Mr B and am satisfied these charges are set out clearly. I can appreciate why Mr B may have thought they were contradictory, but they are two separate charges, one for the initial advice, and one is an early withdrawal fee.

- Restricted advice, to SJP products

Mr B has said that only SJP products were recommended to him. Firm M's terms of service set out that they provide restricted advice – rather than independent advice. That means that they only offer products from a limited number of firms. The advice they provide is therefore not whole of market. I'm satisfied this was set out clearly to Mr B at the outset of the relationship.

- Mr B was not aware that the SJP adviser was not able to provide DB scheme advice.

Mr B has said that he was unaware that the SJP adviser was not able to provide the kind of transfer advice he needed due to his ceding scheme being a DB scheme. Due to the complex nature, and the valuable benefits that some DB schemes have, advisers need to have certain permissions to advise on whether or not it would be suitable for a consumer to transfer away from them. I'm not considering the advice Mr B received to transfer away from his DB scheme, rather I'm considering the service that Mr B was provided by the SJP adviser throughout the life of the RA. So, whilst I appreciate finding out this information may have been concerning to Mr B, because I'm not considering that advice, it has no impact on the ongoing advice service I have considered under this complaint.

- Fund transaction cost

In early 2018 the Markets in Financial Instruments Directive II regulations came into force. The key purpose was to improve transparency in relation to the charges across investment products. Following this regulation the FCA carried out a review of investment platforms costs and charges, they published their findings in May 2022, this set out that they expected all firms to review the findings, they set out some examples of good practice and asked firms to make changes where appropriate.

I appreciate Mr B receiving what appears to be an additional charge on his June 2022 – May 2023 statement would have been concerning. However, this isn't a new charge, rather, the way the charge is being disclosed to him has changed. The fund transaction cost is the amount the transactions within Mr B's fund have cost. It's not an additional charge, but disclosure of a charge which is inherent when units are bought and sold within a fund.

Putting things right

In order to put things right SJP have offered to reimburse the ongoing advice charge that Mr B paid for the service in 2024, plus 8% simple interest per annum. For the reasons set out above I have concluded that SJP did not provide Mr B with the service they ought to have in 2021 either and so I direct them to refund the ongoing advice fees for 2021 and 2024, if they have not already been paid.

Interest should be added at 8% simple interest per annum, from the date each fee was taken to the date of my Final Decision, or the date of payment if payment has already been made.

If the fees were deducted from Mr B's pension, the compensation should if possible be paid into Mr B's pension plan. The payment should allow for the effect of charges and any available tax relief. The compensation shouldn't be paid into the pension plan if it would conflict with any existing protection or allowance.

If a payment into the pension isn't possible or has protection or allowance implications, or for any fees paid by Mr B outside of his pension compensation should be paid directly to Mr B as a lump sum.

If payment of compensation is not made within 28 days of receipt of the acceptance of my Final Decision, interest must be added to the compensation at the rate of 8% per year simple interest from the date of my Final Decision to the date of payment.

Income tax may be payable on any interest paid. If SJP deducts income tax from the interest, it should tell Mr B how much has been taken off. SJP should give Mr B a tax deduction certificate in respect of interest if Mr B asks for one, so he can reclaim the tax on interest from HMRC if appropriate.

My final decision

I uphold Mr B's complaint and direct St. James's Place Wealth Management Plc to award redress as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 20 January 2026.

Cassie Lauder
Ombudsman