DRN-4900481

The complaint

Ms P has complained that the investment advice she received from St James's Place Wealth Management Plc ('SJP') wasn't right for her. Ms P says she has lost out financially and wants this put right.

Ms P is represented by a third party in bringing her complaint but for ease of reading I will refer to 'Ms P' in my decision.

What happened

In 2017 Ms P received an inheritance from her deceased parents amounting to £185,000. Ms P was an inexperienced investor and after receiving advice from SJP invested £150,000 into lower-medium/medium risk funds in a Unit Trust Feeder ('UTF') account and ISA. Ms P was to be charged an ongoing advice charge ('OAC') for the continuing advisory service.

Ms P became concerned the advice wasn't right for her under the circumstances of her poor health, investment experience and finances and raised a complaint with SJP.

In response, SJP said it couldn't find any evidence of wrongdoing in the advice given and the recommendations were suitable for Ms P. But there was no evidence that Ms P was provided with the full level of service she was paying for between September 2017 and April 2020. It offered to refund the OACs for the period plus £75 for the time taken to respond to the complaint. The total offered was £1,542.32.

SJP then provided a further response and increased its offer. It reiterated that the advice was suitable for Ms P in 2017 and gave its reasons. However, it had missed additional OAC fees and offered to refund all the OACs from the outset to 21 September 2023 for both the UTF and ISA. It also offered to add 8% interest to the date of the offer and increased the distress and inconvenience payment to £200 because of the need for the updated offer. The total offered was £3,103.08.

Ms P wasn't happy with the outcome so brought her complaint to this service. Our investigator who considered the complaint didn't think SJP needed to do anything more. He thought the advice was suitable taking into account Ms P's circumstances and investment objectives. He also thought the increased offer was fair in the circumstances.

Ms P didn't agree with the outcome. She said the investigator had overlooked the impact the loss of Ms P's parents had on her. Ms P was suffering from anxiety and post-traumatic stress. She was unable to work full time because of health issues and was receiving a reduced pension because of that. The risk Ms P was exposed to wasn't right bearing in mind her circumstances and she wouldn't have understood what any of the advice meant because of her lack of investment knowledge and experience. There had been no need for risk-based investment.

Ms P asked that her complaint be considered by an ombudsman, so it has been passed to me for a 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.

After doing so, I've reached the same conclusion as the investigator and broadly for the same reasons. I'll explain why.

In bringing her complaint Ms P has questioned the overall suitability of the investment recommendations which I've considered below as well as the provision of ongoing advice and charges.

<u>Ms P's circumstances</u>

I've reviewed Ms P's circumstances at the time the advice was given and as recorded in SJP's 'Confidential Financial Review' document which was completed on 26 April 2017.

It's recorded that Ms P was 58 years of age, in good health, a homeowner, semi-retired taking a pension and employed part time earning a total net monthly income of £1,407. Her preferred retirement age was 70 years of age. Her monthly expenses were recorded as £1,035 leaving a disposable monthly income of £372. She didn't expect her financial circumstances to change over the next five years. Ms P had life insurance and critical illness cover of £50,000 each.

Ms P's property was valued at £400,000 and she had cash of £185,000 as a result of the inheritance from her parents. She had stocks and shares valued at £450 plus a cash ISA valued at £1,000. Ms P wasn't identified as 'potentially vulnerable'.

Under the 'Investment & regular savings planning notes' its recorded;

> '…discussed growth and income portfolios in general then income in more depth. Whilst income was not a priority at the moment the volatility of the income funds were less than the growth which suits the ATR [attitude to risk] for [Ms P]. However, after further discussions [Ms P] was willing to be more of a medium risk with approx 75% of the portfolio and 25% lower risk. [Ms P] was looking for the right balance of risk and reward for med-long term. [Ms P] wanted to able to gauge the income generated from the portfolio over the next 12 months as it was reinvested to assess in the [future] moving the funds around to complement the income needed depending on the level of work and income generated from employment. The [pension] covers all the essential and some discretionary expenditure and [Ms P] works for the luxuries in her life running a car and house etc.'

The following day SJP provided its recommendation letter. £35,000 was to be retained as emergency funds and just over £20,000 be invested into an ISA in order to meet Ms P's investment objective of potential growth over the medium term. Ms P was recorded as being 'very disappointed in the very low interest rates received on cash ISAs at the moment and do not foresee them improving in the near future.'

Just under £130,000 was to be invested into the SJP UTF which would finance Ms P's ISA annual subscription each year to take advantage of the tax benefits. Its recorded this would meet Ms P's objectives;

> '…because you wish to invest for potential growth for later life to supplement your retirement income, when you decide to fully retire. We agreed while you are looking

> to achieve capital growth on your investment you have no specific growth figure in mind at this present time.'

For the cash to be invested, the investments recommended were various funds, split 25% into lower-medium risk collective investment funds and 75% into medium risk funds. The funds themselves don't appear to be outside of their identified risk profiles.

It's recorded that other investment options were considered but not recommended. These included an investment bond and international investment bond, but ISAs and unit trusts were deemed more tax efficient. Further investment into Ms P's pension was discounted because she was already drawing income from it and Ms P wanted to access capital to withdraw on an ad-hoc basis if required.

Ms P was provided with ISA and unit trust illustrations which included information about the charges and how the charges could impact of the growth of the investments plus the potential benefits depending upon investment returns.

In response to the investigator Ms P made clear that she wasn't in good physical health as she had an operation the previous year in 2105, hence her having to reduce to part time work. Ms P also emphasised the significant trauma she suffered at the recent loss of both of her parents in 2016 and so wasn't in a position to make important investment decisions.

I'm sorry to hear of the loss of Ms P's parents and her poor health all of which must have been difficult for her. But I also don't think it is unreasonable for me to equally rely on the information recorded in the fact find and recommendation letter from the time of the sale.

Clearly, I can't know what was discussed between Ms P and SJP's adviser in 2017, but I note that it's recorded that Ms P was in good health at the time and Ms P wasn't identified as someone who was potentially vulnerable. Ms P has said that by SJP recording she was in good health was almost criminal. Ms P had an operation in 2015 that meant she couldn't manage to work full time. And there's no reference to Ms P working part time because of the operation she had plus the impact of her parents' deaths.

However, while I accept Ms P's testimony, if Ms P was concerned about the information being recorded in the fact find about her circumstances, then I don't think it is unreasonable to think she could have corrected it at the time. And I also note the recommendation letter referred to Ms P as being 'in good health' so she would have been aware that was SJP's adviser's view and could have pointed out this inaccuracy before she agreed to proceed with the investments being recommended.

I completely appreciate how upset Ms P would have been at the loss of both parents in such a short time. But as a result of that Ms P was in receipt of a large sum of money which was being held in her savings account and I don't think it was unreasonable for her to look to put that money to potentially better use than just earning interest. Ms P hadn't been in receipt of such a sum of money before, so I think it's understandable she sought financial advice about what to do with it.

That being said, I've considered Ms P's comments about her physical and mental health when reviewing the suitability of the investment recommendation to review whether they were right for her.

<u>Mr C's attitude to risk</u>

Under 'Your Attitude to Risk' the recommendation letter recorded;

> We had a conversation about investment risk as part of our discussions. Some key factors we discussed were your objectives, your investment experience, the time horizon over which you are investing and your attitude to, and ability to withstand, investment losses.
>
> We also discussed the range of example portfolios and funds offered by St. James's Place, and the importance of holding a diversified range of investments.
>
> An emergency fund of £35,000.00 is held in accessible cash accounts. The emergency fund held exceeds my recommended minimum of three months expenditure.'

And under 'Your Risk Profile' it said;

> 'Taking into account all these factors, we agreed you are between a Lower Medium to Medium Risk investor on our risk spectrum. You want your capital to keep pace with inflation and are investing for at least five years. You are comfortable with most of your capital being invested in equities and property, some of it overseas. You realise that there may be significant falls in the value of your investments, and that accepting this risk gives you the potential to achieve better long-term returns.'

Under 'Determining Your Attitude to Risk' it's recorded;

> We had a conversation about investment risk as part of our discussions. Some key factors we discussed were your objectives, your investment experience, the time horizon over which you are investing and your attitude to, and ability to withstand, investment losses. Each of these areas are captured in more detail below.
>
> Your ultimate objective for the investment is capital growth.
>
> A fall in the value of this investment in the short term would not have a significant impact on your standard of living because you have other funds invested and also have a more than adequate cash reserve.
>
> Your history of previous investment decisions demonstrates some investment experience. This is demonstrated by a history of investing in a share portfolio with [another platform provider].
>
> You intend to use your investment to provide you with capital growth.
>
> With this aim in mind, the time frame for your investments into your St. James's Place ISA and Unit Trust Feeder is 5 to 15 years because you are still in part time employment and do not require any income at this present time.'

For these investments, Ms P's attitude to risk was recorded as being 25% lower-medium and 75% medium. I have considered how this came about and how SJP made Ms P aware of the varying levels of risk implicit in different investments, particularly bearing in mind she was a novice investor. Ms P was seeking advice because she didn't have the knowledge or experience to make such an investment decision unaided.

I'm not convinced by the comments that Ms P had 'other funds invested' nor that Ms P had 'a history of investing in a share portfolio'. That investment only amounted to £450 and there's no detail about what the investment was other than it was 'non insurance-based investment' share portfolio but I do agree that Ms P had 'more than adequate cash reserve'.

However, SJP needs to demonstrate that it gave suitable advice taking into account Ms P's circumstances, understanding and knowledge after ascertaining her attitude to risk.

Whilst it's recorded that risk was discussed, I'm not convinced that SJP has been able to show us *how* it came to the conclusion that Ms P was a lower-medium/medium risk investor, but overall, I think this was most likely discussed and agreed. Even though I don't have evidence that the risk of investing was explained in detail to Ms P, taking into account her ability to understand investment risk and clarification of her experience or knowledge to understand the risk involved, I think a conversation was had about it.

I say this because I'm satisfied its most likely risk and risk versus reward was discussed;

> '…discussed growth and income portfolios in general then income in more depth. Whilst income was not a priority at the moment the volatility of the income funds were less than the growth which suits the ATR [attitude to risk] for [Ms P]. However, after further discussions [Ms P] was willing to be more of a medium risk with approx 75% of the portfolio and 25% lower risk. [Ms P] was looking for the right balance of risk and reward for med-long term.'

Ms P's investment was to be split between lower-medium and medium risk investments. To my mind the above indicates a discussion was at least had around the difference between the two levels of risk in order for Ms P and her adviser to reach a decision about that investment split.

So, taking all of this into account, I think the levels of risk implicit in investing were explained to and discussed with Ms P and she was content to expose her investment money to a lower-medium/medium level of risk in order to achieve the potential of capital growth over the medium to long term she was looking for.

<u>The advice</u>

While I'm satisfied it was most likely the case that Ms P's attitude to risk was assessed by the adviser – even though it was only as far as was recorded in the fact find and there's no evidence of how Ms P's attitude to risk was actually assessed – I've considered whether what was recommended to her was right for her circumstances and financial objectives. As I've said above, without any (or very limited) investment experience Ms P would have been totally reliant upon the advice given to her. And I've borne in mind what she'd done previously with her money which was new to her – by putting it in a risk-free environment in a savings account.

But as mentioned above its recorded that Ms P's investment objective was for the potential for capital growth so it seems likely that Ms P did want to explore the opportunity to make her money grow more than it had done while in a savings accounts or cash ISA with which its recorded Ms P was disappointed with the returns. Taking everything into consideration, I'm persuaded it was more likely that Ms P was willing to take some risk with her money.

With the exception of the recent inheritance, Ms P's personal and financial circumstances seem to have been stable – she was 58 years of age at the time of the advice, earned an income in excess of expenditure and just over £186,000 in cash as a result of her inheritance. She had an affordable mortgage and had part time professional employment which looks like it was regular and available.

It could be argued that as a first-time investor a lower-medium/medium risk investment was too high a risk for Ms P. I've considered if, bearing in mind Ms P's age and circumstances, whether investing in a lower-medium/medium risk investment for the medium to longer term was right for her. And I've seen nothing to conclude that it wasn't.

I say this because Ms P wanted growth for later life to supplement her retirement income. Ms P didn't foresee any changes to her financial circumstances over the next five years – her preferred retirement age was 70 years so 12 years away – and because of her circumstances and the investment timeframe I think she was in the position to absorb any losses she could potentially have suffered. So, I think it was affordable for her. And just because Ms P had only held her assets in cash prior to the investment recommendation it doesn't necessarily mean that a lower-medium/medium risk investment was wrong for her taking into account her investment objectives.

Overall, SJP recommended that Ms P use the money she had inherited and put it into lower-medium/medium risk stock market investments. This doesn't seem an unsuitable bearing in mind Ms P's requirement for capital growth over the medium to longer term. But in order for her to make that decision I would expect to see that all of the options and risks were clearly explained to her.

As I've said I think it's more likely Ms P was given sufficient information for her to be aware of the varying levels of risk and potential rewards implicit in different types of stock market investments. So, I'm satisfied she was made aware of the alternatives that were available to her and its clear those alternatives were discussed as detailed in the recommendation letter referred to above.

However, I do appreciate that there were probably lower than lower-medium/medium risk options available to Ms P at the time that could have potentially offered her better returns than cash. But my role isn't to re-visit the advice that she was given and what other options were potentially available to her. Rather it's to consider whether the advice that was given to Ms P was suitable for her at the time and as identified prior to the investment and whether it was sufficiently explained to her.

Taking all of the above into consideration, and in the individual circumstances of this complaint, I don't find that the advice given to Ms P was unsuitable for her bearing in mind her personal and financial circumstances, her attitude to risk and her investment requirements. It follows that I don't uphold Ms P's complaint about the suitability of the advice.

<u>The ongoing advice charges</u>

In the recommendations letter of 27 April 2017 SJP stated;

> 'Ongoing Advice
>
> A key element of financial planning is conducting regular reviews of your financial arrangements to ensure the course of action taken today remains appropriate to your personal circumstances in the future as it is likely your objectives and circumstances will change over time.
>
> As part of my ongoing service I will contact you on an annual basis to ensure that your financial circumstances remain the same and that you are happy with the level of service and investment that you hold with us.'

SJP has accepted that it didn't provide the ongoing advice service that Ms P agreed to and paid for. So, it would only be fair and reasonable to put that right. But SJP has already offered to refund those charges plus interest at a rate of 8%. It has also offered £200 for the distress and inconvenience and for the delay in responding to Ms P's complaint.

I think that offer is fair and reasonable under the circumstances of this complaint. Clearly SJP failed to provide the service it promised but is offering to repay the charges incurred for the service it didn't provide. It is now for Ms P to decide whether to accept SJP's offer.

I appreciate Ms P will be disappointed with the outcome to her complaint. The funds being invested came about because of her parents' deaths must have been upsetting for her and its clear she has been through a distressing and challenging time. But taking all of the above into account, I don't find the advice to invest to be unsuitable for Ms P taking into her account her circumstances and investment objectives.

My final decision

For the reasons given, I don't uphold Ms P's complaint about St James's Place Wealth Management Plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms P to accept or reject my decision before 7 August 2024.

Catherine Langley
Ombudsman