

The complaint

Mr W complains that St. James's Place Wealth Management Plc (SJP) has not answered his questions about how it managed his pension portfolio, particularly in relation to certain losses his portfolio sustained in the UK Equity Fund portion of it.

What happened

In April 2020 Mr W wrote to SJP and asked it a number of questions about the UK Equity Fund – one of the funds his pension portfolio was invested in. He complained that this fund had underperformed by around 30% “whilst the other funds are standing at par or a small profit”. He asked a number of questions from his adviser:

- What was the rationale behind some changes to the fund in during 2017, and what dialogue took place between the fund manager and SJP and was this change approved by SJP – Mr W also asked for notes of the “full presentation” he assumed had been given to the SJP Investment Committee.
- The positive performance of Healthcare assets in 2017 masked “weak performances in other assets” – Mr W asked what were the other investments and how “much value accretion arose in Healthcare vs the amounts lost in these other asset classes”.
- In 2018 there was further “repositioning” of the fund, and Mr W asked what dialogue took place between SJP and Woodford about this, as well as any minutes or notes of discussions.
- A better explanation of what SJP meant by “medium risk”.

SJP looked into Mr W's concerns – it provided a number of responses, but Mr W remained dissatisfied with the explanations provided. In summary, SJP said:

- The Investment Committee's role was to assess whether a manager was “consistently applying the investment process which led to their selection and inclusion in our fund range”.
- It explained that Woodford's decisions were taken with “long-term view”. It explained that the “positioning of the portfolio during 2017 and 2018 was reflective of Neil's macroeconomic view and bottom-up stock selection, which were contrary to consensus opinion”. It said that detailed “analysis was undertaken by the SJP investment team, including our independent consultants and the Investment Committee, and despite changes to the underlying investments during 2017 and 2018, we found no evidence to suggest there was a change in Neil's process, behaviours or the way he managed money on behalf of his clients”.
- It explained how it risk rated its funds, and the process it followed including some information on the metrics it used.
- It apologised for incorrectly saying the minutes of the Investment Committee

meetings were “market sensitive”, when it meant “commercially sensitive”. However it confirmed that it had never previously shared the minutes of those meetings in the past and it didn’t intend to do that now.

- It explained the performance of some of the underlying assets of the fund which caused an underperformance.
- It made an offer to compensate Mr W.

Mr W remained unhappy and referred his complaint to this service. One of our investigators looked into Mr W’s complaint. In summary, she thought that SJP’s offer to put things right was fair and reasonable. She also concluded that SJP’s answers to Mr W’s questions were appropriate and gave Mr W the information he needed to understand the performance of his investments and the reasons behind any losses. So she didn’t recommend anything further.

Mr W didn’t agree and asked for an ombudsman’s decision. He said that SJP ought to have been acting in good faith as a fund manager, but they refused to answer his questions. SJP said that it “managed the manager”, but given the weak performance of the manager, it was legitimate for him to have asked how SJP did this in his case. When SJP responded to him and explained its actions, it refused to show him the evidence which Mr W concluded was a conflict with its duties to him as a client.

Mr W said he wanted to be “made whole” on the investment in this part of the fund and be allowed to transfer elsewhere without penalty. He said he wanted SJP to be transparent and it had failed to do so and given contradictory answers (initially saying it couldn’t share information due to it being price sensitive, and then due to commercial sensitivity). He said that SJP’s primary duty was to manage the fund in the interests of customers, and therefore, failing “to do so or alternatively providing the evidence that they did so, must be a breach of their regulatory duty”.

As agreement couldn’t be reached, the case was passed to me to decide.

Provisional decision

I issued a provisional decision in July 2024. In it I said:

As the investigator has explained, the ombudsman provides an informal dispute resolution service. As such, my role isn’t to review a particular fund’s poor investment performance or provide an in depth review of a fund manager’s decision to buy and sell particular assets at particular times. What I can look at and consider is the extent to which a particular fund matches its mandate or prospectus.

My role is to decide whether SJP acted fairly and reasonably in relation to Mr W’s complaint and provide my reasons for doing so. In that vein, I’d like to thank Mr W for his detailed submissions which I’ve read and considered in their entirety. However, I’d like to confirm that given what I’ve said above, my role isn’t to respond to every query or question he has raised – and so I hope he doesn’t take it as discourtesy that I’ve not done so. Instead, I’ve focused on the key issues in this complaint and SJP’s offer to put things right.

Mr W’s primary complaint stemmed from the underperformance of one part of his portfolio. In his email of April 2020 to his adviser, he outlined areas of the portfolio which he felt underperformed – in particular the UK Equity fund. But there’s no suggestion that the types of assets which were included in this fund were not in line with its objectives or its prospectus. And whilst I note Mr M has raised the issue of Woodford being “contrarian” as amounting to an increase in the risk of the fund, I’m not persuaded that in itself is enough to

conclude the UK fund wasn't accurately described or was otherwise mis-sold to him.

However, in looking through the questions Mr W asked of SJP, I agree that it failed to provide him with adequate and complete answers and the answers that it did provide took a long time and were disjointed and occasionally contradictory.

In my view Mr W was entitled to query what SJP had done in relation to his portfolio in order to understand the reasons for its performance and what actions it had been taking to address any concerns with the individual fund managers – in this case Woodford. I think Mr W was also entitled to know why SJP continued to back Woodford's decision-making and how it was making those decisions. That's not to say that simply because the fund was underperforming SJP couldn't continue to back the fund manager, but Mr W was entitled to understand the rationale behind SJP's decision-making in relation to his investments and what it was doing to manage any risks to him.

Having looked at SJP's responses, I'm not persuaded it ever fully answered or tried to answer Mr W's questions. For example, in its October 2020 response, SJP gave a generic explanation of Woodford's approach, and it did explain his decisions to move away from certain sectors into others. I accept this did in part address Mr W's questions. But what the response didn't do is explain what SJP thought of Woodford's decision-making, and in particular the ongoing underperformance which the fund was experiencing up to that point.

Furthermore, it explained to Mr W that it had "found no evidence to suggest there was a change in Neil's process, behaviours or the way he managed money on behalf of his client", but it provided no explanation or evidence for how it came to this conclusion. In view of the fact that Woodford's flagship fund, the Woodford Equity Income Fund, had changed substantially in terms of its exposure to smaller companies and unquoted assets by 2018, and the fund he was managing for SJP was clearly underperforming at the time, I'm persuaded SJP ought to have explained in far more detail how it reached that conclusion. In my view Mr W was entitled to understand why SJP continued to think that the fund was still being managed according to its prospectus and mandate.

In terms of SJP's internal notes and minutes of its various committees, I'm not persuaded it was unfair for SJP to have declined to provide this information to Mr W in its entirety. However, had it properly explained to Mr W the reasons behind its continued backing of Woodford as a fund manager, it may have been able to answer Mr W's questions. In my view, it would also have been possible for it to have reviewed some of the discussions it said it had about the way the fund was managed and Woodford's decision-making, and perhaps provided Mr W with summaries of those discussions – or summaries of times when it challenged (if it did) Woodford about what was happening with the fund, or if and when it received reassurance from him.

By providing the generic and overly broad responses that it did, SJP couldn't answer Mr W's questions – and therefore couldn't give him the reassurance he was seeking that SJP was indeed "managing the manager". I don't think that was fair and reasonable.

However, although Mr W has claimed that his losses amount to around £75,000, I'm not persuaded that's the case. Nor am I persuaded that it would be fair to ask SJP to essentially refund the investment losses he suffered as a result of the fund underperforming. Those were investment losses and that fund was part of a broader portfolio that SJP was managing on his behalf. I'm not persuaded that it would be fair to ask SJP to compensate Mr W for one fund that didn't perform without taking into account the rest of the portfolio – bearing in mind that investing in the stock market was always going to carry with it risks.

Instead, I consider that SJP's original offer to put things right for Mr W was fair and

reasonable. It offered to compensate Mr W by calculating the value of his account had a switch taken place on 28 May 2020 – this was on the basis of recommendations that SJP made to him on that date, and which Mr W had felt he had not been able to accept due to the fact that SJP had not yet answered his questions to his satisfaction. In my view this was an acceptable way of putting things right for him. Furthermore, in view of the letters Mr W has been required to send about the matter, the number of responses and the time taken for SJP to resolve his complaint, I'm persuaded it was fair and reasonable for it to have also increased its offer to £750 to compensate for the distress and inconvenience it caused him – and so this is what I award.

I understand Mr W has now transferred his portfolio to a different firm. Therefore, in order to put things right for Mr W, SJP ought to:

- *Calculate the difference between what his portfolio was worth when it was transferred, and what it would've been worth had the switches, in line with its recommendations of 28 May 2020, taken place.*
- *If Mr W's portfolio would've been worth more, pay Mr W the difference plus 8% from the date of the transfer to the date of settlement.*

Pay Mr W £750 for the distress and inconvenience the matter has caused him.

Responses to my provisional decision

SJP didn't have anything it wished to add in response to my provisional decision.

Mr W made some comments in response. He said:

- His request to see the minutes of the meetings was to make it easier for SJP to answer his queries. He said its refusal to share those notes with him created distrust and he wasn't persuaded by its explanations around "commercial sensitivity" or "market sensitivity".
- He didn't ask to be "made whole" until after SJP refused to answer his questions adequately. He said it was presented as an option in the event that SJP continued to maintain that its discussions with the manager was confidential. Mr W also didn't agree that the whole portfolio ought to be taken into account, because the fund was separate to the rest of the portfolio. He said he accepted that there were risks and rewards associated with equity investments, and he had therefore suggested that any calculation be made by reference to a suitable benchmark.
- The communications and responses he received from SJP took place against a backdrop of substantial penalty for withdrawing funds from SJP's management – and he said that in more "normal" circumstances, he would've had a choice to remove funds from a "failing manager", but that wasn't the case here because the failures took place very soon after he invested. He said he now had serious concerns that his pension money was used to prop up a failing fund, when the fund manager was preoccupied by his underperformance in non-SJP funds. He felt that SJP had preferred backing the manager over sourcing sound investments for its clients.

He asked whether my decision went far enough given that SJP's "refusal to disclose the facts is something that the regulator exists to control".

- He didn't know what the compensation would amount to nor whether SJP had accepted my provisional findings.

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've not been persuaded to depart from my provisional conclusions, and I therefore confirm them here as final.

I fully understand why Mr W initially requested to see the minutes of the meetings and as I said in my provisional decision, I consider it likely this request wouldn't have been as important if SJP had fully and thoroughly answered his questions around the management of the fund. Although I understand the comments he makes about SJP's refusal creating distrust, I don't consider the minutes themselves were something that would've been easily disclosable or that Mr W had an absolute entitlement to. However, SJP did have an obligation to answer his questions about the management of the fund and how it was adhering to the agreement it had with him – and in that regard I agree SJP failed.

Whilst I accept Mr W's comments in relation to the compensation he had initially asked for, I remain of the view that this wouldn't be fair and reasonable. I'm not persuaded the losses the UK Equity Fund sustained were due to something SJP did or didn't do, or wouldn't have otherwise been sustained if SJP had "managed the manager". In my view those losses were purely investment losses which, as Mr W acknowledges, are always a possibility with equity investments. For these reasons I'm not minded to change the compensation I awarded in my provisional decision.

In terms of the compensation, SJP will need to provide a calculation to Mr W that outlines how it has calculated the compensation in line with my final decision.

Finally, I fully accept the backdrop of Mr W feeling like he couldn't leave SJP without paying substantial penalties – and this made it even more important that SJP fully and comprehensively answered the questions he posed. It is for that reason that I agree that £750 ought to be paid to him as compensation for the distress and inconvenience SJP caused him. However, I need to make clear that my role is not to regulate or punish SJP. My role is not a regulatory one and so SJP's conduct is not something I am able to "control" – that is something for the Financial Conduct Authority.

Putting things right

For the reasons I've given I'm upholding Mr W's complaint and awarding the following compensation. SJP must:

- Calculate the difference between what Mr W's portfolio was worth when it was transferred away, and what it would've been worth had the switches, in line with its recommendations of 28 May 2020, taken place.
- If Mr W's portfolio would've been worth more, pay Mr W the difference. I understand that as the money was held in a pension wrapper some tax needs to be deducted from this compensation, as set out in SJP's final response letters.
- Add 8% per year simple interest on the net figure (i.e. the difference minus any tax deducted) from the end date (the date Mr W transferred his portfolio) to the settlement date.
- Provide the detail of the above calculations to Mr W.

- Pay Mr W £750 for the distress and inconvenience the matter has caused him.

My final decision

My final decision is that I uphold Mr W's complaint and award the compensation above. St. James's Place Wealth Management Plc must pay the compensation I've awarded within 28 days of when we tell it Mr W has accepted this final decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 4 September 2024.

Alessandro Pulzone
Ombudsman