

The complaint

Mr G complains that St. James's Place Wealth Management Plc (SJP) failed to advise him to take out Individual Protection 2014. And that this led to him having to pay a greater Lifetime Allowance charge than he would've otherwise had to pay.

What happened

Mr G had a personal pension with SJP. He was also a member of an Occupational Pension Scheme (OPS).

I understand that in 2014, Mr G opted out of the OPS. And that SJP advised him to take out Fixed Protection 2014 (FP14), which he did.

Mr G said he inadvertently broke FP14, when his employer auto enrolled him into another of its pension schemes on 1 July 2019, despite him having opted out of it. Mr G said he then had to obtain Fixed Protection 2016 (FP16). He said that this led to him having to access his OPS pension and pay the Lifetime Allowance charge, for which he now considers he should be compensated by SJP.

Mr G said that SJP had failed to advise him to take out Individual Protection 2014 (IP14), as it believed the combined value of his OPS benefits and the personal pension he held with it was below the threshold for that in 2014.

Mr G said that the actual combined value of his OPS benefits (£746,921.08) and personal pension (£634,224.43) at the time was over £1.38M, and therefore considerably greater than the £1.25M threshold for IP14. He therefore felt that he would've been eligible for IP14. Mr G felt that SJP could've confirmed the precise value of his OPS benefits between 2014 to 2017, when he would've still been able to apply for IP14.

Mr G contacted SJP about this issue in January 2024. On 11 January 2024, SJP wrote to Mr G to tell him it would look into it.

Mr G told SJP that if IP14 – which he felt he would've qualified for – had been in place 'behind' FP14, he would've been appropriately protected.

In January 2024, SJP wrote to ask Mr G for the actual value, for Lifetime Allowance purposes, of his OPS benefits as at 5 April 2014

Mr G then provided SJP with an OPS pension statement to 31 May 2014, which had been created in October 2020. This showed an estimated pension of £34,382.91 and an estimated tax-free cash lump sum of £103,148.75. He also provided other information he'd received from the OPS provider that'd been sent to him on 4 March 2014. This showed projected benefits of a pension of £25,085.11 and a tax-free cash lump sum of £75,915.62.

SJP wrote to Mr G on 25 January 2024 about its investigation into whether a successful application for IP14 had been possible. It confirmed that in order to qualify for IP14, the value of Mr G's pensions as at 5 April 2014 had to exceed £1.25M.

SJP said that it'd based the calculation undertaken at the time on the information Mr G had obtained from his OPS provider on 4 March 2014. It said the deemed value of the OPS pension quoted was £577,617.82. And that when this value had been added to Mr G's SJP pension value, which was £634,224.43 (as at 5 April 2014), this led to an overall total pension value of £1,211,842.25. It said it'd therefore concluded that Mr G wasn't eligible for IP14, based on the information available at that time.

SJP said that the retrospective OPS statement Mr G had now provided, which had been updated to 31 May 2014, showed that his pay and pension benefits were significantly higher than those shown on the original statement he'd provided.

SJP said that it needed to determine the value of Mr G's OPS pension benefits as at 5 April 2014 to confirm whether IP14 would've been available to him. It said that as the OPS pension year ran from 1 April to 31 March, figures to 31 March 2014 would be acceptable. SJP said that once it had these figures, it would review the case further.

Mr G's OPS provider wrote to him on 11 April 2024 with the figures he'd requested. It said that his OPS benefits as at 5 April 2014 had been a pension of £32,474.83 and a tax-free cash lump sum of £97,424.48. It said that these benefits had a value for Lifetime Allowance purposes of £746,921.08.

Mr G sent these figures to SJP on 18 April 2024. He said he'd had to pay £100 to get the figures. He said that they showed that the combined value of his OPS benefits and his SJP pension as at 5 April 2024 would've been over the threshold for IP14, meaning that he would've been eligible for IP14.

SJP issued its final response to the complaint on 7 May 2024. It acknowledged that the new OPS figures Mr G had provided showed that the combined value of his pensions at 5 April 2014 was £1,381,145.51. It said this was different to the OPS figures previously provided in 2014.

SJP said that for the purpose of IP14, HMRC allowed the type of valuation it'd used to be used where they were dated between 31 March 2014 and 4 April 2014 and where there had been no material change between the date of valuation and 5 April 2014.

SJP felt that the valuation it'd been provided with was deemed acceptable by all parties to confirm that Mr G's pension value on 5 April 2024 was £1,211,842.25, making him ineligible to apply for IP14.

SJP noted that the deadline for applying for IP14 was 5 April 2017. It said that clarity on Mr G's pension value hadn't been provided before this point. It said it wasn't possible to apply for IP14 retrospectively or alter decisions made before that date.

SJP said that it'd acted in good faith in 2014, using the information provided at that time. It felt Mr G's adviser had applied methodology which was in line with SJP's expectations, regulation and HMRC. It also said there was no evidence that the adviser should or could have been aware the information provided was incorrect.

SJP offered to reimburse Mr G for the cost of obtaining the valuation. It also offered him a further £100 for any inconvenience caused.

Unhappy, Mr G brought his complaint to this service in June 2024. He felt that SJP should've clarified accurate valuations for his pensions either in 2014 or at some point up to 2017. He said if it had done this, he would've benefited from IP14 when he'd inadvertently broken FP14. He felt SJP should've been rigorous in checking the figures it'd received in 2014. And

didn't understand why it hadn't pursued a precise valuation of his OPS benefits either in 2014, or between 2014 and 2017.

Our investigator first considered whether the complaint had been brought within the time limits which apply. She noted that DISP 2.8.2 explains that a complaint must be brought within six years of the event being complained about, or, if later, within three years of when the consumer was aware, or ought reasonably to have been aware, they had cause to complain. She said she hadn't seen any evidence to suggest that Mr G was aware, or ought reasonably to have been aware, of cause for complaint more than three years before he brought his complaint to SJP. She therefore felt she could consider the merits of the complaint.

Our investigator didn't think the complaint should be upheld. She was satisfied that SJP had provided appropriate advice based on the available information at the time. She noted that for Mr G to have been eligible to apply for IP14, his combined pension value would've had to exceed £1.25M on 5 April 2014. But felt that the information his OPS provider had given SJP at the time showed that his OPS was valued at £577,617.82 on 31 March 2014, while the value of his SJP pensions was £634,224.43. Therefore, the total value of Mr G's pensions was £1,211,842.25, below the required threshold. And this meant that he wasn't eligible to apply for IP14.

Our investigator felt that SJP had reached this conclusion based on the information available at the time. She felt it'd acted reasonably when it'd relied on the information provided. And she didn't expect SJP to have double checked the values provided.

Our investigator felt that the £200 compensation SJP had offered Mr G was fair under the circumstances.

Mr G didn't agree with our investigator. He said an Independent Financial Adviser (IFA) had confirmed that he would've qualified for IP14 based on the true combined values of his OPS benefits and his personal pension with SJP. He said the values SJP had used were inaccurate, noting that he'd had to pay £100 to get the correct valuation. He still felt that SJP should've helped him obtain the correct figures ten years ago.

Mr G felt that SJP should've sought and been aware of the precise valuation of his OPS benefits and not relied on an estimate. He said it'd had until April 2017 to determine the precise valuation, but it'd failed to do so. He wanted to know why SJP hadn't asked him to get the official precise valuation between 2014 and 2017.

Mr G strongly felt that he'd received poor, inadequate and perhaps careless advice from SJP. He noted that its charges were high, and didn't feel it'd done its job.

Our investigator asked SJP for its comments on Mr G's points. It acknowledged that Mr G felt it'd relied on an estimate. But said that the valuation Mr G had obtained from his OPS provided didn't state that it was an estimate. It also said that the value it'd used for Mr G's SJP pensions was accurate. SJP said it had no reason to question the figures for the OPS benefits.

Our investigator considered the new points raised, but still felt SJP had acted reasonably.

As agreement couldn't be reached, the complaint has come to me for a review.

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.

I'd first like to say that I agree with our investigator, and for the same reasons, that this complaint has been brought in time for this service to be able to consider its merits. Having done so, I'm not going to uphold it. I know this will be disappointing for Mr G. I'll explain the reasons for my decision.

I considered the rules in place in 2014 for protection against Lifetime Allowance changes.

Protection against Lifetime Allowance changes

Whenever the standard Lifetime Allowance was introduced or reduced, the government introduced one or two parallel forms of protection. In 2006, these were called Primary Protection and Enhanced Protection. On subsequent reductions to the Lifetime Allowance these have been called Fixed Protection and Individual Protection.

The difference between the two is typically the size of Lifetime Allowance that can be protected, and whether the individual can carry on contributing to a pension, or accruing further defined benefits, without invalidating the protection.

Consumers could apply for both versions of the protection in a particular year if they qualified to do so. That's in case one results in them having a higher Lifetime Allowance than the other when they later draw benefits, or they invalidate one by making further contributions, which is the issue at the heart of this complaint.

I next looked at FP14, which Mr G said SJP advised him to take.

FP14

The maximum consumers could protect - depending on the protection they applied for - was the level of the previous Lifetime Allowance before it reduced.

FP14 protected against any Lifetime Allowance charge (before 6 April 2023) on benefits worth up to the level of the Lifetime Allowance immediately before the reduction. This was £1.5M on 5 April 2014.

There was also one key condition for Fixed Protection: no further contributions or benefit accrual - other than inflationary increases - in defined benefit schemes could be made.

There was no grace period to apply for FP14. It had to be in place on the day before the Lifetime Allowance reduction came into effect on 5 April 2014.

I next looked at IP14, which Mr G feels SJP should've advised him to take in 2014.

IP14

Individual Protection was a different way consumers could apply to protect the total value of their pension benefits from reductions in the Lifetime Allowance. Here, the level of protection is tailored to the consumer. This means that different consumers will have different Individual Protection amounts.

The main differences with Individual Protection from Fixed Protection are:

- Consumers can make further contributions and can accrue further pension benefits from ongoing service in a defined benefit scheme.

- They have longer to apply for the protection: the deadline for applications for IP14 was 5 April 2017.

However, the value of their pension benefits had to already be above the newly-reduced Lifetime Allowance that the consumer was being protected against. This was £1.25M in April 2014.

In exchange for being able to make further contributions, IP14 wasn't as generous as FP14. It gave protection against any Lifetime Allowance charge (before 6 April 2023) on whatever the consumer's benefits were worth at the time of the 2014 Lifetime Allowance reduction – up to a maximum of the £1.5M.

I went on to consider the specifics of Mr G's complaint. He felt that he would've qualified for IP14 if SJP had confirmed the correct values in 2014, or at any point between 2014 and 5 April 2017. He didn't think SJP should've relied on an estimated valuation.

I've carefully considered Mr G's points. Having done so, I can't reasonably agree that SJP did anything wrong when it used the values Mr G had obtained from his OPS provider to calculate whether or not he met the threshold to apply for IP14. To do so, Mr G's pensions would've needed to have a combined value in excess of £1.25M on 5 April 2014.

The evidence shows that SJP calculated the deemed value of Mr G's OPS benefits on 31 March 2014 as £577,617.82. I can also see that HMRC's Pensions Tax Manual confirmed that a value on 31 March 2014 was acceptable for these purposes. SJP also assessed the value of the pension Mr G held with it on 5 April 2014 as £634,224.43. This meant that the total value of Mr G's pensions was assessed as £1,211,842.25. And that as this was beneath the threshold for IP14, Mr G wasn't eligible to apply for it.

I acknowledge that the OPS benefits statement Mr G subsequently obtained in April 2024 indicated that his OPS benefits actually had a considerably higher value as at 5 April 2014 for Lifetime Allowance purposes than the statement he'd shared with SJP in March 2014, and which it then based its IP14 calculations on.

But I agree with our investigator that there was no reason for SJP to reconfirm the figures provided. Nor do I consider that it should've felt that the OPS valuation could significantly change. I say this because I'm not persuaded that the statement gave any indication that this was a possibility.

I have also considered Mr G's point that SJP had until 5 April 2017 to confirm whether or not he was eligible to apply for IP14. While I agree that this was the case, as I noted above, I'm not persuaded that SJP was given any indication that the figures Mr G had obtained from his OPS provider had the potential to change so significantly. Therefore I'm not persuaded that Mr G could've reasonably expected SJP to have reconsidered its assessment on his eligibility for IP14 up until 5 April 2017.

Overall, I've not been provided with any evidence that SJP failed to act in line with either its own or regulatory expectations when it carried out its IP14 assessment in 2014. I've also not seen anything to suggest that SJP missed any more accurate information provided at that time.

It's extremely unfortunate for Mr G that actions of other parties led to him breaking FP14. I can see that this led to his current IFA questioning whether or not he could've successfully applied for IP14 alongside FP14. But, as I've explained above, I'm not persuaded that SJP should've taken further steps in 2014, or in the period after that up to 5 April 2017, to confirm whether or not he was eligible for IP14.

I'm satisfied that SJP's offer to reimburse Mr G for the £100 he had to pay to obtain the OPS valuation needed for its assessment of his complaint, and the additional £100 it paid him for the inconvenience that caused, is fair and reasonable under the circumstances. Therefore, I don't uphold the complaint. And I don't require SJP to take any further steps to put things right.

My final decision

For the reasons explained above, I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 24 December 2024.

Jo Occleshaw
Ombudsman