

## **The complaint**

Miss B complains that St. James's Place Wealth Management Plc (SJP) failed to advise her on a transfer of her defined benefit occupational pension scheme (OPS) to a self-invested personal pension (SIPP) in time to secure her cash equivalent transfer value (CETV).

## **What happened**

In December 2021 Miss B decided she wanted advice about transferring the benefits from her OPS. She had deferred pension benefits in this scheme and wanted to transfer in order to access tax free cash from her pension in a way that she couldn't from her OPS. Miss B had been quoted a cash equivalent transfer value (CETV1) around £680,000. CETV1 was guaranteed until 2 March 2022.

Miss B contacted SJP in January 2022 to discuss the transfer. SJP made her aware that it would be unable to provide a recommendation and process the transfer by the deadline of 2 March 2022. Miss B enquired about obtaining a new CETV but was unable to do that until after CETV1 expired.

Miss B obtained a new transfer value (CETV2) on 22 March 2022. Its value was around £617,000. CETV2 was guaranteed until 17 June 2022, with a deadline for submission of a transfer application of 27 May 2022.

Miss B provided SJP with CETV2 on 25 April 2022. SJP say that it again explained that it would not have time to complete the advice process prior to the CETV2 deadline expiring. So Miss B contacted her OPS administrators who agreed to extend the guarantee period for CETV2 to 27 June 2022.

SJP provided Miss B with abridged advice on 13 June 2022. It didn't rule out a transfer being suitable and Miss B instructed SJP to proceed to the full advice process.

SJP were unable to complete the process of providing Miss B with a personal recommendation about her OPS transfer prior to the deadline of 27 June 2022. But SJP sent partially completed transfer forms to the OPS administrators on 27 June 2022 in an attempt to secure CETV2. But the OPS scheme administrators were unable to accept the incomplete application. So CETV2 expired.

Miss B's OPS administrators contacted her to explain that the CETV had been recalculated and, because it had dropped by more than 10% (to around £511,000), asked whether she still wished to proceed with the transfer.

Miss B complained to SJP about the delays. She believes that SJP is responsible for the fact that she was unable to secure CETV2. The drop in value has meant her not transferring her OPS. And she explains that she has been unable to fulfil obligations she wanted to with the pension commencement lump sum she had anticipated taking.

SJP explain that the process of advising on a pension transfer like this is complex and takes time. It says it didn't offer any guarantee of completing by a specific time, and didn't think it

had caused any unreasonable delays.

Miss B didn't accept SJP's explanation so referred her complaint to our service. Our investigator looked into what happened and was of the opinion that SJP weren't responsible for the fact that CETV2 was missed. But didn't think the way that SJP handled the last minute transfer request was fair to Miss B. And suggested it pay her £250 compensation for the distress and inconvenience that caused.

SJP agreed with our investigator. But Miss B didn't agree and asked for an Ombudsman's 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.

Having considered everything, I've come to the same conclusion as our investigator, and for similar reasons. I understand this will be disappointing for Miss B as she wasn't able to secure the amount of tax free cash from her pension that she expected. And she hasn't yet taken any tax free cash at all. I'm sorry for any consequential difficulties this has caused her. I'd reassure Miss B that I haven't taken these consequences lightly, but have based my decisions on what I think it was fair or reasonable for SJP to have done. I will explain as follows.

I will start by reiterating what has already been explained to Miss B. Which is that her OPS had guaranteed benefits at retirement. And the Financial Conduct Authority (FCA) have identified concerns about consumers giving up these very valuable benefits without being properly informed. Consequently the regulatory rules surrounding pension transfers like this are quite rigorous. And our service would expect that SJP were paying regard to all of the rules and guidance in the service it provided Miss B.

The FCA publish a Conduct of Business Sourcebook (COBS) which has rules and guidance for advisers that's specifically about pension transfers under COBS 19.1. And in COBS 9 there are rules and guidance about providing personal recommendations to clients. Also, within COBS and the Principles of Businesses (PRIN), there are clear obligations on SJP to act in Miss B's best interests. So I've considered all of these things, as well as what would have been good industry practice, in determining whether SJP did anything wrong in this case.

Miss B has accepted that SJP were not responsible for the fact that CETV1 wasn't secured. Which I think is a fair conclusion to reach. From the evidence that's been presented, Miss B didn't instruct SJP to go ahead with looking into her transfer until late in February 2022. With CETV1 expiring on 2 March 2022 I think it was perfectly reasonable of SJP to explain to Miss B that the process couldn't be completed in time.

The crux of Miss B's complaint is that CETV2 was also missed. In order to decide why this happened I've considered all of the circumstances over the entire relevant time period.

It is worth noting that Miss B's OPS didn't have a fund value. The contributions she made to her OPS, prior to the pension becoming deferred, didn't contribute to a pension fund in that way. Instead she accumulated a guaranteed income in retirement, as a fraction of her final salary. In order to be able to transfer her deferred OPS benefits, her OPS administrators needed to calculate a CETV. Which would roughly work out the expected cost at that time to provide her with her guaranteed benefits at her normal retirement age. It required actuaries to calculate this, so wasn't straightforward. Once provided however, it came with a period

where the CETV was guaranteed. After that, it would need to be calculated again to account for changes in the market conditions.

Miss B's OPS administrators provided CETV2 to her on 22 March 2022. It was guaranteed to 17 June 2022. Although the administrator stated that the application needed to be received by 27 May 2022. This gave just under three months for Miss B to obtain financial advice on the suitability of a transfer, consider that advice carefully, then assuming that she then still wanted to transfer, to complete the application to a SIPP and process the transfer.

SJP explain that its financial advice process involves providing abridged advice initially. The result of this initial assessment would either be that a transfer is unsuitable, or that it isn't clearly unsuitable. If it is the latter, the client will have the choice to proceed to full advice where more detailed analysis is carried out in order to provide a personal recommendation.

I can see from the correspondence that Miss B was the driving force in pursuing this OPS transfer. She demonstrated a clear plan and desire to transfer this pension. Even before she received a formal recommendation from SJP. But I wouldn't expect SJP to simply rubber stamp this transfer because Miss B wanted it. Its job was to consider whether it was in Miss B's best interests taking everything into consideration. And, if it didn't think it was, to explain that to Miss B with clear reasoning. In short, I don't think SJP were wrong to follow all of the steps in its process to ensure that Miss B got the correct advice.

SJP have shown us the literature it provided Miss B at the outset. That explains DB transfers and provides a clear and reasonable explanation. It made it clear to Miss B that SJP was unable to guarantee the timescale of the process. Which was fair. There are elements to this process that are outside of SJP's control. Nonetheless, I would still expect to see that SJP conducted itself in a way to ensure it acted in Miss B's best interests. Which would include acting promptly in order to progress Miss B's advice in a timely manner.

SJP didn't start to give advice in February 2022 because it was aware that CETV1 would expire long before the process could be completed. It recognised that a different CETV could produce a different recommendation. Which I think was fair. Furthermore, when Miss B's transfer request was considered by SJP's Business Assurance team (who would make a final determination on suitability) on 28 June 2022 it was unable to give an answer because the CETV was unknown by that stage. So I think that SJP clearly recognised the importance of having certainty about the CETV in order to provide Miss B with a safe recommendation. So ought to be able to process a transfer application within the guarantee period where it had the full period available.

In this instance though, SJP have shown us that it didn't receive evidence of CETV2 from Miss B until 25 April 2022. And that Miss B signed the agreement to go to abridged advice on 28 April 2022. Which was over a month after Miss B received CETV2 from her OPS administrators.

SJP explain that this was because Miss B didn't want it to continue the process whilst she was challenging the drop in the CETV with her OPS administrators. Miss B disputes this and doesn't understand why SJP were not working on her transfer. So I've considered the evidence to decide, on a balance of probability, what was most likely here.

Firstly, I think that Miss B ought to have understood that SJP weren't looking into her transfer based on CETV1. SJP made it clear in its messages that it couldn't provide advice in that time frame and that it would need a new CETV. I have also seen correspondence between Miss B and her OPS administrators that make it quite clear that Miss B was unhappy with how much lower CETV2 was than CETV1. She was pursuing that with them, requesting that the matter be referred back to the administrator's actuaries. So I don't think that, certainly

initially, Miss B was accepting the lower CETV.

Overall, I'm persuaded that SJP were legitimately on hold until Miss B instructed them to go ahead with the advice process. Which was on 28 April 2022. So I don't think that SJP were responsible for the part of the guarantee period lost between 22 March and 28 April 2022. And SJP understood that the OPS administrator appeared to require transfer information by 27 May 2022.

I've considered whether SJP caused any unreasonable delays after 28 April 2022. I've kept in mind that meant SJP had around four weeks until the OPS required the transfer application to be received. SJP have said that it didn't think that left enough time to secure the transfer. And given all of the necessary steps I outlined above, I'm inclined to agree. I can see that SJP made Miss B aware of this fact. Which I think was fair. And that it suggested Miss B could enquire whether her OPS administrators would extend the deadline. Which she did.

Confirmation that the deadline would be extended until 27 June 2022 wasn't given until 23 May 2022. This was actually quite a short extension as it was simply extending the ultimate deadline of 17 June 2022. So I'm not that sure that this gave SJP any more of a realistic chance to complete its process at this point either. I think it could have made this clear to Miss B. But I think it was also clear that Miss B was in a hurry. So it wasn't unreasonable that SJP tried to make use of the limited time to progress her case. But I think it could have managed her expectations about that a little better than it did.

It provided abridged advice which didn't rule the transfer as unsuitable. And proceeded immediately to full advice. This happened in a relatively timely way, considering what is involved. But SJP didn't have a final personal recommendation for Miss B by the deadline of 27 June 2022. It had conducted the analysis but the circumstances were still awaiting an assessment of suitability. I don't think it's unreasonable for SJP to have assurance processes in place for recommendations that have such an impact on its clients. It's explained that the details were with its assurance team by 22 June 2022. And that SJP's adviser had requested Miss B's case be expedited. SJP have explained that it requires up to 10 working days to review and decide these cases. But I've also seen that it had been looked at by 28 June 2022 (four working days after referral). When it was immediately rejected because it appeared that the CETV would have expired.

Here again, I don't think it was unreasonable of SJP to decline making a personal recommendation about an OPS transfer where the CETV was unknown. It had a Transfer Value Comparator (TVC) for CETV2. Which didn't indicate the transfer value being especially good value. And it had transfer analysis that indicated critical yields that didn't necessarily look achievable. I accept that these factors may not have been the reasons that would have justified a transfer. But needed to be weighed up. And it also meant that a new CETV, that may be of a lower value, would have an impact on whether or not it was suitable for SJP to recommend this transfer to Miss B.

Miss B has provided a considerable amount of correspondence about what happened on 27 June 2022 when SJP sent transfer paperwork to the OPS administrators. I think that the basic facts here are quite clear. SJP sent incomplete transfer paperwork to the OPS. The transfer pack had a section to be completed by the receiving scheme and a section to be completed by the IFA, with a declaration that advice had been given. And these were not completed.

Whilst I can see that this meant that the OPS administrator couldn't accept the transfer, I don't think this was a mistake that caused CETV2 to be missed. I say that because I don't think it was an oversight of SJP's. I wouldn't expect it to complete the IFA declaration

because it hadn't provided Miss B with her formal recommendation at that point. And it couldn't complete the receiving scheme part, because Miss B hadn't set up a receiving SIPP at that point either. Because she hadn't received a recommendation that it was suitable to do so. SJP simply weren't able to complete these parts of the form.

I can see that SJP contacted the OPS to enquire about the minimum it needed to try to secure CETV2. And it appears that it did this in response to Miss B's clear statements about wanting the transfer as soon as possible. I think that sending incomplete forms before a personal recommendation has been issued, and that recommendation considered and accepted, is jumping the gun. But it appears that the adviser expected that the recommendation would likely be to support a transfer. So was making an attempt to try to secure CETV2. Even though, it was destined to be unsuccessful.

For these reasons I'm not persuaded that I can say that the actions taken on 27 June 2022 were what caused the CETV2 deadline to be missed. I think it was a combination of factors that led up until that point.

I think that SJP's reliance on a guaranteed CETV to provide advice is an indicator that it ought to be able to complete the advice process within a normal three month deadline window. Otherwise it would indefinitely be sending clients to the start of its process each time a CETV expired. But I can also see that the steps required in the process, primarily to ensure suitable advice and the correct protection for the client, and SJP, mean that it will always be tight. It will require most of the guarantee period as well as the absence of other delays. I think that the delay in SJP getting the agreement to give advice, caused by the uncertainty over whether or not Miss B would accept CETV2, meant that SJP didn't have enough time.

For these reasons, I don't think that SJP could reasonably have done anything else to make this transfer happen before the deadline for CETV2 expired. I would like to reassure Miss B that, where there were issues she raised or commented on, I have considered them all. She will notice that I haven't commented on every specific point she may have made. That's because our service's aim is to provide a quick resolution with the minimum formality. So I've focused on the things that I consider had the greatest bearing on what I think is the crux of Miss B's complaint.

Like our investigator, whilst I don't think the issues on and after 27 June 2022 caused CETV2 to be missed, I agree that the way it was handled contributed to the distress and inconvenience Miss B suffered. I think it ought to have been apparent to SJP that it hadn't given Miss B a recommendation to transfer. So it wasn't really in a position to try to submit an incomplete application. And should have been clearer with Miss B that the deadline would, more likely than not, be missed. Whilst I understand the desire to try to help Miss B get what she wanted, SJP should have managed her expectation better. This failing caused her to think that she'd secured CETV2. And to continue corresponding with her OPS administrator to argue her case. I think this led to additional inconvenience. And SJP should pay Miss B £250 compensation for this distress and inconvenience.

### **My final decision**

For the above reasons, I uphold Miss B's complaint. Albeit not for the reasons that she raised. St. James's Place Wealth Management Plc must pay Miss B £250 in compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss B to accept or reject my decision before 24 October 2023.

Gary Lane  
**Ombudsman**