DRN-3672344

The complaint

Ms H and Mr H complain St. James's Place Wealth Management Plc ("SJP") didn't make clear early withdrawal charges would apply when they made certain investments.

Background

Ms H and Mr H informed SJP they had decided to change adviser from SJP and move their investments from SJP. They explained they were not comfortable with SJP's overall strategy for their wealth, or with how SJP had managed their investments or with the transparency of its advice or with the investment charges they had incurred.

Our investigator looked at and discussed a number of the above issues and related matters. Ms H and Mr H indicated they agree with some but not all of our investigator's findings but the issue they wished to have considered further was that of the early withdrawal charges. There are also issues Ms H and Mr H have raised that aren't part of this complaint because they either have been or would need to be referred back to SJP to look into first before we could look into them. A point about SJP's fees was to be referred to SJP first, for example, so I won't consider that here.

Returning to the present complaint, Ms H and Mr H say they knew early withdrawal charges would apply to their regular savings and lump sum plans from the start - for six years for one and five years for the other. But they say they weren't aware these charges would also apply to further lump sums or regular contribution increases, with the same five year or six year periods starting again from the date the further lump sum was paid or the increased regular contribution started. They say SJP is at fault for not making this clear to them.

Ms H and Mr H have said they didn't realise their further contributions were going into new plans rather than into existing ones. When calculating early withdrawal charges, I gather that further lump sums and regular contribution increases to existing plans are distinguished from initial contributions - so the effect is as if new plans are started.

Our investigator thought the workings of the charges were set out in the information provided by SJP. Ms H and Mr H disagreed, agreeing that they were sent documents containing the information our investigator had referred to but believing these didn't read as clearly as our investigator thought. Indeed they thought the information could actually support the belief that there was only one period for early withdrawal charges - and that later payments would not extend that period. They said they heard nothing from their SJP adviser to point out to them that this wasn't the case.

As the complaint couldn't be resolved informally, it has been passed to me to decide.

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 reached the same conclusion as our investigator and for broadly the same reasons.

Ms H and Mr H say they were aware of the early withdrawal charges when their first lump sum and regular contributions were made. I can't say exactly what was emphasised during discussions when further sums were invested, but the investment risk of the funds used by the plans and the costs associated with getting cash invested both meant the plans were unlikely to be suitable places to invest cash if that cash were needed in the short term. So every time Ms H and Mr H invested in the plans, the money was invested for the medium to long term and wasn't intended to be withdrawn in the short term.

In view of this, it wouldn't be surprising if the discussions didn't focus on what would happen if the sums to be invested were taken out within a few years. The present focus on these charges arises in the context of Ms H and Mr H's desire to move from SJP and use a new adviser. The expectation when money was added to the investments was that it would be invested for at least the medium term, so the charges associated with withdrawing funds in the near term wasn't, from what I've seen, a focus in the same way at those times.

That said, and although investment risk meant the value of what was invested in the plans could go down as well as up at any point, the illustrations did warn in particular of the risk that drawing out money in the early years could mean getting back less than had been put in. The early withdrawal charges were one of the reasons for this risk – so the illustrations did flag up the significance of those charges in that way and in general terms. Also specific information about early withdrawal penalties was included in the paperwork Ms H and Mr H were given, to which I now turn.

The first plan to start was for a regular contribution and the key facts document for it said there would be a charge on ad-hoc withdrawals (but not regular withdrawals of up to 5% each year) during the first six years on a sliding scale from 6% in the first year to 1% in the sixth year. Ms H and Mr H say they understood the existence of this charge as it applied to this plan when it first started.

The first regular contribution increase was made at the end of 2015. The key facts document for it refers to *"an early withdrawal charge of 6% in the first year reducing to nil after 6 years of the regular contribution remaining at the same level."*

Ms H and Mr H say it isn't clear this refers to a charge that applies for the first six years of the new regular contribution, rather than for the first six years since the plan started with the initial regular contribution amount. I see room for thinking that the words above referred to the same six-year period Ms H and Mr H were told about when they started their plan. But the reference to the charge reducing to zero so long as the regular contribution stays at the same level, does seem to me to raise a question about this - given that the contribution was being increased at that time.

Also the key facts document gives figures showing the potential impact of charges, including early withdrawal charges, on the investment and it is clear that the figures cover the increase amount alone. They illustrate the potential returns on this amount alone - and not on the total regular contribution. So this tends to suggest that what is said elsewhere in the document refers to the increase amount rather than the original investment. But I conclude that this is not very clear from this document in isolation.

Reference was made on the key facts document to a Key Features booklet, but I don't know what this contained. So I don't know whether this would've clarified the situation. But in my view clarification was provided when Ms H and Mr H next increased their regular contribution in 2017. The March suitability letter for that increase stated: *"An Early Withdrawal Charge will apply to money withdrawn from the International Regular Investment Bond within six* *years of being invested, including each regular contribution."* So this makes clear that the incidence of the early withdrawals charge depends on how long the money being withdrawn has been invested – and not on how long the plan as a whole has been running.

I'd add that the key facts illustrations said more information was available in the Terms and Conditions. I don't know whether these were provided at the time – it seems they were to be read with the policy schedule issued after the sale. But these did set out in detail how the early withdrawal charge worked, both for initial regular contributions and for increases. The text current at the time the first regular contribution was made said: *"If, within six years of the start of your Regular Investment or any increase to your Regular Investment, you withdraw some or all of the money from your Bond, we may deduct an Early Withdrawal Charge…".* There followed a table showing that the amount of the charge would vary according to the *"Years since the start of the initial Regular Investment or any increase to Regular Investments"*. So it is apparent from this that increases to a regular contribution will affect the incidence of the early withdrawal charge.

The Terms and Conditions for the lump sum plan cover similar ground, saying the Early Withdrawal Charge depends on the number of years from the *"Investment Date"* and is calculated separately for the Initial Investment and for each Additional Investment. This point is also covered in the 2018 suitability report that was issued when the lump sum plan was first recommended. This says: *"An Early Withdrawal Charge will apply to money withdrawn…within five years of being invested."*

The first further lump sum contribution was made in 2019. The key facts for it refers to *"an early withdrawal charge which will apply if you withdraw your investment in the first five years on a reducing scale…"* It also says: *"If, within the first five years of an investment, you withdraw more than 10% in any 12 months… there will be a product early withdrawal charge…"* The reference to these charges applying to the investment in my view makes clear that what is said applies to the contribution being made. Also the document as a whole covers the further contribution being made and illustrates the potential returns on that figure. It doesn't include the earlier investment amounts or the total of the investments. The illustration makes plain it is based on a total paid in which is only the increase amount.

Ms H and Mr H made a further increase to the regular contribution amount in 2020. At that time a copy of the 2017 suitability letter was enclosed which, as I've said above, explained that early withdrawal charges are made depending on how long the money being withdrawn has been invested. I don't know to what extent Ms H and Mr H reviewed this or turned their minds to this point at the time. But I note that this information about it was provided.

So, bearing in mind the general warnings that losses could arise if money was withdrawn soon after it was invested, and taking into account the information SJP did provide about the early withdrawal charges, I'm not persuaded that had SJP given more information about this it would've put Ms H and Mr H off making the investments they made. I say this taking into account that the investments were made in expectation that the sums invested would be invested over the medium term and not be withdrawn in the short term. Also after information was given to Ms H and Mr H in 2017, which in my view did clearly show an early withdrawal charge would apply to a regular premium increase for six years just like it had applied to the original contribution, they still increased the contribution and did so again a few years later.

So, with all I've said above in mind, I've decided not to uphold the complaint.

I note SJP offered Ms H and Mr H £250 for matters related to its handing of their complaint. It described this as a goodwill gesture, and the payment wasn't directly related to the matter I've considered above. If Ms H and Mr H wish to accept that offer, they should approach SJP about it separately.

I'd like to thank Ms H and Mr H for the assistance they have given to our investigation and the prompt and courteous responses they have given to us throughout.

My final decision

For the reasons I've given and in light of all I've said above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H and Mr H to accept or reject my decision before 10 January 2024.

Richard Sheridan
Ombudsman