

## **The complaint**

Mr H received financial advice from an appointed representative of St. James's Place Wealth Management Plc (SJP), (Vitty Alexander Wealth Management). He is unhappy with the suitability of the advice.

## **What happened**

Mr H met with the appointed representative of SJP in April 2013. By this time, he was aged 64, living overseas (outside the EEA) and had various pension and investment plans in place. Over the years that followed SJP provided reviews and financial advice.

Prior to his meeting with SJP, Mr H had been advised by someone, said to have been an unregulated adviser. As a consequence of this earlier advice, in November 2012 Mr H started the Friends Provident (FP) plan complained about, and over the next few months prior to meeting with SJP he made a number of investments, including several non-standard investments within the FP plan. By around late 2013, early 2014, the two non-standard investments particularly complained about had failed.

In 2018 a complaint was made by Mr H with the assistance of representatives to SJP. Mr H's complaints were made in respect of a number of different aspects of advice and service over the years since they had first advised him. SJP replied in 2018 and 2019 to the various complaints made. Since Mr H's first complaint was made, there have been different representatives and firms involved and different complaints and offers have been made and agreed.

SJP accepted prior to a complaint being referred to this service, there had been some failures and things that could have been done better. A number of issues were resolved before this service looked into Mr H's complaint, and further matters were agreed prior to the case being referred to an ombudsman.

When the case was first referred to this service, Mr H had four main areas of complaint reflecting times of advice from SJP, that were considered by the investigator at this service:

- A. In May 2013 Mr H was unsuitably advised to invest £100,000 from cash deposits into the International Investment Bond (IIB) portfolio.
- B. In March 2014 Mr H was unsuitably advised to invest £22,000 in cash from his Brookland's self-invested pension plan (SIPP) into the SJP Retirement Plan for Trustees (RPFT).
- C. Mr H was unsuitably advised in around January 2016, when SJP dealt with the advice to partially transfer £94,000 from his Friends Provident Plan (FP plan) into the IIB.
- D. Mr H was unsuitably advised in September 2016 to completely transfer his Brookland's SIPP, valued at around £34,000 (including the underlying RPFT

investment), to the SJP Drawdown plan.

For events A and C, SJP upheld complaints on the basis there was no evidence showing SJP had confirmed Mr H had sought tax advice prior to the funds being accepted into the IIB. Although their adviser had explained that Mr H should seek advice in relation to the ongoing tax treatment, it was not followed up. On this basis, SJP said they could not be certain whether the recommendation was appropriate based on Mr H's overseas tax residency. To redress the matter, SJP concluded Mr H may have invested differently and used the FTSE UK Private Investors Income Total Return Index as a benchmark. Their calculations determined Mr H should be awarded around £22,000, as well as interest, to cover the difference in value of the benchmark and his total investment into the IIB.

Mr H's representatives didn't agree in relation to issue C and submitted SJP should be responsible for the losses sustained in the FP plan from May 2013 until (they originally said) when it was partially transferred. They considered it was evident by May 2013 the plan was not performing well; and they have gone on to say, it was evident investments within the plan were unsuitable for Mr H.

The outcome and settlement on issues B and D have been generally agreed between Mr H, his representatives and SJP. SJP had upheld complaints and the main thrust of redress was agreed.

For issues B and D, SJP upheld on the basis they could not be certain it was in Mr H's best interest to retain the Brooklands SIPP when he was advised to invest the majority of the cash held in the SIPP into the RPFT. They noted that in 2014, it would not have been possible to transfer the full SIPP into the SJP Drawdown plan as it was below their minimum amount. SJP concluded Mr H may have invested differently, and applied the same benchmark for a loss calculation. The result was that Mr H should be awarded around £9,200 in redress to correct his position, plus interest.

SJP also offered to cover any tax liabilities and accountancy fees incurred in Mr H's home country in respect of the IIB, as well as up to £5,000 towards fees incurred by Mr H in pursuing the complaint.

SJP confirmed they would waive any early withdrawal charges if Mr H chose to move to another provider. Finally, they offered £750 in compensation for Mr H's distress and inconvenience.

Matters were considered by an investigator at this service, and views were issued in May and July 2020.

The investigator concluded that what SJP had offered was right in respect of Issues B and D and so he didn't conclude SJP ought to do anything further. Mr H's representatives didn't disagree on these aspects; save for various ancillary points that were considered.

The complaint summarised in Issue A above was agreed and accepted by SJP. But Mr H's representatives went on to say there were other failures in 2013 at the time of the advice.

Mr H's representatives also did not accept the investigator's view in respect of Issue C.

The residual issues including those involving Issue A and what happened in 2013, as well as Issue C were referred for an ombudsman's decision.

I provided provisional decisions on 16 March 2022 and 19 May 2022. I was not required to make substantive findings on Issues B and D. The offers, findings and redress were agreed

before the case reached me. In my first provisional decision I indicated I endorsed these. As I needed to consider what happened in 2013, I was required to provide some detail on matters including how any redress for Issue A would need to be approached. I also needed to consider submissions on interest (up to the date of settlement) and any costs award for legal fees; in addition to further submissions on additional payments.

Prior to issuing my first provisional decision, SJP confirmed they agreed with Mr H's representatives in the approach to be adopted on interest. It is agreed that all interest due on any sum of loss calculated is to be paid at 8% simple a year to the date of settlement.

I indicated in my first provisional decision I didn't intend to uphold the complaint that an award ought to be made for legal fees. I set out my thinking on this, and this complaint was not pursued further, I adopt what I have already said on this issue.

Following my first provisional decision, the matters still dispute required me to decide on Issue C and the awards for costs and distress and inconvenience. The issue around Issue C meant I was still required to clarify the redress in respect of Issue A.

In my second provisional decision I indicated my thinking and intended decision around the remaining issues. I also set out some information about what I intended to say and include in my final decision on all matters.

In general terms my second provisional decision was agreed. There were limited further submissions around payment, costs, and potential tax implications. I have had sufficient information to be able to reach my final decision on this.

### **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 have not changed my thinking from that set out in my second provisional decision, save in respect of one distinct issue on costs for any additional tax advice. Otherwise I adopt what I said in my second provisional decision.

I am upholding Mr H's complaint against SJP in part. I have not upheld everything complained about on behalf of Mr H; but I accept there were a number of areas of advice which were not suitable for Mr H, or could not be confirmed to have been suitable. I also think there were some areas where things could have been done better.

SJP accepted a number of the aspects of Mr H's complaint, and agreed redress, prior to matters being referred to this service. I have seen and approved the outcome and proposed redress in respect of Issues B and D. The investigator thought SJP had offered enough here, and arguments on these areas weren't pursued. I haven't changed my thinking on these matters from what was set out in my first and second provisional decisions.

I am upholding complaints made about Issues A and C, and I've previously set out what SJP will be required to do. I'm not upholding the parts of the complaint that SJP ought to have known in May 2013 Mr H was unsuitably invested within the FP plan and acted; nor do I accept the FP plan was unsuitable for Mr H, to the extent that SJP ought to have advised on exiting this plan (given it was already in place when they started advising Mr H).

I have not found it would be fair for SJP to be liable for losses sustained as a consequence of what Mr H had done before he met with SJP. I don't accept SJP could reasonably be expected to have acted in such a way, in the time required, such as to say they would have

been able to limit the losses sustained by Mr H due to the investments that failed. For the avoidance of doubt, I adopt my thinking previously set out in my second provisional decision. I also don't accept SJP ought to be liable for the establishment charge Mr H had to pay when he closed the FP plan.

## **Putting things right**

### Issues B and D

Mr H and SJP accepted the investigator's view in relation to issues B and D and the proposed redress. He thought SJP had offered enough. I was not asked to consider these matters. I have previously approved this and continue to do so.

SJP upheld these complaints on the basis they could not be certain it was in Mr H's best interest to retain the Brooklands SIPP when he was advised to invest the majority of the cash held in the SIPP into the RPFT. This was because of the joint costs associated with the SIPP and the RPFT. SJP noted that in 2014, it would not have been possible to transfer the full SIPP into the SJP Drawdown plan as it was below their minimum amount. This of course did not necessarily mean it was not possible to suggest a different plan which would have been capable of accepting the full proceeds of the SIPP.

SJP carried out a calculation using a benchmark. This indicated the redress due to Mr H was around £9,200 at the time of calculation, plus interest thereafter. SJP agreed to waive any early withdrawal charges if Mr H chose to move to another provider. They also told Mr H and his representatives, that they understood that because the funds within the pension originated from the UK, (and there is a double taxation agreement between the UK and Mr H's home country), there should be no tax implication in respect of taking an income from the SJP Drawdown plan. If this was not the case, SJP previously indicated they would discuss this with Mr H, we haven't seen any thing to suggest there have been ongoing concerns on this.

Our investigator approved the approach, and I have done the same. The investigator noted that when Mr H was advised on his Brooklands SIPP in March 2014, as the majority of it was held in cash, Mr H would have always wanted to invest. The investigator agreed Mr H ought to have been advised to transfer the entire amount. The investigator was satisfied Mr H would have transferred out of the Brooklands SIPP, based on events at the time.

The investigator concluded he could not say specifically in which funds Mr H would have invested the proceeds of this SIPP. The investigator considered it was appropriate to use a benchmark to reach a fair sum when calculating the impact. It is agreed that the appropriate benchmark to be applied by SJP in all redress matters in respect of Mr H is the FTSE UK Private Investors Income Total Return Index. As the redress approach used an appropriate benchmark and SJP had considered the tax implications, the investigator was satisfied SJP's offer was fair. Mr H accepted the investigator's view in relation to issues B and D. I endorse this.

### Redress for Issues B and D

The redress exercises on these matters are to be completed by SJP using the approach previously agreed by parties. SJP will use the agreed benchmark for this (the FTSE UK Private Investors Income Total Return Index). Interest at 8% simple a year to be paid from the date of loss calculation (previously agreed) to the date of settlement. All charges, fees, withdrawals, and investments to be taken into account.

The intention of these exercises is to put Mr H as close to the position he ought to have been in, but for the unsuitable advice. I am told Mr H, now aged 75, no longer has the relevant

pension plan and due to his circumstances it was submitted redress (and all sums due to Mr H) ought to be paid directly to Mr H. SJP agreed with this. It is a matter for the parties, but I accept that given what I'm told about Mr H's circumstances this is not inappropriate. Details of the calculations should be provided to Mr H in a clear and simple format.

The agreed benchmark is the FTSE UK Private Investors Income Total Return Index. Using this benchmark for calculation does not mean Mr H would have invested directly into the FTSE UK Private Investors Income Total Return Index, but this index broadly reflects the return he would have received on this sort of investment.

SJP previously set out in their offer that they are required to deduct basic rate tax (at 20%) from the interest element of this payment. And noted that if Mr H is a non-taxpayer, he can reclaim the tax deducted from HMRC. I've seen Mr H has received tax advice in respect of his circumstances and I would expect SJP to address any tax implications for Mr H. I have addressed what I direct SJP to do, in respect of tax implications for Mr H below.

#### Issue C (and Issue A):

SJP upheld the complaint that Mr H was unsuitably advised around January 2016, when SJP dealt with the advice to transfer £94,000 from his Friends Provident Plan (FP plan) into the IIB. SJP concluded Mr H may have invested differently and used the same benchmark (the FTSE UK Private Investors Income Total Return Index). Their calculations at the time determined Mr H should be awarded around £22,000, as well as interest, to cover the difference in value of the benchmark and his total investment into the IIB.

SJP had previously accepted they had not included Mr H's adult son as a younger life assured on the investment received from the FP plan. This was a mistake and they confirmed the IIB would need to be encashed and then reinvested with the correct lives assured. In order to facilitate this, SJP previously agreed to cover any resulting tax liabilities incurred in Mr H's home country, reasonable accountancy costs, and to waive the early withdrawal charges (EWCs). I was not asked to consider this aspect.

SJP had also previously upheld the complaint that in May 2013 Mr H was unsuitably advised to invest £100,000 from cash deposits into the International Investment Bond (IIB) portfolio

Mr H's representatives agreed SJP were right to uphold complaints about what happened in 2013 and 2016; but they didn't think SJP's findings had gone far enough.

It was submitted SJP should be responsible for the losses sustained in the FP plan from May 2013. These submissions drew on the suggestion the plan was under-performing by May 2013 and in particular Mr H was unsuitably invested, and the focus was on two investments held with the FP plan. Namely:

- Premier New Earth Sols Recycling IOM Exp Inv Fund (the initial investment being £20,000)
- PSG Active Fund Service Ltd Club Easy Fund (the initial investment being £15,000)

It was said SJP ought to have researched and reviewed all the investments held within the FP plan, and they ought to have ensured these investments were removed from his plan and/ or advised Mr H in 2013 these investments were unsuitable for him. It was said that if SJP had done what they ought to have done, Mr H would have not suffered a loss. It was also suggested SJP ought to have advised Mr H to transfer everything out of his FP plan in 2013.

Mr H's representatives accepted the general approach to the redress calculation methodology, (the application of the agreed benchmark index to the original sum invested). But they were unhappy because they said it did not take into account the additional penalties, fees and charges that Mr H was liable to pay as a result of withdrawing partially and then exiting the FP plan and the higher cost of the SJP product. In particular they highlighted the "*establishment charge*" / "*discontinuance charge*" paid by Mr H when leaving the FP Plan. Mr H's representatives said this charge ought to be factored into the redress as a charge that Mr H ought not to have been expected to pay.

SJP accepted the advice to transfer in 2016 was unsuitable and said their proposed redress would take into account all costs and fees, save for the discontinuance charge they say was not an early redemption or exit fee, but was a staged set-up cost (the establishment charge) that would always have been applied as part of the initial terms when the plan was started.

I adopt my thinking on Issue C, as contained in my second provisional decision. I uphold the complaints A and C as summarised in the background section of this decision above. SJP gave unsuitable advice around the 2013 advice to invest and the 2016 transfer out of the FP plan.

I don't accept it's right to conclude SJP ought to be liable for losses occasioned to Mr H following the suspension and failures of the two non-standard investments complained about. Albeit I was surprised not to have seen SJP address these investments more formally after they started to understand more about Mr H's holdings and providing ongoing advice, in any detail.

SJP didn't advise on the commencement of the FP plan in November 2012, or the investments made, mainly from November 2012 until March 2013, before Mr H first contacted SJP. Mr H was a new overseas client and it isn't unusual for a new adviser to need reasonable time to obtain information on their client and their holdings

I don't conclude it can be said SJP ought to have been in a position by the time of the 2013 advice to advise on the whole of Mr H's holdings, or that it can be said that SJP ought to have been in a position before the relevant investments were frozen or failed to have advised Mr H to sell the two investments complained of; nor do I accept it can reasonably be concluded Mr H would have agreed or been able to. I don't consider SJP can be liable for losses resulting from the start of the FP plan or arising from the investments made in late 2012 and early 2013.

I haven't accepted what was suggested about Mr H becoming so concerned from March 2013, (or even early 2013), by the time of his meeting with SJP in April 2013, with the value of his new investments that he sought out SJP to be his new adviser; or that any meaningful conclusion about performance could be drawn at this stage. I've taken into account the material available from the time.

That doesn't mean I am not surprised to see the SJP adviser fails to record more in due course about the two high risk investments. The information from the time suggests to me SJP were informed better about the FP plan than might have been accepted; however the tone of what I considered didn't suggest to me there was substantive concern being raised; nor did it change my thinking about what SJP ought to have done and when.

Overall I think it would have been prudent for the SJP adviser to have researched the terms and offerings of the FP plan instead of recommending the IIB. This would also have ensured SJP could have been better placed to ensure Mr H better understood the FP plan, what it offered and the relevant charges of the FP plan as well as reassuring Mr H on some of his apparent concerns and misunderstandings. It appears more likely than not that Mr H's investment objectives could have been suitably met through the FP plan. I have not received anything to suggest I am wrong about this. But I don't need to say any more on this as SJP

have for all intents upheld a complaint on this advice, albeit for slightly different reasons and fair redress is to be calculated.

I don't accept SJP ought to be liable for losses for failing to cancel the FP plan in 2013. I am not persuaded it was the right thing to do here. Had Mr H sufficiently understood the difference between the plan and investments, the charges, and that the FP plan was not an advised service, I don't think on balance it can be said he would have been so keen to close the plan.

The suitability report of January 2016 does discuss the consequences of moving providers, and the impact on charges and fees. It also explained the possibility of switching funds internally with FP plan. So it can't be said SJP failed to draw Mr H's attention to these matters, but I'm not persuaded Mr H demonstrated he'd sufficiently understood this, and I think the evidence was enough to make SJP aware Mr H might not understand these matters well enough to make an informed choice.

When the FP plan was closed in March 2016 a discontinuance charge of £11,281.25 was applied. This was said to represent the remaining establishment charges that would have otherwise followed. I have not been provided with the original terms of the plan, and the 2016 withdrawal form is a poor copy, although it contains warnings about making a withdrawal and potential charges. But neither party has suggested to me or queried that the charge wasn't part of the initial set up terms of the plan. The establishment charge was something Mr H would have had to pay for the first eight years, or (as here) a charge would be made for complete withdrawal. I am not persuaded this is a charge SJP ought to be liable to meet. It was part of the terms of the plan on commencement, and thus agreed prior to SJP's involvement.

In their final response letter of 14 December 2018, SJP indicated they could not be certain the advice in respect of opening the IIB was suitable for Mr H, or that he would have gone ahead with the IIB if he had sought tax advice. On this basis SJP indicated their proposed redress comparing the value of Mr H's IIB on 4 December 2018 with the notional value of his investment had the returns matched the agreed benchmark; interest to be paid on such sum.

It is agreed that interest is to be paid on all redress sums until the date of settlement, where there is a date loss can properly be calculated at. I consider this to be the right approach. SJP accepted this in earlier letters to Mr H.

The date of 4 December 2018 is agreed as the right date to use when calculating loss, and I approve this.

#### Redress Issue A

In assessing what would be fair compensation my aim is to put Mr H as close to the position as he would probably be in now if he had not started and invested in the IIB. I think Mr H would have invested differently. It's not possible to say precisely what he would have done but I am satisfied what I have set out below is fair and reasonable, given Mr H's circumstances and objectives at the time.

SJP need to compare the value of Mr H's IIB on 4 December 2018 (actual value) with the notional value of his investment had the returns matched the agreed benchmark (fair value).

All calculations should take account of all charges and fees, as well as any additions or withdrawals. Care must be taken that there is a proportional approach adopted in respect of all applicable fees, charges, additions and withdrawals, when also conducting the redress exercise in respect of Issue C, so that no sum is unfairly accounted for more than once.

If the fair value is greater than the actual value, then there has been a loss and compensation is payable. If the actual value is greater than the fair value, then there has been no loss and no compensation is payable.

SJP will need to pay interest on any compensation at 8% a year simple from the 4 December 2018 to the date of settlement.

If there is any loss this amount ought to be paid into Mr H's pension plan to increase its value by the amount of compensation and interest due. The payment should allow for the effect of charges and any available tax relief. The pension shouldn't be paid into the pension plan if it would conflict with any existing protection or allowance.

If a payment into the pension isn't possible or has protection or allowance implications, it should be paid directly to Mr H as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid. As far as I am aware Mr H continues to live overseas.

I am told Mr H, now aged 75, no longer has the relevant pension plan and due to his circumstances it was submitted redress (and all sums due to Mr H) ought to be paid directly to Mr H. SJP agreed with this. It is a matter for the parties, but I accept that given what I'm told about Mr H's circumstances this is not inappropriate.

Details of the calculation should be provided to Mr H in a clear and simple format.

The agreed benchmark is the FTSE UK Private Investors Income Total Return Index. Using this benchmark for calculation does not mean Mr H would have invested directly into the FTSE UK Private Investors Income Total Return Index, but this index broadly reflects the return he would have received on this sort of investment.

SJP previously set out in their offer that they are required to deduct basic rate tax (at 20%) from the interest element of this payment. And noted that if Mr H is a non-taxpayer, he can reclaim the tax deducted from HMRC. I've seen Mr H has received tax advice in respect of his circumstances and I would expect SJP to address any tax implications for Mr H.

I have addressed what I direct SJP to do, in respect of tax implications for Mr H below.

### Redress Issue C

In assessing what would be fair compensation my aim is to put Mr H as close to the position as he would probably be in now if he had not closed the FP plan and invested in the IIB plan in 2016.

Given Mr H would need to pay establishment charges on the FP plan until 2020, remaining in the FP plan appears to have potentially been the more prudent and efficient approach for Mr H and is something I would have expected SJP to have explored and advised on more comprehensively. Having seen Mr H's concerns at the time (in particular his emails to the adviser in 2015), they don't demonstrate an accurate understanding of the FP plan.

I consider on balance, investments suitable for Mr H's circumstances and objectives could have been made within the FP plan. It's not possible to say precisely what he would have done but I am satisfied what I have set out below is fair and reasonable, given Mr H's circumstances and objectives at the time.



SJP need to establish the value of the FP plan prior to closure and disinvestment and use the agreed benchmark to reach a sum up to the agreed date of 4 December 2018, to obtain a fair value. This will need to be compared to the actual value, this is value of the sum invested in the IIB as at the agreed date of 4 December 2018.

All calculations should take account of all charges and fees; as well as any additions or withdrawals; all proportionate as applicable. Here this includes the ongoing establishment charge that would have been applied, when considering the fair value; ensuring there is no double apportionment of this charge when looking at what was charged at closure and when and in respect of redress on Issue A.

If the fair value is greater than the actual value, then there has been a loss and compensation is payable. If the actual value is greater than the fair value, then there has been no loss and no compensation is payable.

SJP will need to pay interest on any compensation due at 8% a year simple from the date of calculation to the date of settlement.

If there is any loss this amount ought to be paid into Mr H's pension plan to increase its value by the amount of compensation and interest due. The payment should allow for the effect of charges and any available tax relief. The pension shouldn't be paid into the pension plan if it would conflict with any existing protection or allowance.

If a payment into the pension isn't possible or has protection or allowance implications, it should be paid directly to Mr H as a lump sum after making a notional reduction to allow for future income tax that would otherwise have been paid. As far as I am aware Mr H continues to live overseas. Details of the calculation should be provided to Mr H in a clear and simple format.

The agreed benchmark is the FTSE UK Private Investors Income Total Return Index. Using this benchmark for calculation does not mean Mr H would have invested directly into the FTSE UK Private Investors Income Total Return Index, but this index broadly reflects the return he would have received on this sort of investment.

SJP previously set out in their offer that they are required to deduct basic rate tax (at 20%) from the interest element of this payment. And noted that if Mr H is a non-taxpayer, he can reclaim the tax deducted from HMRC.

I've seen Mr H has needed to receive tax advice in respect of his circumstances and I would expect SJP to address any tax implications for Mr H here; subject to what I have said about payments for tax advice. I have addressed what I direct SJP to do, in respect of tax implications for Mr H below.

I am told Mr H, now aged 75 no longer has the relevant pension plan and due to his circumstances it was submitted redress (and all sums due to Mr H) ought to be paid directly to Mr H. SJP agreed with this. It is a matter for the parties, but I accept that given what I'm told about Mr H's circumstances this is not inappropriate.

## **Additional matters**

### Tax advice

I previously indicated I'd expect SJP to assist Mr H in addressing the tax implications of all and any payments due to him arising from this complaint. I proposed a method to address

this in my second provisional decision, that I hoped would provide certainty for all parties. As I have seen some historic and more recent disagreement on invoicing and interim payments, I felt it important to consider the best approach.

I received submissions on my proposal. SJP indicated their knowledge Mr H has tax advisers in place and their willingness to pay for Mr H's tax advice here and that they have done so previously. I accept this. For this reason, I direct SJP to assist Mr H in receiving tax advice and support on the payment, impact and liabilities in respect of sums due to him resulting from the complaint that was referred to this service. This will include the payment for specialist tax advice for Mr H. SJP will need to pay up to a maximum of £3,000 for this.

SJP are directed to pay £250 immediately to Mr H, from the maximum of £3,000 that may need to be paid towards tax advice. This sum is to be paid within 28 days of SJP being informed of the acceptance of this decision. This sum is paid to enable Mr H to start to seek advice as soon as possible. Should, which seems unlikely, Mr H not seek advice, this sum will not need to be repaid to SJP.

### Costs

SJP initially offered a sum of £5,000 to represent the reasonable expenses incurred by Mr H, but matters progressed after that. In reaching a fair sum to reflect the costs incurred I looked carefully at everything provided and said. SJP provided various undertakings in their letters to meet reasonable expenses incurred for various professional services and activities Mr H would not have otherwise had to obtain or undertake. I've seen that some invoices were historically queried and considered to be inconsistent. There was also disagreement about whether SJP had made interim payments.

In my second provisional decision I accepted some interim payments had been paid, some were for various tax and investment advice. I was not clear on precisely what work was completed under the invoices paid by SJP. But I didn't consider it proportionate or necessary to review every invoice in reaching my decision on a fair award for costs. No one suggested my approach was wrong.

Having balanced everything provided I indicated I intended to reduce the sum of £5,000, to £4,500. I have not changed my thinking on this and SJP need to pay Mr H, £4,500 to represent his reasonable costs.

### Distress and inconvenience

I have taken into account that Mr H has been represented. SJP need to pay Mr H the sum of £750 appropriate to be paid to Mr H to reflect his distress and inconvenience here.

### Other matters

I don't consider the issue of legal expenses has been pursued. But for completeness I don't consider an award for legal expenses to be appropriate here. This service is free and does not require people to be represented.

I previously set out my understanding the date of 4 December 2018 is agreed as the right date to use when calculating loss, and I approve this, (interest due on any sums is payable thereafter to the date of settlement).

Where I uphold a complaint, I can award fair compensation to be paid by a financial business of up to the relevant limit plus any interest and/or costs/ interest on costs that I think are appropriate. I am not aware of the redress in this case being likely to exceed the relevant limit. Having previously indicated this, I have not been told this is wrong.

Where I think fair compensation is more than the relevant limit, I may recommend that the business pays the balance. Any recommendation is not part of my determination or award. A business doesn't have to do what I recommend. It's unlikely that a complainant can accept my decision and go to court to ask for the balance. Where this is relevant a complainant may want to get independent legal advice before deciding whether to accept a decision. I do recommend SJP pays the balance, should it exceed the relevant limit, but there is nothing to suggest here, it will do.

### **My final decision**

For the reasons given I uphold Mr H's complaint against St. James's Place Wealth Management Plc in part. SJP are required to:

- Complete the redress exercises agreed (in respect of Issues B and D) and as directed in respect in Issues A and C.
- To assist Mr H in respect of advice on the tax implications and liabilities involved in the sums to be paid to him. Mr H will need specialized advice and SJP will meet the costs of such advice to the maximum of £3,000. An initial payment of £250 is to be made to Mr H within 28 days of SJP being informed of the acceptance of this decision.
- Pay Mr H £4,500 to represent his reasonable costs. Such sum to be paid to Mr H within 28 days of SJP being informed of the acceptance of this decision.
- Pay Mr H £750 to represent his distress and inconvenience.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 13 July 2022.

Louise Wilson  
**Ombudsman**