

The complaint

Mr B, on behalf of his late mother – the estate of Mrs B – has complained that the actions of St James's Place Wealth Management Plc ('SJP') have led to the estate incurring a larger inheritance tax ('IHT') bill than it would otherwise have done. Mr B wants the estate to be financially compensated for this as well as losses on investments made.

What happened

Mr B, along with his sisters, held Power of Attorney ('POA') for Mrs B, and Mr B sought advice from SJP about his mother's investments initially in October 2020. IHT planning was the priority, and it was recommended to invest £100,000 into the Downing Estate Planning Service ('Downing') and £150,000 into the Triple Point Estate Planning Service ('Triple Point').

The investments were recommended as they would be exempt from IHT if they were held by Mrs B for at least two years, they continued to qualify for business tax relief and that they were still held by Mrs B upon her death. Applications to make the investments were signed in January 2021.

SJP had its own Business Assurance Unit ('BAU') which reviewed the adviser's recommendations. It considered that the risk was too high because of the lack of diversification. It was recommended that at least three Estate Planning Services ('EPS') be used.

The investments were to be rearranged but the investment of £150,000 into Triple Point had already gone ahead and would incur an exit penalty if unwound which SJP's Case Review Team ('CRT') thought would be unfair on Mrs B. So, the £100,000 proposed for the Downing investment was recalled and received back in the account on 18 March 2021 but the Triple Point investment remained in place.

Further investment recommendations were made for the recalled £100,000 and it was later recommended that a reduced amount of £85,000 should be split;

| <u>EPS</u> | <u>Investment</u> |
|------------|-------------------|
| Downing | £20,000 |
| Time | £25,000 |
| Octopus | £25,000 |
| Foresight | £15,000 |

The investments went ahead in October 2021.

Mrs B died on 4 February 2023. An IHT liability of £34,014.37 arose on the £85,000 not invested in January 2021 as those investments weren't made until October 2021 which was less than two years before Mrs B's death so didn't benefit from the tax relief.

Mr B raised a complaint with SJP as he wasn't happy with SJP's unilateral decision to disinvest from Downing, the IHT liability incurred and the loss because of investment

performance. SJP responded on 21 July 2023 rejecting the complaint. It concluded by saying;

- Its BAU and CRT were correct in their assessment that the recommendation originally made was unsuitable based on SJP's framework and guidance. The actions taken hadn't added to an IHT issue already in place and no redress was due.
- It could be argued that the estate was in a better position than if all the investments had been unwound or if the option to withdraw from Triple Point and to pay the exit fee had been carried out.
- It offered £250 for the trouble and upset caused by the time taken to respond to the complaint.

Remaining dissatisfied with the outcome Mr B brought the complaint to this service. Our investigator who considered the complaint thought it should be upheld. He said;

- SJP hadn't put the estate in the position it would have been in if correct advice had been given in January 2021. While the Downing investment was unwound, no new alternative investment advice was given immediately – not until October 2021. And as Mrs B died on 4 February 2023 that meant that those latter investments didn't qualify for the tax relief they would otherwise have done if they had been invested sooner. So, he thought SJP should pay the IHT bill incurred.
- And SJP should backdate the investments made in October 2021 and compare their performance as if those investments were made in January 2021. If the comparison showed that the estate had lost out because of that, SJP should pay the difference.
- SJP had offered £250 for the trouble and upset caused to the late Mrs B's executors but this service doesn't suggest such payments in the circumstances of this complaint as the complainant here is Mrs B's estate and not her executors.

Both parties agreed with the investigator, and SJP made an initial offer, but this was challenged by Mr B who provided a more accurate valuation for one of the investments. In its revised offer of 5 January 2024 SJP said;

- The estate had suffered a loss of £3,589.36 loss because the investments were made in October 2021 rather than January 2021. SJP was willing to make up for the loss and add interest at a rate of 8% from 16 October 2023, the date of the valuation.
- For the IHT payment SJP wasn't going to include one of the investments – Foresight – as that investment was made later so would have been subject to IHT. It calculated the IHT payable to be £28,014.37 plus interest. The total revised offer was for £33,063.23.

Mr B wasn't happy with the offer and referred back to our investigator who responded to say;

- He was satisfied SJP's offer was in line with his suggested settlement.
- He clarified that SJP should pay the IHT bill that wouldn't have otherwise been incurred if the £235,000 was invested in January 2021 so would have qualified for tax relief.
- However, the aim was to put the estate back into the position it would've been in but for the error made by SJP. He had instructed SJP to reconstruct the events of 21 January 2021 when the advice to invest went ahead. But for redress purposes he had also said that reconstruction should start 'from the date of investment'. He hadn't stated a start date as investing into this type of investment is different than

stock market investment meaning sometimes it wasn't immediately after the investment instruction was given.

- The evidence suggested that the earliest SJP could have made the actual investment or allotment – which is the relevant date – into Foresight was 10 February 2021, later than the other investments. This meant there was no tax liability for SJP for this particular investment as that allotment was less than two years before Mrs B died so wouldn't qualify for the tax relief.

Mr B didn't agree and amongst other points said;

- He didn't agree January 2021 was the start of the investment process. The advice was given in 2020.
- With regard to the Foresight investment, if it had been known in December 2020 that investment wouldn't have gone ahead until 10 February 2021 that recommendation would have been rejected.
- The late Mrs B was approaching her 89th birthday in 2020 so it was known that the investments – for IHT planning purposes – needed to be made as fast as possible.

Mr B asked for the complaint to be referred to an ombudsman, so it was passed to me for a decision. I thought the complaint should be upheld but for different reasons than the investigator and also that it should be put right in a different way than previously suggested.

So, I issued a provisional decision to allow the parties to comment or provide further information before I issued my final decision. Here's what I said;

'I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

After doing so, I've provisionally decided that the complaint should be upheld but for different reasons. And because of that I think the matter should be put right in a different way than recommended by the investigator. I'll explain why.

I should first explain that the Financial Ombudsman Service was set up to be a quick and informal alternative to the courts. So, I will not refer to every submission, comment, or relevant consideration. Instead, my decision sets out what I think are the most important points in order to explain my decision in a way that is intended to be clear and easy to understand.

The investment advice

I've first reviewed Mrs B's circumstances at the time the advice was given to Mr B on her behalf.

Mrs B had been widowed in 2020 and had inherited her late husband's estate. Mrs B wasn't in the best of health and was in a care home, the fees for which were mostly taken care of by Mrs B's income and pensions, but some capital was needed each year.

Mrs B held investments and had a large cash sum of nearly £450,000. Mrs B's investment priority was to mitigate IHT that would become liable upon her death. Estate Planning Services were schemes designed to reduce Mrs B's tax bill but were higher risk. But that higher risk was one that Mr B on behalf of Mrs B was prepared to take in the hope of a reduction in the IHT that would be liable upon her death.

Overall, I don't find that the recommendation to consider such investment schemes to have been unsuitable bearing in mind Mrs B's circumstances and investment objectives. But I don't agree that the resulting advice given was suitable.

As mentioned above SJP recommended that a total of £250,000 was to be invested – £150,000 into Triple Point and £100,000 into Downing. In January 2021 those recommendations went ahead. However, the advice given was subsequently altered.

My understanding of the alteration to the original advice is that the amount to be invested went beyond the level that was necessary to mitigate the excess value of the available nil rate band at the time – £235,000. And also, that SJP's BAU concluded there was a lack of diversity with just two investments. However, it is also my understanding that Mr B wasn't concerned about the lack of diversity. He was happy to go ahead with the investment recommendation that had been given.

But because of SJP's internal policies it unilaterally tried to stop investment into both EPS – and was successful with unwinding the Downing investment. Mr B isn't happy with this, and he says the estate has lost out because of the investment performance of the alternative investments that were recommended in October 2021 haven't performed as well in comparison.

I have sympathy with Mr B's argument that the original advice to invest £250,000 between the two EPS should have stood. He had agreed to those recommendations, thought they were going ahead but was only told there was a problem, and that SJP was trying to unwind the positions, after he was proactive in contacting SJP.

But I disagree with the original advice that was given as I don't think it was suitable for Mrs B. I say this because of the lack of diversification, which SJP recognised at the time, as well as overexposure as it wasn't necessary to invest £250,000 because of the nil rate bank [band].

I appreciate Mrs B held other assets, but I think exposing 100% of Mrs B's assets which were to be invested for IHT planning purposes into just two EPS was wrong. Because of that lack of diversification, it exposed Mrs B to a higher than necessary high level of risk.

The advice given was provided by SJP and not the partner in isolation, and that meant the advice being further reviewed within SJP after being initially presented by the partner. And in doing so, SJP recognised the advice wasn't right and while Mr B no doubt will disagree, SJP has its own responsibilities to ensure that the recommendations made by its appointed representative – its partners – are carried out within certain parameters. In this case it was the BAU and CRT who thought that the advice given was outside of SJP's own 'Framework and Guidance for Partners' and needed to be stopped.

SJP is entitled to rely on the framework if it considers it ensures its partners provide safe and suitable outcomes for its customers. It's part of SJP's business model and that is a decision for the business to make. And I think it could have equally been the case that if SJP hadn't had taken any action about the advice, despite it not complying with its own guidelines, and then Mr B later made a complaint about that advice, it wouldn't be able to defend its reasoning for allowing the investments to go ahead despite it not being compliant within its own guidelines.

So, I don't think that SJP is wrong to have such a framework in place and for partner's advice to be checked for suitability. I appreciate that Mr B would have liked

to have been told about the investments not going ahead sooner, and it's not clear to me why he wasn't, but even if he was told and didn't agree, I think it's unlikely that SJP would have remained of the view that the original investment recommendations should stand.

Mr B has argued that he also personally made an investment into one of the EPS, but the same guidelines weren't applied to his investment, and it went ahead. I can't know the reason for this. Mr B's circumstances and investment objectives were no doubt understandably different than his mother's and it might have been the case SJP deemed the investment could go ahead for Mr B because of alternative reasons. But I can't comment on that in this decision.

While I have already stated that I don't think it was unreasonable for SJP to have recommended EPS, and that Mr B accepted exposure to a higher level of risk with these type of investments in the hope of a reduction in IHT upon Mrs B's death. But I don't think it was right to add further to that level of risk by not sufficiently diversifying the investments that Mrs B was exposed to.

In its response to Mr B's complaint SJP argued that the estate was in a better position than if all the investments had been unwound or if the option to withdraw from Triple Point and to pay the exit fee had been carried out. But I don't think what SJP has said about its decision for not withdrawing the £150,000 from the Triple Point is right. It has said that the Triple Point investment wasn't cancelled because a cancellation would incur a 1% exit fee which SJP thought would be unfair for Mrs B to incur.

But I don't think that Mrs B should have been liable for that fee. It was SJP's error in giving the advice in the first instance – that investment wouldn't have gone ahead but for SJP's error in giving the unsuitable advice.

So, I think the action SJP should have taken would have been to withdraw from the Triple Point investment and it should have borne the cost of the exit fee of 1%. It should then have gone ahead with providing fresh advice for the amended amount of £235,000.

I note that in Mr B's original letter of complaint to SJP of 17 March 2023 he recognised this and the problems this caused – he stated;

'...the £250k was perceived to be higher than necessary and that the investments did not have sufficient diversity. This action resulted in us only having the £150k invested in the one provider therefore being grossly under invested and actually 100% with the one provider. This action by SJP actually compounded the diversity problem and left us significantly exposed.'

So, I'm satisfied that Mr B was aware that SJP's actions were wrong as Mrs B was left with a very overweight position with £150,000 invested into Triple Point. And then just under half that amount was then split between four further EPS. So, I don't agree that SJP's original reasoning for altering the investment recommendation – the lack of diversity – was resolved by its later actions in withdrawing from just one of the EPS. I don't think its attempts at resolution of the issue went far enough. Mrs B was left with a very overweight position with 60% of her funds earmarked for IHT planning in just one investment.

It is this that I think needs to be put right. To correct that position I think SJP should provide revised calculations for both IHT purposes and capital performance comparison.

I think SJP should assume that the sum of £235,000 was invested and was split equally between the five investments that were made – Downing, Time, Octopus, Foresight and Triple Point. While I appreciate that the four original investments made with the £85,000 weren't equally invested into, it would be difficult for me to say – with the benefit of hindsight – how a total of £235,000 should have been split between them at the time and some may have had a minimum investment.

There were many ways Mr B could have invested on his mother's behalf and it's not possible for me to now say precisely what he would have done or how the sum invested should have been invested. But taking a pragmatic approach I don't think it would be unfair or unreasonable for the revised investment calculations to be based on an equal split of funds.

The 'date of investment'

As background, Mr B's father died in September 2020 and was survived by Mrs B who had advanced dementia. Over the 'later months of 2020' advice was sought about IHT planning in view of the size of Mrs B's estate and her ongoing expenditure. The resulting investments didn't go ahead until January 2021 and then the alternative investment recommendations for the £85,000 weren't made until October 2021 and so didn't benefit from the tax relief upon Mrs B's death which they would have done if the funds had been invested earlier.

This was time sensitive bearing in mind the investment objective was to minimise IHT in circumstances where Mrs B had limited life expectancy, the tax advantages of the investments being recommended had time restrictions attached to them and considering Mrs B's age, that further advice should have been given quicker, but the investments didn't go ahead until October 2021. And I think that needs to be put right.

SJP has already offered to put that right on the basis of the original four investments made in October 2021. And the 'date of investment' was 21 January 2021 or the actual date the investments were made.

However, when making its revised calculations SJP should assume that the amended October recommendations went ahead at the same time as the original recommendations in January 2021. And in that case the majority of them would have been able to benefit from the tax benefits and IHT wouldn't be payable by the estate.

SJP has already made its calculations on that basis – albeit with the original sums invested rather than my proposed amended amounts – and found that the Foresight investment would have been made too late to benefit from tax relief even if the investment process had been started in January 2021.

This was because for Foresight, it had been told that an application would take around three weeks from application to allotment (a similar timescale as for the October 2021 application where allotment took place on 17 November). So, for Foresight, an allotment date would have been around 10 February 2021 which would have been less than two years prior to Mrs B's death so IHT would be due and payable by the estate.

In response to this Mr B said it breached the investigator's guidelines and wasn't in line with the investments that were actually made in January 2021. He said the investment advice was given between October and December 2020, but it wasn't possible for investments to have gone ahead before Christmas but thought the date of 21 January 2021 for calculation purposes was a red herring and an artificial link to the start date – that was the end of the investment cycle about what had been agreed in December 2020.

I disagree on this point. I appreciate the advice was given towards the end of 2020 but the application forms to invest weren't finally completed and dated until 21 January 2021 for the Downing and Triple Point investments so the investment applications couldn't have gone ahead until then. And while Mr B might have been frustrated that investment didn't take place any earlier despite the advice itself being given at the end of the previous year – that is what actually happened at the time – so I don't find it unreasonable to use 21 January 2021 as a starting point for redress purposes as there's no evidence the application process could have started any sooner.

Mr B has also referred back to the original investment sum and that initially £250,000 was to be invested. But for the purposes of redress, bearing in mind that I don't find SJP's original recommendation to be suitable, the aim of this service – if it's found that a business has caused an error – is to put the investor back in the position they would have otherwise been.

And in this case, for redress purposes, I'm satisfied that the investments would have proceeded on or after 21 January 2021 and that those investments totalled £235,000 rather than £250,000 for nil rate band purposes and included five investments rather than two.

On that basis it's correct that any investments for redress purposes, should be 'backdated' to the date of investment – 21 January 2021 – and using the proposed amounts invested – £47,000 into each. And just because it has now been established that the Foresight allotment couldn't have gone ahead any earlier than 10 February 2021 but that doesn't mean the actual basis for the redress overall is now wrong. And for the Foresight allotment, it's only a reflection of what would have happened if the investment application had been completed on 21 January.'

I provisionally concluded that the complaint should be upheld and needed to be put right by SJP. I said that for the IHT liability SJP should compare the actual IHT position, and what the position would have been if the application to Invest £235,000 equally across the five investments had gone ahead on 21 January 2021. And that SJP should also compare the investment performance of the hypothetical investments with what actually happened.

SJP responded to my provisional decision to say it accepted my findings and provided details about the redress it proposed. That was it should repay the IHT paid by the estate in March 2023 – less the amount of IHT paid on a hypothetical sum invested into Foresight – plus 8% interest on the resulting amount.

Mr B replied with additional comments and evidence for my consideration which I address below.

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.

After doing so, I remain of the conclusions I reached in my provisional decision. I'll explain why.

Mr B referred to the method of redress I was suggesting, and he thought that it brought into play other considerations not previously considered and which were subjective. He said he didn't favour this alternative approach as it deviated from the original complaint which was about the disinvestment of £100,000. It required assumptions to be made.

But as per my provisional decision, I didn't agree with the original advice given to Mrs B as I wasn't satisfied that the funds she had available for IHT planning would be sufficiently diversified. And when SJP tried to put that right, only the investment of £100,000 could be cancelled, and then the lesser amount of £85,000 was invested into four funds. I wasn't satisfied that this resolved the lack of diversification in that Mrs B was left with an overweight position in one fund only. Hence me putting forward an alternative way to put the matter right. And I remain of that opinion.

Mr B thought it was questionable whether the funds Mrs B actually ended up with would have been chosen at the time and whether those funds would have been invested into equally. Mr B might be of this opinion now, but that is made with the benefit of hindsight. What we do know – and what actually happened – is that the five funds were invested into so I will not be revisiting that or looking at what alternative funds were available.

And the same applies to Mr B's comment that if it had been clear in 2020 that investment wouldn't complete until February 2021 then the investment wouldn't have been agreed to. The investments were agreed to and went ahead. It is the complaint about that and what actually happened which is being addressed.

The amounts invested

Mr B said he found it unacceptable to weight the Foresight investment to £47,000 when the actual investment made was £15,000.

He also said that SJP could have taken alternative action rather than just disinvesting from the Downing fund – altering the amounts invested etc. And that the original and subsequent advice was never for the investments to be equally invested into. He didn't know the reason, but said Foresight was clearly targeted for a lower level of investment. He acknowledged it would be difficult to establish what the investment allocation would have been had SJP not made the mistakes that it did.

As detailed above, originally £150,000 was to be invested into Triple Point and £100,000 into Downing – so not equal amounts at the outset in any event. However, SJP tried to cancel both investments but only the £100,000 investment could be recalled. That investment amount was subsequently reduced to £85,000 and was to be invested in the new four chosen investments – two of £25,000, one of £20,000 and the other of £15,000.

Mr B says he doesn't know the reason that Foresight was chosen for a lower level of investment. I am aware that it's common for these types of investments to have minimum investments of say £25,000 and £20,000 etc, so that could be a reason for higher amounts being invested into two of the funds. But I agree with Mr B that it is difficult to establish what the allocation would have been if the £235,000 had been split between the investments from the outset. That can't be known now.

Mr B has explained that the investment of £150,000 into Triple Point was actually investment of £75,000 each into two funds that were managed separately and invested in different areas – Navigator Trading Ltd and TP Leasing Ltd. This meant that the overall investment was actually into six funds and not five. It also meant the original £250,000 investment had more diversity than has been implied.

But SJP would have been aware of this. And bearing in mind it was because of SJP's internal policies and guidance that it was decided there was insufficient diversity with the £150,000 into Triple Point and £100,000 into Downing – and that SJP was aware there were two underlying investments in Triple Point – and which was a decision I didn't disagree with; I don't now propose to revisit the conclusion that SJP reached. SJP at the time decided there was insufficient diversity so ideally wanted to cancel the two investments as the advice to invest was unsuitable.

It is the outcome of the cancellation of the original advice, and what subsequently happened I am trying to put right. So, I remain of the opinion that the fairest approach would be to split the funds of £235,000 equally between the five investments that were actually made and not take into account any additional underlying diversity within the initial two funds because SJP intended on recalling those investments in any event. So, I don't propose changing the hypothetical amounts invested.

And my remit allows me to award what I consider to be fair compensation in all the circumstances. There are times when it is fairer to take a simple, broad-brush approach rather than embark on a process that exactly puts matters back in the position they would have been in had things not gone wrong. And I intend to apply that approach to this case as I think a simple approach is fair and reasonable as;

- there is no way of knowing how the funds would otherwise have been allocated if SJP had advised an appropriate level of diversification in the first instance,
- hadn't initially recommended an investment more than the nil rate band which needed to be amended and
- if it had been able to recall the Triple Point investment when that lack of diversity was acknowledged.

However, I accept it's an imperfect solution, but it reflects a broad-brush approach to finding a fair and reasonable outcome here.

The timing of the investments

Mr B referred to the timing of the investments and that they couldn't complete until 2021 because of the 'investment cycles' for the funds which were monthly, and it was those 'cycles' that caused the applications to be made and signed on 21 January 2021. So, he didn't agree that the investment into Foresight couldn't be made until 21 January 2021. He said the Foresight investment could have been made sooner and earlier than the Triple Point and Downing investments.

In particular Mr B referred to my provisional conclusion that Foresight would fall outside of any redress due because of the date it would have been invested into if that investment process had started on 21 January 2021. This was because he had been in touch with Foresight direct who confirmed its application process to him. It said that upon receipt of an application it would be processed/checked the following day. Allotment dates only took place once a week on Wednesdays.

The applications for Triple Point and Downing were finally completed on 21 January 2021 so if a similar application for Foresight had been completed and posted by SJP on 21 January 2021 (a Thursday) then applying the timeline as advised to Mr B, that meant it would most likely have been received by Foresight the following day, Friday 22 January. So, in line with Foresight's timescales given to Mr B, it would have been processed/checked on Monday 25 January and so would have been ready for the allotment on Wednesday 27 January 2021.

Following on from those timescales, and Mrs B's death on 4 February 2023, this would mean the sum invested into Foresight would have fallen outside of the estate for inheritance tax purposes as well as the other investments.

I sought clarification from SJP about this as this information conflicted with what it had previously told us. It confirmed it had contacted Foresight in October 2023 to obtain hypothetical values and asked for those values and details of the allotment. Foresight proactively wrote advising;

'I've spoken to my colleagues in our onboarding team who have confirmed the timeframe for applications received and subsequent allotments. This allotment was made within three weeks of the application being received, which is fairly typical, so we have used this to estimate the likely allotment date had the application been received on 21/01/2021 as you have asked.'

And further to my query, SJP contacted Foresight again and confirmed the late Mrs B's application was received by Foresight on 28 October 2021 and the allotment was made on 17 November 2021 – so 20 days later than when the application was received and which tallies with what Foresight previously said in October 2023 about three weeks being fairly typical. That being the case Foresight would not have qualified for the IHT exemption so SJP would not have to repay any of the IHT paid or any interest on that amount.

Clearly, I have been given conflicting information here and in situations where the evidence is incomplete, inconclusive or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in the light of the available evidence and the wider circumstances. This means making some – what I consider to be – reasonable assumptions where there's only limited information. And I must be impartial.

While I accept that Mr B has provided evidence of what he was informed by Foresight – which conflicts with what SJP was also advised – I think it would be fairer to base my conclusion about this point around what *actually* happened ie in October 2021 and replicate those timings to what would have happened if Mrs B's application had been completed and processed in January 2021. I can't know the reason for the conflicting information the parties have been given by Foresight – it may be that its allotment timings have been changed or updated – but the evidence we do have about what *actually* happened shows that the investment wouldn't have been made before 4 February 2021.

Mr B has said that the investment into Foresight could have been carried out earlier as it didn't have monthly investment cycles similar to Triple Point and Downing. That may be the case but what is known is the timing and the pattern of the Foresight investment in October 2021. And I don't think it's unreasonable to apply those same timings to the investment that should have gone ahead in January 2021.

I know Mr B will be disappointed in my conclusion about this point. He's made the effort to contact Foresight and he has been given information that supports his argument. But in the particular circumstances of this case and where there is conflicting information, I think it

would be fairer to both parties to reach my conclusion based on what we know happened at the time of the original investment and not what should happen now.

Mr B commented on his own investment of £100,000 into the Downing funds and that if there was a diversity consideration with Mrs B's investment then the same should have been applied to his own investment. As I said in my provisional decision, I won't be commenting on Mr B's investment in this decision but if Mr B wishes to make a complaint to SJP about that investment he should do so separately.

Mr B hadn't seen any evidence of SJP's guidance about the level of diversity and he said that guidance was open to the judgement of the SJP partner. It may be that the guidance was for the partner to judge but equally I don't find it unreasonable that SJP has a checking service in place – BAU and CRT – in order to ensure that its customers are given suitable advice.

In conclusion, I don't find SJP's original recommendation was suitable and needs to be put right. And I remain of the view that the investments would have proceeded on or after 21 January 2021 and the total investment was for £235,000 rather than £250,000 – split equally between the five investments.

Putting things right

For the reasons given, I uphold Mr B's complaint, and I think SJP needs to put the matter right;

- The IHT liability – SJP should compare the actual IHT with what the IHT position would have been had application to invest £235,000 equally across the investments made on 21 January 2021.

I don't find that Foresight would have been invested into in time for it to benefit from IHT exemption, so SJP doesn't have to repay that sum.

In making its calculations, SJP should use the value of any of the investments at the date of Mrs B's death, rather than the amount invested.

Simple interest at a rate of 8%* should be added from the date the IHT was paid which I understand to be 22 March 2023 to the date of settlement.

- The investment performance – SJP should compare the total return that would have been received had the application to invest £235,000 equally across the five investments been made on 21 January 2021.

If any of the investments have been sold after Mrs B died, the comparison should run to the date of sale and 8% simple interest is payable thereafter if it shows a loss. And the amounts invested should be adjusted to the amount I have proposed into each – £47,000. If the investments made in October 2021 would have been worth more if they had been made in January 2021 compensation should be paid to the date of settlement.

- The amount invested into Triple Point should be reduced to £47,000 for any calculation purposes.

*If St James's Place Wealth Management Plc considers that it is required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mr B how much it has taken off. It should also give him a tax deduction certificate if requested, so Mr B, on behalf of the estate, can reclaim the tax from HM Revenue & Customs if appropriate.

SJP has previously offered £250 for the trouble and upset caused to the late Mrs B's executors but this service wouldn't award a distress and inconvenience payment to executors as they are bringing the complaint on behalf of the eligible complainant – Mrs B – who is deceased. So, we can't compensate an executor for any distress and inconvenience they may have suffered personally when representing the estate. So, it is for Mr B to decide whether to accept that offer.

My final decision

For the reasons give, I uphold Mr B's complaint about St James's Place Wealth Management Plc and the matter should be put right as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs B to accept or reject my decision before 4 October 2024.

Catherine Langley
Ombudsman