

The complaint

Mr and Mrs B complain St. James's Place Wealth Management ('SJP') didn't give them suitable investment advice, and didn't provide them with the services they had paid for.

What happened

Mr and Mrs B first met SJP in June 2009 attending three meetings across June and August 2009. The reason for these meetings was to review their existing investments and consider moving them into SJP's management.

Following the first of these meetings, SJP recommended Mr and Mrs B transfer their existing ISAs to its services and reinvest their money within those across a diversified spread of its fund offerings. And later in August 2009, it advised them to invest £180,000 with it diversified across a spread of funds which would be held within an Investment Bond.

In March 2010 a further investment was made following receipt of a pension lump sum following further advice from SJP for them to open separate general investment accounts ('GIA'). The further investment would be paid into these GIAs and used to fund future ISA contributions.

Later in 2023, dissatisfied with the performance of their investments, Mr and Mrs B encashed the Investment Bond incurring a tax liability. Their recollections were that they were told that investing in the Investment Bond would be tax free and so, weren't expecting to pay the additional tax they were being asked to pay on this bond.

This led them to complaint to SJP about the service they felt they had received over the years. In summary, their complaint was that:

- They were told they wouldn't pay tax on their Investment Bond, recalling that they were told they were tax-free in the same way ISAs are.
- They were paying SJP for its ongoing advice service but didn't feel they received the advice or related services they had paid for.
- They weren't given advice about their Inheritance Tax ('IHT') position.
- SJP didn't make use of their ISA allowances.
- Their attitude to risk hadn't been reviewed.
- Changes were made to their portfolio without explanation.

SJP considered their complaint and upheld it in part. In summary, it said:

- It had properly explained the tax treatment of the investment bond when it advised on them.
- ISA allowances were utilised.
- It had carried out the regular reviews Mr and Mrs B had paid for in most years, but recognised it hadn't provided those services in 2017 or 2021.

As it hadn't provided those reviews, SJP offered Mr and Mrs B a refund of those charges with interest totalling £638.40 and an additional payment of £150 – a total offer of £888.40. As Mr and Mrs B didn't think SJP fairly answered their complaint, they asked our service to consider their complaint further.

One of our Investigators looked into what happened but thought the offer SJP had already made was fair. In his view the advice was suitable, and information given about the investments reasonable. On fees, he thought SJP's offer was already compensating the reviews he hadn't seen had taken place.

Mr and Mrs B, through their representative, didn't agree. In summary they said:

- The reviews that took place couldn't be considered to be fair given they didn't include a risk assessment or check against existing investments.
- Mr and Mrs B didn't understand how SJP presented the tax treatment information for the Investment Bond, it was SJP's responsibility to clearly and fairly present that.
- SJP should've recommended the most suitable investment, which in their view was a GIA account to pay future ISA contributions from.

As an agreement wasn't reached, this complaint was 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.

Firstly, when this complaint was referred to our service we needed to first consider whether it had been made in time, and consequently whether our service had the power to consider it. We explained our position to both parties through one of our Investigators, however on review those findings didn't include the parts of the complaint relating to the payment for and provision of SJP's ongoing advice service. Following recent discussions with the parties it was agreed that we were no longer being asked to consider the parts of the complaint about the payment and provision of ongoing advice prior to 2017. For completeness, I have no concerns about any of the other aspects of this complaint being out of time, which SJP agreed to when our Investigator issued his jurisdiction findings on that matter.

Turning now to the matters before me.

Advice and tax treatment

When SJP advised Mr and Mrs B, it was obligated to ensure the advice it gave them was suitable against the rules in force at the time – COBS 9 prior to 2018. Those rules required that SJP take sufficient information from Mr and Mrs B to be able to advise them on a suitable recommendation to invest their assets. In doing so, each time SJP advised them it

was required to consider Mr and Mrs B's objectives, risk tolerances, circumstances as well as their knowledge and experience.

For advice given from 3 January 2018 onwards the relevant rules were those in COBS 9A, which for the giving of investment advice applied similar obligations to the earlier rules. For the avoidance of doubt, I've applied the relevant rules as in force at each event of advice and while I've considered all of the advice SJP gave Mr and Mrs B, I will only comment below on what I consider the parts key to Mr and Mrs B's concerns.

In summary SJP advised Mr and Mrs B to invest in the following new investments:

- June 2009 – Stocks and Shares ISAs, transferred from another provider, invested in a spread of investment funds on a 'medium' risk level by transferring their ISAs from their previous provider.
- August 2009 – Investment Bond – £180,000 to be invested across a spread of funds on a 'medium' risk level.
- March 2010 – Individual General Investment Accounts following maturity of a deposit, to be used to fund future ISA allowances.
- July 2011 — Further investment into the GIAs from proceeds from a pension.

Fundamentally Mr and Mrs B's complaint is that the recommendations made in August 2009 to invest in the Investment Bond should've instead been what was advised in July 2011, the GIAs to fund future ISA allowances. Their recollection is that they wanted to ensure all their assets were being invested in a manner which would be tax-free and instead the Investment Bond incurred them a tax liability, which in their view ought not to have taken place had SJP invested their money in a way which would 'feed' their ISAs.

SJP gave the advice it did for the Investment Bond nearly 16 years ago which is a significant passage of time in recalling what SJP told Mr and Mrs B about this bond, including why it recommended it and its tax treatment. I don't mean to diminish Mr and Mrs B's recollections, but I have to consider all the evidence before me on what that evidence persuades me to be most likely. And while their recollections are evidence on its own, which I've carefully considered, I have to weigh that against the evidence SJP has provided in this case. This evidence includes its 'fact-finds', which records the questions asked, the answers given and the adviser's notes. And the suitability letter, which records what SJP told Mr and Mrs B about the advice it gave.

I've not seen that the fact-find completed when advising the Investment Bond has been provided, but one from two months prior has and so is the suitability letter which evidences SJP's reasoning for the advice it gave. Those documents evidence the following key information was taken by SJP about Mr and Mrs B:

- Mr B was employed, although considering retirement in the near future, with an annual salary of £30,000. Mrs B was retired with an annual pension income of £4,200, and both were in good health.
- They had a joint monthly disposable income of £100 – with Mr B having a surplus and Mrs B a deficit.
- They had £5,000 emergency cash savings each and no liabilities.
- They had existing savings and investments of £544,000
- They had surplus assets and wanted to invest £180,000 of those for growth over the medium to long term.

- A medium level of risk was recommended.
- They had no specific purpose in mind for this money but wanted the potential to draw a fixed income from it in the future.
- They wanted to invest this money in a tax efficient manner.
- Their ISA allowance for that tax year had already been used.

SJP's suitability letter explains it advised the £180,000 be invested in the Investment Bond because it met their needs and objectives for tax efficient growth, with the option for a regular monthly fixed income in the future. The bond itself would be invested across a wide spread of assets through various funds aiming to match SJP's 'medium' risk level.

It's not clear from the evidence available how SJP came to assess Mr and Mrs B as being 'medium' risk investors, or what that defined as limited information has been provided. While the information is limited, it isn't unreasonable further evidence hasn't been provided by SJP given the passage of time since the advice was given. I've also considered from my experience of considering complaints about SJP's at this time, that 'medium' risk likely meant that Mr and Mrs B were willing to take some risk and that would expose them to a higher equity and overseas exposures than the lower levels SJP typically offered. While at times SJP appeared to replace some investments with higher risk alternatives, although I can't be sure given the factsheets haven't been provided, in my view the overall balance of the portfolio does appear to be balanced within Mr and Mrs B's risk tolerance. I say this because looking at the overall asset breakdowns that are available, the risk in my view is spread across assets of differing risk and those individual fund increases on balance are offset against lower risk assets, including Mr and Mrs B's large cash holdings.

In any event I've not seen that Mr and Mrs B were such persons given the experience they had and their objectives that the level of risk SJP invested them again would be unsuitable for them. I think it's likely they were comfortable taking that level of risk in order to achieve their investment objectives and were able to understand the risks involved in doing so given their prior experience and the information SJP gave them about the risks being taken.

A key concern of Mr and Mrs B's is the tax treatment of the Investment Bond and how that was explained to them. While most comment to date has been on the tax incurred by encashing the bond, I understand of specific concern to Mr and Mrs B is also the taxation of the underlying funds at source – which they didn't anticipate would be incurred given what they recall being told about the tax efficiency of the Investment Bond.

At the time Mr and Mrs B were advised to invest in the Investment Bond, SJP provided information to them about the taxation of it. The suitability letter under the 'Reasons for recommendations' heading says the following:

"The St. James's Place Income Distribution Bond is a non-income producing asset. Liability to Income Tax will only arise where a chargeable event occurs, i.e. a withdrawal of capital of more than 5% p.a. or upon total encashment of the bond through which a gain subsequently arises. If withdrawals were made above the rate of growth, capital values could be eroded. Income Tax is deemed to have been paid within the fund although for a higher rate taxpayer tax may be due at a rate based on the difference between 20% and the higher rate.

...

The taxation of all investments, is dependent on the individual circumstance of each investor, and may be subject to change in the future. The current taxation of your

Income Distribution Bond for you as basic rate taxpayers is explained in the appendix that is attached to this letter.”

The appendix referred to above, which I think is likely Mr and Mrs B would've been provided given it was a part of the letter addressed to them, explains this information in more detail. And in my view does so in a clear, fair and not misleading manner. In my view this evidences that Mr and Mrs B were told that tax is being paid at 20% on the underlying funds which isn't reclaimable. With any additional tax being incurred if a chargeable gain arises, giving the examples of withdrawals above the deferred 5% annual allowance and encashment.

Given the above, I'm not persuaded SJP gave Mr and Mrs B incorrect or misleading information about how it would be taxed. It makes references to the payment of tax at source in both the suitability letter itself addressed to Mr and Mrs B and in the appendix enclosed with it.

Investment Bonds are different to ISAs around taxation at source, which is due to different tax rules and structures applying to each of them. Those cause the assets held within ISAs to not be taxed at source, whereas the Investment Bond is.

It follows then I'm satisfied SJP reasonably considered the impact of this on the suitability of its recommendation and explained the taxation of the Investment Bond in a clear, fair and not misleading way. While I appreciate Mr and Mrs B's recollections around this, I'm not persuaded that SJP gave them incorrect information or advice about how the Investment Bond would be taxed.

I understand Mr and Mrs B feel SJP ought to have advised they invest in a GIA to use in future years to fund their ISAs at this time. But I'm not persuaded because that was an option doesn't mean it was unsuitable for SJP to recommend the Investment Bond. Based on the information available, the key difference at this time was Mr and Mrs B wanted the flexible option in the future for a fixed income and tax efficiency. While they could take income from the GIAs, that may not have been able to provide the same tax efficiency as the Investment Bond could and would take many years to bring that money into the ISA where it could benefit from the tax advantages of those. Whereas with the Investment Bond, they could defer any gains to future years allowing the potential to take the capital free of tax, outside of the taxation at source.

I note Mr B has challenged SJP's recollections of his salary in relation to their income needs at that time, but with the evidence available and time since these amounts were recorded, I've not seen I can agree. I say this because in the first fact-find, it's recorded that his salary was £30,000. This amount reduces over time, while it's unclear why and may have been due to changes in working hours as Mr B moved towards retirement. The later fact-finds showing this amended from £30,000 to £24,000 in 2010 and then £17,000 in 2011 persuades me this was a question asked regularly and SJP recorded the answers it was given, which it would be entitled to rely on. In any event, where the overall disposable income tended to be jointly between £100 to £500 per month and Mr B looking to retire in the near future, I can't fairly say income wasn't a reasonable need that SJP considered it ought to address through its advice – I think it was suitable for it to have done so.

Mr and Mrs B did later stop this income but that wasn't instructed until February 2021 when they signed a letter to request all withdrawals be stopped. This instruction was some 12 years after the bond was taken out and so I'm not persuaded the stop instruction indicates Mr and Mrs B didn't have an income need when SJP advised them to take out the Investment Bond. It follows then I'm satisfied SJP fairly considered there was a need, or desire, for income and reasonable tax efficiency which it met by recommending this bond.

When Mr and Mrs B did later take this 'ISA feeder' approach in 2010, their needs around income differed where that had been addressed with the Investment Bond. In SJP's view that meant setting up GIAs to use for future ISA contributions was to be the suitable course it recommended at that time. I've seen that this advice nor the timing of it was unsuitable given their needs and objectives when SJP advised them in 2010 to implement that strategy.

While I understand and appreciate Mr and Mrs B's concerns and recollections, I have to be fair to both parties when making my decision. And so it follows that on balance I'm satisfied SJP gave suitable advice to invest in the Investment Bond and provided Mr and Mrs B with clear, fair and not misleading information around the tax treatment in the course of its advice to them. I've also not seen any of the other advice SJP gave them in the course of its dealings with Mr and Mrs B was unsuitable.

Provision of ongoing advice service

Many of the investment products SJP advised Mr and Mrs B on were taken out prior to the implementation of the 'Retail Distribution Review' ('RDR') which came in at the beginning of 2013. Before these regulatory changes firms were typically paid through commission arrangements with product providers rather than fees coming directly through payments from consumers.

Following RDR those practices were stopped and the model SJP have generally used since is to charge a fee for the initial advice and separately to offer an optional ongoing advice service for a separate fee. Which in Mr and Mrs B's case appears to be 0.5% on the value of their post-RDR invested money when each charge is calculated. In return the arrangement was expected to be that the client would be entitled to receive a regular review of their investments in the form of advice, among some other benefits.

In my view SJP only started charging Mr and Mrs B ongoing advice charges following a fund switch in 2013, as well as any further investment made from them. And those charges likely only applied to those amounts. As the fund switch in effect is an encashment and a new investment, that caused SJP to apply its post-RDR charging structure, which as mentioned above includes its optional ongoing advice fee. I've not seen where Mr and Mrs B agreed to this service but given the passage of time it isn't unreasonable SJP hasn't been able to provide the completed agreement to that service. But on balance I'm satisfied it made Mr and Mrs B aware of it and they agreed to it. I say this because the regulatory 'key facts' document explaining the services SJP offered in use at the time includes information about the ongoing advice charges, which explains with reasonable clarity that service was optional and the costs involved, and importantly that it could be cancelled.

I haven't seen a copy in this case, but the key facts document does refer the reader to a welcome brochure. Copies of which when I have seen them fairly explain the optional nature, level of charges and the services received for them. This brochure is a standard document provided by SJP when onboarding clients and on balance then I think it's likely Mr and Mrs B would've been provided a copy of this document which contained reasonable explanation of its charging structure. Mr and Mrs B had also engaged in regular meetings with their adviser prior to the RDR changes, which in my view suggests such a service was useful to them. Given the above it follows that I think overall it's likely Mr and Mrs B agreed to take out SJP's ongoing advice service, and the charges and cancellation terms were set out to them in a clear, fair and not misleading manner.

I appreciate Mr and Mrs B strongly feel they didn't receive the level of service they were expecting. But having carefully reviewed the evidence available about the service received in return for the ongoing advice charges, outside of the two years SJP has already offered to

reimburse with interest, 2017 and 2021, I'm satisfied SJP provided a reasonable level of service in return for the fees paid. As SJP agree it didn't carry out reviews in 2017 and 2021, I won't consider those further other than to later comment on the fairness of its offer.

Given Mr and Mrs B are paying an annual fee for a service which includes a 'regular' review, I would expect as a minimum SJP arranged to meet with Mr and Mrs B at least annually. From the evidence available I can see SJP at times met more regularly with Mr and Mrs B than this, and more generally had an arrangement to meet twice a year.

In all other years – 2018, 2019, 2020, 2022 and 2023 after which Mr and Mrs B left SJP's management – the evidence available demonstrates it was likely a reasonable review took place. I'll explain why I've reached that conclusion.

Letters sent to Mr and Mrs B after each of the meetings that took place in those years, apart from 2022, evidence a common theme for the discussions that took place. Each of these say discussions around performance and the continued suitability of the investments had taken place, which included discussions around risk and circumstances. In some meetings additional recommendations and actions were arranged – including in 2018 an advised fund switch and an instruction in 2019 to stop the Investment Bond income payments, which as mentioned above the evidence shows Mr and Mrs B hadn't fully requested until February 2021. I'm satisfied these letters demonstrate reasonable reviews took place in the manner I would expect and included considerations around risk. Within the reports sent to Mr and Mrs B afterwards, I can't agree SJP didn't explain the changes it made to their portfolio as the reasons for those were contained in those letters, and were likely in my view discussed in the reviews. I say this because these documents persuade me that SJP did evaluate the aspects important to reviewing suitability and where required made recommendations where it felt they were suitable to make. Additionally, I've not seen any evidence that Mr and Mrs B challenged the summary of those letters and so it follows I'm satisfied on balance they are likely a fair reflection of the level of service provided.

For the review due in 2022, SJP has only been able to provide internal screenshots showing the appointment was made for an "Annual Review" and it being marked as 'Completed' and 'Advice Complete'. I would expect SJP to be able to provide more information about this meeting than it has. But considering that no evidence was provided of any reviews taking place in 2017 and 2021, the limited information for 2022 on its own doesn't lead me to conclude that no review took place in that year. I say this because SJP has provided calendar entries showing a review was scheduled for 2022 and internal screenshots recording the meeting completed with advice being given. Along with that I've taken into account the wider evidence of reviews being carried out in all but two years as an indicator that SJP mostly were able to carry out views and did so. And, that the review taking place in 2023 is evidence and being given and delivered in a similar manner to previous years – therefore not demonstrating a trend of missed reviews which could've if so suggested the 2022 didn't take place. It follows then on balance I'm satisfied it's likely SJP carried out a reasonable review in 2022.

Mr and Mrs B have said in these reviews SJP ought to have considered their IHT liability and include that in its advice. There isn't much evidence around this but the evidence that is available suggests some discussions occurred, but that Mr and Mrs B didn't at that time want to address IHT further. Each fact-find provided does note the assets within their estate and the 2019 fact-find and review follow up letter persuades me there had been conversations over the years about their IHT liability. Specifically, this says:

"We briefly discussed and addressed your inheritance tax position and we have done several times over the years, and we agreed it is fair to say that you plan to take no further action here feeling that enough has been done. We recognise that a liability

does exist but with rising allowances and your needs in the future you feel the position seen does not cause you concern. We can of course review this as part of our meetings.”

It follows then I’m satisfied it’s likely IHT was discussed over the years but wasn’t something Mr and Mrs B wanted to discuss further at those times. I’ve also not seen Mr and Mrs B asked SJP for advice on their IHT position or challenged what it said in the 2019 letter extracted above. Given the above I can’t fairly say SJP didn’t do enough around IHT when it provided its ongoing advice service to Mr and Mrs B, or in the general advice dealings it had with them.

I’ve also considered Mr and Mrs B’s concerns that their ISAs weren’t fully utilised. As mentioned above, in 2010 Mr and Mrs B were advised to open GIAs to be used to fund future ISA allowances. SJP has provided some record about transactions into their ISAs and having considered the detail of these, I’m satisfied it evidences payments being made into the ISAs from one source or the other on a regular basis, although not annually. While not annually given the amount invested in them and as the GIAs appeared to have been fully exhausted into the ISAs in more recent times, I’m satisfied overall that SJP’s records show it fairly managed the utilisation of both Mr and Mrs B’s ISAs.

Summary

While I understand Mr and Mrs B’s strength of feeling about what happened here and why they feel SJP treated them unfairly, I’ve not seen that SJP didn’t properly advise them, managed their investments or provide Mr and Mrs B with the services they were paying for – outside of the two review SJPs has fairly offered to reimburse with interest.

It follows then I’m satisfied the offer SJP has already made is fair as it refunds the fees paid for those two years with 8% simple interest – which is what I would expect it do in this situation. Although I will direct it to bring the offer up to date should there be further interest due on the compensation it had already offered.

I’ve also considered whether any additional compensation should be paid to Mr and Mrs B to reflect the impact on them of those missed reviews. Having done so, I’m satisfied the £150 SJP has already offered fairly reflects the impact those missed reviews had on them where no significant change took place in the following reviews to those.

My final decision

My final decision is that the offer St. James's Place Wealth Management Plc has already made is fair and reasonable in the circumstances.

So, my direction is that St. James's Place Wealth Management Plc pay Mr and Mrs B £888.40 as already offered, as well as any further interest that may be due within that amount by bringing the offer up to the date of my final decision.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mr and Mrs B to accept or reject my decision before 20 June 2025.

Ken Roberts

Ombudsman