

The complaint

Mr M complains that St. James's Place Wealth Management Plc ("SJP") has provided him with a poor service in relation to its advisory service.

What happened

Mr M received an advisory service from SJP, in which he held several investments – including a Retirement Account, ISA, Unit Trust, Investment Bond and Share Portfolio (managed by an independent stockbroker).

Mr M complained to SJP in April 2021. In summary, his concerns were as follows:

- He felt SJP's charges on his investments were not transparent and he felt he'd been misled about the Early Withdrawal Charges ("EWCs") that applied specifically to his Retirement Account.
- He'd received unsuitable advice to invest in a high-risk Enterprise Investment Scheme ("EIS") and had been encouraged to sell one of his properties to fund this investment.
- He'd received unsuitable advice to use the stockbrokers Premium Sell Down service to de-invest from his Share Portfolio.
- He felt SJP had blocked the transfer of his advisory service to his preferred partner at SJP and was unhappy with the election of a new partner.
- His request to change his investment mandate had been delayed by over 18 months having transferred to a new partner at SJP and he felt this had resulted in his investments underperforming.
- He'd also not received a financial review meeting in over a year despite being charged for this.
- He'd experienced delays in receiving charges and performance reports he'd requested and SJP failed to answer questions regarding the fees and performance of his investments.
- He felt he had no choice but to move his investments away from SJP and said it should be responsible for the costs for doing so.

SJP considered Mr M's complaint and partially upheld it. Regarding Mr M's concerns around charges and performance, SJP said it had obtained the historical charges information for all of his investments and provided a copy of this. It said Mr M had been provided with an illustration each time SJP had advised him on each of his investments and so it had made him aware of the charges from the outset. It acknowledged that whilst the illustrations indicated a potential return Mr M might receive, they clearly indicated that performance was not guaranteed, and it provided Mr M with investor return reports so he could clearly see the performance of his investments. It said Mr M had originally taken a low to medium risk approach which would have resulted in his investments being subject to less fluctuation than opting for a higher level of risk. It acknowledged that Mr M had since explained that he was in a position to increase his risk profile to medium and that it had made a recommendation to achieve this in an email dated 24 March 2021 but had not received an instruction to implement these changes. As such, SJP wasn't in a position to apply these changes.

On Mr M's concerns regarding the de-investment of his Share Portfolio, it said it had simply passed on information from his independent stockbroker and any concerns regarding that service would need to be addressed by his stockbroker.

On Mr M's concerns regarding an investment into an EIS, it said it had discussed in a review meeting in May 2019 the impact of Capital Gains Tax ("CGT") upon the disposal of his shares. The review letter stated that Mr M wasn't prepared to incur any CGT liability and so SJP proposed the options available to him which was to either utilise his CGT annual exemption each year (which would likely take 14 years to conclude) or to accept that smaller amounts of CGT would be payable if executed over a shorter period and if a more holistic approach was employed involving an EIS investment to defer the gain. SJP said this wasn't advice and instead had provided information only. But regardless, Mr M had explained that he was in a position to increase to medium-risk and that there are circumstances where an investment into an EIS is suitable for a medium-risk investor.

On Mr M's concerns regarding selling one of his properties to fund an EIS investment, it said it had documented the discussion around an EIS investment in the June 2019 review letter but could see no evidence of it encouraging Mr M to sell the property. Rather, it noted the review letter had mentioned the property in assessing Mr M's Inheritance Tax ("IHT") position.

On Mr M's concerns regarding the switch to a new SJP partner, SJP said that the partner Mr M intended to switch to was unable to take on the relationship and so SJP had provided a different partner. SJP confirmed that Mr M's new partner had arranged for a reduction in the initial charge for a further ISA contribution Mr M had made as an apology for any misunderstanding in the way the transfer had been handled.

Whilst SJP didn't think it had acted unfairly, it offered £750 as a gesture of goodwill.

Mr M didn't accept SJP's findings and so he referred his complaint to this service for an independent review.

One of our investigators considered Mr M's complaint but didn't uphold it. In summary, they said:

- The charges relating to Mr M's investments with SJP were adequately disclosed to him within the illustrations, suitability reports and investment details reports provided at the inception of his investments. And noted that the SJP partner had agreed to lower these on some of his investments.
- SJP's discussion around an EIS investment was noted in the June 2019 review letter and they were satisfied this was discussed only in relation to a partial de-investment from Mr M's Share Portfolio. As such, they were satisfied that the amount invested would form only a small part of Mr M's overall investment value and wouldn't have materially affected his overall risk allocation. They also noted that such advice wouldn't be deemed unsuitable as it considered Mr M's potential CGT liabilities.
- They had seen no evidence to support Mr M's point that SJP had proposed he sell his property and, although EIS was listed as a relevant option to discuss in relation to the property, there was no evidence that EIS was explored further and no recommendation to do so was made.
- They felt SJP's recommendation to de-invest Mr M's large existing Share Portfolio was suitable to bring his overall investment risk in line with a low to medium risk investor.
- They were satisfied there was no unreasonable delays in SJP providing Mr M with the requested information regarding charges and performance of his investments.

- They acknowledged that Mr M's investments had achieved a return close to the target return of 7% per year disclosed in the illustration provided at inception but was satisfied that SJP hadn't misled Mr M that returns were guaranteed.
- They acknowledged the transfer of his partner relationship could have been handled better but had seen no evidence to suggest the transfer to Mr M's preferred partner had been blocked. Regardless, they felt SJP's gesture of goodwill offer sufficiently compensated him for any concerns regarding this.
- They were satisfied SJP addressed Mr M's request to change his investment mandate, however, as Mr M didn't give an instruction to implement these changes, they didn't think SJP had acted unfairly by not implementing the changes.
- They were satisfied that SJP had disclosed the ongoing service Mr M could expect in the initial paperwork provided to him. SJP explained that it would provide annual reviews and they were satisfied that annual reviews took place each year following the inception of his investments.
- They didn't find it fair or reasonable to ask SJP to cover any costs associated with transferring out from SJP as that decision was Mr M's and they weren't persuaded this was due to any wrongdoing by SJP.

Mr M didn't accept the investigator's findings. In summary, he said our service had unfairly accepted that SJP was able to reject his request to transfer his relationship to his preferred partner. He also felt it was unfair for him to have dealt with the partner SJP had selected for him.

As Mr M didn't accept the findings, the complaint has been passed to me to decide.

What I've decided – and why

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

I hope Mr M doesn't take it as a discourtesy that I won't be responding to each submission or every point he has raised. The purpose of my decision isn't to do that, but rather to explain my findings on the key issues – which I will consider under each heading below.

SJP's charges

Mr M has raised concerns regarding the transparency of SJP's charges and specifically about the EWCs on his Retirement Account. It would appear from SJP's final response letter that it has alleviated some of Mr M's concerns around how the EWCs on his Retirement Account are calculated so I will only comment briefly on this. I'm also aware that Mr M has raised concerns around not receiving annual reviews and the associated Ongoing Advice Charges ("OACs"), but I will consider this under the Annual Reviews and OACs heading below.

Having reviewed the documentation provided to Mr M at the point of taking out his investments, I'm satisfied that the charges were adequately disclosed to him in the illustrations, suitability letters and in the investment details reports provided. I also note that SJP provided Mr M with key features documents which further clarified SJP's standard charging structure. I appreciate that some of the charges listed on the standard charges differed from those that had been agreed between Mr M and his SJP partner, however, I don't think this is an issue considering these had been reduced for Mr M. Furthermore, the special terms arranged and subsequent reduced charges were adequately disclosed to him in the Retirement Account illustration provided to him at the inception of his investment.

I understand that SJP provided an explanation as to how the EWCs on Mr M's Retirement Account are calculated in its final response, which Mr M seems to have accepted. However, for completeness, I will add that the EWCs are based on a percentage of Mr M's investment, starting at 3.15%, and reducing by 1% each year until reaching 0.15% in the fourth year, and falling away in year five. This was also explained in the Retirement Account key features document and was further highlighted in the suitability report sent to Mr M in December 2017. Therefore, I'm satisfied SJP disclosed how the EWCs would work on Mr M's Retirement Account and I see no failing on SJP's part.

EIS, property sale and de-investing from share portfolio

Mr M has raised concerns regarding SJP's suggestion that he invest in an EIS, which he considers to be unsuitable advice. Mr M also says SJP proposed selling one of his properties to fund the investment which he considers inappropriate.

Having reviewed the documentation provided by SJP, it would appear that this conversation happened during an annual review meeting in May 2019. Whilst I can't be certain exactly what was discussed during the meeting, the key evidence I've relied on is the suitability letter dated 3 June 2019 which was sent following that meeting.

It's noted in this letter that SJP had concerns around the high-risk nature of Mr M's Share Portfolio and said it was no longer appropriate for his broader financial planning goals. I understand Mr M's risk approach was low to medium which wasn't in line with holding the Share Portfolio containing large, concentrated holdings within individual stocks. I think it's reasonable for SJP to have considered this existing investment to be high-risk and so I think it was fair for it to discuss de-investing.

SJP explained in the letter that by de-investing, Mr M would incur significant CGT liabilities and it was noted that Mr M wasn't prepared to incur such a tax charge. As such, I've seen that SJP suggested several ways to avoid this. I acknowledge that one of the suggestions was to partially de-invest from the share portfolio and to invest these funds into an EIS. It said this would allow for him to defer some CGT. I appreciate Mr M's concerns around the high-risk nature of EISs, however, I don't think SJP's suggestion was unsuitable considering Mr M's concerns around his potential CGT liability. Furthermore, it's clear from the letter that an EIS investment was discussed solely in isolation to Mr M's Share Portfolio and so the amount suggested to invest was limited to the gains realised from the partial de-investment. I understand this amount would have formed only a small part of his overall investment value. As such I don't think it would have likely materially affected Mr M's overall risk allocation. My only concern around this is that Mr M would have essentially swapped one high-risk investment for another at a time where SJP was looking to lower Mr M's risk profile. However, I acknowledge that in doing so Mr M would benefit from deferring his CGT liability.

For the reasons explained above, I do not believe that the suggestion to invest in EIS was unsuitable, but regardless, I understand Mr M didn't proceed with SJP's advice and so I'm not persuaded that Mr M has suffered any loss as a result.

I note that SJP recommended Mr M de-invest from his Share Portfolio in and proposed he utilise his stockbroker's Premium Sell Down service to do so. I understand that Mr M's stockbroker was best placed to use its expertise to sell down his holdings over time, without realising any chargeable gains. Whilst I've explained above why I don't consider this to be unsuitable advice, I understand that any action was at Mr M's discretion and that his stockbroker required his approval prior to placing any sales.

Turning to Mr M's concerns around SJP's proposed sale of his property, the review letter notes that Mr M was concerned that the sale of the property would give rise to CGT

liabilities, and he discussed transferring the ownership of it to his wife. I note that SJP made Mr M aware that this wouldn't avoid his CGT liability. The only reference to selling the property I've seen in this letter was in the summary section, in which SJP suggested Mr M discuss with his wife how important it was to reduce his potential IHT liability and consider if he was prepared to sell or gift the property to reduce this.

I also note that the property was further discussed in a letter dated 17 May 2020, following a financial review meeting held in March 2020. SJP noted again Mr M's concerns around the tax liabilities associated with the property and explained an option would be to consider letting out the property on a short-term basis with the aim of qualifying for a furnished holiday let. SJP said this would allow him to pay a reduced rate of CGT when the property was eventually sold.

Given Mr M's concerns raised about incurring tax liabilities, I find that SJP's tax planning suggestions to be appropriate as the property was Mr M's single largest taxable asset. I've not seen any evidence to suggest that SJP was forcing Mr M in any way to sell the property and so I think its actions were fair and reasonable in the circumstances.

Transfer of SJP partners, costs associated with leaving SJP and mandate change delay

It's apparent from Mr M's submissions how strongly he feels he's been mistreated by SJP by it not agreeing to transfer his relationship with it to his preferred SJP partner. I want to assure Mr M that I've thought carefully about this but having done so, I don't think SJP has treated him unfairly. I'll explain why.

SJP says the decision on whether a partner has capacity to take on new clients depends on the individual partner's professional circumstances. SJP says it will look to provide a client with an adviser who can continue to provide ongoing advice, but that it cannot guarantee that this will be someone who the client has specifically requested.

SJP has provided a copy of its terms of business it sent Mr M in September 2017. This states:

"Your data may also be passed to other St. James's Place Partners in the interests of providing you with a comprehensive and continuous service."

I also note that the transfer of a partner relationship didn't require consent from Mr M and situation was outlined within SJP's privacy policy. It states:

"We will not sell or transfer your personal information to anyone unless we have a valid purpose as set out above and we will only disclose it to the following parties:

Other Partners within the St. James's Place Partnership where necessary to support other wealth management services or advice (e.g. your Partner leaves the St. James's Place Partnership, another Partner provides other/additional services)."

SJP says it endeavoured to find Mr M a new servicing partner to continue to meet his servicing needs and that it met that obligation when it arranged for his new partner to take on the relationship. SJP says Mr M's preferred partner would have had more limitations in their capacity to take on new clients by being a sole trader and that they had communicated that with Mr M when they said they'd had a change in circumstances during a call on 25 March 2022.

I acknowledge that SJP didn't initially explain the reason why Mr M's preferred partner couldn't take on the relationship and I agree that SJP could have been clearer much sooner after he requested the change. I also acknowledge that Mr M spoke to his preferred partner at SJP on several occasions and even had a review meeting with the partner in March 2022. So I can understand why SJP's decision to move the relationship would have been sudden and unforeseen for Mr M. However, I think SJP's offer of £750 fairly compensates him for any distress and inconvenience caused. I say this, as SJP did provide a full explanation as well as ensuring a new partner was selected quickly.

Ultimately, I'm satisfied that the decision to transfer Mr M's relationship to his new partner was a commercial decision it was able to make. I appreciate Mr M feels he should have had more say in this, but I note he is able to transfer away from SJP if he had any concerns with its decision. I understand Mr M believes SJP should cover any costs associated with doing so, however, I'm not persuaded it would be fair or reasonable to ask SJP to cover these costs.

I've also considered Mr M's concerns around the delay in his request to change his investment mandate having transferred to his new partner at SJP. I note this change was first proposed by SJP in a financial planning review held on 24 March 2021. SJP has provided our service with an email sent on the same day following the meeting explaining what was reviewed. In this email, Mr M's previous partner at SJP acknowledged that Mr M has expressed a willingness to accept a higher equity exposure and SJP proposed restructuring his overall portfolio to achieve an investment growth rate of 6%. The partner at SJP asked Mr M to let them know if he was happy to incorporate these changes. I've seen no evidence to show that Mr M responded to this email and note that a follow up email was sent in April 2021, which also wasn't responded to. I wouldn't expect SJP to action this investment mandate change without Mr M's consent. I appreciate Mr M's relationship with his previous SJP partner began to breakdown at this point, and he requested to transfer to another partner shortly after this. I also appreciate that Mr M was uncomfortable proceeding with the new partner selected by SJP. However, if Mr M wanted to proceed with the change, I'm satisfied that he would have needed to instruct SJP to action this request. So I don't think SJP unfairly delayed the investment mandate change and so it follows that SJP aren't responsible for any investment loss suffered as result.

Annual Reviews and OACs

The Financial Conduct Authority ("the FCA") outlines the rules relevant to ongoing payment of adviser charges in its Conduct of Business Sourcebook ("COBS"). COBS 6.1A.22 states:

"A firm must not use an adviser charge which is structured to be payable by the retail client over a period of time unless (1) or (2) applies:

(1) the adviser charge is in respect of an ongoing service for the provision of personal recommendations or related services and:

*(a) the firm has disclosed that service along with the adviser charge; and
(b) the retail client is provided with a right to cancel the ongoing service, which must be reasonable in all the circumstances, without penalty and without requiring the retail client to give any reason; or*

(2) the adviser charge relates to a retail investment product for which an instruction from the retail client for regular payments is in place and the firm has disclosed that no ongoing personal recommendations or service will be provided."

Therefore, SJP had to disclose to Mr M the details of the service, the associated charges and he could cancel the ongoing fee.

The disclosures of COBS 6.1A.22 noted above are also consistent with the FCA's guidance provided within the FCA factsheet for investment advisers, which states:

"Ongoing charges should only be levied where a consumer is paying for ongoing service, such as a performance review of their investments, or where the product is a regular payment one. If you are providing an ongoing service, you should clearly confirm the details of the ongoing service, any associated charges and how the client can cancel it. This can be written or orally disclosed.

You must ensure you have robust systems and controls in place to make sure your clients receive the ongoing service you have committed to."

I've considered what information SJP provided to Mr M about the ongoing advice service. I note that SJP's Retirement Account key features said:

"We will also provide you with ongoing advice to review your investment and ongoing contribution levels, if applicable, to ensure they remain appropriate, as set out in the brochure Welcome to St. James's Place provided by your Partner. The cost of this each year is 0.5% of your total investment and so this annual cost will increase if your investment grows.

[...]

For example, if your investments are worth £100,000 in a particular year, the cost for that year would be £500..."

SJP has also provided our service with a copy of its Welcome Brochure which was been provided to Mr M at the time of taking out his investments. This explained:

"We aim to deliver on our commitment to you by:

- Providing personal, face-to-face financial advice from an experienced Partner*
- Giving you the opportunity to review your financial affairs regularly*

[...]

Your Partner will also discuss your ongoing servicing requirements. Primarily this will involve holding regular face-to-face or telephone review meetings to discuss your investments and personal circumstances, thus ensuring that your decisions remain appropriate and continue to meet your objectives. Your Partner will do their best to satisfy your requirements and will agree with you at the outset what you can expect and when."

SJP has provided the initial illustrations for Mr M's investments and I'm satisfied these disclosed the OACs payable for each investment.

SJP has also provided a copy of the initial suitability letter dated 5 December 2017. This explained:

"Ongoing Advice

A key element of financial planning is conducting regular reviews of your financial arrangements to ensure the course of action taken today remains appropriate to your personal circumstances in the future as it is likely your objectives and circumstances will change over time.

As part of my ongoing service I will endeavour to identify and implement any financial planning opportunities which are relevant, appropriate, and available to you, where I believe doing so will give you the best chance of achieving your short and long term financial planning objectives.

[...]

Following our discussions and the information provided in the documents you told me you believed the St. James's Place Approach to Investment Management will benefit you because your pension monies will benefit from the multi fund management and external monitoring package that St. James's Place is able to offer you with their pension products together with the ongoing face to face advice and experience I am able to provide on a regular basis which you do not experience with your other providers.

[...]

By transferring the rest of your pensions to SJP, you will receive the service and ongoing advice that I am able to offer. I believe this will be of benefit to you in the future because you appreciate being able to sit down with someone, face to face on an ongoing basis and know exactly where your pension funds are invested, what your plan is worth, how it is performing, what new fund links are available, new developments afoot and so on.

I have advised you that by transferring to St. James's Place you will have access to a comprehensive range of wealth management advice and receive an extremely high standard of personal face to face service. Our meetings can be conducted on a regular basis with annual reviews so you can keep track of your funding without having to spend much time on this other than at our review meetings."

Taking into account all of the above, I'm satisfied SJP disclosed to Mr M that it would provide an annual review meeting as part of the ongoing services agreed, in return for OACs. I also note that it made Mr M aware of his right to cancel the ongoing service in SJP's terms of business:

"However, if you no longer wish to benefit from our ongoing advice, you may ask us to stop advising you and to stop reviewing your investment and the charge for ongoing advice will cease."

Having established what Mr M was told about the ongoing service he could expect to receive, I've considered what service he received.

From the evidence provided, I'm satisfied that annual reviews of Mr M's investments took place on:

- 26 September 2018 – as evidenced by the cashflow review meeting letter dated 28 September 2018.
- 14 May 2019 – as evidenced by the financial review meeting letter dated 3 June 2019.

- 23 March 2020 – as evidenced by the financial review meeting letter dated 17 May 2020.
- 24 March 2021 – as evidenced by the financial planning review email dated 24 March 2021.
- 21 March 2022 – as evidenced by Mr M's email dated 31 March 2022 in which he says his preferred partner at SJP produced a schedule of comprehensive noted after the meeting.

Regarding the March 2022 meeting, having considered the contact notes made available, I'm satisfied the handover from Mr M's preferred partner to his new partner, didn't prevent the actions agreed during the 2022 review meeting from being carried out before the end of the tax year. This is because I'm satisfied Mr M's new partner made efforts to contact him without delay to follow up on the actions agreed during this review.

So taking into account all of the above, I'm satisfied Mr M received annual reviews in line with the level of service agreed at inception of his investments.

Putting things right

SJP should, if it hasn't already, pay Mr M £750 for the distress and inconvenience caused in recognition for the way in which it dealt with the transfer of his partner relationship.

My final decision

My final decision is that I don't uphold this complaint as I find the offer St. James's Place Wealth Management Plc made in its final response letter fair and reasonable in all the circumstances.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 1 November 2024.

Ben Waites
Ombudsman