

The complaint

Mr G complains about the lack of an advisory service from St. James's Place Wealth Management Plc ("SJPWM") since 2018, regarding his ISA and drawdown plan.

What happened

In 2015 Mr G received advice from an SJPWM adviser, who I'll call Mr S, and opened an ISA with them. In 2017 he was further advised by Mr S to transfer his existing drawdown to them. In 2019 Mr S changed roles, and Mr G was given information about a new SJPWM adviser, who I'll call Ms T, but he wasn't given advice by her.

Towards the end of 2022 and the start of 2023, Mr G got in touch with a new SJPWM adviser, Mr A, and was able to meet him on 15 March 2023. He raised a complaint as he felt he hadn't received the level of service he's been paying for prior to that. Prior to 2018 he says Mr S would be in touch every six months and they'd meet regularly, but after that he had to chase Ms T for updates, which he found difficult due to a chronic illness. He added that he was concerned at a lack of increase in the value of the investments over the time where he's not had an adviser.

SJPWM upheld the complaint, as they'd found no reviews had taken place between May 2019 and March 2023. They offered a refund of ongoing advice charges ("OAC") totalling £1,787.04, plus interest of £318.81 at a rate of 8% simple. The refund offered was specifically for the periods of 1 January 2020 and 1 January 2022 for the drawdown plan and 1 March 2020 and 1 November 2022 for the ISA. They also offered £100 for their delays in dealing with the complaint and £250 for the adviser not responding to Mr G in January 2023.

Mr G remained unhappy and so brought the complaint to our service. He said he wanted compensation for the damages to the investments caused by a lack of advice and a return of all charges over the five years of a lack of service. An investigator at our service looked into the complaint and found the offer made by SJPWM was fair. He didn't think there was enough to suggest that changes would have been made to the investments, had advice been given.

Mr G disagreed – he pointed out that he disputes having a meeting in 2019, so feels the fees for that year should be refunded. He maintained that changes would have been made to protect the investments and asked for an ombudsman to review the complaint, so it was passed to me for a decision. I issued a provisional decision in which I said:

"My decision will focus on the issues at the heart of Mr G's complaint. Though I won't comment on every point he's raised, I can assure him that I've carefully read and considered his submissions. I've broken down Mr G's complaint into three areas, for clarity – the OACs themselves, the loss he feels has been caused to his investments due to the lack of advice, and the distress and inconvenience caused."

The OACs

It appears that all the meetings up to and including May 2019 were with Mr S. When making his complaint Mr G has been clear that its only about events from 2018 onwards, so I won't be considering whether the service provided before then was in line with the agreement.

I note Mr G has asked for a return of all charges applied to the products over the time he's not had an adviser. As well as the OAC, Mr G would have paid charges for the administration of the products and the management of the funds he's invested in. In general, I consider it fair to refund any charges where the service they go toward hasn't been provided. The products have still been in place and the various funds have been managed throughout – whereas the service being paid for by the OAC hasn't always been provided. So, when considering a refund of fees in Mr G's case, I'll just be considering the OAC, not the other fees applied.

The ISA and drawdown account have been advised on at separate times, so I have considered them separately.

The ISA

I've considered the timeline of events since Mr G became a customer of SJPWM and have evidence of the following meetings:

- September 2015 – Mr G opened his ISA and invested £15,240 in the 'Deferred Income Portfolio' which consisted of a range of funds that SJPWM said met his attitude to risk of 'medium'.*
- October 2016 – Mr G met the adviser regarding his ISA and he was advised to invest a further £10,000, also in the Deferred Income Portfolio.*
- November 2017 – I've got a fact find that was completed by Mr S which contains a 'Client Meeting Summary', which is a history of the meetings with Mr S and Mr G and his wife. In November 2017, Mr S noted "ISAs doing OK. [Mr G] may effect an ISA for £20k... No changes to pension income required... The capital and income levels of his current SJP plan are OK."*
- March 2018 – Mr G met the adviser regarding his ISA and he was advised to invest a further £20,000 again into the Deferred Income Portfolio.*
- January 2019 – In the 'Client Meeting Summary' history from the fact find that Mr S completed, there is a note that says, "Review meeting – no changes deemed necessary at this stage".*
- May 2019 – there was a meeting at this time, but it was solely about the drawdown plan, not the ISA.*
- March 2023 – Mr G met Mr A and had a review of both his products. No changes were made to his ISA.*

I've considered what was agreed at outset regarding the ongoing service that would be provided. From reading the 2015 suitability letter I can see it says:

"I strongly recommend that we conduct a review of your circumstances at regular intervals. I will write to you each year on the anniversary of your plan to provide you with an annual statement in respect of your investments so that we can arrange for a review."

In the suitability letter from October 2016 the adviser said:

“As part of my ongoing service I will regularly review your circumstance and this is normally carried out in a 12 month review and continue to assess your circumstances as and when they change”.

I don't have the illustration from 2015, which commonly set out the charges. However I do have the terms and conditions for the ISA which says:

“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”

From the above I'm satisfied the agreement Mr S made was to meet Mr G at least once a year, around the anniversary of the investment, in return for the OAC of 0.5% per year. It's clear from the timeline that their meetings were not strictly annual and more ad hoc – some years they met roughly once a year and some more frequently – but at the very least, it was once a year.

As the OAC was paid from the start of Mr G's investments, and the first review was around a year after the initial advice, I've concluded that the OAC pays for each review in advance of it happening. If instead they were taken after the fact, then that would mean Mr G was charged twice for the first instance of advice, which I'm not convinced was the intention.

The reviews ought to have been at least at 12-month intervals and usually close to the anniversary of the ISA. As the OAC is taken regularly through the deduction of the ongoing charge from the investments, I generally think it's fair to say that 12 months' worth of fees prior to a review are attributed to payment for that review. After the period of no advice, the ISA was reviewed again in March 2023. So I consider it reasonable for SJPWM to retain the OAC for the 12 months leading up to March 2023 – so from March 2022.

I can see that each product has its own fee attached – so each product ought to have been reviewed at these intervals. With these principles in mind, looking at the frequency of the reviews that took place, I'm not satisfied they all took place when they should have, and I note that the products were not both reviewed at every meeting.

The last advice to change the ISA that Mr S gave to Mr G appears to have been in March 2018. However, I'm conscious that I do have the meeting history notes set out in the fact find from May 2019, which refer to a meeting on 23 January 2019 – but no changes were required at that time.

It seems that between 2015 and 2019 there was a gradual shift regarding the ISA and the meetings moved from September to the beginning of the year, which isn't unusual. Based on what happened, as the last meeting was in January 2019, I consider it reasonable for any OACs taken after that point to be refunded for the ISA, up until March 2022.

I can see SJPWM's offer for the ISA was to refund the OACs from March, September and November of 2020 to 2022. The OAC is taken as part of the ongoing charges, so it's deducted on a more regular basis than three times a year. Those months could be the dates SJPWM received the amounts from the product and it's unclear if they are paid to SJPWM in arrears or advance.

Overall, I'm not persuaded that this is an accurate and therefore fair way to compensate Mr G, as his investments have been deprived of the growth of the charges since they were

deducted, not since the amounts were paid to SJPWM. So, I've concluded that SJPWM's offer isn't in line with the method I'd use, nor have they refunded all the OACs I consider they should. To put things right, SJPWM should refund the following OACs that were taken from the ISA:

- 2019 – Any taken after January. I'm unsure if the March payment offered by SJPWM represents the period of November 2018 to March 2019 or if it represents the period of March 2019 to September 2019. Either way, it needs to represent any fees taken after January 2019.
- 2020 and 2021 – all OACs
- 2022 – Any taken prior to March 2022.

The drawdown plan

I've considered the timeline of events and have evidence of the following meetings:

- June 2016 – Mr G met with the adviser and began discussing the move of his retirement funds.
- September 2016 – the adviser issued a suitability letter setting out the recommendation for the drawdown plan, to be invested in the Balanced Income Portfolio that SJPWM said met his attitude to risk of 'medium'.
- January 2017 – Mr G opened his drawdown plan.
- November 2017 – As mentioned above, following a meeting Mr S noted: "ISAs doing OK. [Mr G] may effect an ISA for £20k... No changes to pension income required... The capital and income levels of his current SJP plan are OK."
- January 2019 – In the 'Client Meeting Summary' from the fact find that Mr S completed, there is a note that says, "Review meeting – no changes deemed necessary at this stage".
- May 2019 – Mr G met Mr S regarding his drawdown plan and increased the amount of income taken.
- March 2023 – Mr G met Mr A and had a review of both his products. No changes were made to his ISA, but the adviser recommended a fund switch in his drawdown plan, from the Property fund to the Sustainable & Responsible Equity fund.

In the 2016 suitability letter for the drawdown plan I can see under the heading of 'Ongoing Advice' the adviser said:

"As part of my ongoing service I will write to you each year on the anniversary of your plan to provide you with an annual statement in respect of your funds so that we can arrange for a review."

I also don't have the illustration, but in the key features brochure for the drawdown, it says:

"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"

For broadly the same reasons as set out for the ISA, I've concluded that the agreement was to meet at least once a year and the advice service given in the meetings is paid for in advance with 12 months' worth of OACs. After the period of no advice, the drawdown plan was reviewed again in March 2023. So, I consider it reasonable for SJPWM to retain the OAC for the 12 months leading up to March 2023 – so from March 2022.

The drawdown plan started in January 2017, the next meeting was in November 2017, then it was discussed in January and May 2019. Though there was no meeting in 2018, there was one at the end of 2017 and start of 2019. It seems the one that ought to have been at the start of 2018 was carried out slightly early and I'm satisfied it would have been paid for with 12 months of fees up to the January 2018. So I consider that the agreement was broadly met up until May 2019. It follows that I've concluded that, as the last meeting was in May 2019, SJPWM should refund any OACs taken after that point from the drawdown, up until March 2022.

Based on the breakdown SJPWM have provided about their offer for the drawdown plan, it shows the OACs as having been paid to them from the plan at the start of each calendar year and totals £352.51 for 2020, £316.43 for 2021 and £331.57 for 2022. However the amounts are deducted from the drawdown itself at regular intervals throughout, by way of the annual management charge. I don't know if SJPWM received the amounts from the plans as a lump sum at the end of each year (so in arrears) or at the start of each year (in advance). If it's in arrears, then I consider the amounts of the refunds to be broadly fair, as this covers the years that they didn't provide advice from 2019 to 2022. However, I've set out below detail of how the interest payment should be calculated.

If instead they are paid to SJPWM in advance, then I'm not persuaded the offer is fair. Ensuring the correct period is covered is necessary for the date range calculations of interest payments, and because the amounts being refunded differ each year, depending on the performance of the plan.

Interest on the refunds for both the ISA and the drawdown plan

SJPWM have offered interest of 8% simple per year on the amounts deducted from both products. I consider this is not an unfair rate to calculate compensation for the amounts being deducted, as it compensates for lack of use of the amounts and is a simple method of calculating the loss. SJPWM should calculate and pay the interest from the date the OACs were deducted from Mr G's products to the date of settlement of the complaint.

The performance of the investments during the period no advice was given

Mr G has raised concerns about the impact on his products due to the lack of advice – I understand he feels they may have grown better with oversight and fund switches (for instance) may have been made. To decide on this point, I need to consider whether I have enough evidence to persuade me that it's more likely than not that changes would have been made, and what they would have been, had advice been given during that time. As the ISA and drawdown account have held different investments, I've considered them separately.

The ISA

I've started by considering the events that took place when Mr G met with Mr S and Mr A before and after the period of no advice. For the ISA no changes were made to the investment choices at any point. This isn't to say none would have been made, for instance because of the particulars of one of the chosen funds at the relevant times. However, what it does indicate to me is that Mr G was happy to remain invested in the portfolio selected at least up to 2019.

I can see that the adviser explained in the suitability letters prior to 2019 that the ISA was envisioned as a long-term investment. The idea of investing over a longer period is that it allows for any dips in the markets to be smoothed out. For instance, in 2020 the markets dipped as a result of the pandemic, and most advisory firms – including SJPWM – advised clients to remain invested, in the hope and expectation that the markets would recover. Poor performance isn't always a reason to change an investment – it's usually more important to focus on the reasons for that performance.

As far as I'm aware, there was nothing unusual that happened regarding the portfolio of funds held in the ISA during the period advice wasn't given, other than the impact on the markets of things like the pandemic and political events. So, there's no obvious point at which a change to the investments may have taken place.

Bearing those points in mind, I'm not convinced I have enough evidence to show that changes would have been made to Mr G's ISA between 2019 to 2023. His investment may have been impacted from the market movements over that period – but I consider it likely that SJPWM would have advised him to remain invested, had he received advice.

The drawdown plan

For the drawdown plan, no changes were made to the fund choices when Mr S was Mr G's adviser. However, in March 2023 Mr G did make a fund switch in this plan. The reason for this was recorded by the new adviser, Mr A, as:

"the property fund had consistently underperformed over recent months, losing value of around 20% since Aug / Sept of 2022. We decided that in an attempt to encourage growth and recovery of your overall portfolio, replacing the Property fund with the Sustainable & Responsible Equity Fund would be a suitable switch to make. This minor adjustment will better position your investment to take advantage of global equity markets whilst keeping your investment aligned to your risk profile."

Looking at the performance of the property fund online, I can see it had problems over a much longer period than this – in 2020 it had declined in value and was suspended. There was a sharp rise and corresponding fall between autumn of 2021 to summer of 2022. It was suspended in March 2020 until September 2020.

I can see that before it was suspended, the price hadn't moved much since mid-2018. Mr G last got advice in May 2019 and wasn't advised to leave the fund at that stage. Based on the reasoning given in 2023, I consider it likely that Mr G wasn't advised to sell it in 2019 because it hadn't yet seen the decreases in value that led Mr A to advise Mr G to sell the fund in 2023.

After 2019, Mr G ought to have received advice at some point between January and May 2020, based on the dates of the previous advice given and assuming the meetings would have been at least annually. If advice had been given in early 2020, for the same reasons as for 2019, I'm satisfied Mr G likely wouldn't have been advised to leave the fund. So, he would have been invested in it when it was suspended in March 2020. Mr G wouldn't have been able to sell this fund while it was suspended.

However, Mr G ought to have had a meeting in the first half of 2021, and from what I can see online, the price of the fund was around the same as when he sold it in March 2023. The fund had also experienced a period of the price dropping and it hadn't recovered to its pre-suspension level. This means that effectively, the conditions with the fund in 2021 were very similar those in 2023 and it's clear that Mr G did make this change as soon as he had

access to an adviser. As a result of these circumstances, I'm satisfied that I have enough evidence that Mr G likely would have sold that investment in 2021, had advice been given.

In 2023 Mr G was advised to reinvest the money into the Sustainable & Responsible Equity fund. This seems to have been the only fund considered in 2023, and I see no reason why it also wouldn't have been considered in 2021.

While Mr G would have received around the same amount from the sale of the Property fund in 2021 as he did in 2023, the Sustainable & Responsible Equity fund has changed value. As a result, it's possible that Mr G likely bought less units in the Sustainable fund in 2023 than he could have in 2021. I've considered how SJPWM should put things right with this in mind. I'm also conscious of the fact it's not possible for me to say exactly when this change would have happened in 2021. Having carefully considered this, to keep things simple, SJPWM should:

1. Identify the date (or date range) in 2021 on which the Property fund was trading at the price it was when it was sold in 2023.
2. They should then calculate the number of units Mr G could have bought in the Sustainable & Responsible Equity fund at the date with the proceeds (or, if a date range is being used, the average units across that date range) and compare it to the amount he actually bought in 2023.
3. If he could have bought more units in the Sustainable fund in 2021, SJPWM should add the difference in the number of units to Mr G's drawdown plan.
4. If he would have bought less units in 2021 than he did in 2023, then there is no redress to pay, as there would be no loss.

I'd be grateful if SJPWM could run this calculation and let me know the fund prices at the relevant dates in reply to my provisional decision. If there are any pension allowance or adverse tax consequences that would be impacted by the method of redress I've proposed at point 3, I'd ask that SJPWM and Mr G let me know in reply to this provisional decision, as I may have to alter the redress slightly.

I appreciate that Mr G feels strongly that SJPWM should be compensating both products for the lack of advice. I hope the above helps illustrate the situations in which I consider there is enough evidence to show the impact of the lack of advice, compared to those where I simply don't have enough evidence of what would have happened.

Distress and inconvenience caused

SJPWM have offered a total of £350 for the service issues Mr G has experienced. I'm not convinced this is a fair amount for the following reasons:

- When he first met the SJPWM adviser, Mr G was very keen for an ongoing service, as noted by Mr S in the fact find from 2015 which said: "Given the issues [Mr G] has had with his [existing] drawdown arrangement (lack of contact from the IFA, therefore no reviews, resulting in a significant drop in his fund value) he is keen to review his investments face to face on a regular basis to ensure their objectives continue to be met." So, it would have been particularly disappointing to Mr G that the service from SJPWM was poor in the times he didn't have access to an adviser.
- The lack of access has negatively impacted his drawdown plan, as set out above. From reading his submissions to our service I'm satisfied this has caused him to be concerned and distressed about the perceived losses.
- There were problems trying to re-establish the advisory service.

- *After the delays in establishing the service, there were further delays in responding to his complaint.*

Having considered the situation, I'm satisfied that an amount of £600 should be paid for the distress and inconvenience caused here."

Replies to my provisional decision

SJPWM said they accepted my findings on the refund of the OACs for both the ISA and drawdown plan. However, they didn't accept my findings in relation to the performance of the drawdown plan, and the switch I found ought to have taken place in 2021 rather than 2023. In summary they said:

- The strategy they apply has always been one of 'time in the market.' It is a medium to long term strategy with the aim of riding out the volatility that naturally occurs in financial markets. Trying to time markets and asset classes is more akin to speculating or short-term trading.
- The long-term investor is, in their opinion, better served in meeting their goals and aspirations by a well-diversified portfolio in line with their attitude to risk, which they say Mr G's portfolio was.
- They cannot be certain he would have made any changes to the portfolio if a review meeting had been held in 2021. They don't believe it is possible to conclude that the performance of the Property fund in 2021 meant that a switch would have definitely been advised at that time.
- Market conditions have been particularly challenging in recent years and the impact of this would have been a factor in recent valuations Mr G would have seen. However, they don't believe this is as a result of the lack of reviews.
- They would not expect their advisers to recommend that clients adjust their investment strategy in an attempt to time the peaks and troughs of the market – particularly during the period reviews were not held (2020 - 2023) which was a particularly challenging time for the market.

SJPWM added that if I was still minded to uphold this element of the complaint, they would be unable to comply with stage 3 of the redress I proposed. They said they are *"unable to add units to the plan due to how the charges are taken. Therefore, I would like to suggest that we instead offer to pay any loss identified directly to [Mr G] with interest of 8% simple per year."*

We asked Mr G whether he would be happy to be paid the redress directly, rather than having units added into his plan, and he confirmed he would be, and that he accepted the rest of the provisional decision.

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.

With regards to the OACs, as both parties have accepted my findings about this, there's no need for me to comment further, and I make my provisional findings final.

With regards to the performance of Mr G's drawdown plan, having considered SJPWM's comments, I've not been persuaded to change my findings, other than in relation to a slight change in the redress method. I'll explain why:

- While I agree with SJPWM that no one can be 'certain' of what would have happened if a meeting had taken place in 2021, that is not the test that I need to apply. My role is to make a finding as to what is more likely to have happened, on the balance of probabilities. So, I don't need to be 100% certain that something would have happened, or sure beyond reasonable doubt – I only need to be 51% sure.
- As set out in my provisional decision, it's not unreasonable that the general approach that SJPWM adopts is to stay in the market when there are periods of poor performance due to external issues, that are likely to be short-lived.
- There are clearly times when SJPWM's advisers do depart from that strategy – as the adviser did in 2023 – and I would consider it reasonable to do so on a case-by-case basis if it's suitable for the individual investor.
- In 2023 the adviser said that the switch was designed to encourage growth and recovery of Mr G's overall portfolio, following the Property fund's consistent underperformance over the previous six months. But SJPWM's comments in reply to the provisional decision appear to make no allowance for that situation – they appear to argue that no changes should ever take place due to poor performance of a fund.
- The performance of the fund prior to 2021 had taken its price to an even lower level than the position it had been in prior to the meeting in 2023. So, it would have had a bigger impact at that time on the value of Mr G's portfolio than it had later – not less.
- SJPWM haven't put forward any specific arguments about Mr G's portfolio or his circumstance to explain why they think no changes would have been made in 2021. So, they've provided no evidence to support their statement that the adviser wouldn't have changed the portfolio in 2021, despite the fact they did in 2023 – other than relying on their broad approach.
- I see no reason to depart from my findings that in the particular circumstances of this case, given the similarity in performance of the fund up to 2021 compared with 2023, it's likely the same advice likely would have been given in 2021 as was given in 2023.

As SJPWM has said they can't add units into Mr G's plan, they should calculate the amount payable by:

1. Identify the date (or date range) in 2021 on which the Property fund was trading at the price it was when it was sold in 2023.
2. Calculate the number of units Mr G could have bought in the Sustainable & Responsible Equity fund at that date with the proceeds (or, if a date range is being used, the average units across that date range) and compare it to the amount he actually bought in 2023.
3. If Mr G could have bought more units in the Sustainable fund in 2021, SJPWM should pay him the amount it would cost him to buy those additional units as of the date of settlement.
4. If Mr G could have bought less units in 2021 than he did in 2023, then there is no redress to pay, as there would be no loss.

SJPWM didn't provide any direct comments on the amount of £600 that I'd set out for the distress and inconvenience caused. As they disagreed with my decision on the performance of the drawdown plan, I find it likely they also disagree with my findings on this as it was, at least in part, for the concern caused by the performance of the drawdown plan. As my findings on the complaint – and in particular the drawdown plan – have not changed, I see no reason to depart from the amount of £600 that I'd previously set out.

Putting things right

To put things right, SJPWM should:

- Refund the OACs taken from the ISA between January 2019 and March 2022.
- Refund the OACs taken from the drawdown plan between May 2019 and March 2022.
- Simple interest at the rate of 8% per year should be added to each charge from the date it was deducted, to the date of settlement of this complaint.
- Calculate whether Mr G owns less units in the Sustainable & Responsible Equity fund due to investing in 2023 rather than 2021, as set out above. If he does, pay Mr G the amount it would cost Mr G to buy those additional units as of the date of settlement.
- Pay Mr G £600 for the distress and inconvenience caused.

My final decision

I uphold this complaint. To put things right St. James's Place Wealth Management Plc should pay Mr G the amount calculated as set out above. They should provide Mr G with details of their calculation in a clear format.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 30 December 2024.

Katie Haywood
Ombudsman