

The complaint

Mrs W and the estate of Mr W complain St. James's Place Wealth Management Plc ("SJP") acted wrongfully and gave unsuitable advice in connection with investment bonds and trusts established by Mr W as well as Mr and Mrs W's individual savings accounts ("ISAs") and the transfer of property owned by Mr and Mrs W and the administration of Mr W's estate.

Mrs W brings the complaint on her own behalf and on behalf of Mr W's estate, of which she is the residual beneficiary, as its executor. She is assisted and represented by her son.

Mrs W says SJP acted to her detriment and in Mr W's or other family members' interests, hid information from her and contributed to undermining her financial security.

Background

Mr W's relationship with SJP began in 2007. At that time he put money into an investment bond, recommended by SJP. He was the owner of the bond. He put more into the bond over time. In 2008 SJP advised him to put in around £100,000 more from existing investments. At that time it was recorded that the bond's lives assured were Mrs W and Mr and Mrs W's son.

In 2010 the bond was placed into a discretionary trust. Mr W was a trustee and appointed his son and daughter as trustees but removed his son as trustee in 2012. In 2010 Mr W also put money into a new bond that was put into trust. The bond and trusts were organised by SJP.

Mrs W is the residual beneficiary of Mr W's estate. She became a client of SJP in 2010. On its advice she moved her ISA to SJP.

In 2014 Mr and Mrs W transferred ownership of certain property to their daughter.

In 2019 Mrs W moved funds from an investment bond she held into her SJP ISA. She has since moved the ISA funds from SJP with the exception of a fund that is frozen.

My provisional decision set out more of the background and gave more details of Mrs W's concerns as they related to the products and transactions I've summarised above. I won't repeat all that in detail here, given that both parties have had sight of what I said.

These concerns included that SJP ought to have viewed acting for both Mr W and Mrs W, and the funding of the trusts, as a potential conflict of interest as this was done on Mr W's instructions using what Mrs W said were joint assets that became unavailable for her use, without Mrs W being informed or made aware of the implications.

These concerns also included that Mrs W was upset she was a life assured of the bond under trust, which she didn't know or agree to. And SJP hadn't given her - as wife and executor for Mr W - a copy of the trust deeds and accounts like it should have done.

The concerns also included that Mr and Mrs W's ISAs had been inappropriately invested from a risk point of view and that SJP was at fault in how it had assisted Mrs W in the administration of Mr W's estate and in the transfer of Mr and Mrs W's home. Also SJP hadn't

carried out regular reviews like it ought to have done.

SJP has offered redress to Mrs W to settle her complaint (and that of Mr W's estate). It has said Mrs W's ISA ought to have been more diversified according to its standards. It made an offer on that basis. My provisional decision said this was worth around £17000, but the most recently calculated figure for this in February 2024 was nearer to £19000. SJP also offered to refund advice fees Mrs W paid in 2020, 2022 and 2023 with 8% interest – on the basis that there wasn't evidence of financial reviews having happened in those periods. SJP also offered Mrs W £1000 for inconvenience or distress caused by these matters. SJP also offered Mrs W, for Mr W's estate, a refund of advice fees he paid for 2018 and 2020, plus interest, due to the reviews not happening, and £150 for inconvenience caused by that.

My provisional decision suggested that SJP should enhance and increase its offer. In particular I suggested it increase its offer by around £800 by refunding the initial charge made when Mrs W transferred funds to her SJP ISA from a bond she held elsewhere. I also suggested SJP take ownership of Mrs W's property fund holdings, in exchange for the cash values it has used in its loss calculation, if Mrs W preferred this, and buy the rest of her holding in that fund, which came from funds put into her ISA from her bond.

I noted the advice fee for Mrs W's ISA in 2021 was probably around £80 but I didn't think SJP needed to refund that because an advice letter from 2021 for Mrs W suggested to me that SJP had carried out some sort of review that year. So I thought SJP's offer for the refund of some of Mrs W's ongoing advice fees, was fair. I also saw nothing to suggest its offer of a refund of advice fees on Mr W's ISA wasn't fair either.

With regard Mrs W's claim for redress due to the ISAs being too risky, I didn't think Mr W's ISA was too risky for him – and I didn't think Mrs W had lost out by taking the risk SJP had advised her to take, because riskier assets had performed better over the period in question.

As regards other points raised, I noted that Mr W set up the trust and his estate inherited the right to complain in relation to that act. But the estate didn't inherit his rights as trustee of the trusts and Mrs W was never a trustee, so I didn't find SJP at fault for not providing her with trust documentation such as accounts, which relate to internal trust matters.

As regards the distribution of Mr and Mrs W's assets, including to trusts, I didn't see that this distribution was brought about by SJP or would've been affected by SJP doing anything differently. I noted that all transfers and transactions wouldn't have proceeded without the required authority. Where Mrs W needed to authorise a transaction, like the transfer of her bond funds into her SJP ISA, she had done so. Also I noted the transfers involved depriving both Mr and Mrs W of access to assets in the same way. So I didn't think it was right to view the transfers as having been made for Mr W's benefit at Mrs W's expense.

Also I didn't think SJP advised on the property transfer or was involved in helping Mrs W with her duties as executor, except in relation to the transfer of Mr W's ISA to Mrs W. I also didn't agree SJP involved other parties in matters in ways Mrs W didn't know of or agree to.

SJP replied to my provisional decision and indicated it was willing to enhance and increase its offer in the ways I had proposed.

Mrs W replied to my provisional decision saying she was broadly in agreement with the proposed redress. But she raised points related to that redress and to how it was to be calculated. These were:

- A November 2023 SJP calculation used the full value of Mrs W's ISA to calculate the redress. Later figures use only a fraction of its full value – being the part left frozen that

couldn't be moved from SJP. It appears Mrs W isn't receiving redress due on the funds she did move away in January 2024. Redress should be apportioned to those funds too – otherwise Mrs W is penalised for moving her funds after SJP agreed redress was due.

- SJP's offer to refund some advice fees on Mrs W's ISA doesn't include the fee for 2021 – on the basis there was a 2021 review. But the 2021 fee should be included because Mrs W has seen no evidence a review was completed and an advice letter sent to her. SJP admitted the advice letter for a purported 2021 telephone review was issued only to Mr W. Mrs W says she wasn't involved in any such telephone review. If she was sent a document related to this, she would like to see a copy of it.

In addition, Mrs W raised or reiterated a number of other points. She said, in brief summary:

- SJP couldn't be said to have offered full and appropriate financial advice for Mrs W's future financial security, while simultaneously carrying out Mr W's instruction to ensure she held no assets in her name. She says it is the very definition of conflict of interest. She signed documentation but she was never fully informed of her whole financial situation. So she was unaware of the consequences that would follow. Coupled with the fact that she did not receive reviews for 10 years, surely it cannot be considered sound financial planning.
- Mrs W strongly disagrees that SJP wasn't wrong to allow her to be used as a life assured on the bond (now in trust) without her knowledge or consent. She didn't know about this and the discovery was deeply upsetting and caused great offense. Mr W was the only life assured when the bond was created. Other lives assured were inserted after the contract was established. Also, the use of her son as life assured - to which she objects - lacks any insurance interest so the bond contract was legally void three years before it was transferred to the trust. These illegalities shouldn't be condoned.
- Mrs W's reason for wanting sight of trust documents was to fulfil her duties as executor for Mr W's estate – as HMRC for inheritance tax requires her to detail any transfers into trust made in the seven years before death. She says SJP must provide these details.
- Financial loss aside, Mrs W remains deeply concerned with the conduct of SJP and its adviser throughout this process. She would like to know which regulatory body can take up these concerns regarding professional conduct. The issue of conflict of interest hasn't been addressed. Mrs W's son was once a trustee, but he had no knowledge of the strategy and of how the trust was being funded. What Mrs W has discovered through this complaint has been painful to accept.

As the complaint hasn't been resolved informally between the parties, it 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.

Having done so, I've arrived at the same conclusions as in my provisional decision and for the same reasons. But I'll respond briefly here to the points Mrs W raised most recently.

Firstly, I remain of the view that SJP's offer of redress for financial loss on Mrs W's ISA is fair – and SJP has since agreed to offer Mrs W the cash figure used in its calculation for her frozen holdings (if Mrs W is willing to transfer ownership of these to SJP in return). This would stop her losing out from future price movements of the frozen holdings. With regard to

Mrs W's query about the values used in the calculation, withdrawals from the ISA or from SJP won't disadvantage Mrs W or reduce the redress due to her. The values used in the calculation reflect the applicable values at the relevant times.

Secondly SJP has agreed to refund the initial charge made on the funds transferred from her bond to her SJP ISA – and to offer her the cash value of the frozen funds attributable to that transfer (being the remainder of her frozen funds). I still think that is fair.

Thirdly I remain of the view that a review did take place in 2021, based on the notes that were made about this at the time. So I don't agree the advice fee for that year needs to be added to the refund of fees SJP has offered for Mrs W. I note what Mrs W has said about documents relating to the review not being sent to Mrs W and being sent to other relatives. My view remains that SJP's offer to Mrs W of £1000 for distress and inconvenience is adequate redress for errors such as this.

As regards the offer SJP has made to refund ongoing advice fees charged to Mr W and his ISA, I've not received anything from Mrs W to suggest the offer SJP made for that, including the £150 inconvenience payment, isn't fair.

As regards Mrs W's points about conflict of interest, my view remains that SJP wasn't wrong to act for both Mr and Mrs W and that how they distributed their assets wasn't down to SJP but to Mr and Mrs W. Also I remain of the view that transfers depriving both Mr and Mrs W of access to assets aren't transfers that can be fairly viewed as having been made for Mr W's benefit at Mrs W's expense – given that they both gave up their rights to the assets.

With regard to the use of Mrs W as a life assured on the bond, I don't see that SJP can be blamed for accepting Mr W's assurance that those to be lives assured had been consulted about this. It isn't right to say lives assured were altered after the contracts were established. Also there wasn't anything unusual in the types of lives assured selected and I don't agree this choice made the contracts invalid. In any case, the rights in relation to those contracts were gifted to trusts and so are held by the trustees rather than Mrs W or the estate of Mr W. I'm not persuaded Mrs W's use as a life assured, or the use of other family members, are grounds for suggesting that SJP increase the payment it has offered Mrs W for distress.

I understand that the simplest way - although I don't agree that it is the only way - for Mr W's estate to establish what gifts Mr W made to trusts might be to obtain details of these from the trusts. But I don't agree that this means Mrs W has a right to such details or that SJP should provide these if the trustees don't wish them to be provided. So while I understand the reasons for her request, I'm not persuaded that I ought to require SJP to provide to Mrs W or the estate of Mr W with trust accounts or other records that are internal to the trusts.

As regards Mrs W's comments about conduct issues, the extent to which I've found SJP's conduct fell short is reflected in the awards I have made. The industry regulator is the Financial Conduct Authority (FCA) so if Mrs W wishes to report concerns to the FCA she is free to do so. But I would caution that the FCA doesn't deal with individual complaints and is unlikely to give direct feedback to Mrs W in response to any concerns she reports there.

Returning to the present complaint, for the reasons I've given I uphold this complaint in part.

Putting things right

To put things right St. James's Place Wealth Management Plc should:

- a) Pay Mrs W the refunds of the ongoing advice charges, including simple interest to date at the rate of 8%, that SJP offered in respect of Mr W's and Mrs W's investments.

- b) Pay Mrs W the £150 SJP offered her for inconvenience arising from Mr W's refund.
- c) Pay Mrs W the redress SJP offered her for financial loss on her ISA, recalculated to bring the figures up to date.
- d) Pay Mrs W the £1000 SJP offered her for other inconvenience and distress caused by all these matters.
- e) Offer Mrs W the chance to receive as cash, if she wishes, the value SJP gives to any frozen fund within its ISA loss calculation in (c) above – (but if Mrs W takes up this offer, in return she must agree to allow SJP to take ownership of that fund element if it wishes).
- f) Pay Mrs W a refund of the 5% initial charge she paid on funds she invested in her ISA that were moved there from her existing bond – and pay interest on this at the rate of 8% simple from the date the funds were invested in the ISA until the date the redress is paid.
- g) Offer Mrs W the chance to receive as cash, if she wishes, the value SJP assesses for the rest of Mrs W's holding of any frozen fund (the part not already covered in (e) above). This is to allow her access to her money in the way she would have had if she hadn't transferred to SJP. If Mrs W takes up this offer, in return she must agree to allow SJP to take ownership of that fund element if it wishes to do so.

If Mrs W decides against opting for cash under (e) or (g) and chooses instead to keep one or both of those frozen holdings, St. James's Place Wealth Management Plc won't need to repeat or reopen its offer to allow her to exchange them for cash. Instead that holding or those holdings would continue as normal like all other holdings in that fund.

Before closing I'd like to thank the parties for the assistance they have given us during our investigation. I'm grateful to Mrs W's representative for his prompt and courteous responses throughout.

My final decision

For the reasons I've given and to the extent I've set out above, I uphold this complaint.

St. James's Place Wealth Management Plc must put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W and the estate of Mr W to accept or reject my decision before 28 January 2025.

Richard Sheridan
Ombudsman