DRN-5307905

The complaint

Mr Q complains about the fees Scottish Widows Schroder Personal Wealth Limited, trading as Schroders Personal Wealth ('SPW') has charged for ongoing advice. Mr Q says that the meetings and reviews that have taken place have not provided any value and he is also unhappy with the performance of the products which SPW originally recommended to him.

Mr Q says, when he asked to cancel the ongoing reviews, SPW explained that without that service he'd be liable for additional charges to make transactions. He says he wasn't notified of this when he first took advice and believes these charges to be unfair and that they mean the ongoing advice service was not really optional.

Mr Q's wife, Mrs A, has brought a separate complaint against SPW along similar lines. While this decision will only deal with Mr Q's complaint, some circumstances of Mrs A's complaint are relevant here as the advice and interactions between SPW, Mr Q and Mrs A took place at the same time. So, where necessary, I'll refer to some of the circumstances of Mrs A's complaint below.

What happened

The initial contact between Mr Q and SPW was in September 2021. Mr Q became aware of SPW through his bank.

Mr Q and Mrs A had several virtual meetings with SPW which we've been provided audio recordings of. The first was on 16 September 2021, solely with Mr Q. In this meeting, SPW gathered some information about his objectives as well as Mr Q and Mrs A's circumstances and Mr Q's attitude to risk.

Mr Q was 38, married to Mrs A (who was 39) with three children under the age of ten. Mr Q was employed, in a well-paying role. Mrs A wasn't working at the time. They owned their own home with an outstanding mortgage of approximately £330,000. Mr Q had accumulated shares in the company he worked for worth in excess of £50,000, he and Mrs A had savings of around £135,000 and owned some land overseas worth roughly £50,000.

Mr Q told SPW he'd been thinking about investing for some time. He'd been discussing investments with friends, including high risk ones such as crypto currency. He liked the idea of high returns, and hoped to build funds to support his children's education, but not so much high risk. Mr Q mentioned he hadn't invested in shares before and was thinking of potentially using some savings to purchase another property, with one potentially being used as a buy-to-let.

He was initially thinking of potentially investing £100,000, with half in a medium risk fund and half in an aggressive fund. He said, while losing this level of money would be upsetting, his and Mrs A's day to day life would not be impacted and he'd agreed, when discussing with friends, that he would only invest as much as he was willing to lose.

SPW discussed the six different risk profiles it used, and that it didn't advise very high-risk investments. The adviser discussed the potential returns for each risk profile, based on past performance and the potential strength of the market. But they noted that these returns were not guaranteed.

SPW assessed Mr Q's attitude to risk ('ATR') as medium – high risk, or a four on its scale with six being very high risk and one very low risk. It highlighted that there could be tax benefits to Mr Q if he increased his pension contributions and that it could be worthwhile establishing a personal pension for Mrs A. And it gave information about ISA's, the annual allowance for those and the related tax benefits.

A further meeting took place on 1 October 2021, at which Mrs A and Mr Q were both present.

Mr Q said, after the last conversation, he was going to increase contributions to his pension. And he and Mrs A were looking to use their ISA allowance.

SPW carried out an assessment of Mrs A's ATR and determined that this was very low risk. The adviser said to Mrs A that they'd previously talked to Mr Q about Mrs A potentially starting a pension. But very low risk investments wouldn't be a good fit for a pension. Mrs A understood that investing in a pension would entail some risk and was happy to accept this, preferring a low-risk approach.

Mr Q said he was now looking to invest £40,000 in total, rather than the higher figure previously discussed, utilising both his and Mrs A's ISA allowance. As he was thinking about investing a lower amount, he said he had also thought about potentially investing the entire amount on a high-risk basis, but a split between medium and higher risk was still what he'd probably seek. Again, he noted he was only investing an amount that he could afford to lose.

SPW provided a written recommendation to Mr Q and Mrs A, dated 7 October 2021. It recommended that both Mr Q and Mrs A open investment ISA's, with a provider I'll call Firm F. It said they should each invest £20,000, the maximum they could in that tax year. It recommended the investments be in SPW's Personal Discretionary Portfolio Service ('PDPS') with Mr Q's invested in the 'dynamic' portfolio and Mrs A's in the 'balanced'. It said that this met the objective of investing for growth at different levels of risk and Mrs A had said she was happy to take risk as she understood the investments were intended for the longer term and to benefit her children. It also recommended that Mrs A open a self-invested personal pension ('SIPP') with Firm F.

SPW said it also recommended that Mr Q and Mrs A take up its on-going advice review service. It said this met their needs of being able to monitor their investments on an ongoing basis and because their plans for the future were not set in stone, meeting annually and having the option for ad-hoc reviews would enable them to update their plans quickly. The suitability report included a section on charges which set out the initial one off advice fee of 1.75% and confirmed that the charge for ongoing advice was 0.65% per annum.

Firm F's terms and conditions also explained that, to use its platform, a customer had to appoint a financial adviser. And if they dismissed their financial adviser, their accounts would be treated as being operated on a non-advised basis, which offered a more limited service including that any transfers in would be invested in cash.

Mr Q and Mrs A had another virtual meeting with SPW on 15 October 2021. In this meeting, SPW talked through the recommendation report. It reiterated it had recommended a balanced investment for Mrs A's funds as for a longer term investment some risk was necessary. Mrs A said she understood and was comfortable with this and she also confirmed that she'd agreed Mr Q could use her ISA allowance to make investments.

There was then a discussion about the various fees with SPW recapping the 1.75% initial fee and the ongoing fees (for ongoing advice as well as platform and discretionary fund management fees). Mr Q asked, if they wanted to invest again in the ISA the following year what the fees would be and SPW explained that if paying for ongoing advice there wouldn't be another upfront fee, just the annual charges.

Mr Q asked again about the risk profiles and projections, which SPW reiterated were not guaranteed. It explained that the funds were managed by it under the PDPS and that it felt the 'dynamic' portfolio for Mr Q and 'balanced' profile for Mrs A were a good starting point based on their ATR's. Mr Q indicated he was still thinking about potentially investing some of the funds at a higher level of risk and he'd consider his decision before their next conversation.

A further virtual meeting took place on 16 November 2021. SPW outlined the products that it had recommended again and the ongoing charges. Mr Q said that they now wanted Mrs A's ISA to be invested in the 'progressive' portfolio. SPW pointed out this was a higher level of risk than the 'balanced' which was already more than her ATR had suggested. But Mrs A confirmed she was happy with this.

The meeting was concluded with the applications and declarations being completed verbally.

SPW sent Mr Q and Mrs A a letter, dated 16 November 2021, confirming that following the discussion, and because they'd liked the potential for better growth, Mrs A's ISA was now being invested on a 'progressive' basis.

Account statements indicate that the ISA's were set up and investments made on 1 December 2021.

SPW wrote to Mr Q and Mrs A on 13 April 2022, summarising a review meeting that had taken place the previous day. It said the purpose of the meeting, as directed by Mr Q and Mrs A, had been to discuss adding further funds to their investments – as they'd now entered a new tax year. SPW summarised that it believed the risk portfolios that the investments were held in remained suitable based on their objectives. And it recommended that Mrs A and Mr Q invest a further £20,000 each into their ISA's to benefit from investment growth and the tax advantages these products offered.

Mr Q and Mrs A accepted these recommendations and further investments were made on 19 April 2022.

I've seen an email exchange between Mr Q and SPW on 6 and 7 March 2023. The first email, from SPW thanked Mr Q for his time during a meeting that day, gave information about the ongoing advice charge that would be payable based on the current portfolio value and set out what the charge would be for future advice (1.75%) if the ongoing service was cancelled – which was the same as for new business. Mr Q said he didn't think he got much value from the call and ongoing advice and didn't believe it was actually optional. SPW acknowledged that the recent performance of the fund had been disappointing. Mr Q then replied saying he wasn't even aware he was being charged 0.65% for the ongoing meetings, was disappointed with the service and would conduct his own research and get back to SPW.

SPW wrote to Mr Q and Mrs A on 7 March 2023 saying it enclosed their ongoing advice report and summarised their recent discussion. It noted that Mr Q and Mrs A thought the recent performance of the investments had been disappointing and that they thought they could have gotten the same return from holding their funds in cash. SPW noted recent market turmoil but said that recovery had begun and it was important to view the investments as long term. It noted that Mr Q and Mrs A had also questioned the value for money the ongoing advice service gave.

SPW said it felt the investment risk profiles and portfolios being used still aligned with Mr Q and Mrs A's long term aims so didn't recommend any changes. The new tax year had not yet begun so, while further investments in the ISA's and SIPP were being considered, Mr Q and Mrs A were going to assess their options.

Mr Q and Mrs A then complained to SPW about the ongoing advice fees as they didn't think the service had added any value. They were also unhappy with the performance of their investments.

SPW didn't uphold their complaint. It first noted that the fees for ongoing advice were not linked to performance of the investments. It said that the ongoing advice service provided Mr Q and Mrs A with annual reviews but more than that it also gave direct and ongoing access to a financial adviser, access to insights, webinars and other resources to broaden financial knowledge, valuable expertise in respect of capital gains tax and tax planning, quarterly statements and access to a live investment portal. It noted that Mr Q and Mrs A had been provided with annual reviews as required and these had included further recommendations.

It said the adviser was correct, if Mr Q and Mrs A opted out of the ongoing advice service, that there would be fees payable for any further investments. It noted that Mr Q and Mrs A had said that this hadn't been made clear to them when they initially invested. But SPW said, as it had deemed ongoing advice was appropriate and they'd agreed to this service, it didn't think it had made an error by not outlining the alternative charging structure at the time.

Unhappy with SPW's response, Mr Q asked us to look into his complaint. He didn't think what SPW had said about what the ongoing service provided was accurate, arguing he and Mrs A would have always been entitled to some of the things listed such as regular statements. And they remained unhappy with the performance of their investments.

One of our Investigators considered Mr Q's complaint but didn't think it should be upheld. She was satisfied that SPW had provided the ongoing advice service that had been agreed and that the fees had been charged fairly. And she didn't think it was unreasonable that, as Mr Q had now opted out of that service, he'd have to pay other fees, in line with SPW's tariff of charges. She also didn't think there was any evidence that the funds had been mismanaged by SPW. And she thought that Mr Q's ISA had been suitable for him based on his and Mrs A's shared objectives.

Mr Q didn't accept the Investigator's findings and asked for an Ombudsman to review the matter. In summary he said, while the reviews had taken place these weren't as in depth as they should have been and SPW's charging structure meant this wasn't optional. He also remained unhappy with the performance of the investments and said that the advice as a whole wasn't suitable or independent because SPW had only recommended products with it.

As agreement could not be reached, 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've taken into account relevant law and regulations, regulator's rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time. And where the evidence is incomplete, inconclusive or contradictory, I reach my conclusions on the balance of probabilities – that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances.

As a regulated firm, SPW had many rules and principles that they needed to adhere to when providing advice to Mr Q. Many of these are found in the regulator's, the Financial Conduct Authority ('FCA'), handbook under the Principles for Businesses ('PRIN') and the Conduct of Business Sourcebook ('COBS').

In relation to ongoing advice charges, the following provides useful context for my assessment of SPW's actions here.

In 2014, the FCA produced guidance in the form of a factsheet title "*For Investment advisers - Setting out what we require from advisers on how they charge their clients*". The factsheet said:

"Ongoing adviser charges

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."

While the factsheet wasn't published until late 2014, it didn't mark a change to the rules firms like SPW were already expected to follow. Rather it re-enforced or reminded firms of the standards already in place when providing on-going advice services.

There are specific rules and guidance within COBS about ongoing advice charges. COBS 6.1A.22 says:

"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 or a pension transfer, pension conversion or pension opt-out or arrangement with an operator of an electronic system in relation to lending 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."*

And from 3 January 2018, arising from MiFID II, COBS 9A.3.9 explained that investment firms providing a periodic suitability assessment shall review, in order to enhance the service, the suitability of the recommendations given at least annually.

Ongoing advice charges

I'm satisfied that Mr Q was made aware of the cost of ongoing advice before he agreed to receive that service. The cost, 0.65% per annum, was discussed in several of the meetings between he and SPW. SPW's tariff of charges document, which set out this ongoing cost and the alternative cost of one-off advice, was also discussed and referred to during the virtual meeting and mentioned as one of the documents that had been shared. SPW's written recommendation also clearly disclosed the cost. And I'm also satisfied from the recordings I've heard that Mr Q understood the cost of this service as it was discussed several times and that he agreed to it.

SPW has provided a copy of its leaflet about its ongoing advice service which summarises what this offered. This included, amongst other things, direct ongoing access to a support team and financial adviser and annual reviews. And this mirrors the explanation given to Mr Q during the virtual meetings with the adviser.

The initial advice was provided to Mr Q in October and November 2021. SPW conducted annual reviews in April 2022, when it recommended further investment into his ISA, and in March 2023. And it sent written summaries of these reviews and the reasons for the recommendations. So, SPW did what it said it would by conducting a review at least annually. The ongoing service was cancelled prior to another review becoming due.

Mr Q has said that he didn't feel these reviews added any real value and is unhappy that SPW suggested part of the service was the provision of statements and online access to his account as he thinks this should always have been made available. I agree that statements of his account would always have needed to be provided and so the reference to this in the complaint response wasn't particularly helpful. But ultimately SPW has provided the agreed service and annual reviews, which has included giving additional recommendations. So, I can't reasonably say that it has done anything wrong or that it needs to refund the charges for the ongoing advice service which it provided to Mr Q.

Mr Q has argued that the service is not truly optional because, by cancelling it, he would have to pay a higher charge of 1.75% if he wanted to make further investments into his ISA. But I don't agree that the service is not optional.

SPW's tariff of charges, which were discussed and shared with Mr Q and Mrs A, outlined that the cost of one-off advice was 1.75% and the cost of ongoing advice was 0.65%. If a consumer took ongoing advice, there wouldn't be further one-off fees – essentially meaning a benefit of the ongoing service was a saving on these fees in the future. At the same time it follows that if they chose not to take ongoing advice, but then used SPW's services at a later date, this would be considered a new instance of advice, and a further one-off charge would be due. I don't agree that this means that taking ongoing advice was not optional. It is simply the case that SPW had two charging structures, and a consumer could choose which option they preferred.

Mr Q has argued that it wasn't made clear that he'd be subject to these further one-off fees if he cancelled the ongoing advice. But again the tariff of charges did set these alternatives out. I acknowledge that during the virtual meetings, the alternative of not taking ongoing advice wasn't discussed in detail. But I don't think that was unreasonable.

Mr Q and Mrs A indicated during the virtual meetings that the investments being made were part of their longer-term plan, that they'd want to monitor these and may well make changes to these moving forward – to the risk profile being used and potentially make further deposits for tax efficiency (which they did go on to do). As I've said Firm F's terms and conditions explained that, to use its platform, a customer had to appoint a financial adviser. And without an adviser, ongoing services would be limited, including that any transfers in would only be invested in cash. So, with that and Mr Q and Mrs A's stated aims in mind, I think it was reasonable for SPW to recommend that they take up the ongoing advice service, as this would save on future one off fees when they came to make changes. And so, as this was a suitable recommendation, I don't think SPW needed to discuss the alternative scenario in detail at that time, as it was less suitable as it was likely to be more costly.

When Mr Q sought to cancel the ongoing service, SPW set out what this would mean. The charges it said he'd incur were in line with its tariff of charges, which applied to all customers. So, overall, while I know this will come as a disappointment to Mr Q, I'm satisfied, in terms of the ongoing advice service and fees, SPW has not done anything wrong.

Suitability of the initial advice and ISA investment performance

Beyond the fees which I've addressed above, Mr Q's main complaint was about the performance of the investments SPW recommended.

A complaint purely about investment performance is not one I would typically uphold. SPW was clear in its discussions and recommendation to Mr Q and Mrs A that the potential growth rates referenced for the different risk portfolios were not guaranteed – which they said they understood. And while I understand that Mr Q is disappointed with the performance (particularly growth) of his investments since the advice, SPW was clear, and he indicated he understood, a long-term view was needed. The nature of investing means returns aren't guaranteed.

So, if Mr Q understood the risk he was taking but he thinks his investment should have produced a better return than it has, this alone is not grounds for me to uphold his complaint. But, if Mr Q did not understand the risks involved, or the investments weren't in line with the level of risk he was prepared to take, then this speaks to the overall suitability of the investments. I've considered this in respect of Mr Q's ISA.

SPW gathered information about Mr Q and Mrs A's joint circumstances and finances. It recorded that they didn't have any issues with debts, which the information I've seen all supports, that they had extensive savings and had capacity for some losses without impacting their day to day lives. The objective of investing to achieve capital growth, with the aim of building a fund for their children's education, was primarily discussed with Mr Q. He said he was interested in splitting the investments between medium and high-risk portfolios to achieve his aim. And the conversations tended to be framed as him being the one undertaking the majority of the investment. Overall, I'm satisfied the overall objective of capital growth was a joint one with Mrs A but the intention was to achieve this in line with Mr Q's ATR.

Utilising ISA allowances was discussed as a tax efficient way of achieving the investment objectives. Mr Q confirmed that he and Mrs A hadn't used their ISA allowances up to that point and I think the recommendation to invest in this way was suitable, particularly given the amounts that Mr Q and Mrs A were looking to invest.

SPW, being backed by a high street bank – of which Mr Q was a customer which is how he came into contact with SPW – offered restricted advice on a set list of products from a limited number of providers. This is something that the relevant bank confirms in its information about SPW, noting that SPW doesn't offer independent financial advice. On this basis SPW recommended an investment ISA with Firm F to Mr Q. And I haven't seen anything to suggest this recommendation was unsuitable.

SPW carried out an assessment of Mr Q's ATR, which it recorded as being medium to high. Which I think was reasonable based on the conversations SPW had with him, his financial circumstances, capacity for loss and knowledge level. And Mr Q told SPW that his intention was to split the total he and Mrs A were investing across their two ISAs between medium and high risk.

SPW recommended that Mr Q take out an ISA and invest in a 'dynamic' portfolio (which fell within its 'medium to high risk' designation – towards the upper end). This was in line with his attitude to risk and achieved his objective of splitting the investment risk levels across his and Mrs A's ISAs (as Mrs A's was invested on a 'progressive' portfolio basis – also within SPW's 'medium to high' risk designation but lower risk than 'dynamic'). So, the recommendation made in respect of his ISA appears to have been suitable based on Mr Q's attitude to risk. And I'm also satisfied that Mr Q was made aware of, and understood, the risks involved, as it was explained that investment returns were not guaranteed, and he demonstrated an understanding of this in the meetings with SPW.

Mr Q's ISA's investment portfolio had around 68% invested in equities, 5% in fixed interest and cash funds, 5% in property and the remainder in other and alternative investments. SPW has provided evidence that these levels were rebalanced to remain broadly the same from the point of advice. And the quarterly statements for the ISA indicate that the investment spread was across a range of funds and sectors.

Based on what I've seen I think the portfolio was reasonably well diversified and consistent with the 'dynamic' risk profile that was agreed. And so, I think it was suitable and in line with Mr Q's ATR and the stated objective of wanting to generate capital growth.

Again, I know Mr Q is disappointed with the performance of the investments. But while I know he does not agree, I think the performance was down to market conditions and not because SPW acted unfairly or unreasonably. As I've said, I'm satisfied the portfolio was in line with the agreed ATR and appears to have been managed in line with that. And I'm satisfied the investment portfolio was suitable. So, I don't think SPW has done anything wrong here and therefore I don't require it to take any action.

My final decision

For the reasons I've explained, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Q to accept or reject my decision before 22 July 2025.

Ben Stoker
Ombudsman