

The complaint

Mrs J complains that investment advice provided to her by St. James's Place Wealth Management Plc ("SJP") was unnecessary and unsuitable. Further, SJP then failed to provide the annual reviews for which it had deducted ongoing advice charges (OAC).

She's represented in bring her complaint by a claims management company (CMC). She was advised alongside her husband, who's brought a similar complaint, which has been dealt with separately.

What happened

Around September 2014, Mrs J received advice to transfer her existing stocks and shares ISA from another provider to SJP.

As part of the advice process SJP recorded that Mrs J was in her 50s, working full-time with a mortgage and some other unsecured debt, some of which she planned to repay. She also owned some land that was up for sale. Her existing ISA that she'd held since 2009 had a balance of around £10,600 and it was noted that she was unhappy with the service she was receiving from her existing provider. She wanted to ensure that her money was managed in line with her attitude to risk (ATR), which she felt couldn't be done without an adviser, which her existing provider no longer offered.

SJP recommended she transfer the balance of her ISA to SJP and redirect her ongoing monthly regular contributions of £200. It was confirmed she was a medium risk investor with an objective of capital growth over the medium to long term. The lump sum would be invested in a 'balanced' portfolio of 10 funds consistent with her medium ATR. It was agreed the monthly contributions would be invested in the slightly higher risk 'Managed' portfolio. She was provided with a comparison of services and charges between SJP and her existing provider and it was explained that the investment would be reviewed regularly, at an ongoing cost of 0.5% taken monthly.

Shortly after, in January 2015, SJP recommended Mrs J increase her monthly contributions to £500, invested in the same way as the earlier recommendation. The monthly contributions ceased a few years later and the ISA was then fully surrendered in June 2019.

A complaint, as set out above, was made to SJP by Mrs J's CMC in May 2024 and referred to this service in August 2024 when no response was forthcoming.

An investigator considered the merits of the complaint and in respect of the suitability of the advice, said, in brief -

- Although the costs associated with the SJP ISA exceeded those of the existing provider, that didn't necessarily make the recommendation to transfer unsuitable.
- Mrs J had indicated a desire to transfer as her existing provider no longer offered the advice service she required. She wanted to ensure her investment remained consistent with her attitude to risk.
- Her existing ISA had been invested at a higher level of risk than the medium level agreed with SJP, which appeared to be suitable for her circumstances and objectives

- at the time of the advice.
- SJP couldn't recommend switching funds with the existing provider so had to recommend a transfer to be able to monitor and choose funds in line with Mrs J's attitude to risk. The additional cost of the SJP ISA of 0.77% per annum seemed reasonable for this type of service when considered against what a financial adviser might charge when looking at the whole marketplace.
- Although the investigator would usually have considered the performance of the ceding and recommended plans, in this case it wasn't relevant as the existing ISA had been higher risk, so not consistent with Mrs J's medium ATR.
- In respect of increasing the contributions to £500 per month, at the time Mrs J had been in the process of selling land worth around £105,000, which would've generated capital for her. She also had sufficient disposable income, after repaying other unsecured debt. She was also able to access the ISA to repay debt and could've stopped the contributions at any time, so overall the recommendation appeared both suitable and affordable.

In respect of the OAC and failure to provide annual reviews, the investigator noted that no evidence had been provided to show that they had been carried out. So, he felt this part of the complaint should be upheld. He recommended that SJP calculate the notional value of the OAC deducted from Mrs J's investment from 2018 to the date of surrender (the period which was agreed fell within our jurisdiction to consider), adjusted by the level of investment return achieved by the actual funds Mrs J had invested in, from the date the fees were paid to the date of surrender, with interest at 8% simple added to the loss amount from the date of surrender to the date of settlement.

The investigator also recommended that SJP should pay Mrs J compensation of £75 for the distress and inconvenience that not receiving ongoing reviews would've caused her.

SJP accepted the investigator's view and agreed to pay the proposed compensation.

Mrs J's CMC didn't accept, saying –

- The investigator had concluded that the additional cost of the new ISA had been justified by Mrs J's need for ongoing advice, but that advice had never been provided.
- The principles and underlying rules of Financial Conduct Authority's guidance regarding the churning of pensions should be considered here, because of the similar circumstances.
- The adviser should've referred Mrs J to an independent adviser if the costs of providing SJP's limited service exceeded the costs of her existing product.
- SJP had failed to demonstrate how a medium ATR had been determined, and it didn't agree that the existing ISA had been invested at a higher level of risk.
- Mrs J had stopped the increased regular contributions then surrendered the ISA entirely in 2019, indicating that the recommendations had been unaffordable.
- A higher figure of £300 should be awarded to reflect the distress and inconvenience caused to Mrs J.

The investigator wasn't persuaded to change his opinion. He said, in brief -

- He maintained that although SJP's charges were higher than Mrs J's existing provider, that didn't necessarily make the advice unsuitable. Mrs J had a need for the advice as her existing funds hadn't been in line with her attitude to risk and she'd also expressed a preference for face-to-face advice.
- Regarding affordability, Mrs J had successfully paid off debts and the invested

money was spare income, which supports the investment having been affordable. It was also accessible should access have been required in an emergency.

- The fact that it appeared that annual reviews weren't subsequently conducted was a separate issue in respect of which the complaint had been upheld. It didn't mean that Mrs J hadn't had a need for ongoing advice at the time of the advice.
- The additional cost of 0.77%, and slightly higher rate for the regular contributions, would've been reasonable when considering the market rates for independent advice. As a tied adviser the SJP adviser couldn't recommend a whole of market product but nevertheless had a suitable product available.

As Mrs J's CMC remained in disagreement with the investigator's opinion, the matter was referred to me to review.

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 come to the same conclusions as the investigator and for broadly the same reasons. In short, I'm satisfied the advice given to Mrs J to transfer her ISA was suitable. And further, a refund, plus investment return, of the OAC taken for annual reviews missed from 2018 onwards is fair compensation, plus £75 for the distress and inconvenience caused.

Turning first to the suitability of the advice, there are two key issues to consider in that respect – firstly, was the new investment consistent with Mrs J's circumstances, needs and objectives and secondly, was it reasonable to recommend the transfer of the ISA to SJP, incurring additional costs to do so.

In respect of the former, it was documented that Mrs J's attitude to risk and capacity for loss were discussed in the context of SJP's document "*A guide to understanding the balance between risk and reward including the St. James's Place portfolios and funds*", which offered a clear explanation of the different types of assets and risks. Evidently, Mrs J had experience of investing via the existing ISA, which as the investigator noted was at quite a high level of risk, with most of the funds sitting at the higher end of the spectrum.

While there was no particular process documented – for example a completed questionnaire – that demonstrated how Mrs J's ATR was determined, I don't think a 'medium' attitude appears out of step with her circumstances and experience at the time. And I note that a slightly higher 'upper-medium' level of risk was agreed for the regular contributions, based on the potential impact of the higher risk being smoothed by pound cost averaging. This suggests to me that it likely a meaningful discussion and consideration of risk took place, as was documented in the suitability report.

In respect of affordability and the relatively limited time for which the ISA was held and the higher regular contributions maintained, at the time of the advice it was noted that Mrs J had no plans to access the funds until she retired, which was estimated at being in around nine years. Clearly plans changed and it appears that Mrs J and her husband may have decided to embark on a move abroad sooner than initially planned. But in any event the notes in the suitability report suggest there was discussion around holding the ISA for the medium to long term, and I can't see there was anything that should've alerted the adviser to the possibility of early withdrawal.

Although the contributions were increased quite substantially early on following the transfer, Mrs J's financial circumstances appear to have been evolving, with her having recently paid

off debt using funds previously held in the ISA and she was in the process of selling land, which was likely to generate around £100,000. The contributions were flexible and could be adjusted or stopped at any time and the funds in the ISA remained accessible. So, I don't think the actions taken over the five years following the initial advice indicate an issue at the outset with affordability.

In respect of the transfer of the ISA to SJP and the increased costs involved, a clear comparison was presented to Mrs J showing the costs and the additional growth that would need to be achieved by the SJP portfolio, which was in part addressed by a reduction made to the initial advice charge. The suitability report noted *"After a discussion we agreed that the immediate costs of replacement, as set out below, are reasonable in the context of the reasons for wishing to consider replacing the current investment that you have expressed."*

I note what the CMC has said about SJP's limited offering and that in the circumstances a referral should've been made to an independent financial adviser. But SJP was able to make what I'm satisfied was a suitable recommendation to Mrs J, which addressed her issues with her current provider and was consistent with her objectives, attitude to risk and affordability. I don't think the fact that SJP's offering came at a slightly higher cost than her existing provision, meant that it was by default unsuitable for her.

Of course, in this specific case it is unfortunate that one of the 'selling points' of the recommendation was the provision of an ongoing advice service that Mrs J required, which it appears SJP then failed to provide. But I don't think the subsequent failure to provide part of the service indicates that the initial advice was unsuitable or that it wasn't required in the first place.

In respect of the OAC, it doesn't appear to be in dispute that there was no ongoing service provided, so I agree it's fair and reasonable that Mrs J been reimbursed in line with the investigator's recommendation.

Lastly, in respect of an award for any distress and inconvenience caused, while I note the CMC's comments reading SJP's response to the complaint, I've not seen that Mrs J has been impacted by the matter to a degree such that the sum of £75 recommended by the investigator should be increased.

Putting things right

SJP must refund the OAC paid by Mrs J in respect of the missed reviews from 2018 to the date of surrender of the ISA in June 2019.

The value of the ISA at that point would've been higher by an amount equivalent to those charges and any investment returns they would've gone on to benefit from. So SJP should pay the difference between what the plan was worth at surrender and what it would've been worth had the OAC not been deducted.

SJP should take account of any withdrawals or additions to the investment when carrying out these calculations to ensure the values it's using reflect the actual growth the charges would've achieved, had they not been deducted. I consider that each advice meeting is paid for by the annual charges that are paid prior to that meeting, so SJP should keep that principle in mind when deciding on the start date for any growth payment.

- Calculate the notional value of the OAC deducted from Mrs J's investments from 2018 to the date of surrender adjusted by the investment returns achieved by the actual funds Mrs J was invested in from the date the fees were paid to the date of surrender.

- Interest should then be added to the loss amount from the date of surrender to the date of settlement at a rate of 8% simple.
- The amount should be paid directly to Mrs J.
- There should be no allowance for tax on the loss calculation, as Mrs J was invested into an ISA and the gains on this would have been tax-free, however income tax may be payable on any interest paid. If SJP considers that it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs J how much it's taken off. It should also give Mrs J a tax deduction certificate in respect of interest if she asks for one, so she can reclaim the tax on interest from HM Revenue & Customs if appropriate.

SJP must also pay Mrs J £75 for the distress and inconvenience caused.

My final decision

For the reasons given, my final decision is that I uphold the complaint and direct St. James's Place Wealth Management Plc to pay compensation to Mrs J as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 16 October 2025.

James Harris
Ombudsman