

The complaint

Mrs G, through her representative complains that St. James's Place Wealth Management Plc ('SJP') pressured her into transferring her existing investments from other providers to SJP and investing further money in 2022, when she did not have the ability to fully understand and consent to the decisions being asked of her. She also questions the annual review charges taken since then and whether she benefited from the annual reviews given her circumstances at the time. Mrs G has asked for the transfer of the investments to be reversed and to receive a refund of the fees paid.

What happened

The following is the background and key events leading up to this complaint.

In July 2022, Mrs G met with SJP to discuss her investments. SJP completed a fact-find document to record and update Mrs G's personal details, circumstances, objectives and attitude to risk. The following are Mrs G's key personal details recorded here:

- Mrs G was aged 77, widowed and while recovering from a recent operation, she was in good health. It was noted there was no suggestion she was vulnerable.
- She was in receipt of pension income, including her state pension, which was sufficient to meet her monthly expenditure. She was a basic rate taxpayer.
- She had no liabilities.
- She held an existing SJP investment bond valued at around £62,000, cash assets totalling around £305,000, other investments totalling around £68,000 and she owned her own home.
- Mrs G's objective was for capital growth and her attitude to risk was deemed to remain 'Medium'.

The purpose of the meeting was also recorded in this document. It was deemed to be a presentation meeting. The notes say that Mrs G was a client of SJP for many years (I understand the relationship began when Mrs G inherited the investment bond) and that during her annual review meeting in May 2022, they'd discussed consolidating her other investments to make management of them easier. And following analysis of the other providers' information, it was decided to now go ahead with the consolidation and transfer some holdings to SJP. A summary of the recommendation was noted here. It said that four of Mrs G's existing equity Individual Savings Accounts (ISA) would be transferred to a new SJP ISA and her unit trust fund would be transferred to a new unit trust feeder account. In addition, £8,000 would be added from Mrs G's cash savings to the feeder account, to enable her ISA allowance to be fully utilised the following year – Mrs G had already used her full cash ISA allowance for the current year.

The note recorded the reasons for the transfer, which included that Mrs G was keen to lean on the experience and support provided by SJP and that other than one provider, advice wasn't available. It said the key objective was to consolidate and to provide for easier administration of Mrs G's equity-based investments. In terms of fund choice, the note said that the recommendation was to invest in the Managed Funds Portfolio as per Mrs G's existing SJP investment bond.

On 18 August 2022, SJP issued a suitability letter to Mrs G documenting their understanding of her current position, some key details about her existing investments and expanding on the recommendation recorded in the notes section of the fact-find. It also referred to a number of documents given to Mrs G during the meeting including Key Investor Information Documents (KIIDs) and a Service and Costs Disclosure document setting out the cost of the advice. The letter referred to SJP's ongoing advice service, which confirmed that this would continue and that it was agreed a face-to-face review meeting would happen at least annually. Supporting documentation, including the ISA illustrations show this ongoing advice charge was 0.5% a year.

The recommendation section of the letter confirmed the advice to transfer Mrs G's four existing ISAs to a new SJP ISA totalling around £22,300. And to encash her unit trust share account and re-invest the proceeds along with £8,000 of new money into a SJP unit trust feeder account totalling around £20,100. The letter confirmed Mrs G's 'Medium' attitude to risk, concluded that her capacity for loss was good given the level of cash deposits held and that the Managed Funds Portfolio was the best match for the investments.

In relation to costs and charges, the letter said that two of Mrs G's existing ISAs from the one provider would incur an exit penalty of £120 each upon transfer, there would be an initial charge of 5% applied to the new ISA and unit trust, and the annual management charges would be higher requiring Mrs G's new plans to outperform her existing ones by 0.18% a year combined to match the benefits from her existing plans – equivalent to £62.95 over the first 12 months.

The same day, Mrs G signed and dated the relevant ISA transfer forms to enable the transfers to take place, which they duly did.

From a screenshot of a file note dated 3 November 2023¹, SJP recorded that an annual review meeting was held following some confusion that Mrs G had about her cash and ISAs and whether SJP was taking any regular contributions. The meeting was rescheduled to a telephone review because the adviser could not drive due to an accident.

A write up of that annual review meeting was dated 3 November 2023. Under various headings, updated information about Mrs G's circumstances, her goals and objectives, the suitability of her existing investments, and a reassessment of her attitude to risk was recorded. Of particular note, the adviser recorded that: 'Reassured her we only manage her investments and talked at length about this – it is little worrying [Mrs G] has always had multiple cash accounts and well aware of where they are and what is what but from calls to the office and today whilst she seemed her normal self around this part was a little confused hence I recommended when she sorts her Will she sees someone local as...she has no one.'

The note also recorded then when Mrs G asked about ongoing charges, the adviser said that these could be turned off if their services weren't needed, but she was 'adamant she did not want this to happen.'

The note said that Mrs G's existing investments remained suitable because she did not need access to capital, she had sufficient income and cash reserves, and she still wanted to remain invested. Also recorded was that Mrs G's 'Medium' attitude to risk remained appropriate after discussion.

Finally, the note recorded that updates to the fact-find would take place and that for the

¹ SJP did not provide this evidence from November 2023 until after the investigator's initial assessment of the complaint, but I have included this here to show the timeline of the key events.

suitability report, it would clarify that while SJP only looked after Mrs G's investments, if she needed to speak to them, she should do so as she has always done.

On 6 November 2023, Mrs G's representative (a family member) contacted SJP to tell them that Mrs G had asked them to take over her financial affairs and they instructed SJP to make no further contact with Mrs G or to carry out any further action without their agreement. They also asked for a complete list of all Mrs G's investments with updated values and other relevant information.

An exchange of correspondence between Mrs G's representative and SJP then took place over the coming weeks, the majority of which was about whether SJP could share information with Mrs G's representative. I don't think it is necessary to set this all out here. But following this exchange, Mrs G's representative began to raise concerns about the advice provided to Mrs G and the actions taken. And on 3 December 2023, Mrs G's representative raised a formal complaint on Mrs G's behalf. In summary they said that Mrs G had contacted them in distress saying she'd been pressured and did not agree to transfer her investments to SJP and invest further funds. They said Mrs G did not fully understand what her investments were, or the risks associated with them. They said the SJP adviser had recently contacted Mrs G to try and make further transfers to earn more commission. They said Mrs G was fearful of further contact from the adviser.

Mrs G's representative went on to explain how they had shared a copy of SJP's suitability report of 2022 with a financial adviser, who after looking at it raised various concerns, including not properly disclosing charges as well questions over the suitability of the proposed actions. Mrs G's representative asked SJP to undo the investment transfers and re-instate Mrs G's investments as they were, and to turn off the ongoing advice fees and provide no further servicing of the investments.

In early January 2024, Mrs G notified SJP via email to stop the ongoing advice charges.

In April 2024, because Mrs G's representative had not received a response from SJP to the complaint raised, they referred Mrs G's complaint to us.

On 29 July 2024, SJP issued its final response to the complaint. In summary it said it could find no wrongdoing on the adviser's part – it was satisfied the recommendation of 2022 to transfer Mrs G's existing investments and add further funds was suitable, there was no reason to consider Mrs G was vulnerable at the time, the fees were clearly disclosed and the documentation provided overall was clear.

One of our investigators considered the matter and they recommended the complaint should be upheld in part. In summary they said they considered the advice Mrs G received in 2022 to transfer her existing investments and add further funds was suitable given her circumstances at the time. And they said the available evidence did not support Mrs G being pressured into things. But they said, SJP had not provided evidence, despite being asked, to show that it carried out annual reviews with Mrs G in 2023 and 2024 as it agreed to, so it should refund them adjusted for growth.

SJP replied providing evidence that a review had taken place in November 2023 as I set out above. But it concluded the review was late – it said that, given the new ISA and unit trust started in August 2022, the annual review should have happened in August 2023. It said the OAC was switched off in February 2024, so to put things right, it was willing to refund the OAC from September 2023 to February 2024.

The investigator re-stated their view about the suitability of the recommendation and that

there was no evidence to conclude Mrs G was incapable of understanding or agreeing to the advice given or that she was pressured into things. And they recommended that SJP's offer to refund the OAC from September 2023 to February 2024 was a fair way to settle the matter in light of the evidence provided.

Mrs G's representative disagreed. They said they remained concerned about Mrs G's ability to fully understand and consent to the recommendations given in 2022 and the financial decision she was being asked to make. They said evidence of Mrs G's capacity to make informed decisions was evident in 2022. So, they said the adviser should have exercised additional due diligence to ensure Mrs G was making informed decisions without pressure.

They repeated the point that Mrs G said she felt pressured and that she did not want to proceed with the transfer of her investments. And they asked that, while it can't be said with any degree of certainty what took place during the meetings, greater weight is placed on what Mrs G has said happened in arriving at a fair decision. In relation to the OAC point – they questioned whether Mrs G had any benefit from the annual reviews given her health position, so they asked that an extended refund period be considered.

Because the investigator wasn't persuaded to change their opinion, the complaint was passed to me for a decision.

For the sake of clarity, SJP's offer to refund the OAC was communicated as being for the ISA only (the unit trust closed once it had funded the ISA in 2023). But I have sought clarification from SJP and its agreement that the refund will also include Mrs G's investment bond.

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, regulatory rules, guidance and standards, codes of practice, and (where appropriate) what I consider to have been good industry practice at the relevant time. And where the evidence is incomplete or inconclusive I've reached my decision based on the balance of probabilities – in other words, on what I think is more likely than not to have happened, given the available evidence and wider circumstances.

As a regulated firm, SJP had many rules and principles that they needed to adhere to when providing advice to Mrs G. And these can be found in the Financial Conduct Authority (FCA) handbook under the Conduct of Business Sourcebook (COBS) and Principles for Businesses (PRIN) as they were at the time of the advice.

Having considered all of this and the evidence in this case, I've decided that SJP's offer to refund the OACs Mrs G paid between September 2023 and February 2024 is a fair way to settle this complaint for broadly the same reasons as the investigator. I'll explain why.

Suitability of the advice given to Mrs G in 2022

I'll firstly address the suitability of the advice SJP provided to Mrs G in 2022.

Mrs G's representative has raised concerns both about the appropriateness of the advice and that Mrs G was pressured into and did not consent to either transferring her investments or adding further monies to them.

SJP recorded Mrs G's personal details, circumstances and objectives as well as her attitude to risk in a fact-find document of July 2022, the key details of which I set out earlier on. This is the type of information and level of detail I would expect a firm like SJP to have captured to demonstrate the advice given was appropriate for their client's needs.

SJP's advice was to transfer four of Mrs G's existing ISAs / unit trust investments held with other providers to SJP. So, broadly speaking this was advice to replace investments Mrs G already had with something essentially the same. So, I've carefully looked at whether the transfer was in Mrs G's best interests. As part of that, I've looked at the rationale for doing so. As I noted above, the key reasons documented were because Mrs G wanted to consolidate her investments for ease of administration, to take advantage of SJP's investment management, and to have one dedicated adviser looking after her equity-based investments. I think given Mrs G's wider circumstances, including her age and the number of institutions her overall assets were spread over (around 10 in total) this was a firm, and fair and reasonable rationale for transferring. It was noted that Mrs G was not receiving any ongoing advice with two of her existing providers and she was not confident in choosing the underlying funds without advice and guidance. It would therefore appear that bringing things under one roof as it were and having ongoing advice and management of these funds was in Mrs G's best interests.

Another important factor here is that the transfer of Mrs G's existing investments would result in extra costs. Mrs G paid an initial charge of 5% on the new ISA and unit trust feeder account, there was an exit charge of £240 on two of the ISAs from one provider, and combined the annual management charge was higher. But while there was a cost in transferring, given Mrs G's specific and firm reasons for transferring, and that SJP in my view clearly set out the costs – the suitability letter contained a section about replacement costs, there was an appendix to the report with a cost comparison table, and accompanying the report were illustration documents with cost information too – I don't think the additional costs made the recommendation unsuitable.

The additional cost implications meant that Mrs G's new investments would need to outperform the existing ones by 0.18% a year in total to match the benefits. But again, this was clearly disclosed in the report – in both pounds and pence and percentage terms – and in my view, this was not an unachievable outperformance return. So, again, I don't think the additional costs of transferring made the advice unsuitable.

Mrs G's objective was for capital growth, which appears reasonable in the circumstances. It was recorded that Mrs G had sufficient income and I haven't seen anything to indicate that an investment term of five years was unreasonable.

Turning to Mrs G's attitude to risk – it was recorded that she was a 'Medium' risk investor. On the one hand, because she was retired and aged 77, this might, on the face of it, appear to be higher than one might typically expect of someone at this stage of life.

I haven't been provided with the 'Understanding the balance between risk and reward' document referred to in the suitability report with the risk categories and descriptions, which it was recorded formed part of the adviser's discussion with Mrs G in assessing her risk appetite. But I don't think it's necessary for me to do so. I say this because it's clear that Mrs G had held both her SJP investment bond and her ISAs for a number of years and she was deemed to have moderate investment experience, which appears reasonable.

I'm also mindful that as a percentage of Mrs G's overall wealth, the investments represented a little over 25%. So, taking all of this into account, I think SJP's assessment of Mrs G as a medium risk investor was reasonable in the circumstances. I also think Mrs G had a reasonable capacity for loss given her significant cash-based assets and that even a substantial fall in the value of her investment portfolio would not affect her income – she wasn't reliant on this to meet her income needs – or her day-to-day living needs.

Looking at the recommended investment fund – SJP advised Mrs G to invest her funds in the Managed Funds Portfolio in line with her existing investment bond. Based on the underlying fund make-up of this portfolio documented in the suitability report, it appears the pure equity content of the investment fund was no more than around 80% with the remainder in bonds and other assets. In light of this and with around 11 underlying funds comprising the portfolio, I think the investment recommendation was in line with the level of risk Mr G was prepared to take and so was suitable.

For the sake of completeness, I've considered the other aspect of SJP's recommendation, which was that Mrs G should add £8,000 to her transferred unit trust feeder account of around £12,000 to enable her to fully utilise her ISA allowance the following tax year. In my view advice to utilise an unused ISA allowance is generally suitable and I think it was in Mrs G's case. This ensured that Mrs G's investments remained as tax efficient as possible. And given the amount of cash assets Mrs G had, adding these additional monies to a risk-based investment was not unsuitable in the circumstances.

So, overall, I'm satisfied that SJP's recommendation to Mrs G in 2022 was suitable and that the advice was in her best interests.

Looking at the information Mrs G was provided with at the time, I'm also satisfied that SJP disclosed what was necessary and in the level of detail required to enable Mrs G to make an informed decision. I've already said that the cost information was clear. In addition, the suitability report set out the disadvantages of transferring the existing investments as well as the alternatives to the proposed transfer, including leaving things where they were. So, I don't think SJP did anything wrong here.

Addressing the suitability of the advice Mrs G received is an important part of this complaint. But it's clear to me from what Mrs G's representative has said during the course of this complaint, that they have other concerns. Primarily their concern is that Mrs G was pressured into transferring her existing investments when she did not want to, and that her health at the time meant she did not have the ability or capacity to fully understand and consent to the financial decisions being asked of her.

I'm sorry to hear that Mrs G and her representative feels she was pressured into accepting SJP's advice and signing the relevant documents. Mrs G's representative has asked that given her vulnerable position, greater weight is given to what Mrs G has said about things.

I accept that feeling pressured is a very personal thing and I have listened carefully to what has been said here. And having done so, I don't think the evidence overall points to SJP applying undue pressure during the advice process at the time. I say this for a number of reasons.

Firstly, the fact-find completed in July 2022 refers to an earlier discussion at a review meeting in May 2022, during which consolidation of Mrs G's investments were first discussed. So, this wasn't something that was just sprung on Mrs G without warning at the July meeting. It seems following the May meeting, the adviser went away to research Mrs G's existing investments and the July meeting was a follow up to present their findings and recommendation. So, given the period in which the matter was under consideration –

that is, over a number of weeks – this would not indicate to me that SJP placed undue pressure on Mrs G to go ahead.

Also, as I indicated above, the rationale for Mrs G consolidating her investments seems perfectly reasonable to me given her circumstances and does not support her being unduly pressured to transfer her investments. And like the investigator, I'm mindful too that if the adviser was acting unfairly by using coercive behaviour or tactics, they would have likely persuaded Mrs G to part with far more of her cash-based funds and add them to her investment than the £8,000 they recommended. Again, there was a plausible and suitable reason for Mrs G adding these funds to her investment portfolio to maximise her ISA allowance for the following tax year.

I have taken into account what Mrs G's representative has said about Mrs G's health at the time and that she was displaying signs of impaired judgment. But I've also considered the documentary evidence from the time, including the fact-find document and what's recorded here. This recorded Mrs G as being in good health. And importantly under the section where any vulnerabilities could be recorded, 'No' was clearly documented.

It's clear that the adviser and Mrs G had a long-standing relationship and based on what I have seen I think it is reasonable to conclude it was a good one. This wasn't the case that Mrs G was being advised by someone she'd only just met. I think given the level of contact Mrs G had with the SJP adviser – the evidence points to Mrs G and the adviser speaking regularly by phone outside of the more formal annual reviews – if Mrs G had displayed signs of being vulnerable, I think it's likely they would have documented as such, which as I will set out below, they later did.

So, overall, I've not seen enough to persuade me that SJP acted unfairly or unreasonably towards Mrs G in this regard or that Mrs G was incapable of understanding and making the financial decisions asked of her. I don't think SJP has done anything wrong here.

Annual suitability review in 2023

By November 2023, it's clear from the adviser's file note of 3 November 2023 I referred to earlier on, that Mrs G was showing signs of confusion. An internal email following Mrs G's representative's instruction to SJP not to make further contact with Mrs G, records how the adviser had noted a number of unusual phone calls from Mrs G in recent weeks and that as a result they had marked her as vulnerable, but noting she wasn't before. Again, I think this supports the view that the adviser was alive to the issue and that if they'd had any concerns earlier on about Mrs G, including during the advice meeting in 2022, it seems reasonable to assume they would have noted it down as they did here.

While Mrs G was potentially vulnerable at this stage, of itself this doesn't mean it was wrong for SJP to have engaged with her. It seems that Mrs G's confusion about the management of her cash and investment assets is what prompted the adviser to contact Mrs G to discuss things. And the meeting note describes them taking the time to explain and clarify things in an attempt to reassure Mrs G. And I think this was the right thing to do in the circumstances.

I've thought about whether the adviser should have considered Mrs G having a third-party present at this meeting.

But the meeting file note recorded that she didn't have anyone, noting that for key reasons her children weren't available, and is why they recommended she saw someone local when she sorted out her Will. So, I don't think this was a reasonable option. And while SJP did not get to issue the suitability report following this meeting, the file note records that the adviser wanted to include something here which reminded Mrs G that, while SJP only looked after her investments, she could speak to them at any time. Again, I think this is all evidence that

points to there being a good relationship and SJP wanting to do the right thing by Mrs G and act in her best interests – not to take advantage of her.

The adviser also took the opportunity at this meeting to carry out an annual review of Mrs G's investments. Again, I think in the circumstances it was important for SJP to carry out a review at this stage. And given the detail recorded in the file note about the conversation the adviser and Mrs G had – the note described in some detail what Mrs G had recently been up to in her life, including the things she had recently spent money on – I think this supports my view that, despite Mrs G's vulnerability, she was in a position to actively participate in the meeting.

The note recorded that with no changes to Mrs G's circumstances, her investments remained suitable. The adviser noted that care costs might be a consideration at some point in time, but not at this stage, and Mrs G had sufficient income and capital to support herself. Overall, I think the adviser's conclusion that Mrs G's investments remained suitable for her was reasonable. And with no recommendation to add any new funds or to change her existing investments, there were no significant financial decisions for Mrs G to make.

I can see that Mrs G's representative has referred in a number of pieces of correspondence during this course of this complaint, to the adviser attempting to contact Mrs G trying to get her to invest more money, and how as a result Mrs G was 'living in fear' and that the adviser was 'after more of her ISA funds.' Again, I'm sorry if this is Mrs G's recollection and how she feels about things. I can see the November 2023 meeting file note records that Mrs G's ISA allowance was discussed here and that the remaining allowance could be used in cash. This suggests to me that the discussion here was about adding money to a cash ISA. But importantly, there is no evidence of a further investment being considered or the adviser contacting Mrs G other than in response to her calls for help.

Overall, I think the evidence shows that Mrs G needed some extra support and time to help clarify things and clear up some confusion about the management of her assets, which I think SJP reasonably attempted to do. In my view, this was the right thing to do in the circumstances. But I don't think there's enough to show that Mrs G didn't have the capacity to participate in this review meeting or that SJP acted unfairly or unreasonably towards her by carrying it out.

OAC refund

SJP's ongoing advice charge of 0.5% was clearly set out in the accompanying documentation with the suitability report of July 2022. It was also made clear that the agreement was at least one annual review meeting would take place. SJP has agreed that the 2023 the review was late – it was due in August 2023, but it didn't happen until November 2023 as I set out above. So, it has agreed to refund the OAC taken between September 2023 and February 2024 when the service was switched off.

I think SJP's offer is fair. It's clear from Mrs G's representative's correspondence in November 2023, which followed the review meeting, that Mrs G was no longer going to benefit from SJP's ongoing advice service. So, a refund of the OAC from September 2023 to when it was cancelled, is in my view, fair in all the circumstances.

Mrs G's representative says that an extended refund period should be considered because they question whether Mrs G benefitted from the annual reviews. But given my findings above, I don't think a refund of the fees beyond that which SJP has offered is appropriate in the circumstances.

Conclusion

I understand Mrs G's representative as a family member wants to protect Mrs G and look out for her best interests – that's only natural. And once again I'm sorry to hear that Mrs G feels she was treated unfairly. But based on what's been provided here, I'm satisfied SJP has not acted unfairly or unreasonably towards Mrs G either in the advice it gave her in 2022 or at any time subsequently, including during the review meeting in 2023. And I hope Mrs G's representative can take comfort from that.

So, while I don't uphold Mrs G's complaint about the suitability of her investments and the advice SJP provided, I think a partial refund of the OACs paid prior to their cancellation is a fair way to settle this complaint.

Putting things right

I think SJP's offer to refund the OACs Mrs G paid between September 2023 and February 2024 is fair in the circumstances. So, to put things right, SJP should do the following:

- Calculate the loss in value of Mrs G's ISA and investment bond due to the deduction of the OACs taken between September 2023 and February 2024. To be clear, this will mean calculating the lost investment returns on each fee, based on the actual investment strategy of Mrs G's investments, from the date the fees were deducted to the date of my final decision².
- Pay the total loss amount into Mrs G's respective investments. The payment should allow for the effect of charges.
- If it is not possible to pay the amount into Mrs G's investments, it should pay it directly to Mrs G as a lump sum.
- Provide Mrs G with the detail of the calculations in a clear, simple format.

If payment of compensation is not made within 28 days of SJP receiving Mrs G's acceptance of my final decision, interest must be added to the compensation at the rate of 8% per year simple from the date of my final decision to the date of payment.

Income tax may be payable on any interest paid. If SJP deducts income tax from the interest, it should tell Mrs G how much has been taken off. SJP should give Mrs G a tax deduction certificate in respect of interest if she asks for one, so she can reclaim the tax on interest from HMRC if appropriate.

My final decision

For the reasons above, I've decided to uphold this complaint in part, and I instruct St. James's Place Wealth Management Plc to put things right in line with the approach above as it has agreed to do. I make no other award in Mrs G's favour.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 27 June 2025.

Paul Featherstone

Ombudsman

² If Mrs G's investments have since been transferred away from SJP, SJP should instead calculate the loss based on the actual investment strategy to the end date of the investments and then add 8% simple interest on the loss amount to the date of my final decision.