

## **The complaint**

Mrs J, represented by her son Mr J, complains she was given unsuitable advice by St. James's Place Wealth Management Plc ("SJP") to transfer existing pensions and ISAs into a new investment bond and ISA, which resulted in extra charges and a loss of tax efficiency.

She also feels the advice impacted FSCS protection, that SJP failed to place the bond into trust, the charges and performance of the new products didn't represent good value, and she was advised to invest in a property fund from which she's now unable to withdraw.

## **What happened**

The background to the complaint will be well known to both parties, so I'll only give some key details here.

Mrs J met with an SJP adviser in September 2011, and a fact find was completed regarding her circumstances and objectives. It was recorded that she'd contacted SJP because she needed to increase her income. She was in her late sixties, in good health, and retired. Her only sources of income at that point were her state pension and annual interest of £1,500 generated from savings/shareholdings totalling around £200,000. It was noted that her income only just covered her outgoings.

Mrs J held ISAs and a share portfolio and several cash deposit accounts, one of which held £62,000. The adviser recommended she invest £60,000 from this into an investment bond. A suitability report issued to Mrs J explained the taxation of the bond – that she'd be able to withdraw up to 5% per year (so £3,000) without incurring an immediate liability and that if she remained a basic rate taxpayer there'd be no further tax liability on any future gain.

The bond was invested in SJP's 'Immediate Income Portfolio', which in part invested in property, and the suitability report warned of the associated potential accessibility issues. The advice was then updated later the same month in respect of an additional £70,000 investment placed into the bond from one of Mrs J's notice deposit accounts.

Further advice was then given to Mrs J two years later in July 2013, to add £80,000 to the bond. According to the suitability report at this time she held £82,000 in her current account and £135,000 in the bond. She also had a cash ISA with another provider holding £30,500 and several other cash savings accounts. The report said that Mrs J was now seeking some growth as well as income and also wanted to simplify her financial arrangements by placing her money with a single provider. On this occasion the investment was into SJP's Balanced Income Portfolio, which included 15% in the Property Distribution Fund.

Mrs J then received more advice in September 2013. The suitability report on this occasion noted that she held several cash ISAs that she was looking to consolidate into a stocks and shares ISA. The report recommended that she transfer an existing stocks and shares ISA, however it appears that it was a cash ISA that was actually transferred. This investment was into the Managed Funds Portfolio.

Some years later, in 2024 Mr J, having been granted power of attorney for Mrs J,

complained to SJP as set out above. Having received no response, he referred the complaint to this service. SJP then issued a final response in which it explained why it didn't think the complaint should be upheld, saying, in brief –

- No transfers were made into Mrs J's investment bond from either a pension or from an ISA. Any transfers that did come from an ISA were made into Mrs J's SJP ISA, not the bond.
- There was no issue regarding FSCS protection limits as the investment bond was categorised as an insurance product, so not subject to any claim limit.
- All relevant charges were set out clearly in illustrations and other documentation provided to Mrs J.
- All advice was consistent with Mrs J's financial needs and objectives and attitude to risk at the time, and she'd been provided with information about the associated risks.
- There was a reasonable degree of global investment exposure across the recommendations.
- There was no evidence to support the discussion of a trust arrangement or failure to provide one.
- The property fund recommendation was at a medium level of risk consistent with Mrs J's attitude. The later suspension of withdrawals had been a response to external factors and was provided for in the terms.

Our investigator then looked into the matter, but he also didn't think the complaint should be upheld. He said, in brief –

- He noted that there was conflicting documentary evidence regarding the circumstances of the 2011 advice, particularly in respect of a letter Mr J had provided which appeared to be from the adviser at that time and suggested that the source of funds placed into the new bond included an SJP ISA and several existing investment bonds.
- The investigator felt that based on bank statements that showed that Mrs J's existing SJP ISA had been encashed shortly before the investment bond was set up it seemed likely the letter was authentic and, further, there was documentation to support Mrs J having held various other investment bonds.
- The investigator was therefore satisfied the adviser had likely been involved in discussions around encashing other investments to generate the cash that then funded the bond. But he accepted that hadn't been accurately reflected in the suitability report. He also noted the lack of detailed cost comparisons between the encashed products and the bond.
- However, in respect of the general suitability of the advice he was satisfied Mrs J had a need for income. A risk assessment had been carried out and she'd been categorised as a medium risk investor, with the slightly lower risk Immediate Income Portfolio recommended as more suited to Mrs J's income objective.
- Mrs J had significant funds on deposit but could only just meet her outgoings. The bond with withdrawals from it at 5% per year provided her with additional income with no immediate tax liability.
- The absence of a comparison of charges of the encashed products was an omission, but Mrs J appeared to have been willing to proceed with the advice, and the evidence suggests she was fully aware that some of her existing investments were being encashed to fund the new bond.
- So, even if the suitability report had documented that the funds came from other products, the investigator felt it likely Mrs J would've proceeded anyway.
- Given the bonds were cashed in many years ago and with no requirement to keep records for that long, there was a lack of information available. That said, one of the existing bonds appeared to have been a with profits investment, which were

generally intended for growth not income. Given Mrs J's income objective it was likely to have been reasonable to replace it. And the same applied to Mrs J's other existing bonds, as none had been set up to invest for income.

- In terms of the cashing in of the ISA, it was unlikely there'd been a loss even if this had been advised. The new bond was unlikely to result in a tax charge for Mrs J. The suitability reports explained the taxation situation clearly and Mrs J was unlikely to incur a liability as a basic rate taxpayer.
- Overall, the advice appeared to have been suitable, and illustrations setting out the costs were produced in line with SJP's regulatory responsibilities.
- As noted, onshore investment bonds, such as that recommended to Mrs J, are covered under the insurance element of the FSCS, which has no upper limit.
- There was no documentary evidence to show there'd been any discussions regarding Mrs J's need for a trust arrangement, or an agreement for one to be put in place.
- Mrs J was given more advice in 2013 to transfer her ISA and invest more into the investment bond. In this instance, both investments were funded from cash – although the suitability report for the ISA erroneously stated the source of funds was a stock and shares ISA. However, this seems to be an error from the adviser as it's been confirmed the source of funds was a cash ISA.
- That error aside, the advice appeared suitable. Mrs J had sought a better return from her savings – both income from the bond and growth from the ISA – and it's fair to say the recommendations were likely to produce a better return than cash deposits.
- While it was unfortunate that withdrawals from the property fund had been suspended in October 2023, its inclusion in the medium risk portfolio had been suitable and appropriate warnings provided.

Mr J, on Mrs J's behalf, didn't accept the investigator's view. He said, in brief –

- SJP had contacted Mrs J in 2011, not the other way around.
- There'd been no need for Mrs J to incur repeated fees for the setting up of new products.
- She didn't require the income, and it had been unnecessary to cash in ISAs for that purpose – all her savings had been moved in one direction to SJP.
- The cash that had initially funded the bond was placed on deposit at same time as the advice was provided and was generated from various encashments that had included an existing SJP ISA.
- There were inaccuracies within the documentation, such as the statement that Mr J and his siblings had been dependent upon Mrs J.
- The only cost comparison provided had been incorrect and while information on SJP's charges had been available, Mrs J wouldn't have proceeded if the product costs had been accurately compared.

The investigator wasn't persuaded to change his opinion, so 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.

Consideration of the various issues raised has been complicated due to the length of time

that has passed since the provision of the advice and the extended period over which the events in question occurred. I'm grateful for Mr J for the efforts he's made in providing additional evidence, as I recognise that, acting in his role as attorney for his mother, he was obviously not privy to the provision of the advice himself.

I think it's first worth setting out a slightly wider context to Mrs J's relationship with SJP, as it wasn't confined solely to the tranches of advice that make up the subject matter of the complaint – the recommendations of 2011 and 2013.

The evidence shows that Mrs J was given a recommendation by an SJP adviser in 2005/06 to invest in several products – an ISA, PEP and Unit Trust. This was the adviser that was referred to in the initial Confidential Financial Review (CFR) completed in September 2011 as having not been in contact with Mrs J for several years. The notes in the CFR suggest that Mrs J approached the new adviser because of this lack of contact and as she wanted to look at her income situation. I note that Mr J has suggested it was actually the other way around, but I think either way it's clear Mrs J wanted to obtain advice on her situation.

As noted, Mrs J was advised to start a new investment bond from which she could make tax-deferred withdrawals to meet her identified income need. The accuracy of the documentation of this advice is somewhat questionable, particularly in respect of the comments around Mrs J having withdrawn investments, so she was effectively holding cash to invest. Information provided by Mr J does appear to show that the encashments that generated the invested money happened concurrently with the advice, indicating that the adviser was involved in the decision to disinvest and reinvest.

Rather than the total of £130,000 invested in the bond following the September 2011 advice being money held entirely on deposit, it does seem that several existing investments were encashed, with the proceeds being combined with some other cash. While I can understand Mr J's concerns with this, especially alongside the ambiguity of the documentation, I nevertheless don't think it means the advice to start the bond was by default unsuitable.

As I've said, Mrs J does appear to have had a genuine requirement for additional income, and I think creating the investment bond was a reasonable means by which to achieve her objective. Her circumstances appear to have been considered, and the taxation situation explained clearly in the suitability reports.

The existing investments that were encashed don't appear to have been suitable for providing an income and had been in place for some years across a range of providers. So, there was also a benefit of consolidating things to make management of Mrs J's finances more straightforward, which was an additional objective referenced in the suitability reports.

In respect of the way the money was invested, I'm satisfied the portfolios chosen were consistent with Mrs J's needs and experience. She was recorded as having a medium attitude to risk, which seems reasonable given her previous experience across a range of products.

The later advice provided in 2013, first in July, to invest a further £80,000 from cash holdings into the bond also doesn't appear unreasonable. At the time, as in 2011, returns from cash deposits were very low, and while I note Mr J's comments about income not being required, there appears to have been discussions around it and an agreement that Mrs J would take 4%, equating to £3,200 per year.

The second tranche of advice of 2013, provided in September, was in respect of an ISA transfer. Again, here the documentation appears to be inaccurate. The suitability report refers to a transfer from a cash ISA to a stocks and shares ISA with SJP. But it then goes on

to refer to a completely different product and provider, and amount of the transfer.

I can only assume this was a mistake on the part of the adviser and while I can understand why this too would undermine Mr J's confidence in the advice, it does seem that the recommendation was on the whole a suitable one. It moved a cash holding into an investment in the Managed Portfolio, at a higher level of risk than the previous bond recommendations, but still at a level that appears consistent with Mrs J's experience. And into a diversified portfolio that took account of global investment, something that Mr J has suggested was lacking in the advice. I can see that there was then a further investment into this SJP ISA in 2018, with a further transfer from a cash holding.

Overall then, while there were clear issues with the documentation of some of the advice, I don't think the broad approach taken by the adviser – to create the bond in 2011 to meet the documented need for income, then add to it, then start the ISA in 2013 to focus on investing for capital growth – was unreasonable. I think, on balance, that it created a suitable financial structure for Mrs J, addressing not only her income requirement but also her desire to simplify matters by consolidating what were a large number of disparate investments.

While it does seem that there was encashment of existing products to fund the investment, at least in part, where this happened, it would appear to have been justified in the circumstances. I've not seen that there were direct transfers of SJP products into either the bond or the ISA. The pension that Mr J raised was, as the investigator noted, encashed in 2008, some time prior to the advice in question. So, while the money from it may ultimately have formed part of the cash that was investment in the bond, I don't think the act of encashment can reasonably be attributed to the adviser.

For completeness, I can confirm also confirm that I'm satisfied the recommendation that Mrs J commit a proportion of her money to property investment was suitable. I can of course understand the frustration with the recent suspension of withdrawals. But at the time I think it was reasonable to include property within the diversified medium risk portfolio for Mrs J and the risks associated with doing so, which unfortunately have now come to pass, were explained. Similarly, I don't think the FSCS coverage is an issue, for the reasons already given.

I appreciate that Mr J, on his mother's behalf, is disappointed with the performance of the various investments and has pointed to cheaper alternatives that could've been selected. But as I'm satisfied the recommendation were broadly suitable and the costs of implementing the products clearly set out, I don't think that SJP acted incorrectly or unreasonably in making the recommendations of 2011 and 2013 to Mrs J.

### **My final decision**

For the reasons given, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs J to accept or reject my decision before 2 December 2025.

James Harris  
**Ombudsman**