

The complaint

Mr P complains that St James's Place Wealth Management Plc ("SJP") failed to tell him about relevant revised tax rules before he surrendered his policy. He says he could have avoided a tax liability if he'd been given the information.

What happened

Mr P invested in a bond with SJP in February 2004, following SJP's recommendation. When Mr P surrendered the bond in April 2018 he incurred a tax liability. He says SJP didn't tell him that tax legislation had changed.

SJP said the change, which became effective in the 2010/11 tax year, meant that if an individual's "adjusted net income" exceeded £100,000 there would be a tapering of the personal allowance. It said the rules weren't in place when it advised Mr P to take out the policy. And that he didn't seek advice from SJP before he surrendered the policy. It said that, whilst it couldn't provide formal tax advice, it would have explained the tax position on surrender if Mr P had asked.

Our investigator didn't recommend that the complaint should be upheld. She didn't think SJP's obligations extended to providing stand alone tax advice. She thought SJP had tried to engage with Mr P when there was a change of adviser towards the end of 2017, but that he'd said he didn't need help because he was taking advice from an independent financial adviser ("IFA").

Mr P didn't agree. He said, in summary, that:

- SJP failed to tell him about the change in legislation having been specifically advised of it by the government.
- SJP's adviser raised the issue of tax when he was arranging a meeting with Mr P. But because the adviser cancelled the meeting, Mr P didn't receive the information.

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 find I have come to the same conclusion as the investigator for the following reasons:

The change in tax legislation only became relevant on surrender of the bond.

SJP is not a tax specialist and, whilst it could provide information about the tax position, it would always recommend specialist tax advice was sought before surrendering a bond.

I don't find there was any obligation on SJP to contact Mr P when the change of tax legislation was announced.

SJP received Mr P's surrender instructions via his IFA. So SJP reasonably understood that Mr P had received advice from that IFA, including the likely tax position on surrender, before giving the surrender instructions.

SJP has provided evidence which refers to a phone call which took place in February 2018 following the change of adviser. It says a meeting was offered but declined. Mr P says the only discussion which took place was about why he wanted to surrender the bond and the tax position wasn't mentioned during this discussion. Based on the evidence I've seen, I think it more likely than not that a call did take place in February 2018. This can't have been about the surrender of the bond because instructions for surrender weren't sent to SJP until the end of March. So I think the call was more likely prompted following the change of adviser, than the bond surrender. The advisor's notes made after the surrender recall that she offered Mr P a meeting, but he said he didn't need one as he was taking advice from an IFA. I don't think there was anything that would've prompted SJP to discuss the tax position on bond surrender during this call.

When the bond surrender instructions were received, SJP was obliged to act on them. There was no obligation on it to make sure Mr P was aware of the likely tax position, especially bearing in mind the instructions came from his IFA.

Whilst the letter from Mr P's SJP adviser dated 24 July 2017 refers to new taxation legislation, it was specific to finding out about any investments Mr P held outside of SJP. And the tax treatment of the bond was only relevant on full or partial surrender of the bond. I can't conclude with certainty that this would have been discussed if the meeting hadn't been cancelled. And, in any event and as noted above, I'm satisfied the new SJP did offer Mr P a meeting in February 2018, but he declined.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 15 January 2024.

Elizabeth Dawes
Ombudsman