

The complaint

Mrs O complains that she received unsuitable investment advice from St. James's Place Wealth Management Plc (SJP).

In particular Mrs O says:

- the SJP adviser did not explain that he was not an independent financial adviser (IFA);
- the adviser did not provide her with copies of the information he recorded about her personal and financial circumstances, or with information about the fees and charges for the investments he recommended;
- the advice to move her stocks and shares ISA to SJP meant she incurred an initial charge for little, if any, benefit;
- she was not made aware of the initial charges on the unit trust investment she was advised to take out; and
- she was told that the unit trust investment would generate an income of around £12,000 per year.

What happened

I understand that Mrs O was introduced to her SJP adviser in 2009, and the adviser started providing Mrs O with ongoing financial advice in 2015.

In April 2015, Mrs O was advised to invest £7,000 from deposit based savings she held, into a stocks and shares ISA with SJP. In 2016, Mrs W was then advised to transfer funds to her SJP ISA, from an existing stocks and shares ISA she held with another provider. The value of the ISA funds transferred to SJP was around £12,000.

In 2017, Mrs O received advice on investing around £180,000 from an inheritance she had received. £20,000 was invested in her stocks and shares ISA with SJP. The remaining funds were invested in an SJP Unit Trust Feeder.

At the time the initial advice was given in 2015, the adviser recorded that Mrs O was 52 years old and was married with two adult children. She and her husband owned their home outright and had no outstanding debts or large planned expenses for the foreseeable future.

Mrs O was working part time and her husband was in full time employment. Information recorded by the adviser at that time, indicated that Mrs and Mr O had a monthly surplus of income over expenditure of around £700. As well as deposit based savings Mrs O held pension savings and the stocks and shares ISA she subsequently transferred to SJP.

Mrs O's attitude to investment risk was assessed as 'medium' and the adviser described this to mean:

You want your capital to keep pace with inflation and are investing for at least five years.

You are comfortable with most of your capital being invested in equities and property, some of it overseas. You realise that there may be significant falls in the value of your investments, and that accepting this risk gives you the potential to achieve better long-term returns.

In mid-2021, Mrs O complained to SJP about the investment advice she had received from its adviser.

SJP did not uphold Mrs O's complaint. It said, in summary, that it felt the advice its adviser had provided had been suitable for Mrs O's personal and financial circumstances. In particular, it said information recorded at the time Mrs O transferred her existing stocks and shares ISA to SJP, in early 2016 had noted that she:

'... preferred to have your investments professionally managed and regularly monitored and you did not want to be responsible for the weighting of the asset class selection of your investments.

It also said that its records showed:

You also wanted to continue to benefit from [name of adviser's] ongoing service and advice on your investments.

It was explained that at that point you did not receive Face to Face advice and did not have confidence in your current arrangements.'

It said that although the SJP ISA was more expensive than Mrs O's existing ISA provider, *'albeit within acceptable limits'*, this had been explained in the suitability letter it had sent to Mrs O at the time.

Mrs O was not satisfied with SJP's response and referred her complaint to this service. In addition to the points she had raised in her initial complaint to SJP, Mrs O also said that the adviser had not explained that he was not an IFA.

Having very carefully considered this complaint our investigator said they didn't think Mrs O's complaint should be upheld. They said they felt the advice had not been unsuitable for Mrs O's personal and financial circumstances and they were satisfied that the adviser had disclosed the fees and charges for the products that had been recommended. Likewise, they said they were satisfied that the adviser had made Mrs O aware that he was not an IFA.

Mrs O did not accept our investigator's view. She made the following points:

- she said she felt *'...it is very clear that the adviser did this for the purposes of receiving additional commission for themselves. This therefore provides clarity with regard to the only reason they gave me advice about these investments, it was to enhance their own commission for themselves. The overall relationship and how they sought to get fees from me cannot and should not be ignored. It is their behaviour that I am genuinely concerned about'*;
- she had not signed any key facts documents for the investments she had taken out with SJP, and she felt this showed that she had not agreed to the fees;
- she said notes made by the adviser at the time the advice was given, and at review meetings were *'biased towards themselves'*;
- the adviser had not explained, in connection with her ISA transfer that *'... there would be higher charges for transferring out and that it would now be managed and there*

was no differential in investment performance’;

- Mrs O also reiterated that the adviser had not explained ‘...*the difference between independent and tied advice or explain the fees and charges*’; and
- she said her husband had also complained about advice he had received from SJP. Mrs O said she felt her complaint should be considered with Mr O’s complaints and should not be considered separately.

Our investigator responded to the points Mrs O had raised. They explained why Mrs O’s complaint had not been considered as part of one overall complaint with the issues her husband had raised. They reiterated that sometimes there are instances in which one investment may be suitable and another unsuitable.

They also explained that there was no requirement for Mrs O to sign the key facts documents she received, and they provided Mrs O with copies of emails from her adviser containing links to the key facts documents that were sent at the time advice was given to Mrs O. These emails asked Mrs O to view the documents and contact her adviser if she had any queries about the information provided.

Our investigator also asked Mrs O to let this service know if there were any ‘*specific aspects of the information recorded within the file paperwork which you feel is not in keeping with your circumstances*’.

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 don’t think SJP has acted incorrectly in this matter or treated Mrs O unfairly. I’ll explain why.

Did the SJP adviser explain that he was not an IFA?

Mrs O has reiterated her concern that the adviser ‘*did not explain the difference between independent and tied advice*’.

Even if I were to accept that the adviser did not explain that he was only able to offer restricted advice - and as I was not present at the meetings Mrs O had with the adviser, I cannot safely make any finding on what was, or was not discussed - I must take into account that the *Key Facts about our Services and Costs*’ document, clearly set out under the heading ‘*Which service will we provide you with*’:

Restricted advice – We will advise and make a recommendation for you after we have assessed your needs. We only offer products from a limited number of companies. You may ask us for a list of the companies whose products we offer.

The suitability letter sent to Mrs O dated 14 May 2015, confirmed that the adviser had provided Mrs O with a copy of SJP’s ‘*Key Facts about our Services and Costs*’. The adviser explained that this set out, ‘*the products we offer, the service we provide, the cost of our advice and services and our Terms of Business*.’ And the adviser said, ‘*if you have any queries on this document, please let me know*’.

So, even if I were to accept that the adviser did not explain the difference between the restricted advice he was authorised to provide and the advice an IFA could provide, I cannot

reasonably find that Mrs O did not receive a written explanation of the difference between restricted and independent advice.

I am also mindful that the records show that the adviser provided Mrs O with another copy of '*Key Facts about our Services and Costs*' in early 2016, and again in July 2017.

I appreciate that Mrs O may not have read SJP's '*Key Facts about our Services and Costs*' in detail, but I cannot reasonably hold SJP responsible for this.

As I am satisfied that SJP notified Mrs O that its adviser could only provide restricted advice I cannot reasonably uphold this aspect of Mrs O's complaint.

Should the adviser have provided Mrs O with copies of the information he recorded about her personal and financial circumstances?

As our investigator explained, there is no requirement on an adviser to provide a copy of the information recorded about a client's circumstances, unless the client requests a copy. I understand that Mrs O has now received a copy of all the information SJP holds about the advice it provided to her.

Likewise, our investigator explained that there was no requirement for Mrs O to sign the Key Facts documents she received. I note our investigator has provided Mrs O with copies of emails from her SJP adviser, sent at the time the advice was given to Mrs O, asking her to view the documents and contact him if she had any queries about the information he had provided. I therefore cannot reasonably find that this information was not provided to Mrs O.

As I explained above, I appreciate that Mrs O may not have read the Key Facts documents for the products she invested in, in detail, but I cannot reasonably hold SJP responsible for this.

Our investigator asked Mrs O to let this service know if there were any '*specific aspects of the information recorded within the file paperwork which you feel is not in keeping with your circumstances*'.

Mrs O has not provided this service with details of any information that the adviser recorded about her personal and financial circumstances, that she feels were incorrectly recorded, or did not reflect her situation at the time the advice was given. As this is the case, I cannot reasonably find that the information recorded by the adviser was incorrect.

Was the advice to move her stocks and shares ISA to SJP unsuitable?

Mrs O says that when the adviser arranged for her to transfer a stocks and shares ISA she held with another provider to SJP, he did not explain that '*... there would be higher charges for transferring out and that it would now be managed and there was no differential in investment performance*'.

I have very carefully considered this point. Having done so, I can't reasonably find that the adviser didn't explain the additional costs involved, and the disadvantages, as well as the potential advantages of transferring Mrs O's existing stocks and shares ISA to SJP.

In particular, I note that in the suitability letter, dated 7 February 2016, the adviser clearly set out:

The additional annual growth required by St. James's Place, over a ten year investment horizon, in order to match the benefits from your plan with [name of existing ISA provider] is

0.53% p.a.

This is equivalent to £63.00 over the next twelve months.

Putting this another way, this means that your St. James's Place ISA 'would have to grow' by £63.00 more in the first year than your existing plan, in total.

The adviser also provided a table that compared the costs involved, including the initial and ongoing charges, and range of funds available.

Likewise, I note that the adviser explained in the suitability letter that if Mrs O transferred her ISA to SJP she would *'incur new initial charges on the investments'*, and that SJP *'may offer less funds and fund managers'* than her existing ISA provider.

In view of this, I can't reasonably find that the adviser failed to explain that Mrs O would incur higher charges if she transferred her existing ISA to SJP.

I have also carefully considered whether the advice to transfer her existing ISA to SJP was unsuitable. I appreciate that Mrs O feels the adviser was motivated by the fees he would receive and did not act in her best interests when he advised her to move her ISA.

However, I must consider that in the suitability letter the adviser set out that Mrs O wanted to move her ISA to SJP as she wanted to *'... have your investments professionally managed and regularly monitored and you did not want to be responsible for the weighting of the asset class selection of your investments. You also wanted to continue to benefit from my ongoing service and advice on your investments'*.

I also note that the adviser clearly set out that there was no guarantee that Mrs O would be better off financially if she transferred her ISA to SJP. He also set out alternatives open to Mrs O if she chose not to transfer her ISA.

I appreciate that, with the benefit of hindsight, Mrs O feels that she would have been better off if she hadn't transferred her ISA to SJP. But based on the information recorded at the time about Mrs O's objectives and requirements, I can't reasonably find that the advice to transfer her existing ISA to SJP was unsuitable.

Was Mrs O made aware of the initial charges on the unit trust she was advised to take out?

In her response to our investigator's view, Mrs O said she noted the points the investigator had made about the ISA investments she made, prior to the advice to invest £180,000 of her inheritance in 2017 but, *'...these were small amounts of investment and nothing in the scale of the investment of £180,000 which required a lot more advice, a lot more understanding and a lot more detail. This was inherited money which we certainly would not want to have lost. Again, I think this is about the fact the adviser was only interested in generating commission for himself. The notes and documentation were always presented in a defensive way, and you should interpret this as such'*.

I have very carefully considered all the documentation that was provided to Mrs O when she received advice on investing the £180,000 lump sum from the inheritance she had received.

Having done so, I can't reasonably find that the initial charges were not disclosed or that the suitability letter didn't set out why the adviser was recommending the ISA and Unit Trust Feeder investments. The suitability letter dated 7 August 2017, referred to two meetings that had been held to discuss investing the money, in March and July 2017. In addition to these meetings, the suitability letter discussed other investment vehicles the adviser had

considered and why he felt the ISA and Unit Trust Feeder were more suitable for Mrs O's personal and financial circumstances.

If Mrs O felt that she didn't understand the recommendations made, or required '*more detail*' before deciding whether to go ahead, it is not clear to me why she didn't raise this with the adviser at the time. I note that in the suitability letter the adviser asked Mrs O to contact him if she had any questions in relation to the advice, key features documents, illustrations, or supplementary information document.

Having reviewed the documentation provided to Mrs O in connection with these recommendations, I cannot reasonably agree that the initial and ongoing commission was not clearly disclosed, in line with the regulatory requirements. I note that, as well as setting out the charges in percentage terms, the Key Facts document for the SJP Unit Trust Mrs O took out said, under the heading '*How much will the advice cost?*':

Our advice is not free. The cost of the initial advice and our services will be £6,362.30 which is 4.00% of the investment shown. This cost covers all of our expenses incurred in providing, checking and guaranteeing the suitability of your advice. The remuneration of your Partner's practice is only one element of this cost, from which they meet their own business expenses.

We will also provide you with ongoing advice to review your investment and ensure it remains appropriate, as set out in the brochure 'Welcome to St. James's Place' provided by your Partner. The cost of this each year is 0.50% of your total investment (and so this annual cost will increase if your investment grows).

For example, if your investments are worth £160,000.00 in a particular year the cost for that year would be £800.

In view of this I cannot reasonably find that the initial and ongoing charges were not disclosed to Mrs O.

I note that in her earlier correspondence with this service, Mrs O said she was told that the unit trust investment would generate an income of around £12,000 per year. As our investigator set out, nothing in the records that have been provided to this service shows or suggests that the adviser told Mrs O that her unit trust would generate a particular level of income. I note that in the suitability letter the adviser said:

While you have no set target for the growth you are hoping to achieve from this investment, you have seen good returns from your existing investments over the years and ideally you are hoping for gains of around 5% or above and you are prepared to take greater risk to potentially achieve this, or at the very least hope to achieve a real return over the longer term, whilst accepting that this cannot be guaranteed.

Summary

Having carefully considered all the information and documentation provided in relation to the recommendations made to Mrs O, I cannot reasonably find that the advice was unsuitable, or that SJP has treated Mrs O unfairly.

I appreciate that, with the benefit of hindsight, Mrs O feels that the fees and charges that were applied to her investments were too high. But, as the adviser explained to Mrs O, his advice was not free. I am satisfied that the costs involved with the initial advice and ongoing reviews were disclosed to Mrs O in line with regulatory requirements and I cannot reasonably say that SJP was required to do more to make Mrs O aware of the costs involved.

My final decision

My decision is that, for the reasons I have set out above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs O to accept or reject my decision before 19 September 2023.

Suzannah Stuart
Ombudsman