

## The complaint

Mr C complains that SPF Private Clients Limited (“SPF”) didn’t act in his best interests after they recommended changes in his investment portfolio.

## What happened

Mr C had been a client of SPF since 2011, receiving advice on his pension and ISA investments.

In July 2018, SPF’s annual report recommended changes to Mr C’s portfolio as his attitude to risk had changed from balanced to cautious. The proposed changes included selling Mr C’s holding in the Woodford Equity Income Fund (WEIF). Mr C and SPF exchanged various emails about the report but Mr C never authorised the changes and so he remained invested in his existing portfolio.

SPF sent their next annual report to Mr C on 22 May 2019. It made a number of recommendations for changes in Mr C’s portfolio, including the sale of his holding in the WEIF. On 24 June 2019 the SPF adviser chased Mr C for a response to the report and the following day Mr C gave his agreement to the recommendations. However, the WEIF had been suspended on 3 June 2019 and Mr C’s holding could not be redeemed.

Mr C complains that SPF failed in their duty of care toward him and didn’t act in his best interests. He thinks SPF should compensate him for the losses he incurred by remaining invested in the WEIF. Mr C says:

- Although he didn’t agree to change his risk profile in 2018, SPF could have encouraged him to sell his WEIF holding in view of its performance and the underlying issues which later led to its suspension. SPF’s 2018 report was unclear, and the adviser should have called him rather than interpreting his non-response as a decision not to accept the advice.
- The 2019 report was clear, but SPF should have called him to ensure the changes to his portfolio were made in time.
- After their advice was not implemented in 2018, SPF should have stopped charging him their management fee.

Our investigator looked into Mr C’s complaint and didn’t think SPF had done anything wrong. He said:

- The recommendations SPF made to Mr C in 2018 were clear and Mr C would have been aware that they involved investing in new funds. It was reasonable for SPF to interpret an email from Mr C in September 2018 as an instruction to leave his portfolio as it was until the next annual report. It would not be fair to say that SPF should have called Mr C later in 2018, particularly given that their previous communications had generally been by email.

- SPF shared with Mr C as much as it knew about the WEIF in 2018. Mr C chose not to accept the recommendations SPF made and it would not be reasonable to say they should have done anything more at that stage.
- Mr C didn't authorise SPF to act on the recommendations in their 2019 annual report until after the suspension of the WEIF. It would not be reasonable to say that SPF should have called him between their report being sent and the WEIF's suspension less than two weeks later. The suspension of the WEIF was outside their control and it would not be reasonable to say they ought to have known more.
- It was reasonable for SPF to continue taking management fees from Mr C. They provided advice to Mr C in line with the terms of their agreement and it was for Mr C to decide if he wanted to accept it.

Mr C didn't agree with our investigator and asked for an ombudsman to make a final decision.

### **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.

#### **2018 report**

SPF's report in July 2018 said that Mr C's collective retirement account (CRA) pension remained suitable for his needs. The report went on to say that Mr C's investment risk profile had changed from balanced to cautious and so SPF recommended that he realign his portfolio of funds to reflect that. The report listed Mr C's current portfolio, with the fund names and weighting, and the revised portfolio that SPF were recommending. The proposed changes included selling Mr C's WEIF holding which made up about 3% of his portfolio.

In both the summary section of the report and his covering email the SPF adviser said that Mr C should let him know if he was happy to proceed with the fund switches. Mr C and the adviser then exchanged various emails about the report. In an email on 11 September 2018 Mr C told SPF's adviser that he wanted to leave his risk rating where it was rather than set it more cautiously. So, no changes were made to Mr C's portfolio.

Mr C's complaint is not that SPF's advice was unsuitable, but that their report was unclear and that the adviser should have done more to encourage him to sell his WEIF holding. Having looked carefully at the annual report and the emails that Mr C and SPF subsequently exchanged, I think SPF's advice and the information they provided was sufficiently clear.

Having received Mr C's email of 11 September 2018, I think it was reasonable for SPF to conclude that he didn't want to make the recommended changes and to take no further action. I don't think it would be fair to say that SPF should have called Mr C at that point, or earlier in their exchanges about the annual report. There was a clear pattern of communication being by email and it seems that may well have been Mr C's preference.

#### **2019 report**

SPF's next annual report was sent to Mr C on 22 May 2019. It said Mr C's CRA pension remained suitable for his needs. The adviser said that with the slight reduction in Mr C's attitude to risk, he was recommending some fund switches to realign the portfolio to the desired asset allocation. He recommended that Mr C's holdings in nine funds, including the WEIF which represented about 2.5% of his portfolio, be sold and the proceeds invested in

nine different funds. The adviser said that Mr C should let him know if he was happy to proceed with the fund switches.

On 24 June 2019, the SPF adviser emailed Mr C to say he hadn't heard back about whether he was happy to proceed with the fund switches recommended in the report. Mr C replied the following day and said, "Please make the switches you think are appropriate and commensurate with my objectives."

Mr C has said that the annual report was clear, but that SPF should have called him to ensure the changes to his portfolio were made more quickly.

I've seen copies of various emails between Mr C and the adviser between 22 May and 24 June 2019. On 30 May 2019, Mr C told the adviser that he had gone through the report in some detail but wanted to correct some information. On 4 June 2019 the adviser offered a phone call with Mr C but said his recommendations were still valid and he needed Mr C to confirm if he wanted him to action the switches.

From the email exchanges, I think it's clear that Mr C was giving careful consideration to the annual report. The adviser reminded him on 4 June 2019 that he needed to authorise the fund switches and I don't think it was unreasonable for him to give Mr C time to decide. So, I don't think it would be fair to say that SPF should have done more before they received Mr C's email on 24 June 2019.

SPF have said that their recommendations to sell Mr C's WEIF holding were due to changes in his attitude to risk and the performance of the fund. And I note that Mr C has said he is not alleging that SPF were aware of the imminent suspension and liquidation of the fund. Based on the evidence I've seen I don't think I can fairly say that SPF should have done any more in relation to their recommendations to Mr C and his investment in the WEIF. And I don't think it would be fair to hold SPF responsible for any losses Mr C incurred because his holding in the WEIF was not sold prior to its suspension on 3 June 2019.

## **Fees**

I've also considered Mr C's complaint about SPF's management fees. Mr C received annual reviews of his investments, including recommendations for change, as described in his client agreement with SPF. So, I think it was fair and reasonable for SPF to charge the management fee set out in that agreement and the separate fees agreement. The fact that Mr C decided not to go ahead with the recommendations made in 2018 did not mean that SPF were not entitled to charge the management fee.

I realise this will be a disappointing decision for Mr C, but I won't be upholding his complaint.

## **My final decision**

For the reasons I've explained, my final decision is that I don't uphold Mr C's complaint against SPF Private Clients Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 15 August 2023.

Matthew Young  
**Ombudsman**