

The complaint

Mrs S complains that St. James's Place Wealth Management Plc {'SJP'} advised her to sell her offshore investment bond and invest the proceeds into unit trusts and ISA's but failed to take into account any potential impact this may have on means tested care costs in the future.

What happened

Mrs S held an offshore investment bond and met with SJP to review her needs as she had recently retired and wasn't paying income tax. SJP recommended that Mrs S sell the offshore investment bond and invest into an ISA and a Unit Trust feeder account. SJP said this would provide for a tax efficient income and capital growth during retirement.

Several years later, Mrs S' husband heard that investment bonds weren't taken into account by local authorities when assessing care costs. He spoke with SJP and says that a partner told him the investments Mrs S held were protected. Mrs S later found out that Unit Trusts and ISA's weren't treated in the same way and complained to SJP that she hadn't been told this. SJP said the recommendations it made in 2016 met Mrs S' needs at the time and it couldn't have foreseen Mrs S's need for care costs as she was in good health. SJP acknowledged that in 2021 it had provided information that would have caused confusion for Mrs S and offered to pay her £200 to reflect the distress and inconvenience this had caused. SJP also paid Mrs S £300 as a goodwill gesture for the delay in dealing with her complaint.

Mrs S brought her complaint to the Financial Ombudsman Service and one of our Investigators looked into things. The Investigator thought that the advice SJP provided to Mrs S in 2016 was suitable as there was nothing to indicate there would be a need to provide for care costs in the near future. The Investigator thought the investments were made in line with the needs Mrs S and SJP agreed at the time and were suitable. The Investigator acknowledged the £200 offer SJP made regarding the incorrect information it provided in 2021 but thought that this didn't take into account that the same SJP partner had also told Mrs S' husband in 2019 that investment bonds were protected from being included in means testing for care costs. In view of this, the Investigator thought SJP should pay Mrs £500 for the two instances of miscommunication and the distress and inconvenience this caused.

Neither Mrs S nor SJP agreed with the Investigator and as both parties asked for an Ombudsman to decide the complaint, it has been passed to me to decide.

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 understand that Mrs S will be disappointed, but for very much the same reasons as our Investigator, I've decided the advice SJP provided in 2016 was suitable. However, I've decided that SJP should pay Mrs S £500 for the distress and inconvenience it caused Mrs S when it provided incorrect information in 2019 and 2021. I will now explain why.

By way of background, a partner of SJP had previously recommended Mrs S invest into an offshore investment bond when he was an Independent Financial Advisor. When, several years later, another qualified partner with SJP met with Mrs S in 2016, the agreed priorities recorded in the Confidential Financial Review document were: to invest in tax efficient products using ISA allowances to generate capital growth over a 10-year period and to supplement Mrs S's income in retirement if needs be. Shortly after the meeting SJP provided Mrs S with a letter explaining why it had recommended the investments it did along with the key features and illustrations relating to the products recommended.

The crux of the complaint is Mrs S believes SJP didn't consider the impact of selling the offshore investment bond should Mrs S need to claim means tested benefits for care costs. Unfortunately, Mrs S has suffered from health issues that may result in her having to be assessed for claim care costs in the near future.

I've considered comments from Mrs S that the investments were to be for the benefit of her and her husband, and I accept that this may have been her intention. However, the offshore investment bond and the investments made from 2016 were in Mrs S' name only, even if this was for tax purposes only. This means that although Mrs S could use the investments held in her name to fund care costs for her husband if she wanted to, it's unlikely that investments held in Mrs S' name only would be assessed for care costs for Mr S.

SJP identified and agreed Mrs S' needs in 2016 – these were identified as tax efficiency, growth and potential income in retirement. It's not disputed care costs weren't discussed at this time. However, the financial review document completed at the meeting recorded Mrs S had recently retired and that she was in good health. It's not my role to suggest alternative recommendations in a complaint like this one, instead I have to assess whether the recommendations were suitable at the time they were made. I empathise with Mrs S' view that had the funds had been left in the offshore investment bond it's more likely than not that they wouldn't be assessed against care costs - but this is with the benefit of hindsight. At the time, SJP didn't believe leaving the funds invested in an offshore investment bond was a suitable way for Mrs S to meet her needs. So, in regard to the crux of Mrs S' complaint, and taking the information from the time into account, I'm satisfied that SJP provided suitable advice to meet the agreed needs for Mrs S in 2016.

It seems to me that in 2019, there was more likely than not a discussion between Mrs S' husband and the SJP partner who recommended the offshore investment bond several years earlier. Although SJP says there is little to no evidence of this happening, it has referred to a conversation that took place in 2019 which the partner believed "*was more of a generic statement as to whether bonds are treated as income for local authority assessment*". Whilst there is no recording of what was said in this discussion, it does seem more likely than not that the partner and Mrs S' husband discussed investments bonds and means tested benefits.

In 2021, Mrs S' husband emailed the partner who had recommended the offshore investment bond to explain Mrs S' health condition and asked for clarity regarding means tested care cost benefits. Initially the SJP partner provided information that didn't relate to the investments now held by Mrs S. The SJP partner accepted this was an error as he hadn't taken into account the offshore investment bond had been sold and replaced with the new investments in 2016 on the recommendation of another SJP partner from the business. The partner quickly apologised for not checking which investments Mrs S held before sending out the incorrect product details.

SJP provided incorrect information about the investments on two occasions. On both occasions, it seems likely to me the information was provided without the partner first checking the investments held by Mrs S. Although SJP feels that its offer to pay Mrs S £200

was a fair and reasonable one, I don't think this offer reflects that incorrect information was provided on two occasions. There was no reason for Mrs S to believe the SJP partner hadn't checked her investments in 2019 before giving information on how offshore investment bonds would be treated if a care cost assessment was required. Even if this was intended to be generic at the time, it seems the discussion left Mrs S feeling she had some protection in this regard. Then, when Mrs S' health issues deteriorated in 2021, meaning a significant change in circumstances was likely in the near future, Mrs S would've been shocked when SJP finally told her that her investments may be taken into account for any means tested care cost assessment. In view of this, I think SJP should pay Mrs S £500 for the distress and inconvenience caused her when an SJP partner provided incorrect information on two separate occasions.

For completeness, Mrs S has already accepted an offer from SJP for the delay in dealing with her complaint. As complaint handling is not a regulated activity, I'm not able to comment any further on this particular matter.

My final decision

For the reasons I've detailed above, I've decided that St. James's Place Wealth Management Plc should pay Mrs S £500 for the distress and inconvenience caused when it provided incorrect information about her investments.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S to accept or reject my decision before 15 June 2023.

Paul Lawton
Ombudsman