

The complaint

Mr and Mrs F complain through their representatives about the service they've received from Raymond James Investment Services Ltd. In summary they're unhappy with the lack of advice and portfolio rebalancing and also think Mr F's vulnerability hasn't been taken into account.

What happened

Mr and Mrs F opened an account with RJIS in 2005. They agreed that RJIS would manage their holdings on a discretionary basis based on a balanced risk mandate.

They complained to RJIS in 2019 who partially upheld the complaint. RJIS thought that they'd contacted Mr and Mrs F at least once a year and invited them to get in touch if there were any changes to their needs and circumstances. They'd also provided them with quarterly valuation reports.

However, they thought it wasn't clear if any discussions had taken place regarding Mr and Mrs F's risk appetite. But they were satisfied that there hadn't been any financial loss as the portfolio had produced good returns. They offered Mr and Mrs F compensation of £500 for the inconvenience they'd suffered.

RJIS then issued a further response to subsequent points that Mr and Mrs F's representatives had made. They thought that they hadn't been made aware of Mr F's vulnerability until 2019 when the complaint was made. They also thought that a fee increase in 2013 wasn't unreasonable and believed that the portfolio had been actively serviced. They accepted that they'd caused additional distress to Mrs F by contacting her after the complaint had been raised and increased their offer of compensation to £750.

Mr and Mrs F's representatives didn't agree with RJIS and brought the complaint to this service where it was considered by one of our investigators. The investigator didn't believe that RJIS needed to do anything further to resolve the complaint. She thought that there was nothing to suggest that a fixed number of trades or a yearly face to face meeting were mandatory under the terms of the agreement that Mr and Mrs F had with RJIS. She also thought that the fees relating to the account were disclosed to Mr and Mrs F and they'd agreed to the increase.

She noted that Mr and Mrs F's representatives thought the portfolio should have performed better but didn't think that Mr and Mrs F's portfolio had been negligently managed. She was satisfied that regular updates were provided to Mr and Mrs F and the regular updates had confirmed that consideration had been given to the portfolio and changes were only made when the investment manager thought they were necessary.

She noted that Mrs F notified RJIS of Mr F's forgetfulness in February 2018 but didn't think this would have alerted RJIS of more serious concerns. She pointed to a Power of Attorney that was granted in November 2017 but not communicated to RJIS until November 2019. And even after this date, no changes to the mandate were proposed.

She appreciated that RJIS had a requirement for its investment managers to revisit suitability every 12 months and to complete a new Client Investment Profile every three years. This profile was not completed in the case of Mr and Mrs F, but it couldn't be said what changes, if any, would have been made and it was therefore difficult to link this to financial loss or gain. Therefore, she thought the offer of compensation from RJIS was fair and reasonable given the circumstances.

Mr and Mrs F's representatives didn't agree and said, in summary:

- The Financial Conduct Authority (FCA) had set out their expectations of firms in their thematic review TR 15/12. From their analysis of the review, RJIS were not meeting the requirements.
- The last face to face meeting was in 2010 and there had been no ongoing suitability review, proactive contact or review of Mr and Mrs F's circumstances. All the contact from RJIS had been in response to administrative issues - mostly around withdrawals.
- The POA was signed in 2017 but at this time Mr F did not have signs of dementia. It was only at the end of 2019 that the representatives took over responsibilities for his affairs as his now diagnosed dementia became worse. There was no requirement then to send RJIS a copy of the POA until late 2019 but it remained that RJIS should have investigated Mrs F's comments more proactively in 2018.
- They'd sent clear evidence from the original initial adviser saying that the investment criteria set was 50% Fixed Interest / 50% Equity with approximately 60% UK, 20% US, 10% Europe and 10% Far East. However, the investigator ignored this point.
- The tolerance was 10% between equity and fixed interest. Therefore, at most the portfolio drift should be 55% / 45%. They'd sent in evidence that at times this was 60% / 40%.
- They hadn't specifically complained about investment performance. However, if the mandate had been managed in line with the agreed splits including geographical equities, it would have resulted in higher returns with lower volatility.
- They also reiterated their view that RJIS charged for services that they didn't deliver.

The investigator wasn't persuaded to change her opinion so the complaint has been passed to me to make a 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.

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Having done so, I don't think RJIS need to do anything else to resolve this complaint and I will go on to explain why. But I'd firstly like to say that I appreciate Mr and Mrs F's representatives' strength of feeling regarding this complaint. I'd like to assure them that I've read and considered everything they've told us. I'm aware I've summarised their complaint points in less detail than they have, but this simply reflects the informal nature of our service. I also like to say that I'm very sorry to hear of Mr and Mrs F's health problems and

the understandable impact it must be having on them.

Mr and Mrs F's representatives have raised a number of concerns with how RJIS runs their business. I think it may be helpful to remind them that this service isn't the regulator, that is the role of the Financial Conduct Authority. Our service therefore doesn't have the power to make rules for financial businesses, or direct that they change their policy or procedures. Our role here is to look at what happened in the circumstances of this complaint and check that RJIS followed their rules and procedures – as well as those set by the regulator and any relevant industry guidance and good practice - and applied them fairly.

The available evidence shows that when Mr and Mrs F opened the account with RJIS in 2005 they were assessed as having a balanced attitude to risk and agreed a mandate with RJIS defining how the portfolio would be managed. The portfolio was to be managed with an asset allocation of 50% equities and 50% fixed income. A subsequent proposal noted the initial makeup of the equity holding as 63% UK equities, 18% US equities, 9% European equities and 9% Japan/Far East/Emerging Market equities.

It isn't in dispute that RJIS didn't review Mr and Mrs F's suitability for a number of years - the last review recorded was completed in 2010. Broadly speaking, RJIS had an obligation to ensure that the suitability information they held for Mr and Mrs F was up to date. They've said that their policy is to revisit suitability every 12 months and to complete a new Client Investment Profile every three years. This wasn't done so I must determine if Mr and Mrs F have lost out as a result.

I've reviewed the correspondence between RJIS and Mr and Mrs F. From what I've seen RJIS sent Mr and Mrs F an update at least once a year and asked Mr and Mrs F to let them know if there were any changes to their circumstances. I do not consider this to be sufficient to fully understand Mr and Mrs F's circumstances.

However, I haven't seen anything in the correspondence to suggest that Mr and Mrs F's attitude to risk or capacity for loss had changed, or that they wanted changes to the portfolio because they were unhappy with its performance. There is a note from correspondence from 2013 where Mr F implies that he wanted to take more risk, but Mrs F didn't.

Taking everything into account, I don't think I can fairly say that there is any persuasive evidence that the portfolio would have changed if RJIS had revisited Mr and Mrs F's suitability. I think the correspondence between both parties implies that the mandate that was in place was broadly what Mr and Mrs F wanted.

I appreciate that Mr and Mrs F's representatives think that there was a lack of activity on the portfolio. They've pointed to the relatively low number of trades on the portfolio, but I haven't seen any evidence that the mandate defined a minimum number of trades each year. Instead it was down to RJIS' discretion to make trades as they saw fit. So I'm not persuaded that RJIS have acted unfairly regarding this point. From what I've seen, even though there wasn't a lot of activity on the account, there is evidence to show that some rebalancing had taken place.

The representatives have also raised concerns about the asset allocation within the portfolio. They've said that at times it was as high as 60% equities and the equities were also not in the agreed regional split. I take the points they've made but I think there was an allowed tolerance within the portfolio. This tolerance was 10% and while the representatives think this means 10% of each asset class, I think it means 10% of the overall portfolio. Therefore, an equity holding of 60% wouldn't have been outside of what

was allowed.

This also impacted the regional split and growth on the holdings also meant that at times the regional split wasn't in line with the initial proposal, but I don't think this wasn't allowed. I say this because while the initial proposal set out what the regional splits would be, there wasn't an explicit statement that those splits must be maintained.

Mr and Mrs F's representatives contend that RJIS should have been aware of Mr F's vulnerability following the contact from Mrs F in 2018. Notes from the time say *'**** is apparently becoming a bit forgetful and his wife **** has asked to have on-line access using her email address'*. I appreciate the concerns raised by Mr and Mrs F's representatives and I've carefully considered if RJIS should have done more following the contact in 2018.

The Financial Conduct Authority (FCA) defines a vulnerable consumer as *'someone who due to their personal circumstances, is especially susceptible to detriment, particularly when a firm is not acting with appropriate levels of care'*. I appreciate this may come as a disappointment, but I don't think the mention of forgetfulness would have been enough to alert RJIS that there was a serious underlying issue or that he was especially susceptible to detriment. In any event, it was a joint account, so Mrs F would've had oversight as demonstrated by her asking to be granted online access. Therefore, I'm not persuaded that RJIS need to do anything else regarding this point.

So, having taken everything into account, I think the offer they have made of £750 for their error is fair and reasonable in the circumstances.

Putting things right

Raymond James Investment Services Ltd should pay Mr and Mrs F £750 for the distress and inconvenience they've caused them.

My final decision

For the reasons I've given, I partially uphold this complaint. Raymond James Investment Services Ltd should pay compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F and Mrs F to accept or reject my decision before 28 October 2022.

Marc Purnell
Ombudsman