

The complaint

Mr C complains that Charteris Treasury Portfolio Managers Limited (“Charteris”) continued to instruct trades on his account after he had revoked its discretionary permissions. And he further complains that Charteris has continued to collect its fees from his investments after the discretionary permissions were revoked.

What happened

Mr C held investments that were managed by Charteris under a discretionary agreement. Essentially that allowed Charteris a relatively wide latitude to make changes to Mr C’s investments without the need to refer individual changes to him for permission. Mr C’s wife also had a similar arrangement with Charteris and has made a similar complaint that I am dealing with separately about how it managed her investments. I am sure that Mr C, and his wife, will understand that the similar nature of their complaints means the decisions I am issuing on this complaint, and that of Mr C’s wife, are also similar.

Mr C agreed to use the services of Charteris in May 2013 when he signed its Portfolio Management Agreement. It appears that the advisor that Mr C used later left the employment of Charteris. In April 2024 Mr C wrote to Charteris to inform the firm that he wished to cancel his authority for Charteris to have discretionary management of his investments.

But, in May 2024 whilst Mr C and his wife were abroad on holiday, Charteris sent an email to them to explain that it had sold some of Mr C’s investments in order to provide cash to pay the regular income that he received. Mr C complained to Charteris about what had happened.

Charteris explained to Mr C that it had made an error in not correctly following the change in its permissions. But it later told him that it wouldn’t have been able to contact him for his instructions whilst he was on holiday and that it was concerned the income payment would be required to meet expenditure commitments.

In July 2024 Mr C told Charteris that he was looking to move his investments to a new advisor. He said that he was unwilling to pay any annual management charges (“AMCs”) from the date at which he revoked the discretionary permissions. Charteris didn’t agree with that complaint. It told Mr C that it was still providing him with the agreed service, albeit that it would now need to contact him for his permission to make any investment changes. Unhappy with that response Mr C asked us to look at his complaint.

Mr C's complaint has been assessed by one of our investigators. He thought that the AMCs would remain reasonably due until Mr C had appointed a new advisor. He said that it was likely that the work Charteris needed to do on Mr C's investments had increased following the removal of the discretionary permissions. The investigator agreed that Charteris had not sought Mr C's permission for the sale of the investments in May 2024. He noted however that the sale was in line with what had happened both in the past and more recently, so he thought it unlikely the error had caused Mr C any financial loss. But the investigator agreed that the error would have caused Mr C some distress and inconvenience. So he asked Charteris to pay Mr C £150 compensation in that regard.

Charteris said it accepted the investigators findings and would be willing to pay the compensation to Mr C. But Mr C didn't agree with that assessment. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process. If Mr C accepts my decision it is legally binding on both parties.

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.

In deciding this complaint I've taken into account the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mr C and by Charteris. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have looked at what evidence we do have, and the surrounding circumstances, to help me decide what I think is more likely to, or should, have happened.

It doesn't seem the basic facts that started this complaint are in dispute. Charteris accepts that it received an instruction from Mr C, in April 2024, revoking its discretionary permissions on his investments. And it accepts that it acted outside of its permissions in selling some of Mr C's investments in May 2024. So in this decision I need to consider the impact of that error on Mr C, and in particular whether it has caused him to lose out.

Before I do that I think it is useful to reflect on the role of this service. This service isn't intended to regulate or punish businesses for their conduct – that is the role of the Financial Conduct Authority. Instead this service looks to resolve individual complaints between a consumer and a business. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

The changes that Charteris made to Mr C's investments were for a very specific purpose. Mr C received regular income payments from his investments. By May 2024 Mr C did not hold sufficient cash within his investments to make the scheduled income payment. The actions Charteris took were exactly in line with how it had dealt with that situation in the past. And in fact its actions were also the same as those it took on Mr C's wife's account in September 2024, but after seeking the permission of Mr C and his wife to make that change.

I don't think there is any excuse for the error Charteris made in May 2024. I haven't seen anything to persuade me that Charteris knew Mr C was abroad at that time or that it thought he couldn't be contacted for any instructions. In fact it seems that Mr C was still monitoring any emails that were sent. Instead I think Charteris had simply failed to correctly update its records about the permissions it no longer held on Mr C's investments.

But that doesn't mean that I think Mr C lost out as a result of the error. On balance I think it most likely that, had Charteris sought his permission, Mr C would have agreed to the sale of that investment in order to provide funds for the income payment that was due to be made. So I don't find that Charteris's error has caused Mr C to be in a different position to that he would have been had nothing gone wrong.

It does however seem that the error Charteris made has caused some distress and inconvenience to Mr C. The sale of his investments was notified to him whilst he was abroad on holiday. So it was something he needed to deal with at a time when he should have been relaxing. So I do think it appropriate that Mr C should be paid some compensation to reflect the inconvenience he was caused.

I've thought carefully about what I would normally award in circumstances such as these. Our investigator thought that an award of £150 would be appropriate – and that is something that Charteris has agreed to pay. On balance I think a payment at that level would be fair and reasonable in the circumstances here.

As I have set out above, I think Mr C terminated the discretionary permissions he'd given Charteris in April 2024. But I don't think that means Mr C thought his entire relationship with Charteris has been ended. In May 2024, after complaining about the sale of the investments made without his permission, Mr C wrote to Charteris to set out how he thought the account should be handled in the future. Specifically he said;

"In the future, and until we can make other arrangements, someone needs to contact us to ask for instructions if the need for further cash raises are needed."

And it seems that is exactly what happened when further cash was needed by Mr C's wife in September 2024. Charteris wrote to them to ask for permission to sell some investments. Mr C and his wife responded providing that permission, but being clear the agreement was for a one off transaction, and new authority would need to be sought if changes were required in the future.

So I am satisfied that Mr C expected that his arrangement with Charteris, for the management of his investments, would continue despite it no longer having discretionary authority. So I don't think it unreasonable that Charteris should continue to collect a management charge for that work.

I have considered whether the removal of the discretionary permissions should be reflected in a reduction of the fees that Mr C had previously agreed to pay. But I'm sorry to tell Mr C that I don't think that would be appropriate. It seems to me that the work Charteris is performing is broadly similar to what was done before, albeit a further administrative step has now been introduced by the need to seek Mr C's agreement to each change.

I appreciate that this decision will be disappointing for Mr C. But I don't think that Charteris failing to act on the changes made to its discretionary mandate meant that Mr C lost out – I think the actions that Charteris took were the same as would have happened had it sought permission from Mr C for the changes. And I don't think the servicing that Charteris has continued to provide to Mr C has been degraded to such an extent by the removal of the discretionary permissions that it would be unreasonable for it to continue collecting the fees previously agreed with Mr C.

Putting things right

Charteris should pay Mr C £150 to reflect the distress and inconvenience he was caused by its failure to seek permission for the investment sale that was completed in May 2024.

My final decision

My final decision is that I uphold a part of Mr C's complaint and direct Charteris Treasury Portfolio Managers Limited to put things right as detailed above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C to accept or reject my decision before 4 June 2025.

Paul Reilly
Ombudsman