

The complaint

The trustees of the E Trust ('the Trust') have complained about the poor management of the Trust's assets by Rowan Dartington & Co. Limited ('RD'). The trustees say trading was excessive and the portfolio suffered losses because of bad management for which they want compensation.

What happened

In May 2021 the Trust invested £2.3m under the discretionary investment mandate with RD. The investment objective was for an ethically managed portfolio (Environmental, Social, Governance – 'ESG') from a balanced portfolio providing an income of £70,000 per year (3% yield) with a medium attitude to risk over a minimum five year term.

The trustees became concerned about the losses incurred, the unexplainable investment decisions and the number of trades. The trustees raised their concerns with RD between October 2023 and July 2024. RD initially responded on 29 November 2023;

- It acknowledged the poor performance of the portfolio, but it said it was invested in line with RD's other ESG mandates and it provided background to the five poorest performing assets.
- The portfolio's UK bias had underperformed a global bias.
- It was fully diversified by asset class and security.
- RD was disappointed with the returns but continued to work on all investments and to manage the portfolio.
- It took a long rather than short term view.
- There had been several significant geopolitical factors that had impacted investment markets.
- It outlined the actions it had taken to prevent underperformance in the future.

And after further correspondence with the trustees in July 2024 it said:

- The portfolio was in line with a medium risk mandate.
- Short term transactions were to realign with the model framework and not with the intention of creating short term gains or losses. It had discretion in how to manage the assets with its long term views.
- There were no additional costs for transactions. No commission was earned.
- It had already responded to concerns about particular investments and emerging markets as a whole.

The trustees withdrew the discretionary mandate on 12 April 2024, but trading continued between 16 and 18 April 2024 which was caused by a delay in RD's system updating its records. Compensation of £1,764.63 was paid. The trustees liquidated the portfolio in July 2024 and moved to another provider the following month.

Our investigator who considered the complaint didn't think RD needed to do anything more;

- He outlined the regulations around suitability, what was said at application and RD's Investment Proposal.
- RD managed the portfolio within the ESG mandate.
- RD's responses about five identified poorer performing assets were verifiable and it had moved to de-risk the portfolio.
- RD had accepted the error in carrying out transactions when the discretionary mandate was removed and had provided redress.

The trustees were disappointed with the assessment. They said the investigator suggested that as the portfolio was under discretionary management then RD could do what it wanted rather than invest the funds in a responsible manner. The portfolio was churned without any strategy and the volume of transactions in such a short period wasn't warranted in a long term investment portfolio. They provided a spreadsheet analysis of the transactions that had taken place.

As the complaint remains unresolved, it has been passed to me to decide in my role as ombudsman.

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.

After doing so, I've reached the same conclusion as the investigator and broadly for the same reasons. I'll explain why.

The Portfolio Report for the E Trust was provided by RD on 17 December 2020 and included the Investment Proposal which broke down the asset and regional allocation.

Asset Allocation	%	Regional Allocation	%
Equities	62	UK	37.1
Fixed Income	22	Emerging Markets	4.8
Alternatives	14	Global	58.1
Cash	2		

The Portfolio Report detailed UK equity was generally via direct equities and collectives were used to diversify the portfolio overseas and other asset classes. A sample portfolio including the assets respective risk ratings was provided which I note included some of the assets that were eventually held in the Trust's portfolio. It was explained the sample portfolio was subject to RD's market view and individual circumstances and that future income yields were difficult to predict post COVID but were expected to recover. It was shown that the annualised performance relative to the benchmark since launch had outperformed but warned that past performance wasn't indicative of future performance.

A discretionary manager for a trust has to 'know its customer' focusing on the specific circumstances of the trust, any specific restrictions or mandates, risk profile and time horizon. Further to the Investment Proposal, the RD Discretionary Client Application Form for the Trust Bespoke Service was completed by the trustees in April 2021 and confirmed the Trust's assets were to be managed within a Medium Risk Portfolio;

'The portfolio aims to produce its return through a combination of income and capital growth. It is designed to be more defensive when markets fall but able to capture a sizeable part of the gains in rising markets.

This is achieved from a portfolio invested in a diverse range of asset classes, ranging from low to high risk, which includes direct equities, together with equity fixed interest and property-based collectives.'

The 'SPECIFIC PORTFOLIO REQUIREMENTS' was for ESG investing.

RD accepts its investment decisions weren't as successful as it hoped. The trustees have complained in particular about RD's active trading style. I can see in correspondence that RD had with the trustees it explained its investment strategy which when looking at the number of transactions carried out – and the reasons given for that – I find reasonable and compelling. It also explained RD's reasons for initial investment which it said was based on strong credit fundamentals, good ESG attributes and attractive relative value. It explained that after the initial decision to purchase an asset if those expectations weren't met then RD would consider three options;

- Do nothing and wait for recovery
- Average down by purchasing additional shares/units in anticipation of recovery
- Revisit the original investment decision and sell if it was no longer valid.

The trustees have provided an excel spreadsheet of transactions in the portfolio to evidence their concern about excessive trading and that it was churned without any strategy. In particular, the trustees have complained about five of the poorer performing investments. They questioned why additional shares/units were purchased in light of falls in value, losses where no action was taken and the reason for selling when only a minimal loss was suffered. But to my mind these trading patterns fit with either RD's stated investment strategy when an asset didn't perform as expected at the outset or realignment with its model framework.

As an example, I can see on trustees 'excessive losses' spreadsheet that a unit trust – 'R' – was purchased twice in 2021 at unit prices of £1.05 and £1.06, there was then a partial sale at the beginning of 2022 at £0.97, then further units bought later in the year at the lower prices of £0.77 and £0.76 and again in 2023 at £0.80. This suggests to me that overall RD had faith in the long term performance of the underlying asset and averaged down by purchasing additional units. This was in line with its stated investment options when an asset didn't perform as well as hoped. In other cases, I can see RD bought an asset and then added to it and continued to hold despite losses being incurred in the shorter term but again, this suggests to me a long term view.

For a portfolio to be churned I would expect to see a lot of purchases and sales followed by more frequent purchases and sales – short term trades – as an example. And I would expect those trades to be more than just a realignment which RD has explained was sometimes the case. And for churning it would be the frequency and volume of those transactions which were designed to generate a commission for the business rather than in the best interests of the client and with regard to the client's investment objectives. But in this case RD didn't benefit from commissions on the trades as the Trust paid an overall management fee, so this wasn't the motive.

The trustees have said their complaint is not about poor performance but about poor management and unexplainable investment decisions. But ultimately it is the management that has led to poor performance and while I can't consider performance in and of itself, I can

consider whether the portfolio was unsuitable for the Trust's objectives or whether it's been mismanaged.

In doing so I've borne in mind that because of the ESG mandate inevitably certain sectors are excluded such as oil, gas, tobacco or defence as examples. This reduces diversification, which RD compensated for by investing in overseas collectives, as well as increasing exposure to specific industries such as technology, renewables and social housing. The portfolio did invest into some higher risk assets – AIM listed securities and exposure to Enterprise Investment Schemes/Venture Capital Trusts as examples – as well as lower risk assets and some of those assets had a small market capitalisation which can lead to price exaggeration.

But provided a portfolio is invested in line with its overall objectives and disclosed risk – in this case for capital growth and income from a portfolio of ESG assets – within the agreed risk profile, then it wouldn't be fair or reasonable for me to uphold the complaint on this point. I haven't seen anything to suggest that the portfolio was invested outside of its stated investment objectives or risk profile.

And the fact that the risk of underperformance of the portfolio materialised against the benchmarks, does not automatically mean that RD did anything wrong. In the absence of any evidence that RD mismanaged the portfolio – and the performance of the portfolio alone doesn't evidence this – I am unable to say that RD has done anything wrong in the overall management of the Trust's investments.

While I can understand why the trustees may not be happy with the performance of the portfolio during the period in question, but the issue of portfolio performance is not straightforward in that it is actively managed. This means the money is invested in specific assets or funds chosen by the Trust's investment manager. If the portfolio in a certain period poorly performed that's because the investment manager had taken certain decisions that hadn't paid off – at least in the period under review – and RD has acknowledged that happened here. That's disappointing, of course, but reflects the investment manager exercising their judgment – which they were supposed to do. It doesn't mean the investment manager had been negligent or failed in their duty of care or that the investment manager's decisions won't pay off over the longer term.

RD did provide a response to the trustees' questions about the five poorest performing assets they had identified and gave reasons for its decisions to invest, retain or sell in each case. RD has also provided a summary of its Asset Allocation changes that were made during the period since the Investment Proposal to show the amendments made to its house view over time which I'm satisfied evidences its proactive approach to management. And RD did outline the remedial action it had taken to prevent underperformance in the future such as reducing its exposure to alternatives, adding a lower risk money market fund, reducing its exposure to mid and small capitalisation equity and a move away from AIM listed stocks. So, I am satisfied RD took positive action to try and improve the performance of the portfolio.

Overall, I haven't found any evidence that RD acted outside of the agreed investment mandate. So, while I recognise the trustees' disappointment with the performance of the portfolio, I'm not persuaded RD acted unfairly or unreasonably in its management of the portfolio or was negligent in doing so. I haven't seen anything to suggest that RD didn't act in the best interests of its customer. It follows that I don't uphold the complaint about poor management or unexplained decision making.

After the trustees gave RD instruction to move from discretionary managed to execution only on 12 April 2024 – which RD confirmed on 15 April 2024 – a further seven transactions were carried out on 16, 17 and 18 April 2024. RD explained that this was caused by a delay in its

system updating the portfolio management system and so shouldn't have occurred. RD apologised for this oversight and paid the Trust the difference between the prices on the date the assets were sold in error compared to the date the portfolio was liquidated on 8 July 2024. So, while this must have been frustrating for the trustees, I am satisfied RD has fairly and reasonably put the matter right.

Taking all the above into account, I don't uphold the trustees' complaint. I am satisfied RD managed the portfolio within the agreed investment objectives and in line with the medium attitude to risk. I am also satisfied RD recognised and apologised for its trading error once the discretionary mandate was removed and hse provided appropriate compensation.

I appreciate the trustees will be disappointed with the outcome. It's clear they understandably feel strongly about the complaint. But I hope I have been able to explain how and why I have reached my decision.

My final decision

For the reasons given, I don't uphold the trustees of the E Trust's complaint about Rowan Dartington & Co. Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask T to accept or reject my decision before 12 December 2025.

Catherine Langley
Ombudsman