

The complaint

Ms J complains Rhys Lewis Independent Financial Advisor (RLIFA) has unfairly deducted fees from her investments without providing any products or services in exchange.

What happened

Ms J met with RLIFA around 25 years ago. At this time she purchased an investment portfolio that was intended as a repayment vehicle for a mortgage arrangement. Ms J asserts that, following this meeting, she didn't meet regularly or take any further products or services with the firm.

Years later, when reviewing the performance of her investments, Ms J became aware that RLIFA had been in receipt of a "servicing commission" that was seemingly deducted from her investments. She complained to the firm that it should return this money to her, as she'd not received anything from it that could justify the ongoing cost.

RLIFA rejected Ms J's complaint. It explained the commission it'd received wasn't linked to any ongoing service or advice. It further suggested that as it'd ceased trading in 2009, it lacked the paperwork necessary to meaningfully engage with the complaint. As Ms J remained unhappy, she referred her complaint to our service.

On referral, RLIFA didn't consent to our investigation proceeding. In its view, Ms J's complaint had been made too late under the relevant rules for it to be considered by our service.

Our investigator gave the opinion that Ms J's complaint had been made in time. In their view, neither Ms J or RLIFA had provided any evidence to suggest her complaint could've been made any sooner. They further explained that, having considered the merits of Ms J's complaint, they weren't persuaded it should be upheld. The investigator found that:

- The fee Ms J's complaint focused on was known as "trail commission".
- The charging of this commission was commonplace across the industry.
- There was no requirement for RLIFA to have provided a service for the fee.
- Broadly, they weren't persuaded RLIFA had treated Ms J unfairly.

RLIFA didn't contest our investigator's finding that Ms J's complaint had been made in time. Ms J however didn't accept our investigator's opinion on the merits of her complaint. As a result, the matter's been referred to me for 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.

To begin with, I think it would be helpful if I explain what "trail commission" is, and crucially as I think it will be relevant here, what it isn't. Prior to 2013, investment services like financial advice, custodianship and management were typically funded by a bundle of charges that was built into the cost of investment funds. This would usually mean that rather than paying

a separate advice fee, a separate account fee and a separate management fee, many of the key costs of investing were taken care of by these bundled charges.

This bundle of charges was typically set to pay all involved for the lifetime of the investment. It would be a mistake to think of these charges as a recurring direct debit, or another form of regular bill payment. Units in the investment won't typically have been sold in order to pay these charges. Rather, the charges were ingrained in each investment fund, and this was reflected in the fund's overall unit price.

Relevant in Ms J's complaint is the portion of these charges that was reserved for the advisor who originally sold the investment. This element of the charges is often referred to as "trail commission". Here, RLIFA has been the recipient of commission from Ms J's investments between 2001 and 2009 because it sold those investments to her. Unless agreed otherwise, there was no requirement for firms like RLIFA to provide an ongoing service in exchange for the trail commission it received. And there's no evidence in this case that Ms J and RLIFA had any agreement in place for ongoing services.

It could in theory have been possible to prevent RLIFA from receiving the ongoing commission from Ms J's investments. This might've been achievable by speaking to the platform which held the investments, and asking it to remove RLIFA as the linked advisor. But even if Ms J had done this, it's unlikely to have made a difference to her investments overall. The existence of the bundled charges was so fundamental to the makeup of these funds, that they'd usually exist with or without an advisor present to collect on the trail commission element.

These bundled charges were outlawed on new arrangements by the regulator from 2013 onwards. In place of them, firms now usually charge separate fees for each of the services they provide.

I also think it's important to distinguish trail commission from so called "ongoing advice charges" (OACs). Unlike trail commission, charging an OAC would typically confer an obligation on the firm charging it to provide an ongoing service in exchange for the fee being charged. OAC arrangements are fairly common in advisor led relationships which post-date the 2013 outlawing of new trail commission arrangements.

With all of that being said, I'll now address the substance of Ms J's complaint.

Ms J's complaint is made on the basis that RLIFA has charged her for a service it never provided. But I'm satisfied that's unlikely to be the case here.

As I've explained above, it was fairly common for trail commission to be collected on historic investment arrangements like this. And that wouldn't have imposed any requirement on RLIFA to have provided any sort of service on an ongoing basis. As neither party has provided evidence to suggest there was any ongoing agreement for services in place, I think it's unlikely one existed. For this reason, I'm satisfied the fees Ms J's complaint focusses on are trail commission, and not OACs.

As a result of this, I'm not persuaded RLIFA has treated Ms J unfairly by receiving trail commission from her investments. It would've been routine for it to have collected these payments on any investments it sold prior to 2013. And as explained above, even if RLIFA hadn't received the commission, this isn't likely to have affected the value of Ms J's investments. I think there's some likelihood that the commission would simply have been retained by the fund manager.

For the reasons given above, I don't uphold Ms J's complaint about RLIFA.

My final decision

My final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms J to accept or reject my decision before 4 August 2025.

Marcus Moore
Ombudsman