DRN-5746424

The complaint

Mrs W is unhappy, in summary, that Charteris Treasury Portfolio Managers Ltd ('Charteris') still charged her fees, despite her having removed its discretionary management permissions in respect of her Self-Invested Personal Pension ('SIPP').

What happened

I've outlined what I think are the key events involved in Mrs W's complaint below.

Mrs W's husband (Mr W), and Mr and Mrs W jointly, have made identical complaints about Charteris that I'm dealing with separately. So I'm sure Mr W, Mrs W and Charteris will understand that this means the decisions I'm giving on these will be similar. And where Mr W has corresponded with Charteris and our Service on Mrs W's behalf, I've referred to her throughout for ease.

Mrs W held investments within her SIPP that were managed by Charteris under a discretionary management agreement. Essentially, that allowed Charteris to make changes to Mrs W's investments without the need to refer individual changes to her for permission.

Mrs W agreed to use the services of Charteris in June 2013, when she signed an agreement with it. It appears that the adviser Mrs W used left Charteris' employment later on. And, as a result, in April 2024, Mrs W informed Charteris that she wished to cancel her authority for it to have discretionary management of her investments. Mrs W has said she followed this up by email to Charteris on 30 June 2024, having still been charged the annual management charge ('AMC') of around 1.25% plus VAT – which is paid quarterly in arrears – at the end of that month. In Mrs W's email she said she'd removed the discretionary permissions for all her accounts with Charteris, as she wanted to seek a new adviser/discretionary fund manager ('DFM') as soon as possible. And that this meant she would no longer be liable for any AMC levied by it from the date of that removal.

Charteris responded and said, amongst other things, that changing the discretionary permissions to advisory doesn't eliminate fees due to it, that AMCs continued to be due while Mrs W's assets remained on its system and it offered its help in Mrs W finding a new adviser.

On 1 July 2024, Mrs W responded to Charteris and said, in summary, that it had previously told her it doesn't offer an advisory service when it said "*in terms of your email instructing…that you opt out of the Discretionary Service - this we would need to discuss, as this is the only service currently available with the firm*". So Mrs W said that as Charteris was therefore not providing her with any service option – discretionary, advisory or otherwise – this meant it cannot charge her an AMC.

Mrs W also set out an excerpt from the agreement and said that the reference in it to 'client money' was in respect of a cash balance, not invested assets. Such that if cash wasn't available then Charteris wasn't entitled to sell her assets to pay its AMC. Mrs W said that permission is required to change or sell assets. And that Charteris couldn't do the latter in any event as she'd removed its discretionary permissions.

In response, Charteris said, amongst other things, that Mrs W had unilaterally converted the management agreement into an advisory one. It said that all the time Mrs W is on its system she is classed as its client and will be charged a fee accordingly while she remains as such.

Mrs W complained to Charteris at the start of July 2024. She said, in summary, that she isn't sure that a paragraph exists in the management agreement that allows Charteris to unilaterally convert her into an advisory client. And that for Charteris to have done so it would have needed her to sign an advisory agreement and complete a fact find, for example, which hadn't been done. Mrs W also said that Charteris isn't in a position to provide advice, no services have been provided and no AMCs are chargeable. And that Charteris couldn't sell her invested assets to pay its fees.

Charteris sent Mrs W its final response letter. It told Mrs W that it was still providing her with the agreed service and it set out a list of services it said it provided as part of the management agreement, which the AMC was set out in.

In October 2024, unhappy with this response, Mrs W referred her complaint to our Service and added, in summary, that:

- The basis of her complaint results from Charteris wrongly terminating her adviser's employment with it.
- She wanted to take her time to find an alternative arrangement elsewhere following that turn of events.
- Having put Charteris on notice of her intention to move elsewhere, and given no ongoing service is being offered or undertaken by it and that it no longer has discretionary permissions, means no AMC is payable to it from April 2024 onwards.
- Despite this, she and numerous clients in a similar position have still had fees taken from their accounts. She seeks a refund of her fees in resolution of her complaint.

One of our Investigators reviewed Mrs W's complaint and didn't uphold it. They said, in summary, that Charteris has explained the services it continued to provide Mrs W with and it isn't reasonable to expect it to have done that free of charge. They said that they hadn't seen anything to persuade them that the fees charged by Charteris were unfair in the circumstances, these are as per the agreement and so they weren't asking it to refund these.

Mrs W didn't agree and asked for an Ombudsman to consider her complaint. She said, in summary, that:

- It takes time to switch to another provider and it's unfair for Charteris to take advantage of a situation it created.
- The removal of its discretionary permission means Charteris has no authority over her account. As it has no authority, it could not and did not provide any ongoing service. The claims Charteris made in its final response about services still provided, such as tax and ISA monitoring, did not in fact take place or weren't part of their service, but were those of the custodian.
- Charteris was not meeting the Regulator's Consumer Duty requirements.
- Charteris' claims that she'd unilaterally converted to an advisory service when its discretionary permissions were removed is wrong and shows a lack of knowledge.
- The management agreement also says that clients will be invoiced demonstrating that Charteris doesn't have carte blanche to just sell a client's invested assets to take fees which aren't due. Although Mrs W doesn't believe Charteris did sell any of her assets after its discretionary permissions were removed.

I understand Mrs W has since left Charteris and taken her business elsewhere.

Because no agreement could be reached the case has been passed to me for a decision.

I issued a provisional decision in which I said, in summary, that I intended to ask Charteris to pay Mrs W £100 in compensation but that I wasn't asking it to do anything more than that.

Charteris accepted my provisional decision, with no further comments to add.

Mrs W didn't agree. She added, in summary, that while she understands my approach, across Mr and Mrs W's accounts the AMC charged by Charteris since they removed its discretionary permissions amounts to several thousand pounds and for the provision of no, or very little, service. That removal meant there was no longer an agreement in place under contract law, so there was no right to payment of the AMC. The custodian, who they pay a nominee fee to half yearly, holds the actual investments and carried out, for example, the corporate actions. Mrs W would like a copy of Charteris' records and all its files for them to back up its claim that it carried out data handling, ongoing research and risk monitoring, for example. And she doesn't believe Charteris has the appropriate qualifications to give some of the types of advice it said it provides.

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 relevant law and regulations, Regulator's rules, guidance and standards and codes of practice (including Consumer Duty) and, where appropriate, what I consider to have been good industry practice at the relevant time.

While I've carefully considered the entirety of the submissions the parties have provided, my decision focuses on what I consider to be the central issues. The purpose of my decision isn't to comment on every point or question made, rather it's to set out my decision and reasons for reaching it.

Where the evidence is unclear, or there are conflicts, I've made my decision based on the balance of probabilities. In other words I've 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.

And I think it is useful at this point 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.

While I recognise Mrs W's strength of feeling on the matter, having considered whether she should receive a refund of the AMC that Charteris continued to charge following her removal of its discretionary permissions, I don't think that would be fair or reasonable in the circumstances, for largely the same reasons as set out in my provisional decision, which I've largely repeated below.

I understand Mrs W didn't want Charteris to take discretionary decisions for her anymore. But I don't think that means she reasonably thought her relationship with it, and services it was providing her with, had ended. Even though Mrs W put Charteris on notice of her intention to move elsewhere, she hadn't yet done so. I also think it's clear in the circumstances that Mrs W didn't want to monitor/manage her investments herself, given she

wanted to move to another adviser/DFM. I've seen nothing to show that Mrs W was actively looking elsewhere for one though, despite removing Charteris' discretionary permissions. Instead I understand Mrs W was waiting to – and later did – move her accounts with Charteris to her previous adviser once they were established elsewhere.

This meant that, in the meantime, Mrs W's investments remained with Charteris and in its portfolios for several months. So I am satisfied that Mrs W ought reasonably to have expected that Charteris would continue to administer and monitor her existing accounts and investments with it – and continue to charge her for this – despite it no longer having the authority to actively make changes without recourse to her. And, given what I've said above, I think that if Charteris had removed the services it was still providing Mrs W with once she'd removed its discretionary permissions then it's more likely than not that she would have experienced a different kind of inconvenience, and potentially consumer detriment, if it had not administered and monitored her accounts and investments.

Amongst other things, Mrs W has suggested we should obtain and provide her with a copy Charteris' records to back up claims made in its final response letter as to the services it provides as part of the AMC, as she feels these are provided by custodian. Respectfully though, as the deciding ombudsman it's for me to decide what information I think is necessary in the circumstances to reach my decision. In its final response, Charteris set out a number of services that it was still providing Mrs W with as part of her agreement with it, in addition to those provided by the custodian. In my experience, those that Charteris has said it provides as part of the AMC are not unusual or unexpected and I see no reason to doubt that this is the case.

And I note that Charteris' final response letter and the Safe Custody nominee registration section of its terms and conditions of business – which I think Mrs W is aware of given she has herself provided me with a partial copy that contains the start of what I think is likely to be the same, or a similar, section – set out that the cost of the primary custodian service is included in, and paid for from, the AMC by Charteris. That is apart from a small annual nominee registration charge that's seemingly paid to the custodian half yearly. So, in any case, it seems custodian services are largely paid for from the AMC.

Charteris has also previously explained to our Service in respect of other similar complaints that a client's withdrawal of the discretionary mandate effectively means that any changes to their portfolios can't happen without seeking a client's permission. It has said that the client's accounts are monitored and administered to the same standard by it as before the withdrawal of these, but that it has now had to introduce extra steps in its processes to allow for permission to be sought prior to any changes to their accounts, if and when needed, when it didn't previously.

For example, while it's unclear to me if the below was in respect of Mrs W's, Mr W's or their joint account with Charteris and it seems they tended to correspond with it about the accounts – or at least in respect of their complaints – via Mrs W's email address, I can see that, in June 2024, Charteris emailed Mrs W to say that one of the portfolio holdings was going to be delisted from its stock exchange, this could result in liquidity issues and if she wished to action a sale to contact it by the deadline in the email. I can see Charteris also emailed Mrs W in June 2024 to explain that there were insufficient funds in her cash account for it to make a £198 payment that was due to her, and to seek instruction on whether she wanted to raise cash to cover this or defer from taking the payment. And Charteris has said that general account monitoring, including for example ongoing monitoring of stocks, is just one of the examples of its continued and ongoing work.

So, I'm satisfied Charteris continued to provide Mrs W with an ongoing service. And while I recognise Charteris was no longer taking discretionary decisions in respect of Mrs W's

portfolio, further administrative steps were introduced by the need for it to now have to seek client agreement to any changes that might be needed when decisions would otherwise be made and actioned by it as part of the portfolio. So, in the circumstances, I don't think that the servicing Charteris continued to provide to Mrs W with was reduced to such an extent that it wasn't reasonable for it to continue collecting the fees previously agreed with Mrs W in the way it did.

Mrs W has said that her agreement with Charteris didn't allow it to sell her invested assets to cover its unpaid fees. But, as there's no suggestion Charteris actually did this, I don't think it's necessary for me to consider whether the agreement allowed for this. However, it's clear from Mrs W's ongoing correspondence with Charteris that she was concerned – and that she remained concerned – that it could and would do that. And I can't see that Charteris provided Mrs W with clarification either way, when I think it would have been better customer service for it to have done so.

In addition, as set out above, Mrs W's correspondence with Charteris included a back and forth about whether her removal of its discretionary permissions meant it was now providing her with an advisory service. I understand from my experience of similar cases with our Service concerning Charteris and the removal of discretionary permissions that this doesn't mean the service becomes advisory in that Charteris would be providing Mrs W with advice. It instead means it would seek instructions in the meantime from clients who, like Mrs W, were looking to move elsewhere. In which case, it's unclear to me why Charteris told Mrs W that she'd unilaterally converted her management agreement into an advisory one when she removed its discretionary permissions, when I can't see that this was the case. I think Charteris should have given Mrs W clearer information here. And, while I think Mrs W's responses to Charteris show that she ultimately didn't think she was now using an advisory service despite what it had said, I still think this had caused her some confusion and frustration.

In summary, I think that at times Charteris could have provided Mrs W with clearer information and better customer service. And to make up for the confusion and frustration caused to her I think it should pay her £100 in compensation. I think this is a fair and reasonable amount in the circumstances, when also bearing in mind that I think most of Mrs W's strength of feeling and frustration on the matter largely stems from her complaint about Charteris' AMCs following the withdrawal of its discretionary permissions, the latter of which I've explained I'm not upholding, for the reasons given above.

My final decision

For the reasons given above, my decision is that Charteris Treasury Portfolio Managers Limited must pay Mrs W £100 in compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 8 September 2025.

Holly Jackson
Ombudsman