

complaint

Mr and Mrs W's complaint is about Bestinvest (Brokers) Limited's investment advisory service. They say:

- They have paid high fees for a service they haven't received.
- They were misled about the service when they agreed to sign up – in particular, they didn't realise they would need to fill in a factfind before they could get any advice at all.
- Bestinvest put them under pressure to sign up for the service in the first place.
- Bestinvest ignored their request to cancel the service.

background

In 2013, Bestinvest wrote to Mr and Mrs W about changes to its service. These changes were required to comply with the Financial Conduct Authority ("FCA")'s Retail Distribution Review. Mr and Mrs W signed up for the Investment Advisory Service ("IAS").

Three days later, Bestinvest sent Mr and Mrs W a factfind. Mr and Mrs W didn't complete it. Bestinvest says it sent a further factfind in January 2014, which was again not filled in.

On 24 April 2014, Mrs W wrote to Bestinvest to say "*both my husband and myself would like to cancel Bestinvest with immediate effect*". Over the next few weeks, Bestinvest tried to phone Mr and Mrs W three times without success.

Several letters were exchanged before the service was cancelled in early October.

I issued my provisional decision on 25 May 2016. I upheld the complaint. I made the following points, in summary:

- I found that Mr and Mrs W didn't get the service they paid for. From the end of 2013, they were paying a monthly fee for annual reviews and advice, which they haven't received.
- Bestinvest pointed to the fact that Mr and Mrs W didn't complete a factfind. But I didn't think this changed the fact that Mr and Mrs W didn't get what they paid for.
- I also considered that Bestinvest didn't handle the cancellation properly. I thought the intention of the letter was clear.
- So I thought Bestinvest should refund the fees Mr and Mrs W had paid, together with interest at 8% on those fees.
- I hadn't seen evidence that Bestinvest had explained what Mr and Mrs W would pay for the service in cash terms, despite them asking the question repeatedly.
- Bestinvest didn't tell Mr and Mrs W that they could refer their complaint to the ombudsman until September 2015 - almost a year after they first complained. Bestinvest has apologised for this. But I thought this was poor service and should have been corrected sooner.
- Overall, I thought Bestinvest had upset Mr and Mrs W, as well as put them through a degree of inconvenience. I intended to award £200 for this.

Mr and Mrs W replied saying:

- BestInvest were aware that they were having serious health issues in December 2013, as this had been discussed over the phone. They felt they were vulnerable and were pressurised into signing the agreement.
- They were sent the documentation for the IAS. They weren't made aware of the other options.
- They believed it was a regulatory requirement to send all key information before a decision was made. So if the fact find was so important, Bestinvest should have sent it earlier.

Bestinvest made the following points:

- Its key features document did include an illustration using cash examples based on the fixed fee of 1.10%.
- It was its standard practice to send all the information out together including the factfind. It accepted that it couldn't actually prove this had happened in this case.
- When Mr and Mrs W received the factfind and didn't want to complete it, they could have terminated the advisory service then.
- Mr and Mrs W were still receiving a service via a relationship manager and six-monthly valuation reports, monthly email updates etc.
- Even if Mr and Mrs W were paying for the "execution only" service, they would have paid 0.45%. A refund of the difference between the two fees would therefore be fairer.

my findings

I've reconsidered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint. Having done so, I still intend to uphold the complaint. I'll explain this below.

It remains my view that Mr and Mrs W didn't get the service they signed up for. I accept that they could have cancelled the advisory service, as soon as they were sent the factfind. But I don't think they realised the significance of the form at the time.

I still consider that Mr and Mrs W's cancellation letter was clear. Bestinvest should therefore have acted on it.

Overall, I think Mr and Mrs W were vulnerable, elderly customers who needed to be treated with more care than Bestinvest showed. They weren't in good health and they were clearly having trouble understanding the changes brought in by the Retail Distribution Review and what their options were. They needed guidance, but instead, felt under pressure.

Bestinvest has shown that it did provide an example of fees in cash terms in its key facts document. But when Mr and Mrs W repeatedly asked how much they were paying, no-one referred them to this example or ever gave them an answer in cash terms.

Bestinvest has argued that if they hadn't opted for the advisory service, Mr and Mrs W would have paid a fee of 0.45% in any case (rather than 0.6%) for its "execution only" service – that is, an online service where no investment advice is offered. I've considered this point carefully.

I accept that Bestinvest did provide some service to Mr and Mrs W in the period (valuations and updates). But I'm not persuaded that it provided anything that they couldn't have got

from their platform provider. And I don't think Bestinvest's online investment service was appropriate for Mr and Mrs W, who had no need of online account analysis or investment reports.

My conclusion is that I don't accept Bestinvest's argument. I still think a full refund of the advisory fees paid is fair.

Overall, I still think Bestinvest have upset Mr and Mrs W by their handling of their letter and their later concerns, as well as put them through a degree of inconvenience. I award an additional £200 for this.

my final decision

I uphold this complaint and direct Bestinvest (Brokers) Limited to refund the total fees paid from the date Mr and Mrs W signed up for the service to the date of cancellation

Interest at 8% a year should be added to the total amount from the cancellation date until the date of settlement. This is to compensate Mr and Mrs W for the loss of access to the money paid. Tax may be payable on this interest.

Bestinvest (Brokers) Limited should also pay £200 for the trouble and upset caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs W to accept or reject my decision before 25 July 2016.

Louise Bardell
ombudsman