

The complaint

Mr and Mrs J complain about the service they received from Evolution FS (EFS) Ltd when dealing with their investments which they say caused a financial loss.

What happened

In early 2021 Mr and Mrs J complained to EFS about the service they'd received since taking them over as clients from a previous adviser. They didn't think that EFS had been proactive in contacting them about their investments. Also they had lost money in the now suspended Woodford Equity Income Fund (WEIF) where some of their money had been invested.

EFS didn't uphold the complaint saying they tried to contact Mr and Mrs J but didn't get a response and that they weren't responsible for any advice to invest in WEIF. They also said that a risk questionnaire had been completed in mid-2018 and a recommendation was made to move the investments into a lower risk portfolio. EFS didn't hear back about this recommendation so assumed they didn't want to take it any further and therefore some funds remained in WEIF.

Mr and Mrs J remained unhappy and brought their complaint to this service where one of our Investigators looked into what happened. They thought that while the initial customer service from EFS left much to be desired they weren't persuaded Mr and Mrs J lost out as a result.

Mr and Mrs J said they didn't receive the recommendation from EFS which had been sent by email. Our Investigator thought, on balance, that the email had been sent and EFS weren't responsible for any losses as they hadn't heard back from Mr and Mrs J and weren't able to make any investment changes without their permission.

In response Mr and Mrs J reiterated that they didn't receive the recommendation email and didn't feel our Investigator had considered the matter in a fair and impartial way. Because an agreement couldn't be reached the complaint has come 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.

Mr and Mrs J have provided a lot of information about their complaint and it's clear how strongly they feel about what happened. I want to assure them that I've read and considered everything provided even if I don't mention it all in detail. I've summarised some of what happened which reflects the informal nature of our service, and no discourtesy is intended here. Also EFS and our Investigator both went into quite some detail about what happened. And since those facts aren't really in dispute there's no need to repeat them all again here.

It seems there are two parts of this complaint; the overall level of service received from EFS, and the loss of money in WEIF.

EFS took over Mr and Mrs J as clients towards the end of 2016 when they were sent an email explaining what was happening and giving them contact details. EFS also wrote in May 2017 introducing themselves and say they gave further details as well as letting Mr and Mrs J know they should make contact if they wanted or needed to speak.

Mr and Mrs J feel their previous adviser gave better service than EFS and that a financial review only took place in mid-2018 because they asked for it. I don't know what level of service was previously received so I can't make any comparison.

Looking at what happened since EFS took over towards the end of 2016 I think they could've been more proactive in contacting Mr and Mrs J. It seems that a 2017 review was missed but EFS say Mr and Mrs J were on a list to be contacted in 2018 however they made contact before this review could take place. I haven't seen any evidence that Mr and Mrs J contacted EFS with any concerns about their investments. I also note that Mr and Mrs J hadn't signed the client agreement form and were therefore free to go to a different adviser if they were unhappy with EFS.

Although I don't think EFS contacted Mr and Mrs J as much as they should have, I've not seen any persuasive evidence this caused a financial loss. Mr and Mrs J might feel that the level of service wasn't the same as before, and perhaps it wasn't, however I don't think what happened had a negative financial impact or was of such a poor level that compensation is due.

Moving on to the issue of WEIF I think it's clear Mr and Mrs J suffered a financial loss by what happened when the fund was suspended. However I don't think this loss is the fault of EFS.

EFS didn't give the original advice to invest in WEIF so aren't responsible for the investment being made.

Mr and Mrs J say EFS should've warned them about potential problems with WEIF. However I've not seen anything persuasive to show that EFS should've had concerns or that there was any imminent danger. The suspension of the fund was a surprise to investors, advisers and to the business itself. I haven't seen any evidence there were problems out of the ordinary. WEIF had been a popular and successful income producing fund prior to the problems in late 2018 and 2019.

In these circumstances there's the added issue of the risk review in mid-2018 which did flag concerns about the mix of investments in the portfolio. But because EFS didn't hear back from Mr and Mrs J no action was taken.

Mr and Mrs J say they didn't receive the email on 30 July 2018 containing the results of the risk review. Looking at the evidence I'm persuaded the email was sent and can't say why Mr and Mrs J say it wasn't received. I've also taken into consideration this email was sent in response to a follow up from Mr J who had emailed a few days before as he hadn't heard anything since the contact in mid May. If a reply email hadn't been received this wasn't chased up with EFS who weren't to know that it wasn't received. And I don't think EFS had any other reason to think the email hadn't been received as previous emails to the same address had been received and responded to.

Also Mr and Mrs J were sent some documents around the same time which included the risk questionnaire they had previously completed. Mr and Mrs J say they had no knowledge of the third party who conducted the review and were mentioned on the paperwork they received. Again, I can't see any contact with EFS about these documents.

EFS have said that had Mr and Mrs J replied to the email there would have been a discussion about the mix of investments. This would've included considering moving funds out of WEIF to rebalance the portfolio. This wasn't because of any concerns about the performance of WEIF itself at the time: rather because of the large exposure to the UK equity market. However EFS wasn't able to move any funds without the consent of Mr and Mrs J.

Overall I don't think EFS had any cause to be concerned about WEIF in particular at that time. And because they had no reason to think Mr and Mrs J hadn't received the risk review email, they had no cause to make more proactive contact. EFS assumed Mr and Mrs J didn't want to take the advice in the email any further; and I think this was a reasonable assumption in the circumstances.

After carefully considering everything that happened, I'm satisfied EFS acted fairly and reasonably when dealing with Mr and Mrs J so I won't be asking them to do anything further.

My final decision

For the reasons I've explained above, my decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr and Mrs J to accept or reject my decision before 7 April 2023.

Warren Wilson

Ombudsman