

The complaint

Mr H complains that Charles Stanley & Co Ltd held his personal data and wrote to him, as prior to a letter he received from them, they were an unknown company to him.

What happened

On 24 September 2022 Mr H received a letter from Charles Stanley, asking for feedback. Mr H was unfamiliar with Charles Stanley and replied, asking them to delete his name from their contact list and confirm once that was completed. In October, Charles Stanley explained they would stop sending him marketing correspondence, but would continue to send him information that related to a bond for which they were the intermediary. Mr H replied to explain that he hadn't ever been a customer of theirs and was unhappy with their refusal to delete all his personal data.

Charles Stanley explained Mr H had taken out a bond in 1995 via a company they acquired in 2007, Garrison Investment Analysis, which is why they held his personal details. Post-acquisition the 'servicing agent' responsibility for the bond was transferred to Charles Stanley, so Mr H had become their customer. Mr H remained unhappy with this, so Charles Stanley arranged to remove themselves as the servicing agent with the bond provider. Following their request on 17 November 2022, the bond provider completed this on 15 December 2022.

Mr H remained unhappy as he wanted Charles Stanley to fully delete his personal data from their systems and brought his complaint to our service. Charles Stanley explained to us that they would delete the data they held for Mr H, with the exception of the complaint file for this complaint. An investigator at our service found that Charles Stanley's offer to delete most of the data was fair. Mr H didn't accept this and asked for the complaint to be passed to an ombudsman, and so it's been passed to me for a final 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.

I consider that this case involved two main questions for me to answer – firstly is it fair and reasonable for Charles Stanley to have held Mr H's contact information, and so to have written to him in September. Secondly, whether they've complied in a fair and reasonable manner with Mr H's request to delete his personal data.

From the evidence I've received, I'm satisfied Mr H took out his bond via Garrison Investment Analysis – and I note Mr H hasn't disputed that he was sold the bond by that company.

It's common place within the investment industry that when a company who sells a long-term investment, like the bond Mr H has, the seller retains certain obligations towards the customer, as the servicing agent for the investment. This involves the seller keeping the customer's details on file for the length of the investment. So, I consider it reasonable that

Charles Stanley held Mr H's details and treated him as a customer, having taken over the responsibilities of Garrison Investment Analysis.

I can see that the letter which prompted the complaint is a request for feedback about the service that Charles Stanley provides. I appreciate Mr H didn't receive a recent service to have prompted this request for feedback. But it seems Charles Stanley had made a decision to write to many customers requesting this feedback, regardless of how recently a service had been provided. Though I appreciate the letter was unexpected for Mr H, I consider it to be a matter of Charles Stanley's discretion as to whether to write to customers in this way, in these circumstances. Overall, I'm satisfied that it was fair and reasonable for Charles Stanley to have held Mr H's contact details and to have written to him in September 2022.

Mr H appears unhappy that his personal details are not being completely deleted, as those about his complaint will not be deleted. Before I go further into my findings on this point, I should explain that it's not my role to state whether a rule or law has been breached – rather it's to make a finding as to what is fair and reasonable in the circumstances. In doing so, I do take into account relevant rules and law.

Specifically, I've considered this complaint in light of the regulations that Charles Stanley must follow when handling complaints and personal data.

I consider the complaint handling rules to be relevant here, which are set out in the Dispute Resolution section of the Financial Conduct Authority's Handbook, and are commonly known as DISP. Under DISP 1.9, firms must keep records of complaints for set periods of time, and under DISP 1.10 they must report on these complaints to their regulator. So, if Charles Stanley were to delete all records of Mr H's complaint, they would risk non-compliance with these rules.

I've also considered the data protection rules, which allow for an individual to request that their data is completely erased. I note there are exceptions to the right to erasure, including in compliance with a legal obligation.

I've carefully considered this background, against which Charles Stanley has made the decision not to delete Mr H's complaint data. Having done so, and particularly given the exceptions under the data protection rules, and Charles Stanley's regulatory obligations, I'm persuaded that Charles Stanley's refusal to delete the data they hold about Mr H's complaint, is fair and reasonable in the circumstances.

In summary, I'm satisfied it was reasonable that Charles Stanley held Mr H's contact details and that they wrote to him in September 2022. I also consider it reasonable for Charles Stanley to choose not to delete the information they hold regarding Mr H's complaint.

My final decision

I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 16 January 2024.

Katie Haywood
Ombudsman