DRN-4272101

The complaint

Mr B complains that AJ Bell Management Limited trading as AJ Bell Investcentre ("AJB") has failed to effectively manage his self-invested personal pension ("SIPP"). He says that AJB incorrectly sold all his pension investments, rather than the requested investments, resulting in a loss when the error was corrected.

What happened

Mr B holds pension savings with AJB in his SIPP. He receives advice on those pension investments from a financial advisor. In March 2021 Mr B's financial advisor advised Mr B to move part of his pension investments into a model portfolio operated by a firm I will call D. Mr B accepted that advice, and his financial advisor started to make the necessary arrangements with AJB using its online access to his pension plan.

The financial advisor faced some problems with making the change – it received an error message that suggested it wasn't able to invest only a part of Mr B's pension savings into the model portfolio. So it discussed the problem with AJB and was advised that Mr B would need to open a separate Fund and Shares Service ("F&SS") account to hold the model portfolio investments, leaving his other pension investments in the original F&SS account.

After some further administrative changes, such as the financial advisor completing a new investor partner form, that change was completed and the new F&SS account was opened. But, in error, Mr B's original F&SS account remained linked to the model portfolio. Shortly afterwards D undertook a regular rebalancing activity on the portfolios that it managed. Since Mr B's pension investments did not mirror the model portfolio, they were sold by D, in order for new investments to be made in line with the model portfolio investment approach.

Mr B and his financial advisor noticed the assets being sold. But, by that time, it was too late to stop the sale of the majority of the pension investments, although the sale of one structured product was cancelled. Mr B repurchased the investments that were sold in error, but dealing costs, foreign exchange costs, and market price movements meant he lost out. Mr B estimates that loss at around £16,000.

On behalf of Mr B, the financial advisor complained to AJB. He complained that AJB was aware that Mr B's original F&SS account had been linked to the model portfolio, and that it had failed to make him sufficiently aware of the impact that would have. AJB didn't agree with the complaint. It said that its terms and conditions had been clearly set out, and that it was the financial advisor that was responsible for managing Mr B's account. So Mr B brought his complaint to us.

Mr B's complaint has been assessed by one of our investigators. She thought that the user guide AJB had provided to the financial advisor was clear in how AJB and D would deal with Mr B's pension investments. So she didn't think AJB had done anything wrong.

Mr B didn't agree with that assessment. So, as the complaint hasn't been resolved informally, it has been passed to me, an ombudsman, to decide. This is the last stage of our process.

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 the law, any relevant regulatory rules and good industry practice at the time. I have also carefully considered the submissions that have been made by Mr B and by AJB. Where the evidence is unclear, or there are conflicts, I have made my decision based on the balance of probabilities. In other words I have 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.

At the outset I think it is useful 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. Should we decide that something has gone wrong we would ask the business to put things right by placing the consumer, as far as is possible, in the position they would have been if the problem hadn't occurred.

There are three regulated firms involved in the matters that led to Mr B's complaint. His financial advisor provided the instructions to AJB on Mr B's behalf. D started the rebalancing activity that led to the inadvertent sale of Mr B's pension investments. And AJB, who are the subject of this complaint, provided the platform on which Mr B's pension investments were held, and controlled the processes that governed how those accounts could be operated.

This complaint however only deals with the actions of AJB. So, whilst I will go on to explain that I don't think AJB did anything wrong, that shouldn't be taken as any conclusion that either of the other parties were at fault either. That would only be something that would be considered should Mr B decide to make a complaint about their actions. Whilst I will naturally need to consider how the other parties were involved in this complaint, I cannot make any findings of fault against them. But it does seem clear to me that something has gone wrong, and that Mr B has lost out as a result.

Mr B appears to have been guided in making his complaint by his financial advisor. That is entirely understandable since it was the financial advisor that managed the instructions on Mr B's behalf. But that presents some difficulties in how I am able to deal with what happened. I think Mr B's intentions were clear. He wanted to sell one of the pension investments that he held. And then he wanted to use the proceeds of that sale to invest in the model portfolio provided by D. But Mr B didn't want to make any changes to the other pension investments he held, on which he would continue to be advised by his financial advisor.

But Mr B had no direct dealings with AJB in implementing those instructions. He agreed the course of action with his financial advisor – and I don't think there is any dispute between Mr B and his financial advisor about what was intended. But the implementation of that instruction failed – and I think it would be reasonable to conclude that failure was either because the financial advisor failed to instruct it correctly, or because AJB failed to implement the instructions given by the financial advisor. But to reach a conclusion on that matter here, I need to consider the instructions given by the financial advisor as effectively having been placed by Mr B. So whilst my findings here will point to a failure in those instructions, and so by inference a failure by Mr B, I don't think on the basis of what I have seen so far that is the case. But it would be for another complaint investigation to ultimately determine whether the financial advisor, or Mr B, was responsible for the problems.

In order for advisors to be allowed access to AJB's Bulk dealing and Model Portfolio Service firms were required to complete an advisor agreement form. I can see that the managing director of the firm that employed Mr B's financial advisor completed that agreement form in December 2020. The form nominated Mr B's financial advisor as a named user, and confirmed that the financial advisor had read the Bulk dealing and Model Portfolio Service user guide and acknowledged the risks to their client's investments set out in the guide, including the important notes section.

In that "important notes" section is a paragraph headed "AJ Bell Investcentre client accounts held outside the model". It reads;

> *"If you choose to manage your clients' accounts using the Models and Bulk Deals tools, then all their investments including their cash balance will be treated as part of the model and must be managed using the model tools. It is not possible to hold a percentage of a client's account in the model and a percentage outside of it."*

And that was precisely the problem that Mr B's financial advisor faced when attempting to implement his instruction to sell a specific investment, and then use the proceeds to invest using the model portfolio provided by D whilst leaving the remaining investments untouched. It found it was unable to place just a portion of Mr B's pension investments into the model portfolio so sought the assistance of AJB.

AJB appears to have readily understood the problem the advisor was experiencing and provided a workaround – the opening of an additional F&SS account to segment Mr B's pension investments. And it appears that solution would have worked to achieve the objectives that Mr B had agreed. But the problem that arose was the existing F&SS account remained linked to the model portfolio service.

The model portfolio service provides for D to undertake regular rebalancing activities ensuring that any pension investments remain in line with the expected asset distributions. Clearly Mr B's existing pension investments would not have been in line with that approach as they had been set on a bespoke basis in conjunction with his financial advisor. So, when the routine rebalancing activity commenced, and Mr B's account was linked in its entirety to the model portfolio service, it was necessary for D to sell all his existing investments so they could be replaced with those of the model portfolio. It was that action that started around 10 March 2021.

I think that AJB's instructions to Mr B's financial advisor, both in the user guide he said he had read, and in the support he was given whilst attempting to set up the model portfolio, were clear. Any investments in an account linked to the model portfolio would fall entirely under the control of D, and would be subject to rebalancing activities. That was why it was necessary for Mr B to open a second F&SS account. I cannot therefore conclude that it was a failing of AJB's processes that led to the sale of Mr B's pension investments as part of the rebalancing activities.

Mr B has said that AJB should have provided further guidance, or an additional warning, to his financial advisor that his original F&SS account remained linked to the model portfolio. He says that AJB should have been aware of that link as it had been discussed in an email his financial advisor had sent to the firm in early March.

I agree with Mr B that his financial advisor had told AJB that he had linked the original F&SS account to the model portfolio. That information though was provided in relation to the problems that the advisor was facing in setting up Mr B's account – I don't think that the advisor made any request of AJB about any implications of that link remaining in place, or gave any indication that it wouldn't be removed.

AJB's advice to the financial advisor was that the model portfolio link should only be added to the new F&SS account. So I don't think it would have been unreasonable for AJB to have thought it likely that any previous links, and specifically the link to the original account, would have been removed by the financial advisor. And given the relatively arms-length relationship between AJB and the D when the rebalancing took place, I don't think AJB should have noticed any problems and queried the transactions with Mr B or his financial advisor.

I have considered that Mr B says that the rebalancing activities took place earlier than might have been expected. I haven't investigated that claim any further. His complaint is that neither he, nor his financial advisor, had any expectation that the rebalancing activities would take place. So I think it immaterial whether the rebalancing took place when it did on 10 March, or when Mr B says it should have a week later. I haven't seen anything to make me think the incorrect linking of the original F&SS account would have been identified and corrected had the rebalancing taken place a week later.

AJB was not Mr B's financial advisor. So it simply acted on the instructions he, or his financial advisor, provided. It wasn't for AJB to ensure that any investment decisions were suitable for Mr B's needs – those were essentially decisions he needed to make for himself, with the support of his financial advisor.

I understand how disappointing my decision will be for Mr B. As I said earlier it is clear that he has lost out from the erroneous sale of his pension investments. And that the sale of those investments wasn't something that he wanted or had instructed. But I'm not persuaded that the sale of those investments, as part of D's rebalancing activities, was as a result of something that AJB had done incorrectly, or because AJB had failed to provide sufficient guidance to Mr B's financial advisor. So I don't think it reasonable to ask AJB to pay Mr B any compensation.

My final decision

For the reasons given above, I don't uphold the complaint or make any award against AJ Bell Management Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 4 October 2023.

Paul Reilly
Ombudsman