

## The complaint

Mrs P has complained about the way 1825 Financial Planning and Advice Limited (1825) has managed her investment portfolios. She feels that no work or active management was carried out during the periods of 2017 to 2019. She's also unhappy that the Woodford Equity Income Fund (WEIF) remained a part of her investments even after it started to drastically underperform.

## What happened

Mrs P, along with her husband, had been customers of 1825 (and its predecessor firm) since 2007. Mr P has also brought a similar complaint against 1825 which is being dealt with separately.

Mrs P seems to be a relatively experienced investor holding pensions and investments with a number of different firms. She held a couple of portfolios with 1825 and it is the management of these portfolios that is the focus of this decision.

Mrs P feels that during the period of 2017 and 2019, when she terminated her relationship with 1825, the stock market had performed well but this wasn't reflected in the growth of her investments. She feels 1825 failed to manage her investments to ensure they were in a good position to grow in value. She has said she also raised concerns about the continued inclusion of the WEIF in the portfolio when it started to underperform towards the end of 2017 but again no action was taken by 1825 to rebalance or amend her holdings.

1825 responded to both Mr and Mrs P's complaints jointly. It stated the suspension of the WEIF couldn't have been foreseen but acknowledged that it hadn't done all it could in relation to an issue affecting only Mr P. It acknowledged the level of service provided was not what it would normally expect a client to receive. It offered Mrs P (and her husband) a total of £806.47 which comprised of 50% of the advice fee received for pension review issue (on Mr P's part) along with £250 for the trouble and upset incurred. In relation to the overall management, or lack thereof, of the portfolio 1825 didn't feel it had acted incorrectly.

Unhappy with the response Mrs P brought her complaint to this service where it was assessed by one of our investigators. She was of the view that the management fees for the portfolios should be refunded as she wasn't persuaded 1825 had actively managed it. In relation to Woodford she didn't think its inclusion in the portfolio made it unsuitable so felt 1825 didn't need to do anymore in this regard.

I issued a provisional decision in December 2021 where I set out why I felt the complaint should be upheld. An extract is below and forms part of this decision.

*Its first important for me to point out that this decision is made difficult by the lack of information from 1825. I did ask 1825 to provide further information about its relationship with Mrs P along with evidence of what actions it took in relation to the management of Mrs P's investments during the time in question but 1825 hasn't provided anything further*

than its original file submission which isn't very detailed. So much of this decision is based on what I can glean from the little information that has been provided by 1825.

#### *Management of the overall portfolios*

*I asked 1825 for full details of its relationship with Mrs P and its terms of business so I could identify whether Mrs P was paying for an actively managed service which would have included regular reviews and regular rebalancing of the portfolios in times of underperformance. But as mentioned above 1825 didn't provide any of this information. So, from the information I do have I have to assume that the relationship was as Mrs P has said it was – the portfolios should have been actively managed and regularly reviewed.*

*Over the period of time the value of Mrs P's portfolios didn't change. This is unusual given she was obviously investing for growth. So with an actively managed service I would have expected to see 1825 address underperformance of the portfolios and amending them to provide more favourable growth but as this information hasn't been provided I can't be satisfied that 1825 did this which in turn leads me to currently think that it wasn't managing the portfolio in line with its terms of business.*

*I therefore think the total Mrs P has paid for the management of her portfolios during this time period be refunded. If 1825 can clearly show me what those management fees charged were used for then this may change when I make my final decision.*

#### *Loss of opportunity for fund growth and investment in WEIF.*

*Given the nature of the WEIF I see nothing wrong with the fund being included in the portfolios from the outset, but by 2017 the fund started to underperform and didn't recover ultimately leading to its suspension in 2019. Further to this, the WEIF was recategorised in 2018 to an all companies fund to reflect the decrease in the income the fund was producing. The fund also continued to invest more and more in unlisted securities from this time. So it follows that the changes in the WEIF would have changed the risk nature of the fund and in turn could have unbalanced the portfolios. So while I appreciate the collapse of the fund couldn't have been foreseen and many other financial advisers recommended their clients remain invested in WEIF, in this specific situation, because I can't be sure of what review and management took place of Mrs P's investments overall I can't be sure that 1825 did anything to the portfolios to mitigate loss or underperformance as a result of the changing risk levels.*

*The amount invested in the WEIF was relatively small. So it can be argued this didn't impact the portfolios. But due to the lack of information from 1825 I can't be sure of what action they took, if any, to help Mrs P's investments. So at this stage, given the changes in the markets and in the WEIF I think it's likely the portfolios would have been amended in one way or another.*

*So for the two issues above, because of the lack of information I simply can't be sure that the portfolios during 2017 and 2019 represented the most suitable level of risk for Mrs P due to the changes in the stock market and the recategorisation of the WEIF. And I have no evidence that 1825 managed the portfolios in line with the terms of business agreed between it and Mrs P. It is therefore likely the portfolios would have been rebalanced at some point during this period, most likely when the WEIF was recategorised (April 2018).*

In response to my provisional findings Mrs P provided comments which I have summarised below:

- The provisional decisions consisted of three investment portfolios – two ISAs and a

personal pension – the decision doesn't make this clear enough.

- Mrs P has no confidence in 1825 to carry out this calculation, therefore she requests that it is done by this Service to ensure that it is fair and accurate.
- Mrs P feels the way the tax is dealt with in the methodology will severely impact her and so doesn't think the compensation is fair and reasonable. For it to be fair, the interest rate specified should surely provide the same recompense as the capital under performance calculation, taking her tax position into account.
- The Ombudsman has selected the timing of the recategorisation of the Woodford fund for this. This was publicly announced on 22 March 2018. Accepting this trigger point and the Ombudsman's methodology, she wants the decision to be specific on the dates. It should state 23 March 2018 for the start date of the WEIF calculation and 16 May 2019 (the date she instructed 1825 that it was no longer to act for her) as the end date.

Given the further comments provided I issued a second provisional decision. An extract of these findings are set out below and form part of this decision:

*I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.*

*I remain of the view this complaint should be upheld. The proposed method of redress remains largely the same as initially set out in the first provisional decision, but contains some further clarity.*

*I have considered carefully the comments provided. I must, however, be clear that in making my decision I must do so from an impartial perspective. If I deem 1825 to have done something wrong or acted unfairly in a way that has been detrimental to Mrs P (as I have in this case) then I must provide a method of redress that is fair and reasonable to both parties and one that is not punitive – this isn't what this Service is for. All I can do is ensure that where an error has occurred Mrs P is put into the position she would have been in, as far as possible, had 1825 acted correctly. I also note the comments Mrs P has made about 1825 as a business and its lack of responses to her and this Service during the process of this complaint. I understand her frustration, but this isn't something I can take account of in making my decision as I must approach this matter impartially and objectively.*

*By referencing portfolios this would infer that all Mrs P's holdings with 1825 fall into this. But I can specify this in the redress section below.*

*The announcement of the recategorisation of the WEIF was made on 22 March 2018 but there is nothing I can see that states this would be immediately effective or effective from a different date.*

*In light of that I think it's fair to say that the review of the fund by 1825 in light of this recategorisation should have been from 1 April 2018.*

*In most cases this Service will not actually carry these out. This is not our responsibility. We provide the methodology and it is for the business to carry out the calculation as it will have the most accurate valuations of the holdings at the various dates required. We can however check the calculations once they have been carried out by 1825 if that eases Mrs P's concerns*

*And with reference to the tax treatment - this is a standard approach which we use for all consumers. It will be for Mrs P and 1825 to rectify any tax issues with HMRC directly as this*

*service isn't tax experts. If need be the tax can be reclaimed by Mrs P once the redress is paid.*

1825 provided the client agreement and terms of business which were previously asked for and the following comments:

- Its records show that in:
  - Feb 2017 - no change review carried out & client didn't want pensions reviewing
  - March 2018 – Statement of Wealth and Portfolio Report provided and meeting held in April 2018, research commenced June 2018, planner made two phone calls to the client providing updates and in December 2018 and a LoA for Mr P's holdings re-requested from client
  - March 2019 - Statement of Wealth and Portfolio Report provided. No evidence of a client meeting on file
  - WEIF remained on 1825 'hold' list right up until the fund was suspended in June 2019. See below which provides a summary of the work/conclusions the firm had undertaken on the LF Woodford fund
- Mrs P's portfolio was monitored via its central investment committee with any recommended changes to the portfolio's passed to the financial advisers to address at the clients annual review meeting. Throughout the period of the client complaint, there were no recommended changes put forward to recommend to clients and the portfolio's remained broadly in line with the clients agreed risk profile.
- Whilst it is accepted that there was limited contact with the client, this did not have a material impact on the actual performance of their portfolio, given the points highlighted above. Whilst the point is raised around 'active management' this would generally have been around the style of investment funds chosen and not an indication of any activity other than their annual financial review (see attached client agreement).
- The central investment team considered the performance of the WEIF throughout the period in question which included meeting with the Woodford Management team, however, based on the information that was available to 1825 and the discussions with the Woodford Team, the decision was made that on balance the fund should be retained within existing portfolio's.
- Given the points above and the losses that would have been incurred in selling the fund within the existing portfolio's the fund was retained.
- 1825 recognised it had not provided a level of service that Mrs P should have received, but it feels it is appropriate to retain some of the agreed fees for work that had been done.

### **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.

Having done so, I am not persuaded to depart from my provisional findings.

Much of the information 1825 provided, as detailed above, is contrary to the information I have received from Mrs P. For instance, 1825 states there was no review in February 2017. However

I have information from Mrs P which includes emails to and from 1825 which indicates that a review took place in March 2017. This isn't referred to by 1825 and whilst this isn't February this is at least around the same time, and in any event should have been noted in 1825's records.

So, in light of this I am not persuaded that a review didn't take place and it seems to me that 1825's client record keeping is not wholly accurate.

1825 has said that no changes to the portfolio were felt necessary between 2017 and 2019. However I remain of the view that as an actively managed service it was for 1825 to do just that – actively manage the investments. And it seems unusual for any actively managed portfolio to remain static for a period of two years. The point of having an investment actively managed is for it to be changed according to the markets in order to make the most money. This didn't happen with Mrs P's investments and 1825 hasn't provided a sufficient reason why.

The same applies to the issue concerning the WEIF. In isolation disinvesting from the WEIF may not have been something a particular adviser would have recommended and that's not entirely unreasonable when you take account of the fact no one foresaw the fund would be suspended. However, what I would expect to see in this situation is the portfolio to be rebalanced to take account of the changing risk nature of the WEIF as it drew closer to suspension. But as I have said above, this didn't happen and 1825 cannot properly explain why.

Its also worth pointing out that the client agreement 1825 provided is the agreement Mrs P made with the predecessor firm that 1825 took over from. This states the portfolio was to be actively managed and there is no mention of a central investment committee. If 1825 changed its terms of business when it took over then a new client agreement should have been sent out to Mrs P for her acceptance.

Therefore, in light of what I have stated above and my provisional findings I remain of the view that the complaint should be upheld.

### **Putting things right**

In relation to the management of the investment portfolios:

#### **Fair compensation**

In assessing what would be fair compensation, I consider that my aim should be to put Mrs P as close to the position she would probably now be in if 1825 had actively managed her portfolios in line with the terms of business and addressed the change in risk status of the WEIF.

I think Mrs P would have invested differently. It is not possible to say *precisely* what she would have done, but I am satisfied that what I have set out below is fair and reasonable given Mrs P's circumstances and objectives when she invested.

#### **What should 1825 do?**

To compensate Mrs P fairly, 1825 must:

- Compare the performance of Mrs P's investment with that of the benchmark shown below and pay the difference between the fair value and the actual value of the investment. If the actual value is greater than the fair value, no compensation is payable.
- Pay interest as set out below.
- Repay the management fees charged on Mrs P's investments for the whole duration together with simple interest at 8% a year, from the date the fees were paid to the date of settlement.
- If the above comparison shows that no compensation is payable, the difference between the actual value and the fair value can be offset against the fees with interest.
- Pay Mrs P £250 for the distress and inconvenience this whole matter has caused her.

Income tax may be payable on any interest awarded.

Portfolio name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
ISA Portfolios (x2) And the personal pension portfolio	Still exists and liquid	For half the investment: FTSE UK Private Investors Income Total Return Index; for the other half: average rate from fixed rate bonds	Date the WEIF was recategorised – representing a definite point the portfolios should have been reviewed – 1 April 2018	Date Mrs P moved her portfolios away from 1825 - 16 May 2019	8% simple per year from final decision to settlement (if not settled with 28 days of the business receiving the complainant's acceptance)

Actual value

This means the actual amount payable from the investment at the end date. Fair value  
This is what the investment would have been worth at the end date had it produced a return using the benchmark.

### Why is this remedy suitable?

I have chosen this method of compensation because:

- Mrs P wanted capital growth with a small risk to her capital.

- The average rate for the fixed rate bonds would be a fair measure for someone who wanted to achieve a reasonable return without risk to her capital.
- The FTSE UK Private Investors Income total return index (prior to 1 March 2017, the FTSE WMA Stock Market Income total return index) is a mix of diversified indices representing different asset classes, mainly UK equities and government bonds. It would be a fair measure for someone who was prepared to take some risk to get a higher return.
- I consider that Mrs P's risk profile was in between, in the sense that she was prepared to take a small level of risk to attain her investment objectives. So, the 50/50 combination would reasonably put Mrs P into that position. It does not mean that Mrs P would have invested 50% of her money in a fixed rate bond and 50% in some kind of index tracker fund. Rather, I consider this a reasonable compromise that broadly reflects the sort of return Mrs P could have obtained from investments

suited to her objective and risk attitude.

It's important for Mrs P to note that this calculation against the benchmark may not show that she lost out in keeping her portfolios where they were during this period of time. But this method is the only way of replicating, as far as possible, what I think should have happened during said period.

### **My final decision**

My final decision is that I uphold the complaint. I direct 1825 Financial Planning And Advice Limited should pay the amount calculated as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 30 March 2022.

Ayshea Khan  
**Ombudsman**