

The complaint

Ms T complains she was given unsuitable investment advice by Landmark Financial Planning Limited. She particularly feels that one of the funds it recommended carried too much risk and that she should have been advised to switch out of it sooner. So, she'd like the related loss repaid, along with a pro rata refund of Landmark's fees.

What happened

In 2017 Ms T approached Landmark for investment advice. She was in her mid-50s and looking at retirement planning. In April 2017 Landmark recommended she transfer her deferred pension, valued at just under £360,000, to a Self-invested Personal Pension (SIPP). It was recorded that she had a 'lower to medium' attitude to risk – defined as being relatively cautious but with an acceptance of some risk. And she was seeking increased flexibility with an overall objective to protect the value of her existing benefits, rather than achieve significant capital growth.

The structure Landmark recommended within the SIPP was around £200,000 in cash and fixed term deposits along with four investments totalling £160,000. Of this, £80,000 was in a FTSE index tracking fund that guaranteed the return of the initial investment after five years. The remaining £80,000 was split across three equity-based funds, of which £20,000 was invested in the Woodford Equity Index Fund ("WEIF"). It's this fund that's at the heart of the complaint.

In February 2018 Ms T queried some aspects of the recommendation with Landmark, including related charges and a couple of the funds, including the WEIF. She highlighted its poor performance, noting it had lost around 14% of its value since she'd invested. Landmark's adviser acknowledged this and said that it would be kept under review.

Shortly after, in May 2018, an annual planning report was produced for Ms T as part of Landmark's ongoing service and a meeting took place to discuss the report. Again, it was noted that, among other things, the WEIF would be kept under review.

By the time the next annual review came around, in May 2019, Ms T had become far more concerned about the situation with her SIPP. The notes of the review meeting show that she was still worried about the impact of the charges and the performance of the WEIF on the overall value of the SIPP. Her adviser again acknowledged the situation but pointed out that the WEIF investment represented a very small proportion of her whole portfolio. It was left that Ms T would decide how she wished to proceed, as she'd indicated that she might prefer to manage the portfolio herself in future.

Shortly after, on 26 May 2019, Ms T instructed Landmark to sell her holding in the WEIF. By this point it had reduced in value to just under £15,000. She then confirmed that she did want to manage the investments herself, citing the cost of the advice and the performance of the WEIF as the main reasons for her decision.

Ms T then complained to Landmark about the advice she'd received. She felt she should be compensated for investment loss based on the value of her holding in the WEIF in February

2018 (around £17,000) – the point at which she'd first raised concerns about it – and also refunded a proportionate amount of the fees to reflect what she saw as the unsuitable advice to invest in the WEIF.

Landmark didn't uphold the complaint. In brief, it said that the investments that formed the SIPP portfolio had been intended to be held for the long term. So, it wasn't reasonable to have expected the adviser to anticipate or act upon short-term price movements. He had considered risk management in the context of the whole portfolio, of which the WEIF had represented only 5.5%. By the 2019 review the adviser would have recommended the sale of the WEIF holding but held back doing so because of the uncertainty around what Ms T wanted to do with management of the investments going forward. In short, as Landmark didn't feel it had acted incorrectly in respect of the WEIF investment it didn't consider it was responsible for any loss or that any refund of fees was due.

Ms T referred her complaint to this service, but our investigator reached broadly the same conclusion as Landmark. He acknowledged that the WEIF was higher risk, so in isolation would appear unsuitable for her needs and circumstances. But he accepted that it should be considered as part of the overall portfolio and investment strategy, which was generally low-risk because of its heavy reliance upon fixed-interest and structured products. The investigator noted that Ms T's objective had been to maintain her pension's value and benefits but highlighted that it had been agreed at the outset in 2017 that, while cautious, she recognised the need to accept an element of risk.

The investigator acknowledged the poor performance of the WEIF, and that Ms T had raised this with Landscape in February 2018. But he said that while Landscape had made changes to its view of the fund in 2018 in respect of making new recommendations to clients, there hadn't at that time been a pressing need to sell. There'd been nothing that made it clear the fund's performance wouldn't improve.

Ms T didn't accept the investigator's view. She said, in brief:

- She was generally accepting of the need to accept some risk and the benefits of doing so, as she had other investments. But the WEIF was unsuitable because of the way in which it changed over time.
- She hadn't been provided with fund factsheets with the original recommendation as the investigator had indicated. These had only been made available to her in 2018. But in any event, she wouldn't have been able to interpret them. That was the job of her adviser.
- She hadn't been aware that Landmark's view of the fund had changed in July 2018 and if she had been, she would've sold sooner. Although the change happened after her 2018 annual review, she felt she should've been contacted by Landmark and updated on the situation.

The investigator noted Ms T's comments but wasn't persuaded to change his opinion. So, the matter was referred to me to review.

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, while I recognise Ms T will be very disappointed, I've come to the same conclusion as the investigator. I don't think the complaint should be upheld and I'll explain why.

The crux of the complaint is that Ms T considers Landmark should've recommended she sell her holding in the WEIF when she first raised concerns about its performance in February 2018. I can understand that given what happened after this – a continued fall in the fund's value, prompting her to give the instruction to sell just prior to the fund's suspension – it now looks like that the adviser should have recommended Ms T sell the holding at some point during 2018.

But it's important to avoid using hindsight when considering the matter. I must look at whether the adviser acted incorrectly or unreasonably based on what was known *at the time*. In that respect, it's clearly documented that Ms T had concerns about the fund in 2018 and it's also not in dispute that its performance was poor, and that several changes were made to the fund in that year. For example, it was recategorised as an 'All Companies fund' to reflect a reduction in the level of income it was producing. And it was also investing increasingly in unlisted securities.

These issues and the performance had prompted Landmark to put the fund under review, as was communicated to Ms T in response to her initial concerns and in the report of her 2018 review. But they weren't deemed sufficient by Landmark to recommend that Ms T sell her holding. As noted, this is the key issue. Landmark's reasons for not making such a recommendation are, in essence, that the holding had to be viewed in the context of the portfolio as a whole. It was the smallest holding, representing just 5.5% of the total value. And it was there, alongside two other equity funds (together representing a much larger proportion) to add an element of risk to the portfolio, that Ms T had acknowledged she was prepared to accept as she understood the need for it.

Further, the fund manager was generally recognised for good performance, noted for ups and downs but with a propensity for 'bouncing back'. While it's always stressed in the context of investment that past performance is not a guide to future performance, I think it was nevertheless reasonable for Landmark to consider this record when reviewing the fund.

So, given those specific circumstances, I'm satisfied it was reasonable that Landscape didn't recommend Ms T sell when she raised her initial concerns in February 2018. I note what she's said about not being informed about the changes that took place with the WEIF during the rest of the year, after she'd had her review. And I accept that Landscape could have been more proactive in keeping her informed. But, on balance, I'm not sure the outcome would've been any different. I think Landscape's view would still have been to remain invested during 2018 – particularly given the size of Ms H's investment and the short time for which it had been in place – and I don't think the changes would, in themselves, have been sufficient to prompt Ms T to issue her sell instruction earlier. I think that would most likely always have been driven by performance and the impact on the value of her pension.

The position was clearly beginning to change in 2019 and I think it likely that a point would have come when Landscape recommended a switch. Indeed, this was mentioned in the letter sent to Ms T following her May 2019 review. It was noted that Landscape was awaiting a decision from Ms T about how she wished to proceed generally before it would act on what was now its 'sell' view of the WEIF. But Ms T then issued an instruction to sell in any event.

In conclusion, I do sympathise with Ms T's situation as it's clear this matter has caused her a great deal of concern and over quite a length of time. But looking at the specific circumstances of the situation I'm not persuaded that Landmark acted incorrectly. It follows therefore that I won't be making any direction in respect of either investment loss, or the fees that were changed to Ms T.

My final decision

For the reasons given, my final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms T to accept or reject my decision before 8 April 2022.

James Harris
Ombudsman