

The complaint

Mr K complains about an investment called the Woodford Income Focus Fund (WIFF) Hargreaves Lansdown Asset Management Limited (HLAM) promoted to him and which he invested in.

What happened

Mr K had a self-invested personal pension (SIPP) with HLAM. In May 2018 he invested just over £2,500 in the WIFF as a result of it being on HLAM's Wealth list. The WIFF remained on HLAM's Wealth list until June 2019.

In October 2019 the Authorised Corporate Director (ACD) of the WIFF suspended dealing in the fund to protect it from an expected increase in redemptions due to the fund manager resigning from the fund that day. A new investment manager took over the management of the fund on 31 December 2019, and from February 2020 the suspension was lifted by the ACD.

In June 2019 Mr K complained about HLAM's promotion of the WIFF. HLAM looked into his concerns, but didn't think it had done anything wrong. In short, it said that it had included the WIFF on its Wealth list because of the fund manager's strong record. It said that it believed in the long term prospects of the fund – but equally explained that Mr K invested in the WIFF of his own volition and without advice from it. It said that its opinions on the WIFF were properly held and had been based on its own due diligence. However, it explained that investing carried risks of capital loss and there were no performance guarantees.

Mr K remained unhappy and referred his complaint to this service. One of our investigators looked into his complaint, but didn't think it should be upheld.

He said that HLAM gave its view on investing in the WIFF by virtue of its inclusion on the Wealth list, and he accepted that Mr K had clearly relied on HLAM's view of the fund before investing. However, the investigator said that Mr K was never advised to invest in the WIFF, nor did HLAM provide any guarantees about how the WIFF would perform in future.

He also noted that HLAM did also provide some commentary on periods when the WIFF wasn't performing as well, and the investigator felt that HLAM's communications in that regard were fair clear and not misleading. He explained that HLAM was entitled to believe that performance of the WIFF would improve, but it never stated this as fact or as a guarantee.

Finally, the investigator explained that the WIFF and the Woodford Equity Income Fund (WEIF) were different, and had different strategies, even though for a time they were managed by the same fund manager.

Importantly, the investigator explained that the WIFF did not invest in unquoted companies, and therefore the suspension of the WIFF was not related to that, but purely related to the

fund manager resigning and the potential impact this might have on outgoings from the fund.

Mr K didn't agree with the investigator and asked for an ombudsman's decision.

He said that insufficient regard had been given to the inclusion of the WIFF in HLAM's Wealth list – and although he accepted that he did not receive advice from HLAM, he felt that HLAM was getting away with 'putting pretty well anything on their site to promote funds'. He said that he believed HLAM 'had a responsibility to ensure their promoted funds are sound investments by continual monitoring and evaluation'.

He said that HLAM didn't do this and was 'consequently negligent'. He also said that whilst he understood the differences between the WIFF and WEIF, 'all funds suffered as a result of being Woodford' and HLAM would've been aware of this, and 'the likely effect on all Woodford funds if problems were to arise'. He said that this was 'a real danger where the funds are so heavily promoted on the previous performance of an individual manager'.

Mr K maintained that the poor performance of the WIFF was due to the collapse of the WEIF, and HLAM continued to endorse his products 'far longer' than it should have. He said that the loss he sustained on the WIFF was 'a direct consequence' of HLAM 'not being proactive in the review/recommendations' of Woodford products.

He said that HLAM's objective appeared to be to maximise its own profits and not minimise its customers losses, and this is what it did by including the WIFF on the Wealth list for as long as it did.

HLAM agreed with the investigator, but provided some additional comments. In summary it said:

- It reiterated that the Wealth lists were not personal recommendations, and it never gave advice to Mr K to invest in the WIFF. It said that the purpose of the Wealth lists was to assist investors in their research.
- HLAM also highlighted the fact that Mr K could've disinvested from the fund as soon as it was removed from the Wealth list in June 2019, because at that point dealing in it was not suspended. However, he chose not to do so and remained invested.
- It provided more detail about its reasons for having the WIFF on the Wealth list, including its analysis of the WIFF, the fact that it believed it was invested in sound companies, and its confidence in the fund manager at the time.
- It said that it retained the WIFF on its Wealth list because it believed that it would deliver good performance over the long term, even though it did highlight at various points when such performance had dipped.

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 understand Mr K's reasons for being dissatisfied with the performance of the WIFF, but I agree with the investigator's conclusions, and for broadly the same reasons. I also don't

have much to add to what the investigator has already said.

I should first say that I'm not persuaded that HLAM had a duty to proactively advise Mr K about performance issues with the WIFF or provide any more communications than it already did.

HLAM considered the WIFF a good long-term investment, for reasons which it has already given Mr K and which the investigator also covered in his assessment. However, I'm not persuaded this amounted to a personal recommendation and I'm satisfied it was never intended to be relied on in this way.

Mr K was making his own investment decisions and was therefore required to decide for himself whether he was happy with the risks of investing in the WIFF, bearing in mind its stated aims, objectives and of course the fund manager. Whilst I accept that inclusion in HLAM's Wealth list was a consideration for Mr K, and I agree that it was reasonable for him to place weight on the commentary an FCA regulated firm gave him about the fund, I'm not persuaded he was ever given any guarantees about what inclusion on the Wealth list meant in terms of performance.

HLAM was required to ensure that its communications with Mr K about the WIFF were fair, clear and not misleading, and I've seen insufficient evidence to persuade me that it failed in ensuring that its communications met this standard. HLAM has clearly explained why it believed in the WIFF's potential for the future, how it reached those views and what commentary it gave at times when performance was disappointing – including when it removed the WIFF from its Wealth list following the suspension of the WEIF.

Mr K's submissions are particularly focused on the connection between the WEIF and the WIFF, and in particular the impact the suspension and subsequent failure of the former would have on the latter.

In my view, the investigator has clearly and thoroughly explained the differences between the WEIF, which Mr K does refer to a number of times, and the WIFF, so I won't go over this ground again. But the key issue is that Mr K could've disinvested from the WIFF at any point after it was removed from the Wealth list, particularly in view of the well publicised issues with the WEIF – yet Mr K didn't do this. So whilst I accept he took into account HLAM's view of the WIFF, clearly its presence on the Wealth list wasn't the only consideration for Mr K.

Taking all this into account, I'm satisfied HLAM provided Mr K with fair, clear and not misleading information about the WIFF in order to enable him to make his own decisions about whether to invest in it, and whether to stay invested. I'm satisfied that he was not misled into investing or remaining invested, particularly given that he remained invested long after the WIFF was removed from HLAM's Wealth list. And I'm not persuaded that HLAM had a special obligation to advise him of possible performance issues by virtue of the WIFF having the same fund manager as the WEIF. In my view these were considerations that Mr K was required to make as an execution only investor – and I'm satisfied that any losses arising from Mr K's investment in the WIFF were investment losses which HLAM had no responsibility over.

My final decision

My final decision is that I don't uphold Mr K's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 19 December 2023.

Alessandro Pulzone
Ombudsman