

The complaint

Mrs B has complained that information she received from Hargreaves Lansdown Asset Management Limited ('HL') regarding the Woodford Income Focus Fund ('WIFF') caused her a loss.

What happened

Mrs B opened a SIPP account with HL in 2015. She chose to invest in the Woodford Equity Income Fund ('WEIF') based on it being on HL's "best buy" list.

In 2017 Mrs B received marketing material from HL about the WIFF, which was a new fund being offered at a 'special offer price' to those investing at the launch. Mrs B decided to move another pension pot into her HL SIPP and invest it entirely in the WIFF at a cost of just over £33,000.

I should highlight at this point that Mrs B has confirmed that this complaint relates only to her investment in the WIFF.

Mrs B was outside of the UK when in 2019 she discovered that gating restrictions had been placed on the WEIF, in an attempt to stop a run on the fund. When she returned home she saw speculation that the WIFF might also be gated. As a result Mrs B sold her investment in the WIFF in June 2019 for £25,799.48.

For further background regarding the WIFF, the fund was on HL'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.

Mrs B believes that HL appeared to know that assets in the WIFF were becoming illiquid, but continued to market the fund to small investors such as herself. She says she placed trust in HL's Wealth Lists. She has also said that HL had a bias in its best buy lists, and this may have been due to the close relationship between personnel at HL and the fund manager Neil Woodford. Mrs B has commented that the WEIF was in HL's best buy lists until its June 2019 suspension, but she says HL's analysts warned about the fund's liquidity two years previously. Mrs B complained to HL, asking it to compensate her for her loss on the WIFF.

In response HL stated that it had included the WIFF on its Wealth List because of the fund manager's strong record. It said it had believed in the long term prospects of the fund. It also commented that it had not given personalised investment advice to Mrs B, providing an 'execution only' service to her. HL said its views on the WIFF had been properly held and based on its own due diligence. It also said there were no guarantees when investing, and it did not consider itself liable for Mrs B's financial loss.

Unhappy with HL's position, Mrs B brought a complaint to this service.

Our investigator did not uphold this complaint. She noted that Mrs B's client relationship with HL did not include provision for personal advice, and instead was on an execution only basis. She acknowledged that Mrs B had relied on HL's best buy list when investing in the WIFF. But the investigator considered HL's inclusion of the WIFF on its list was not a guarantee that it would perform well, and she highlighted some comments by HL on its investment reports that weren't positive. Whilst the investigator understood why Mrs B had relied on HL's information about the WIFF, her conclusion was that it was not unclear or misleading.

Mrs B disagreed with the investigator's findings. She commented that although her complaint was not about the WEIF, she'd mentioned it because she said HL knew by November 2017 that the WEIF had breached rules for the proportion of illiquid holdings it contained. Mrs B said that what then happened to the WEIF had an impact on the WIFF, causing panic selling and a fall in the value of units. She reiterated that she had sold her WIFF holdings due to the risk that it could be gated, having had her WEIF holdings gated.

Mrs B agreed that she had not received personal advice from HL, but she said she'd relied on its marketing of Woodford funds, and that this had given investors confidence. Mrs B commented HL had been misleading by placing the WIFF and the WEIF on the Wealth List because the WEIF had broken illiquid asset rules. Taking into account HL's duty of care to its clients, she said it should have stopped promoting any Woodford funds on best buy lists. By retaining the WIFF on those lists, Mrs B suggested HL had caused her financial loss.

Mrs B said that a former CEO of HL had told the Treasury Select Committee that in November 2017 HL had noted an increase in the proportion of small and unquoted assets in the WEIF, and that HL had communicated this to its clients in December 2017. Mrs B explained that she did not recall this communication. The former CEO also stated that in January 2018 HL had started monthly communications with Woodford Investment Management about unquoted stocks in the portfolio. With these actions taking place, Mrs B questioned why HL had kept the WEIF and the WIFF on its best buy lists. She said Woodford funds had become high risk and unsuitable for retail investors who were unaware of the changed nature of the underlying investments. Mrs B stated that if she'd been aware of HL's concerns about the WEIF, she would have sold her WIFF investment before June 2019.

The investigator responded that her view remained that the information HL had provided about the WIFF was clear, fair and not misleading. She said that the WIFF hadn't contained illiquid assets or breached rules relating to this, and that HL had acted reasonably retaining it on its best buy lists.

Mrs B responded that the WIFF should have been removed from best buy lists once HL became aware that the WEIF had breached rules on liquidity, on the basis that none of the Woodford funds could be trusted. She asked that her complaint be considered by an ombudsman.

In its final submissions, HL stated that it was not aware in November 2017 that the WEIF had broken rules regarding the proportion of illiquid assets it held. It said it only became aware of breaches after the WEIF had been suspended, when this was referred to in an FCA letter to the Treasury Select Committee in June 2019. HL referred to an article emailed to its clients (including Mrs B) in December 2017 which stated that 9.5% of the WEIF was invested in unquoted stock, just below the 10% allowed limit.

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 am sorry to learn about the financial loss that Mrs B suffered when she sold her holdings in the WIFF in 2019. However, like the investigator, my view on balance is that HL was not responsible for that loss.

As Mrs B accepts, HL did not provide her with personal advice about the WIFF, either in terms of her initial decision to invest in it, or with regard to the decisions she made about when to sell the holding. The service provided by HL to Mrs B was on an execution only basis, where she made her own choices about where to invest her SIPP funds.

Mrs B's contention is that the nature of the commentary that HL gave her (and its other clients) about both the WIFF and WEIF misled her. In particular, in her view the inclusion of the WIFF on HL's best buy lists gave her confidence to invest in the fund, and to retain it. For Mrs B that changed when she became aware that the WEIF had been gated. She believes HL knew by late 2017 that the WEIF had breached rules around the percentage of illiquid assets it was allowed to hold. However, both the WEIF and the WIFF remained on HL best buy lists. Mrs B suggests that HL knew that Woodford funds in general had become high risk, but acted inappropriately by keeping those funds on its lists.

I have carefully considered Mrs B's comments. I'm not persuaded that HL had a duty to proactively advise Mrs B about performance issues with the WIFF. And on balance, I do not consider that HL had a duty to provide any more communication than it did about the WIFF. I can see that the performance of the WIFF was disappointing from 2018, but it remained on HL's wealth list. HL's communications made it clear that it still had confidence in the ability of the fund manager to deliver strong performance. And HL has stated that it considered the WIFF had long term prospects as an investment fund, explaining its reasons for thinking that in its response to Mrs B's complaint.

Further to this, looking at HL's communications, in its June 2018 Wealth 150+ report it clearly noted that it was Woodford's rationale, combined with 'some stock specific disappointments' that had 'held back performance'. In November 2018 the Wealth 150+ report stated that the fund had 'struggled', but that Woodford was sticking to his philosophy. Although the WIFF was not performing to HL's expectations, HL was entitled to believe that it remained a good long term investment.

Mrs B made her own decision to invest in the WIFF. This meant that she needed to decide whether she was happy with the risks of investing in it, taking into account the fund's aims, objectives and the fund manager that it had. The WIFF's inclusion on HL's best buy lists clearly was a consideration for Mrs B, and I accept that it was entirely reasonable for her to place some weight on the commentary HL gave, as an FCA regulated firm, about the fund. But in my view inclusion on HL's lists did not provide any guarantees about how a fund might perform.

HL was required to communicate in a way that was clear, fair and not misleading. Overall, I'm not persuaded that HL failed to do this when providing information to Mrs B about the WIFF. HL has explained why it provided the commentary that it did about the WIFF. Mrs B has focused on the connection between the WEIF and the WIFF. But although the fund manager was the same for the two, there were differences between them, and as the investigator highlighted the WIFF did not contain unquoted companies. On the weight of evidence I'm also satisfied that HL only became aware of breaches to the proportion of illiquid assets that the WEIF held after it had been suspended.

In conclusion my view is that HL provided Mrs B with fair, clear and not misleading information about the WIFF, so that she could make her own decision about whether to

invest in it, and whether she should stay invested. I do understand why with hindsight Mrs B believes HL ought to have been more reticent when promoting the WIFF, but HL didn't have the benefit of hindsight when it included the WIFF on its wealth lists. And I'm not persuaded that HL should have stopped including any Woodford funds on its best buy lists before Mrs B came to sell her WIFF holding in June 2019. I appreciate that Mrs B will likely be disappointed with my findings. But overall I do not consider HL is responsible for the loss Mrs B experienced on her WIFF investment.

My final decision

My final decision is that I do not uphold this complaint, and I make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 29 October 2024.

John Swain
Ombudsman