

## The complaint

Mr H complains that Hargreaves Lansdown Asset Management Limited (HLAM) promoted the Woodford Income Focus Fund (WIFF) on its Wealth 50 list, and other forms of literature, until the day it was suspended despite its poor performance. He also complains that he was unable to sell his holdings before the fund was suspended.

Mr H says he has lost money in this investment and would like HL to compensate him for it.

## What happened

Mr H had a Stocks and Shares ISA with HLAM and, in April 2017 and in October 2018, he bought units in the WIFF. At the time his account was 'execution-only' which meant that HLAM was responsible for giving effect to his investment decisions, but it had no obligation to advise him or manage his investments for him.

In February and June 2020, Mr H complained about HLAM's promotion of the WIFF. In short, he complained that HLAM hadn't properly monitored the performance of the WIFF, and he had been unable to sell prior to suspension. He said he had now lost a significant amount of money.

HLAM looked into Mr H's complaint. In summary, it said that it didn't think it had done anything wrong. It said that its belief that the WIFF would perform well in the future was properly held, but that its Wealth lists made no guarantees. It also explained that Mr H had chosen to hold on to his holding in the WIFF after 4 June 2019 when he had been notified that it had been removed from the Wealth list. It said that at the time of Mr H's complaint the WIFF was temporarily suspended due to the change in fund manager, but that suspension would be lifted shortly (which it was).

Mr H remained unhappy and referred his complaint to this service. One of our investigators looked into Mr H's complaint but didn't think it should be upheld. She said:

- HLAM needed to ensure its communications to Mr H were fair, clear and not misleading, and this included its communications about the WIFF.
- The evidence showed that HLAM continued to back the WIFF on the basis of the fund manager's track record, which is what the promotional material was mainly focused on.
- She thought the communications from HLAM were fair, clear and not misleading. Furthermore, she considered that while it was reasonable for Mr H to rely on HLAM's communications, it was clear that the decision to invest was his alone. She felt that Mr H had been given a balanced picture of the investment, and it was his choice to invest in it and then retain that investment.
- She noted that Mr H had made reference to the suspension of the WIFF, but had

confused this with the WEIF. She noted that Mr H did not have any holdings in the WEIF, and the WIFF was only temporarily suspended – and at the time of his complaint, Mr H had been able to buy and sell shares in the WIFF as normal. She noted, however, that the decision to suspend dealing in the WIFF was not something HL had any control over.

Mr H didn't agree with the investigator and asked for an ombudsman's decision. He provided a newspaper article that he said supported his complaint, and reiterated his main complaint points. In summary:

- HLAM actively promoted WIFF, and given that they were experts in their field and focused on wealth, as well as being a well-known and prestigious company, Mr and Mrs H trusted it.
- The fact that the WIFF was in HLAM's wealth lists was seen by Mr and Mrs H as a long-term investment.
- They queried what 'corrective actions' HLAM undertook when WIFF wasn't performing to plan – it appeared to them as if HLAM did not conduct ongoing due diligence or research, because the poor performance of Woodford's funds were not raising concerns.
- They said that Woodford appeared to change his investment approach and HLAM did not appear to pick up on this, or the additional risk that this represented to the fund.
- Mr and Mrs H queried what Woodford was telling HLAM about his funds and how they were performing to convince HLAM to 'hand over and entrust' its investor funds to him
- Mr and Mrs H also queried where the minutes of these meetings were and why they weren't published. They also asked how much HLAM invested in Woodford, and when they withdrew their own investments.
- They concluded by saying that Mrs H had received a risk update on another fund, which outlined the steps HLAM had taken in terms of assessing its manager, process, culture and oversight and risk processes behind that particular fund manager. They queried how often HLAM did this, and whether if they had taken these steps with Woodford, it would've changed their decision to keep his funds on its wealth lists.

HLAM agreed with the investigator but made further points. In summary it said:

- While Woodford's track record was relevant in HLAM's assessment of the WIFF and why it was included in its Wealth lists, 'it was by no means the sole factor in HLAM's decision-making'.
- It said that HLAM included and retained the WIFF on the Wealth Lists because it had for a period of time confidence in the fund manager. It said that HLAM took the view that WIFF was invested in 'sound companies'.
- It said that HLAM's internal monitoring and analysis process involves 'robust challenge and scrutiny of qualitative and quantitative factors to test whether the

investment team continues to have confidence in the long-term performance potential of a fund', and therefore whether to include or retain it on a Wealth List.

### **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'd like to thank Mr H for his comprehensive and detailed comments which clarify his complaint and why he disagreed with the investigator. I can confirm that I've read all his comments, and considered everything he has said and submitted in its entirety. However, my decision won't address each and every point he has made, and I hope he doesn't take it as a discourtesy that I've not done so. The purpose of my decision is to focus on the key issues and provide my findings, along with my reasons for reaching them.

As the investigator has noted, the key aspect in this complaint was HLAM's obligation to provide information to Mr H that was fair, clear and not misleading. It was not obliged to ensure that the investment was suitable for Mr H, nor that it met his needs and objectives – because that's not the service Mr H had signed up for.

At the time, the FCA's High Level Principles applied to HLAM's relationship with Mr H – Principle 7 required it to 'communicate information [to him] in a way which is clear, fair and not misleading' and the Conduct of Business Rules (COBS) 4.2 required HLAM's financial promotions to be fair, clear and not misleading too.

I understand that Mr H believes he and his wife were misled into investing in the WIFF, and most importantly, were not properly alerted by HLAM when there were problems with the WIFF's performance. I've considered this complaint very carefully, notwithstanding my view that it wasn't HLAM's responsibility to monitor the investment on their behalf.

I should say first of all that I'm not in fact persuaded that HLAM didn't alert Mr and Mrs H to periods of underperformance. Although the November 2017 edition of the Wealth 150 list simply noted the fund manager's rationale behind the management of the WIFF, the June 2018 Wealth 150+ report clearly noted that it was his rationale, combined with 'some stock specific disappointments' that had 'held back performance'. In November 2018 the Wealth 150+ report noted that the fund had 'struggled', but that Woodford was sticking to his philosophy.

Mr H didn't disinvest off the back of this commentary. And whilst I accept that it was reasonable for him to place some weight on what HLAM was telling him, including its belief that the WIFF remained a good long-term investment, I'm not persuaded it was reasonable, in the particular circumstances of this case, for Mr H to base his investment decisions solely on this commentary. And even if he did, it's clear to me that he did so fully knowing that WIFF was not performing to HLAM's expectations – so he was informed by HLAM that it was underperforming. I'm not persuaded that the mere presence of the WIFF on the Wealth 150+ list ought to have overridden the commentary that HLAM actually provided on the WIFF within that list.

Furthermore, it's clear to me that Mr H was not solely reliant on HLAM's communications when deciding to remain invested – because when he was notified in June 2019 that the WIFF had been removed from the Wealth list, he didn't sell his holdings. The WIFF wasn't suspended at that point, only the Woodford Equity Income Fund (WEIF) was, so Mr H could've sold his holdings but chose not to.

In fact, the WIFF wasn't suspended until October 2019 when the fund manager changed – and it was reopened in February 2020.

I understand the profound disappointment that Mr H has experienced from the losses his investment has suffered, and I do understand why, with hindsight, he believes HLAM ought to have been more reticent to promote the WIFF the way it did. But HLAM didn't have the benefit of hindsight when it included the WIFF on its wealth lists – and in my view, it provided information to Mr H that allowed him to make his own investment decisions, with the firm understanding that there were no guarantees, and that all investments carry some risk.

For all these reasons, I'm not persuaded the losses Mr H has suffered are attributable to something HLAM did or didn't do. I'm satisfied Mr H's losses were instead caused by the performance of the investment which is something HLAM had no control over.

### **My final decision**

For the reasons I've given, I don't uphold Mr H's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 28 December 2023.

Alessandro Pulzone  
**Ombudsman**