

The complaint

Mr H complains that he is unable to identify the value and units associated with his exposure to the Woodford Equity Income Fund (WEIF). He complains Hargreaves Lansdown Asset Management Limited (HLAM) is responsible for his losses and therefore ought to be able to tell him exactly what the impact of any losses associated with the WEIF will be on his investment.

What happened

In 2008 Mr H received advice from Hargreaves Lansdown Advisory Services Limited (HLAS) – this is the subject of a separate complaint. The advice concluded that Mr H:

- Wanted to use his investment portfolio to assist with his retirement income in later life.
- Wanted to consolidate his existing investments, thereby simplifying his portfolio, and pass the day to day management of his portfolio to a professional.
- Was looking for a balanced portfolio of equity and fixed interest funds for growth, and to minimise tax wherever possible.
- Was comfortable with the majority of his investments being in equities, as he felt those had the best potential for growth. He said that he had been ‘a little conservative in the past’ and that meant he had ended up with low to medium risk investments. He therefore wanted ‘to be more ambitious’ and wanted ‘the overall portfolio to be medium risk’.

The adviser therefore recommended an overall investment portfolio that was broadly 15% to 25% fixed interest, and 75% to 85% managed equities. He recommended that HL’s Portfolio Management Service (PMS), and within that, recommended the PMS Portfolio for Growth. This portfolio had a range of multi-manager funds

As part of the PMS service, Mr H was entitled to annual reviews from HLAS. His last review, in November 2017, confirmed that:

- The arrangements in place continued to be suitable for his circumstances, objectives and appetite for investment risk.
- Nothing had changed since his previous review the year earlier.
- He remained comfortable with the existing investments in the PMS, and was confident they were well positioned to meet his objectives. In particular, he confirmed that he remained comfortable with the asset split of his portfolio which was 0.6% cash, 13% fixed interest and 86.4% equities.

In early 2019 Mr H confirmed that he had moved abroad and was no longer resident in the UK. This meant that HLAS was unable to continue providing the annual advisory service to

him. In April 2019, Mr H instructed HLAM to transfer the funds in his PMS account to two execution only accounts.

In April 2019, Mr H's portfolio was invested in (approximately):

- HL MM Balanced Managed Trust (39.5%).
- HL MM Income & Growth Trust (2.4%)
- HL MM Special Situations Trust (42.5%)
- HL MM Strategic Bond Trust (8.7%)
- HL Multi-Manager Asia & Emerging Markets (2.7%)
- HL Multi-Manager Strategic Assets (4.2%)

Within this, by 1 May 2019, the whole portfolio had around 4.56% invested in the WEIF – spread between the HL MM Income & Growth (13.32%), HL MM Balanced Managed (4.82%) and HL MM Special Situations (5.26%).

In October 2019 Mr H complained to HLAM. In short, he said that on some of his funds he was unable to see what his exposure to WEIF was, and on others, the exposure to WEIF he did see on the relevant factsheets did not match what HLAM was saying on its website in its most recent update. He asked for a 'personalised assessment of the impact to my portfolio funds held with you'. HLAM replied to Mr H and explained that the factsheets Mr H was referring to were updated, in line with regulation, every three months – so they were accurate as at 30 September 2019. However, its most recent update provided details of each individual multi-manager funds exposure to the WEIF as at 16 October 2019. It said that as the fund was constantly increasing and decreasing in size due to inflows and outflows from it, the percentage weightings of each individual holding was also constantly changing. It explained that it was therefore not possible to provide him with the exact figure of the exposure the portfolio had to the WEIF.

It also said that it did not offer a service which could provide him with a personalised breakdown of the impact the WEIF had on his holdings, and any losses incurred. As Mr H remained unhappy, HLAM issued a final response. In short, it explained the reasons the PMS had originally been recommended to Mr H, the reasons why WEIF was included in some of the multi-manager funds included in his portfolio, who was responsible for the management of the WEIF and finally explained that all of Mr H's funds had grown by 7% in the 12 months prior to his complaint.

Mr H therefore referred his complaint to this service. He said he had relied on HL's professional services to make decisions on his behalf to invest his capital for growth. He said that for this HL took a fee for its management, about there was some 4% exposure to WEIF. As a result, Mr H said he became 'caught up in the problems associated with [these] funds and investment decisions'. He complained that as 'these funds and schemes are to be wound up, it may be that I suffer losses as a consequence of HL's management decisions'.

Mr H explained that in order to 'identify the impact on [his] capital' he had tried to use HLAM's web based services and supplied information to identify the value and units associated with the above. However, he complained that this 'proved to be contradictory or simply not possible to verify based upon the information available'. He said HLAM needed to be able to advise their customers 'where their money is invested and be able to provide a dynamic or even snapshot statements of what the values are' especially in relation to a fund

that was to be wound up.

One of our investigators looked into Mr H's complaint. She said:

- Mr H wasn't directly invested in the WEIF, so extrapolating his precise loss figure wasn't straightforward.
- When the fund was liquidated, and payments were being made out of the WEIF, these were being returned to fund managers who then reinvested the money in other assets.
- Due to this, it wasn't possible for HLAM to provide information about losses relating to this particular fund – and the investigator didn't consider there was anything in the rules or regulations which meant they needed to. As a result, whilst she understood why Mr H required this information, she thought it was fair and reasonable for HLAM to explain it couldn't provide this information to him.
- She confirmed that by December 2020 the exposure to the WEIF in the multi-manager funds Mr H did have had drastically reduced.

Mr H didn't agree with the investigator. He made reference to other complaint points which are now the subject of separate complaints against HLAS and HL Fund Managers. In relation to this complaint, he said:

- As a managed fund, HLAM 'must hold a record of the purchase price for any given fund or investment and also the sale price, in addition to the amount of stock, value and date'.
- Subtracting one from the other, he said, would 'illuminate any gain or loss'. He said the effect of the investigator's findings was to render HL 'completely unregulated'.
- He therefore rejected the investigator's findings that there was no accountability, and no recourse to calculate any gain or loss and no liability on behalf of HL.

Mr H made further submissions before the case was passed to me. He said that as a financial investment company, part of HLAM's responsibilities were to calculate profit and loss. He said that it was merely a necessity for the service to request this information. He asked that I therefore conduct a 'full' investigation into this, and request the relevant data from HLAM.

HLAM also provided some final submissions. In summary it said:

- Any losses Mr H has incurred ought to be calculated at the fund level rather than individual investment level, and at the portfolio level as a whole.
- It wasn't possible to provide an approximate a figure which could be used to estimate Mr H's perceived WEIF related losses. It said that two of the multi-manager funds Mr H had were invested in the WEIF, with a relatively small exposure. It said that the funds were valued daily, with the value being determined by the combined value of each of the underlying investments held in the multi-manager fund on that day.
- Therefore, the size of the exposure to each of those underlying investments (including the WEIF) and the overall size of the multi-manager fund (determined by investor subscriptions and redemptions) are in constant flux.

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.

Mr H has queried why his complaint has had to be divided given that, from his perspective, all of the issues he has complained about are against Hargreaves Lansdown. I understand why he says this, and certainly from his perspective, why he sees it as unnecessary.

However, this service's jurisdiction requires a complaint to be determined against a respondent firm – and in this case, each of the elements of his complaint have a separate respondent firm, regulated by the FCA, which is responsible for the acts or omissions he has complained about. This means that any complaints about the original advice would be a complaint that we'd investigate against HLAS, whilst any complaint about the management of the individual multi-manager funds would be considered against HL Fund Managers. They are all different legal entities, and regulated in their own right by the FCA with a specific set of permissions to carry out on certain regulated activities.

This particular complaint is therefore about HLAM, as the investment firm responsible for the management of Mr H's portfolio at the relevant time, and therefore his complaint about the information it has failed to provide him about his potential losses from the WEIF's suspension and subsequent liquidation. It is only this complaint that I am considering here.

For completeness, I've set out the standards which applied to HLAM at the time (and, with slight amendments, continue to apply to it) in relation to periodic reporting, which is in essence what Mr H's complaint is about.

The standards applicable in this case

In 2019, the Financial Conduct Authority (FCA) set out the rules around the information that investments firms needed to provide its clients in the Conduct of Business rules (COBS).

COBS 16A said:

COBS 16A.2 – General client reporting and record keeping requirements

COBS 16A.2.1

- (1) A firm must provide a client with adequate reports on the service provided in a durable medium.
- (2) The reports must include:
 - a. Periodic communications to the client, taking into account the type and the complexity of the financial instruments or insurance-based investment products involved and the nature of the service provided to the client; and
 - b. Where applicable, the costs associated with the transactions and services undertaken on behalf of the client.

COBS 16A.4 – Periodic reporting

COBS 16A.4.1

- 60(1) Investments firms which provide the service of portfolio management to clients shall provide each such client with a periodic statement in a durable

medium of the portfolio management activities carried out on behalf of that client unless such a statement is provided by another person.

- 60(2) The periodic statement required under paragraph 1 shall provide a fair and balanced review of the activities undertaken and of the performance of the portfolio during the reporting period and shall include, where relevant, the following information:
- a. the name of the investment firm;
 - b. the name or other designation of the client's account;
 - c. a statement of the contents and the valuation of the portfolio, including details of each financial instrument held, its market value, or fair value if market value is unavailable and the cash balance at the beginning and at the end of the reporting period, and the performance of the portfolio during the reporting period;
 - d. the total amount of fees and charges incurred during the reporting period, itemising at least total management fees and total costs associated with execution, and including, where relevant, a statement that a more detailed breakdown will be provided on request;
 - e. a comparison of performance during the period covered by the statement with the investment performance benchmark (if any) agreed between the investment firm and the client;
 - f. the total amount of dividends, interest and other payments received during the reporting period in relation to the client's portfolio;
 - g. information about other corporate actions giving rights in relation to financial instruments held in the portfolio;
 - h. for each transaction executed during the period, the information referred to in Article 59(4)(c) to (l) where relevant, unless the client elects to receive information about executed transactions on a transaction-by-transaction basis, in which case paragraph 4 of this Article shall apply.

COBS 16A.4.3 sets out further requirements around letting clients know when their portfolios depreciate by 10% and reporting around leveraged financial instruments.

My findings

Taking the above into account, I'm satisfied that Mr H is not entitled to a personalised breakdown from HLAM about specific losses to do with underlying investments that the multi-manager funds he was invested in had exposure to.

As the investigator and HLAM have both explained, Mr H was never directly invested in the WEIF.

He had a portfolio of investments, which included multi-manager funds – some of which had varying degrees of exposure to the WEIF at various times. I accept HLAM's evidence that it isn't possible to provide a personalised breakdown of the specific loss associated to Mr H's specific exposure of the WEIF, by virtue of his own exposure to the relevant multi-manager funds. And I also agree that this would not be an appropriate way of calculating Mr H's return

in any event.

The rules I've quoted above require an investment firm to provide clients with sufficient information to enable them to understand the performance of their portfolio, with reference to the portfolio's underlying investments. This clearly should also include any fees, charges and relevant comparisons to benchmarks. But the rules don't require a specific format – and my role doesn't include directing a business on the format its reports or statements ought to take, or how it chooses to present information to its clients.

In addition, I consider it would be exceedingly onerous to require investments firm to report on the profit or loss of the underlying assets within the collective investments which a portfolio might be invested in – and this is what Mr H is asking for. And I'm not persuaded this information would help him better understand the performance of his portfolio – he already has that information, which HLAM has explained shows a positive return. The information Mr H has includes:

- overall performance of the portfolio and each multi-manager fund;
- valuations with respective gains and losses for the year.

Further information of the type Mr H is after also wouldn't be accurate, because the payments out of the WEIF are not refunded to Mr H in a way that would show a profit or loss – they are simply reinvested, by the relevant fund managers, in other assets, which themselves contribute to the overall return of the managed funds Mr H has. It is then the overall return of these managed funds that Mr H needs to know in order to understand how his portfolio is performing overall – and as I've said above, I'm satisfied this information is available to him.

I'm therefore sorry to disappoint Mr H, but I agree with HLAM that this is not information it is required to provide, and I'm not persuaded it would be fair and reasonable for me to direct it to provide this – even if I accepted this exercise were theoretically possible. I'm satisfied that HLAM has complied with its periodic reporting requirements, as set out in COBS.

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 19 December 2023.

Alessandro Pulzone
Ombudsman