

The complaint

Mrs O's complaint against Hargreaves Lansdown Advisory Services Limited ("HL") is about the investment advice she received in 2017.

What happened

Mrs O had been a client of HL for some years when she requested advice from them in October 2017. Mrs O's husband (Mr O) received advice from HL at the same time. I will be considering that advice in a separate decision, but where relevant have taken account of Mr and Mrs O's joint circumstances in making my decision on the advice given to Mrs O.

HL recommended the restructuring of Mrs O's ISA and, as part of her portfolio, they advised her to invest in the Woodford Income Focus Fund (WIFF). Mrs O did not receive ongoing advice from HL but thereafter managed her own investments using HL's 'execution only' service.

The WIFF was managed by Woodford Investment Management (WIM) and was launched in April 2017. The performance of the WIFF was disappointing from 2018 onwards. In October 2019 WIM resigned as investment manager of the WIFF, and the Authorised Corporate Director of the fund took the decision to suspend dealings in the fund until February 2020. At that point dealings in the fund were permitted again, and the fund was being managed by a new investment manager.

Mrs O complained to HL in October 2019 about the advice she had been given in October 2017, and specifically about the recommendation to invest in the WIFF. She complained that the WIFF was too high risk and not suitable for her portfolio. She said Mr O raised concerns with HL in April 2018, and they remained positive about the outlook for the WIFF. She would like HL to refund the losses that she incurred from her investment in the WIFF.

HL didn't uphold Mrs O's complaint. They said, in summary, that:

- Their advice was in line with Mrs O's investment objectives and attitude to risk and the portfolio recommended was suitable for her needs.
- Mrs O had confirmed that, having received advice in October 2017, she was comfortable managing her portfolio on an 'execution only' basis from that point on. That meant it was Mrs O's decision whether or not to remain invested in a particular fund and HL was not liable for any losses she had sustained.
- The investments in Mrs O's portfolio were chosen by their in-house research team and diversified across a variety of assets, market sectors and fund groups. The WIFF made up about 8.5% of Mrs O's initial portfolio.
- The WIFF experienced a difficult period of performance in 2018 and 2019 but HL's conviction in its long term performance remained.
- They had always made clear there were risks with the WIFF and no performance

guarantees were given when Mrs O invested. Its communications about the WIFF were clear, fair and not misleading.

Mrs O wasn't satisfied with HL's response and referred her complaint to our service. Our investigator didn't think Mrs O's complaint should be upheld. He said, in summary:

- When looking at the suitability of HL's advice to invest in the WIFF he had considered their ISA recommendation in the round.
- Mrs O was prepared to accept a reasonable degree of risk and volatility to achieve her longer term objective of increased income and capital growth. She was comfortable investing in a combination of equity and fixed interest funds and was prepared to accept the risks involved.
- HL's advice that Mrs O's ISA should be invested across ten UK equity and fixed interest bond funds was in line with her objectives and attitude to risk.
- The investment risks for each fund were declared and accepted by Mrs O. She had the capacity to take those risks with a proportion of her overall wealth as she had reasonable cash savings and other investments to meet any emergency needs.
- It's fair to say the WIFF was a higher risk fund. However, the inclusion of a higher risk fund in a diversified portfolio isn't necessarily unsuitable provided the risk level of the overall portfolio is appropriate. The size of the WIFF holding was small and proportionate to the other recommended funds. Some of the other equity and bond funds were much lower risk which helped to moderate the overall risk level of the portfolio and Mrs O was prepared to take a reasonable level of risk overall.
- HL's advice on Mrs O's ISA, and the inclusion of the WIFF as part of a diversified portfolio, was suitable.
- HL provided Mrs O with one off advice and thereafter she agreed to take responsibility for managing her ISA account on an 'execution only' basis. The decision to remain invested in the WIFF or any other fund remained with Mrs O.

HL agreed with our investigator's findings. They provided some further information about the advice they gave to Mrs O (which has subsequently been shared with Mrs O) and some clarifications and minor corrections to our investigator's view.

Mrs O disagreed with our investigator's findings. She said, in summary, that HL had sufficient information to know that the WIFF was not fit for purpose, and it should never have been offered by a reputable company. At no point did our investigator recognise this but instead seemed to put the blame on the investor.

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.

In coming to my decision, I will look first at the overall advice given to Mrs O and then address her specific concerns about the inclusion of the WIFF in her portfolio. I would stress that I'm not looking at the advice Mrs O was given with the benefit of hindsight. Just because an investment performed badly does not mean it was unsuitable; the key point I am considering is whether HL's recommendations to Mrs O were suitable at the time she was

given the advice.

The rules say that a business needs to get enough information from a customer to make sure a recommendation meets their objectives. Before giving advice, HL should have considered Mrs O's financial situation, her knowledge and experience of investing, and her investment objectives. That would include taking account of her attitude to risk, her purpose in investing and how long she wanted to invest for. HL should also have made sure they communicated information to Mrs O in a way which was clear, fair and not misleading.

I've seen copies of paperwork from the time of the advice. That includes a financial planning questionnaire that Mr and Mrs O completed with the HL adviser and two letters that the adviser sent to them with details of his recommendations. The adviser's second letter made clear that, although other investments had been discussed, it had been agreed that Mrs O would only proceed with the recommendation to restructure her HL ISA account.

At the time of the advice Mrs O was in her 70s and retired. She wanted advice on restructuring her ISA with the primary objective being growth of her funds to support her in later years and ultimately pass on to her beneficiaries.

Mrs O's annual income was £41,000 from her pension and £2,000 from investments. Mr O's annual income was £28,000 and after their outgoings, Mr and Mrs O had a joint surplus income of £2,500 a month.

According to the financial planning questionnaire, Mr and Mrs O had substantial assets and investments, some held individually and others jointly. Mrs O held assets in cash and investments of £235,557.

It seems from the paperwork that Mrs O delegated a lot of the investment planning to Mr O but had a good understanding of different asset classes. The adviser discussed the level of risk Mrs O was prepared to take in relation to her ISA funds and agreed a desired asset allocation which was recorded as 35-45% in fixed interest and 55-65% in managed equities. That was described as a slightly lower level of risk than Mrs O's previous ISA portfolio, which was 30% fixed interest and 70% equities.

The adviser's recommendation (set out in his letter of 31 October 2017) was that Mrs O should restructure her ISA of £196,550 and invest across 12 different funds. The amounts recommended would leave Mrs O with 40% in low risk fixed interest bonds, 5% in a lower risk total return fund, 40% in UK equities and 15% in international equities.

I'm satisfied that the overall advice given to Mrs O was suitable for her needs. It was consistent with her primary objective of growing her assets and in line with her attitude to risk. I think Mrs O had the capacity to take some risk as she had a secure income, a significant surplus of income over expenditure each month and retained a large cash balance to cover any unforeseen spending. As I've noted, as well as her own assets, Mrs O also held other assets and investments jointly with Mr O.

Based on what I've seen, I think the allocation of Mrs O's ISA across the 12 funds recommended was consistent with the asset allocation that had been agreed. I'm also satisfied that Mrs O was provided with sufficiently clear information about how her funds were being invested and the level of risk that she was taking to enable her to make an informed decision.

Turning to Mrs O's specific concerns about the WIFF, I note that it made up 8.5% of the portfolio recommended. The adviser categorised it as a UK equity fund and was one of several funds in that sector that made up 40% of Mrs O's portfolio.

According to the fund brochure, the WIFF was designed to deliver “a high level of regular and sustainable income” together with capital growth. According to the Key Investor Information Document (KIID), “the fund had a discretion to invest in a range of investments” and “predominantly in shares of companies listed in the UK and overseas with a focus on investments that provide dividends.”

I think it was reasonable for the adviser to include the WIFF as part of the portfolio of funds that he recommended to Mrs O. I also think he provided clear information to Mrs O about the WIFF and the other funds that would make up her portfolio.

Mrs O received one off advice from HL in 2017 and thereafter agreed to manage her ISA on an ‘execution only’ basis. She was therefore responsible for deciding whether to retain her holdings in the WIFF and other funds. HL was obliged to provide information to Mrs O that was fair, clear and not misleading; it was not obliged to ensure that her investments remained suitable for her.

Mr O contacted HL on Mrs O’s behalf in April 2018 to express concern about the performance of their investments. In a call with Mr O in June 2018, HL said that Mr and Mrs O had not elected to receive ongoing reviews of their investments and so Mrs O was responsible for making her own decisions about her portfolio. HL told Mr O that that the WIFF remained on their wealth list and that they still had confidence in the ability of the fund manager to deliver strong performance.

What Mr and Mrs O were told was consistent with HL’s publicly available opinion of their research team at the time. In looking at HL’s communications, the June 2018 Wealth 150+ report 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 noted 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 the WIFF remained a good long term investment. I do understand why, with hindsight, Mrs O believes HL ought to have been more reticent to promote the WIFF the way it did. But HL didn’t have the benefit of hindsight when it included the WIFF on its wealth lists and I’m satisfied that its communications with Mrs O were fair, clear and not misleading.

In summary, I think the advice HL provided to Mrs O in 2017 was suitable for her needs. And thereafter – when Mrs O was responsible for making her own investment decisions – I’m satisfied that its communications with Mrs O were clear, fair and not misleading. I appreciate this will be a disappointing decision for Mrs O, but I won’t be upholding her complaint.

My final decision

For the reasons I’ve explained, my final decision is that I don’t uphold Mrs O’s complaint against Hargreaves Lansdown Advisory Services Limited.

Under the rules of the Financial Ombudsman Service, I’m required to ask Mrs O to accept or reject my decision before 28 May 2024.

Matthew Young
Ombudsman