DRN-4509608

## The complaint

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

## What happened

Mr O had been a client of HL for some years when he requested advice from them in October 2017. Mr O's wife (Mrs 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 Mr O.

HL recommended the restructuring of Mr O's ISA and, as part of his portfolio, they advised him to invest in the Woodford Income Focus Fund (WIFF). Mr O did not receive ongoing advice from HL but thereafter managed his 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.

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

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

- Their advice was in line with Mr O's investment objectives and attitude to risk and the portfolio recommended was suitable for his needs.

- Mr O had confirmed that, having received advice in October 2017, he was comfortable managing his portfolio on an 'execution only' basis from that point on. That meant it was Mr O's decision whether or not to remain invested in a particular fund and HL was not liable for any losses he had sustained.

- The investments in Mr 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 Mr 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 Mr O invested. Its communications about the WIFF were clear, fair and not misleading.

Mr O wasn't satisfied with HL's response and referred his complaint to our service.
Our investigator didn't think Mr 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.

- Mr O was prepared to accept a reasonable degree of risk and volatility to achieve his longer term objective of increased income and capital growth. He was comfortable investing in a combination of equity and fixed interest funds and was prepared to accept the risks involved.

- HL'S advice that Mr O's ISA should be invested across ten UK equity and fixed interest bond funds was in line with his objectives and attitude to risk.

- The investment risks for each fund were declared and accepted by Mr O. He had the capacity to take those risks with a proportion of his overall wealth as he 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 Mr O was prepared to take a reasonable level of risk overall.

- HL'S advice on Mr O's ISA, and the inclusion of the WIFF as part of a diversified portfolio, was suitable.

- HL provided Mr O with one off advice and thereafter he agreed to take responsibility for managing his ISA account on an 'execution only' basis. The decision to remain invested in the WIFF or any other fund remained with Mr O.

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

Mr O disagreed with our investigator's findings. He 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 Mr O and then address his specific concerns about the inclusion of the WIFF in his portfolio. I would stress that I'm not looking at the advice Mr 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 Mr O were suitable at the time he 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 Mr O's financial situation, his knowledge and experience of investing, and his investment objectives. That would include taking account of his attitude to risk, his purpose in investing and how long he wanted to invest for. HL should also have made sure they communicated information to Mr 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 Mr O would only proceed with the recommendation to restructure his HL ISA account.

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

Mr O's annual income was £26,000 from his pension and £2,000 from investments. Mrs O received a higher income from her pension 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. Mr O held assets in cash and investments of £414,119.

Mr O was an experienced investor with a reasonable knowledge of financial matters. It seems the adviser discussed with Mr O the level of risk he was prepared to take in relation to his 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 Mr 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 Mr O should restructure his ISA of £288,694 and invest across 12 different funds. The amounts recommended would leave Mr 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 Mr O was suitable for his needs. It was consistent with his primary objective of growing his assets and in line with his attitude to risk. I think Mr O had the capacity to take some risk with this portion of his assets as he 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 his own assets, Mr O also held other assets and investments jointly with Mrs O.

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

Turning to Mr 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 Mr 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 Mr O. I also think he provided clear information to Mr O about the WIFF and the other funds that would make up his portfolio.

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

Mr O contacted HL in April 2018 to express concern about the performance of his investments. In a call with Mr O in June 2018, HL said he had not elected to receive ongoing reviews of his investments and so was responsible for making his own decisions about his 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 O was 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, Mr 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 Mr O were fair, clear and not misleading.

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

## My final decision

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

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

Matthew Young
**Ombudsman**