DRN-4667390

The complaint

Mr H has complained about the advice he received from Hargreaves Lansdown Advisory Services Limited ('HL') that resulted in him investing in funds that were exposed to the Woodford Equity Income Fund ('WEIF').

What happened

In 2008 Mr H met with an HL adviser to discuss his investment planning. The adviser recommended that Mr H transfer £51,357 from existing PEPs/ISAs into HL's Portfolio Management Service (PMS). A further £14,200 funded from a deposit account was to be placed under the PMS within ISAs that covered the tax years 2007/08 and 2008/09, and funds held elsewhere in unit trusts totalling £17,043 were to be moved into the PMS under a main (non-ISA) account.

HL's PMS was a discretionary managed account, where HL chose the underlying investments. The portfolio for Mr H had an objective of capital growth, and the adviser recommended that broadly the investment should be split between 80% equities and 20% fixed interest assets. The service provided by HL included ongoing advice to review both the suitability of the PMS for Mr H, and the suitability of the selected portfolio. It included the invitation for an annual review.

In January 2019 Mr H confirmed to HL that he was no longer resident in the UK. HL explained that as a result it would no longer be able to provide advice to Mr H or to conduct periodic suitability reviews. This led to Mr H's investments being moved out of the PMS into HL self-managed accounts in April 2019, whereby HL ceased to provide advice to him or manage his funds.

Mr H's portfolio arranged in 2008 contained a number of HL multi-manager funds ('MMF'). MMFs invest in a range of underlying investments. Within some of the MMFs held under Mr H's portfolio, there was investment in the WEIF from around the time that it was launched. That investment in the WEIF forms the basis of Mr H's complaint.

By way of background, the WEIF was launched in May 2014 and managed by Neil Woodford. It broadly tracked benchmarks (albeit whilst providing a greater return and experiencing some more volatility) until the second half of 2017, when there was a significant fall which was not experienced by the benchmarks. It began to significantly underperform benchmarks from early 2018 and the performance followed a very different pattern to the benchmarks from early 2019 to the date of suspension.

Alongside this, the fund began to see significant outflows from mid-2017, falling from around £10bn of assets under management to around £3bn in two years. In June 2019 the extent of those outflows - and the portion of the WEIF's assets which were not liquid - led to trading in the fund to be suspended. There was also a change of investment manager around this time.

The fund did not trade again, and later in 2019 the Authorised Corporate Director (ACD) decided that it should be liquidated. Investors have since received payments as and when the fund's assets have been sold. I should highlight however that Mr H himself did not directly hold the WEIF in his portfolio. Instead the MMFs he was invested in themselves had exposure to the WEIF. As a consequence, payments made since the WEIF's assets have been liquidated have been to the MMFs as the WEIF investor, not to Mr H directly. I understand the MMFs have then reinvested that money as they deem appropriate.

In October 2019 Mr H contacted HL to say that the information it provided did not allow him to see the impact the liquidation of the WEIF was having on the MMFs his portfolio was invested in. He asked for a personalised assessment of the WEIF's impact on these MMFs. HL responded that this was not possible.

Mr H complained to HL about its actions relating to his investments. The issues he raised are the responsibility of three different parts of HL, and these three parts of HL are separate regulated entities. As a result, since Mr H referred his concerns to this service, we have split them into three separate complaints.

The complaint I am considering here relates to Mr H's concerns about the initial advice he received from HL to invest in the PMS and the chosen portfolio, and the ongoing advice it provided regarding the suitability of the PMS and the portfolio recommended. This includes Mr H's dissatisfaction that as a result of HL's advice about the PMS, he was invested in MMFs that had exposure to the WEIF.

Final decisions by ombudsmen on Mr H's two other complaints have already been issued. One of these complaints related to HL's management of the MMFs, and its selection of the WEIF as a holding in some of them. The other complaint related to the information HL had provided about Mr H's investments' exposure to, and potential losses caused by, the liquidation of the WEIF. As these matters have already had final determinations, I will not be commenting on them in this decision.

In respect of the matter I am considering under this complaint, HL responded to Mr H that its view was the advice it provided to invest in the PMS was suitable, as was the ongoing advice it gave to stay in the PMS until Mr H left the UK. It said this was consistent with Mr H's objectives and attitude to risk.

Following the referral of this complaint to this service, our investigator did not uphold it. She considered the advice Mr H had received from 2008 when the PMS was recommended, and from 2014 when some of the MMFs Mr H's portfolio was invested in started to have holdings in the WEIF. Looking at the ongoing advice HL provided Mr H with under the PMS, the investigator's view was that the portfolio remained suitable, and that the exposure of some of the MMFs to the WEIF did not make it unsuitable, taking into account the level of that exposure.

Mr H did not agree with the investigator's findings. He said the investigator had failed to reach similar conclusions to those decided by "*independent bodies*".

Commenting on the investigator's assessment, HL highlighted that it had not recommended for Mr H to invest directly in the WEIF, but instead that he invested in MMFs, some of which had exposure to the WEIF.

This complaint was passed for review by an ombudsman.

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 assessing Mr H's complaint that HL advised him to invest his funds into its PMS, and to invest the portfolio in MMFs which had exposure to the WEIF from 2014, I need to consider what happened when Mr H first met an HL adviser in 2008. In his 2008 financial planning report, the adviser recorded that Mr H was seeking advice on investment planning. Mr H held around £49,000 in a deposit account, around £53,000 in PEPs and ISAs, £8,000 in shares and £17,000 in unit trusts. He was employed, earning £52,000 a year. Mr H wanted to use his investment portfolio to help boost his retirement income later in life.

It was recorded that Mr H wanted his funds to be actively managed on his behalf, and that his objective at the time was capital growth. The adviser said that Mr H felt he'd previously been conservative when investing, but wanted to be more ambitious, holding a portfolio that overall was medium risk. He was seeking the majority of his investments to be in equities as he considered these had the best potential for growth. Mr H and the adviser agreed his overall portfolio should contain 15-25% fixed interest investments and 75-85% managed equities.

As detailed above, the adviser recommended that Mr H transfer funds from existing PEPs and ISAs into the PMS, together with funds held within unit trusts. New ISA subscriptions that covered two tax years were to be funded from the deposit account, and were also to be held under the PMS. The adviser said that Mr H's required fixed interest/equities asset allocation would be matched to one of HL's discretionary portfolios designed with an objective of capital growth.

Having considered Mr H's financial objectives and circumstances when he met with the adviser in 2008, my view is that the recommendation to invest his funds in HL's PMS with the aim of achieving capital growth was suitable. The asset allocation mix was in line with Mr H's attitude to and tolerance of investment risk, and I consider it was reasonable for HL to believe that this would assist Mr H in his aim of building his funds so that they could provide him with future income in retirement.

Because his funds were being managed under the PMS, Mr H received annual reviews of his financial needs and objectives from HL. For the years up until 2014, when Mr H's portfolio started to hold MMFs that were exposed to the WEIF, HL has been able to provide some review documentation. In summary this records that Mr H's risk profile and investment objective was unchanged from when he'd started his investment in the PMS. Overall, I am satisfied that in the circumstances during this period the advice Mr H received at the annual reviews to remain invested in his portfolio was reasonable.

Mr H's complaint relates principally to the advice he received from HL about his portfolio once MMFs in it started to have exposure to the WEIF. The first suitability review carried out by HL once that was the case was in October 2014. At this time, three of the portfolio's MMFs held investments in the WEIF, and the portfolio as a whole had an exposure to the WEIF of 6.67%.

The October 2014 review recorded that Mr H had an excess monthly income over expenditure of £500, £8,300 as accessible cash, and was shortly to receive around £30,000 from a maturing endowment policy. Mr H was planning to use the proceeds from the endowment to repay capital under his mortgage. The adviser recommended that Mr H continue to invest in the PMS to build capital for future income needs in retirement, on the basis that Mr H had a preference for delegating responsibility for his investments to a discretionary management service.

At this time, the asset mix in Mr H's portfolio was 1.5% cash, 15.9% fixed interest and 82.6% managed equities. The adviser said a broad 80% equities/20% fixed interest mix remained suitable for Mr H, based on his appetite for risk. He said that Mr H continued to accept a degree of investment risk and volatility, in light of his income being more than sufficient for his existing needs, and because he wanted to invest in assets with a greater potential for growth than cash. It was recorded that Mr H's appetite for risk had not changed since previously reviewed. Bearing in mind that the asset balance in the portfolio could vary depending on the performance of different holdings, and the PMS periodically rebalanced the asset mix, overall my view is that the advice given in 2014 to remain in the PMS was suitable for Mr H's objectives and financial circumstances.

Mr H is unhappy that from the time the WEIF was launched, some of the MMFs he held had exposure to it. He considers that HL should not have advised him to invest in a portfolio with exposure to the WEIF. HL has said that based on its research it believed that the WEIF had the potential to outperform its benchmark, and that was why it recommended a portfolio to Mr H that included MMFs with WEIF exposure. It has commented that the WEIF exposure in the MMFs was relatively small.

As confirmed above, in October 2014 Mr H's portfolio as a whole had an exposure to the WEIF of 6.67% via three of the MMFs it held. In assessing HL's advice at this time to retain the portfolio, my view is that it is reasonable to consider the overall investment risk that the portfolio assets represented. In my opinion the portfolio's WEIF exposure of 6.67% via the MMFs was comparatively limited. Overall I consider it was reasonable for HL to conclude that it was suitable for Mr H to remain invested in the portfolio in 2014, taking into account his circumstances and objectives.

In September 2015 HL conducted another periodic suitability review. Mr H's circumstances remained similar to the year before. The asset mix in his portfolio was now 1.5% cash, 13.3% fixed interest and 85.2% managed equities. Although this represented a slight shift to equities from fixed interest, my view is that the portfolio was still within the approximate boundaries agreed of 80% equities/20% fixed interest holdings. And it was recorded that Mr H was comfortable with this asset mix, as it provided the potential for strong capital growth.

Three of the MMFs in the portfolio had exposure to the WEIF, and the portfolio as a whole now had an exposure of 7.49%. Whilst this was an increase on the WEIF exposure applicable at the previous year's review, my view is that it was fair for HL to consider that the overall risk profile of the portfolio remained in line with Mr H's attitude to risk, and financial aims. I consider the WEIF exposure of the MMFs in September 2015, when viewed with the other investments Mr H held, was still comparatively low. In my opinion it was reasonable to advise Mr H that the portfolio as a whole had the potential to achieve his objectives, including with the WEIF exposure in the MMFs.

HL carried out the next suitability review in October 2016. It was recorded that Mr H's financial circumstances and objectives hadn't changed since the previous year's review, and his approach to investment risk remained the same. Mr H anticipated he would be working for a further 8 to 9 years, and so would not be considering taking an income from his investments until then. The adviser felt this proposed investment term was consistent with the 80%/20% equities/fixed interest asset mix in place. He recommended that Mr H leave his funds invested in the PMS.

At this time, four of the MMFs in the portfolio had exposure to the WEIF, and the portfolio had an overall exposure to the WEIF of 7.15%. For similar reasons to those outlined above, with this level of WEIF exposure, and taking into account Mr H's financial aims and circumstances, I consider it was reasonable that HL advised the portfolio was still suitable for Mr H.

A suitability review took place in December 2017. Mr H raised the possibility that he might move outside of the UK for work, but as yet that had not happened. The adviser confirmed that HL would not be able to provide advice if Mr H ceased to be a UK resident.

It was recorded that Mr H's investment objectives and attitude to risk had not changed since the last review. The asset mix in his portfolio was now 0.6% cash, 13.0% fixed interest and 86.4% managed equities. The equity content was therefore higher than planned for, but the adviser commented that the asset allocation would be periodically rebalanced, and so the risk profile of the portfolio was "*not likely to alter much over time*". The adviser recorded that Mr H remained comfortable with the existing investment strategy.

Four of the MMFs in the portfolio had exposure to the WEIF, and the overall portfolio exposure to the WEIF was now 5.76%. The adviser recommended that Mr H remain invested in the portfolio within the PMS. Taking into account Mr H's circumstances and financial objectives at this time, I consider it was reasonable for the adviser to make this recommendation. In my view the WEIF exposure in the MMFs within the portfolio was not at a level that made the advice unreasonable. The adviser reasonably concluded that the investments held in the portfolio provided the opportunity for Mr H to achieve his financial aim, within the level of risk that he had confirmed he was comfortable with.

An HL adviser spoke to Mr H in January 2019. Mr H confirmed that he was no longer resident in the UK, and HL explained it would no longer be able to provide advice to him. A few months later Mr H changed his accounts with HL to self-managed, or execution only. This meant that going forward, Mr H would be responsible for making his own investment decisions, including whether he wished to retain investments in MMFs that included exposure to the WEIF.

Mr H believes that HL inappropriately advised him by recommending a portfolio that had WEIF exposure via various MMFs that it held. Having considered the instances of advice provided by HL since the MMFs started to have exposure to the WEIF, my view is that HL acted reasonably with the advice it gave. The overall WEIF exposure in the MMFs was relatively modest as a percentage of the portfolio. The aim of the portfolio was to provide capital growth to build up a fund for future retirement income, using a mix of assets that was predominantly focused on equities. In my view the assets held in the portfolio were broadly consistent with Mr H's attitude to investment risk, and provided the potential to achieve Mr H's objectives. Although I note Mr H's comment about other bodies issuing conclusions about what happened with the WEIF, I do not consider that this impacts my findings in relation to this complaint brought by Mr H.

I appreciate that Mr H remains disappointed about the effect the WEIF's suspension and later liquidation had on his portfolio's performance. But in conclusion, I am not persuaded that HL gave unsuitable advice regarding Mr H's investments, including its recommendations to remain invested in the PMS, and in a portfolio with MMFs that had exposure to the WEIF.

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 Mr H to accept or reject my decision before 13 December 2024.

John Swain

Ombudsman