

The complaint

Mr O complains on behalf of his son, Master O, that Hargreaves Lansdown Asset Management Limited ('HLAM') is in part responsible for the losses he suffered from having monies invested in the Woodford Equity Income Fund (WEIF).

Mr O says that Hargreaves Lansdown encouraged him to maintain his holdings by keeping the fund on its Wealth List until the point at which it was suspended. Mr O would now like HLAM to recompense his son for his losses.

What happened

In April 2015, Mr O transferred his son's Child Trust Fund (CTF) to HL and used the monies to open a Junior ISA (JISA). In May 2015, Mr O purchased units in the HL Multi-Manager Balanced Fund. The investment objective of the fund is to provide long term capital growth. The fund fact sheet states that: *'The Fund may invest, either directly or indirectly via other collective investment schemes and exchange traded funds, in a range of equities and/or floating and fixed interest securities. The Fund may have exposure to smaller companies and overseas markets, as well as UK and overseas Government, Corporate or high yield bonds.'* The HL Multi-Manager Balanced Fund held around 7.4% of its assets in the WEIF in March 2015 and by May 2019, that exposure had reduced to around 4.4%.

The Authorised Corporate Director (ACD) of the WEIF was Capita Financial Managers, later known as Link Fund Solutions. The WEIF broadly tracked the 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. And, in June 2019 the extent of those outflows - and the portion of the WEIF's assets which were not liquid - led Link to decide to suspend trading in the fund. Link removed WIM as the investment manager around this time. The fund did not trade again.

In February 2020, Mr O decided to formally complain to HL on behalf of his son. In summary, he said that HL kept the WEIF on its Wealth Lists despite clear and obvious signs that Mr Woodford was not complying with investment guidelines. Mr O went on to say that he understood the WEIF was invested in unquoted businesses, yet HL had encouraged its consumers to invest in the fund.

After reviewing Mr O's complaint, HLAM concluded they were satisfied they'd done nothing wrong. They also said, in summary, that their investment team chose the WEIF for inclusion in the Wealth List (and within the Multi-Manager Fund that he had selected within the JISA) partly on the basis of Neil Woodford's track record as a talented stock picker. HL went on to

say that the total invested in WEIF is a relatively small proportion of the total value of their ten Multi-Manager Funds. HL said they were satisfied that the Multi-Manager Fund Mr O had selected had been managed in accordance with the mandate of the fund, including each fund being sufficiently diversified.

Mr O was unhappy with HLAM's response, so he referred his complaint to this service, which was then considered by one of our Investigators. She concluded that HLAM hadn't treated Mr O unfairly because, as an execution only customer, it was his decision, and not HL's, to select the investments that went into his son's JISA and HL couldn't be held responsible for the resulting performance.

Mr O, however, disagreed with our Investigator's findings. In summary, he said:

- HL holds itself out as being an execution only platform yet took the initiative to carry out promotions of specific funds through its Wealth Lists. He went on to say that HL didn't have to carry out such promotions but elected to do so in a proactive, targeted way aimed at specific investors.
- He also said that "it's quite one thing to market its funds to investors; it is quite another to discriminate amongst those funds and hold out some of those funds as more worthy of investment than others, which is what it did through its Wealth List".
- In addition, he said that whilst he wasn't disputing that the Multi Manager Fund had performed positively, the WEIF portion of it had not. Mr O didn't understand why HL had decided to include the WEIF within the Multi Manager Funds when it had performed so badly.

Our Investigator was not persuaded to change her view as she didn't believe that Mr O had presented any new arguments she'd not already considered or responded to. Unhappy with that outcome, Mr O then asked the Investigator to pass the case to an Ombudsman for a decision.

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 have summarised this complaint in less detail than Mr O has done and I've done so using my own words. The purpose of my decision isn't to address every single point raised by all of the parties involved. If there's something I've not mentioned, it isn't because I've ignored it - I haven't. I'm satisfied that I don't need to comment on every individual argument to be able to reach what I think is the right outcome. No discourtesy is intended by this; our rules allow me to do this and it simply reflects the informal nature of our service as a free alternative to the courts.

My role is to consider the evidence presented by Mr O and HLAM in order to reach what I think is an independent, fair and reasonable decision based on the facts of the case. In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice. Where there's conflicting information about what happened and gaps in what we know, my role is to weigh up the evidence we do have, but it is for me to decide, based on the available information that I've been given, what's more likely than not to have happened. And, having done so, I'm not upholding Mr O's complaint that he's made on

behalf of his son – there's not a great deal more that I can add over what our Investigator has already set out, but I'll explain why below.

Whilst HL provided a suite of information to its customers about the different investment choices that were available to them (including on their Wealth Lists), Mr O was trading as an execution only client – this meant HLAM was not responsible for advising him on what investments to purchase for his son or managing his positions. As the registered contact on the JISA, Mr O alone was responsible for deciding how much money to deposit, when to open trades and in what investments, monitoring those positions, and when to close them. So, this means that HLAM were not responsible for advising on which investments were suitable for his son, keeping him abreast of what was happening on the markets or when to alter his investments – that responsibility rested with him. In addition, I've seen no evidence that Mr O approached HL at any point to ask for financial advice to be provided to him on his son's behalf. So, whilst Mr O might think that HL's Wealth Lists were a recommendation to invest, they weren't.

HL provide the Wealth List as a tool for investors to use when making their own investment decisions when choosing from the full range of funds available on their platform. Whilst Mr O says that Hargreaves Lansdown encouraged him to maintain his son's holdings by keeping the WEIF on its Wealth List until the point at which it was suspended, I don't agree. The caveats on their website make it clear that the List is not a recommendation to invest and in any event, promotional material doesn't amount to a personal recommendation to invest.

Master O's monies were invested in HL's Balanced Multi Manager Fund, rather than the WEIF directly. I think it's also important to be clear about how a Multi Manager Fund, which is what Master O is invested in, works. Rather than picking individual company shares to invest in, the consumer passes the responsibility to HL's Fund Manager who then, after conducting their research and due diligence, invests their monies into a broad spectrum of different investments to effectively spread the risk in line with the mandate of the fund. What this means in practice is that the fund manager will make adjustments to the fund over time to take account of various economic and wider factors, and if one of the underlying funds within the fund doesn't perform as anticipated, other investments within the consumer's fund which may have performed better should potentially cushion the impact of any poorly performing ones. HL's Balanced Multi Manager Fund did have an exposure to the WEIF of around 7.4% of its assets in 2015 and by May 2019, that exposure had reduced to around 4.4% - but Master O is not and never has been a direct holder of the WEIF.

Whilst there's no doubt the performance of the WEIF was disappointing, and its eventual suspension and ongoing liquidation was unfortunate, the reality is that these are performance considerations that could apply to almost any collective investment predominantly invested in equities. I'm not persuaded it would be fair and reasonable to hold HL responsible for not foreseeing the suspension and subsequent liquidation of a fund it had no involvement in managing.

When looking at investment losses arising from holdings in a portfolio, it isn't usually fair and reasonable to focus on the one holding that's suffered a loss, ignoring the remainder of the portfolio. This is especially true of a fund like Master O's, which contained a multitude of different assets. Instead, it's important that I take into account both the asset itself, and the extent to which a portfolio was invested in it. The same is true when looking at whether the description of a particular fund is fair, clear and not misleading, compared to what it actually invests in.

Master O's fund had less than 5% exposure to the WEIF by 2019 when the WEIF was suspended. When Mr O decided to invest in the fund for his son, the exposure was only marginally larger. This is relevant because even if I thought that the WEIF itself was a riskier asset, compared to what the fund said it would normally invest in, I'd need to consider how it affected the fund overall. However, in terms of the makeup of the WEIF, I'm not persuaded it was entirely inconsistent with the HL Multi Manager Balanced fund. The factsheet for this fund says that:

'The Fund may invest, either directly or indirectly via other collective investment schemes and exchange traded funds, in a range of equities and/or floating and fixed interest securities. The Fund may have exposure to smaller companies and overseas markets, as well as UK and overseas Government, Corporate or high yield bonds.'

Under the risk reward profile of the fund, among other matters, it says the Fund 'may invest in smaller companies, which are more volatile and sometimes more difficult to trade than larger companies'.

In my view, the WEIF largely matched the above – to varying degrees which I'm not persuaded I need to look into further here. I say this because given how little was actually invested in the WEIF, and the fact the WEIF broadly invested in the same types of assets, it wouldn't be fair and reasonable to conclude that the fund itself was therefore no longer consistent with what it said it would do by virtue of its investment in the WEIF. And, just because the WEIF didn't perform as HL's Fund Manager had hoped, it doesn't mean that HL did anything wrong by including the WEIF within the Balanced Fund.

As Mr O does not hold the WEIF in his son's JISA, he has not had dealings in his investments suspended, and he is not entitled to receive any capital redemption payments from Link. However, the HL Multi Manager Fund has received its proportion of these distributions, which have been reinvested within the fund by the fund managers in accordance with its mandate. But, unlike direct holders of the WEIF, Mr O has not had any restrictions placed on his ability to sell the existing Multi Manager Fund and purchase other investments for his son. And, despite having had an indirect holding in the WEIF through the Multi Manager Fund, Master O has actually made a gain overall in his JISA as a consequence of being invested in the Balanced Fund of around £10,000.

From what I've seen of the documentation provided to Mr O at that time of his application for the JISA and subsequent interactions, at no time have HL provided any warranties to Mr O that the value of his son's investment could not fall. As I've seen nothing to persuade me that Mr O has been misled, I'm not upholding his complaint on behalf of his son.

My final decision

I'm not upholding Mr O's complaint on behalf of his son, Master O, and as such, I won't be instructing Hargreaves Lansdown Asset Management Limited to take any further action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr O to accept or reject my decision before 24 October 2024.

Simon Fox
Ombudsman