

The complaint

Mr D complains that Hargreaves Lansdown Asset Management Limited ('HL') are misrepresenting the true net cost of one of the investment funds on his pension statement.

What happened

The investment in question that Mr D bought from HL was called the Woodford Equity Income Fund (WEIF) and was managed by Neil Woodford, who left Invesco Perpetual in 2013 to set up Woodford Investment Management ("WIM"). The WEIF was launched in May 2014, with a £1 per unit fixed offer price until 18 June 2014. The Authorised Corporate Director (ACD) of the fund 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.

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. Later in 2019, Link decided to liquidate the fund. Investors have since received payments as and when the fund's assets have been sold. A small amount remains invested in assets which are not liquid i.e. cannot currently be sold. A scheme of arrangement between investors and Link has now been sanctioned by the court and will conclude the wind up of the fund with further distributions being made to investors who held units in the fund at suspension.

Mr D's dealings in the WEIF

In April 2011, Mr D opened a Self-Invested Personal Pension (SIPP) income drawdown plan with HL. He purchased units in the WEIF in June 2014 and again in August 2015. HL provide an execution only service to Mr D, which means that they don't supply any personalised financial advice to him and the decisions on which investments to purchase are his alone.

Mr D's complaint to HL and their response

In March 2021, Mr D made a complaint to HL about how they were presenting the numbers involved in winding up the WEIF. Mr D went on to say that he didn't think HL were declaring the true cost of the WEIF on his investment summary, and as such, the true loss that he's

suffered from investing in the WEIF was being masked. Mr D went on to say that his statement was misleading and he wanted them to amend it so it better reflected his understanding of the true cost of his units in the WEIF.

HL looked into Mr D's complaint but didn't think they had done anything wrong. In summary, they explained the background as to why they presented the information in the format provided but said that if Mr D wasn't happy with that approach, he was able to view the contract notes for each of his purchases online should he need further, more detailed information about his transactions.

Mr D remained unhappy and he referred the complaint to this service.

One of our Investigators looked into the complaint but didn't consider it should be upheld. In short, she concluded that HL's explanation of how they were calculating the figures presented to customers wasn't unreasonable. In addition, as Mr D had also commented about the manner with which HL had marketed the WEIF to its customers, our Investigator also provided a view on HL's approach to how they'd promoted the fund. She concluded that HL's communications met its regulatory obligations and were clear, fair and not misleading.

Mr D didn't agree and asked for an Ombudsman's 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 D 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. Instead, I will focus on what I find to be the key issue here, which is whether the manner in which HL presents the WEIF cost information is clear, fair and not misleading.

My role is to consider the evidence presented by Mr D and HL 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 D's complaint - I'll explain why below.

For completeness, I should explain that Mr D also raised concerns to HL in his complaint about the manner with which they'd promoted the WEIF to customers. However, Mr D has explained in correspondence with our Investigator that his complaint now rests solely in the way that HL has 'misrepresented the true net cost' of his investment. Therefore, I shall not comment on HL's promotion of the WEIF and focus only on Mr D's concerns that HL are misstating the true costs of his investment in the statements that they issue.

HL say that they're simply following published HMRC guidance when presenting the cost figures in the manner that they're doing in Mr D's statement. And, the guidance that HL appear to have taken direction from is HMRC's Capital Gains Tax (CGT) manual. Importantly, whilst Mr D's monies are invested in a pension, so CGT doesn't apply, HL say that for consistency, they apply the same methodology to how costs are calculated and presented on screen, regardless of whether the monies are in a pension, an ISA or a general investment account. I shared HL's explanation and methodology with Mr D, but he remained unconvinced that their approach was fair.

But, from what I've seen, I can't agree. And, that's because when a capital distribution is made, HL reduce the cost of the units held by Mr D in line with HMRC guidance. HL say that the cost figure displayed in Mr D's account is designed to show an average cost, with the gain or loss figure displayed calculated as the difference between the prevailing value of the holding versus the cost of the holding.

While Mr D has received multiple distributions as a result of the winding up of the WEIF, HL have explained that his holding size of 14,364.001 units has stayed the same. However, the net asset value (NAV) of Mr D's units has decreased, as each distribution involved a partial disposal of the fund's assets. To account for this, HL says that Mr D's current 'cost' has been calculated by treating each distribution as though it were a partial disposal of his shares and it's for this reason that his current 'cost' is therefore now showing as £987.31. This represents the 'cost' of his holding of the remaining portion of the fund that hasn't yet been distributed.

HL have gone onto explain that this remaining 'cost' is then compared with the current recorded value of fund, at 0.95p per unit, to calculate a (currently unrealised) 'loss' figure. In Mr D's instance, this means the current value of his holding of £112.04, compared to the cost of the remaining portion of the fund which he holds works out as a 'loss' of £875.27.

HL say that they calculate it in this way to represent the losses on the remaining holding yet to be distributed back to unitholders. HL have to keep reducing the cost price given the falling NAV of the fund, to prevent client accounts showing a disproportionately large loss, or potentially a negative cost figure. For example, if HL kept Mr D's cost figure at £15,949.66, and recorded the current value of the holding as £12,440.73 ($£15,949.66 \times 0.78p$), his account would show a loss of £3,508.93. This would be misleading because while his original purchase price was £15,949.66, Mr D has now received distributions totalling £8,424.25 in the winding up of the fund and £609.03 in connection with the scheme. I think it's important to acknowledge that the approach is far from perfect but given the unique circumstances of the Woodford fund, it doesn't appear unreasonable.

But, putting to one side HL's approach, I've also set out the standards which applied to HL at the time (and, with slight amendments, continue to apply to it) in relation to reporting, which is in essence what Mr D's complaint is about. The standards applicable in this case:

In October 2018, the Financial Conduct Authority (FCA) set out the rules around the information that investment firms needed to provide its clients in its Conduct of Business rules (COBS). It states:

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.

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.

So, how HL chooses to present its information to consumers is a commercial matter for them – as long as the manner with which that information is presented to them is clear, fair and not misleading. And, having thought carefully about HL's approach, I can't conclude that HL are misleading their customers in respect of this particular issue. It's evident from Mr D's submissions that he maintains detailed records of all of his transactions, and he's even shared a copy of his spreadsheet tracker that he uses to keep abreast of his transactions. So, whilst the manner in which HL is presenting its information in this instance clearly doesn't satisfy Mr D's preferences, HL does make available copies of all previous contract notes which provide further information should Mr D wish to refer to, which clearly show how much he invested in the WEIF and he's also aware of how much he has received following each of the redemptions.

As I've not seen any evidence to persuade me that HL has misled Mr D about the losses he's sustained in the WEIF within his SIPP, I'm not upholding his complaint.

My final decision

I'm not upholding Mr D's complaint and as such, I'm not 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 D to accept or reject my decision before 5 October 2024.

Simon Fox
Ombudsman