

The complaint

Mr P complains about the management of his portfolio by Hargreaves Lansdown Asset Management Limited (“HLAM”) because of the losses he suffered as a result of his exposure to the Woodford Equity Income Fund (“WEIF”) within the portfolio.

What happened

In December 2017 and January 2018 Mr P met with an adviser for Hargreaves Lansdown Advisory Service (“HLAS”) who provided her recommendations to him in a report dated 22 January 2018. In that report she recommended that he transfer the deferred benefits in his defined benefits pension to the Hargreaves Lansdown Portfolio Management Service (“PMS”).

The adviser identified that his ideal asset mix was 30-40% fixed interest and 50-60% managed equities and he was advised to invest in the PMS Income and Capital Growth 5 portfolio (“the portfolio”) the objective of which was to achieve growth in both capital and income over the long term.

HLAM actively manages each PMS portfolio and chose the underlying investments and was responsible for the day to day investment decisions and positioning of the portfolio Mr P was invested in.

The portfolio invested in several multi-manager funds (“MMFs”) some of which invested in the WEIF. The individual MMFs were managed by Hargreaves Lansdown Fund Managers (HLFM) – it was responsible for deciding the investments each fund should include.

Mr P received ongoing advice from HLAS as part of the service provided, with it providing annual reviews in which it considered the ongoing suitability of the PMS and of the portfolio. The outcome of these reviews was that there was no change to the advice as to him using PMS or to the portfolio he should be invested in.

The WEIF was suspended from trading on 3 June 2019 and Mr P subsequently complained about his portfolio having been invested in the WEIF.

As Mr P’s complaint is specifically about the WEIF I set out below the background to the fund and HLAM’s relationship with it.

The WEIF

This was managed by Neil Woodford who set up Woodford Investment Management (WIM) in 2013 following him leaving Invesco Perpetual. The WEIF was launched in May 2014 with a £1 per unit fixed price until 18 June 2014. The Authorised Corporate Director – the firm responsible for the running of the fund and for ensuring it was well managed – was Capita Financial Managers, later known as Link Fund Solutions (Link).

The WEIF broadly tracked its benchmarks until the second half of 2017 when there was a significant fall which wasn’t reflective of what happened with the benchmarks. Thereafter the

WEIF began to significantly underperform the benchmarks from early 2018 - with a very different performance pattern to the benchmarks as from early 2019 until the fund was suspended in June 2019.

At the same time as the WEIF stopped tracking the benchmarks in 2017 it started to see significant outflows, with assets under management falling from £10bn to just £3bn over the next couple of years.

It was due to the extent of the outflows and the proportion of the WEIF assets that weren't liquid that Link decided to suspend trading in the fund in June 2019 and removed WIM as the investment manager, before then seeking to liquidate the fund later in 2019. Link subsequently agreed to provide a significant redress payment to investors and the scheme of arrangement it proposed was approved by the court in February 2024.

HLAM's relationship with the WEIF

HLAM met with WIM in early 2014 following which it decided to promote the WEIF to its customers and to visitors to its website prior to launch of the fund. The WEIF was the subject of, or was referred to, in various communications from HLAM between the fund's launch in 2014 and its suspension in June 2019. Those communications consisted broadly of; promotion of the WEIF at launch by letter, website, and emails; ongoing promotion of the WEIF through website articles and on occasion an email pointing the recipient to the article; updates on the WEIF through website articles with again email alerts about the articles; the inclusion of the WEIF in HLAM's "best buy" lists.

HLAM's 'best buy' list is a publication in which it sets out a list of what it considered to be the best or its favourite funds, initially called the Wealth 150 – with a subset with discounted charges for its clients called the Wealth 150+ - which later became the Wealth 50 and which I will refer to collectively as the Wealth List. The WEIF featured on the Wealth List from launch until suspension.

I am aware that the Wealth List was available on HLAM's website to anyone who visited the site and was also sent to all of its clients on its general mailing list who had elected to receive communications. It also formed part of HLAM's bi-annual Wealth Reports. HLAM says the list was updated from time to time with funds added or removed based on an ongoing cycle of review, monitoring and analysis of funds by its investment team which in respect of the WEIF included meetings with WIM to discuss the WEIF a number of times.

HLAM didn't uphold the complaint. In short it made the following points:

- Mr P hadn't complained about the suitability of the advice he received but it has considered that and is satisfied that the advice was suitable and in line with his objectives of investing for income and capital growth.
- He wanted his investments to be actively monitored and managed which made discretionary fund management appropriate.
- The portfolio wasn't directly invested in the WEIF but consisted of several MMFs which had exposure to the WEIF.
- The investments for the MMFs were chosen by its investment research team who undertake extensive research across a large number of funds - focussed in part on fund managers who have added value in the long term through reputable skill rather than market movements or thematic biases.

- Its investment team chose the WEIF for inclusion as one of the funds on the basis of Neil Woodford's proven track record as a talented stock picker.
- The WEIF experienced a difficult period of performance through 2018 and 2019 but HLAM's conviction in its long-term success remained.
- In the long term, based on its research, it believed the WEIF had the potential to outperform its benchmark.

One of our investigators considered the complaint but didn't think it should be upheld. Mr P didn't agree with the investigator's opinion. In summary he made the following key points:

- His case is different to a private investor using HLAM's platform and making their own decisions, as he paid highly qualified professionals to look after his pension money to an agreed medium risk strategy which they didn't do – as they clearly knowingly invested a lot of his pension in high-risk illiquid assets.
- He lost between 30% and 50% of the proportion of his portfolio that was invested in the WEIF - which was initially 7% of the overall funds managed by HLAM and 5.7% when the fund was suspended.
- The fund was set to dwindle further because of the heavy investment in illiquid small-cap stocks which was reported as being in breach of COLL rules – which HLAM must have been aware of as he is paying them large fees to look after his money.
- HLAM also breached Conduct of Business Sourcebook (COBS) rules as it didn't act in his best interests as experts paid to manage his money.
- He transferred his pension in April 2018 and HLAM clearly knew of problems before this.
- HLAM have clearly fallen down on looking after his interests to stick to a medium risk strategy. They are no longer investing in such investments as part of a broad strategy, proving they were incorrect to do so when they were aware of the illiquidity of the assets – which according to the press was as early as 2017.

There was further correspondence between the investigator and Mr P about the advice he was given at the outset and Mr P made the following additional points:

- He was advised that as a novice investor it would be wise to have his portfolio managed by professional fund managers and it was assessed he should have a medium risk strategy.
- He was then advised that suitable vehicle for managing his funds with that strategy would be the PMS and he transferred his funds to that service in April 2018.
- He has complained that the PMS hasn't followed the medium risk strategy that was agreed and the root cause of the problem is from the initial investment in April 2018 as he wasn't invested in a medium risk strategy as the discretionary manager should have spotted the change in Neil Woodford's style of investments and been aware of the level of illiquid stocks that he was invested in given the meetings HLAM had with him.

HLAM also provide some further comments following the investigator's opinion. It said that it agreed with the investigator subject to the following points:

- The investigator referred to it being Mr P's decision whether he read the material available to him about the WEIF and made decisions about being invested in it but he invested through its PMS and as such HLAM was responsible for the discretionary management of his portfolio.
- The investigator referred to fund manager's reducing exposure to an investment when it is underperforming but that is not always the case and there can also be multiple reasons a fund manager may choose to reduce exposure.

The matter was referred to me for review and decision and I issued a provisional decision explaining why I didn't think the complaint should be upheld the findings from which are set out below.

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

In doing so, I've taken into account relevant law and regulations; relevant regulators' rules guidance and standards; codes of practice; and, where appropriate, what I consider was good industry practice at the relevant time. But I think it's important to note that while I take all those factors into account, in line with our rules, I'm primarily deciding what I consider to be fair and reasonable in all the circumstances of the case.

It is for me to decide what weight to give evidence a party relies on and where there is a dispute about the facts my findings are made on a balance of probabilities – what I think is more likely than not.

The purpose of my decision isn't to address every point raised and if I don't refer to something it isn't because I've ignored it but because I'm satisfied I don't need to do so to reach what I think is the right outcome. Our rules allow me to do this, and it simply reflects the informal nature of this service as a free alternative to the courts.

Mr P has referred to HLAM's regulatory obligations and I will briefly set out those that I consider are a relevant consideration in this complaint. These include the FCA's Principles for Businesses. PRIN 1.1.2G explains:

"The Principles are a general statement of the fundamental obligations of firms and the other persons to whom they apply under the regulatory system."

The Principles are set out under PRIN 2.1.1R and I think the following is of particular relevance to the issues in this complaint:

Principle 6 - Customers' interests: A firm must pay due regard to the interest of its customers and treat them fairly.

There are also more specific rules contained within COBS which Mr P has made reference to. COBS 2.1.1R(1) is particularly relevant. This states:

"A firm must act honestly, fairly and professionally in accordance with the best interests of its client (the client best interests rule)."

I turn to Mr P's complaint with HLAM's regulatory obligations in mind. I think it is important to clarify what I am considering in this complaint because there are various Hargreaves Lansdown businesses and they have different regulatory responsibilities, as I have touched on above.

This complaint is only against HLAM and as such I can only consider the regulated activities that it is responsible for. Those activities relate to its actions as a discretionary manager of the portfolio Mr P invested in following the advice he received from HLAS. So it is clear, I am not considering the suitability of that advice, as HLAS is responsible for that. I am also not considering the decisions that were made as to what investments to include within the individual MMFs that HLAM decided, as the discretionary manager, to include in the portfolio. This is because what investments to include in an MMF is a decision for HLFM, so any issue with that is something it is responsible for. Both HLAS and HLFM are separate legal entities with their own regulatory responsibilities.

In terms of HLAM's discretionary management, Mr P argues that HLAM hasn't managed his portfolio in accordance with his agreed medium risk strategy because it knowingly invested a lot of his pension in high risk illiquid assets – referring to investments within the WEIF - and at the time his funds were first invested in the portfolio it already knew of problems with that fund.

I acknowledge that Mr P feels strongly that HLAM didn't manage his portfolio in accordance with the agreed objectives because he is of the view that the investment in the WEIF meant that too much of his portfolio was invested in high risk illiquid stocks. However, it is important to put this in context and based on what Mr P has said only 7% of his overall portfolio was invested in the WEIF when he was first invested, and this wasn't predominantly invested in illiquid stock.

Moreover, it was for HLFM to decide what investments to include within each MMF not HLAM, so HLAM isn't accountable for the WEIF being included in MMFs that formed part of the portfolio. As long as HLAM was satisfied that the mix of MMFs it selected for the portfolio aligned with the portfolio's objectives it did nothing wrong in choosing those MMFs. I have seen nothing that makes me think this wasn't the case just because MMFs within the portfolio invested in the WEIF. And in the absence of HLAM being aware of some fundamental issue with the WEIF which made its inclusion in an MMF anomalous there was no reason for it to conclude there was any issue with the MMFs it selected for the portfolio. And I have seen no evidence that HLAM was aware of a fundamental issue with the fund that would have led to it questioning its inclusion in an MMF.

I acknowledge that at the time Mr P invested in the portfolio in April 2018 HLAM had been having discussions with WIM about performance of the WEIF and the proportion of the fund invested in unquoted stock. It provided information to clients about this through online articles and other communications. For example, in September 2017 in one of its online research articles HLAM referred to Neil Woodford hitting the headlines for the wrong reasons and to a spell of bad performance leading some to question his abilities.

In a further online research update in December 2017 HLAM repeated previous statements it had made about the WEIF not being a typical equity income fund and identified that 9.5% of the fund was invested in unquoted companies but that Neil Woodford expected this to fall. And in a website article about the WEIF it emailed clients about in March 2018 it notified clients that the fund was moving to the IA UK ALL companies sector because it was no longer eligible to be included in the equity income sector because of its low yield. The article refers to almost 40% of the fund being invested in small and mid-sized lower yielding companies with almost an additional 10% invested in unquoted companies.

However the fact that HLAM had been addressing certain concerns about the fund with WIM doesn't mean that it needed to conclude there was a fundamental problem with the fund which meant MMFs that contained the WEIF weren't suitable for the portfolio. HLAM will have discussions with various fund managers as issues arise with a fund. It seems to me that whether it should conclude clients shouldn't be invested in a fund very much depends

on the outcome of such discussions. The various articles I have referred to above, whilst referring to performance issues and the level of unquoted stock, also made clear that HLAM continued to have faith in Neil Woodford based on the strength of his track record.

So, whilst HLAM did have concerns about the WEIF at the time of Mr P's investment, it is clear that it was reassured by the discussions it was having with WIM and still believed that the Neil Woodford could, in its words, "deliver excellent long term returns." In the circumstances HLAM had no reason to question the inclusion of the WEIF as one of the investments that HLFM chose to include in MMFs that HLAM selected for the portfolio or to conclude that this made those MMFs unsuitable for the objectives and risk of the portfolio that Mr P was invested in.

I acknowledge that following Mr P's investment in the portfolio HLAM had ongoing concerns about the performance of the WEIF and the level of unquoted stock in the fund. But again it is apparent from what I have seen in other complaints that having discussed these issues it was reassured that Neil Woodford was going to address the issue of unquoted stock and that it retained its belief that in the long term the WEIF would provide value to clients. For example, in a research update emailed to clients on its mailing list on 7 January 2019 HLAM referred to the poor performance of the WEIF and to its own conviction having been tested but it went on to explain that it hadn't removed the fund from its best buy list because it believed there was still a greater probability Neil Woodford would deliver attractive returns in the years to come.

t wasn't unreasonable for HLAM to continue to think Neil Woodford would turn things around in the long term based on his track record and it did nothing wrong in expressing that belief to clients whilst at the same time pointing to ongoing issues with the fund. In any event, as I have already made clear, it was for HLFM to decide what investments to include in the MMFs. In managing the portfolio HLAM couldn't choose to come out of just one investment in an MMF, as Mr P wasn't invested directly in the WEIF. Only HLFM could decide whether a MMF should no longer invest in the WEIF.

HLAM could, as discretionary manager, choose to come out of an MMF that invested in the WEIF and invest in something else. However, MMFs invested in multiple investments and ongoing poor performance of one of those investments wasn't a basis for HLAM to conclude that the portfolio should no longer be invested in one or more of the MMFs it was made up of. Nor have I seen any persuasive evidence that would lead me to think that HLAM should in any event have concluded that the risk of the WEIF meant that the MMFs that invested in the fund weren't suitable for the objectives of the portfolio.

In making that finding I have considered what Mr P has said about HLAM being aware that the WEIF had breached the rules as to the proportion of the fund invested in unquoted securities. He has referred to the rules set out in COLL and the limit of 10% identified in the rules. So it is clear, it was Link that had to ensure compliance with the rules in COLL, not HLAM. It is now known that the WEIF did breach that limit twice in the first quarter of 2018 and that the FCA had cause to discuss this with Link at the time. These breaches were subsequently resolved.

I have seen no persuasive evidence that HLAM was aware of these breaches before the fund was suspended. It was not part of its role to monitor the fund to ensure compliance with the rules in COLL and I am not persuaded that it is reasonable to have expected HLAM to have been aware from the information available to it that the 10% limit had been breached in 2018. Likewise in 2019, information subsequently available indicated that the WEIF had likely gone above the 10% limit before its suspension. However, there is again no persuasive evidence that HLAM was aware, or should have been aware, of this from the information available to it.

In terms of information that HLAM provided about the WEIF itself, whilst HLAM's regulatory obligations meant it had to provide fair, clear, and not misleading information to clients, Mr P hasn't argued that he was misled as a result of anything it said about the WEIF. Moreover, as he wasn't an execution only client making his own decisions as to what he should invest in, whatever HLAM said had no bearing on what the portfolio was invested in. That was down to HLAM as the discretionary manager of the portfolio.

In any event, I am satisfied from the evidence that I have seen in other complaints that HLAM provided fair, clear, and not misleading information about the WEIF in the updates and articles it made available to clients. These identified important issues about the fund that clients making decisions about investments needed to know to make informed decisions and at the same time set out HLAM's continued support of Neil Woodford and explained why it still supported him.

Having considered the evidence available I am not persuaded that HLAM failed to comply with its regulatory obligations as the discretionary manager of the portfolio. I am satisfied that it paid due regard to Mr P's interests as its client and treated him fairly and acted honestly, fairly, and professionally in accordance with his best interests."

I gave both parties the opportunity of responding and providing any further information they wanted me to consider before making my final decision. HLAM didn't provide a response but Mr P responded explaining why he didn't agree with my findings. He has made various points in response to what I have set out under the heading 'what happened' in my provisional decision. These aren't findings I have made but a summary of what has happened before the complaint was referred to me. So, whilst I have considered everything that he has said I have concentrated on those points he has made that do go to my findings, which in summary are:

- The adviser informed him that HLAM had regular meetings with investment managers such as Neil Woodford to discuss current strategies and it seems astounding that HLAM could be considered as having done their job given what the FCA warning notice showed.
- The FCA warning notice statement 24/3 refers to Neil Woodford failing to maintain an appropriate liquidity profile for the WEIF between 31 July 2018 and 3 June 2019 and to making unreasonable and inappropriate investment decisions in the face of ongoing redemptions and net outflows from the fund.
- HLAM failed to identify that Neil Woodford was mismanaging the fund and should have taken much earlier significant action.
- HLAM had a conflict of interest as having promoted the WEIF to customers and having made money on each trade it used his money to prop up the fund.
- HLAM should have been aware that HLAM had breached the 10% limit for unquoted stock given the regular meetings it was having with Neil Woodford.
- HLAM failed to act even as other professional advisers were doing so.
- The interests of Hargreaves Lansdown's reputation seems to have conflicted with its regulatory obligation to pay due regard to the interests of its customers and treat them fairly.
- HLAM became confused as to the standards it should be applying to a pension pot it was managing and risks applied to online traders and moreover continued to ensure

revenue from online traders by propping up the WEIF with pension funds hoping its reputation would be protected so far as online traders were concerned by this.

- HLAM hasn't acted professionally over the entire period of his investment as it failed to monitor the WEIF investments and to hold Neil Woodford to account properly despite regular meetings with him.
- Where other professionals were withdrawing from the fund HLAM failed to see any problem and had some sort of blind faith in Neil Woodford.
- What investments to include in an MMF should be part of the consideration contrary to what the Ombudsman stated as this is what he pays them to do.
- Issues were flagged as early as 2017 that Neil Woodford was changing his strategy and by the time he was invested in the WEIF the move to illiquid and unquoted stock was well underway.
- HLAM should be aware of what is invested in an MMF and it is anomalous to say it doesn't know what is in an MMF.
- The ombudsman has stated that HLAM wasn't aware of any fundamental issue with the WEIF but this means it acted unprofessionally in not watching the level of illiquid and unquoted stock and lack of appropriate questioning of Neil Woodford.
- HLAM breached Principle 2 as it didn't apply due care, skill and diligence in monitoring what was going on with the WEIF in terms of liquidity when Neil Woodford was making inappropriate investment decisions in the face of ongoing redemptions and net outflows from the fund.
- The FCA warning notice 24/3 shows that his pension monies shouldn't have been invested in the WEIF.
- It was clear that Neil Woodford had got to a position where he wouldn't be able to turn the situation around and he made unreasonable and inappropriate investment decisions in the face of ongoing redemptions and net outflows from the WEIF and HLAM and HLAF should both have realised they needed to pull out of the fund.
- HLAM aren't amateurs just guessing and as professionals they needed to be on top of what was happening with the WEIF and they weren't.

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 doing so, I've taken into account relevant law and regulations; relevant regulators' rules guidance and standards; codes of practice; and, where appropriate, what I consider was good industry practice at the relevant time. But I think it's important to note that while I take all those factors into account, in line with our rules, I'm primarily deciding what I consider to be fair and reasonable in all the circumstances of the case.

It is for me to decide what weight to give evidence a party relies on and where there is a dispute about the facts my findings are made on a balance of probabilities – what I think is more likely than not.

The purpose of my decision isn't to address every point raised and if I don't refer to something it isn't because I've ignored it but because I'm satisfied that I don't need to do so to reach what I think is the right outcome. Our rules allow me to do this, and it simply reflects the informal nature of this service as a free alternative to the courts.

I acknowledge Mr P feels strongly that HLAM did something wrong and sympathise with him about his concerns about the potential impact on him and his wife in terms of pension provision resulting from losses he may have suffered because his pension was invested in the WEIF. However, I must make what I consider to be a fair and reasonable decision in all the circumstances based on the available evidence.

Having considered all the information in this complaint and everything that he has said in response to my provisional decision, I am not persuaded that I should significantly change the findings I made - which form part of the findings in this final decision unless I state to the contrary - or the conclusion I reached that this complaint shouldn't be upheld.

Mr P places a lot of reliance on what the FCA said in its FCA warning notice statement 24/3 which it issued in respect of warning notices issued to WIM and Neil Woodford in support of his argument that HLAM should have been aware of the liquidity issues with the WEIF and that Neil Woodford had, in his words, 'gone rogue'.

I acknowledge that in the statement the FCA identified various failings by both WIM and Neil Woodford which it said materially increased the risk and/or resulted in the WEIF's liquidity profile and its liquidity framework becoming unreasonable and inappropriate and materially increased the risk that it would need to be suspended. Mr P in effect argues that the conclusions that the FCA reached are ones that HLAM should have come to at the time of his pension was invested in MMFs that included the WEIF such that his pension shouldn't have been invested in those funds.

However, I am not persuaded that the failings of WIM and Neil Woodford that the FCA identified nearly five years after opening its investigation into the circumstances relating to the suspension of the fund are ones that HLAM should reasonably have been aware of before the fund was suspended. I am not satisfied that the FCA statement supports a finding that there were shortcomings in the information HLAM sought about the WEIF before it was suspended or that its belief that the WEIF would provide value to clients in the long term was an unreasonable one for it to have come to based on the information it was provided with.

I have considered what Mr P has said about HLAM having a conflict, but whilst I accept its own interests may have been a consideration for HLAM, I have seen no persuasive evidence that it acted in accordance with its own interests rather than in the best interests of its clients. The evidence I have seen of HLAM's decisions as to the WEIF support a finding that it genuinely thought that the fund could be successful in the long term and could add value to client portfolios and this wasn't unreasonable based on the information provided to it by WIM and Neil Woodford.

Mr P has said that HLAM became confused as between the standards it needed to apply to pension pots it was managing and the risks to online traders. However, I am not satisfied on the evidence provided to me that HLAM failed to comply with its regulatory obligations as discretionary manager of the portfolio Mr P's pension was invested in and as such it complied with the standards it needed to. It obtained the information it reasonably needed to comply with its regulatory obligations and I am not satisfied it was required to obtain further information from WIM/Neil Woodford.

In the circumstances there was no reason for HLAM to conclude that those MMFs which

included the WEIF shouldn't form part of Mr P's portfolio given its belief in the long-term prospects of the WEIF so long as the overall portfolio was in accordance with his objectives. And I have seen no persuasive evidence that it wasn't in accordance with his objectives including the risk he was willing to take simply because MMFs within the portfolio included the WEIF - or for any other reason.

I note that in response to my finding that it was for HLFM to decide what investments to include in an MMF Mr P has said that HLAM should know what is invested in an MMF. I am sorry if the point I was making wasn't clear but I wasn't suggesting that HLAM didn't know what investments each MMF contained. There is no suggestion this was the case or that it wasn't aware that MMFs it selected for Mr P's portfolio contained the WEIF. The point I was making was simply that it wasn't for HLAM to decide what went into an MMF, that was a decision made by HLFM.

HLAM had then to decide what investments to include within a portfolio which is what it did. There was no reason for it not to include MMFs that included the WEIF given it wasn't aware of any reason why the fund shouldn't be included in an MMF and believed in its long-term prospects so long as the portfolio met Mr P's objectives.

Mr P has said that HLAM were professionals and weren't amateurs just guessing but there is nothing to suggest its decisions were based on guesswork. Its judgment that the WEIF could be successful in the long-term wasn't guesswork but on Neil Woodford's known track record as a fund manager and the information it reasonably sought from WIM/Neil Woodford through its communications with them.

In summary I am satisfied on the evidence available to me that HLAM acted in accordance with its regulatory obligations including but not limited to Principle 2 – skill, care, and diligence, Principle 6 – customer's interests, and COBS 2.1.1R - clients best interest rule.

My final decision

I don't uphold this complaint for the reasons I have set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 6 February 2025.

Philip Gibbons
Ombudsman