

## The complaint

Mrs W complains that Alan Steel (Asset Management) Limited ('ASAM') provided her with unsuitable investment advice and poor service in the later years of their advisory relationship, causing her financial loss and distress.

Mrs W is represented in this complaint by her husband, but for simplicity I'll refer to all representations as being made by Mrs W.

## What happened

Mrs W and her husband have both made complaints about ASAM, and these have been dealt with separately by our Service. For clarity, this decision is only about Mrs W's complaint and so it will only include and address what I see to be relevant to her complaint.

Mrs W and her husband were clients of advisory firm ASAM since 2002. Over the years it provided them with ongoing and ad hoc advice on their various pensions and investments. For Mrs W, this advice included recommending in 2015 that she invest some of her pension and Individual Savings Account ('ISA') monies into the Woodford Fund. And it included recommending in 2019 that she start withdrawing regular pension income through a flexible access drawdown plan ('FAD'), telling her that *"...if the income and/or withdrawals from the FAD is in excess of the investment returns being generated this will reduce the value of the pension. This is an area we would monitor closely to ensure that the balance between taking withdrawals and investment returns is not detrimental to your retirement needs."*

From around 2019, Mrs W began expressing disappointment to ASAM about the performance of her pension investments. Then, her usual ASAM adviser retired in late 2021 and so a different ASAM adviser began to advise Mrs W. They had emails and a call in which the adviser provided Mrs W with explanations and reassurances about how ASAM went about investing money, why Mrs W was currently invested as she was, and its monitoring in relation to her FAD.

In July 2022, Mrs W's husband emailed ASAM to say she was a *"very anxious"* investor who was *"really unsettled"* by the poor performance and concerned her pension's loss of value meant her current level of FAD income might be unsustainable, so she wanted some reassurance and clarification. A few days later, ASAM had a call with Mrs W's husband in which her pension was discussed. ASAM's call note recorded that it explained an annuity could provide Mrs W with a secure income through retirement, and Mrs W's husband had seemed interested and would discuss it with her.

Mrs W continued to ask ASAM about its monitoring and review processes and why it hadn't intervened earlier regarding the FAD income. ASAM provided explanations, in particular in the annual review letter it sent to Mrs W on 27 September 2022. This said Mrs W had asked about how it monitored her portfolio and the impact that any withdrawals might be having on values, and ASAM thought this was particularly important in light of her FAD income. ASAM's letter said,

*“We have discussed safe rates of withdrawals in the past and I have explained that our industry believes that a safe rate of withdrawal of around 4% is reasonable. The view here is that you can withdraw 4% each year from a portfolio over the long term without eroding capital.*

*Clearly equities and other asset classes do not go up and down in straight lines but over the long-term this is a reasonable expectation.*

*[Mrs W’s] pension has dropped more in the last 12 months than the 4%. At current values an annual withdrawal of £19,800 is around 5.6% of [Mrs W’s] pension value. This is higher than we would like it to be but not excessive. If we had a particularly negative view of markets then we would reconsider this strategy but we do not believe that to be necessary just now.*

*We must also remember that you have no dependents or family to leave these assets to. You have been clear in our conversations that the asset base you have is there to provide you with a comfortable retirement.*

*Over the long-term, we would expect this to be [an] absolutely acceptable level of withdrawal.*

*We have a very strict investment philosophy and process here and the diversification that you have in your portfolio is crucial to the success of this. I thought this might be a good time to provide a reminder of how we go about investing money here.”* And the letter went on to set out details of ASAM’s investment philosophy.

While making arrangements for the 2023 annual review, ASAM asked Mrs W and her husband if they’d be happy to visit its offices as it thought a face to face meeting would give it an opportunity to demonstrate to Mrs W some of the systems it had in place for its investment process.

In the meantime, ASAM went on to issue its annual review letter to Mrs W in September 2023 in which it said it would be preparing some annuity figures for her. And in October 2023, ASAM met with Mrs W and her husband at its offices. ASAM’s notes of the meeting recorded that Mrs W was visibly upset and had asked ASAM to compensate her for her investment loss. ASAM treated this as a complaint from Mrs W.

ASAM issued its final response to Mrs W’s complaint in November 2023. This set out that ASAM understood her complaint to be that she was unhappy with its monitoring and management of her pension and the Woodford Fund, as her pension had significantly fallen in value leaving her with a shortfall in her pension income, and she thought ASAM should’ve intervened earlier to avert losses.

It went on to say its advice had been suitable for Mrs W, in summary, because the investments it had recommended were, taken as a whole, in line with her assessed attitude to risk (‘ATR’), it had explained the risks and potential volatility to her, and her pension was a long term investment. And while her pension had unfortunately fallen in value by about 5% from 2019 to 2023, this was due to investment performance and not any error of ASAM’s. It had reviewed her pension on an ongoing basis and provided her with annual review reports in which it suggested changes. And its advice to invest in the Woodford Fund wasn’t given in isolation but had formed part of her diversified portfolio, and ASAM had followed its fund selection process when recommending the Woodford Fund.

Mrs W remained unhappy and had further communication with ASAM. In December 2023, ASAM told Mrs W it had chosen to end its advisory relationship with her. Mrs W ultimately moved to a new advisory firm in early 2024.

In April 2024 Mrs W referred her complaint to the Financial Ombudsman Service, adding that in ending their relationship, ASAM hadn't given her reasonable notice to find another advisory firm and had exposed her to the high costs of other advisers. She also thought its responses had been evasive and denied her concerns. She said these things had caused her additional distress in an already stressful situation.

One of our Investigators considered Mrs W's complaint. Ultimately, he concluded her complaint point about ASAM's advice to invest in the Woodford Fund had been brought too late under the relevant time limit rules for our Service to have the power to be able to consider its merits. And that while her other complaint points had been brought in time, they shouldn't be upheld. Broadly, his reasons for this were:

- He'd reviewed ASAM's main recommendations for Mrs W over the past several years and they'd been suitable for her circumstances, objectives and ATR at those times.
- In particular, its recommendation to start taking FAD income had been suitable for her as she'd needed to replace lost employment income at that time, and her pension investment returns had a realistic chance of matching the level of income drawn.
- Unfortunately, Mrs W's FAD began just prior to world events ASAM had no control over. These affected financial markets and caused Mrs W's pension value to fall at times. But this would've likely happened even if ASAM hadn't recommended the FAD income, and wasn't caused by any act or omission of ASAM's. ASAM had typically responded to these events by setting out a series of changes to Mrs W's pension investments which steadied or improved its performance afterwards.
- ASAM had tried to address Mrs W's queries about how it monitored her pension in relation to her FAD, and had conducted sufficient monitoring. It carried out due diligence on the investments it chose, and it reviewed Mrs W's investments and performance in full each year, as well as ad hoc in response to world events or certain investments no longer being appropriate. It made Mrs W aware at each review if her pension had fallen in value and, while she may have relied on its recommendations, she'd still had the option of asking to reduce or stop the FAD income at any time but didn't do so.
- Investments are priced daily and so increase and decrease in value each day. Mrs W was investing for the long term, so ASAM could have done more harm than good by monitoring too frequently or intervening too early in periods of poor performance. In such periods, it was reasonable for ASAM to wait for a time to see if things would improve first, rather than just reducing or stopping her FAD income if her pension's value fell by more than 4%. And there hadn't been long periods of consecutive fund erosion where ASAM should've told Mrs W to reduce or stop her FAD income.
- ASAM was entitled to make a business decision to end an advice relationship, and it had treated Mrs W fairly and reasonably when doing so.

But Mrs W disagreed. In summary, her submissions were that:

- She still strongly believed she received poor service from ASAM after her adviser changed in late 2021.
- She hadn't needed her FAD income to replace her employment income, because she might still have returned to work and her husband was employed and supporting her.

So she could've reduced or suspended her FAD income to preserve her pension, which was her priority. They'd managed without the FAD income until ASAM introduced the idea of it. And the monthly drawdown amount was chosen as 4% of her pension's value precisely to avoid fund erosion; it wasn't an amount she expected to maintain if fund erosion was anticipated. She was very protective and cautious about her pension, which is why her previous ASAM adviser had explained how the FAD would work and that it would be closely monitored so changes could be made if necessary. But her next ASAM adviser didn't do so.

- ASAM's review letter of 27 September 2022 acknowledged that her pension's value had in the last year fallen more than 4% and her FAD income had reached 5.6% of her pension's value of the past year. She wasn't happy with this but hadn't responded because she was planning to meet ASAM in order to better understand the position before deciding what action to take. But ASAM didn't intervene regarding the FAD, so had failed to closely monitor the position and deprived her of the opportunity to reduce or stop her FAD income in order to meet her objective of avoiding the erosion of her pension.
- It was wrong to suggest she had some culpability in not recognising the risk of her pension fund being eroded as her pension's performance fell. She wasn't financially experienced and relied on ASAM, who she was paying, to closely monitor this.
- She understood world markets could be volatile and that ASAM couldn't control this. But world events didn't absolve ASAM of responsibility. Its commitment to closely monitor the FAD was supposed to protect her pension during such uncertain times, and if she'd been told her pension's value was being eroded by her FAD income, she'd have reduced or stopped it until performance stabilised. ASAM never provided her with any updates on the FAD which would have allowed her to consider or review her FAD strategy. So she unknowingly continued to take FAD income which eroded her pension over an extended period, and this crystallised losses which would otherwise have had the opportunity to recover if not for the erosion.

As agreement couldn't be reached, this complaint has been passed to me to make a decision.

### **What I've decided – and why**

#### Jurisdiction – Mrs W's complaint point about ASAM's recommendations to invest in the Woodford Fund

One of the things Mrs W is unhappy about is that ASAM advised her to invest in the Woodford Fund. However, I need to explain that our Service doesn't have a free hand to consider every complaint brought to us. Instead, we must follow the Dispute Resolution ('DISP') rules set out by the regulator, the Financial Conduct Authority. These rules say that, where a business doesn't consent, we can't consider a complaint made more than six years after the event complained of, or if later, more than three years after the complainant was aware, or ought reasonably to have been aware, of their cause for complaint. DISP 2.8.2R can be found online in the Dispute Resolution section of the regulator's handbook.

The Investigator who looked into Mrs W's complaint previously explained in his view why he thought Mrs W's complaint point about the Woodford Fund had been brought too late for our Service to be able to consider its merits. And I note that neither party has disputed what the Investigator said there. Since that's not in dispute, I don't think it's necessary for me to set out my findings on this point in detail, except to say that having myself independently considered whether Mrs W's complaint point about ASAM's advice to invest in the Woodford

Fund has been brought within the relevant time limits, I have reached the same conclusion as the Investigator and for the same reasons. So, I'm satisfied this complaint point has been brought too late for our Service to be able to consider its merits.

However, I think Mrs W's other complaint points about the suitability of ASAM's advice (other than to invest in the Woodford Fund), its deteriorating service, its ongoing monitoring of her FAD, and its termination of their relationship have been brought within the DISP time limit rules and fall within the jurisdiction of the Financial Ombudsman Service. And so I've gone on to consider the merits of these, which I'll now turn to.

#### The merits of Mrs W's other complaint points

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

I've also taken into account relevant law and regulations, regulator's rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time. This includes the Principles for Businesses ('PRIN') and the Conduct of Business Sourcebook ('COBS').

Both parties have provided our Service with a great deal of comments and evidence in relation to this complaint, I'd like to thank them for this and reassure them that I've carefully considered everything provided. However, my decision won't address every piece of evidence or point made. That's deliberate; I mean no discourtesy but my decision will only address what I see to be relevant in reaching a fair and reasonable outcome to Mrs W's complaint points that fall within our jurisdiction.

#### ASAM's recommendation to begin taking FAD income

The ASAM fact-find Mrs W signed in July 2018 when she was age 55 records that she had resigned from her employment and was *"unsure if she will return to work"*. And the evidence is that ASAM first mentioned drawing income from her pension around that time, and that this is something Mrs W then thought about but wasn't sure whether it would be better to leave it for a couple of years. I say this because Mrs W mentions these things in her September 2018 email to ASAM.

The fact-find Mrs W signed in July 2019 recorded that "[Mrs W] *will not return to work and [is] looking to take income from pension*" and *"will take around £20k pa from pension"*. So while I note Mrs W now says that she did intend to return to work, I think it was reasonable for ASAM to work on the basis that she did not intend to return to work and that her objective at this time was to take an ongoing income from her pension. The fact-find also recorded that Mrs W had the objective *"to invest for growth over the medium to long term"*.

In July 2019 ASAM provided Mrs W with its recommendations following their recent review meeting. And the 'ATR Confirmation' document Mrs W signed at around this time recorded that, on a scale of one to ten with ten being the highest, her overall ATR regarding all her investments was within the range two to five, what ASAM called 'cautious to balanced', and she would be comfortable accepting a risk rating of five.

In its July 2019 letter, ASAM recommended amongst other things that Mrs W begin accessing regular pension income through her pension's FAD option. It said,

*"You explained you are unlikely to return to work and therefore are looking to draw an income from your [pension]. We agree to set up an income of around £20,000 per*

*annum, which is £1,650 per month. As a reminder you are able to amend the level of income simply by letting us know.*

*As you will be accessing the benefits from your [pension] for the first time it is important to be aware of all of the options available. Rather than go into these in these [sic] in this letter, I have emailed our Retirement Options Appendix which sets these out. This document covers both the advantages and disadvantages of the different options. If you have any questions arising from this document then just let me know.*

*Although it is not your intention to purchase an annuity it is worth bearing in mind the benefits offered by annuities. These provide a guaranteed income for the rest of your life without taking investment risk as well as the option to provide a spouse's pension for [your husband] in the event of your death. The Retirement Options Appendix provides more detail on the types of annuities available. If you would like to explore the benefits of an annuity, either now or in the future, then just let me know.*

*As you will see from the Retirement Options Appendix there are a number of products that offer you a bit more flexibility when take pension benefits. In particular, I would refer you to the Flexi Access Drawdown Plan (FAD) which allows you to create a flexible income.*

*When entering into the FAD you can select the level of income you will receive and vary this at any time in the future.*

*...*

*As you will appreciate, if the income and/or withdrawals from the FAD is in excess of the investment returns being generated this will reduce the value of the pension. This is an area we would monitor closely to ensure that the balance between taking withdrawals and investment returns is not detrimental to your retirement needs."*

ASAM is referring in this last paragraph to 'fund erosion', where income taken from an investment erodes the capital at a greater rate than the investments can grow.

The nearest valuation I have to the above letter is one on 5 July 2019 which showed Mrs W's pension to be valued at £425,107, so the annual income of £20,000 that ASAM recommended would reduce her pensions value by about 4% per year. Given Mrs W's ATR at that time, which I think ASAM was correct to assess as 'cautious to balanced', I think it was reasonable at that time for ASAM to think the returns on her pension investments would overall replace this so that her pension's value wouldn't be eroded. And ASAM could only go on what it knew or could know at that time, and I don't think it could have foreseen the series of world and/or political events that greatly impacted the financial markets, and therefore Mrs W's pension investments, in the few short years that followed.

And based on ASAM's recommendation letter, I'm satisfied that ASAM explained the advantages and disadvantages to Mrs W of taking FAD income and that it also explored alternative options with Mrs W, including taking an annuity. But it's recorded that Mrs W didn't want an annuity at that time, and I note she didn't take up the option of an annuity when ASAM suggested it again three years later as part of its response to her worries. And while I acknowledge that Mrs W now says she could've managed without the FAD income as she'd done before, the evidence suggests she didn't want to do so any longer and had thought about accessing her pension income for some time before deciding to accept ASAM's July 2019 recommendation to take FAD income. Taking everything into account, I think this recommendation was suitable for Mrs W.

ASAM's ongoing monitoring and lack of action regarding Mrs W's FAD income and strategy

I think ASAM's ongoing monitoring of Mrs W's FAD income and strategy took place with reasonable frequency and to a reasonable level. I say this because I've seen that after her FAD income was arranged, ASAM continued to provide Mrs W with an in-depth financial review each year as well as ad hoc information and advice at other times, depending on wider events or issues with particular funds. I'll come to address these in more detail later, but here I'm satisfied that in these ASAM reviewed and correctly took account of Mrs W's circumstances, objectives, ATR and current investments.

I'm also satisfied ASAM gave Mrs W sufficient information about the sustainability of her FAD income when its reviews showed her pension's value had fallen since the last review. I say this because:

- ASAM's September 2020 review letter told her wider events meant her pension's value had fallen but that, *"as you know you are in receipt of an income from your [pension]. This is currently £1,650 per month and I can confirm if this level of income was to continue, based on the current value of the pensions, it would be maintained for over 30 years. This confirms that despite the fall in value there is no need to lower the level of income you are receiving."*
- ASAM's September 2022 review letter said wider events meant the year hadn't progressed as hoped and her investments had fallen in value. And as set out in the background to this complaint, it explained that her FAD income currently represented 5.6% of her pension's value, higher than the 4% it had previously told her was reasonable. But it didn't think this was excessive, particularly when viewed over the long-term, and it didn't currently think it necessary to adjust the FAD strategy.

As above, it's clear that across some periods the overall value of Mrs W's pension fell. It's understandable that she'd have been very worried by this and I don't in any way seek to minimise her distress or disappointment with this. And I know she believes ASAM should have taken action earlier, particularly at times of widespread market turmoil, to protect her pension's value from being eroded by the regular income she was drawing from it.

But I don't think it was unreasonable for ASAM to take time to watchfully wait to see if things showed signs of improvement, rather than simply recommending that Mrs W reduce or stop her FAD income whenever the FAD income she drew exceeded 4% of her pension's value. Because in line with Mrs W's recorded objective of investing for growth over the medium to long term, pensions are not short-term investments. And generally speaking, reacting too quickly to volatility or switching investments too frequently can also have a negative impact on values.

In my view, there wasn't a period where I think ASAM waited too long and should've told Mrs W to reduce or stop her FAD income. While I accept the value of her pension fell across some periods, it's important to note that it also recovered or rose across others, as follows:

- ASAM's update letter of February 2021 told Mrs W that markets had settled a little and her pension had increased in value since September 2020.
- Its review letter of September 2021 told her markets had recovered somewhat and the coming few years were likely to be positive albeit volatile, and that her pension's value was now only slightly less than it had been in 2019 despite paying out £39,600 of income to Mrs W during that time.
- Its review letter of September 2023 said investment values had generally increased

over the past year, as had the value of her pension.

Taking all this into account, I'm not persuaded that ASAM acted unfairly or unreasonably regarding this matter.

The suitability of other recommendations ASAM made for Mrs W (excluding to invest in the Woodford Fund) and its general standard of service

Mrs W's submissions to our Service are about ASAM's advice in relation to the FAD income which it first gave in July 2019, its service deteriorating after the adviser changed in late 2021, and the service it gave her when it chose to end their relationship in late 2023. I've not seen that Mrs W has raised concerns about any earlier advice or service of ASAM's, except for its recommendation to invest in the Woodford Fund which I've already explained our Service can't consider. So Mrs W is particularly unhappy with the suitability of ASAM's advice and the service it gave her in the last few years of their advisory relationship. Therefore I've focused on the suitability of the advice and service ASAM gave Mrs W from July 2019 onwards.

I've already addressed the advice ASAM gave Mrs W in relation to her FAD income and strategy, so I don't need to repeat that.

I can see that ASAM made recommendations to Mrs W about her pension and/or other investments in the following letters:

- July 2019  
This review letter said her pension had seen a return of 1.2% over the past year, and recommended some pension investment switches to take advantage of the investment opportunities ASAM expected to see once Brexit negotiations had concluded and to create more diversification. It recommended she didn't make any changes to her other investments.
- October 2019  
This update letter said a fund she was invested in was no longer a good addition for her, and it recommended she switch to an alternative fund it thought was better positioned to take advantage of the investment opportunities ASAM expected to see in the coming few years.
- April 2020  
This update letter explained the Covid pandemic was impacting the markets and it was monitoring this for Mrs W. It recommended a fund in which to invest the cash holdings that had recently come into her pension and ISA, as this would continue her exposure to UK markets focusing on large and well-established companies able to take advantage of the recovery when it happened.
- September 2020  
This review letter said the pandemic's impact was still very significant but with signs of recovery, albeit things would remain volatile. It explained her ISA had fallen in value but still outperformed general markets. And that her pension's value had fallen too but there was no need to lower the FAD income she was receiving. But ASAM recommended some investment changes to account for current market conditions.
- February 2021  
This update letter said markets had settled a little given the resolution of the American election and Brexit, so ASAM had reviewed her holdings and her pension



had increased in value since September 2020. ASAM suggested some investment switches for her ISA and pension given its view that the market would be positive in the coming few years.

- September 2021

This review letter said markets had recovered somewhat and the coming few years were likely to be positive albeit volatile. Her pension's value was now only slightly less than it had been in 2019 despite it having paid Mrs W income during this period. And her other investments had fully recovered their losses. ASAM didn't recommend any changes as it thought her portfolio was well positioned for the investment opportunities it expected to see.

- July 2022

This update letter said the consequences of events in Ukraine and rising inflation were expected to last, and her pension and other investments had fallen in value. But she was investing for the long term so it would look for opportunities and seek diversification. ASAM suggested some changes to Mrs W's pension and ISA investments in line with this.

- September 2022

This review letter set out the world events that meant the year hadn't progressed as hoped. Mrs W's assets had fallen in value, and ASAM recommended some changes to her pension and ISA investments. It also mentioned how it monitored her portfolio and the impact of her FAD income withdrawals, and explained its investment philosophy.

- September 2023

This review letter said investment values were generally showing an increase over the past year, and the value of Mrs W's ISA and pension had also increased in this time. ASAM recommended some investment switches for further diversity.

Having carefully considering the above advice, I'm satisfied that ASAM was regularly and actively reviewing Mrs W's holdings. And that in its recommendations, ASAM took account of Mrs W's circumstances, objectives and ATR. Sometimes it recommended not making any changes, and at other times it recommended selling or buying investments. But I'm satisfied these recommendations were suitable for Mrs W in her particular circumstances at those times, and it's clear that ASAM was navigating a course for her in light of wider global and/or political events. I do appreciate that Mrs W is disappointed with how some of her investments turned out, but I'm not persuaded that this is due to any act or omission of ASAM's.

And having considered the documentary evidence provided to me, including emails, letters, meeting notes and call notes, I think ASAM provided Mrs W with a reasonable level of service in the later years of their advisory relationship. I think it responded to her instructions and queries, and tried to address her concerns when these were raised although I realise she was not always left satisfied.

#### Termination of relationship

Mrs W says that when it decided to end their relationship, ASAM gave her unreasonably short notice to find another advisory firm, causing her distress and exposing her to the high costs of other advisers, some of which wanted initial fees of up to £9,000.

Having reviewed the Terms of Business between ASAM and Mrs W, I'm satisfied these entitled ASAM to choose to terminate their relationship, though I see it didn't set out a specific notice period. ASAM told Mrs W in December 2023 that it had chosen to do so, explaining it believed its philosophy was no longer aligned with her expectations. It also said it would remain on hand for the next six weeks while she found an alternative adviser, and at Mrs W's request ASAM extended this first to the end of January 2024, and then to the end of February 2024, by which time had Mrs W told ASAM she'd appointed a new advisory firm.

Given all this, I don't think ASAM treated Mrs W unfairly or unreasonably when it chose to end their relationship and I think it gave her a reasonable period of time to find an alternative adviser.

#### In summary

Despite my natural sympathy for Mrs W, I'm not persuaded that ASAM gave her unsuitable advice or treated her unfairly or unreasonably in the later years of their relationship. So while I know Mrs W will be disappointed, I'm not asking ASAM to do anything here.

#### **My final decision**

For the reasons set out above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs W to accept or reject my decision before 26 January 2026.

Ailsa Wiltshire  
**Ombudsman**