

## The complaint

Mr W says Hargreaves Lansdown Asset Management Limited, trading as Hargreaves Lansdown ('HL'), delayed the outward transfers of his stocks and shares Individual Savings Account ('ISA') and Self-Invested Personal Pension ('SIPP') and, as a result, caused him financial losses of around £38,000 in the former and around £30,000 in the latter.

## What happened

Mr W transferred his ISA and SIPP to St. James's Place ('SJP').

On 6 February 2020 HL received Mr W's instructions to liquidate the SIPP and transfer the proceeds to SJP; and on 13 February it received instructions to do the same with the ISA.

HL confirms receipt of the SIPP instructions on 6 February. It says it initially processed the instructions on 21 February, that the SIPP was liquidated on 9 March and that the proceeds were transferred out on 17 March.

HL also confirms receipt of the ISA instructions on 13 February. It says it initially processed the instructions on 25 February, that the ISA was liquidated over 4 and 5 March, and that the proceeds were transferred out on 13 March.

Mr W confirms, with supporting evidence from his SJP account statements, that subsequent to the transfer of his SIPP he retained 25% of the cash proceeds, as per his entitlement, and made the rest available for reinvestment; that, *"because markets world-wide were in free fall from early February onwards ..."* he had instructed SJP not to reinvest the SIPP and ISA until market conditions improved; and that this explains why the majority of the transferred cash was not reinvested until 19 March.

One of our investigators looked into the complaint and concluded that it should be upheld. He said mainly as follows:

- Mr W's core argument is that HL's transfer process should have been consistent with the industry standard Transfer and Re-Registration Group (TRIG) protocol which says transfers should happen within five working days. In response, HL's position refers to a Service Level Agreement ('SLA') based 30 days guideline for transfers. In addition, HL has offered Mr W £150 compensation for the transfer taking longer than 30 days.
- The issue to consider is not only about applying guidelines, it is also about considering how the transfers happened, whether they happened as quickly as they reasonably could have and whether (or not) there were avoidable delays. In this regard, there are significant gaps of activity – showing unexplained inactivity – in the ISA transfer process between 13 February and 4 March; and in the SIPP transfer process between 6 February and 9 March. This meant the ISA transfer was inexplicably delayed by two weeks and the SIPP transfer was inexplicably delayed by three weeks. HL says Mr W could have liquidated his investments himself and that he did so for some investments, but the fact remains that HL had been instructed to

conduct the liquidations and Mr W expected that, so he cannot reasonably be held responsible for not liquidating them himself.

- To provide redress to Mr W in this matter HL should treat the SIPP as if it was liquidated on 13 February and treat the ISA as if it was liquidated on 20 February; and HL should compensate Mr W for any loss in values in both respects caused by the delays in both being liquidated and transferred. This compensation should be paid to him in addition to the £150 already offered by HL.

HL responded to the investigator's view to say that it had reviewed the matter and had concluded similarly with regards to Mr W's SIPP – that is, it accepts it should have acted faster in the transfer process for the SIPP, it should have done so in line with TRIG and Associated British Insurers guidelines for SIPP transfers, it should have liquidated the SIPP by 13 February and it should have completed the transfer by 19 February. HL agreed to calculate loss of value compensation for Mr W based on any value he lost from the SIPP not being liquidated on 13 February. It also offered to look into loss of value compensation for him based on the effect of the delayed transfer upon his reinvestments in the SJP SIPP and it invited details of those reinvestments in order to do so.

HL disagreed with the investigator's view with regards to Mr W's ISA. It argued that its 30 days SLA guideline for non-cash ISA transfers – which is also reflected in its terms and conditions – is consistent with HMRC's 30 days guidance for such transfers; that it liquidates ISAs at the last point before transfer in order to minimise the holder's time out of the markets; and on this basis the ISA transfer instructed on 13 February should have been completed on 16 March and its assets should have been liquidated on 10 March.

HL considered its overall response to be reasonable and considered that the matter could be resolved as it had set out, without call for further involvement from this service. The investigator disagreed with its position on the ISA transfer and repeated his view that unjustified avoidable delays could not reasonably be ignored, so his finding on the ISA transfer issue remains unchanged. Mr W also provided this service with information about his SJP SIPP and ISA investments as requested by HL. The matter was referred to 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.

Both parties, and the investigator, agree that liquidation and transfer of Mr W's SIPP was unduly delayed by HL; that it should have been liquidated on 13 February 2020; and that Mr W should be compensated for loss of value in the liquidation of his HL SIPP – that is, any loss of value arising between what the SIPP could have been liquidated for on 13 February and what it was liquidated for on 9 March. None of these appear to be in dispute, so they do not require my determination. However, for the sake of completeness, I confirm that I have considered the matter afresh and that I share the investigator's findings (and reasons) with regards to HL's handling of Mr W's SIPP transfer. I do the same with regards to the investigator's redress proposal, which has been agreed by HL and which I reflect in my redress order further below.

I also consider that the £150 offered by HL to Mr W is a reasonable amount to compensate him for the trouble and upset the delayed transfers caused him. It is an amount that is broadly consistent with the level of award, for trouble, upset and inconvenience, that this service has made in comparable cases.

It should be implicit within my reference to *delayed transfers* above that I consider *both* transfers to have been unduly delayed, including the matter of the ISA transfer that HL disputes. Again, I share the investigator's finding – which I endorse – and reasoning in this respect. My focus is also on available evidence of the same unexplained and seemingly avoidable inaction – and therefore delay – by HL in the ISA transfer process.

I accept HL's entitlement to take guidance from HMRC's guidelines, I also accept available evidence of the terms and condition's reference to HL seeking to complete ISA transfers within 30 days. Furthermore, I understand HL's arguments that compliance with a 30 days transfer period includes allowances for due process (including placement of the transfer in a queue) and that progress of the transfer was dependent on the administration applied to it and on a firm's workload.

However, overall and on balance, I am not satisfied that evidence shows the ISA transfer was *meaningfully* and/or *actively* being processed during the relevant period(s) of inaction that the investigator and I have focused on. Whilst there was no explicit requirement for the transfer to reach a particular stage at a particular time, it is reasonable to say that unexplained periods of inaction should not be condoned. As summarised in the background section above, upon receipt of the ISA transfer instruction on 13 February it was not processed until 12 days later on 25 February, then no liquidation happened until eight days thereafter on 4 March (concluding on 5 March). Even with due queuing and administrative process, the periods (either wholly or partly) of seeming inactivity – which do not appear to have been specifically explained – in this timeline summary cannot reasonably be justified. There were notable delays both before and after processing – and before liquidation.

HL says this service has upheld use of a 30 days transfer period in other cases. Each case is determined on its own facts. Given the facts in the present case – and as I said above – the issue is mainly about HL's delays in the actual ISA transfer process and not about the overall 30 days transfer guideline that it relies upon.

Overall, on balance, for the above reasons and given available evidence, I am persuaded that Mr W's ISA should have been liquidated by 20 February, a week after its transfer was instructed.

## **Putting things right**

### *Redress for Mr W's delayed SIPP transfer*

HL accepts this service's findings on redress for this issue and it offered to extend its consideration of redress beyond loss of value at HL's end of the transfer process to the consideration of loss of [reinvestment] value at the SJP end of the process.

However, as stated in the background above, it is Mr W's evidence that he intended to delay – and did delay – reinvestment of the SIPP due to market events from early February 2020 onwards. He thereafter began the reinvestments on 19 March. As such, I do not consider it reasonable for HL to undertake responsibility for loss of reinvestment value. Even if HL had liquidated the SIPP on 13 February and completed its transfer on 19 February – both of which it should have done – reinvestment of the proceeds would probably (if not certainly) have been delayed, by Mr W's choice, until 19 March.

HL must compensate Mr W only for loss of liquidation value, by doing as follows:

- HL must calculate the total proceeds generated from the liquidation of Mr W's SIPP – this is represented by 'a'.
- HL must calculate the liquidation proceeds that would have been generated if Mr W's

- SIPP was liquidated on 13 February 2020 – this is represented by ‘b’.
- If b is greater than a, HL must pay Mr W the difference as compensation for lost liquidation value.
  - HL must pay Mr W interest on the compensation at the rate of 8% simple per year from the date of this decision to the date of settlement, if HL does not pay him the compensation within 28 days of being informed of his acceptance of this decision. This is to compensate Mr W for any undue delay in HL paying him the compensation. Income tax may be payable on any interest paid. If HL is required by HMRC to deduct income tax from the interest, it must tell Mr W the deduction amount and give him a tax deduction certificate if he asks for one, for him to reclaim the tax from HMRC if appropriate.
  - HL should, if possible, pay the compensation (and any interest) into Mr W’s pension plan, to increase its value by the amount of the compensation and any interest. The payment should allow for the effect of charges and any available tax relief. The compensation should not be paid into his pension plan if it would conflict with any existing protection or allowance. If the compensation (and interest) cannot be paid into his pension plan, HL must pay it directly to him. Had it been possible to pay it into the plan, it would have provided a taxable income, so the compensation should be reduced to *notionally* allow for any income tax that would otherwise have been paid. The *notional* allowance should be calculated using his actual or expected marginal rate of tax at his selected retirement age. For example, if he is likely to be a basic rate taxpayer at the selected retirement age, the reduction would equal the current basic rate of tax. If he would have been able to take a tax-free lump sum, the reduction should be applied to 75% of the compensation.
  - HL must provide Mr W with a calculation of the compensation in a clear and simple format.

#### Redress for Mr W’s delayed ISA transfer

HL should have liquidated Mr W’s ISA on 20 February 2020, and the ISA transfer should have been completed shortly thereafter. HL has made the same offer to look into loss of reinvestment value at the SJP end of the transfer process. However, for the same reasons given above, I do not consider it fair for HL to undertake responsibility for such loss. As explained above, it is Mr W’s evidence that from early February 2020 his intention was to suspend all investments until market conditions improved. He did not begin reinvestments until 19 March, so even if HL had transferred the ISA liquidation proceeds soon after 20 February the relevant cash would probably (if not certainly) have remained uninvested, by Mr W’s choice, until 19 March.

HL must compensate Mr W only for loss of liquidation value, by doing as follows:

- HL must calculate the total proceeds generated from the liquidation of Mr W’s ISA – this is represented by ‘a’.
- HL must calculate the liquidation proceeds that would have been generated if Mr W’s ISA was liquidated on 20 February 2020 – this is represented by ‘b’.
- If b is greater than a, HL must pay Mr W the difference as compensation for lost liquidation value.
- HL must pay Mr W interest on the compensation at the rate of 8% simple per year from the date of this decision to the date of settlement, if HL does not pay him the compensation within 28 days of being informed of his acceptance of this decision. This is to compensate Mr W for any undue delay in HL paying him the compensation.
- HL should, if possible, pay the compensation (and any interest) into Mr W’s ISA, otherwise it must pay the compensation (and any interest) to him directly.
- HL must provide Mr W with a calculation of the compensation in a clear and simple

format.

### **My final decision**

For the above reasons I uphold Mr W's complaint and I order Hargreaves Lansdown Asset Management Limited, trading as Hargreaves Lansdown, to compensate him as set out above and to provide him with a calculation of the compensation in a clear and simple format.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 6 December 2021.

Roy Kuku  
**Ombudsman**