

The complaint

Mr G complains that he couldn't get through on the phone to Hargreaves Lansdown Asset Management Limited ("HLAM") when he wanted to give instructions to take up a rights issue.

What happened

Mr G has an execution only share dealing account with HLAM. He had a holding of shares which I will refer to as "R". In or around October 2020, R announced a rights issue. HLAM wrote to Mr G with information about the rights issue on 28 October 2020 and told Mr G it needed his instructions – by phone or online – by midday on 9 November.

Mr G phoned HLAM on 9 November and spoke to a member of staff at 11.56am. Mr G asked various questions about the rights issue, but still wasn't sure what to do. The member of staff told him that it had extended the deadline for instructions and that he had until 4.30pm to give instructions if he wanted to sell the rights; and until 5pm if he wanted to take them up.

Mr G tried to call later in the afternoon to give his instructions but couldn't get through before the deadline expired. He complained to HLAM and reminded it of his various health issues. He said his health had deteriorated further because of the stress he'd been caused by not being able to give his instructions.

HLAM said Mr G had been given plenty of notice of the rights issue and set a reasonable deadline for instructions. It had extended its deadline – initially to close of business on 9 November and then to close of business on 10 November to try to capture as many instructions as possible. It apologised for the long call waiting times on the afternoon of 9 November 2020. It explained there had been extraordinary market volumes which led to delays in its usual service. It offered £100 to Mr G for the stress he'd been caused.

Our investigator thought HLAM's offer of £100 was appropriate. Whilst the call waiting times were longer than usual, the investigator thought HLAM had acted reasonably by extending its deadline and that, had Mr G persevered, he would have been able to speak to a member of staff and give his instructions.

Mr G didn't agree. He said, in summary, that:

- He's received atrocious service from HLAM, and its staff lack integrity – they don't do what they say they are going to do.
- The news about the vaccine must've been announced in the early morning of 9 November 2020 so HLAM must have known when it spoke to him around mid-day that its phone lines were busier than usual. He should have been warned he might not be able to get through if he tried to phone in the afternoon.
- HLAM should have changed its recorded phone message so that he knew what he needed to do to give instructions and so that he knew how long he'd have to wait before he could speak to somebody.

- He was successful in getting through to HLAM on the evening of 9 November. The member of staff said he was aware of the problems and that there'd been an issue with its internet service which led to more calls. But he didn't offer to take Mr G's instructions.
- The decision to further extend the deadline should have been taken in the afternoon of 9 November.

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.

Mr G has told us that he has raised a number of issues and complaints with HLAM about the service he's received. This complaint is about Mr G not being able to give instructions for R's rights issue. I can't comment on any other service issues as these are the subject of separate complaints.

I've listened to the recording of Mr G's call with our investigator which took place after the investigator had reached his initial conclusion. Mr G raised a considerable number of points during that call and I'm not going to respond to every single point made. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

Mr G has explained his difficult circumstances and his various health issues. And I understand, from what he's told us, the difficulties this causes him, particularly as he isn't getting the support he needs from professional services. I'm sorry for the very difficult position Mr G is in on a daily basis. And I've taken this into account in arriving at my decision.

I'm sorry to disappoint Mr G but, having considered everything very carefully, I find I have come to the same conclusion as the investigator. Let me explain why.

HLAM wrote to Mr G on 28 October 2020 to tell him about R's rights issue. I'm satisfied Mr G was made aware that he had until midday on 9 November 2020 to give his instructions. It's unfortunate that Mr G had been particularly unwell and couldn't carry out all the research he wanted to before 9 November. I appreciate his individual circumstances may have prevented him phoning HLAM any earlier to give his instructions. But I'm satisfied HLAM gave Mr G reasonable notice of the rights issue.

Mr G's agreement is for an execution only share dealing service. HLAM could not give him advice. But, when Mr G called explaining he hadn't had the opportunity to read the financial press, HLAM was able to look up the specific publications he mentioned and read the articles to Mr G over the phone. In doing so, I find HLAM had an appreciation for Mr G's personal circumstances and that it treated him fairly in trying to help him.

During that call, HLAM explained that it had extended its deadline for instructions until 4.30pm to sell the rights and 5pm to take up the rights. Mr G mentioned he would probably look to sell enough rights to take up the remainder, but that he wasn't ready to give that instruction.

Mr G attempted to call HLAM later that afternoon when he was ready to give his instruction. But he couldn't get through. HLAM has explained that it, along with other brokers, received an unprecedented volume of contact from clients on 9 November 2020 due to a combination

of positive news about a Covid 19 vaccine and the US election outcome, which led to a global surge in investor activity. Whilst HLAM did all it could to meet customer demand – for example, by extending its opening hours - it would be unreasonable for me to expect HLAM to have the infrastructure and staff in place to cope with such an unusually high demand from its users. It wouldn't necessarily be commercially practicable given the uniqueness of the situation which led to such a high volume of investors wanting to access its service.

Mr G says he should have been warned during his midday call that he might face difficulties in getting through on the phone that afternoon. But I don't think HLAM reasonably realised the situation it would be in that afternoon. Whilst the UK and European markets had followed Tokyo's lead in sharply rising prices as a reaction to the US election result, the markets had yet to react to the news from Pfizer about its vaccine success. The market rose in reaction to this during Mr G's phone call. As the member of staff was focussed on providing Mr G with the information he'd requested, he may not have been in a position to fully understand what was happening in the market at the same time.

Even if HLAM's member of staff had realised the enormity of the markets' reaction, and the expectation that prices would rise further when the US markets opened, he wouldn't reasonably have realised exceptional level of demand HLAM was going to face over a sustained period, which led to some of its customers experiencing difficulties using their online accounts. Those customers then tried to contact HLAM by phone, which caused long waiting times. Overall, I don't find that HLAM acted unreasonably in not warning Mr G that he might face a long wait time when he called back.

I must also take into account that this scenario is covered in HLAM's terms of service and it clearly sets out that it can't guarantee that access to, or trading in, accounts will always be available or be available without delay. It says in A12:

"We cannot guarantee that access to, or trading in, your Accounts via the HL Website, HL Mobile Application, by telephone or by post will be available at all times or without delay. You acknowledge that the HL Service may be interrupted and the services available may be variable in certain circumstances."

Mr G has suggested some of the things he thinks HLAM should have done differently – such as changing its recorded messages to make it clear how long the waiting time was; and taking the decision to extend the rights issue deadline earlier than it did. I can't comment on the way HLAM chooses to operate or the procedures it puts in place – that's a matter for the regulator, the Financial Services Authority. Taking into consideration that HLAM experienced unprecedented demand, it would have had a number of priorities to deal with and I don't think the action it took with regards to R's rights issue was unreasonable or untimely in the difficult circumstances it faced.

Mr G told us he did manage to speak to HLAM on the evening of 9 November. From what he's told us, he spoke to a member of staff who was responsible for taking dealing instructions for the US market. At this point in time, the extended deadline for instructions had expired and the decision to extend the deadline further hadn't been taken. So I don't find it unreasonable that HLAM didn't offer to take Mr G's instructions during this call.

In view of this, I can't reasonably say that the long call waiting times on 9 November 2020 were unreasonable in the unprecedented circumstances. I'm satisfied HLAM has apologised to Mr G for the difficulties he had in getting through on the phone and that its offer of £100 compensation is fair and reasonable in the circumstances.

I appreciate Mr G is unlikely to agree with my decision. And I do understand why he feels so strongly about this. But, for the reasons I've explained, I don't find HLAM needs to do anything more.

My final decision

My final decision is that Hargreaves Lansdown Asset Management Limited should pay Mr G £100.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 1 August 2022.

Elizabeth Dawes
Ombudsman