DRN-3768596

The complaint

Mr M's Self-Invested Personal Pension ('SIPP') was opened with Hargreaves Lansdown Asset Management Limited ('HL') in 2015. It operated on an *execution only* basis and his investments/trading within it were executed on a third-party trading platform. In 2021 he acknowledged that he had a compulsive gambling addiction (the 'addiction'), and by August that year he says he had *gambled away* all but a minor remainder of the SIPP's value – "… *35 years of savings gone, £100,000s gone*".

On 27 August 2021 Mr M informed HL about gambling away most of his pension and about his addiction. He says HL is primarily responsible for the loss this caused in his SIPP because it failed to identify, from his trading profile/behaviours, indications of his addiction, failed to uphold its regulatory obligations to safeguard the interests of vulnerable clients like him (in circumstances like his) and therefore exposed him to gambling risks and losses he ought to have been protected from.

He also says HL contributed to the financial hardship and overall distress he faced, by restricting access to the SIPP's remaining funds after August 2021, funds he desperately needed for living expenses. HL disputes the complaint.

What happened

One of our investigators looked into the complaint and concluded it should not be upheld. He mainly found as follows:

- Funds were transferred into the SIPP by the end of 2015. Mr M traded/invested on his own ideas and actions, without any advice from HL. He began with large single company investments in late 2015. He also began contributing to the SIPP in December 2015 and by early 2016 he had invested around £35,000 in Exchange Traded Funds. Thereafter his SIPP investments included high risk options and there is evidence of complex investment questionnaires he completed in 2018 in order to make such investments. Throughout, he received relevant risk warnings and conducted his trading on the basis that he understood and accepted the associated risks. Overall, there was no indication, prior to August 2021, that there was anything untoward about his trading/investments, so it is not reasonable to expect HL to have previously identified him as a vulnerable client.

- Furthermore, Mr M says the addiction was a shock to him when he discovered it. As such, and prior to that discovery, an expectation that HL ought to have identified the addiction earlier would be an expectation that HL ought to have known him better than he knew himself, which is unreasonable.

- Before allowing him to open an account to invest/trade HL applied and conducted an appropriateness assessment to establish whether (or not) he had sufficient knowledge and experience to understand the risks associated with doing so. Evidence of the assessment shows that his responses led HL to conclude the account was appropriate, and HL was entitled to rely on his responses.

- After Mr M disclosed the addiction, HL reacted reasonably. He asked HL to stop income payments from the SIPP, and it did that. In addition, and in his best interest, it suspended trading in the account in order to protect against further losses. As soon as HL confirmed it had stopped the income payments, Mr M asked for a payment (with a number of follow-up requests). He is unhappy about the events thereafter, but it must be noted that the initial decision to cancel the payments was his. HL's reaction was not unduly delayed and it needed to apply necessary checks in the course of addressing his payment requests.

- SIPPs are not exclusive to HL, they exist in general for those who wish to self-invest in their pensions. Such self-investment approach carries its own risks. If Mr M considers that a SIPP did not suit him, then that is a matter remote to HL because it did not advise the setting up of the SIPP.

Mr M disagreed with this outcome, He and the investigator discussed his responses and comments in extensive correspondence. In the end, the investigator retained his views on the complaint and was not persuaded to change them.

Overall, Mr M mainly argued that –

- The investigator misunderstood the facts of his case, misunderstood the regulations that apply to it and refused to answer his questions, to address areas of the complaint that need to be addressed and to obtain further needed information from HL.

- His complaint is defined by the regulator's guidance, under section 139A of the Financial Services and Markets Act 2000, on a firm's obligation to safeguard the interests of vulnerable clients; by the resulting obligations upon HL in this respect; and by its regulatory obligation to treat vulnerable clients (like him) fairly.

- In this context, and given the *data science* analysis (of client behaviours) that HL ought reasonably to have applied to its operations (and as is commonly applied by customer facing businesses), there was enough information from his trading behaviour for HL to have identified the addiction. It then should have safeguarded him/his SIPP from the foreseeable detriment of gambling losses. Instead, it probably identified the addiction but turned a blind eye to it, in order to continue earning fees/commissions from his trading.

- HL ought to have designed the SIPP mindful of vulnerable clients, like him, with the addiction, and therefore ought to have designed it with safeguards against the risk of compulsive gambling losses.

- HL subjected him to unfair detriments after August 2021. It denied him access to the SIPP and withdrawals from it that he desperately needed at the time, it denied him execution of his instructions in this respect and it has since misrepresented the facts of these events – misrepresentations that the investigator has accepted, wrongly, as the truth.

During his correspondence with the investigator, Mr M wrote to HL's Chief Executive's office twice and received a response in between (which he shared with us). He asked for disclosure of HL's operational policies, systems and practices, but the office said it could not give him such internal procedural documents.

He asked for referral of his case to an Ombudsman and said he wanted the Ombudsman to

be competent in dealing with cases like his, to review the case (and all aspects of it) afresh and independently, to obtain all evidence relevant to and required for such a review and to hold a conversation with him/her as part of the review.

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.

The investigator answered the points Mr M raised in response to his view. I did not give details of his answers in the previous section because it is clear Mr M seeks a full and fresh review of his case, so it is more important for me to set out my findings – as I will do in this decision.

His case presents three key areas – the allegation that HL failed to safeguard his interests before disclosure of the addiction (including its alleged failure to identify the addiction before it was disclosed and to safeguard his SIPP from the risks the addiction posed); the allegation that HL mishandled matters after his disclosure of the addiction (including the account suspension, payments, transfers to drawdown, transfers to bank account, identification and residence verification and alleged mistreatment sub-issues that Mr M raised in his complaints to both HL and this service); the allegation that HL's overall and general operations with regards to treatment of vulnerable clients is flawed.

The third area of the case appears to feature in Mr M's submissions as prominently as, if not more than, the other two. I understand the strength of his views on this. However, it is an area outside of my remit. As he is aware, this service is not the industry regulator. Mr task is to address his complaint with regards to the matters directly related to him and his SIPP. The first two areas summarised above fit this description, the third goes beyond it. If, as it appears, he seeks an audit, appraisal and/or examination of HL's general operations with regards to its treatment of vulnerable clients, that would be a regulatory matter. He has discretion on considering, and/or taking advice on, if and how to pursue that separately. For these reasons and for the sake of clarity, it will not be a matter addressed in my findings below.

This decision is focused only on the first two key complaint areas summarised above.

The third area of the case also appears to be relevant to Mr M's request for a conversation with the deciding Ombudsman. He says he needs to ensure that what the Ombudsman is tasked to do on *customers' behalf* is aligned with what happened to him in his case. My role is to determine the complaint fairly and independently. I represent neither Mr M nor HL. This service addresses complaints without representing either party to a complaint. As such, I am not acting on Mr M's *behalf*. I have a good understanding of the facts and issues in his case and it is a document and evidence heavy case, so there is sufficient available information from which to determine the facts and outcome.

I have considered Mr M's request for a conversation. However, for these reasons, I do not regard such a conversation to be necessary.

Safeguarding Mr M's interests/his SIPP before disclosure of the addiction

It is not disputed that Mr M did not disclose his addiction to HL prior to 27 August 2021. There is also no evidence of such a previous disclosure. The matter to consider is therefore limited to whether (or not) HL should have done more to identify it and address it (through safeguarding the SIPP) earlier.

The SIPP was/is not unique to HL. It is a pension wrapper that is generally available and is provided and administered by different firms in the market. It is also a product that is aimed towards those who wish to self-manage and self-invest their pension. Some do so in very direct and *hands-on* terms whereby they alone manage and invest their SIPPs, others do so with professional assistance (in advice and/or management) subject to their approval or on a mandated discretionary basis. These considerations commonly happen, and are usually settled, before an individual opens a SIPP or transfers a pension into one.

HL neither advised nor managed Mr M's SIPP. It was the SIPP provider. As such, the matter of whether (or not) a SIPP was suitable for him is outside its responsibility. The same applies to the more direct approach he took with the SIPP, whereby he personally managed and traded within it. Suitability of that approach also has nothing to do with HL. The SIPP and his approach towards it were his choices, and he is responsible for those choices.

HL's responsibility began with its regulatory obligation to ensure the SIPP was 'appropriate' for Mr M. This is not the same as an assessment of suitability. It is a comparatively lower consideration. Under the regulator's Conduct of Business Sourcebook ('COBS') rules (at COBS 10 and 10A) a firm must determine whether (or not) a client has sufficient *knowledge and experience* to understand the risks involved in a service or product offered by the firm. It is obliged to warn the client if the assessment concludes that the service or product is inappropriate for him/her.

HL has provided us with evidence and information about appropriateness assessments applied to and passed by Mr M, based on his questionnaire answers, with regards to the SIPP and the conduct of complex investments and investments in Exchange Traded Products within it. On balance, they establish that HL's duty to assess and determine appropriateness (or otherwise) in his case was discharged, and I have not seen evidence to the contrary. Based on the information he provided to HL, upon which it was entitled to rely given the absence of cause for doubt, he was classed as an experienced investor. It is also worth noting evidence of risk warning reminders that appeared in the course of his trading of risky products.

Overall, I do not consider that HL failed in its duty to assess appropriateness in Mr M's case.

He has referred to the specific point of safeguarding for vulnerable clients. The regulator's Handbook includes a principle firms must adhere to – under Principle 6 – which obliges them to "… *pay due regard to the interests of its customers and treat them fairly*". COBS 2.1 sets out the *client's best interests* rule as being the requirement upon a firm to "… *act honestly, fairly and professionally in accordance with the best interests of its client* …". I have also considered the regulator's gambling related guidance that Mr M has cited. It is a broad and generic document with a regulatory perspective on a rage of operational ways in which firms can help themselves identify and address clients with gambling problems. I note that it is a *guidance* document. I also consider it more relevant to the third area of Mr M's case that I mentioned above, and that I will not be addressing.

However, there is some relevance to my findings in the document. That being its core messages that firms should proactively observe indications of clients with gambling problems, and that if there are reasonably identifiable indications of an underlying gambling problem in a client's account the relevant firm would be expected to address such a concern and safeguard the client's interests in the account. Overall, this is broadly consistent with, and covered by, what Principle 6 and COBS 2.1 require from firms anyway. These core messages also rely, mainly, on indications of an underlying gambling problem being reasonably identifiable. The expectations upon a firm arise from this point. Therefore this, first, must be established. In another case the facts might indeed present evidence of such reasonably identifiable indications, but I have not found evidence of that in Mr M's case.

He essentially says HL knew he traded in risky products; it should have been aware of trading behaviours on his part (and losses) that indicated gambling; it should have been aware, early, that this was beyond the norm for his profile and/or had gone out of control; it should have known that this was not in his best interest; and it should have intervened, early, to identify and address the problem.

Firms provide clients with different services. HL's execution only based service meant it provided Mr M with the SIPP to trade within but it did not give him advice, it did not manage his account and it did not have a service obligation to monitor (in the sense of management) his account. In its appropriateness assessments for him, he appears to have presented himself as an experienced investor and he was therefore regarded as one.

By definition, trading and investments carry risk. Some would say all trading is a form of gambling with such risks. Basic risks, and even higher risks, (and losses to match) would arguably have been expected in Mr M's trading activities. He was an experienced investor who wilfully undertook and passed appropriateness assessments in order to trade complex and high-risk products; and who proceeded to trade such products having confirmed that he knew and understood the associated risks. Furthermore, and in general, the idea of trades in investors' accounts resulting in accumulated and/or significant losses is not uncommon in the industry. That does not automatically mean every account holder incurring such losses has a gambling addiction diagnosis.

In the above context, observing the risky trades and losses in Mr M's trading activities would not have been enough for HL to determine an underlying gambling problem in his account – given the profile he presented at the time. With the benefit of hindsight (and with knowledge of the addiction), he could argue otherwise, but based on circumstances as they were previously, his trading activities/patterns (which I have considered) and the losses from them could reasonably have been viewed as a match for his profile and a match for the trading approach he wilfully adopted. I am not persuaded that available evidence shows indications, prior to disclosure of the addiction, that there was a compulsive gambling element underlying that approach.

I consider it beyond dispute that HL reacted correctly in the steps it took to safeguard the SIPP after it became aware of the addiction, and I address this further in the next section. Prior to that, on balance and for the above reasons, I am not persuaded that there are grounds on which it should have identified the addiction and taken those steps.

Matters after disclosure of the addiction

Mr M was abroad at the time of the disclosure, and thereafter. He did not have a personal telephone where he was and using a public telephone (for international calls to the UK) was not cost effective for him, so he did not do that. Communications between the parties at the time happened in writing – mainly secure messages and then some emails. This body of cross correspondence has been shared with us and I consider it very helpful and insightful. It provides reliable documentary evidence of exactly what was said and done between the parties after disclosure of Mr M's addiction.

My first finding is that stoppage of income payments was the first thing Mr M instructed. It was not something that HL did unilaterally. In his disclosure on 27 August 2021 he told HL he wanted *"… to stop the monthly income from* [his] *sipp*", that he had "… *gambled away most of* [his] *pension*" and that he would advise HL "… *later what amount* [if] *any* [he] *will withdraw*". HL executed his instruction and stopped the income payments. It did nothing wrong by doing that. However, it did something wrong with regards to the length of time it took to respond. It did not respond to Mr M until 8 September 2021 and I have not seen good

cause for its delay. Having said this, this particular delay appears to have been inconsequential because it was no more than a delay in confirming that Mr M's request had been executed. I have not seen evidence of any detriment to him arising between 27 August and 8 September.

On 8 September, HL also confirmed suspension of access to the entire SIPP, due to disclosure of the addiction and the need to consider and apply safeguarding measures. It also made suggestions to Mr M in terms of additional safeguarding and support options. He replied on the same day and referred to HL *unilaterally freezing* his SIPP. He said he was abroad and without money, and he asked for the release of £200. He summarised his circumstances (including the explanation that he had gone to the specific country abroad just before the pandemic and had been stuck there since due to travel restrictions) and the reasons why he needed the release. He chased a response from HL on 9, 10, 13, 14 and 15 September, during which he also asked for cash to be transferred from his SIPP account to his Drawdown account and then to his UK bank account.

HL replied on 15 September. It apologised for the delay in doing so. It said a drawdown withdrawal request had to be made by the 17th of the month, that the SIPP's suspension would need to be lifted temporarily for liquidations to fund the payment Mr M asked for and that it would revert to him after it had looked into how this could be done. The following day it said it was still looking into the matter. On 17 September it apologised for the delay and said it will confirm the required steps in the following week. Mr M immediately expressed his dissatisfaction with this. On 21 September HL confirmed that it had organised the £200 payment release, but first Mr M had to liquidate investments to fund it, and as online access to the SIPP had been suspended it invited him to conduct the required dealing by telephone. In response, Mr M repeated that he had no telephone access, he asked for an answer to his drawdown transfer enquiry and he noted that there was already some cash in the Drawdown account that could and should be remitted to his bank account urgently.

On 22 September HL said it would temporarily lift the online access suspension to allow liquidations needed to raise cash for the payment. It also suggested to Mr M that he might wish to consider liquidating enough cash to cater for the payment at the time and for future payments he will need. With regards to the drawdown transfer enquiry it said an online flexible drawdown application ('ofda') had to be completed and submitted in order to move funds from the SIPP account to the Drawdown account. It asked Mr M to confirm his instructions. He replied on the same day. He complained about the level of service he was receiving, he confirmed he needed £200 every month and he asked how and when online access to the SIPP would be lifted. HL also replied on the same day. It said the £200 payments, per month (on the 28th of each month), had been arranged, that they will be made (starting with the September payment) so long as there was liquidated cash in the Drawdown account to cover them and that the SIPP (and online access) had been unlocked for this purpose (but will be re-locked after he made the necessary liquidations).

On 24 September Mr M told HL that he had moved some money from the SIPP account to the Drawdown account, but the online process was unclear and he did not think the money would meet the monthly payment, but it should be remitted to his bank account anyway. On 27 September HL said no ofda had been completed and submitted so no such transfer between the accounts had happened. It summarised what was in the SIPP account that could be moved into the Drawdown account. It also repeated its statements about the monthly payments having been set up, about those payments being dependent on liquidations to cover them, about the access suspension being temporarily lifted for this purpose and about the suggestion of liquidating enough cash for future payments.

A payment of £187.50 appears to have been subsequently made to Mr M (on 28 September).

In October 2021, HL issued the first in a succession of complaint responses to Mr M. It is dated 25 October and it addressed matters he had raised up to around that point. HL acknowledged that it had caused initial delays in contacting, and maintaining contact with, him and it apologised for that. It also offered and paid him £150 as part of its apology. However, it did not uphold the other process related dissatisfactions he had expressed.

I endorse the £150 payment that was made to Mr M. On 8 September, Mr M set out his predicament clearly to HL, including his urgent need for money from the SIPP. I have seen no justification for HL taking up to 15 September to respond, and none for HL seemingly ignoring the chasers he sent in the days before and up to then. I do not suggest this was malicious, I have not seen evidence of that, but it was a service failure. Unlike the first delayed response, this second delayed response had a tangible impact, that being the delay caused to Mr M's urgent request for money being addressed.

The matter was delicate, Mr M had disclosed the addiction, had asked for income to be stopped and then had asked to resume access to the SIPP to withdraw money from it – all almost simultaneously. HL was reasonable in working out and balancing its reaction, and I consider this is what it was doing between 15 and 21 September, so I do not regard this an additional undue delay. Its slight lack of attention to Mr M's earlier message meant, on 21 September, it proposed telephone liquidation dealing when he had previously declared that he did not have a telephone. However, this did not cause a meaningful effect because the proposal to temporarily lift the online access suspension followed the next day. Thereafter, and as I have summarised above, HL conducted itself efficiently and in a timely fashion.

Following from the above, I find that HL fairly resolved its early failings in the matter through its apology and, more importantly, the £150 payment it made to Mr M. It was/is a reasonable sum to compensate for the undue but limited communications delay I have identified above, and, with no intention to patronise him, I consider that such an additional sum was possibly (if not probably) welcomed by him at a time when he says he desperately needed money.

In November 2021 correspondence, there are messages from Mr M to HL on 11 and 14 November in which he said he needed extra cash for the Christmas period. HL gave a somewhat comprehensive response on 15 November. It set out his options (with information links and information on process and dates) for releasing money from his SIPP account and from his Drawdown account – the 'retirement options' of a drawdown, an Uncrystallised Funds Pension Lump Sum or an annuity featured in the former; and ad hoc or regular payments in the latter. On 16 November Mr M said he wanted to increase the monthly payments to £250 and wanted to know the deadline by which he needed to liquidate cash. The following day HL replied and confirmed that the 17th of the month was the deadline for selling funds and the 19th for selling equities, and that payment would be made on the 28th of the month (or, if that fell on a weekend, the previous working date).

On 29 November Mr M complained to HL about not receiving a payment. The following day HL explained that no liquidations happened during the previous lifting of suspension so there was not enough cash to fund the month's payment, that the suspension had since been reinstated (because, in the parallel matter of establishing safe measures for the future of the account, Mr M had yet to appoint someone to support the management of the account as HL had required), that the suspension had now been lifted again in response to his query and that the month's payment could be specially arranged for him despite being past the deadline but such payment remained dependent on liquidations. It also repeated its suggestion that Mr M consider liquidating enough cash to cover future payments.

In response, on the same day, Mr M repeated his complaint about being mistreated by HL, he noted that £150 should already be in the Drawdown account (and can be paid out to him)

and he instructed full remittance of that account's cash balance. HL agreed to do this on the same day. On 1 December it reconfirmed this, reminded Mr M about the suspension being lifted to allow him to trade for liquidation and gave him a time window to do so before the suspension was reinstated. He objected to this and said he did not wish to be pressured to trade, instead he wanted to do so as and when he saw fit. The following day he complained about not yet receiving the balance remittance, but HL explained the approval requirements that had caused a slight delay and confirmed that the balance had been paid out to him on that day.

With regards to the trading time window granted to Mr M, HL initially said it could extend it by a day. It then reversed this and said there would be no extension because it was not comfortable in doing so, instead the suspension would be reinstated and whenever Mr M was ready to trade he was to give prior notice, after which access to trade will be temporarily given. It also summarised the investments in the SIPP and Drawdown accounts at the time. On 3 December Mr M complained about HL compromising his trading decisions (in volatile markets) through its conditions, and doing so without cause or any indication of gambling behaviour from him at the time. He asked for his complaint to be escalated to a senior level.

Thereafter, a new concern arose. On 14 December HL noted that Mr M was abroad but it only had his UK address on record. It asked for certified verification of his residence abroad and his identity before any further payment could be made. Mr M said he had no fixed address in the relevant country, that his stay had been extended solely due to the pandemic (and its effects), that his UK address remained valid and that his mistreatment by HL was being compounded by this enquiry.

On the following day he replied to specific questions put to him by HL about his presence in the country abroad (since, as he said, September 2019) and repeated his mistreatment complaint and request for escalation. On the day thereafter HL explained the due diligence, money laundering and safeguarding requirements it had to uphold, which had led to its identity and residence verification requests, given that although Mr M had not intended to be abroad permanently the fact was that he had been abroad and away from his UK address for over two years (and given that he had no fixed address in the country abroad). Nevertheless, HL said, as an interim measure and because of his circumstances, it would grant a final payment pending full identity and residence verification, on the condition that he first provided some information – copies of his passport and bank statement, the temporary addresses he was using at the time, and confirmation of the details of his planned return to the UK (a plan he had confirmed to HL).

Mr M complained to HL's Chief Executive's office on 16 December. He told HL he would await a response before anything else and that, in the meantime, he had arranged an overdraft with his bank so he would be using the money from that. He also addressed HL's interim questions and repeated his points about mistreatment. With regards to the parallel matter of long-term measures for his SIPP, in the context of his addiction disclosure, HL asked him (on 21 December) for a medical opinion on that.

Returning to the payments matter, on 4 January 2022 HL asked Mr M to use email to address, and submit documentation for, its identity and residence verification enquiries. His previous attempts to use an online portal for these submissions had faced problems. Then on 10 January another new concern arose.

On 10 January, HL noted that despite Mr M's claims of financial hardship in 2021, records for the SIPP showed that he had made contributions into the SIPP during the same year. It asked him to explain this and it also questioned log-on records which showed he had not logged into his account since March 2019 – which led it to question whether he had been abroad since March 2019. It explained the due process and regulatory grounds on which it

was making these enquiries. It also took the opportunity to confirm receipt of the medical opinion for the account measures matter and to confirm that he could continue to trade liquidations, with prior notice in order to have the suspension temporarily lifted. On 13 January, Mr M detailed his rebuttals to HL's statements and declared that he no longer wished to be contacted by the particular official he was communicating with at the time.

HL issued its second complaint response on 28 January. It mainly addressed his complaints about the identity and residence verification issue and his allegation that HL had been late to safeguard his SIPP. The complaints were not upheld and HL set out its reasons for that conclusion. On 18 February full access to Mr M's SIPP accounts was restored. On 24 February HL issued its third complaint response, which addressed Mr M's allegations that it had failed to properly monitor his SIPP and allegations about the account suspension after disclosing the addiction. Again, HL did not uphold any of the issues and gave its reasons for that. On 4 March HL issued its fourth complaint response. It is the most comprehensive of all four responses and it sets out its reasoned treatment of issues Mr M had raised about its approach towards vulnerable clients, the account suspension, its communications, the withdrawals from his account, the nature of his investments in the SIPP and his trading patterns in the SIPP. The complaint was not upheld.

As I said above, up to October 2021 HL had committed some wrongdoings but it had addressed them, apologised for them and compensated Mr M fairly for them. The events afterwards can be split into four main categories – Mr M's ongoing and additional payment requests in November; the identity and residence verification issue that arose in December; HL's view in January 2022 that there was a hardship versus contributions conflict in Mr M's position; and then the fact that full access to the SIPP was not restored until February 2022. Complaint handling is not a regulated activity nor, in Mr M's case, was it an activity ancillary to a regulated activity. If he expects findings on how HL handled his complaint, it is for these reasons that no such findings will be made. It is beyond my remit (which is limited to addressing complaints about regulated activities and activities ancillary to them) to do so.

November 2021

HL's engagements with Mr M in November 2021 were efficient and timely, so there were no problems in these respects. The summary of events in this month (above) supports this finding. Both parties were in cross correspondence on 11, 14, 15, 16 and 17 November, then Mr M's contact on 29 November led to further cross correspondence from then, every day, up to 3 December.

Earlier in September HL had suggested, at least twice, that Mr M consider liquidating enough cash for future payments. He did not do that at the time. This is not a criticism, he had ownership of and discretion over his SIPP so he could manage it as he wished. However, because he had not done that he faced yet another need to liquidate in November, so that was not an issue caused by HL.

HL gave details of his overall options on 15 November, on 17 November it confirmed the relevant liquidation deadline and payment dates, on 30 November it explained that he had received no payment because there had been no liquidation to help fund a payment but a special arrangement had been made to allow him to trade/liquidate despite the cut-off having been passed. Again, HL suggested that he liquidate enough cash for future payments – but, again, he did not do that.

HL granted Mr M's Drawdown account balance remittance request on the same day it was made and two days later, on 2 December and after due checks, the balance was paid to him. Mr M objected to being given a time window to trade, to HL declining his request for extra time and to HL compromising his trading decisions. I retain the view that Mr M's SIPP

was his to manage as he saw fit. However, his position in this respect is inherently conflicting.

The basis of his engagement with HL at the time was to ensure the urgent financial hardship he said he was facing was being met by payments from the overall SIPP. Yet his argument suggests his situation was not so urgent and that he had capacity to engage in trading/price speculation over time. There is evidence of periods in which access to the account was available but no liquidation was conducted. Due to the safeguarding context that defined the entire affair at the time, access for the sole purpose of liquidation was the arrangement between both parties, so it was reasonable for HL to expect liquidations to be carried out promptly and to then reinstate the account suspension. In the same context, the notion of giving Mr M extended or unlimited access to conduct seemingly speculative trading (in which he anticipated and pursued a particular, but unpredictable, price level or market condition before selling an investment) was conflicting, and the same applies to his claim about needing money urgently at the time. In the face of such an urgent need, it is arguable that a desire or capacity to speculate over time would be unlikely and that, instead, prompt liquidations to provide urgently needed cash would be more likely.

Overall, on balance and for the above reasons, I do not consider that HL misconducted itself in the November (and early December) issues.

December 2021

I understand the frustration Mr M probably felt when the new matter of identity and residence verification arose in the middle of this month. However, whilst his communications at the time clearly show that the matter caused him distress, the matter had no meaningful impact on the payment arrangement. HL raised its enquiries on 14 December and initially said no payments will be made until they were answered, but two days later (on 16 December) it recognised Mr M's situation and agreed to an interim payment that month on interim conditions. However, by this time Mr M had decided to prioritise his complaint to the Chief Executive's office and had confirmed that his monetary needs at the time had been met by a bank overdraft.

I have considered the due diligence, money laundering and safeguarding requirements that led to HL's enquiries and I accept that those requirements and the enquiries were reasonable. The facts of the matter, as HL highlighted, were that Mr M had been away from the UK for over two years at the time, HL only had his UK based records and he was unable to provide a fixed address in the country abroad. Of course, the pandemic and associated travel restrictions caused this state of affairs, so he was a victim of circumstances beyond his control. However, the state of affairs was of the sort that reasonably triggered the requirements and enquiries. It is unfortunate that they caused distress to him, but that would not have been intended and, on balance, I am persuaded that the enquiries were raised in the interest of his SIPP and in the course of HL reasonably discharging its duty to safeguard it. The enquiries were also pursued with reasonableness and pragmatism. As I said above, HL agreed an interim payment pending the enquiries being fully resolved.

Overall, on balance and for the above reasons, I do not consider that HL committed wrongdoings in December 2021.

January 2022

I should say that the potential conflict that HL perceived on 10 January is similar to a perception I had formed as I reviewed and considered Mr M's case. I considered a potential conflict initially with regards to his reluctance, from September 2022 onwards, to liquidate for future payments; then with regards to what appears to have been his pursuit for speculation

in his liquidations; and then the matter of his SIPP contributions. On balance, the first two would not be expected from a person who needed quick and uncomplicated access to money to address ongoing financial hardship – which was his profile at the time.

At this point, it is important for me to repeat what I said about Mr M's ownership of and discretion over his SIPP. However, the point to note is that the circumstances arising from his disclosure of the addiction, his request to stop income payments and then his request for payments to address the financial hardship he said he was facing were defined by these three key actions on his part. In this context, conflicting behaviours can stand out, and have done so.

It was not unreasonable for HL to question the inherent contradiction between the payments to Mr M (to address financial hardship) that had been arranged since September 2021 and evidence of his contributions *into* the SIPP in 2021. Especially, I consider, the £500 contribution in August 2021 (as stated in the SIPP's transaction statement). This was immediately before the alleged hardship period. This was potentially inconsistent with the notion of payments to address financial hardship, so an enquiry was appropriate in the circumstances. Especially as it was an enquiry related to *payments out of the SIPP* at a time when HL was also engaged in protecting the SIPP from any further losses due to Mr M's addiction. HL explained the procedural and regulatory basis for its enquiries – including the question about Mr M possibly being abroad earlier than September 2019 – and he responded to rebut what he considered to be objectionable suggestions. In his response, he also terminated communications with the relevant official.

Overall, on balance and for the above reasons, I do not consider that HL did anything wrong in January 2022.

February 2022

Full access to Mr M's SIPP was restored on 18 February. Prior to this, HL had sought and obtained medical evidence on the appropriateness of restoring such access despite the addiction he had declared. Evidence shows that in doing this it treated the addiction as the medical condition that Mr M repeatedly stressed it was. It asked for the medical opinion in December 2021, received it in January 2022 and the account was restored in February 2022. Overall, I do not consider this sequence to have been unreasonable.

At the outset, and in response to Mr M's disclosure, HL was obliged to consider and put in place measures – other than and beyond the short-term account suspensions, temporary account re-openings and monthly payments – for the future of the SIPP and that is what it sought to do by asking for the appointment of a representative to manage the SIPP and then the medical evidence. The logistics and circumstances in the case were not easy, access was restored within six months of the initial suspension and, in the circumstances, this was not unreasonable. I do not find that HL did anything wrong in this respect.

My final decision

For the reasons given above, I do not uphold Mr M's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 20 April 2023.

Roy Kuku
Ombudsman