

## The complaint

Mr R's complaint concerns charges to his SIPP (self invested personal pension) with Hargreaves Lansdown Asset Management Limited (HL). Mr R says the charges weren't clearly set out and he's been charged higher fees than he'd been led to expect.

## What happened

I issued a provisional decision on 24 May 2023. I'll recap what I said about what had happened and my provisional findings.

*'Mr R had a SIPP with HL. In May 2017 Mr R moved the funds held in that SIPP into drawdown – so into a SIPP Drawdown Account with HL. At that stage Mr R's SIPP was closed. In August 2019 the SIPP was reopened when Mr R transferred another uncrystallised SIPP into his HL SIPP. So he had a SIPP and a SIPP Drawdown Account with HL.*

*HL makes annual charges for holding funds. The charge is 0.45% pa on the first £250,000 which decreases incrementally if the value of the funds held increases. Mr R has no issue with that charge and the fact that it applies to all the funds held – both in the SIPP and the SIPP Drawdown Account. There's also an annual charge for holding shares – 0.45% pa of the total value of the shares held, capped at a maximum of £200 pa. That was the maximum Mr R expected to be charged. But he later discovered the £200 cap applied to each account (his SIPP and his Drawdown Account) separately. So, instead of paying a maximum of £200 pa for both accounts, the maximum was £400 pa.*

*Mr R queried the charges over the telephone in February 2021. The first representative on HL's helpdesk Mr R spoke to agreed there was only one £200 maximum charge for a SIPP, covering shares that are and aren't in drawdown. But another representative then called back and said there were definitely two limits charged although he couldn't identify where that was explicitly stated.*

*Mr R complained to HL but his complaint wasn't upheld. HL referred to the documents Mr R had been given in May 2017 when he went into flexible drawdown and to the statements he'd received, particularly those from 2018 onwards. HL acknowledged the wording on the website Mr R had referred to gave the impression the SIPP Drawdown Account may be held within the SIPP rather than separately. But HL said it was stated that the charges for the accounts are treated separately and that holding both the SIPP and SIPP Drawdown Account is to hold more than one account. HL said feedback would be given to the web development team about changing this to explicitly state the cap applies to the accounts separately. HL was sorry there'd been a misunderstanding but it was satisfied Mr R had been charged correctly. It offered £100 as Mr R had been initially misinformed when he spoke to HL in February 2021 although that had been corrected the same day.*

*Mr R referred his complaint to us. One of our investigators considered it. But she didn't uphold it. In summary, she thought Mr R had been given sufficient information to know he had two SIPP accounts, each subject to a separate set of charges. She also referred to the investment reports Mr R had received. She said the £100 offered for giving incorrect*

information over the telephone was fair. She didn't think HL needed to do anything further.

Mr R didn't accept the investigator's view. He commented in detail on what HL's documentation did (and didn't) say. I don't reiterate each and every point here. But he said the documents didn't identify there are two individual charge caps and he felt the individual charge caps issue had become conflated with the issue of charges. He fully appreciated that charges are due on all funds in the SIPP. He said that determining whether the crystallised and uncrystallised funds are separate accounts was secondary and the issue was simply whether HL had properly communicated the additional cap.

Mr R pointed in particular to two documents – the 'Guide to Drawdown' and 'Frequently asked questions about starting drawdown in the Vantage SIPP'. Both clearly stated the only addition to normal charges during drawdown was an early closure fee. Amongst other things, Mr R said HL's documentation was unclear and/or misleading. It didn't specify individual limits for crystallised and uncrystallised funds held in a pension but relied on footnotes to tables when simply specifying the limits would've been clearer. And it said no extra charges would apply, yet some fees would be double for partial drawdown. Mr R was also unhappy with our investigation. He made several points about why he didn't agree with what the investigator had said. He set out what would remedy things and he included an annotated copy of the investigator's view.

We asked Mr R to supply the two documents he'd referred to which he did, together with HL's covering letter of 23 March 2017 and three further documents enclosed. Mr R made a number of further comments and annotations on the documents he'd provided. He also referred to what HL's website said.

The investigator considered the further points Mr R had raised and the documents he'd pointed to but she wasn't persuaded to change her view. She said, when two separate SIPP accounts were held (which would include a drawdown SIPP and a non-drawdown SIPP), there were charges on each of the SIPP accounts up to the £200 cap, under HL's 'normal pension charges'. The early closure fees were in addition to the usual charges. Each separate account had separate 'normal pension charges', as explained in the key features.

Mr R disagreed. He didn't think his complaint had been investigated fairly. Again, I'm not going to set out here all of his detailed comments. He said the issue to determine was simply whether HL had properly communicated the charges associated with the additional cap.

Mr R referred again to the documents he'd received in May 2017. He said it was HL's responsibility to clearly and unambiguously define charges. It was up to him to understand the charges but he could only understand what had been written down – a single maximum limit for charges in a SIPP. He said the investigator had ignored some key points which Mr R set out. He suggested that HL's Tariff of Charges should be modified to make things clear. Mr R reiterated that he didn't need advice and the onus was on HL to clearly specify the charges. Annual statements had been provided but they were insufficient to readily determine what or how many charge limits had been applied. Mr R maintained the evidence was overwhelming that HL hadn't clearly and unambiguously stated the charges that had been taken.

### **What I've provisionally 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 R didn't agree with the investigator's view. He was also unhappy with how the investigation was carried out. I'm only considering here the complaint itself, not any issues

*about the way we've handled things. That said, there's some overlap in that some of the issues Mr R has raised go to the merits of the complaint, that is, if it should be upheld or not. For example, the suggestion that the investigator ignored certain evidence and/or preferred other and what Mr R suggests is more tenuous evidence. In deciding the complaint I've borne in mind any criticisms Mr R has made which pertain to the merits of his complaint and whether the outcome reached by the investigator was correct.*

*We have a two stage process and, as Mr R didn't accept the investigator's view, the complaint was referred to me. I've considered everything afresh and reached my own conclusions. Mr R has commented extensively. I haven't set out all he's said although I've read and taken everything into account. But, in reaching my conclusions, I've concentrated on what I see as the key points.*

*I agree the issue to determine is whether HL properly communicated the charges Mr R would be paying. But I don't see that must translate into whether HL properly communicated the 'additional' cap. If the cap correctly applies to each account separately then I don't think it can be described as an 'additional' cap and so wouldn't need to be communicated as such. More generally, I wouldn't necessarily uphold the complaint, even if I thought the charges could've been made clearer, if I was satisfied that, on a careful reading of all the relevant documentation, the charges and how they'd be applied were correctly set out.*

*Mr R has said it's irrelevant that he didn't take financial advice. I agree Mr R didn't need professional advice. But I think all the investigator was saying was that, if Mr R had an adviser in place, they may have been aware of exactly how HL's charges worked which might've prevented any confusion later. But, as Mr R didn't have and didn't need an adviser, I agree that isn't relevant and the issue remains whether HL made its charges sufficiently clear to Mr R.*

*I've also taken into account that HL's representatives weren't always clear about the charges and specifically how the £200 cap applied. It isn't disputed that the first representative Mr R spoke to on 1 February 2021 got things wrong. And, although what had been said was quickly corrected, the second representative was unable to point to anything which directly addressed whether one or two caps would be applied. But, while Mr R may point to uncertainty or confusion among HL's own staff as supporting what he says about the charges not being clear, it isn't determinative. I need to consider the documentation as a whole, and any other information sources, such as HL's website, in deciding if, from the information Mr R was given, he should've known the £200 cap would apply to both his SIPP and his Drawdown Account separately.*

*I accept Mr R made decisions based on the information which HL provided. There's some potential for confusion in considering Mr R's complaint because some, if not all, of the documents have been updated. I recognise that HL can update its documentation but Mr R has said the information he got in 2017 was inadequate so that's what I've considered.*

*I've focused on HL's letter dated 23 March 2017 and the information which was sent with that letter. The documents enclosed included: The Guide to Drawdown; Frequently asked questions about drawdown in the Vantage SIPP; Important Information and Key Features of Drawdown in the Vantage SIPP; Vantage Service Key Features and Terms & Conditions, which included a Tariff of Charges.*

*Looking at the letter itself first, Mr R's position is that whether the uncrystallised and crystallised funds are separate accounts is a secondary issue. But I think, whether there were one or two accounts, is a key consideration in deciding if HL made its charges clear. The letter itself is headed 'Flexible drawdown from [my emphasis] the Vantage SIPP'. That's repeated on the second page, under the heading 'Five reasons to consider flexible*

drawdown from the Vantage SIPP'. And the low charges are given as the first reason. There's no charge to set up flexible drawdown and the only addition to HL's 'normal pension charges' is stated to be an early closure fee.

I understand, when a Benefit Crystallisation Event (BCE) occurs, such as moving funds into flexible drawdown, HL has to separate the crystallised and uncrystallised funds for tax purposes. The Drawdown Account is used to hold the crystallised funds so, if these are withdrawn, they are liable to income tax. The uncrystallised funds remain in the SIPP account so both HL and the client know these funds can still be withdrawn with 25% as tax free cash. But the issue is still if it was clear to the client there'd be two accounts and two sets of charges. don't think it's apparent from the letter that there'll be two accounts – the SIPP and the SIPP Drawdown Account. But that was set out elsewhere. The Terms & Conditions include the following in the definitions section:

*'HL Vantage Service" means the overall investment service we agree to provide to you, on a non-advised basis, under these Terms and comprises services relating to the operation of the HL Vantage Fund & Share Account, the HL Vantage Stocks & Shares ISA, the HL Vantage Lifetime ISA, the HL Vantage Junior ISA, the HL Vantage Cash ISA, the HL Vantage SIPP, Drawdown and all Accounts held within HL Corporate Vantage, together with the various underlying services (such as the Paperless Service and the Online Service) which enable us to provide these facilities to you;'*

So the SIPP and Drawdown accounts are referred to as separate accounts. Other references in the Terms & Conditions are consistent with that. For example, section E1 says the maximum income is the total value of the Flexible Drawdown Account at the time of payment. So that's a separate account to the SIPP itself. E1 also sets out what happens if a payment request would result in the balance of the Flexible Drawdown Account falling below £1,000. That's not the case here but I mention it because it refers to the opening of a Flexible Drawdown Account as a separate account. And section E4 deals with cancellation and says there's normally the right to cancel the Drawdown Account within 30 days of the account being opened by writing to HL. Again the Drawdown Account is referred to as a separate account.

But, and more importantly, I think the position is clearly set out in the Important Information and Key Features for Drawdown in the Vantage SIPP. It has a questions and answers section. It includes the following:

*'What will happen to my existing HL Vantage SIPP account once I start drawdown? If you are moving all of your SIPP into drawdown, we will close your SIPP account once this is complete. It will be visible online but only so you can see any transaction history. If you wish to make any contributions or transfer any non-drawdown pension into the HL Vantage SIPP, you can call us to request an application. If you are moving part of your SIPP into drawdown, the remaining money will stay in your SIPP. You will then have two SIPP accounts, a drawdown SIPP and a non-drawdown SIPP.'*

## TARIFF OF CHARGES

Note: the investments you choose may have their own charges and other associated charges (e.g. stamp duty). Please read the factsheet for your chosen investment carefully. The charges listed below are for the investments you choose to hold in your account.

ACCOUNT CHARGES - charge for having an account with H.L.	
Fund & Share Account	No Charge
ISA	No Charge
SIPP	No Charge
ANNUAL CHARGES FOR HOLDING FUNDS - unit trusts and OEICs, all account types	
£0 to £250,000	0.45%
The next £250,000 to £1m	0.25%
The next £1m to £2m	0.10%
Over £2m	0.00%
This charge applies to each investment account separately. It is tiered within bands: 0.45% per annum for the first £250,000 of Funds, 0.25% p.a. for Funds between £250,000 and £1m, and 0.1% p.a. for Funds between £1m and £2m, and no charge on the value of funds over £2m.	
ANNUAL CHARGES FOR HOLDING SHARES - shares, investment trusts, ETFs, VCTs, gilts and corporate bonds	
Fund & Share Account	No Charge
ISA	0.45% (Max £45)
SIPP	0.45% (Max £200)

## TARIFF OF CHARGES

Note: the investments you choose may have their own charges and other associated charges (e.g. stamp duty). Please read the factsheet for your chosen investment carefully. The charges listed below are for the investments you choose to hold in your account.

ANNUAL CHARGES FOR HOLDING FUNDS - all account types	
£0 to £250,000	0.45%
The next £250,000 to £1m	0.25%
The next £1m to £2m	0.10%
Over £2m	0.00%
This charge applies to each Account separately. It is tiered within bands: 0.45% per annum for the first £250,000 of Funds, 0.25% p.a. for Funds between £250,000 and £1m, and 0.1% p.a. for Funds between £1m and £2m, and no charge on the value of Funds over £2m.	
ANNUAL CHARGES FOR HOLDING SHARES - shares, investment trusts, ETFs, VCTs, gilts and corporate bonds	
H.L. Fund and Share Account	No Charge
H.L. ISA	0.45% (Max £45)
H.L. SIPP and Drawdown Accounts	0.45% (Max £200)
This charge applies to each Account separately. Charges for holding Shares do not apply to Shares you hold in Hargreaves Lansdown plc.	
PAPER CHARGE	
Receiving statements, contract notes and business confirmations in paper format	£10 + VAT every 6 months
FUND DEALING	
Online, Telephone and Post	No Charge
SHARE DEALING - UK or overseas shares, ETFs, gilts, corporate bonds, VCTs and investment trusts	
Online: 0-9 deals	£11.95 per deal
Online: 10-19 deals	£8.95 per deal
Online: 20 or more deals	£5.95 per deal
The online Share dealing tariff is determined by the number of deals you placed in the previous calendar month. What you pay in August, for example, will depend on the number of Share deals you placed in July across all your Accounts. Please note not all stocks can be traded online: see our website or contact us for details.	
Online Share dealing for Junior ISAs and Junior SIPPs	£5.95 per deal
Telephone, Post	1% (Min £20, Max £50 per deal)
Sales where the proceeds are being invested into our Portfolio Management Service	No Charge

There are changes in the later version to what's said about the annual charges for holding shares which is what Mr R's complaint centres on. First, in the later version, both SIPP and Drawdown Accounts are shown, whereas in the earlier version only SIPP appears. And the later version includes a statement that (similar to the one which appears in both versions about the annual charges for holding funds) the charge applies to each account separately. Given that the SIPP and Drawdown Account are shown separately, I think it would be clear that there's a maximum charge for each of £200 pa, so £400 in all.

But I think there's some ambiguity with the earlier version. It says annual charges for holding funds apply to all accounts separately but is silent about the annual charges for holding shares. By omission, that might infer, and as the SIPP and the Drawdown Account aren't separately identified, there's only one annual charge for holding shares and which applies to the SIPP, including any Drawdown Account.

*Moving on from the Tariff of Charges, Mr R has pointed in particular to two documents – the ‘Guide to Drawdown’ and ‘Frequently asked questions about starting drawdown in the Vantage SIPP’ as both clearly stating the only addition to normal charges during drawdown was an early closure fee. And Mr R has referred to that message being given elsewhere. While I understand Mr R’s point, if there were two accounts each subject to separate charges, there was no addition to the usual charges (apart from an early closure fee) as such. So there was no need for any ‘additional’ cap to be specified as there was in effect no extra cap, just a separate cap applied to each account – the SIPP and the Drawdown Account.*

*Mr R has also referred to the website. I don’t think anything turns on this as, in my view, the written information Mr R received, read carefully and as a whole, did say the SIPP and the SIPP Drawdown Accounts were separate and that charges would apply to each. And it seems from what Mr R said over the telephone on 1 February 2021 that the website didn’t contain incorrect information although Mr R considered what was said could’ve been clearer.*

*I haven’t considered the statements that Mr R received and if, from those, he should’ve seen sooner that he was paying higher charges than he’d been expecting. I can see Mr R may not have had any real reason to check things on the basis he thought he knew what he’d be charged from the information he was given in 2017. I don’t know what prompted Mr R to start to look into what charges he’d been paying. But his complaint is based on the information he got in 2017 and my decision reflects that.*

*But, as I’ve explained above, even if things might have been made clearer, that doesn’t mean I’d uphold the complaint and say HL should have to refund the higher charges. I can see why Mr R was unhappy when he found out that the maximum charge for holding shares was double what he’d thought. But I think the documents, read carefully, said the SIPP and the Drawdown Account were separate accounts which meant two sets of charges could apply. Initially Mr R’s SIPP was dormant. So Mr R was only subject to one set of fees for one account – his Drawdown Account. But when Mr R’s SIPP was reopened the charges for that and his Drawdown Account were separate which meant the annual charges for holding shares could be applied separately and to each account.*

*On balance, I’m not going to say HL must refund any charges to Mr R. And I think the £100 offered for any distress and inconvenience he suffered because of the miscommunication on 1 February 2021 is fair. But I think how the £200 cap applied could’ve been made clearer. In its final response letter HL conceded that its website gave the impression the SIPP Drawdown Account was held within the SIPP. Some of the documentation I’ve referred to suggested that too. And, more significantly, the version of the Tariff of Charges Mr R received could’ve been clearer. In my view, anyone wanting to know what they’d be charged would naturally look first to the Tariff of Charges. It would seem HL may have recognised there was some room for confusion and made the updated version clearer.*

*So, while I’m not going to say that HL needs to refund any of its charges, I think HL should make a payment to reflect the distress (including disappointment) and inconvenience suffered by Mr R because the charges weren’t as clear as they could’ve been. I think £200 would be fair and reasonable. That’s in addition to the £100 HL offered in respect of what happened on 1 February 2021. I’m not sure if the £100 has already been paid. If it has it can be deducted from the £300 I’ve awarded in total.’*

HL said it had nothing to add in response to my provisional decision. Mr R made some further points:

- I'd said that HL had contacted him a second time to correct their mistake which wasn't the case – he'd had to contact HL again as he still couldn't reconcile the charges.
- I'd said he should've realised from the statements that there were two caps but he maintained that wasn't readily apparent. He was disappointed I hadn't reviewed a statement and he asked me to do that briefly to verify my opinion because the statements weren't clear on the application of caps.
- Both I and HL suggest the charges aren't clear but that he should've realised that caps existed for separate accounts. But it was a retail product and he understood it was HL's legal responsibility to state the charges clearly and unambiguously. Furthermore, the regulator's rules bolster the normal legal requirements for clarity. HL itself admits there is a possibility for confusion but is satisfied there's an adequate caveat. HL shouldn't have to rely on caveats and, in particular, ones that didn't exist originally. Mr R was surprised I'd chosen to publish the statements regarding a lack of clarity but I hadn't fully upheld his claim.

### **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.

I've considered Mr R's comments in response to my provisional decision.

When he says he had to contact HL again before the mistake was corrected, I think he's referring to what happened on 1 February 2021 when he was initially told there was only one £200 maximum charge for a SIPP covering shares that are and aren't in drawdown. I'd said HL had called him back to correct the mistake but I acknowledge that wasn't the case – Mr R in fact called HL again for further clarification and the second representative to whom he spoke said there were two limits.

I didn't mean to imply in my provisional decision that Mr R should've realised from the statements that there were two caps. The point I was trying to make was that I'd in effect disregarded the statements as I thought the information that Mr R had been given at the outset was more important and he'd have based his decisions on that. For completeness I've taken a quick look at the statements. They include Mr R's other accounts – his Stocks & Shares ISA and his Fund & Share account. Although portfolio overviews are included, the statements are lengthy and detailed. I don't think from the statements the fact that there are two caps is immediately apparent. But the statements do show the SIPP and the SIPP Income Drawdown Account as separate accounts each with their own transactions.

I understand entirely Mr R's point that the charges should be clear and unambiguous. And I accept that certainty of terms is a requirement of contract law and that there are specific regulatory provisions aimed at ensuring clients are provided with clear information as to costs and any associated charges. In an ideal world, a complaint such as Mr R's would never arise as in all cases there'd never be any confusion or ambiguity about charges and if they'd been set out in a clear, fair and not misleading way.

But where, as here, a dispute does arise my approach is as I set out in my provisional decision. Even if I thought the charges could've been made clearer, that doesn't mean I'd automatically uphold the complaint. I'd take into account if the relevant charges and how they'd be applied were correctly set out in the relevant documentation, even if that might need careful reading of more than one document.

On balance my views remain as I've previously indicated. I've set out in full above what I said in my provisional decision and it forms part of this decision.

I'm upholding the complaint in part and awarding compensation for the distress (including disappointment) and inconvenience suffered by Mr R because HL didn't make the charges as clear as they could've done and in particular that the £200 cap applied to both Mr R's SIPP and the SIPP Drawdown Account separately.

### **My final decision**

I uphold Mr R's complaint but only in part. Hargreaves Lansdown Asset Management Limited must pay Mr R £300 for the distress and inconvenience he's suffered as identified above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr R to accept or reject my decision before 13 July 2023.

Lesley Stead  
**Ombudsman**