

The complaint

Mr B complains that Hargreaves Lansdown Asset Management Limited (HLAM) sold investments in his SIPP in order to realise cash to pay his excess Lifetime Allowance charge when he already had available cash in another account with HLAM.

What happened

Mr B had a SIPP with HLAM and in 2021 HLAM contacted him about the Lifetime Allowance (LTA) calculation it would need to do for the SIPP as he reached age 75.

Mr B returned the LTA declaration that HLAM requested, but also queried this as he had applied for Individual Protection 2014. He said he had protected LTA so didn't think he would have to pay the charge.

HLAM took into account Mr B's existing pension that he was in receipt of and explained that he had no remaining LTA. It calculated the LTA tax charge on his SIPP to be £13,926. Mr B was asked to make the funds available otherwise HLAM would have to disinvest funds to pay the tax charge.

Mr B explains that he paid £10,000 into an HLAM investment account that he held. And that he thought that could be used to cover the tax charge if that became necessary. However he didn't make cash available in his SIPP. He wrote to HLAM challenging the calculation. And he complained that it had misled him about his individual protection in 2016 when he asked them about it.

HLAM extended the deadline for making cash available in his SIPP twice. And then it disinvested assets in his SIPP and settled the tax charge with HMRC for Mr B.

Mr B complained to HLAM about the way it handled his LTA charge. He thought that he'd been misled about the Individual Protection and thought he had a limit up to £1.5 million. He also didn't think it was fair of HLAM to sell his SIPP investments without his permission when he had available cash in one of its other products.

HLAM didn't uphold Mr B's complaint. It explained that it hadn't provided any recommendation about Individual Protection in 2016. It had merely provided a fact sheet to make Mr B aware of the availability of it as the deadline for applying had approached. It explained that it had sold down the investments in line with the terms of the SIPP in order to meet the HMRC charge. But it offered to refund the trading charge that had been taken on the account as a gesture of goodwill.

Mr B disagreed with HLAM and referred his complaint to our service where an investigator considered what happened. He didn't think that HLAM had treated Mr B unfairly and explained his reasons for coming to that opinion. Mr B didn't agree and this case has been referred for an ombudsman's decision.

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.

Having done so, I've decided not to uphold this complaint for these reasons:

- HLAM have shown us the content of the fact sheet that Mr B was sent in 2016 as well as correspondence from the time. It relayed a summary of what the 2014 Individual Protection was. And in response to Mr B's query of 1 April 2016 about applying for it, HLAM responded the same day to say it was a non-advisory service and couldn't comment on suitability. So I don't think HLAM were responsible for advising Mr B on the Individual Protection.
- When Mr B returned HLAM's LTA declaration form he shared his HMRC protection certificate which showed he had a protected LTA of £1,280,075. And I don't think that HLAM provided any information that would reasonably have suggested that Mr B's LTA was instead £1,500,000.
- The HMRC penalty charge is not something that HLAM has discretion over. Instead HLAM has to follow the rules. It did that and its calculations showed that Mr B had a LTA excess penalty around £14,000 to pay. It made Mr B aware of that with sufficient notice. And it explained that he should ensure funds were available to pay that. I don't think it was reasonable to interpret that as making funds available in a different account. And I've seen no evidence to suggest Mr B explained to HLAM that was what he was doing. Otherwise I think the misunderstanding may have been cleared up sooner.
- HLAM provided two extensions and made clear to Mr B that it would have to disinvest funds if action wasn't taken by the deadline. Which it wasn't. Instead Mr B continued to lodge his complaint about the liability. So I don't think HLAM's decision to go on to disinvest, to make cash available to meet Mr B's LTA tax liability, was unreasonable.

My final decision

For the reasons given I am not upholding Mr B's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 26 March 2024.

Gary Lane
Ombudsman