

The complaint

Mr H has complained that Hargreaves Lansdown Asset Management Limited (HL) gave his independent financial adviser (IFA) confidential information about his self invested personal pension (SIPP), which the latter wasn't authorised to receive.

What happened

The investigator who considered this matter set out the background to the complaint in her assessment of the case. I'm broadly setting out the same background below, with some amendments for the purposes of this decision.

Mr H received advice on transferring pension funds from his IFA and Mr H agreed to pay it an advice fee of £7,500.

The transfer of Mr H's pension funds to his HL SIPP completed on 22 April 2024.

The IFA then contacted HL on 1 May 2024 to query whether the cheque for the advice fee had been sent. HL were unable to confirm this, as the call handler was unable to identify that the IFA had authority to discuss this with them.

HL spoke to the IFA on 10 May 2024 regarding the outstanding adviser fee of £7,500. HL provided information about possible ways in which it could arrange for this to be paid with holdings from Mr H's SIPP.

Mr H then contacted HL on 11 May 2024, expressing concerns surrounding the disclosure of information to his IFA about his SIPP. Mr H explained that he intended on reporting the data breach to the Information Commissioners Office (ICO).

On 13 May 2024, HL confirmed to the IFA that it had sent a cheque for £7,500 in the post.

HL sent Mr H a final response to his complaint on 5 July 2024. It acknowledged that it had disclosed specific information about Mr H's SIPP account to his IFA in May 2024.

On 8 July 2024, HL paid MR H £150 in recognition of the trouble and upset caused, and the delay in arranging the advice fee payment.

Mr H continued to correspond with HL, but it said that it felt it had taken appropriate action in relation to his concerns. However, Mr H remained unhappy with how matters had been addressed and asked our service to independently review the complaint.

Having considered the matter, our investigator didn't think that the complaint should be upheld, saying the following in summary:

- It wasn't the role of our service to decide if a business has breached data protection laws - this would be for the ICO to determine.

- However, our service could consider whether HL had reasonably compensated Mr H for the impact of its actions. Having considered the information provided by both sides, HL had acknowledged that it didn't act in Mr H's best interests. And the investigator considered that HL had taken reasonable steps to put things right.
- Mr H had raised concerns about the confidential information that was disclosed to the IFA. Whilst HL investigated the time taken to arrange the payment, the investigator hadn't considered the time taken to arrange the payment when assessing Mr H's complaint.
- The investigator said that she could see that HL received a form which authorised the payment of the £7,500 advice fee directly from the pension funds when the transfer was complete.
- This document confirmed that HL could only discuss the payment of the fee with Mr H's IFA and provide generic information about the transfer. HL didn't correctly add this form to its systems, which led to additional contact from the IFA. And HL ought to have been aware before its call to the IFA on 10 May 2024 that it could only discuss the payment of the fee in generic terms with Mr H's IFA.
- The investigator had listened to the call between HL and the IFA on 10 May 2024. Here HL explained that there was no cash available in Mr H's SIPP to pay the advice fee. HL also informed the IFA about possible ways in which it could pay the fee by selling holdings within the SIPP.
- The investigator said that the call demonstrated that HL didn't act with care when it spoke with the IFA. And so she could understand why Mr H would be frustrated that information about the value of his SIPP was disclosed, when clear instructions had been given about how the fee was to be paid. It also didn't appear to be the case that HL recognised its mistake until Mr H brought this to its attention.
- As to Mr H's comment that HL needed to address its staff behaviours regarding data protection, the investigator said that this service wasn't able to review any internal behavioural procedures or processes HL may have in place, and our role isn't to punish businesses. HL had informed our service that it had taken steps internally to address what happened, which is what the investigator would expect it to do.
- The investigator had also considered comments Mr H had made about his credit score, but she hadn't seen any information to suggest that Mr H's credit score would be impacted by the information given to Mr H's IFA about the value of his SIPP.
- The investigator could understand why Mr H would be disappointed with HL's actions and understandably may worry about how HL may handle his data in the future. However, after HL was notified, it took reasonable steps to inform its data protection officer to report the breach.
- Whilst HL's actions would have been worrying, the investigator wasn't persuaded that HL needed to award further compensation for the impact of its error.

Mr H said the following in response:

- The compensatory offer didn't reflect the situation and the value and amounts of money on question, being the best part of £1m. It was unacceptable that HL could

operate in such a way and this was one of many admitted errors made by HL for the same series of transactions.

- Although Mr H wasn't a party to the conversation between HL and the IFA, what had been said was clearly untrue, the proof of which lay in the ability of HL to pay the fee without needing to sell any holdings. HL had intentionally misled his IFA, and this was an additional layer of deceit. Further, it had only taken action when Mr H had brought its attention to the matter.
- As such, £150 paid into his bank account was a hurried gesture without giving due consideration to what had happened. And this was inconsistent with higher awards (up to £300) which HL had made in respect of other errors it had made.

The investigator wasn't persuaded to change her view, however, saying the following:

- The role of this service wasn't to investigate potential data breaches, but rather to settle disputes between consumers and businesses.
- In situations where a business hadn't acted appropriately, this service would expect it to take steps to rectify this, and HL had taken steps internally to address what had happened here.
- The investigator said that she couldn't comment on the £300 offer made by HL in respect of other issues, and that this service would award compensation in respect of the impact that the mistake had had on Mr H.
- Whilst the investigator appreciated that HL's disclosure to the IFA would have been unsettling and disappointing, the impact was short term and it had taken steps to put things right.

However, as agreement couldn't be reached on the outcome, it's been referred to me for 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.

And having done so, I've reached similar conclusions to the investigator, and for broadly the same reasons.

I appreciate that Mr H will have been unsettled by HL's disclosure of information relating to his SIPP to the IFA. But as set out by the investigator, although HL may have paid higher amounts in respect of other errors, I need to take into account the likely impact of this particular situation on Mr H when deciding what would be fair and reasonable in terms of a compensatory award in respect of what's happened.

And having considered the circumstances here, including the short term impact and lack of any further financial ramifications as result of the disclosure (there should, for example, be no impact on Mr H's credit score, and there was no reasonable prospect of Mr H's pension funds being put at risk of loss due to the disclosure), and also the types of award which this service might make in similar circumstances (and I'd refer Mr H to our website for further information on this), I think the amount offered by HL is appropriate.

My final decision

My final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 21 March 2025.

Philip Miller
Ombudsman