DRN-5175159

The complaint

Mr E complains that Hargreaves Lansdown Asset Management Limited ("HL") hasn't treated a payment he received into his pension as compensation. He says this means he's lost out on the ability to claim tax relief on the payment.

What happened

Mr E holds a SIPP with HL, which included a holding in the Woodford Equity Income Fund ("WEIF"). In 2019, the WEIF faced high profile liquidity issues and was suspended.

In 2023, the Authorised Corporate Directors of the WEIF, Link Fund Solutions Limited ("Link") announced it was proposing a Scheme of Arrangement ("SOA") which, in short, would involve payments being made to WEIF investors. This followed an FCA investigation into the way Link had overseen the operation of the WEIF.

The first SOA payment was made in March 2024, and HL credited Mr E's payment to his SIPP, where his WEIF investment had been held.

Mr E asked HL to claim tax relief on the payment as a pension contribution. HL said it didn't think the payment was a pension contribution – it viewed it as a capital distribution from a fund held in Mr E's SIPP. So it said it wouldn't request tax relief on Mr E's behalf.

Mr E complained, but HL didn't uphold his complaint, and said it was satisfied it had acted in line with the terms of the SOA. Mr E wasn't happy, saying that it was common ground amongst Link, the FCA, and everyone concerned that the SOA payment was compensation. He said this meant under HMRC rules it ought to be treated as a pension contribution and qualify for tax relief.

Mr E brought his complaint to our service. One of our investigators looked into things, and said HL had treated Mr E fairly. She said while the SOA website described the payment as compensation, it explained it was to be made as a capital distribution, in the same way as previous distributions from the fund. And that it was Link's expectation that the payments would be treated as such. Overall she thought it was reasonable for HL to therefore have considered the payment a distribution and not compensation, and to have not sought tax relief on Mr E's behalf.

Mr E wasn't happy and asked for an ombudsman to decide the matter. He referenced another SIPP provider, F, which had paid the SOA payment outside his SIPP and which had granted relief once he paid it back into his pension.

He said HL was the only related party who didn't think the SOA payment was compensation. And he said that the payment could be made as a capital distribution and *still* be compensation – meaning tax relief could be sought.

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 reached the same conclusions as our investigator, for broadly the same reasons. This complaint centres on how the SOA payment ought to be treated as an addition to Mr E's pension. Mr E's contention is that the payment is a contribution which qualifies for tax relief – whereas HL has treated it as a distribution from the WEIF, which wouldn't qualify for relief.

To be clear, it's beyond the scope of my role to decide whether the SOA payment is a relievable pension contribution. That's ultimately for the tax authorities to determine and a matter for Mr E's individual tax affairs. The question for me to determine is whether, having regard for HL's obligation to carry out its affairs with due skill, care and diligence, and its need to treat Mr E fairly, it has acted reasonably in what it has done here.

HL has relied heavily on the SOA itself, and the information on the scheme's website. It says that Link set out that it expected the SOA payment to be treated as a capital distribution, so it has followed that guidance. I think that's an overly narrow and simplistic view. Link aren't a SIPP operator, and I'd expect HL to have regard for all relevant information when deciding how to treat a payment into a client's pension.

Here, as Mr E has pointed out, there are aspects to this rather unique payment and circumstances that I agree cast doubt over whether this is indeed simply a distribution of capital from a fund. They include:

- A condition of the payment was that investors released Link from claims relating to the management of the WEIF, and was described as a "settlement".

- It appears a large proportion, possibly the majority of the funds used to make the SOA payments have come from Link and its related entities and the value of those businesses, rather than from the residual investment assets within the WEIF itself.

So I can understand Mr E's interpretation that this payment is in fact compensation for the way Link managed the WEIF (albeit that the SOA was proposed making it clear Link continued to deny wrongdoing in that regard). But I think there are also elements which support HL's interpretation, including that:

- The payment wasn't made by Link directly to investors like Mr E. The settlement fund was put together and then paid into the WEIF itself – in effect compensating the fund and bringing it to an increased value. The fund then distributed money to investors.

- Again noting that Link didn't accept the FCA's findings in relation to its management of the WEIF, the amount proposed to be paid under the SOA was linked to the loss figure the regulator cited for investors. That figure was arrived at by reference to the price achieved for the sale of assets held within the WEIF between November 2018 and the suspension of the fund. The SOA payments into the WEIF by Link et al could therefore be construed as effectively re-pricing the units of the fund to what they ought to have been – and the SOA payment from the WEIF to Mr E as a distribution of the corrected capital value of the units he held in the fund.

Mr E has also said that even if the SOA payment was structured as a capital distribution it could still be compensation and therefore a relievable pension contribution. I'm not persuaded that the position is as clear cut as that.

Mr E has referred to HMRC's guidance within its pension tax manual at PTM044100, which I've considered carefully. This guidance does say payments of compensation made directly

into someone's pension *could* be relievable contributions. But the use of the word "could", in my view, indicates the possibility that compensation payments may sometimes *not* constitute relievable contributions. Indeed the guidance goes on to give an example of such a situation, when pension trustees seek compensation.

So overall I think there's reasonable uncertainty about how HMRC would view this payment. Mr E has said HL ought to consult HMRC for an opinion, but based on the evidence provided I can't see a compelling reason to require it to do so. For the reasons I've given above I think there are legitimate factors for HL to have reached the conclusion the SOA payment wasn't compensation at all. And that even if it was, there wasn't a *guarantee* that HMRC would treat the payment as a relievable pension contribution. So I find it was fair and reasonable for HL to decide to treat the payment the way it did. Should new information come to light I would of course expect HL to review and revise its position accordingly.

I also note that my understanding is that Mr E isn't reliant on HL claiming tax relief on his behalf. While a SIPP operator doing so (commonly called "relief at source") is common practice, I'm not aware of a reason Mr E couldn't claim tax relief, if he thinks he's entitled to it, through his own self assessment tax return. So even if HL is mistaken in its treatment of the SOA payment, I'm not persuaded this would be likely to have caused Mr E a loss.

My final decision

For the reasons I've given I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 18 April 2025.

Luke Gordon
Ombudsman