

The complaint

The late Mrs E had a Stocks and Shares ISA with Hargreaves Lansdown Asset Management Limited ('HL').

Mr E, in his capacity as Executor of the late Mrs E's Estate, complains that HL failed to reinvest a dividend in shares as per Mrs E's instructions and that this led to an investment loss.

What happened

The late Mrs E previously held a Corporate ISA with HSBC, which exclusively held HSBC shares in it. Following HSBC's decision to close the ISA, in August 2022 Mrs E applied to request the transfer of her HSBC ISA to HL.

In her application form, Mrs E had specified that the stock should be transferred in specie and she ticked a box in the application form to say that income should be reinvested automatically. Mrs E has other investments with HL and the same reinvestment instructions had been given.

On 2 September 2022, HL confirmed the transfer of 58,952 HSBC shares from the ISA. And on 20 October 2022, HL sent Mrs E a message confirming receipt of £4,619.67 from 'HSBC Corporate ISA'.

Mrs E became unwell in December 2022 and was admitted to hospital.

In February 2023 Mrs E became aware that the income received into her HL ISA in October 2022 had not been reinvested as per her instructions. So she queried this with HL.

HL noted Mrs E's instructions but said she hadn't specified how 'uninvested cash' should be invested.

Mrs E raised a complaint with HL as she wasn't satisfied with its response. She said the part of the application form that asked about how cash should be invested wasn't relevant. That was because it was specific to cash transfers and she had requested the transfer of the shares in specie.

HL rejected the complaint in March 2023, saying that Mrs E's instruction only related to future dividends or income, not cash received after the transfer.

Mrs E sadly passed away in May 2023. Mr E subsequently referred the complaint to the Financial Ombudsman Service as Executor of the Estate.

Our Investigator didn't uphold the complaint, she didn't think HL had acted unreasonably by not reinvesting the cash received from HSBC, given the instructions it had received and how the account operates.

Mr E didn't accept the Investigator's view and requested an Ombudsman's decision. He said that HL's transfer form ultimately contained deficiencies because it didn't provide for the circumstances where residual cash that originated as income from shares is transferred after the shares had been transferred in specie to the new provider. He said Mrs E couldn't have been expected to know that her instructions would not apply to cash transferred after her shares had been transferred based on any reasonable interpretation of the transfer form or the account terms and conditions.

Mr E added that HL had failed to take account of Mrs E's vulnerabilities given her old age or treat her fairly.

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 also carefully considered the points raised by each side, including Mr E's representations about Mrs E's vulnerabilities. But having done so, I'm not upholding the complaint. I appreciate that this will be disappointing news to hear but I'll explain why.

I think it's first important to say that I don't think that either party is at fault here; rather, the issues encountered have been due to the unfortunate timing of events. I appreciate Mr E's frustration that the cash received into the HL ISA was not invested in the way Mrs E had expected it to be, but I don't think that HL's actions were unreasonable in the circumstances.

I'm satisfied that Mrs E completed the ISA transfer form correctly – she was transferring her shares from her existing ISA as stock, not cash. So, I don't think she would have expected to need to provide instructions for investing cash, as she was not transferring cash to the ISA with HL.

I also don't think that HL acted unreasonably by not investing the cash it later received from HSBC (which represented a past dividend). That's because the instructions Mrs E gave related to income generated by her investments within her HL ISA, not income generated by investments held with a previous provider.

I appreciate the cash represented income generated by the shares Mrs E held when they were with HSBC, but HL wasn't informed that this was a dividend, it simply received an amount of cash. Ultimately, the payment was received into the HL ISA as cash from another provider, not income generated by investments Mrs E held with HL. And I don't think HL should have presumed how that cash should be invested in the absence of specific instructions on how it should invest cash received as part of a transfer.

I appreciate that such circumstances, where dividend income is paid after stock is transferred to a new ISA provider, is likely quite common. And Mr E says that there is a deficiency in the transfer form and process if it doesn't account for such circumstances. But given the dividend was announced on 1 August 2022, I think Mrs E could've foreseen that her transfer would have been effected before the dividend was paid to her. That's because I think she would've known from past dividend declarations that it takes several weeks if not months for them to be paid – for example, the dividend announced on 22 February 2022 was not paid until 28 April 2022. Given the timing of things I think it ought to have been apparent that this could cause a potential problem given her HSBC ISA was to be closed.

It is evident that Mrs E was informed that HL had received a cash sum into her ISA, saying:

'HSBC Corporate ISA sent us £4,619.67, and we've added this to your Stocks & shares ISA for you.

If you gave us any investment instructions, we will let you know as soon as we place them. Otherwise, the money will stay as cash in your HL Stocks & Shares ISA until you reinvest it.'

I appreciate that Mrs E may have considered that her existing instructions to automatically reinvest income from the investments would suffice. But I think the message made it clear that the cash had been added to her ISA – it hadn't been automatically reinvested. So, if this wasn't what Mrs E had been expecting I think she ought reasonably to have followed things up. And I think it's likely she would have done so but for her illness and hospitalisation.

Overall, for the reasons given above, I don't think HL treated the late Mrs E unfairly here.

My final decision

For the reasons set out above I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs E to accept or reject my decision before 20 January 2025.

Hannah Wise
Ombudsman