

## **The complaint**

Mr B complains that Hargreaves Lansdown Asset Management Limited ('HL') acted without his permission or any authority when it sold his holdings, applying excessive dealing charges when it did this, and then transferred the cash proceeds to a third party investment platform provider (whom I'll call 'N' to keep things simpler).

Mr B wants HL to pay him compensation to cover financial loss he says he suffered as a result as well as redress for the time wasted, effort spent and distress its actions have caused him.

## **What happened**

Mr B held an execution only ISA stocks and shares account with HL and his complaint relates to what happened after he approached N and instructed it to request the transfer of his ISA to N.

This brief timeline sets out the background to this complaint.

**31 July 2022** – HL received a transfer request from N via ALTUS (an electronic system used to facilitate transfers between platform providers). I've seen that this included a specific instruction that all Mr B's assets should be encashed and the cash proceeds transferred to N.

**1 August 2022** – HL's records show an internal note to dealers timed at 9.40am to sell investments.

HL also sent a generic email to Mr B by secure message confirming that his new provider had made contact, HL had initiated the transfer and his requested holdings would be with the new provider shortly.

Around 3.40pm, Mr B phoned HL to say that he hadn't authorised the transfer or sale of his investments and he was unhappy that he'd incurred costs of £1,000. HL explained it was acting on instructions received from N and that it had applied the correct dealing rate.

**3 August 2022** – Mr B's stocks sold on 1 August were all settled on 3 August.

When Mr B complained, HL didn't uphold his complaint, mainly saying that:

- it had acted in good faith on a transfer request from N that it was entitled to rely on, and
- Mr B had been correctly charged postal dealing rates of £50 per sale which applied when transferring investments out of HL, as per the terms and conditions he'd signed up to when he opened the account.
- HL said it believed N was responsible for the complaint and that it had referred this on to N.

Mr B didn't feel this went far enough to resolve things and so he brought his complaint to us and one of our investigators looked into what happened. Our investigator didn't feel he had seen enough to be able to uphold the complaint. He mainly said he didn't think HL had acted unfairly or unreasonably by completing the transfer in line with N's request and the charges HL had applied were set out in the account terms and conditions.

Mr B didn't agree. He replied in detail to say, in summary, that he didn't feel he'd been treated fairly or provided with clear information – he felt HL's 1 August message had been misleading and incorrect, in particular because '*... it did not mention that they would be selling my shares at £50 each within 2 hours of sending me the message, which prevented me from taking any mitigating actions.*' He feels he was charged a penalty dealing rate, substantially in excess of his usual dealing fees and that some of the information on its website had been changed.

As the complaint hasn't been resolved, it comes to me for a final 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.

I've briefly summarised and expressed in my own words what seem to me to be Mr B's main concerns and my focus is on what I think are the key issues here. Our rules allow me to do this and this approach simply reflects the informal nature of our service as a free alternative to the courts. We are impartial and we make our decisions based on a balance of probabilities.

I must take into account the relevant law, regulatory requirements and best industry practice when making my decision.

Having carefully considered everything, I have come to the same conclusion as the investigator. I'll explain my reasons.

It's my understanding that issues central to Mr B's complaint include his concerns that HL shouldn't have encashed his shares and when it did so, it levied hidden costs for transferring out his investments using the postal rate. He said it wasn't made clear on any of HL's documentation or on its website that it would be more cost effective for him to sell assets himself rather than for HL to do this. And Mr B felt that HL acted hastily when actioning the transfer request from N, which he's said he didn't see, completing the forced sale of his shares on a day he never intended them to be sold, which led to investment loss.

I make findings as follows:

- HL has provided a screenshot which shows that N requested a full cash transfer from HL. So this necessitated the sale of Mr B's holdings.
- HL wasn't required to double check this request. Under the terms and conditions that Mr B had agreed to in order to be able to use his account, HL was entitled to rely on the following: '*...Where we are instructed to transfer the full value of assets in your Account as cash, we will sell investments without further reference to you, or your new provider and our postal dealing rates will apply to those sales.*'

- I appreciate that Mr B says terms and conditions have been updated since he opened his account, but HL says updates are explained to clients in quarterly Investment Reports – and the latest version is always available to view on its website. Terms and conditions he signed up to when transferring to HL in 2016 say: *'When you use our services we will take this as acceptance and agreement of our terms, and you will be bound by them'*. Mr B signed to say that he had read and agreed this. If Mr B hadn't wanted to accept HL's terms and conditions, he wouldn't have been able to hold his investments in his HL stocks and shares ISA - which seems to me to be what he wanted, given that his complaint is that HL sold these investments against his wishes.
- Terms and Conditions from 2017 onwards outlined that postal dealing charges would be applicable to sales placed following a transfer request. Information available on HL's website confirmed the postal dealing charge.
- So I don't find that HL made any error when taking the action it did on receipt of the transfer request.
- Nonetheless, even though I have found that HL acted in line with its terms and conditions, Mr B was still entitled to expect HL to treat him fairly and reasonably and I've considered this aspect carefully.
- The Altus system is a well-established way for investment platform providers to manage transfers. It requires the acquiring provider (N) to ascertain the client's instructions and to provide the relevant information in an agreed format to the ceding provider (HL in this instance). I agree with HL that on receipt of a properly completed transfer request with all the information HL needed to know, it was fair and reasonable for HL to assume that the instructions faithfully reflected Mr B's intentions. HL had no reason not to think this was the case. Reverting to Mr B for confirmation was unnecessary in these circumstances when no further clarification was required or expected – and delay could potentially have risked Mr B suffering avoidable investment loss.
- In the secure message HL sent to Mr B, a link was provided to information on its website about transferring to another provider. This gave Mr B direct access to information that included the following:

*Cash or Stock Transfer?*

*...Happy for a cash transfer? We'll sell for you at this stage.*

*'If you've opted for a cash transfer, once the trades have settled, we'll organise the payment to your new provider.'*

And under 'Frequently asked questions':

*'What happens when I sell my investment and transfer as cash?*

*Selling shares – Your shares will be sold as soon as possible, and standard dealing rates will apply. This is a charge of 1% of the value of the trade (minimum charge £20, maximum charge £50) ...If you'd prefer to sell your investments yourself before transferring, you can do this online at a cheaper rate for shares, investment trusts, gilts/bonds and ETFs.'*

- So it's fair to say that HL took extra steps to make it easy for Mr B to access all the information he needed to know about the transfer process, bearing in mind that the

transfer request from N indicated that he'd already made the decision that he wanted to transfer cash, as opposed to stock, or any mix of the two.

- I can't uphold Mr B's complaint on the basis that HL was over hasty selling his shares. I would reasonably expect HL to action instructions received on a timely basis – and here, '*...as soon as possible*' as HL had said it would do. As the timeline above shows, HL acted expeditiously on receipt of the transfer request.
- Whilst I appreciate that Mr B read the 1 August message from HL differently to me, I don't find that there was anything I can fairly say was misleading. It confirmed that his transfer instructions had been received and actioned. Selling instructions had been issued and sales were underway, as it's reasonable to expect in order for those sales to complete within a reasonable timeframe – as happened here.

To sum up, based on all the information I've seen and been told, I must conclude that:

- HL responded correctly to Mr B's request to sell his holdings
- it was fair and reasonable for HL to action the transfer request from N
- the charges levied for the sale of the holdings were clearly outlined in HL's Terms and Conditions and on its website, to which Mr B was specifically directed, so he could've seen all this information
- HL's 1 August communication acknowledged Mr B's transfer instruction and set out general response timeframes.

In order to uphold this complaint I would have to find that HL made an error or failed to act towards Mr B in a fair and reasonable way. After having taken into account everything that Mr B and HL have told me, I haven't seen enough to show that HL did anything wrong or that it treated Mr B in a way that wasn't fair and reasonable.

So I can't uphold this complaint.

In coming to my decision, I've thought carefully about everything Mr B has said, including his comments made in response to the investigator's view. But he hasn't said anything that changes the outcome of this complaint. And if I have not answered every point Mr B has raised, it's because I have concentrated on what I consider to be the main points that affect the outcome of his complaint and there's nothing more I can usefully add to what the investigator has said already.

Even though this isn't the outcome Mr B might've wished for, I hope that setting things out as I've done is helpful.

### **My final decision**

For the reasons I have set out above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 26 December 2023.

Susan Webb  
**Ombudsman**