

## **The complaint**

Mr G complains that Hargreaves Lansdown Asset Management Limited (HL):

- incorrectly allowed him to hold stock in his Lifetime ISA (LISA) that did not meet HMRC's eligibility criteria;
- did not communicate clearly with him when it identified that he had ineligible stock in his LISA; and
- only offered options to put matters right that were 'disadvantageous' to him.

To put matters right, Mr G wants HL to pay him £1,756.43 (the amount of his crystallized loss) and compensate him for the time he has spent dealing with this matter.

## **What happened**

On 16 December 2022, HL notified Mr G it had identified that a holding in his LISA was ineligible. It explained that it had informed HMRC, and that it would pay the tax penalty due.

It set out that Mr G had two options available, he could either transfer his holding to an HL share dealing account, free of charge, or he could sell the holding. It set out that if Mr G had not taken action before 5 January 2023, it would automatically sell the holding on his behalf.

HL says that HMRC asked it to remove the ineligible holding from the LISA immediately, and the length of time the holding remained within the LISA directly impacted the financial penalty it would have to pay to HMRC.

Mr G did not take any action in relation to the holding or contact HL about its offer to move the holding to a HL share dealing account. HL therefore sold his holding on 6 January 2023.

Mr G complained to HL. He raised a number of points, in particular he queried why HL had allowed him to hold ineligible shares in his LISA and he said the sale of the shares by HL had crystallised a loss of over £1,750.

HL accepted that failings on its part meant it hadn't identified any sooner that the holding was ineligible. It apologised for its error. To compensate Mr G for the trouble and upset this matter had caused him it credited his loyalty bonus account with £100. But it said it didn't think it needed to compensate Mr G for the loss he suffered when it sold his holding. It said that although an error on its part had meant Mr G had been able to purchase stock in his LISA that was not approved by HMRC, the decision to buy the stock was Mr G's alone. As this was the case it said it didn't think HL could be held responsible for any financial loss Mr G had suffered as a result of a fall in the share price.

It reiterated that it had also offered Mr G the option to sell the holding in the LISA and repurchase it within a HL share dealing account. It offered to waive the annual management charges if Mr G wanted to move his holding to a share dealing account and to reimburse Mr G for the dealing costs involved.

Mr G was not satisfied with HL's response and referred his complaint to this service.

Having considered Mr G's complaint, our investigator said he didn't think HL needed to do more than it had already done to put matters right. He said he felt that HL had provided Mr G with sufficient notice of the options available to him before it sold his holding. And he said he felt the options HL offered Mr G were fair in the circumstances of this complaint.

Mr G did not accept our investigator's view and asked for his complaint to be determined by an ombudsman. He said:

- he hadn't received a £100 credit from HL;
- HL hadn't communicated clearly with him about its error, and he said, *'...had it not been for HL's wrongdoing, I would have not sold the [name] shares, and I would not have suffered a loss'*;
- he didn't think *'...asking the consumer to sell shares or else be forced to sell them constitute a fair treatment of clients'*;
- he said he felt it was 'ethically wrong' that HL had been allowed to *'dispose of my money when they make a mistake'*; and
- he felt the offer to transfer shares into a share dealing account was *'...coercive in nature and, again, detrimental to me as a consumer (as all future capital gains on the stock would be taxable, contrary to what happens in a LISA portfolio)'*.

### **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.

It is not in dispute that HL incorrectly allowed Mr G to hold an investment in his Lifetime ISA (LISA) that did not meet HMRC's eligibility criteria. What is in dispute is whether the redress HL has offered Mr G is sufficient. Having carefully considered this matter I think the £100 HL has paid Mr G is fair and reasonable in the circumstances of this complaint and I don't think it needs to do more to put matters right. I'll explain why.

#### *payment from HL*

Mr G says he has not received the £100 credit HL says it has paid to his account. HL has confirmed the credit was made on 12 January 2023. If, on checking his HL account Mr G is still not satisfied that £100 was credited to his loyalty bonus account he should notify HL so it can investigate this matter further.

#### *communication with Mr G*

Mr G says HL did not communicate clearly with him when it identified that he was holding an ineligible investment in his LISA. In particular, Mr G complains that the communication he received in December 2022 from HL told him *'...there was a message that needed to be read on the HL messaging system'* but did not provide any details. Mr G says he found this method of communication 'cumbersome', and he has noted that when HL sold the holding it emailed him a copy of the contract note.

I am mindful of the points Mr G has made regarding how HL has communicated with him. I appreciate that he found an email directing him to a secure message a 'cumbersome' way of communicating, but I can't reasonably find that HL wasn't entitled to email Mr G to notify him that a secure message was available for him to review. I note that HL's terms and conditions set out:

## *A6 - communications*

*We will contact you by post, email or via our secure message centre. If you have chosen a Paperless Service, our primary form of communication with you will be via the secure message centre.*

As HL's terms and conditions clearly set out that its primary form of communication would be via its secure message service, I am satisfied that HL did not act incorrectly when it sent Mr G an email directing him to check his secure messages.

It is unfortunate if Mr G did not review the secure message, but I can't reasonably hold HL responsible for this.

### *Options HL offered Mr G to put matters right*

Mr G says the only options HL offered to put things right were 'disadvantageous' to him.

As HL has explained, HMRC asked it to remove the ineligible holding from the LISA account immediately. As this was the case, I think the three weeks HL allowed Mr G to sell his stock or take up its offer to hold it outside the LISA wrapper was not unreasonable in the circumstances.

I appreciate Mr G feels that '*...asking the consumer to sell shares or else be forced to sell them*' does not '*constitute a fair treatment of clients*', but I must take into account that he was not permitted to hold these shares in his LISA. HL was required to act promptly to rectify the situation and could not have allowed Mr G to continue to hold ineligible stock in his LISA.

HL acknowledged that Mr G might want to continue to hold the stock and offered him the option to hold it in a share dealing account and offered to waive the dealing and annual fee for the account if he chose this option. I think this was a fair and reasonable offer.

I note Mr G has said he would lose out if he took up this offer as the shares would be held outside the LISA tax wrapper. I do understand Mr G's position, but the fact remains that he wasn't entitled to hold the stock in a LISA so, in-line with HMRC regulations, he would not have been able to benefit from the tax benefits of holding it in a LISA.

As I set out above, it is not in dispute that HL made an error when it allowed Mr G to hold the stock in his LISA. When HL identified its error, it contacted HMRC and took steps to put matters right. I do understand that Mr G wanted to continue to hold the stock in his LISA, but this was not possible under HMRC rules.

I note that the share price has continued to fall since HL sold the stock on Mr G's behalf in early January 2023, so I cannot reasonably find that Mr G has suffered a financial loss as a result of the sale of his stock. If Mr G wishes to reinvest in the stock, he can currently do so at a much lower entry point.

I think the £100 HL credited to Mr G's account and its offer to cover all the repurchase costs if Mr G wanted to remain invested in the stock was fair and reasonable in the circumstances of this complaint.

### **My final decision**

My decision is that, for the reasons I have set out above, I don't think Hargreaves Lansdown Asset Management Limited needs to do any more than it has already done to put matters right.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr G to accept or reject my decision before 27 November 2023.

Suzannah Stuart  
**Ombudsman**