

The complaint

Mr F has complained that Hargreaves Lansdown Asset Management Limited didn't follow his instructions to invest cash transferred into his SIPP from other pension plans and used the postal service for sending important information rather than electronic communications, which was Mr F's stated preference. Mr F has also complained that Hargreaves Lansdown Asset Management Limited did not respond to his data subject access request within the required timescale.

What happened

In January and February 2020 Mr F submitted a total of five online transfer requests to Hargreaves Lansdown. The transfers were coming from three different pension providers. Mr F was consolidating these pension plans into his SIPP with Hargreaves Lansdown.

Following each online transfer request Hargreaves Lansdown wrote to Mr F to confirm that they had received the transfer request and that if Mr F had given investment instructions then the investments would be placed for Mr F.

Hargreaves Lansdown processed the transfer requests and the transfer values were received throughout February 2020. Hargreaves Lansdown says it then wrote to Mr F on three occasions in late February and early March 2020 to confirm that the transferred funds had been received. Hargreaves Lansdown has provided a template of the letter it says it sent, the contents of which say that because Mr F had not provided Hargreaves Lansdown with any investment instructions, then the transfer values received would be held as cash until investment instructions were provided.

Mr F has said that he did not receive any of these three letters. In mid-July 2021 a further transfer value was received from one of Mr F's previous pension providers. This transfer value was applied to Mr F's SIPP the day after it was received. On the same day Hargreaves Lansdown says it wrote to Mr F (along the lines of the above) to confirm that this additional transfer value had been received and that as Hargreaves Lansdown had not been provided with any investment instructions for the transfer value then the transfer would be held as cash until investment instructions were received.

Mr F contacted Hargreaves Lansdown by telephone on 23 July 2021. He spoke with a member of Hargreaves Lansdown's dealing team and provided investment instructions for the transfer values. Hargreaves Lansdown completed these instructions for Mr F.

On 23 July 2021 Mr F spoke with a further member of staff at Hargreaves Lansdown and raised his complaint with them. Mr F said that he had provided investment instructions when he had completed the online transfer requests in January and February 2020. He said that his investment instructions should therefore be applied retrospectively to the dates when each of the transfer values had been received.

Mr F has said that he had previously agreed with Hargreaves Lansdown that all correspondence would be sent to him electronically and not by post. Mr F says this was because his local postal sorting office were either not delivering post or were delivering post to wrong addresses.

Hargreaves Lansdown investigated Mr F's complaint. They wrote to him in early September 2021 with their findings. Hargreaves Lansdown said that Mr F had not provided investment instructions when he had completed the online transfer requests and they had written to Mr F on three occasions in February and March 2020 to tell him that no investment instructions had been received. When the transfer in July 2021 was received Hargreaves Lansdown say that they again wrote to Mr F to tell him that no investment instructions were held for that transfer and it would be held as cash.

Hargreaves Lansdown say that they also sent investment reports to Mr F between early 2020 and July 2021 and that these statements also showed that the transfers were held in cash.

Hargreaves Lansdown didn't uphold Mr F's complaint.

In pursuing his complaint with Hargreaves Lansdown Mr F asked them to send him documentation under a data subject access request. Mr F said that Hargreaves Lansdown did not respond to his request within the required timescale, so raised a complaint about this.

Hargreaves Lansdown say that they received Mr F's request in early November 2021, and acknowledged their receipt of the request in late November 2021. Hargreaves Lansdown also say that they then sent the information that Mr F had requested in early December, which was within a calendar month of Mr F's request being received. Hargreaves Lansdown therefore did not uphold this complaint from Mr F.

Mr F referred his complaints to the Financial Ombudsman Service. An Investigator has considered the complaints and has not upheld them. Mr F has not agreed with the Investigator's view, so the complaints have been referred to an Ombudsman.

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.

Mr F completed online transfer requests in January and February 2020. I have seen screenshots of these transfer requests.

The section titled "invest instruction" is recorded as cash. This is because Mr F had not provided any investment instructions. I have also seen a screenshot of the part on the online transfer request where Mr F was asked how he would like his pensions to be transferred, the presentation of which was clear.

Mr F instructed that the pensions be transferred as cash. Mr F didn't instruct that his existing investments were transferred. I therefore think that it is reasonable to assume that Mr F was aware that the transfer values being sent to Hargreaves Lansdown would be in cash.

I have also seen a screenshot of the section of the transfer request headed "Investment Choice". In this section it is stated: *"You can choose investments for your pension now, or make investment decisions later."*

Two options are available, one says *"Choose funds now"*, the other says *"Investment later – your pension will be held as cash until you chose investments"*. I think that it would be clear that by not selecting the *"Choose funds now"* option when Mr F submitted his online transfer request that the transfer values would remain in cash until investment instructions were provided.

I do however note that Mr F has said that he thought that he had provided investment instructions when he completed the section of the transfer request headed *"Income preference"*.

I have seen a screenshot of this section of the transfer request. It is headed "Income preference". This section says: *"What would you like us to do with any income your investments make?"* two choices are available, one says *"Keep income as cash in your SIPP"*, the other says *"Reinvest income"*. Mr F selected *"Reinvest income"*.

Mr F has said that he was confused by the term dividend when completing this section and had thought that he was giving investment instructions.

However, the screenshot that I have seen does not refer to dividend. Mr F selected to reinvest *"income"*. I think that it's clear this section of the transfer request is referring to the investment of income only. I also don't think that any technical wording was used and that this section didn't cover how the transfer values should be invested, which, as I've previously said, was presented in a clear way in a different part of the process.

I'm therefore satisfied that Mr F did not provide investment instructions for the transfer values when he completed the online transfer applications, instead he only provided instructions to reinvest income.

Hargreaves Lansdown provided Mr F with an execution only service. They did not provide Mr F with investment advice. Instead, they could only act upon investment instructions that Mr F gave them.

I've seen a copy of Hargreaves Lansdown's Terms and Conditions applying in early 2020, they say *"Where you would like us to invest your money in a particular way, and we have not already agreed this with you, you must provide investment instructions for each individual payment and/or cash transfer you make to us. If you do not provide such instructions, the payment will be held in cash"*.

As Mr F did not provide investment instructions the transfer values were, correctly, held in cash.

Hargreaves Lansdown have said that they sent three letters to Mr F in late February and early March 2020 to confirm that the transfer values had been received and that as no investment instructions had been received then the transfer values were held in cash. I have seen screenshots from Hargreaves Lansdown to evidence that these letters were sent. I consider this evidence to be persuasive. I'm therefore satisfied that these letters were sent. I've also seen a template of these letters which said: *"You have not provided us with any investment instructions in relation to this transfer so the value will be held as cash within your SIPP until you provide investment instructions. You can do this by telephone 0117 980 9800 or logging into your account at www.hl.co.uk"*.

I therefore think that the letters did inform Mr F that his transfer values were held in cash as no investment instructions had been received. They also set out what action Mr F needed to take in order to have the transfer values invested.

These letters were posted to Mr F and I'm satisfied that they were correctly addressed. Furthermore, whilst I take on board Mr F's comments about the postal service, it seems to me that on the balance of probability at least one of these letters would have been delivered successfully.

I do however note that Mr F has said that he gave instructions to Hargreaves Lansdown to send all communications to him electronically. However, Hargreaves Lansdown have said that their pension transfer system did not send out such letters electronically. Instead, they could only be posted.

I appreciate that this did not follow the instruction that Mr F says he gave. However, within section A6 of Hargreaves Lansdown's Terms and Conditions, titled "*communications with you*", the following is stated: "*you must provide us with your permanent postal address, to which we shall send all postal correspondence agreed at our sole discretion*".

Section G of Hargreaves Lansdown's Terms and Conditions is headed "*this section applies to you if you use our paperless service*". This section confirms that by registering for the paperless service, contract notes and investment reports would not be sent by post. It is also says that changes to holdings and new issues will be sent by email or secure message where possible. However, it is also stated that "*In certain circumstances we may consider it is still appropriate to write to you by post*".

Also within this section, under the heading "*Acknowledgement of account activity*" it is stated "*where appropriate and where it is possible to do so we will acknowledge activity relating to your Account electronically*". Finally, under the heading "*Further information*" it is stated "*We aim to move other communications to email and we will automatically add these services as they become available*".

Therefore, whilst Mr F had asked for communication to be sent via email, when Hargreaves Lansdown sent the letters of late March and early April to him in the post, they were still acting within their Terms and Conditions.

The Terms and Conditions say that not all communication from Hargreaves Lansdown could, or would, be sent electronically. The Terms and Conditions also confirmed that electronic communication did not apply to all of Hargreaves Lansdown's services and communications.

I therefore don't think that when Hargreaves Lansdown posted letters to Mr F they had acted unreasonably.

However, the Terms and Conditions did confirm that under the paperless service investment reports would be sent electronically. I have seen copies of the investment reports sent to Mr F in Summer and Autumn 2020 and Spring 2021. These reports showed that the transfer values were held in cash and had not been invested.

I am therefore satisfied that, in addition to the letters posted in late February and early March 2020, Mr F was also sent electronic communication which informed him that his transfer values were held in cash. In short, Hargreaves Lansdown gave Mr F the information he needed in relation to how his pension was invested.

Mr F contacted Hargreaves Lansdown on 23 July 2021. During one of the telephone calls made that day he gave investment instructions to Hargreaves Lansdown. Mr F also raised

his complaint with Hargreaves Lansdown and asked for the investment instructions he gave that day to be applied retrospectively.

Mr F told Hargreaves Lansdown that he thought their online transfer submission was unclear and confusing. Mr F has also said that during this telephone call the member of staff he spoke to at Hargreaves Lansdown admitted that the information on the online submission was misleading.

I have listened very carefully to recordings of these telephone conversations. The member of staff does not agree or admit that the submission process is misleading. Instead, the member of staff says that he notes Mr F's comments and says that he will pass these on for him, so that his complaint can be dealt with. But even if the member of staff did agree with Mr F, I don't think it would be fair and reasonable to treat that as Hargreaves Lansdown's final, considered, view on the matter. It should also be noted that my role is to look at everything afresh, and my view is that the online transfer submission wasn't unclear.

Turning to Mr F's complaint that Hargreaves Lansdown did not respond to his data subject access request, I have had sight of screen shots Hargreaves Lansdown has provided to evidence their response. I'm satisfied that this evidence shows that Hargreaves Lansdown did reply to Mr F within the required timescale. I have checked to ensure that Hargreaves Lansdown responded to the correct email address for Mr F, and they did. I'm therefore satisfied with Hargreaves Lansdown's response and won't be asking it to take any further action.

Considering the above details and taking into account all of the evidence that I have seen, I'm unable to uphold Mr F's complaint that Hargreaves Lansdown did not follow his instructions to invest cash transferred into his SIPP from other pension plans.

I don't think that Mr F provided any investment instructions to Hargreaves Lansdown when he completed his online pension transfer requests. Mr F didn't provide investment instructions to Hargreaves Lansdown until 23 July 2021, when his instructions were then followed.

I think that Hargreaves Lansdown did inform Mr F by both postal and electronic communication that he hadn't provided any investment instructions and as a result his transfer values were held as cash in his SIPP. I therefore don't think that Hargreaves Lansdown did anything wrong.

I'm also unable to uphold Mr F's complaint that Hargreaves Lansdown didn't respond to his data subject access request within the required timescale. The evidence that I have seen shows that Hargreaves Lansdown did reply to Mr F within the required timescale and that this reply was correctly addressed. It was sent to Mr F electronically.

My final decision

I don't uphold Mr F's complaints against Hargreaves Lansdown Asset Management Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 15 August 2023.

Ian Barton
Ombudsman