

The complaint

Mr S complains that Hargreaves Lansdown Asset Management Limited (Hargreaves Lansdown) provided incorrect information about the pension contributions he'd paid in previous tax years, resulting in him overpaying contributions giving rise to tax liabilities. He wants compensation for the tax costs incurred.

What happened

Mr S has a Self-Invested Personal pension (SIPP) with Hargreaves Lansdown. He wanted to maximise his pension contributions and called it on 8 November 2022 to check his contribution history. The call handler confirmed various contribution amounts paid in the current and previous tax years. Mr S says he provided this information to an accountant to calculate the allowable contributions he could make using the carry forward provisions. And his employer subsequently paid a contribution of £40,000 to the SIPP, having already paid a contribution of £43,250 in June 2022. Subsequently it was confirmed that the contributions paid exceeded both his annual allowance of £40,000 and his unused annual allowances carried forward from previous tax years. This resulted in an annual allowance tax charge being raised by HMRC at his marginal rate of tax, of 40% on the excess contribution, which Mr S paid personally.

Mr S complained to Hargreaves Lansdown that it had provided him with an incorrect contribution history and says his accountant had also made a further error. He said details given by it indicated he had scope to pay a contribution of £15,000 by using his unused allowances from previous years, when in fact he had no scope to pay further contributions. He said it should pay the tax charge on this £15,000 element of the total excess contribution, which would be £6,000. Hargreaves accepted the complaint in part and apologised for providing incorrect details. It paid Mr S £350 for the distress and inconvenience caused. But it said it wasn't responsible for any tax issues as it was his responsibility to check his scope to pay contributions based on unused annual allowances and his contribution history was available on the online account.

Mr S referred his complaint to our service and our investigator looked into it, but he didn't uphold it.

Our investigator said Hargreaves Lansdown acted on an execution only basis and didn't provide Mr S with advice. He said, whilst it had given incorrect information it had also said it couldn't advise or comment about any remaining unused pension allowance. And had suggested tax advice be taken. He said the SIPP terms and conditions clearly stated that Mr S was responsible for making sure his contributions were within allowable limits. He said it had provided Mr S with correct details of his contributions in previous investment reports and this information was available on the online account also and ultimately it was Mr S's responsibility to check the details. He said Mr S had been caused some distress and inconvenience but that the £350 already paid for this was fair.

Mr S didn't agree and made a number of points. He said he hadn't expected Hargreaves Lansdown to give him advice, but it had given him incorrect information and should take responsibility for the tax consequences caused by that. And he said it hadn't warned that the

verbal information should be checked against the online account. He said he'd given the incorrect details to his accountant, who made another error resulting in him paying the additional £40,000 contribution. He said he was holding the accountant responsible for its part and Hargreaves Lansdown should be responsible for the £15,000 overpayment, its incorrect information resulted in.

As Mr S doesn't agree it has come to me to decide.

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 am not upholding the complaint.

Unused allowance is a complicated area with potentially significant tax penalties if overpayments are made, and this is an unfortunate situation for Mr S. But I don't think it is fair to hold Hargreaves Lansdown responsible for the error in verbally providing incorrect information. In deciding that, I've thought about the evidence available carefully.

Hargreaves Lansdown's terms and conditions, accepted by Mr S, do make it clear it is his responsibility to check the available allowances. I've listened to the call where the incorrect information was provided. Mr S says that in the past it had written to him saying he'd exceeded the annual allowance and he wanted to check what the position was. That confirms it had provided him with details of what contributions he'd paid in the past. And he enquired about more than just the past three tax years, suggesting he had some familiarity with the operation of unused relief.

And Mr S had paid contributions in previous years significantly in excess of the annual allowance, suggesting consideration had been made of his available unused relief previously. And particularly so in the 2022/2023 tax year. A single contribution of £43,250 had already been paid on 29 June 2022, only four and a half months before the further £40,000 contribution was paid.

According to the output from HMRC's unused annual allowance calculator Mr S has shown as evidence, the £43,250 paid in June 2022 was exactly the maximum allowable contribution available to him in the tax year, including his remaining unused annual allowances from prior years. It's unlikely this was by chance and strongly suggests the maximum payable for that tax year including unused allowance had already been calculated. That's relevant because the information about historical contributions must have been sourced from somewhere, whether that was from the Hargreaves Lansdown online account, the previous letters sent to him, or possibly bank records.

So, whilst Mr S is right that the incorrect details given verbally by Hargreaves Lansdown suggest there was scope to pay a £15,000 contribution, that wasn't the case. As I've noted this was only a few months after a contribution had been paid fully using his available unused annual allowance. If that had slipped Mr S's mind that's very unfortunate, but it was his responsibility to ensure he had adequate scope to pay contributions. And given the close proximity to this previous exercise I think there was enough for Mr S to question what he'd been told, as the contributions actually paid were significantly understated on the telephone. And it was a simple matter for him cross reference the information given, whether it was suggested he do so or not. So, I don't think it's reasonable to say it is responsible for the tax cost incurred.

Hargreaves Lansdown clearly made an error, its apologised for that and paid compensation for the distress and inconvenience that it caused of £350, which I think is fair in the circumstances.

My final decision

My final decision is that I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 25 July 2024.

Nigel Bracken
Ombudsman