

The complaint

Mr H complains that Hargreaves Lansdown Advisory Services Limited ('HLAS') delayed issuing a suitability report (SR) to him. Mr H says that because of HLAS's delay:

- A number of their recommendations couldn't be acted upon – specifically the sale of the Woodford Equity Income Fund (WEIF) because the fund was subsequently suspended from trading before he'd received the SR from HL.
- Of the recommendations that could be actioned, he received less back than he would have done were the investments sold sooner than they were.

Mr H would now like HLAS to put him back into the position that he would now be in were it not for their delays.

What happened

On 25 April 2019, Mr H contacted his HLAS adviser asking for an appointment to review his investments to look at ways his income could be increased. HLAS then undertook a telephone meeting with Mr H on 2 May 2019 to better understand his objectives. During that meeting, a fact-find was completed, and an agreement made that a SR would follow, setting out the adviser's recommendations on what actions he felt were necessary to enable Mr H to meet his objectives.

After not having received the SR by 21 May 2019, Mr H chased the adviser for an update. The adviser replied the same day explaining the SR was being worked on. Eight days later, the adviser re-contacted Mr H apologising for the length of time it was taking to issue the SR, and he also explained that as a goodwill gesture, he was going to reduce the fixed fee of £1,500 to £1,250.

On 4 June 2019, Mr H contacted the adviser after seeing that the WEIF had been suspended and wanted to know how it would affect any recommendation. The adviser responded the same day explaining that in light of the news, he'd need to alter the SR that he'd prepared. HLAS issued Mr H's SR to him on 6 June 2019 and five days later, the recommendations within the SR were put into force. The SR explained that once trading in the WEIF resumed, the fund would be sold.

Shortly afterwards, Mr H decided to formally complain to HLAS. In summary, he said that he was unhappy with the length of time HLAS had taken to issue the SR. Mr H went on to say that his new investments were down from the previous positions and that was as a result of market down turns as well as the impact of Woodford.

After reviewing Mr H's complaint, HLAS concluded they were satisfied they'd done nothing wrong. They also said, in summary, that whilst there were some delays, they didn't have set timescales following meetings to issue SRs or put recommendations in place.

Mr H was unhappy with HLAS's response, so he referred his complaint to this service. The complaint was then considered by one of our Investigators. She concluded that HLAS hadn't treated Mr H unfairly because the time between the fact-find meeting and the SR being issued wasn't unreasonable in her view.

However, Mr H disagreed with our Investigator's findings. In summary, he said that he didn't agree the time taken to produce the SR was not unreasonable. He went on to say that he gained the impression from his HLAS adviser that it wasn't a case of the SR taking a long time to produce, rather that they'd forgotten about it and it was only put together after his reminder email on 21 May 2019. Mr H went on to explain that given the adviser had initially promised to do a loss calculation once the WEIF started trading again suggested to him that HLAS had conceded they'd got things wrong.

Our Investigator was not persuaded to change her view as she didn't believe Mr H had presented any new arguments she'd not already considered or responded to. Unhappy with that outcome, Mr H then asked the Investigator to pass the case to an Ombudsman for a decision.

After considering both sets of submissions, I explained that I was issuing a provisional decision on this case as whilst I was agreeing with the Investigator's initial view of the complaint, I wanted to add my additional thoughts to her thinking on why the consumer's complaint should not be upheld.

What I said I my provisional decision

I have summarised this complaint in less detail than Mr H has done and I've done so using my own words. The purpose of my decision isn't to address every single point raised by all of the parties involved. If there's something I've not mentioned, it isn't because I've ignored it - I haven't. I'm satisfied that I don't need to comment on every individual argument to be able to reach what I think is the right outcome. No discourtesy is intended by this; our rules allow me to do this and it simply reflects the informal nature of our service as a free alternative to the courts.

My role is to consider the evidence presented by Mr H and HLAS in order to reach what I think is an independent, fair and reasonable decision based on the facts of the case. In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice. Where there's conflicting information about what happened and gaps in what we know, my role is to weigh up the evidence we do have, but it is for me to decide, based on the available information that I've been given, what's more likely than not to have happened. And, having done so, I'm not upholding Mr H's complaint - I'll explain why below.

From the point that HLAS completed the fact find with Mr H to the point at which he received the SR from them was five weeks. It seems to me that HLAS's adviser and their customer service team have both conceded that Mr H's SR wasn't issued as promptly as it could have been. On 29 May 2019, the adviser wrote to Mr H stating: "*Just a quick update for the extended delay issuing your report.*" And, in HLAS's response to Mr H's complaint, they stated: "*Firstly I would like to take this opportunity to apologise for the experience that you have had, and I note [HLAS adviser name] has also apologised to you for this previously. However, whilst acknowledging that in this instance we have not provided the service we endeavour to provide our advisory clients, I do not feel that we are liable for the resolution that you are looking for.*" Their letter goes on to state: "*I appreciate it has taken longer than expected to provide you with a recommendation.*" However, just because HLAS have conceded that they took longer than they would have wished to issue Mr H's SR, it doesn't automatically follow that his complaint should be upheld.

HLAS have said that they don't have any set service levels in place by which they guarantee to issue SRs after their advisers have met with customers or timescales following this when recommendations are typically put into place. In addition, the regulator, the Financial Conduct Authority, do not have any rules in place that firms such as HL have to follow in scenarios such as this. So, in light of this, I've gone on to consider what, if anything was promised to Mr H and also what is fair and reasonable in the circumstances of this complaint.

In April 2019, Mr H contacted HLAS asking for help in making sure that his investments were structured appropriately and wanting to understand ways in which he could increase his income. I've listened to the fact-find telephone call of 2 May 2019 between Mr H and HLAS's adviser. During that discussion, the HLAS adviser sought to better understand Mr H's priorities and a wide range of topics were covered. In particular, a detailed discussion took place around Mr H's income needs and how he was balancing his spending between his existing pension income and needing to draw on his savings. An agreement was reached that a recommendation would be made for Mr H to take some tax-free cash from his pension and use the balance of the pension towards increasing his income. In addition, the adviser explained that he would look at Mr H's existing investments and determine whether they were invested in the most appropriate funds.

During the conclusion of that meeting, the HLAS adviser agreed two things with Mr H; that he would research what level of income he could reasonably expect to receive from an annuity and then share that insight with Mr H and then once a decision had been made on whether an annuity was attractive, a SR would then follow setting out either an annuity or pension drawdown recommendation (along with the fund recommendations).

During that telephone meeting on 2 May 2019, at no point did Mr H explain to the HLAS adviser that his needs were urgent. He highlighted that he'd been using around £5,000 to £10,000 of his savings each year to supplement his pension income, but he still had sufficient savings at that point to meet his needs. At the end of the call, the HLAS adviser explained that he'd issue a SR to Mr H detailing his advice, but he didn't provide Mr H with any warranties of when that would be. At no point during the call did the adviser set out any timelines of the different stages of the process and when Mr H could expect those elements to happen. The HLAS adviser did however state to Mr H that he would "*get the annuity quotations to you ASAP*". And it seems, the adviser did just that because they were emailed to Mr H later that day. Mr H then responded later that evening, so by 3 May 2019, the adviser understood that Mr H had a preference for drawdown.

Preparing a SR isn't always a straightforward task. Depending upon the nature of the recommendations being made, there's a number of hurdles that need to be completed before the letter is ready to be sent to the customer. Those hurdles could involve undertaking detailed research on existing plans, exploring suitable new alternatives and completing internal compliance checking; all of which takes time. I've looked closely at the SR that HLAS prepared for Mr H, it's 42 pages in length and included recommendations for extracting tax-free cash, selling various funds, ISA recommendations, along with how Mr H's income needs could be met, so I well suspect it wasn't a straightforward undertaking to produce and would've likely taken far longer to prepare than a simple, vanilla recommendation such as a straightforward investment ISA. In light of this, I don't think the 22 working days it took HLAS to issue the SR were unreasonable in the circumstances.

But in any event, what's considered a fair and reasonable timescale is very subjective and that's because that view will vary between customers. In light of what I've seen of Mr H's circumstances and the various discussions and email interactions that took place though, aside from an email from Mr H asking for an update on the process, I've seen nothing to persuade me that HLAS were informed Mr H's needs were pressing. And, I've seen nothing

to indicate that HLAS provided any guarantees to Mr H that he'd receive his SR within less than five weeks.

As I've already explained, I don't think there's any argument that production of the SR took a longer period of time than HLAS wanted it to – they've already acknowledged that and reduced their advice fee that they charged Mr H by £250. I think that's fair in the circumstances.

Mr H is unhappy that HLAS have stated that despite the delay in issuing his SR, he could have sold any of his investment funds in the interim should he have wished. I think it's important to be clear about the nature of the task that Mr H had engaged HLAS to undertake for him. Mr H had approached HLAS in April 2019 because he wanted his investments reviewing and he wanted to increase his income. Given Mr H was paying HLAS £1,500 in advice fees and he had explained to his adviser during the telephone meeting of 2 May 2019 that he didn't know which funds he should invest in, I don't think it's fair or reasonable to expect him to second guess what HLAS might be recommending by making alterations to his investments ahead of receiving their recommendation. And more generally, I don't believe it's reasonable to expect any consumer who is part way through a regulated advice journey to undertake such an enterprise, particularly when during the same telephone discussion on 2 May 2019, Mr H was informed that it was likely a number of funds he already held were still suitable for him. In any event, if Mr H knew which funds to divest, I well suspect he wouldn't have engaged HLAS to advise him or paid a £1,500 fee for doing so. However, to be clear, whilst I agree with Mr H's position on this particular point, this doesn't change my opinion on the outcome of his complaint.

Responses to my provisional decision

Neither party provided any comment on the provisional 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.

As neither party provided any further evidence, it therefore follows that I have reached the same decision for the same reasons that I set out in my provisional decision above.

My final decision

I'm not upholding Mr H's complaint and as such, I don't require Hargreaves Lansdown Advisory Services Limited to take any further action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 11 November 2024.

Simon Fox
Ombudsman