

The complaint

Mr H complains on behalf of his wife, Mrs H, that Hargreaves Lansdown Advisory Services Limited ('HLAS') delayed issuing a suitability report (SR) to her. 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 she'd received the SR from HL.
- Of the recommendations that could be actioned, she received less back than she would have done were the investments sold sooner than they were.

Mr H would now like HLAS to put his wife back into the position that she would now be in were it not for their delays. For simplicity, in some instances I have referred to some submissions as having come from Mrs H, rather than her husband.

What happened

On 25 April 2019, Mr contacted their HLAS adviser asking for an appointment to review both his and his wife's investments to look at ways their income could be increased. HLAS then undertook a telephone meeting with Mr H on 2 May 2019 to better understand their 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 and Mrs H to meet their 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 and Mrs H's SR to them 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 and his wife were unhappy with the length of time HLAS had taken to issue the SR. Mr H went on to say that their 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 and Mrs 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 and his wife's complaint to this service. The complaints were treated as two separate submissions, one for Mr H and one for Mrs H. Mrs H's complaint was then considered by one of our Investigators. She concluded that HLAS hadn't treated Mrs 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 their 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 their reminder email on 21 May 2019. Mr H went on to explain that given the adviser had initially promised to do a loss calculation for them 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 and Mrs 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 his wife's 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 Mrs 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 Mrs 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 Mrs H's complaint - I'll explain why below.

When HLAS undertook the telephone meeting with Mr H on 2 May 2019 to better understand their objectives, Mrs H wasn't present on that call. However, Mr H represented his wife during that discussion and provided all of her details to the HLAS adviser.

From the point that HLAS completed the fact find with Mr H to the point at which he and Mrs H 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 Mrs H's SR wasn't issued as promptly as it could have been. On 29 May 2019, the adviser wrote to Mrs H stating: "*Just*

a quick update for the extended delay issuing your report.” And, in HLAS’s response to Mrs 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 Mrs H’s SR, it doesn’t automatically follow that her 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 Mrs 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 and Mrs H’s investments were structured appropriately and wanting to understand ways in which they could increase their household 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 and Mrs H’s priorities and a wide range of topics were covered. In particular, a detailed discussion took place around their income needs and how they were balancing their spending between their existing pension income and needing to draw on their 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 their income. In addition, the adviser explained that he would look at Mrs 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 Mrs H’s needs were urgent. He highlighted that they’d been using around £5,000 to £10,000 of their savings each year to supplement their pension income, but they still had sufficient savings at that point to meet their needs. At the end of the call, the HLAS adviser explained that he’d issue a SR to Mrs 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 Mrs 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 Mrs H, it’s 42 pages in length and included recommendations

for extracting tax-free cash, selling various funds, ISA recommendations, along with how Mrs 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 Mrs H's circumstances and the various discussions and email interactions that took place though, aside from an email from Mrs H asking for an update on the process, I've seen nothing to persuade me that HLAS were informed Mrs H's needs were pressing. And, I've seen nothing to indicate that HLAS provided any guarantees to Mrs H that she'd receive her 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 by £250. I think that's fair in the circumstances.

Mrs H is unhappy that HLAS have stated that despite the delay in issuing her SR, she could have sold any of her investment funds in the interim should she have wished. I think it's important to be clear about the nature of the task that Mrs H had engaged HLAS to undertake for her. Mr and Mrs H had approached HLAS in April 2019 because they wanted their investments reviewing and they wanted to increase their income. Given the consumers were paying HLAS £1,500 in advice fees and Mr H had explained to the adviser during the telephone meeting of 2 May 2019 that they didn't know which funds they should invest in, I don't think it's fair or reasonable to expect them to second guess what HLAS might be recommending by making alterations to her 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 and Mrs H already held were still suitable for them. In any event, if Mrs H knew which funds to divest, I well suspect she wouldn't have engaged HLAS to advise her or paid a £1,500 fee for doing so. However, to be clear, whilst I agree with Mrs H's position on this particular point, this doesn't change my opinion on the outcome of her 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 Mrs 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 Mrs H to accept or reject my decision before 11 November 2024.

Simon Fox
Ombudsman