CAS-71665-Q5N4

Ombudsman's Determination

Applicant	Mr I
Scheme	Hargreaves Lansdown Self-Invested Personal Pension (**the HL SIPP**)
Respondent	Hargreaves Lansdown (**HL**)

Outcome

1. I do not uphold Mr I's complaint and no further action is required by Hargreaves Lansdown.

Complaint Summary

2. Mr I's complaint concerns HL's decision to not allow him to transfer the value of his pension benefits in the HL SIPP to another pension arrangement.

Background information, including submissions from the parties

3. The sequence of events is not in dispute, so I have only set out the salient points. I acknowledge there were other exchanges of information between all the parties.

4. Mr I's HL SIPP was administered by HL.

5. In June 2018, Mr I moved part of his HL SIPP into drawdown.

6. In August 2018, The Pensions Regulator (**TPR**) launched a joint campaign with the Financial Conduct Authority (**FCA**), urging members of pension schemes to be aware of scammers targeting their pension savings. The campaign was called 'ScamSmart' and included the following information:

   "The FCA and TPR are urging the public to be ScamSmart with their pension and always check who they're dealing with. The regulators recommend four simple steps to protect yourself from pension scams:

   - Reject unexpected pension offers whether made online, on social media or over the phone.
   - Check who you're dealing with before changing your pension arrangements – check the FCA Register or call the FCA…to see if the firm you are dealing with is authorised by the FCA.

- Don’t be rushed or pressured into making any decision about your pension.
- Consider getting impartial information and advice.”

7. In addition to existing guidance issued by TPR and the FCA, requiring administrators and trustees of pension schemes to conduct specific due diligence before making a transfer of a member’s pension benefits from one scheme to another, the Pensions Scams Industry Group (**PSIG**) published an update to its Code of Practice in June 2019 (**the 2019 Code**). The following parts of the 2019 Code are relevant to this complaint:

“Evolving tactics by scammers

Fewer scams take the form of traditional pension liberation (taking benefits before normal minimum pension age or any protected early pension age) and are more likely to involve investment schemes (sometimes post retirement), SIPPs, SSAS and QROPS.

Scammers have also developed their approaches, using social media (e.g. Facebook and LinkedIn) to target victims, as well as by cold calling and “factory-gating” (i.e. approaching people outside their workplace) to contact those likely to have access to significant pension savings.

…

3. Principles of the Code

Principle 1: Trustees, providers and administrators should raise awareness of pension scams for members and beneficiaries of their scheme.

- Scheme members should be made aware of the risks of pension scams. Awareness material, in particular TPR's Guidance…now replaced by the joint TPR/FCA ScamSmart warnings, should be provided in transfer packs and, where possible, retirement packs and statements, as well as on websites where applicable… This material should be sent to scheme members directly, rather than through their advisers. A good way to promote member understanding further is to contact them by telephone directly as part of the due diligence process.

…

Principle 2: Trustees, providers and administrators should have robust, but proportionate, processes for assessing whether a receiving scheme may be operating as part of a pension scam, and for responding to that risk.

- In dealing with a transfer request, trustees, providers and administrators should conduct due diligence on the receiving scheme. Where they suspect that the receiving scheme may be involved in a scam, trustees, providers and administrators should carefully consider whether the transfer should proceed.

- Appropriate due diligence will vary for different types of pension schemes. In carrying out due diligence, trustees, providers and administrators should aim to collect information over the following areas where applicable:

    - Receiving scheme type.

    - Date of establishment.

    - Legal status of the receiving scheme and any administrators or operators.

    - Location of the receiving scheme and any administrators or operators in relation to the scheme member.

    - Any employment link between the receiving scheme and the scheme member.

    - Marketing methods; for example, ask scheme members to confirm how they became aware of the scheme to which they intend to transfer and establish if they have been contacted by an introducer or company through cold calling, unsolicited text messages or emails, or by being approached directly outside of their place of work, a common method known as 'factory-gating'.

    - Investment choice; for example, ask scheme members to confirm where the money is to be invested and the investment vehicle being used."

8. On 19 December 2019, HL received a letter from a company called Empowered Pensions Limited (**Empowered**), requesting the transfer of the HL SIPP's value to the Hermitage Small Self-Administered Scheme (**the Hermitage SSAS**). The letter included:-

    - A transfer application signed by Mr I.

    - Confirmation that Empowered was the Administrator of the Heritage SSAS.

    - The Trust Deed of the Heritage SSAS. It was dated 31 July 2019 and showed that Hermitage Publishing Limited was the Principal Employer (also referred to as Sponsoring Employer in subsequent correspondence), Mr I was the Member Trustee and Empowered Trustees Ltd was the Corporate Trustee.

    - The Rules of the Hermitage SSAS.

- A letter from HMRC, confirming that the Hermitage SSAS had been registered for tax relief and exemptions, on 30 October 2019. The letter included the Pension Scheme Tax Reference (**PSTR**) number.

9. The requirements regarding transfer rights for members of pension schemes are set out in Sections 93 to 101 of the Pension Schemes Act 1993 (**the 1993 Act**) and regulations made under it. Section 93 states:

“(1) This Chapter applies to a member of a pension scheme if all of the following conditions are met.

(2) Condition 1 is that the member has accrued rights to any category of benefits under the scheme rules.

(3) Condition 2 is that no crystallisation event has occurred in relation to the member’s accrued rights to benefits in that category (see subsection (7)).

…

(7) For the purposes of Condition 2 a crystallisation event occurs in relation to a member’s accrued rights to benefits in a category when-

(a) payment of a pension in respect of any of the benefits has begun,

(b) in the case of money purchase benefits other than collective money purchase benefits, sums or assets held for the purpose of providing any of the benefits are designated as available for the payment of drawdown pension (as defined by paragraph 4 of Schedule 28 to the Finance Act 2004), or

(c) in the case of a personal pension scheme, sums or assets held for the purpose of providing any of the benefits are applied for purchasing an annuity or insurance policy.”

10. Section 9 of the Trust Deed of the HL SIPP, dated 1 May 2019, provided the following regarding transfers:

“9. Transfers between Schemes

9.1 The Scheme Administrator may at its absolute discretion:

9.1.1 accept in respect of any individual a transfer of all or any of the assets of another pension scheme to the Scheme, to provide such Benefits as the Scheme Administrator may specify, to and in respect of that individual;

9.1.2 make (or direct or procure that the Asset Trustee makes) in respect of any individual a transfer of his Individual Fund (or any amount representing it) to another registered pension scheme or qualifying recognised overseas pension scheme, to provide such benefits under the other scheme as its trustees or managers offer."

11. The Trust Deed of the HL SIPP defined 'Individual Fund as follows:

"Individual Fund in relation to a Member or Survivor means that part of the Fund which the Scheme Administrator determines is attributable to him having regard to:

(i) (in the case of a Member) any contributions made by him and by any other person in respect of him;

(ii) any Benefit provided to or in respect of him;

(iii) (in the case of a Survivor) any part of an Individual Fund designated as available for the payment of Drawdown to that Survivor;

(iv) any income, gains or losses (whether realised or not), fees, costs and expenses borne by the Fund and any actual or prospective liabilities of the Scheme Administrator or Asset Trustee (other than liabilities to pay Benefits) attributable to the Fund;

(v) any transfers made to or from the Scheme in respect of him;

(vi) any allocation or reallocation of any part of the Fund in accordance with the Rules;

(vii) any pension credit or pension debit applicable to him."

12. On 27 March 2020, HL wrote to Mr I and asked him to complete a questionnaire. The letter informed him about the issue of pension liberation, provided links to the FCA's and TPR's websites, and included a leaflet published by TPR regarding pension scams.

13. On 1 June 2020, HL sent an email to Mr I with a copy of the questionnaire and asked him to complete it. The email provided the same information as the letter of 27 March 2020.

14. On 2 June 2020, Mr I completed the questionnaire. His answers showed that:-

- He became aware of the Hermitage SSAS by recommendation.
- He had been told that commercial and residential property investments were available through the Hermitage SSAS.
- He had not been provided with any promotional material by the provider of the Hermitage SSAS.
- He had not taken financial advice but had an interview with Pension Wise.
- He and his employer would be making pension contributions to the Hermitage SSAS.

- He had not been told that he would be able to access all or part of his pension fund before age 55.

- He was not currently in receipt of any earnings derived from employment.

15. On 8 June 2020, HL telephoned Mr I and asked him to answer a number of additional questions about the Hermitage SSAS.

16. On 11 June 2020, Mr I telephoned HL and replied to the questions it had asked him on 8 June 2020. He confirmed that:-

- He became aware of Empowered through individuals in a property investing Facebook group. No one had contacted him directly.

- He would not be receiving any cash payments, bonus, commission, or loan from the Hermitage SSAS or its Administrator, as a result of transferring or investing in specific assets.

- He had not been pressurised by anyone to make a quick decision about transferring to the Hermitage SSAS.

- No carrier had been sent to his home to collect any documentation.

- He had not received any official documentation from the Hermitage SSAS during the transfer process. Everything was done via video conference. He had not received anything by text, email, or telephone. He had only received details of the bank account for the Hermitage SSAS.

- He had not been promised any guaranteed rate of return for his intended investments.

- He understood the nature of the underlying investments he was planning to invest in, and the risks involved.

- He was aware that direct investments in residential property within a SSAS could be subject to punitive tax charges of up to 70%.

- He was aware of the fees charged and how these would affect the value of his investments. He was also aware that the Hermitage SSAS fees would be slightly higher than the HL SIPP fees. However, the Hermitage SSAS provided property investment advantages which, in his view, was a fair trade off.

17. During the telephone call, Mr I expressed his dissatisfaction with the delays of the transfer and asked for the matter to be escalated to a formal complaint. Specifically, he said that:-

- HL was unreasonably seeking to frustrate the process of transferring his funds.

- He wished to see the transfer completed by next week at the latest.

- Every extra day HL retained his HL SIPP funds it cost him investment opportunities.

18. On 18 June 2020, HL wrote to HMRC and requested confirmation of the registration status of the Hermitage SSAS.

19. On 23 June 2020, HL informed Mr I that it had written to HMRC for further information. It explained that it had reasons to be concerned about the transfer because:-

    - He had not taken financial advice from a regulated financial adviser about the transfer.
    - The Sponsoring Employer had recently filed accounts as a dormant company. HMRC could de-register a pension scheme, where the participating employer was dormant or had been for any month in the last 12 months.
    - Even an indirect investment in residential property could be subject to taxable property rules.
    - He had found out about the Hermitage SSAS via a Facebook group. Being introduced to a scheme through a form of cold contact was a potential warning sign of a pension scam.

20. On the same date, Mr I replied to HL and said:-

    - He had taken advice from Pension Wise, which seemed happy that he had the requisite understanding regarding the transfer.
    - The Sponsoring Employer had been renamed Hermitage Lifestyles Limited and was not dormant.
    - He had been told he could make a loan for the purposes of buying residential property.
    - He first heard about the Hermitage SSAS through a presentation. Empowered was recommended by several people on an online group. There had been no cold contact.

21. On 7 July 2020, HL sent an email to Mr I and explained that:-

    - Pension Wise offered a guidance service and not an advisory service. It specifically dealt with options at retirement rather than pension transfers. It would not have provided him with a recommendation to transfer. Any indication of approval should not be considered as affirmation that the transfer was suitable for him.
    - According to Companies House, the Sponsoring Employer changed its name in October 2019, but its most recent accounts were for a dormant company.

- There were certain restrictions regarding loans for the purpose of buying residential property, which is why HL strongly suggested he sought financial advice.
- Being introduced to a pension scheme by word of mouth, including through social media, was a form of cold contact and a potential warning sign of a pension scam.

22. On the same date, HL chased HMRC for the information it had requested on 18 June 2020.

23. On 16 July 2020, HL responded to the complaint. It said:-

- It was satisfied that it had processed Mr I's transfer request within the expected timescales.
- The review of the transfer request had taken longer than Mr I had hoped for. However, when transferring a SIPP to a SSAS the timescale was extended by the due diligence HL was required to undertake.
- As part of its due diligence, where it had concerns about a particular scheme, it would contact HMRC in order to ascertain the scheme's current registration status details. This step ensured that HL would not facilitate a transfer that was considered an unauthorised payment. It had written to HMRC on 23 June 2020 and had requested this information. HL was still waiting for a response before taking further action.
- While it was satisfied that it had processed Mr I's application as expediently as it could, it offered him £50 in recognition of the inconvenience this matter had caused him.

24. On 2 October 2020, HL chased HMRC for the information it had requested on 18 June 2020.

25. On 8 October 2020, HMRC replied to HL and confirmed that:-

- The Hermitage SSAS was registered with HMRC and was not subject to a deregistration notice.
- At the present time, the information held by HMRC did not indicate a significant risk of the scheme being set up or being used to facilitate pension liberation.

26. On 12 November 2020, Mr I chased HL for an update regarding the transfer.

27. On 16 November 2020, HL replied that its Technical Team was currently reviewing the information received from HMRC and Mr I.

28. On 21 December 2020, HL sent a letter to Mr I, dated 17 December 2020, and informed him that it had used its discretion not to allow the transfer. The reasons for this decision were:-

- Based on current pension rules, he did not have a statutory right to transfer.
- He had not taken independent financial advice from a regulated financial adviser, regarding the transfer.
- He had found out about the Hermitage SSAS through an online group. This was a potential warning sign of a pension scam.
- The Sponsoring Employer had recently filed accounts as a dormant company. This meant that HMRC could de-register the Hermitage SSAS.
- He had been told that he could invest in residential property. Even an indirect investment in such an asset could be subject to heavy taxes.

29. On 21 December 2020, Mr I asked HL to provide details of the specific rule which stated he did not have a statutory right to transfer. He also requested an Internal Dispute Resolution Procedure (**IDRP**) form.

30. On 22 December 2020, HL informed Mr I that an IDRP usually applied to trust-based schemes, so it would respond to his complaint in accordance with its complaint handling procedure.

31. On 29 December 2020, Mr I responded to HL's decision not to allow the transfer. He said:-

- He had not been cold-contacted by anyone regarding the Heritage SSAS. It was HL that had made such a suggestion.
- One of the online groups through which he found his Corporate Trustee was SSAS Alliance, a group of experienced SSAS trustees who knew much more about pension legislation than HL.
- The investment recommendations he had received from HL for his HL SIPP had proven extremely damaging to his wealth. There were no preserved benefits in the HL SIPP, so there was no reason why he should wish to keep his pension or any other funds with HL. In his view, this would be a highly risky and unwise investment decision and did not require a financial adviser to confirm.
- Both Sponsoring Employers had been trading actively over the past 12 months.
- He had confirmed his intention to invest in residential property through loanbacks, which were permitted under HMRC guidelines for SSAS arrangements. He never suggested investing directly in residential property.

32. On 6 January 2021, HL confirmed to Mr I that its decision regarding his transfer application remained the same. It repeated the points it had made in its letter of 17 December 2020 and added that:-

- SSAS Alliance was not regulated by the FCA.

- Being introduced to a pension scheme through a company which was not regulated by the FCA was a potential warning sign of a pension scam. Its concerns regarding how he became aware of the Hermitage SSAS remained.
- In his completed questionnaire of 2 June 2020, he indicated that he was not in receipt of any earnings derived from employment.
- It was prepared to consider any further information Mr I could provide, if he wished to have its decision reconsidered.

33. On 1 June 2021, HL received a P60 for the tax year 2020/21, which showed that Mr I was in receipt of earnings derived from employment.

34. On 8 July 2021, HL informed Mr I that after considering the P60 it was still using its discretion not to allow the transfer, as he still did not have a statutory right to transfer. It explained that one of the conditions that needed to be met, in order for him to have a statutory right to transfer, was to not have a crystallisation event regarding his accrued rights to pension benefits in the HL SIPP. As he had moved funds into drawdown, he did not have a statutory right to transfer. HL added that it still had concerns about the proposed transfer and strongly recommended that Mr I sought independent financial advice before deciding on how to proceed.

35. On 25 April 2022, HL received a new transfer application, requesting the transfer of the value of Mr I's HL SIPP to another pension scheme, called Vanguard Self-Invested Personal Pension (**the Vanguard SIPP**).

36. HL has said that the Vanguard SIPP did not have any characteristics which raised concerns that there was a risk of a pension scam. So, it made the discretionary decision to allow the transfer.

37. On 6 May 2022, the transfer to the Vanguard SIPP was completed.

38. In his submissions to The Pensions Ombudsman (**TPO**), Mr I said in summary:-

    - When he initially requested the transfer, he was in receipt of income. He submitted his P60 for the tax year 2020/21 to HL twice.
    - Even though HL claimed that Hermitage Lifestyles Limited was dormant, the company had been actively trading.
    - He was well aware of the HMRC restrictions on a SSAS investing in residential property. The Corporate Trustee was there to make sure he adhered to HMRC rules and other relevant regulations.
    - In his view, HL had repeatedly refused to accept the truth and continued to lie and misrepresent the situation.
    - He had suffered distress and aggravation. He had wasted considerable time dealing not only with HL but also with the Corporate Trustee of the Heritage SSAS, other SSAS trustees and several lawyers.

39. In its submissions to TPO, HL said in summary:-

- Discovering the Hermitage SSAS via Facebook, which was not an FCA regulated website, was considered cold contact. Being introduced to a pension scheme through a form of cold contact was a potential warning sign of a pension scam.

- During his telephone call of 11 June 2020, Mr I said that the Hermitage SSAS had sent him bank details by text message, which was also a warning sign that the scheme may not be legitimate.

- Mr I had said that he received financial advice from Pension Wise. This organisation did not offer any advice on the suitability of transferring to a SSAS, so Mr I would not have received a recommendation to transfer from Pension Wise.

- The Sponsoring Employer, Hermitage Lifestyles Limited (formerly Hermitage Publishing Limited), had filed accounts as a dormant company. This was registered information on Companies House, and the company had been dormant since 7 January 2019. When HL received Mr I's transfer request, the most recently filed accounts (from January 2019 to March 2019) were for a dormant company. Since then, full accounts had been submitted for the accounting periods up to 31 March 2020 and up to 31 March 2021.

- Mr I did not have a statutory right to transfer because he had informed HL that he did not have any earnings from employment. He was also still accruing pension benefits in his HL SIPP and had moved part of the HL SIPP into drawdown. He later provided a P60 and stopped accruing benefits in the HL SIPP. However, he still did not have a statutory right to transfer as a crystallisation event had occurred in relation to his pension benefits.

- It was satisfied that it had been very transparent about the information it used and the decisions it made regarding the transfer.

- It acknowledged that this matter had been frustrating for Mr I. However, it had conducted the appropriate due diligence. It remained satisfied that the information Mr I provided had not suggested to HL that it could confidently transfer his benefits in the HL SIPP without him being at risk.

Adjudicator's Opinion

40. Mr I's complaint was considered by one of our Adjudicators who concluded that no further action was required by HL. The Adjudicator's findings are summarised in paragraphs 41 to 44 below.

41. Mr I had moved part of his HL SIPP into drawdown, so he did not have a statutory right to transfer, in accordance with the 1993 Act.

42. Section 9.1 of the Trust Deed of the HL SSAS gave HL the absolute discretion to make a transfer to another registered pension scheme. Neither Mr I nor HL had

submitted evidence to show that there was any other contract or agreement in place, between HL and Mr I, which gave him a contractual right to transfer his benefits in the HL SIPP.

43. HL's decision to not allow the transfer was reasonable and in accordance with the due diligence requirements set out in the 2019 Code. Specifically:-

- The 2019 Code required HL to check whether the Hermitage SSAS was a newly established scheme, as this could be a warning sign of a pension scam. As the Hermitage SSAS had been registered with HMRC less than two months from the date HL received the transfer application, it was a newly established scheme. Consequently, this was a cause of concern.

- HL was also required to check if the Sponsoring Employer was actively trading. On 23 December 2019, Hermitage Lifestyles Limited had published accounts for a dormant company, for the year ending 31 March 2019. Consequently, it was not actively trading at the time of HL's due diligence exercise.

- Mr I had said that he became aware of Empowered and the Hermitage SSAS via a Facebook group. This was in and of itself a cause for concern, especially when Mr I had also confirmed that he had not received any regulated financial advice.

- The 2019 Guide required HL to contact HMRC and request further information about the Hermitage SSAS, as one of the steps in its due diligence. The response HL received confirmed that the Heritage SSAS was registered with HMRC, that it was not subject to a deregistration notice, and that at the present time the information HMRC held did not indicate a significant risk of the scheme being set up or being used to facilitate pension liberation. The 2019 Guide stated that such a response from HMRC should generate further due diligence from HL.

- One of these additional checks was whether the Trustee of the Hermitage SSAS was listed with the Information Commissioner's Office (**the IOC**) as a Data Controller. According to the IOC's website, Empowered Trustees Ltd (the Corporate Trustee of the Hermitage SSAS) was registered as a Data Controller on 5 August 2022. This shows that at the time of HL's due diligence exercise, between 2019 and 2021, the Corporate Trustee was not registered as a Data Controller.

- A further additional check HL was required to undertake was whether the Administrator of the Hermitage SSAS (Empowered) was regulated by the FCA. Even though FCA regulation was not required for SSAS administrators, confirmation of such regulation might provide additional security when any of the other checks had raised concerns. The FCA Register showed that Empowered was an appointed representative of Kingswood Law IFA Limited (**Kingswood**) between 4 May 2018 and 9 January 2020. However, in respect of pensions, Kingswood did not have permission to give advice on transfers from a SIPP to a

SSAS, or to give advice on investments and arrange deals on investments in respect of pension transfers.

44. In the Adjudicator's opinion, the results from HL's due diligence gave reasonable grounds for concern that the intended transfer could be a potential pension liberation exercise. Especially when Mr I became aware of Empowered, the Hermitage SSAS and the intended investments via a Facebook group.

45. Mr I did not accept the Adjudicator's Opinion and, in response, he provided further comments. In summary, he says:-

- In his view, reviews should include a degree of commercial sense, rather than simply "ticking boxes".
- He disagrees that HL should be able to, arbitrarily and for its own good, prevent him from doing what he chooses with his money.
- Much has been made of the fact that he found Empowered through a Facebook group. While this may be so, HL has tried to imply that this was mis-selling by pension scammers. The group in question comprises experienced property investors that he has known and studied with, or been taught by, many of whom he knew used SSAS arrangements. This is the reason why he asked the group for their views.
- He discovered HL through its "incessant spam mailings". In his view, HL is more guilty of mis-selling and scamming than any Facebook group. He had followed HL's investment advice and had lost £20,000 of his pension fund value.
- If my role is to protect investors from pension scammers, I should also be protecting them from businesses like HL.
- He has a master's degree and qualifications in chartered accountancy and corporate finance. He has worked in financial markets for over two decades. He does not need HL to tell him where he should or should not invest.

46. Mr I's complaint was passed to me to consider. I have noted Mr I's further comments, but I find that they do not change the outcome. I agree with the Adjudicator's Opinion.

Ombudsman's decision

47. Mr I's position is that he should have been allowed to transfer the value of his HL SIPP when he originally applied to transfer, in 2019.

48. My powers are set out in Part X of the 1993 Act[1] and subsequent regulations. This legislation sets out what I can and cannot do. In particular, I must apply the law that applies at the relevant time and determine whether it has been applied correctly. I

[1] See https://www.legislation.gov.uk/ukpga/1993/48/part/X/enacted

must decide complaints and disputes in accordance with established legal principles rather than by reference to what I may consider fair and reasonable[2].

49. When Mr I applied to transfer his HL SIPP benefits to the Hermitage SSAS, in 2019, there were specific regulatory and pensions industry guidelines imposing certain requirements on administrators of pension schemes such as HL. These guidelines set out a list of specific checks that had to be conducted and certain criteria that had to be met before HL could determine whether the transfer represented a risk of pension liberation.

50. It was reasonable, in fact it was expected, that HL as the HL SIPP Administrator should carry out such checks in its due diligence exercise, before agreeing to the transfer. While Mr I is of the view that this exercise should have included a degree of commercial sense, the guidelines set by the industry regulators give no such direction. They are mainly concerned with making sure that pension benefits accrued in a pension scheme do not fall victim of a scam.

51. Mr I has said that he holds qualifications in chartered accountancy and corporate finance, and that he has worked in financial markets for more than 20 years. In my view, while this demonstrates a very good knowledge of finance, it does not necessarily equate to knowledge of pensions and, especially, complex activities such as pension transfers. There have been examples of pension liberation scams involving social media groups and, in fact, TPR and the FCA have warned investors, pension administrators and trustees of such scams. I find that HL's concerns about how Mr I became aware of Empowered and the Hermitage SSAS to be reasonable.

52. Having reviewed the available information provided by HL and Mr I, I agree with the Adjudicator that HL conducted its due diligence in accordance with the relevant regulatory requirements at the time, as well as the 2019 Code. Mr I did not have a statutory right to transfer, as part of his HL SIPP was in drawdown. The HL SIPP Trust Deed gave HL absolute discretion on whether to make such a transfer. Having reviewed the available evidence, I am satisfied that HL's decision to not allow the transfer was reasonable and was not made arbitrarily, as Mr I has suggested.

53. In his latest comments, Mr I referred to HL's marketing activities and investment advice. Section 146 of the 1993 Act[3] limits me to investigate and determine complaints in respect of injustice sustained as a consequence of maladministration in connection with any act or omission in respect of occupational and personal pensions. The same Section gives me the power to investigate and determine any dispute of fact of law in respect of these types of pension arrangements. This does not include investigating and determining complains that relate to the sale or marketing of pensions, or to investment advice regarding pensions. For this reason, I do not have the power to look into Mr I's allegations about HL's investment advice or its marketing communication with him.

[2] Henderson v Stephenson Harwood [2005] Pens LR 209 (s12)
[3] See https://www.legislation.gov.uk/ukpga/1993/48/section/146/enacted

54. I do not uphold Mr I’s complaint.

Anthony Arter CBE

Deputy Pensions Ombudsman
13 February 2023