

## Ombudsman's Determination

Applicant	Mr S
Scheme	Hargreaves Lansdown Vantage SIPP ( <b>the SIPP</b> )
Respondent	Hargreaves Lansdown Asset Management Limited ( <b>Hargreaves Lansdown</b> )

## Outcome

1. I do not uphold Mr S' complaint and no further action is required by Hargreaves Lansdown.
2. My reasons for reaching this decision are explained in more detail below.

## Complaint summary

3. Mr S has complained that the information he received from Hargreaves Lansdown, regarding his options when taking benefits from the SIPP, was insufficient. He says Hargreaves Lansdown should have provided him with more information about the "small pots" rule. He also says that Hargreaves Lansdown should have insisted that he take financial advice before making a decision.

## Background information, including submissions from the parties

4. In September 2015, Mr S contacted Hargreaves Lansdown to enquire about withdrawing cash from the SIPP, and the best way to do so.
5. On 24 September 2015, Hargreaves Lansdown sent Mr S, via secure message, the options available to him. This included taking the whole of the SIPP as cash, under the "trivial commutation" or "trivial lump sum" options. The message went on to explain the Uncrystallised Funds Pension Lump Sum (**UFPLS**) and Drawdown options. The message confirmed:

"As your pot is less than £10,000, you are able to draw it as a 'Small pots triviality' payment. With this option, ordinarily 25% is paid tax free, with the remainder being taxable as income at your marginal rate. With this option, the income element is taxed using the basic rate tax code..."

those who move into the new drawdown and take any income, or take an UFPLS payment, will reduce the maximum level of fresh pension contributions they are able to contribute to defined contribution schemes, such as the HL SIPP, to £10,000. This is an additional restriction within the current Annual Allowance of £40,000 which covers all your pension schemes, and is referred to as the Money Purchase Annual Allowance (**MPAA**)”.

6. Hargreaves Lansdown further stated:

“What you do with your pension is an important decision. Therefore, we strongly recommend you understand your options and check they are suitable for your circumstances: take appropriate advice or guidance if you are unsure. Our service is not personal advice. We offer a range of information to help and independent financial advice if requested.”

7. On 1 October 2015, Mr S contacted Hargreaves Lansdown. During the call the option to take a triviality payment and an UFPLS was discussed. Hargreaves Lansdown informed Mr S that he also had have the option to take a Small Pots payment, but it was noted that Mr S had a pending tax relief from an earlier contribution he had made to the SIPP and an existing direct debit instruction in place. Hargreaves Lansdown confirmed that if Mr S wished to take a partial payment and leave the account open for further contributions, this could be achieved by taking an UFPLS payment but it was not possible via the Small Pots option. Hargreaves Lansdown further explained that the MPAA would be triggered if Mr S proceeded with taking benefits via the UFPLS option.
8. Following the phone call, Hargreaves Lansdown sent Mr S a secure message which provided him with further information along with: Hargreaves Lansdown’s terms and conditions; Key Features document; factsheet regarding UFPLS; and, UFPLS application form, including Decision Tree and Important Risk Questions.
9. On 5 October 2015, Mr S returned his completed UFPLS form, Decision Tree and Important Risk Questions form to Hargreaves Lansdown, in order to take benefits from the SIPP via the UFPLS option.

## **Adjudicator’s Opinion**

10. Mr S’ complaint was considered by one of our Adjudicators, who concluded that no further action was required by Hargreaves Lansdown. The Adjudicator’s findings are summarised below:-
- The secure message from Hargreaves Lansdown on 24 September 2015 suggested that Mr S contact Pension Wise or seek professional advice from a regulated financial adviser, to ensure he was choosing the right option. As Hargreaves Lansdown had informed Mr S about Pension Wise, and the importance of seeking advice if he was unsure, it had taken sufficient steps to make him aware of his options and ensure that he understood his options.

- Having listened to phone call of 1 October 2015 between Mr S and Hargreaves Lansdown, the Adjudicator thought that Hargreaves Lansdown clearly explained to Mr S that a MPPA would be triggered if he proceeded to take benefits via the UFPLS option.
  - Following the same call, Hargreaves Lansdown also sent Mr S a secure message providing further information about taking lump sums directly from his pension. It provided him with further information, including a UFPLS factsheet, and also an UFPLS application form, including the Decision Tree and Important Risk Questions. Hargreaves Lansdown again suggested that Mr S seek financial advice or seek guidance from Pension Wise.
  - Further, the secure message said: "... thank you for your request for more information on UFPLS". This suggests that, if Mr S wanted more information on the small pots option, he could have asked for it.
  - The Adjudicator was of the opinion that Hargreaves Lansdown had provided Mr S with sufficient information about his options; and, it made him aware of the possibility of a MPPA and annual allowance charge. As such, he was provided with sufficient information to make an informed decision about whether to proceed with an UFPLS payment, rather than a Small Pots payment. Further, the Decision Tree and Important Risk Questions Mr S filled out, confirmed that he had received guidance from Pension Wise and he was aware of the risk and prepared to proceed. As such, the Adjudicator was satisfied that Hargreaves Lansdown had made sufficient efforts to make Mr S aware of the importance of seeking and obtaining further guidance. The onus was on Mr S to seek and obtain advice or further if he felt he did not understand his options, or just needed further information.
  - Hargreaves has offered Mr S £150 as a goodwill gesture, for not providing more information about taking a small Pots payment, in the telephone conversation on 1 October 2015. The Adjudicator thought this was reasonable in the circumstances.
11. Mr S did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr S provided his further comments, which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by Mr S for completeness.

### **Ombudsman's decision**

12. Mr S has said that he is now in a position where he will have to work extra years because of the tax implications and the lower value of his personal pensions. However, I find that, based on the evidence available to me, Mr S was made aware that taking benefits via an UFPLS would potentially trigger an MPAA. The secure messages sent to Mr S explained the UFPLS and Drawdown options; and they clearly confirmed that these options would potentially trigger a MPAA (and an Annual Allowance charge).

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13. Mr S says it should be compulsory that members are given proper advice from a qualified financial adviser. I have considered the paperwork issued to Mr S and I am satisfied that both his UFPLS application form, and the decision tree and important risk questions document, explained the options available to Mr S; in particular, they said that he should consider seeking financial advice. I find that it would have been reasonable for Mr S to have been aware of the MPAA of £10,000 per annum. Further, Hargreaves Lansdown sent an email to Mr S confirming the Government's decision to reduce the MPAA to £4,000 a year from the beginning of the 2015/2016 tax year.
14. I will only make an award for non-financial injustice where there has been maladministration which has caused significant distress and inconvenience. I do not find that Hargreaves Lansdown's omission, in not providing more information about taking benefits under the small pots rule, amounts to maladministration. Accordingly, I make no direction to remedy any non-financial injustice that Mr S believes he has suffered. If Mr S wishes to accept Hargreaves Lansdown's offer of £150 he should contact Hargreaves Lansdown directly.
15. I do not uphold Mr S' complaint.

**Anthony Arter**

Pensions Ombudsman  
28 February 2019