

The complaint

Mr E is complaining about Vanguard Asset Management, Ltd because of the way it handled a request to transfer his ISA arrangements from a third-party provider, referred to as “the transferor”. Mr E is unhappy with the time it took to process the transfer and with the service he received.

What happened

Vanguard accepts it was responsible for delaying the transfer, so I won't go into detail concerning the circumstances of how it occurred. In short, the transfer completed on 12 May 2021 but would've done so several months earlier, but for the delay.

Vanguard looked into Mr E's concerns but didn't uphold the complaint and so Mr E referred his complaint to this service. Following this, Vanguard accepted responsibility for the delay and offered Mr E £300 for the trouble and upset caused. It accepted that it missed several emails from the transferor requesting a wet signature on the transfer authority form. Mr E didn't accept Vanguard's offer and said it should also pay for any investment losses he suffered too.

Our investigator considered the complaint. In short, he upheld the complaint but recommended as well as paying £300 compensation for the trouble and upset caused, Vanguard should also return Mr E to the position he would have been in if the money had been invested on 3 March 2021.

Vanguard didn't agree to Mr E's claim for investment loss. It noted that he had chosen not to place a pending investment order at the time he requested the transfer. So, Vanguard felt it couldn't determine what Mr E would've done if the transfer had completed sooner than it did.

It also felt that compensating Mr E further would be unfair on other customers in a similar position who *had* given a pre-existing investment instruction when there's been a transfer delay.

As an agreement couldn't be reached the matter has been referred to me for a 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.

Having done so, I've come to the same conclusion as the investigator and for broadly the same reasons.

As noted, Vanguard has accepted responsibility for the delay, so it remains only for me to decide what represents fair compensation. But for clarity I will consider when it's likely the investment would have completed but for the delays. Vanguard realised the transferor didn't accept the authority form and so it requested a new one on 23 April 2021.

Following this, the money was invested on 17 May 2021 and so the investment took 16 working days to complete. Had Vanguard picked up the initial missed correspondence from the transferor on 10 February 2021 I think it's likely that the transfer would've completed within 16 working days of that message. So, on 3 March 2021.

Mr E feels he has incurred an investment loss, as the transfer delay prevented him from investing sooner. Vanguard considers it isn't possible to determine any investment loss as there's insufficient evidence to support what Mr E would've done had the transfer completed in a reasonable timeframe.

Vanguard's position is based upon the fact that there was an opportunity for Mr E to indicate his investment intention for the cash at the point of requesting the transfer. Because he chose not to take that opportunity, it can't now be determined with any certainty what his intentions for the cash were.

I accept that if Mr E had given an investment instruction with the transfer it would be a straightforward matter to conclude what his position would be but for the delay. But I don't think his decision not to give an instruction means it's impossible to make a finding about what he was intending to do.

An instruction given at the time of the transfer would clearly have been evidence of his intentions. But I note, at the point in the transfer application process where account holders are asked if they'd like to choose their new investments, it's made clear that it is '*no problem*' if they don't want to and that they will be able to do so once the cash is transferred. Having reviewed the application in its entirety, there's no indication that it might be of benefit to give an instruction, for example – in the event of a delay.

Mr E's actions following the delay in his transfer (especially in the context of already being invested in the LifeStrategy 80% fund) are also important evidence to be considered. And in the specific circumstances of the complaint I think those actions support, on the balance of probabilities, a finding that if there'd been no delay Mr E would've invested in March 2021 in broadly the same way he did in May 2021.

Vanguard has said that compensation Mr E for investment loss when he didn't give a pre-transfer instruction would be unfair to customers in similar circumstances who had given an instruction in advance. But I don't agree. As I've said, I think it's entirely fair and reasonable to consider other evidence and the wider circumstances when deciding whether an investment loss should be compensated.

Putting things right

Vanguard should put Mr E in the position he'd be in if he invested his money into the Vanguard LifeStrategy 80% fund on 3 March 2021.

So, I direct Vanguard Asset Management, Ltd to:

- Calculate the number of units Mr E would've received if he'd invested on 3 March 2021 and compare this with the number of units he actually received when he invested in May 2021. If the number of units he would've received is greater, Vanguard should apply the additional units to his account.
- If Mr E has used up his ISA allowance for the year, Vanguard should consult with HMRC to ensure Mr E doesn't lose out and explore applying the additional units by way of restitution.

- Vanguard should also pay Mr E £300 it offered for the trouble and upset caused which I think is fair and reasonable in the circumstances.

My final decision

For the reasons given, my final decision is that I uphold the complaint and direct Vanguard Asset Management, Ltd to pay compensation to Mr E as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr E to accept or reject my decision before 19 August 2022.

Rajvinder Pnaiser
Ombudsman