

The complaint

Mr D has complained about the service received from Vanguard Asset Management, Ltd (Vanguard). His complaint is about the way Vanguard handled a request to transfer his ISA from a third-party provider (Party A). Mr D is unhappy with the time it took to process the transfer and has said he has suffered financial loss because of this.

What happened

Mr D put in a transfer request document on 15 April 2021 to Vanguard, to transfer cash from an ISA he held with Party A. He followed this up by sending a secure message to Vanguard too where he stipulated how much he would like to transfer over. This message was acknowledged by Vanguard. Mr D expected the transfer to take place within 30 days. The transfer was completed on 19 September 2021 and Mr D has said this delay has resulted in him suffering financial losses as the investments he would have put his money in, had increased in value during the time taken by Vanguard to carry out the transfer.

Vanguard accepts it was responsible for delaying the transfer and has offered £250 to Mr D for what it said was trouble and upset caused by the delay. But it said it did not think that it was responsible for any financial losses Mr D says he has incurred. It said it was a cash transfer and Mr D did not put an investment order in place at the time. It said for this reason it was unable to cover any financial loss.

Mr D referred his complaint to our service as he was unhappy with Vanguard's response. An investigator upheld the complaint but recommended as well as paying £250 compensation for distress and inconvenience caused, Vanguard should also return Mr D to the position he would have been in if the money had been invested sooner.

Vanguard didn't agree. It maintained that as Mr D had chosen not to place a pending investment order at the time he requested the transfer, it couldn't determine what he would've done. It also felt that compensating Mr D 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 the parties don't agree, Mr D's complaint 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.

Vanguard has accepted responsibility for the delay, so it remains only for me to decide what represents fair compensation.

Mr D 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 D 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 D 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, according to Vanguard, now be determined with any certainty what his intentions for the cash were.

I accept that if Mr D 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.

Vanguard has provided a document that it has called the '*ISA transfer Journey*'. It is a helpful recreation of what Mr D would've seen when he made his transfer request. Where Mr D would've been asked if he'd like to choose his new investments, it's made clear that if he doesn't want to at that point, that he will be able to do so once the cash is transferred. It says, "*would you like to choose your new Vanguard investments for the cash we receive (no problem if not – you can choose your investments later once the cash is in your Vanguard account)*". So, having reviewed the application in its entirety, I think it's more likely than not Mr D would have thought he could invest his money himself, after the cash had been transferred. There is also no indication within the document, that it might be of benefit to give an instruction, for example – in the event of a delay.

In addition, I also need to consider Mr D's actions following the delay in the transfer. He invested only three working days after the funds were transferred. He also invested into two funds that he had held previously and, he says, always had in mind that he would invest in once the transfer had gone through. And in the circumstances of Mr D's complaint, I think those actions support, on the balance of probabilities, a finding that if there'd been no delay Mr D would've invested sooner in the same way he did in September 2021.

UK Government guidelines state that cash ISA transfers with a different provider shouldn't take any longer than 15 working days. Mr D initially put a transfer request in on 15 April 2021 and had his request and subsequent message acknowledged on this date. Vanguard has said that its own processes should be taken into consideration here too and that it had to clarify an issue about which tax year allowance was being transferred. I also appreciate that Mr D held a stocks and shares ISA, rather than a cash ISA. But bearing in mind it was cash that was being transferred, I think the guideline of up to 15 working days for a cash transfer should have been ample time for Vanguard to have carried out the transfer in the circumstances here. All of this means the cash should have been available in Mr D's ISA account by 7 May 2021. It stands to reason then with all that I have concluded that Mr D would've submitted his investment instructions on this date.

Vanguard states that its processes require it to action requests from its clients in five working days. Had Mr D submitted his investment instructions on 7 May 2021, it seems reasonable to conclude that the investments would have occurred on 14 May 2021. I therefore consider this would be the appropriate date to use for the compensation calculation outlined below.

Vanguard has said that compensating Mr D 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 have concluded above, 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.

Finally, Vanguard has offered Mr D £250 in compensation for distress and inconvenience caused. I can see that Mr D has spent time and effort in chasing his transfer and as I have already concluded, more likely than not, he was looking to invest. He could see that his

investment choices were rising in value, and this must have all been a stressful time for him. So, I think £250 compensation for this, is fair and reasonable in the circumstances

Putting things right

Vanguard should put Mr D in the position he'd be in if he invested his £20,000 cash transfer into the LifeStrategy 100% Equity Fund Accumulation and FTSE 250 UCITS ETF on 14 May 2021, in the same proportion that he actually invested in September 2021.

So, I direct Vanguard Asset Management, Ltd to:

- Calculate the number of units Mr D would've received if he'd invested on 14 May 2021 and compare this with the number of units he received when he invested in September 2021. If the number of units he would've received is greater, Vanguard should apply the additional units to his account. If the number of units he would've received is less, there is no loss and no compensation in this respect is payable.
- Vanguard should also pay Mr D £250 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 about Vanguard Asset Management, Ltd to pay compensation to Mr D as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 2 March 2023.

Mark Richardson
Ombudsman