

## **The complaint**

The estate of Mrs J complains about transfer delays and errors caused by Aberdeen Standard Fund Managers Limited ("Aberdeen")

## **What happened**

In September 2017, Aberdeen received instructions on behalf of the late Mrs J, to transfer her entire portfolio, held across ISA and unwrapped investments, to a discretionary investment manager to be invested into a portfolio to reduce inheritance tax. The transfer was delayed initially due to issues with provision of a certified power of attorney and delays in provision of verification documentation for anti-money-laundering (AML) requirements.

By February 2018 AML documents for all those named on the power of attorney documentation had been sent to Aberdeen and a certified copy of the power of attorney was provided in March 2018. Aberdeen continued to ask for further information in line with their verification process but in September 2018, they exercised discretion to progress the transfer. In September/October 2018 six transfer forms were sent to Aberdeen, on the late Mrs J's behalf. In October 2018 Aberdeen told the late Mrs J's adviser (IFA) that the non-ISA transfer had been made to the discretionary investment manager.

In June 2019, following a review of the investments, the IFA discovered the ISA had not transferred and the unwrapped investments had been transferred into a new internal account in the name of the discretionary investment manager. After errors were identified and some investigation undertaken, the transfers took place.

Those acting on behalf of the estate of Mrs J say that but for the errors made, the funds would have transferred earlier into a tax efficient portfolio. They say losses were sustained as a result of the delays.

Aberdeen maintain that they were clear about the information required to verify the late Mrs J but it wasn't provided. Further, there were delays in receiving a certified copy of the power of attorney and in enquires having reasonably to be made about the late Mrs J's capacity. And whilst some information was provided by March 2018, further delay ensued whilst a new instruction was sent. Aberdeen maintain that they followed their AML procedure but given the particular circumstances they decided to proceed with the transfer on a discretionary basis on the information provided.

Aberdeen accept that errors were made in September 2018, when they advised the IFA that they had everything they needed for an ISA transfer, this error was corrected, but a further request was made in respect of the investment fund holdings. On 18 October 2018 Aberdeen accept that they incorrectly opened a new account in the name of the discretionary investment manager and transferred the late Mrs J's holdings into it. And Aberdeen accept they were wrong to inform the IFA that the non-ISA funds had transferred. They point out that a new transfer acceptance letter or new STF was requested at this time for the ISA holdings because of discrepancy in the named recipient. Aberdeen say they took the extra step of writing to the custodian to clarify the name of the correct recipient and they weren't required to do anything more.

Aberdeen apologised for the difficulties experienced whilst trying to transfer the late Mrs J's holdings, but maintained they did not receive correct instructions and at times received conflicting information. Overall responsibility for monitoring the investments fell to the IFA and Aberdeen were adamant they were not responsible for any delays in the transfer process, highlighting the lack of activity in the eight-month period after October 2018. However, they did accept shortcomings in their customer service provision for which £150 in compensation was offered.

Our investigator considered the complaint and decided to uphold it. Having reviewed the timeline of events, she considered that Aberdeen didn't receive a certified copy of the power of attorney until 23 March 2018, so it wouldn't have been reasonable for a transfer to have been completed before this date.

Our investigator agreed that Aberdeen made an error in transferring the non-ISA funds into an incorrect account and in advising the IFA that the funds had been transferred on 26 October 2018. Our investigator thought that responsibility for these mistakes rested with Aberdeen. As to the ISA, our investigator agreed that Aberdeen requested more information from the IFA in the call on 26 October 2018 and that Aberdeen sought clarification of the recipient on 31 October 2018, but there was nothing to show that Aberdeen checked to see that correspondence had been received and they didn't chase a response. She thought they were responsible for the eight-month delay in transferring the ISA.

To put things right our investigator recommended that Aberdeen should pay the difference in performance of the non-ISA funds as if they had transferred on 18 October 2018, and the ISA funds as if they'd transferred two weeks after 31 October 2018. The first date was when the funds were moved to the internal account and she selected the second date as a reasonable period after Aberdeen ought to have chased for a response to the request to confirm the recipient's name.

Aberdeen did not agree with the view and continued to deny they caused any delay in the transfer process. They pointed out the sizeable compensation offered, namely £150 and submitted that: the error should have been identified earlier, the IFA would have needed to have given further instructions before any transfer could take place and they weren't responsible for delay in the ISA transfer as it wasn't for Aberdeen to chase information from the new plan manager.

As the parties do not agree the matter has come to me for a final 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.

I think it is helpful to highlight at the outset that our service provides an informal dispute resolution service. We have no regulatory or disciplinary powers, which means we can't tell a business how to operate or impose any penalty. We consider each case on its own facts and we make decisions based upon the balance of probabilities, namely, whether something is more likely than not to have happened. Where things have gone wrong, we look to compensate on a fair and reasonable basis.

There were a number of factors causing delays during 2017 and 2018, where various instructions were given and verification documents were requested. It's clear that both parties feel the other could have done more and it appears that at times there was confusion. I also appreciate that the estate of Mrs J felt the AML checks were onerous, but overall there's nothing to show that Aberdeen acted outside their processes and as I've explained it isn't within our remit to tell a business how to operate. Further, I've seen that in this particular case, Aberdeen did go on to exercise discretion in the late Mrs J's favour in any event. I also agree with our investigator that Aberdeen did nothing wrong in requesting and waiting for a certified copy of the power of attorney to be provided.

But it is clear that things did go wrong later on. It isn't disputed that Aberdeen transferred the non-ISA funds into a new internal account in the name of the discretionary investment manager as the investor in October 2018. They then went on to reassure the IFA that the transfer to the discretionary investment manager had completed correctly. I've also seen that Aberdeen issued correspondence to the discretionary investment manager as the named investor rather than the late Mrs J, which caused further confusion. Aberdeen say insufficient evidence had been provided to establish that they were "definitively and inarguably" responsible for any delay in transfer. But as I've explained at the outset, the applicable standard of proof is whether it is more likely than not that Aberdeen caused delay. On balance, I'm persuaded that it is more likely that the errors made by Aberdeen did lead to the delay in transferring the non-ISA funds. It's common ground that the original, fundamental error was made by Aberdeen, it wasn't identified by them and it was compounded by their assurance to the IFA that the transfer had completed properly. In my view it wasn't unreasonable for the IFA to rely upon that assurance.

As to the ISA transfer, it is my view that context is relevant in this particular complaint. As seen by the timeline above, the original transfer requests had been made in September 2017 and I've heard in the calls that this information was held on the late Mrs J's account. So, the history was known to Aberdeen. Aberdeen acknowledge they received an ISA acceptance letter in August 2018, in which they noted details of a different recipient business. Whilst that request was rejected as other information was outstanding, Aberdeen accept that at that time they, *"could have also advised xx of the conflicting information they had provided regarding the recipient of the transfer"* and they've apologised for this shortcoming. Following this, a mistake was made in September when Aberdeen confirmed to the IFA that they had received everything required for the ISA transfer and by this time they'd agreed no further verification information was required. This mistake was corrected within a few days. Some correspondence was also sent to Mrs J at an address she didn't live at.

By October 2018 Aberdeen had received transfer forms for the ISA. Aberdeen then spoke to the IFA about the conflicting information as to the recipient on the acceptance and transfer forms, following which they wrote to the custodian to clarify the situation so that the transfer could be made. But thereafter no further steps were taken. In my view, against the backdrop of this particular case, I don't think it was reasonable for Aberdeen not to seek a response. In my view they caused a muddled journey and the impression was given that things were in hand. It's common ground that the failure to transfer then wasn't brought to light until June 2019.

Taking all of the above into account, on balance, it's my view that in this particular case shortcomings by Aberdeen led to the ISA transfer delay. In my view, had the last response been chased, it was more likely than not that the transfer would have taken place earlier.

In light of my findings, I am upholding this complaint.

### **Putting things right**

But for the errors made by Aberdeen, I consider that it is more likely than not that the transfers would have progressed earlier.

The discretionary investment manager has now confirmed that once funds were received, they would have been invested directly and no further instructions were required from the IFA, so from their side there wouldn't have been any further delay. On balance, on the basis of the information provided, I am persuaded that it is likely.

In my view, I think it is fair and reasonable for Aberdeen to pay the difference in performance for the respective investments between the date of transfer in and date the investments ought reasonably to have transferred in. Whilst I can't say exactly what timeline would have applied, broadly, I think the dates selected by our investigator are fair and reasonable. So, for the non-ISA funds I think that date should be 18 October 2018, when the funds were moved to an internal account. For the ISA funds, I think two weeks from the last request in which confirmation of the correct name was made, which would be 14 November 2018, being a reasonable period for the information to have been obtained. Had things not gone wrong, the late Mrs J would also have benefitted from growth on that difference. So, in addition, the growth of that difference should be added, to be calculated at the growth rate of the respective investments from the date of transfer in to the date of encashment.

I've seen that Aberdeen offered £150 to the estate of Mrs J to compensate for poor service. As we can't direct a business to compensate an estate for trouble and upset, it's a matter for the estate to decide whether or not to accept that offer.

### **My final decision**

For the reasons given, I am upholding this complaint. I direct Aberdeen Standard Fund Managers Limited to put things right as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Ms J to accept or reject my decision before 18 August 2022.

Sarah Tozzi  
**Ombudsman**