

The complaint

Ms J complains Freetrade Limited's trading app was not fit for purpose and its service failed to take proper account of her needs including needs arising from disability. She says these failings caused her to suffer financial loss as well as distress and inconvenience.

What happened

Our investigator considered Ms J's complaint and, having considered all her submissions, identified key events and issues as follows:

- Ms J wasn't able to make a particular share sale on 3 August 2021 because an app error led to a considerable delay in her being informed that a sell limit-order she needed to remove first had been removed. The share price fell in the meantime.
- Ms J wasn't able to make a particular share purchase on 3 August 2021 because an app error delayed the display of orders and the share price then rose.
- Ms J wasn't able to set the limit-orders as she wanted because Freetrade's app display didn't show enough decimal places to allow the precision she wanted. Information about executed trades was similarly affected as it didn't always show full price details.
- Ms J wasn't able to sell her holding of a certain company's shares as she wanted at market open on 17 August 2021 at 8am. Other providers offered trading in these relisted shares from 8am but Freetrade didn't organise this until after 9am.
- Ms J pointed out to Freetrade an error in the pricing shown for certain shares. This error was corrected by Freetrade's engineers on 24 August 2021.
- Freetrade offered an app-based service and refused Ms J's request that in light of her disability it adjust this to a phone-based one.
- Freetrade initially gave Ms J only eight trading days to close or move her positions when on 27 September 2021 it told her its service wasn't right for her and she would have to close her account. Also Freetrade initially wouldn't speak to Ms J about the issues she had with this decision.

Having considered all this, our investigator's conclusions were - in brief summary:

- It was due to a failing of Freetrade that Ms J was unable to sell the shares she wanted to sell on 3 August 2021, but this didn't cause her loss because she later had chances to sell these for a higher price and did in fact do this for most of them.
- It was due to a failing of Freetrade that Ms J was unable to buy the shares she wanted to buy on 3 August 2021. But it wouldn't be fair to hold Freetrade responsible for any losses Mr J might have suffered as a result. This is because Freetrade's terms made it clear it didn't guarantee its service would work without errors or interruptions and made clear Freetrade wouldn't be liable for losses from such problems. No platform can guarantee

its service will always be available. Things do go wrong and Freetrade didn't deliberately stop Ms J making the trades. For the same reasons it wouldn't be fair to hold Freetrade responsible for financial consequences of the errors it corrected on 24 August 2021.

- Frustrating though it was for her, Freetrade wasn't at fault for not having Ms J's relisted shares available to trade until an hour or so after market open on 17 August 2021 when those shares were relisted. Freetrade was allowed to grant access to this stock through its platform at the point in time it wished to grant this - and there weren't grounds to say Freetrade should have done this differently. The decision was within its discretion.
- It may have been frustrating that Freetrade's app display showed a limited number of decimal places, but this didn't affect Ms J financially because her orders went through at the right prices regardless of any rounding of figures on the app.
- Freetrade was clearly unable to meet Ms J's needs so its decision to close her account was right. It was also right to extend by around three weeks the time it allowed Ms J to arrange this. Also it transferred holdings out for her in a way it normally wouldn't have and offered her same-day fund withdrawal.
- Freetrade was right to arrange a phone call with Ms J about the account closure. But it ought to have taken that step earlier, bearing in mind what it knew about her health condition. It caused her unnecessary distress by not doing so and so should pay her £300 as compensation for this distress.

Freetrade rejected our investigator's outcome. In brief summary, Freetrade said calling Ms J went over and above the service it had agreed to offer and so it wasn't fair to be penalised for not doing this sooner. Also, it appeared to Freetrade that it wouldn't have been criticised if it had stuck to its process and not called at all, so it appeared it was being penalised for doing more for Ms J than it would have normally done for a customer.

Ms J also rejected our investigator's outcome. In brief summary, she said £300 wasn't enough for the impact on her health alone. She said Freetrade forcing her to close her account lost her money, she made losses due to glitches and there was also discrimination – all of which justifies more than £300. She said Freetrade not making the relisted shares available in time for market open cost her £530.

Ms J also suggested more consideration needed to be given to all the documents she had sent us and to issues that weren't referred to by our investigator but had been raised in those documents. She didn't specify what had been overlooked. Our investigator had previously invited her to specify the points of her complaint.

I wrote to Ms J referring to various points she had made and issues she had raised with Freetrade during the time she was using its service. Those points or issues included:

- Problems and queries over price Ms J had at first about market orders – particularly where the markets were not open at the time of the order.
- Freetrade on one day being unable to arrange purchases of shares on US markets.
- Problems and queries Ms J had over limit orders not being executed or the price at which they were executed or the spread involved.
- Problems with fields on the app remaining blank for Ms J, including the average price field not populating correctly, and having to reinstall the app each day to resolve issues.

- Having to argue with Freetrade daily about its attitude and ability to run its app properly.
- Orders being queued, the speed of order execution, limit orders not being cancelled, incorrect pricing and incorrect profit and loss information.
- Not allowing Ms J to buy shares after Freetrade had decided her account needed to be closed, so she couldn't buy more shares at lower prices where her shares had fallen in value and so she wasn't able to reduce the average price she would need the shares to rise to for a profit or to breakeven. If she'd been allowed to make these purchases, she wouldn't have chosen to sell some shares as early as she did and so she suffered losses that she might've avoided. Also, for shares she transferred to a new provider, she risked missing a share price rise during the transfer if she couldn't sell or was inhibited from selling during that transfer process.

I invited Ms J to let me know of any specific point - in those I'd mentioned or any I hadn't - to which she thought I should give more attention. She said it was too long ago for her to recall. But she did say Freetrade's app was failing to work for her most of the time – and she referred to screenshots she had sent of this.

Ms J said Freetrade's app had glitch after glitch and this is even clearer to her now she has moved to another provider. She said Freetrade's restriction of her account was retaliation for her complaint and made her stress levels ten times worse than was necessary due to the threat to sell all her stock. She said Freetrade's failings caused her distress as well as financial loss and she worked out the financial loss to be around £2100.

As the complaint hasn't been resolved informally, it is one that I must decide.

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 reached the same outcome as our investigator. I'll explain my reasons.

It is plain there were failings in the service Freetrade offered Ms J due to faults that occurred on its app from time to time. Sometimes those failings deprived her of the chance of trading at a more favourable price than was available once the faults were fixed. So these potentially caused Ms J loss. An example would be the fault that stopped Ms J buying the shares she wanted to buy on 3 August 2021 – which Ms J at the time said lost her around £200.

But in considering whether Freetrade should pay Ms J compensation, I take into account its terms. These included that Freetrade wouldn't be liable to Ms J for losses *“...arising as a result of your inability to access our Services, whatever the reason or cause for that inability”*. The terms also included that Freetrade couldn't *“guarantee that our Services will always be accessible by you, always available, always functioning properly or error-free.”*

With those terms in mind, and having considered the particular instances in which it appears a fault on Freetrade's app prevented Ms J from trading, I haven't identified any in which I think it would be fair and reasonable to require Freetrade to compensate Ms J for a trade she was unable to make. I say this bearing in mind that an online system reliant on an app is unlikely to work exactly as it should always. In my view it was reasonable for Freetrade to offer its service on the basis that if a fault on the app prevented or delayed Ms J from trading this, broadly, wouldn't be something Freetrade would compensate her for. I'm not persuaded that, on the facts in this case, it would be fair and reasonable to disregard what Freetrade's terms said about its willingness to assume liability for losses in those situations.

I note what Ms J has said about having daily difficulties with information loading onto the app and about how she had to restart it each day. The screenshots she sent us show there were problems with data loading slowly or not loading at all. In some examples Ms J had drawn to our attention, the fields filled in a few minutes later. In others the problem persisted. But I've not seen anything to suggest to me these were system-wide issues rather than issues with how Ms J's set-up interacted with Freetrade's app. Overall I'm not persuaded that it was a fault by Freetrade or on its app or system that was the root of these problems. So I don't find it at fault for those problems and I say this regardless of whether Freetrade's terms about not guaranteeing problem-free access to its service would also apply and cover these difficulties.

Ms J's trades will have been executed at the relevant market prices even if, due to the number of decimal places shown by the app, full details of the prices couldn't be shown. But Ms J's ability to place stop-loss or limit orders at the precise levels she would've liked was affected by the number of decimals available, so this did have potential to impact her – particularly for shares with very low prices or what Freetrade called 'penny stocks'.

Ms J says Freetrade shouldn't have offered trading in these 'penny stocks' if its app wasn't suited to deal with them. I've thought about this carefully. From what Ms J has said and from what I've seen, the level of price detail the app gave was apparent when she bought the shares – as was what could and couldn't be seen on it in terms of decimal places. With this in mind, I don't think Freetrade treated Ms J unfairly by offering and allowing her to buy the shares she wanted to buy – even if these might fall or rise in price increments smaller than the smallest shown on the app. Also I don't find that Freetrade acted unfairly by not offering a limit or stop loss facility that would operate at the smallest increment by which a share price might move or at smaller increments than it offered on its app.

Turning to the relisted shares Freetrade didn't make available until after 9am instead of at the 8am market open, the day before the relisting Ms J told Freetrade she expected to be able to trade the shares as soon as the market opened. Freetrade told her it was working on making the shares available, but it didn't promise her that she would be able to trade them at 8am when the market opened. Freetrade's complaint response emphasised that it hadn't promised Ms J it would make the shares available from any particular point in time.

I note Freetrade didn't in its terms undertake to ensure a relisted share it allowed its customers to trade would be available on the day of relisting or within a particular timeframe or before a particular deadline. Also Freetrade wasn't obliged under its terms to offer trading in the shares of every company or of any particular company. It was free to decide which shares it would offer its customers the facility to trade.

Having said that, I think it is relevant that Ms J wouldn't have had the relisted shares and wouldn't have held them through Freetrade had it not been for Freetrade allowing her to buy shares in that company before those shares were suspended. So Freetrade has a customer, Ms J, who had a financial interest in those shares that had arisen by virtue of the customer relationship. The shares weren't something Ms J could choose not to involve herself in if Freetrade chose not to allow trading in them. Trading in those shares was something Ms J she needed Freetrade to facilitate, rather than being an optional extra for her. In my view it was reasonable for her to expect Freetrade to arrange this in the circumstances here. Freetrade hasn't said it wasn't obliged to arrange for Ms J to be able to sell her holding of the relisted shares – it has said it wasn't at fault for arranging this for just after 9am rather than in time for the 8am market open.

In considering whether this was reasonable, I bear in mind the shares had been suspended around five months earlier and the relisting had been expected but then deferred more than once during that time. I also note the relisting was preceded by a 11 August 2021 prospectus and that, ignoring weekends, there were three working days after that before 17 August. So

although Ms J has referred to the relisting as having been expected for some months, the actual timing and details of it weren't available until much closer to the event itself.

I don't overlook that Freetrade's delay of a little over an hour had financial consequences for Ms J. Ms J's most recent assessment of this loss was £1600, although this isn't based on the sale of her holding alone but on further knock-on or repeat transactions she might have made after that. Her earlier estimate of the loss on the sale itself was around £560 based on a difference between a share price of 0.8p she says was available at 8am and a share price of 0.41p from after the time the shares were made available to her to trade by Freetrade. But I note that on the day of the relisting itself, Ms J told Freetrade on its chat a few minutes after the market open that the price she had missed out on was 0.6p, which would imply a loss of around £270.

It is hard to say what price Ms J might have got if she'd been able to trade in the minutes after market open. Even if 0.8p is an opening price on a historic chart, this doesn't mean trades requested immediately after market open would have gone through at this price – particularly where many sales are requested because it is the first chance to sell a share that has been suspended for some months. But whatever the exact figure, what is plain is that in the first hour of trading there were prices available that were more favourable than an hour later and the 0.41p price Ms J has referred to. Also I've nothing to suggest it would have been impossible for Freetrade to arrange to allow trading in the shares to begin earlier and at 8am – given other providers did manage this.

But I bear in mind also what I've said above about the shares having been unlisted for some months with plans to relist deferred at times. I bear in mind also what I've said about the timescale between the prospectus publication and the relisting. Also I bear in mind the absence of specific promises in Freetrade's terms about how quickly relisted shares would be made available and I note Freetrade also gave Ms J no promises personally when she raised this with Freetrade the day before the relisting.

With this and all I've said above in mind, on balance – and it is a fine balance – I reach the view that Freetrade is not at fault here for having made the shares available a little after 9am rather than at 8am market open. It follows that I don't find Freetrade responsible to Ms J for the loss she has calculated, either in relation to the sale of the relisted shares or in relation to any other transactions that this sale may have facilitated.

I turn now to the issue of Freetrade closing Ms J's account, which Freetrade started to initiate in late September 2021.

There's no doubt Freetrade's service wasn't working well for Ms J from her point of view. This is plain from the number and frequency of problems she was experiencing and raising with Freetrade. Indeed, Ms J says she was arguing with Freetrade about the inadequacy of its service on a daily basis. That obviously isn't a sustainable situation and, on the face of it, appears on its own to be sufficient grounds to say it wasn't unfair, unreasonable or in breach of its obligations for Freetrade to decide Ms J's account needed to be closed. Also it seems that more than a month before Freetrade asked her to close her account, Ms J had already decided the answer was to close her account with Freetrade and move elsewhere. She told Freetrade in mid-August that she intended to move to a new provider and had an account set up ready for this. But she said she wanted to resolve some of the issues she had with Freetrade first before moving.

So it doesn't really seem to be disputed that Ms J's account with Freetrade wasn't working for her and needed to be closed. It is how Freetrade went about that which is the nub of this part of the dispute. But having said that, I do note what Ms J told Freetrade about how her use of its service was having a negative effect on her health and on her mental health. In my view

that in itself provided reasonable grounds for Freetrade to decide Ms J's account needed to be closed. So I do not find Freetrade at fault for that. I note Freetrade's terms say it is permitted to close or suspend accounts or trades if it has reasonable grounds to do so.

In saying all this, I don't overlook that one aspect of problems Ms J had with Freetrade's service was that the service Freetrade offered was an online-only and app-based service. Ms J has explained her health issues and disability at times meant interacting with Freetrade through its app was difficult or entirely impractical for her and in any case tiring and stressful. I've thought about this carefully, bearing in mind in particular about what she has said about disability. But having done so, I don't find Freetrade acted unfairly, unreasonably or in breach of its obligations towards Ms J by offering an online service and not also offering her an alternative service such as a telephone service. In my view the nature of Freetrade's offering as an online-only service was plain and I find nothing wrong in that. Also I've seen no evidence or suggestion that Freetrade led Ms J to believe it offered any other sort of service – so I'm satisfied Ms J's decision to open her Freetrade account was made on the basis that what it was offering was an online, app-based service.

Returning to how Freetrade went about closing Ms J's account, the timescale Freetrade set for this and the limitations it imposed on her account in the meantime, I agree the initial time set by Freetrade was too short in the circumstances and Freetrade was right to extend this in the way that it did. But I can't fault Freetrade for wanting to bring the situation to a conclusion as swiftly as it reasonably could – bearing in mind what Ms J had said about how her use of its service was impacting her. It isn't obvious that Ms J was very much closer to closing her account in late September than she was when she first expressed an intention to do this in mid-August. But whether or not that is the case, I still don't think it was wrong for Freetrade to set deadlines with a view to bringing the matter to a conclusion.

Ms J includes in her calculation of financial loss what she might have made or recovered if she had been allowed to buy more shares and these shares had then increased in value and she had then sold them, with the rest of her shares, at favourable prices. It seems to me her position on this is very similar to, if not in essence the same as, saying that Freetrade ought to have continued to allow her to buy and sell as normal until such time as her account was in a positive position as a result of her trading. But it is in the nature of trading that such an outcome cannot be guaranteed. So such an approach wouldn't necessarily have led to Ms J's account being closed at all, let alone being closed within a reasonable and prompt timescale. Also if Freetrade had allowed Ms J to buy more shares, this would necessarily have added to her financial exposure to the shortcomings or features of the service with which she was dissatisfied, which in my view doesn't appear to be consistent with an objective of reducing and in due course removing that exposure.

Also I note Freetrade reduced the extent to which Ms J would have to sell and potentially rebuy shares elsewhere. It did this by allowing her to transfer holdings where it had the facility to allow this. In my view it was appropriate that Freetrade took this step and I note it wouldn't ordinarily have allowed this except for ISA holdings. I accept there was still a risk of Ms J missing a share price rise during a transfer of a holding. But I note Ms J had the option of selling holdings and transferring the cash instead – and Freetrade offered her a same day fund transfer, to address her concern that she might miss out if cash from a share sale wasn't moved promptly enough to her new provider.

With all this in mind, it seems to me Freetrade did do a reasonable amount to mitigate or remove the risk of loss that might otherwise have arisen from Ms J closing her account and moving elsewhere. Also I don't think that allowing Ms J's account to run indefinitely was preferable as an alternative. I accept that having to close positions or move them sooner than Ms J may have had in mind will have been stressful for her. But she has said the situation before that was stressful too. Also Ms J had a number of weeks to arrange either

sales or transfers of her holdings, so she had some control over the timing.

Overall, when balanced against the potential disadvantages to Ms J of continuing to use Freetrade's service, I don't think the potential disadvantages for her of how Freetrade went about closing her account, were such that Freetrade's actions were unfair or unreasonable.

It follows that I do not uphold Ms J's claim for financial loss arising from the trades she says she could've profited from had she been able to continue to buy and sell as normal during the account closure process.

Overall I don't find Freetrade at fault for how it went about closing Ms J's account. However I do note Ms J did wish to discuss this decision with Freetrade on the phone. Freetrade didn't offer a phone service. But having decided the service it did offer wasn't right for Ms J, and bearing in mind that the online-only nature of the interactions was a part of that, I don't think it follows that Freetrade was right to refuse to speak to Ms J about ending the service it was offering her. On the contrary, I agree with our investigator that it was appropriate for Freetrade to speak to Ms J about this in the way that it did. Also, bearing in mind in particular what Freetrade knew about Ms J's health, I also share the view that Freetrade ought to have done this earlier and that Freetrade should pay Ms J £300 for distress caused by this failing. I note Freetrade had already made other small payments, including a fees rebate and £20 for inconvenience. My award is in addition to these amounts and should be paid on top.

So I uphold Ms J's complaint on that basis and to that extent.

Putting things right

Freetrade Limited should put things right by paying Ms J £300 for distress Freetrade Limited caused her due to the failings I've identified above.

My final decision

For the reasons I've given and in light of all I've said above, I uphold Ms J's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms J to accept or reject my decision before 3 July 2023.

Richard Sheridan
Ombudsman