

The complaint

Mr T has complained about the service AJ Bell Management Limited provides in relation to his pension and ISA accounts.

What happened

Mr T has a self-invested personal pension ('SIPP') and an ISA with AJ Bell. Mr T manages the investments within these accounts using AJ Bell's online trading platform.

In November 2020 Mr T attempted to place some trades online, but he encountered problems with the platform. As a result Mr T said he made a loss of around £8,000 as he wasn't able to take advantage of news that impacted the value of some of the stocks he held in his SIPP and ISA. Mr T complained about this at the time and raised a complaint on behalf of Mrs T about the same issue. Mr T says his concerns weren't responded to and he experienced further problems attempting to place trades in December 2020.

AJ Bell responded to Mr T's complaint in December 2020, apologising for the disruption to the service he'd experienced in November 2020. It said the news announcement led to its busiest day ever in terms of traffic to its platform, which had caused the technical issues. However, as this was beyond its control it wasn't responsible for any losses he had suffered.

Mr T encountered other interruptions trying to trade online thereafter and raised new complaints. However, AJ Bell didn't offer any compensation so Mr T referred his complaint to our Service. Mr T said AJ Bell's platform wasn't fit for purpose and that he should be compensated for his losses. He added that AJ Bell had told the press that it would compensate consumers for losses related to the issue in November 2020 so it should honour this.

Mr T also pointed out that he'd been issued shares in a company I'll call 'E', following a demerger. He said these shares had been placed in his ISA, contrary to HMRC rules, and he had asked AJ Bell to have them moved to his dealing account, which he said he'd opened for this purpose. However, this hadn't been actioned because AJ Bell told him E was going to attempt to list the company. Mr T said significant time had now passed and E hadn't listed, so he continued to be in breach of HMRC rules about holding non-qualifying investments in his ISA.

AJ Bell sent our Investigator its file and made an offer of compensation to Mr T of £500 for the problems he'd experienced with the platform. Our Investigator didn't think AJ Bell needed to compensate Mr T for his alleged investment loss but thought that AJ Bell should pay an extra £200 to reflect the fact that Mr T continued to experience problems with the platform. The Investigator said she couldn't consider the issue Mr T had raised about the shares in E, as AJ Bell hadn't yet been able to consider this complaint issue and needed an opportunity to do so first.

Mr T didn't accept the Investigator's view – he said the compensation awarded didn't reflect the magnitude of his investment loss. In respect of the shares in E, Mr T said they still hadn't been moved.

AJ Bell didn't respond to the Investigator's view. So, the complaint was passed to me to make a final decision on the matter.

I contacted AJ Bell to advise that I thought it had had enough time to consider Mr T's complaint about the shares in E, given the Investigator had made it aware of Mr T's concerns in March 2022 and had asked AJ Bell for its position on this issue again in December 2022. So, I explained I would be considering this as part of Mr T's overall complaint. And having done so, I thought AJ Bell should pay an extra £300 in addition to the £500 already offered to compensate Mr T for all of the concerns he'd raised. I said that I didn't know if the shares in E were still held in Mr T's ISA, but if so, I said AJ Bell should contact Mr T as soon as possible to move them to an appropriate account.

AJ Bell acknowledged my correspondence but didn't respond despite being given extra time to do so. The Investigator shared my view with Mr T, who maintained that the total compensation offered wasn't sufficient given the magnitude of his loss. Mr T commented that his wife had received the same amount of compensation despite her loss being significantly less.

As there is still disagreement between the parties, I'm now providing my 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.

Having done so, I'm upholding the complaint and requiring AJ Bell to pay Mr T £300, in addition to the £500 it has already offered, to compensate Mr T for the issues he's experienced. However, I know this will be disappointing for Mr T as he doesn't feel that the compensation is commensurate with the investment loss he says he suffered and the overall impact of the issues he encountered.

I should first say that I recognise it would have been incredibly frustrating to Mr T that he couldn't place trades online through AJ Bell's platform. In particular, he says he was unable to place several trades on 9 November 2020, following an announcement relating to a covid-19 vaccine, which would have an impact on the value of other shares he held in his SIPP and ISA. By the time the technical issue was fixed, this was much later in the day and the market had moved unfavourably for him. He says this caused him a loss of around £8,000.

It's evident that in times of extreme market conditions, AJ Bell's platform may be impacted or malfunction. AJ Bell's terms and conditions account for this and state that it would not be liable for any loss incurred as a result. AJ Bell has explained it experienced its highest ever traffic to its trading platform following the vaccine announcement, which led to the technical issues and prevented Mr T from accessing his account. So, I think that Mr T was unable to access his account due to extreme market conditions, beyond AJ Bell's control, rather than due to any separate failing by AJ Bell. For this reason I don't think it is responsible for his investment loss.

Notwithstanding what I've said above, I'm mindful that Mr T had other ways of placing trades that day, including by telephone. Mr T has suggested that he tried to call and that the phone lines were permanently engaged. However, he hasn't provided evidence to support this. Mr T did send an email on behalf of himself and his wife about the issues in accessing the online platform, but this email made no mention of any attempted phone calls. I think that is something Mr T would've likely mentioned had he also been attempting to contact AJ Bell by phone.

Although AJ Bell said it experienced an extremely high volume of calls on that day, it said the average call waiting time was less than seven minutes, so it believes Mr T could've placed his trades this way. AJ Bell confirmed it had no record of any calls from numbers associated with Mr T. So, even though I don't think AJ Bell is responsible for Mr T's loss because the system issues were caused by extreme market conditions, I also think that Mr T could've attempted to place his trades by telephone, which was a reasonable alternative to using the online platform. I don't doubt that this would've been less convenient for Mr T, but I think he could've mitigated or avoided his loss here.

I'm mindful that Mr T encountered further problems accessing the platform and placing trades in December 2020, February 2021 and April 2021. And I again appreciate that this would've been frustrating to him. But as I've said above, Mr T could've placed his trades by phone instead. There will inevitably be times when technology fails or external factors will impact the functioning of the online platform, that is why AJ Bell operates a telephone dealing service. For this reason, I don't think AJ Bell is responsible for any loss Mr T associates with the other times he was unable to use the online platform.

That said, I do recognise that AJ Bell offers customers an online trading platform and there have clearly been several instances during a relatively short period of time in which Mr T has been unable to use it. Although Mr T had other ways of placing trades, this would have undoubtedly been less convenient. So, I do think the issues he's experienced have caused him distress and inconvenience and so it is fair that he receives compensation for this.

With regard to Mr T's shares in E, based on the information Mr T has provided, the shares were still held in his ISA in April 2022 and by that point they had been there for around 18 months. As the shares in E are not qualifying investments, they should not be held in an ISA for more than a short period of time while other arrangements are made. I appreciate that when the shares were issued, E was considering listing the company. And had that happened then the shares could've remained in Mr T's ISA. However, AJ Bell ought to have made arrangements to transfer the shares to an appropriate account sooner once it became clear the company no longer intended to list.

It isn't clear whether the shares remain in Mr T's ISA now, but if so, AJ Bell must contact Mr T without delay to arrange for the shares to be moved to an appropriate account. While I haven't been made aware of any financial detriment to Mr T as a consequence, I can see that this issue has been a source of worry for him and it also would've been frustrating given he'd raised his concerns about this over a year ago and no action was taken. So, I think compensation is also warranted here.

AJ Bell offered Mr T £500 to compensate him for the issues he'd experienced up until April 2021. However, I think £800 overall (including the £500 it has already offered) is fair compensation for all of the issues Mr T experienced in using the online trading platform and the concerns he raised about the shares in E remaining in his ISA. I appreciate Mr T doesn't think that is sufficient. However, it should be noted that the amount of compensation is not based on the alleged loss Mr T says the issues caused him. Instead, it is intended to reflect the distress and inconvenience it caused. So, the sum awarded to Mrs T in respect of her complaint shouldn't be the basis for comparison. And overall I think that £800 in total is fair as it reflects the number of times that Mr T couldn't use the platform and the resulting inconvenience, as well as the additional worry he had regarding the unlisted shares.

Putting things right

AJ Bell should pay Mr T total compensation of £800 (including the £500 it has already offered him) for the issues he experienced in using the online trading platform and the concerns he raised about the shares in E remaining in his ISA.

AJ Bell should, without delay, arrange to move the shares in E from Mr T's ISA to an appropriate account if the shares haven't yet been moved.

My final decision

For the reasons set out above, I'm upholding this complaint and I require AJ Bell Management Limited to put things right as above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr T to accept or reject my decision before 14 April 2023.

Hannah Wise
Ombudsman