

The complaint

Mr S complains that Halifax Share Dealing Limited ('HSDL') provided incorrect advice when he applied to transfer his individual savings account ('ISA') to another provider. Mr S says HSDL told him to sell his existing funds on-line so they could be sent to the new provider. HSDL then transferred the cash into Mr S' current account, resulting in a potential opportunity to invest being missed and the loss of ISA wrapper tax benefits.

What happened

HSDL received a request from Mr S' new ISA provider to transfer the funds in cash on 14 October 2020. When Mr S contacted HSDL on 20 October to check on the progress, HSDL told him he should go on-line and manually sell the funds in his account so the proceeds could be transferred to the new provider. Mr S did this, but the funds were instead credited to his current account on 28 October.

Mr S spoke with HSDL on 9 November and explained he'd been told to sell the funds himself and that the funds had been credited to his current account. HSDL asked Mr S to transfer the cash funds back to them so they could re-instate the ISA wrapper, and then send the cash to the new provider. Mr S indicated he would transfer £31,600 back, but this transfer didn't happen as HSDL didn't provide Mr S with the account details for the return of the funds.

Mr S complained to HSDL on 19 November and he was provided with the correct bank details to return the £31,600. The funds haven't been returned to HSDL.

HSDL provided a final response in April 2021. They accept they'd incorrectly told him to manually sell the funds in his ISA wrapper. And that they paid the funds into his current account. HSDL said that if Mr S returned the funds, they would be willing to restore them into the ISA wrapper and send the proceeds to the new provider. HSDL offered Mr S £400 for the inconvenience caused. Mr S said he'd invested some of the funds and hasn't returned any funds to HSDL.

Mr S brought his complaint to the Financial Ombudsman Service and one of our Investigators looked into things for him. Our Investigator thought HSDL's offer to re-instate the ISA wrapper and send the funds to the new provider if Mr S returned the cash funds was a reasonable one. And that the offer of £400 for the inconvenience their errors caused Mr S was reasonable too. Mr S didn't agree with the Investigator as he felt the transfer should've completed in October and he had missed out on potential investment growth.

The Investigator re-considered this and thought HSDL should also calculate and pay any difference between the unit price in the funds Mr S said he would've bought from 20 October to 19 November 2020.

As both Mr S and HSDL didn't accept the conclusions of the Investigator, the complaint was been passed to me to decide. I reached a significantly different conclusion to that of the Investigator and I issued a provisional decision asking for any further comments from Mr S and HSDL.

HSDL didn't provide a response to my provisional decision. Mr S did provide additional comments, but the comments haven't changed my conclusion and I've decided to adopt my provisional decision as my final decision. I will address the comments Mr S made and explain why they haven't changed my conclusion.

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.

HSDL received a request to transfer the cash to the new provider on 14 October 2020. Mr S sold the funds manually on 20 October, as instructed to by HSDL and the cash funds were incorrectly transferred by HSDL to a current account held by Mr S on 28 October. It's fair and reasonable for me to conclude this is the date any transfer to the new provider would have completed as it was essentially the settlement date for the funds Mr S sold in his HSDL ISA.

HSDL accept they got things wrong here, but it seems from the timelines both parties provided, HSDL first gave Mr S the option to return the cash to them on 9 November. They said if they received the funds back, they could re-instate the ISA wrapper and send the funds to the new provider. The notes HSDL provided of this call record Mr S indicated he wanted to return £31,600, which was slightly less than actual cash transfer. So, I consider it likely there was some discussion about the intention of Mr S to return a significant proportion of the cash at that time.

Unfortunately, Mr S was unable to return the funds to HSDL as they didn't provide him with the necessary account details. However, from the timeline provided by HSDL, I consider it's more likely than not Mr S was provided with the correct account details on 19 November. This was the day Mr S contacted HSDL to make a complaint about their service.

I understand Mr S says he waited for a final response to his complaint, but I'm satisfied that by 19 November 2020 HSDL had provided him with the details required to complete the transfer and retain the ISA status. I've noted Mr S says he lost the ISA status, and this is the fault of HSDL. I note Mr S says he was frustrated that HSDL had taken some time to get to this point, but the crux of this is that if had Mr S transferred the funds to HSDL, it's likely his ISA status would have been preserved. And, as I consider it likely the ISA status could have been re-instated, even after the further delay between 9 and 19 November, I consider it unfair to say HSDL were ultimately responsible for the loss of the ISA status.

Mr S says it's likely he missed out on investment performance as his funds were switched to cash. In this case the transfer form submitted by the new ISA provider made it clear the funds were to be transferred as cash and not in-specie. So, in my opinion, it seems more likely than not Mr S intended to convert the funds to cash and transfer the cash to his new provider. As I've explained earlier, the 28 October seems the likely date the transfer would have happened. So, using the price of the previous HSDL funds isn't a reasonable and fair option as these were to be disinvested. And in any case, it seems to me there is no requirement for me to consider any loss of investment performance prior to 28 October as the funds were invested until this date.

Mr S says that if the transfer had happened on 28 October, he would likely have invested in funds with his new provider. He says he was denied this opportunity to do so as HSDL didn't complete the transfer correctly. Mr S adds that he would have invested into three specific funds with his new provider. Mr S did later invest into these funds, but I can't be reasonably sure he would've chosen these three funds in October 2020. And, I've not seen any evidence to persuade me was actively considering these specific funds at that

time. Having said that, I do consider it's likely Mr S would have invested in similar funds to the funds he's mentioned. I say this because he was invested in similar funds with HSDL. And I think it's more likely than not he would have continued to invest in similar funds rather than hold his funds in cash with the new provider for any length of time.

So, I've decided to ask HSDL to take action to reflect the potential loss of an investment opportunity for Mr S between 28 October and 19 November 2020, using the £31,600 Mr S intended to transfer back to his ISA wrapper.

Fair compensation

In assessing what would be fair compensation, I consider my aim should be to put Mr S as close to the position he would've been in on 28 October 2020 and to remedy the loss of opportunity to invest in new funds, if any.

I'm satisfied Mr S wouldn't have invested significantly differently. It isn't possible to say *precisely* what he would've done, but I am satisfied what I've set out below is fair and reasonable given Mr S' circumstances and objectives when he invested.

What should HSDL do?

To compensate Mr S fairly, HSDL must:

- Pay Mr S the difference between the *fair value* and the £31,600 *available value* of the investment. If the available value is greater than the fair value, no compensation is payable.
- HSDL should also pay interest as set out below.

*Income tax may be payable on any interest awarded.

Investment name	Benchmark	From ("start date")	To ("end date")	Additional interest
£31,600	FTSE UK Private Investors Income Total Return Index	28 October 2020	19 November 2020	8% simple per year from final decision to settlement (if not settled within 28 days of the business receiving the complainant's acceptance) *

Available value

This means the actual cash amount Mr S agreed should have been transferred from HSDL to the new provider.

Fair value

This is what the investment would have been worth at the end date had it produced a return using the benchmark.

Why is this remedy suitable?

I have chosen this method of compensation because:

- Mr S wanted Capital growth and was willing to accept some investment risk.
- The FTSE UK Private Investors Income total return index (prior to 1 March 2017, the FTSE WMA Stock Market Income total return index) is a mix of diversified indices representing different asset classes, mainly UK equities and government bonds. It would be a fair measure for someone who was prepared to take some risk to get a higher return.
- Although it is called income index, the mix and diversification provided within the index is close enough to allow me to use it as a reasonable measure of comparison given Mr S' circumstances and risk attitude.
- This is a fair redress that reflects Mr S missed the opportunity to invest in other funds between 28 October and 19 November 2020.

Tax considerations

Although HSDL should pay the above redress to Mr S, if any, I must also consider the loss of his ISA allowance and I've thought carefully about this. I've decided HSDL did provide Mr S with the opportunity to re-instate the ISA wrapper, but Mr S didn't send the funds back to HSDL, even after they'd provided the correct account details. This offer was made but Mr S didn't take it up and I don't think it's fair and reasonable for me to consider any further remedy in this regard.

HSDL accept they made errors and caused Mr S some distress and inconvenience in October and November 2020. Mr S made several calls to HSDL after they'd mistakenly told him to sell the funds himself. I appreciate Mr S would have been frustrated that ultimately the transfer didn't complete, albeit because in the end he didn't transfer the funds back to HSDL. Taking into account the circumstances of this complaint, I'm satisfied HSDL's offer made to reflect the impact their errors had on Mr S was a reasonable one.

Mr S says he feels a £400 'fine' isn't going to be enough to persuade HSDL to change their processes and prevent what happened to him happening to other consumers. I should explain here that any remedy directed by the Financial Ombudsman Service is not a 'fine' - it's a remedy to reflect the inconvenience the consumer who brought the complaint has experienced. I can't tell HSDL to change their processes, that is a matter for their regulator, the Financial Conduct Authority. So, taking the circumstances of this complaint into account, I consider the £400 offer HSDL made to reflect the impact their errors had on Mr S was a reasonable one.

My final decision

I've decided Halifax Share Dealing Limited should pay Mr S the difference between the fair value and the £31,600 available value of the investment, if any, between 28 October and 19 November 2020. If the available value is greater than the fair value, no compensation is payable. HSDL should also pay interest as set out in the table above and pay Mr S £400 for the distress and inconvenience their actions caused him.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 21 September 2022.

Paul Lawton
Ombudsman