DRN-3687361

The complaint

Mr S complains about delays by Halifax Share Dealing Limited trading as Bank of Scotland Share Dealing (Bank of Scotland) in transferring his stocks and shares Individual Saving Account (ISA) to a new provider.

He says that he made two transfer requests in December 2020 and those transfers weren't completed until 26 January 2021 and 19 February 2021 respectively.

Mr S says he had sold his stocks and shares to cash prior to making the transfer applications and because of the delay, the same stocks, as the share price had risen over that period.

What happened

On 14 December 2020 Mr S applied to transfer £6,000 in cash from his stocks and shares ISA to another provider.

On 15 December 2020 Mr S applied to transfer a further £6,001 to the same provider.

On 17 December 2020 Mr S's new provider sent two emails, each with an attached transfer request, to Bank of Scotland.

On 22 December 2020 Bank of Scotland responded indicating there was an issue with the details that had been provided and it asked for further information.

On 23 December 2020 the new provider replied with an updated reference number.

On 29 December 2020 Bank of Scotland rejected the transfer as it said there was an issue with the reference that had been provided.

Later on, that day (29 December 2020) the new provider sent two emails with transfers which referred to the transfer amounts of £6,001 and £6,000 respectively.

On 8 January Bank of Scotland emailed the new provider to say that it was unable to open the document as it didn't have all the required information to do so.

On 10 January the new provider provided further information as requested.

On 14 January 2021 Bank of Scotland replied to say it was able to open the document but there was a difficulty with processing the transfer. On the same day the new provider sent an amended form to Bank of Scotland.

On 18 January 2021 Bank of Scotland confirmed it had logged the transfer.

On 21 January 2021 the third party contacted Bank of Scotland and asked whether it had received both requests and referred to the two different amounts.

On 26 January 2021 the transfer of £6,001 was completed.

On 4 February 2021 Mr S complained to Bank of Scotland about the time it had taken to complete his two transfers. He said that one of the transfers still hadn't gone through. Mr S said that £6,000 still needed to be transferred. He said the transfer had taken over seven weeks and he pointed out it was a transfer of cash, not stocks and shares.

On 9 February 2021 Bank of Scotland responded to Mr S's complaint and said it had reviewed the details and resolved his complaint. It didn't uphold the complaint as it said it had only received one transfer which had been processed and completed.

On 10 February 2021 the request for a transfer of £6,000 was sent to Bank of Scotland again. The new provider indicated in that correspondence, that it had previously sent that transfer request, but Mr S had been advised by Bank of Scotland to re-submit it.

On 19 February 2021 the second transfer of £6,000 was completed.

Mr S referred his complaint to our service. Our investigator considered the complaint and thought it should be upheld. He noted there had been a number of administrative delays initially, but he didn't think Bank of Scotland should be held responsible for those. The investigator also considered the government guidance on how long it should take to transfer a stocks and shares ISA.

The investigator concluded that all the requirements for both transfers had been met by 14 January 2021, but he noted the second transfer hadn't been completed until 19 February 2021. He said as the same information was required for both transfers, that he couldn't see why Bank of Scotland hadn't been able to process them both within the same timeframe.

So, he said Bank of Scotland should pay Mr S £100 for the distress and inconvenience caused to him. He noted what Mr S had said about being unable to re-purchase his stocks because the price had risen and considered the evidence Mr S had provided of his attempts to do so.

The investigator was satisfied that Mr S intended to repurchase the stocks and had tried to do so but had been unable to find stocks within his price-range by the time the second transfer was completed.

So, he said that Bank of Scotland should look to see whether there were stocks available, at a similar price, at any time between 26 January 2021 and 19 February 2021. The investigator said if the share price of the stocks in question was similar to the price Mr S had sold them for, he should be allowed the option to purchase them at that price (up to the amount of shares he'd originally sold).

The investigator said Bank of Scotland should make up the difference between that value and the shares' current value if required. He also said if Mr S had already contributed to a different ISA this year and would prefer to hold the shares with another provider, he would need to purchase them at full price himself and then Bank of Scotland would have to provide him with the difference in cash.

Bank of Scotland didn't agree. It said it didn't think a period of just over a month from 14 January to 19 February 2021 was in breach of any agreement or that it was unreasonable. So, it didn't accept there had been any unreasonable delay.

As no agreement could be reached the complaint was referred to me for review.

I issued a provisional decision where I upheld the complaint, but I concluded one part of the redress should be calculated differently. Both parties were then given an opportunity to respond with any further representations they may wish to make.

Both parties acknowledged receipt of the provisional decision and confirmed that they had no further representations.

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 and noting that neither party has made any further representations, my decision remains the same as set out in my provisional decision.

The following represents an extract from my provisional decision, and forms part of this final decision.

<u>What I've provisionally decided – and why</u>

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Mr S wanted to transfer his stocks and shares ISA with Bank of Scotland to a new provider. He has explained he wasn't able to do an in-specie transfer, that is to say transferring the stocks directly, because his new provider wouldn't allow that. So, he sold his stocks and shares to cash with the intention of repurchasing them, after the transfer had been made. I note Mr S made two transfer requests for almost identical amounts. Once he had made the requests it would be the new provider's responsibility to make the requests to his existing provider at the time, Bank of Scotland. Then, when Bank of Scotland was satisfied it had received all the necessary information, it would transfer the cash to the receiving provider.

I am satisfied that two transfer requests were made to Bank of Scotland in December 2020, but there were initially some administrative difficulties because some of the details required to carry out the transfer weren't complete. For instance, Bank of Scotland wasn't able to open the documents and it wasn't able to locate Mr S's ISA account.

However, I agree with the investigator that by 14 January 2021 all the information required was provided to Bank of Scotland. The reason I am satisfied that is the case, is after that date one of the transfers was set into effect and completed on 26 January 2021.

<u>First transfer of £6,001</u>

I am satisfied that the first transfer took place within a reasonable time frame as it was 12 days between Bank of Scotland receiving the information and completing the transfer. And in the lead up I am satisfied Bank of Scotland contacted the new provider reasonably promptly

when there was any issue with the transfer. I also note, as the investigator has, that there was a holiday period in between receiving information on 29 December 2020 and Bank of Scotland contacting the new provider on 9 January 2021. I think that it is more likely than not that the holiday period impacted the timeliness of Bank of Scotland's response there.
Second transfer of £6,000.

Bank of Scotland refers to the government guidance of 30 calendar days for transferring stocks and shares ISAs. It points out that it carried out this transfer in just over a month using a starting point of 14 January 2021 as it completed the transfer on 19 February 2021. So, it says this wasn't unreasonable in the circumstances.

I think the first thing to note is that the guidance is that the transfer should take no longer than 30 calendar days. So, I think it envisages that where there are no particular issues the transfer can happen more quickly than that.

With a stocks and shares transfer matters can become more complicated as there are likely to be third parties involved, such as fund managers, and so there may be delays in selling or transferring stocks. However, in this case, it was a little simpler because Mr S had already sold his stocks and shares and was only transferring cash.

In addition, I don't think the guidance means that providers don't have to act in a timely manner when processing transfers, so long as they fall within, or close to, the 30 calendar days. I think it is important for consumers to have their transfers dealt with promptly where it is reasonably possible.

And as there was no material difference between the two transfers, with the respective sums being transferred from the same stocks and shares ISA, to the same new account at the same time, I can't see there was any reason why one of the transfers, of £6,000 should take any longer. It seems more likely than not that it took longer because Bank of Scotland mislaid this transfer in some way, or mistakenly believed the transfer request was a duplicate.

However, I note the new provider had contacted Bank of Scotland on 29 December and had reiterated that there were two separate transfers.

It said:

We have received the attached to this email authority from our mutual client XXX requesting a transfer of £6,000 of their previous ISA to XXX. Please note that this is another transfer request from our mutual client and it is not a duplicate to our previous request for £6,001. Our original requests were submitted on 15th of December following the instructions of the XXX database for Bank of Scotland.

So, once Bank of Scotland had been able to successfully open the document on 14 January 2021, if it didn't have two transfers, I would've expected it to raise this with the new provider. And if it had done so, then I think it more likely than not that the transfer for £6,000 would have been completed by the same date, namely 26 January 2021.

And then on 21 January 2021 the third party also said:

As a follow up to your confirmation for the logged transfer request, could we please ask you to confirm that both transfer requests were received and update us once they are both processed? (one request for 6,000 GBP and one for 6,001 GBP)

I note this was only three days after Bank of Scotland had logged the other request. So, I also think if Bank of Scotland had chased this up promptly, it is more likely than not, that the second transfer would have been completed more quickly and close in time to the completion date for the first transfer.

I take into account that the new provider had highlighted to Bank of Scotland, on two occasions, that there were two transfers of similar amounts.

Overall, I'm not persuaded on balance that Bank of Scotland acted with reasonable promptness in processing the second transfer. I've not been informed of any particular issue preventing that transfer for processing smoothly, as occurred with the other transfer after 14 January. So, notwithstanding the transfer was processed in just over a month of receiving the information, which is close to 30 calendar days guidance., I am not persuaded that the time taken to process the second transfer was reasonable in the circumstances.

Putting it right

I am satisfied that Mr S was caused inconvenience by the delay in administering one of his transfers and I think it would have been upsetting for Mr S to discover the share prices had risen during the period, which meant he wasn't able to repurchase the stocks formerly held in his ISA. So, I think a payment of £100 is fair and reasonable compensation for the distress and inconvenience caused to him.

I also agree with the investigator that Mr S has lost the opportunity to try to repurchase his stocks within that time period, from 26 January 2021 to 18 Feb 2021. But I don't agree with the redress proposed in relation to repurchasing his stock, because I think identifying stock at a "similar price" during that period will inevitably mean there is some difference of interpretation between the parties and is likely to leave matters unresolved.

I also take into account that it wasn't Bank of Scotland's fault that the new provider wouldn't accept in specie transfers leaving Mr S in the position of having to sell his stocks in order to transfer. I think there was always some inherent risk that Mr S wouldn't be able to buy back the same stock if prices rose significantly while he was out of the market.

Mr S has provided documentary evidence that I am satisfied shows, on balance, that he tried to repurchase the same stocks once his transfer had gone through. He tried to repurchase certain stocks by placing limit orders for prices similar to, or higher than, the price he had originally sold for. Mr S was able to buy back some shares but unfortunately, he was unable to replicate the portfolio he'd previously held. So, I do think he genuinely intended to repurchase the stock and I consider he tried to mitigate his loss in doing so.

However, I have to consider what redress would be fair to both parties in these circumstances with the aim of resolving this complaint. Having done so, I think a fair and reasonable solution would be to look at the difference in share price between the two dates for the particular stocks Mr S had sold prior to the transfer. I acknowledge that Mr S hasn't bought back all the stocks but the reason he hasn't done so is precisely because of the increase in price over the relevant period.

On that basis I think a compromise would be to look at the share price of the four stocks Mr S sold on 14/15 December 2020 on the relevant dates. I understand from Mr S those were: National Express (NEX), SSP group (SSPG), Johnson Service group (JSG) and Watkin Jones (WJG). As far as I can see the prices for these stocks on those dates were:

Closing Price 26 Jan 21	*Closing price 18 Feb 21*	*Share price up/down*
SSP 260.58	*245.51*	*Down 5.78%*
NEX 245.80	*292.80*	*Up 19.1%*
WJG 202.50	*193.00*	*Down 4.69%*
JSG 138.20	*149.00*	*Up 7.8%*

So, taking in account the sale proceeds Mr S received for each of the holdings, if he'd used those to buy shares on 18 Feb rather than 26 Jan, then the financial impact would have been as follows:

SSP - £3,291.54 sale proceeds, share price drop 5.78%, saving for Mr S of £190.36

NEX - £3,249.40 sale proceeds, share price increase 19.1%, cost for Mr S of £620.64

WJG - £3,048.22 sale proceeds, share price drop 4.69%, saving for Mr S of £143.00

JSG - £3,119.85 sale proceeds, share price increase 7.8%, cost to Mr S of £243.81

Across all the holdings, that leads to an extra cost to Mr S of £531.09. But as the above sale proceeds relate to both the £6,001 and £6,000 transfer and the delay relates to the latter transfer, the loss to Mr S was about half of £531.09, or £265.55.

This compensation is determined on the basis that £265.55 broadly reflects how Bank of Scotland's delays caused Mr S a loss due to how the share prices changed between 26 Jan and 18 Feb. I am mindful that when Mr S sold his existing stock on 14/15 December 2020 he received proceeds of just over £12,700, but the amount he transferred to his new provider totalled £12,001. The loss calculation above is based on the December 2020 sale proceeds.

Overall, my current view is that this represents a fair approximation when determining the loss Bank of Scotland's delays have caused Mr S. But the parties are able to make submissions in this respect if they want to in their responses to this provisional decision. So, Bank of Scotland should pay Mr S £265.55 in addition to the £100 for distress and inconvenience.

Putting things right

Bank of Scotland should pay Mr S £265.55 for financial loss and £100 for distress and inconvenience.

My final decision

My final decision is that Mr S's complaint against Halifax Share Dealing Limited trading as Bank of Scotland Share Dealing is upheld and it should pay compensation as set out in this decision.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 13 October 2022.

Julia Chittenden
Ombudsman