

The complaint

Mrs G has complained about the delays and customer service she experienced when transferring her ISA away from Halifax Share Dealing Limited trading as IWeb Share Dealing ("Halifax").

What happened

I issued a provisional decision in Mrs G's complaint and set out the background to the complaint and my provisional findings as follows:

"In March 2021 Mrs G asked Halifax to transfer her stocks and shares ISA to a separate firm, who I'll call Company A. She initially requested an in-specie transfer, but by May had sold her holdings and had asked for the cash value, around £30,000, to be transferred, with the aim of buying new investments when the money was with Company A. By mid-May the transfer was still not complete, despite there being no apparent reasons for the delay, so Mrs G made a complaint.

Halifax replied to the complaint on 25 May 2021, saying that the transfer was now complete and offered Mrs G £200 for the inconvenience caused. As of mid-June, Mrs G was still not able to access the funds with Company A, so brought the complaint to our service. The transfer was successfully completed on 17 June 2021. Mrs G invested just over £7,000 in one fund on 22 June and around the same in a second fund on 23 June and the rest remained in cash at 0% interest, until November 2021.

Halifax explained that they felt Mrs G could have transferred her investments in specie if she'd wished to remain in the market. So, they didn't think she'd shown enough intent to change investments earlier than June, for them to pay for any alleged financial loss.

An investigator at our service looked into the complaint and found it should be upheld. She felt that Mrs G had provided logical reasons for requesting the transfer as cash, rather than in specie and was convinced she would have invested sooner but for the delay. So, she felt that Halifax ought to compensate Mrs G for the losses she experienced because of the delay in reinvesting.

The investigator said the transfer ought to have only taken 15 working days, as this is the guidance given by HMRC for how long cash transfers ought to take. So she said Halifax should calculate the number of units Mrs G ought to have been able to buy in the two funds, if the transfer had been completed within 15 working days of when Halifax received the initial request on 4 March 2021. She said that if that amount was more than she bought in June 2021, then Halifax should pay Mrs G enough money to buy those additional units now. She said that the £200 already offered for the inconvenience was fair.

Halifax failed to respond to the investigator, so the case has been passed to me for a decision.

What I've provisionally 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.

It's agreed by all parties that the delays were caused by Halifax. During the first two months after they received the transfer request, it appears they did nothing with it. In May, after Mrs G contacted them to find out what they were doing, it then progressed. However, Halifax then sent the money to Company A with an incorrect reference number, so the money was sent back to Halifax. This seems to be the reason why Halifax thought the transfer was complete on 25 May 2021, when in fact it wasn't.

When Halifax received the transfer request from Company A on 4 March 2021, the ISA held around £30,000 worth of investments across a variety of funds, and around £6,000 in cash. Mrs G became frustrated at the delay and thought that if she switched the transfer to a cash one, that the process would be quicker. It's unclear exactly when that happened, but I believe it was around May 2021, as she's mentioned it was when she made a complaint. She's explained that one of her original aims was to consolidate her investments – so her original plan was to do an in-specie transfer, and sell her investments once they were held with Company A.

I've considered what would have happened, but for the delays. I think it's likely that the transfer would have gone through as an in-specie one, as Mrs G wouldn't have needed to change to a cash one to speed up the process. I think Mrs G's decision to change the type of transfer was a reasonable one to attempt to help move the process along and therefore to mitigate any losses in re-investing. I'm satisfied that the losses she experienced because of the delays, flow from the failure by Halifax, to action the original request in a timely manner. As such, I think it's fair and reasonable to hold Halifax responsible for those losses.

HMRC says that the expected timeframe for an in-specie transfer is 30 calendar days. I've not seen any evidence showing that there was something about Mrs G's investments that would have caused the transfer to take any more time than that, so I don't think it's an unreasonable time frame to apply here. As such, if everything had gone as it should, Mrs G would have had access to her investments in her account with Company A by 3 April 2021, which was a Saturday.

I'm persuaded by Mrs G's testimony that her plan was to consolidate her investments, particularly because this is what she later did and so I think that it's likely she would have done this as soon as possible after the in-specie transfer had been completed. The first trading day after this was 6 April 2021, due to a bank holiday. I think Mrs G would have sold her existing investments on that day, so Halifax should calculate whether there is any financial loss compared with the date her funds were actually sold, when they were still held in her account with them. If there is a loss, that should be paid to Mrs G.

Mrs G should have been able to invest in the new funds in April too, and I think she'd have had the money to do so on 7 April 2021, the day after she ought to have been able to sell her old funds. Once she was able to invest in June 2021, Mrs G only invested a portion of her money, and the rest she left as cash at 0% interest until November 2021. I think this is persuasive evidence about what she'd have done with access to her money sooner, so on balance I think that's the position Mrs G should be put in. As such, I think Halifax should compare the number of units Mrs G bought on 22 and 23 June 2021, with how many she'd have been able to buy if she had invested the same amount in to those funds, on 7 April 2021. If she could have bought more in April, then Halifax should pay Mrs G the amount it would cost to buy those units on the date of settlement.

On the amount that remained as cash for several months after the transfer was complete, I don't think Mrs G has suffered any loss. From what I've seen, she doesn't appear to have

intended to reinvest that amount earlier than she did. Had everything gone as it should, that money would simply have been held as cash from April, when her investments ought to have been sold, as I've set out above. The interest rate on the cash in the ISA was 0% at the time, so she wasn't losing out on any interest while the money was still with Halifax.

Halifax originally offered £200 for the distress and inconvenience caused and I think this is a fair amount. It reflects the length of the delay and the amount of effort Mrs G had to go to, to ensure the transfer was properly carried out."

Responses to my provisional decision

Mrs G replied and confirmed she accepted my provisional decision.

Halifax replied and said that they felt it wasn't reasonable to say the in-specie transfer ought to have been complete within 30 days. They said HMRC do not give this timeframe for stocks and shares ISAs because it takes longer than that to transfer funds and Mrs G's portfolio was made up of funds and cash. The guidance on Halifax's website says that fund transfers can take up to 10 weeks.

The investigator provided Halifax with a link to the relevant government website, where it says:

"ISA transfers should take no longer than:

- *15 working days for transfers between cash ISAs*
- *30 calendar days for other types of transfer"*

Halifax said that the website referred to doesn't form part of HMRC's official ISA Manager Guidance Notes. They said:

"As your service are aware the transfer of Funds takes significantly longer and so no such timescale is referenced for that type of transfer. It would be helpful if your service could act to have misleading material such as the note you have referred to removed if it impacts complaint numbers being referred to your service."

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've carefully considered Halifax's comments, but having done so, I'm not minded to change my decision. I'll explain why.

The 30-day timeframe given by HMRC is a guideline – it clearly says 'should' rather than 'must'. While it may not be a timeframe in the guidance to ISA Managers, nonetheless it is a guideline given by HMRC and I think it's reasonable to expect that ISA Managers are aware of guidance that is directed toward customers, as well as towards themselves.

There are many reasons why a transfer may take more – or less – time than 30 days and the reasons will be specific to each transfer. I used the 30-day timeframe in my provisional findings, as Halifax had given us no evidence of how long this transfer ought reasonably to have taken, had it not been delayed as significantly as it was.

The 10-week timeframe Halifax has now given, in my opinion is not a reasonable timeframe to apply on a blanket basis to all transfers that involve funds. Simply because there are

instances where it *can* take that long, doesn't mean it's fair and reasonable to say it *should* take that long in all or most cases. Nor does simply displaying that timeframe on their website mean that Halifax can do nothing with a transfer request for two months – which is what they did here, based on the evidence they've given me.

In general, I'd expect to see that an ISA Manager moves a transfer along as quickly as is reasonable in the circumstances. Each stage of a transfer requires a different amount of human intervention and effort. Normally, in order to decide how long a transfer ought to have taken, I'd take into account a business's own service level agreements (SLAs) for each part of the transfer process. This can also involve taking account of third parties' SLAs – for instance the other business who is a party to the transfer, or registrars and fund managers completing the re-registration of shares and funds.

Here, Halifax has provided no evidence of how long each step of the process should have taken – despite having had three months since the investigator sent their opinion, and further time after my provisional decision. In using the HMRC guidance in my provisional decision, I felt this was fair and reasonable in the absence of any other evidence of how long it should have taken. I don't think Halifax's argument that the 30-day transfer timeframe can't always be met, is persuasive enough for me to not rely on it here.

Halifax has said that fund transfers take more time than 30 days. However, they've not provided any evidence that there was something about the particular funds that Mrs G held that meant it would have taken a longer period to transfer her ISA. At the time of the initial transfer request, Mrs G held units in just four funds (based on the information in the transfer form) – all with the same fund manager. It's not the type of particularly difficult or time-consuming transfer request that would have required Halifax to liaise with several different fund managers about many holdings. So, I don't think 30 days is an unreasonable length of time for Mrs G's transfer, given its relative simplicity and the lack of persuasive evidence to the contrary from Halifax.

In my opinion Halifax has failed to provide any persuasive evidence that Mrs G's transfer would have reasonably taken longer than the 30 days HMRC gives as a guideline for transfers of non-cash ISAs. In the absence of any other reasonable timeframe being put forward, I still think this is a fair amount of time to use to determine when the transfer ought to have taken place, for the reasons I've given.

So overall, I'm not persuaded to depart from my provisional findings as set out above. I therefore reach the same conclusions as in my provisional decision, for the same reasons, and make them final.

My final decision

I uphold the complaint. My decision is that Halifax Share Dealing Limited trading as IWeb Share Dealing should calculate and pay redress to Mrs G as follows:

- Compare the amount Mrs G would have received if the funds she held with them had been sold on 6 April 2021, with the amount she actually received when they were later sold. If she would have received more in April, Halifax should pay her the amount of the difference; and
- If Mrs G ought to have been able to buy more units on 7 April 2021 in the funds she invested in via Company A in June 2021, then Halifax should pay the amount it would cost her to buy those additional units as of the date of settlement; plus
- £200 for the distress and inconvenience caused.

Mrs G should be given details of the calculation in a clear, simple format.

Halifax Share Dealing Limited trading as IWeb Share Dealing must pay the compensation within 28 days of the date on which we tell it Mrs G accepts my final decision. If it pays later than this it must also pay interest on the compensation from the date of this final decision to the date of payment at 8% a year simple.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs G to accept or reject my decision before 14 October 2022.

Katie Haywood
Ombudsman