

The complaint

Mr J complains that Halifax Share Dealing Limited, trading as IWeb Share Dealing ("IWeb"), wrongly sold his shares. He wants compensation for the loss he says he's made and reimbursement for the cost of having to complete a tax return.

What happened

Mr J gave instructions in late 2020 to transfer shares, which I will refer to as "F", from a third-party provider into his IWeb account. IWeb told him F shares couldn't be transferred so he could either cancel the transfer or sell the shares and transfer the proceeds to his IWeb account. Mr J cancelled the transfer.

Mr J later queried what had happened, because his wife had been able to transfer her holding of F shares. IWeb said it had made a mistake and asked Mr J to complete a new transfer instruction form.

Instead of transferring F shares, IWeb gave instructions to the third-party provider to sell them. When Mr J realised what had happened he contacted IWeb. It said it would need to buy back the shares. It didn't do this immediately and Mr J was worried about the capital gains tax (CGT) implications of not correcting the sale quickly. To mitigate the tax liability, he bought back 4,837.35 shares to ensure the gains fell within his annual CGT exemption.

Around two months after the shares had been wrongly sold, IWeb bought back the balance of 6,318 shares.

Mr J said he had to buy back the shares at a higher price than they'd been sold, and he wants IWeb to pay him the difference of £403.83, plus interest. He said he would need to seek help in completing a tax return and wants IWeb to pay for the cost - £150.

IWeb said it was Mr J's decision to buy back some of the F shares, and it would not reimburse him for this loss, having arranged to buy back the remaining shares at a reduced cost to him. It said the £150 claimed by Mr J was hypothetical; that it would contact HMRC to explain what had happened; and that it would consider any further invoices for further charges Mr J incurs. It said it would pay him £750 for the distress and inconvenience it had caused.

IWeb didn't respond to our request for information about this complaint, so our investigator came to a conclusion based on the evidence she'd received from Mr J.

The investigator wasn't persuaded that Mr J had incurred a loss, so didn't recommend that IWeb needed to pay him the £403.83 he claimed. She thought £750 was a fair amount to compensate Mr J for the worry he'd been caused. She thought IWeb needed to provide evidence that it had written to HMRC, that it should cover Mr J's costs for submitting his tax return, on receipt of evidence, and that it should reimburse him for any CGT he has to pay.

Mr J didn't agree, so the complaint was passed to me. In the meantime, IWeb provided us with its business file. But it didn't respond to the conclusion reached by our investigator.

My provisional decision

Whilst I largely agreed with the investigator's conclusions, IWeb provided its business file after those conclusions had been communicated. So I set out my findings in a provisional decision to give both parties a final opportunity to provide any new comments or evidence. I said:

Instructions to transfer to IWeb in November 2020

Mr J originally gave transfer instructions to IWeb in November 2020. But IWeb said Mr J's holding of F shares couldn't be transferred; it could only be sold, so it asked him what he wanted to do. He said he would cancel the instruction to transfer the shares.

But Mr J's wife had given similar instructions, and her transfer was successful. IWeb realised it had made a mistake. It wasn't possible to purchase additional F shares, but this didn't mean they couldn't be transferred into Mr J's account.

Mr J re-submitted his transfer request in June 2021. He hasn't complained about IWeb's mistake with his earlier transfer request and, as it didn't result in a financial loss for Mr J, I'm not required to comment on this further. Except to note that IWeb was now aware that a transfer of F shares could take place.

Holdings to be transferred

When Mr J gave his transfer instructions, his account with the third party included F shares and another holding. Mr J has confirmed that the other holding was successfully transferred, so we have not sought any further information from IWeb about that.

Sale of F shares

Instead of giving instructions to the third party to transfer Mr J's holding of F shares, IWeb gave instructions to sell them. It accepts it made a mistake. I need to be satisfied that the mistake has been corrected, that any financial loss incurred because of the mistake has been refunded, and that, if the mistake caused any inconvenience, that Mr J has been fairly compensated.

Buy back of the shares

When Mr J told IWeb it had made a mistake, it said the shares would need to be bought back. It hasn't provided us with a recording of the phone call during which this was discussed, but I don't think I need that to make a fair and reasonable decision. It's clear the shares needed to be bought back, at no cost to Mr J, in order to put him back in the position he would have been in if the shares hadn't been sold. He understood that either IWeb would arrange this, or he could buy back the shares and IWeb would reimburse him for any loss. It seems that it wasn't agreed by the end of the call who would carry out the buy back. Mr J was worried about the CGT implications of the sale. So he decided to buy back enough shares – 4837.35 – to ensure that any gains were kept within his annual exemption.

IWeb bought back the remaining shares (6,318) on 27 September 2021.

The shares cost more to purchase than the sale proceeds received. But I'm satisfied that IWeb paid the additional cost required.

I can understand why Mr J feels he has made a loss – the purchase price he paid for the shares he bought back was higher than the sale price, and he had to pay costs. But he had 11,155.35 F shares and no cash balance before the sale took place. And he had the same number of shares, and no cash balance, after the mistake was put right. And he didn't have to contribute any additional money to pay for the shares. The additional cash required to pay for the share buyback (because the sale proceeds weren't enough), was provided by IWeb.

So I don't find that Mr J has made a loss.

CGT implications

The sale of F shares resulted in a capital gain which may be chargeable. IWeb offered to write to HMRC to explain it had made a mistake and hopefully that letter, and the corrective action to buy back the shares, will avoid a liability. IWeb should provide Mr J with a copy of its letter to HMRC.

Should Mr J still incur a CGT liability as a result of the sale, IWeb will need to reimburse this on evidence from Mr J.

Transfer to SIPP account

Mr J said the transfer was initially wrongly made to his SIPP account, rather than his General Investment Account ("GIA") and that IWeb corrected this.

From the information I've been provided with, it looks like Mr J had to complete two transfer requests as the first one wasn't accepted. The transfer form dated 22 June 2021 instructed IWeb to transfer the shares to his SIPP account. But his covering letter said the transfer was to his GIA account and it referred to the previous attempted transfer (in November 2021), which was also to his GIA account. I think IWeb should reasonably have queried the instruction because of the account number discrepancy. In any event, the later transfer form which Mr J was asked to complete (dated 2 July 2021) did include the correct GIA number. So I think IWeb is responsible for wrongly transferring the shares to Mr J's SIPP account.

I understand IWeb corrected this error by transferring the shares to Mr J's GIA.

Mr J is concerned that the transfer to the SIPP may affect his annual contribution. I agree that IWeb should include an explanation of the transfer into and out of the SIPP account in its letter to HMRC.

Mr J's costs

Mr J says the chargeable gain which occurred because of the incorrect sale of F shares means he will need to complete a tax return. And he says he will need to employ a professional to assist him. Like our investigator, I think it's fair that the cost incurred is reimbursed by IWeb. Mr J says he should be paid £150. But this may or may not be enough to cover his costs. I think it would be fairer if IWeb reimburses Mr J for the actual cost he incurs, on receipt of evidence from Mr J.

The gain on F shares

Mr J says he's been deprived of the gain on F shares. But he'll only benefit from a gain in share price if he sells the shares. The shares were sold by mistake, and that mistake has been corrected. Mr J now has the same holding of F shares (11,155.35) that he had before the transfer to IWeb took place. It wouldn't be fair for him to keep the shares and receive the gain on their sale.

Distress and inconvenience

IWeb has already offered to pay Mr J £750 for the distress and inconvenience it caused. I consider this to be fair and reasonable, taking into account the worry that IWeb's error that resulted in the shares being sold caused Mr J.

IWeb didn't respond to my provisional decision.

Mr J largely agreed with my provisional decision. He said he would like me to set a timescale for IWeb to send the letter to HMRC, bearing in mind he needs to complete his tax return by the end of January 2023. And he wasn't sure how to go about reclaiming the accountant's costs or whether it would be better to include an exact figure in the 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.

As I set out in my provisional decision:

- Where the evidence is incomplete, inconclusive, or contradictory, I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.
- I've summarised this complaint in far less detail than Mr J and in my own words. There is a considerable amount of information here but I'm not going to respond to every single point made. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome.
- I've included reference to some matters which did not form part of Mr J's complaint to IWeb. Our inquisitorial role allows me to do this. And I think it's important that I include the matters here to give a full picture of what's happened and to ensure my decision does not leave any loose ends.

As neither party has provided any new evidence in response to my provisional decision, I see no reason to depart from my overall earlier conclusions. But I want to make some things a little clearer.

Understandably, given the time IWeb took to respond to the mistake it made, and to provide us with its file, Mr J is anxious that it complies with this decision in a timely manner. I agree. IWeb offered to write to HMRC in its letter to Mr J dated 14 October 2021. I would hope that it would have done this by now, as it will be fully aware of the tax return deadline. But, assuming it hasn't already done so, I would expect it to send the letter to HMRC within four weeks of the date we tell it Mr J has accepted my final decision – assuming that he does accept it.

Mr J can't afford to be "out of pocket" if he pays his accountant's costs for completing his tax return. IWeb should write to Mr J to clearly set out where he needs to send the evidence of the costs he's incurred so that it can be reimbursed promptly.

IWeb should be aware that, if HMRC asks any questions about the sale of F shares and their repurchase, this will require additional work by the accountant which will result in further charges. To be clear, I expect IWeb to reimburse Mr J for the costs he incurs in completing his 2021/22 tax return and any follow-up costs caused because of the sale of F shares.

Putting things right

Halifax Share Dealing Limited, trading as IWeb Share Dealing should:

1. Write to HMRC to explain it sold F shares by mistake, and the corrective action that was taken. IWeb should send this letter within four weeks of us notifying it that Mr J has accepted this decision. IWeb should provide Mr J with a copy of its letter to HMRC.
2. Should Mr J still incur a CGT liability as a result of the sale, IWeb will need to reimburse this on receipt of evidence from Mr J.
3. Write to HMRC to explain the shares were wrongly transferred into Mr J's SIPP account, and the corrective action that's been taken. IWeb should send this letter within four weeks of us notifying it that Mr J has accepted this decision. IWeb should provide Mr J with a copy of its letter to HMRC.
4. Reimburse Mr J for the professional costs he incurs in completing his 2021/22 tax return, on receipt of evidence from Mr J, including any additional costs that may be incurred after the return has been submitted if HMRC raises any queries.
5. Pay Mr J £750 for the distress and inconvenience caused.

My final decision

My final decision is that I uphold this complaint. Halifax Share Dealing Limited, trading as IWeb Share Dealing should pay compensation, and take the action, as set out above.

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

Elizabeth Dawes
Ombudsman