

The complaint

In brief summary, Mr B complained that AJ Bell Management Limited (AJB) was responsible for delaying a 'Bed and ISA' transaction - two linked deals where his shares would be sold in his dealing account and straightaway bought in his ISA.

Mr B exceeded his annual ISA allowance when the transaction completed and he blames AJB for this. Some of the shares in the ISA account were reversed back into the dealing account to bring Mr B back within his annual ISA allowance. This meant Mr B incurred additional dealing charges and he was left holding fewer shares than he had before the transaction – which was never his intention.

Mr B wants AJB to cover financial loss resulting from extra fees and dealing costs and also to pay him £500 compensation to reflect his loss of time and stress dealing with this matter.

What happened

On 17 June 2021, Mr B had a series of phone calls with AJB.

In the first call, Mr B enquired about opening an ISA with AJB. He requested a Bed & ISA for 500 shares.

Mr B made a second call to AJB shortly afterwards seeking clarity on how its fees and charges would impact on his ISA allowance if he made a Bed and ISA transaction for £20,000. His aim was to fully utilise his £20,000 ISA allowance and he wanted to understand how dealing and other fees he would incur would be taken. That call ended after the call handler had struggled to answer all of Mr B's questions satisfactorily and he put Mr B on hold while he sought advice. The call subsequently went to the call handler's voicemail service while Mr B was waiting for the call handler to resume speaking to him. Mr B terminated the call.

Mr B phoned back and was connected to a different call handler. That call was interrupted when the first call handler called Mr B back – it was agreed that Mr B would continue on the phone with the new call handler. He explained again that he was trying to obtain some clarity about fees and charges and how costs would be paid for.

By this point, although Mr B's intention was to sell and simultaneously buy back the exact same number of shares, the volatility of the stock meant that since his original point of instruction when the value was just under £20,000, the value had by now risen above this figure. This meant that the Bed & ISA he planned would mean he was oversubscribed on his ISA – which isn't permitted by HMRC. The discussion centred around how Mr B could achieve his objective of making full use of his ISA allowance without either wasting part of it or going over his ISA allowance limit whilst also making provision for the fees he was aware he would incur as part of the transaction. During the call Mr B was watching in real time as the share price continued to increase.

This call lasted around half an hour. It was agreed by the end of the call that the Bed and ISA would be executed within the next 5 minutes.

Shares in Mr B's dealing account were sold for £20,487 and repurchased in his ISA for £20,670.

On 18 June, during the course of three phone calls, Mr B complained about the time it had taken to instruct the Bed & ISA and the fact he had ended up with fewer shares than at the start of the transaction – 480 instead of 500. He wanted AJB to explain how fees had impacted on what happened and if AJB would charge him a dealing fee if he was required to sell shares in order to put things right. The call handler said that the £183 difference (between the selling and buying prices) was part of what made up Mr B's ISA allowance and that HMRC redeem any profits attributed to the oversubscription. He confirmed he would query how to correct the oversubscription with AJB's Tax Management Team.

On 21 June Mr B phoned to find out what was happening and a series of calls followed.

On 23 June Mr B corrected his ISA oversubscription by bringing the amount of his investment back within the permitted £20,000 allowance.

On 24 August Mr B phoned to request an update on the status of his complaint. He was told to expect a call back later the same day. This didn't happen.

On 25 August Mr B phoned again. He expressed dissatisfaction that he had not received a call back from AJB's Dealing Services Team following his request for an update on his complaint and he also had not received any of AJB's correspondence in relation to his complaint.

On 23 September AJB sent a final response letter to Mr B. It didn't agree that the number of shares transferred to Mr B's ISA was a result of the time taken to instruct the Bed & ISA and said it could not be held responsible for market volatility. It said it had already offered to refund the £9.95 dealing fee Mr B incurred when a sale was required to correct the negative balance on his ISA. AJB said that it could not leave Mr B's ISA oversubscribed and it took a decision that notifying HMRC of the oversubscription was not viable. It apologised for not having phoned Mr B back when it said it would and confirmed that feedback had been given to the staff member. It could not explain why Mr B appeared not to have received three holding letters AJB had sent him updating him on his complaint. Although Mr B had thought the content had been misleading, AJB said these were generic letters and not sent with the intent of misleading Mr B.

For these reasons, AJB said it didn't uphold Mr B's complaint. But it said it appreciated it provided him with incorrect information regarding transferring funds back to his dealing account to rectify the issue and that it did not call him back when it said it would. So, in light of this, it offered Mr B £200 as a gesture of goodwill with its apologies.

Mr B didn't feel this offer went far enough and so he brought his complaint to us. Our investigator thought that the £200 compensation payment was fair to reflect the distress and inconvenience Mr B had suffered but that AJB should also refund charges it applied for the transactions when the extra shares in his ISA had to be sold.

Mr B didn't accept our investigator's suggested outcome. And AJB asked our investigator to reconsider her view. It told us that it took a rounded view when thinking about its goodwill offer and that the £200 payment already offered is fair overall to also cover charges Mr B may not have incurred.

The complaint came to me to decide. I issued a provisional decision.

What I said in my provisional decision

Here are some of the main things I said.

“I’ve set out above a brief timeline of the main events that form the background to this complaint. I think it is apparent from this, and AJB seems to have accepted (even though it didn’t uphold Mr B’s complaint) that there was some poor service.

But the crux of Mr B’s complaint seems to me to be that AJB has not accepted responsibility for the fact that:

- the Bed & ISA transaction he instructed has left him out of pocket in terms of fees
- he has been left holding fewer shares as a result of what happened
- compensation offered so far does not adequately provide redress for the stress this caused him and the time he has had to take off work to deal with the complaint issues (keeping in mind that Mr B can’t rely on being paid if he isn’t working).

I have thought about what Mr B was reasonably entitled to expect from AJB.

This was an execution only account. So I can understand why AJB has said it expects customers to have some knowledge of the services available. I am aware it has information on its website, including a page detailing the Bed & ISA process, which sets out details explaining the Bed & ISA, the process of execution and the risks involved. AJB’s terms and conditions, which Mr B signed up to when he opened his dealing account, make clear that it does *“not provide financial, investment or tax advice as part of the services. You are responsible for selecting the product and any investments.”*

But I don’t think it is fair for AJB to suggest that Mr B’s enquiry about fees and how they would impact on his proposed trade was something he could have looked up the answer for himself or should have known already from reading its website. I say this because it seems evident that at least one of AJB’s own call handlers was unclear about this and he gave Mr B some misinformation. In particular, I am thinking about the first phone call on 17 June and what Mr B was told about stamp duty and spread costs, which went to the heart of Mr B’s concern about how costs could affect the decision he needed to make when instructing the Bed & ISA transaction.

I think it is entirely understandable that, from that point on, Mr B felt he had been given confusing and contradictory information about how fees would impact on his trade and what the best way would be to set things up in terms of moving cash in order to achieve his primary goal of having the right number of shares to ensure a £20,000 investment in his ISA.

I think Mr B made his position very clear. The way Mr B saw things, he said AJB would need to sell enough shares to cover the charges so when these were taken from the ISA, he wasn’t wasting any of his allowance.

I can see why he thought this should be straightforward. In reality, I think the transaction was more complicated. AJB explained that fees could not be taken from the dealing account, only from the ISA. And that whilst Mr B could move cash to the ISA for that purpose, this would reduce his available ISA allowance.

As this seems to me to be in line with the account terms and conditions, I can’t fairly say that AJB provided any wrong information about this – or that it did anything wrong when it took its dealing fees for the Bed & ISA transaction.

But from Mr B’s point of view, having been given some wrong information during a previous call, I can understand why Mr B found this frustrating and why he felt he needed to keep

pressing for more information. I think it is unfair for AJB to suggest that he should have understood the process better before he called, when it clearly was not straightforward or fully understood by the first call handler Mr B had spoken to at AJB. And I think AJB ought fairly to recognise that when the information it provided to Mr B was contradictory (because it was incorrect), unsurprisingly, this was confusing for Mr B and left him with more questions.

I haven't seen or heard anything to suggest that Mr B misunderstood the limits of this being an execution only account as AJB seems to have implied. He appears to me to have understood enough about the Bed & ISA transaction to have been concerned about the risk he would exceed his annual ISA allowance if he wasn't very careful. He was aware that there might be some extra foreign exchange charges. He wasn't seeking investment advice - he was trying to find out how the way AJB took its costs and fees would impact on him trying to achieve his investment goal.

All in all, I think it's fair to say that AJB should bear some responsibility for the length of time it took before Mr B felt he had enough information to instruct AJB to execute the transaction. So it follows that it should take some action to put things right because whilst Mr B was trying to find out information from AJB, which took a lot longer than it should have done largely due to the way AJB dealt with Mr B's queries, the volatile share price put Mr B into a position whereby the Bed & ISA transaction resulted in him being oversubscribed on his ISA - which had to be remedied at further cost to Mr B.

I think that largely happened because, as a result of the way AJB dealt with Mr B, he was feeling under pressure to get the execution done before the share price increased further. In that frame of mind, he had failed to appreciate fully that buying the same number of shares as he sold (which Mr B had mentioned several times was his intention) risked putting him oversubscribed. When AJB assured Mr B it would process his order in '5 minutes' I think he mistakenly took this as reassurance that his sale and buy back wouldn't be impacted by any price increase.

AJB has made an offer to settle Mr B's complaint by offering a payment that it feels, broadly speaking, is sufficient to cover any actual financial loss as well as compensate him for the impact on him of admitted shortcomings in its service. Whilst I believe the offer is well intentioned, I don't think it goes far enough to recognise the full impact on Mr B of errors on the part of AJB.

I find that AJB gave Mr B incorrect information, which was key to what he was trying to find out about costs. This took place against a backdrop of Mr B having long waits on hold whilst on the phone and at least one of his calls not being returned as promised. This left Mr B feeling it was up to him to have to phone for updates if he wanted to find out information.

When thinking about what redress is fair in this situation, I've kept in mind that Mr B was very much aware on 17 June 2021 that the market was rising and he was anxious to proceed with execution without any delay. It's my view that this likely added to his frustration and increased the anxiety he was feeling at the time. I think that's borne out by what I've heard on the call recordings from that day. And when he realised he was oversubscribed on his ISA, I think it's fair to say the stresses of being in this situation continued.

In my view, AJB should cover Mr B's extra dealing costs and any fees or other costs Mr B incurred over and above the single dealing fee and any other costs he would always have had to pay for carrying out the Bed & ISA execution (and it not taking him over his annual ISA allowance).

As well as this, AJB should pay compensation to reflect the impact its errors had on Mr B. He received some unacceptably poor service from AJB which added to the stress of making

a significant investment decision. I'm mindful that had AJB dealt more effectively with Mr B's legitimate enquiries sooner when he first phoned on 17 June 2021, it's likely that much of the anxiety and stress he experienced could have been avoided.

I think £300 is fair compensation in these circumstances.”

What the parties said in response to my provisional decision

Mr B confirmed he had nothing further to add.

AJB told me it accepted the decision and would pay an additional £100 on top of the original £200 it had already paid to Mr B plus the fees as detailed in my 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.

We've set out our approach to dealing with complaints on our website and I've kept this in mind while deciding this complaint.

I'd like to thank both parties for all the information that has been provided about this matter and AJB in particular for responding to my provisional decision, ahead of the deadline for responses, to confirm it agrees with what I said. This means I can now issue my final decision.

Given that I've not received any further evidence or comment that changes my mind about this complaint, and the parties agree with what I've said, I confirm the conclusions I reached in my provisional decision.

Putting things right

AJB should:

- refund additional fees and charges applied by AJB which were incurred as a result of Mr B being oversubscribed on his annual ISA allowance and
- pay Mr B £300 in full and final settlement of his complaint.

My final decision

I uphold this complaint and direct AJ Bell Management Limited to take the steps I've set out above to put things right for Mr B.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 23 November 2022.

Susan Webb
Ombudsman