

## The complaint

Mr F complains about the transfer of his holdings by AJ Bell Securities Limited, referred to “AJB” or “the business” from a third-party business referred to as “the transferor”.

To put things right, Mr F would like some meaningful compensation, and be allowed to transfer his investments to another provider without incurring exit fees.

## What happened

On 23 June 2023, I issued my provisional decision, a copy of which is stated below and forms part of my final decision. In the decision, I said:

*“...provisionally I’m going to uphold this complaint. On the face of the evidence, and on balance, despite what the parties say, I don’t think the additional £100 compensation offered by AJB (making a total of £150) is fair or reasonable in the circumstances.*

*Before I explain why this is the case, I think it’s important for me to note I very much recognise Mr F’s strength of feeling about this matter. He has provided detailed and eloquent submissions to support the complaint, which I’ve read and considered carefully. However, I hope he won’t take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy. It doesn’t mean I’ve not considered the pertinent points in this case.*

*The purpose of my decision isn’t to address every single point raised under a separate subject heading, it’s not what I’m required to do in order to reach a decision in this case. My role is to consider the evidence presented by Mr F, and AJB, and reach what I think is an independent, fair, and reasonable decision based on the facts of the case. And as part of my inquisitorial role, I can also consider (other) issues that I think are relevant as well as not consider issues that I consider aren’t material for my findings. I’m also not required to answer Mr F’s questions and queries, and my choosing not to do so doesn’t prevent me from reaching a fair decision in this case.*

*In deciding what’s fair and reasonable, I must consider the relevant law, regulation, and best industry practice, but unlike a court or tribunal I’m not bound by this. It’s for me to decide, based on the information I’ve been given, what’s more likely than not to have happened.*

*Because AJB has already upheld the complaint – by that I mean it accepts responsibility for its part in the delays – the key issue for me to consider is redress and whether or not it’s reasonable in the circumstances. I note the investigator took a similar approach in drafting her view and why she didn’t go into detail about why AJB was to blame.*

*I note Mr F doesn’t agree with this approach, but I think it’s a reasonable approach in the circumstances. Also, because this specific complaint is against AJB, I won’t be considering the transferor’s liability – which I’ve considered separately and not upheld – in my findings in this complaint. I don’t think the investigator was wrong to take a similar approach.*

*Having considered the issue of redress, on the face of the evidence, and on balance, despite what Mr F says, I think AJB should pay Mr F an additional £100 compensation for the distress and inconvenience caused by the delays and poor service totalling a sum of £250.*

*On balance, I think this amount better reflects AJB's wrongdoing, as well as the impact of the delays on Mr F. To be clear, I don't consider the £150 offered - £50 of which has already been paid for failing to appropriately respond to Mr F – as a "gesture of goodwill", is reasonable in the circumstances. That's why I think the business should pay an additional £100 for the delays and poor service.*

*In my opinion, the £250 compensation all in broadly reflects various adverse issues experienced by Mr F during the transfer process for which AJB is responsible – including the delays between April and May 2023 (when AJB failed to respond to the transferor's asset list in a timely manner), its part in the reclassification error, not spotting an unsettled investment sooner, and generally not being more proactive in chasing the transferor and keeping Mr F better informed.*

*I'm mindful of Mr F's comments about the initial £100 being worth less now than it was when it was offered in October 2021. Be that as it may, it was always open for Mr F to accept the payment and still refer his complaint to this service, on the basis that it still wasn't enough.*

*I'm also aware of the points made by Mr F about what he thinks our service should award by way of redress – encompassing a fixed daily amount. But despite what he says, I'm obliged to follow the general guidance regarding compensation that applies in this instance.*

*I appreciate that if a complaint is upheld, and distress and inconvenience is accepted – for which compensation is due – then that's what should generally happen. So, in this instance I can see why Mr F would've been confused by the "goodwill" payment, which probably suggested to him that AJB doesn't accept any wrongdoing but is simply offering this amount to maintain relations – which evidently isn't the case here.*

*Whilst I appreciate Mr F would like greater compensation, I don't think £250, taken in the round, is unreasonable in the circumstances. I'm aware that all of his issues one way or another are related to investments that are the subject of this complaint, therefore I don't think it's necessary for me to breakdown the amount.*

*I dealt with Mr F's linked complaint against the transferor, which I didn't uphold, on the basis that the £350 compensation paid for the distress and inconvenience caused by delays and poor service (including some accounting irregularities) was broadly fair and reasonable in the circumstances. So, in the circumstances I'm mindful that Mr F will receive a combined total of £600 compensation for distress and inconvenience caused by the delays and poor service experienced during the transfer process.*

*In summary, I uphold this complaint for the following reasons:*

- *Based on what AJB says, it seems it accepts that it caused delay and didn't provide a level of service that Mr F could expect.*
- *I don't think it's necessary in this instance to go through each point, line by line, and as I explained above that's not what I'm required to do in order to reach a decision in this case.*
- *As I mentioned in the linked case, notwithstanding Mr F's detailed and eloquent response, I'm not required to produce a response that mirrors (in this instance a 26-page response) to the investigator's view.*
- *On balance, AJB probably could've communicated better with Mr F, so as to keep*

him informed of what was happening. As a consequence, he ended up chasing the business and I agree (with him) it's not something that he needed to have done. It would've been down to the respective parties to progress matters without further input from him.

- It's likely that had Mr F not intermittently intervened and pushed matters along, the transfer process probably would've taken longer. However, this doesn't of itself mean that he is entitled to greater compensation, it's arguable that he has mitigated his loss by diligently acting as he did.
- Despite what Mr F says about the (delayed) transfer and loss, I'm mindful that the relevant investments were transferred in-specie, and those that couldn't be— through no fault of AJB — were in due course converted and then transferred at a later date.
- In this instance, and on balance, I don't think there's any issue in referring to the different asset classes simply as investments — I'm aware that Mr F and the business are very familiar with the facts of this case.
- I note that the cash was transferred in due course, this usually happens when the other investments have been transferred in-specie and is usually done so that any outstanding fees can be settled. So, I don't think there's an issue with this.
- I note Mr F's dissatisfaction with the investigator's chronology, but it is only a general summary, and there's no obligation to detail Mr F's dealings with the business.
- Despite what AJB says, I'm persuaded there were some delays/issues which weren't necessarily addressed by the compensation payment.
- A business is to some extent obliged to mitigate delays perpetrated by third parties, but only if it reasonably can. It can't be blamed for not making right errors by other businesses if it's incapable of doing so.
- In this instance I'm satisfied that Mr F remained invested in the markets and therefore is unlikely to have suffered the losses claimed. Despite any changes to the value of his investments, the business wouldn't be responsible because it can't predict or control the financial markets — upon which his investments are dependent — so it isn't responsible for any issues suffered as a result.
- On balance, I'm also satisfied that Mr F had the opportunity to trade if that's what he wanted to do. I appreciate trading over the phone probably isn't the same as trading online in the way he might've been used to, but it was nevertheless an opportunity to trade if he was keen to do so — on balance it would seem he wasn't.
- I'm not suggesting that by trading over the phone there might not have been an impact on the transfer process and timing, but the opportunity still meant that Mr F could trade if he was keen to do so — and him not doing so doesn't mean that AJB is responsible.
- Notwithstanding Mr F's comments regarding The Individual Savings Account Regulation 1998 ("ISA Regulations"), in my opinion a business can't reasonably be expected to complete a transfer within a set timeframe (as set by the rules) when there are third parties involved for which it has no responsibility and/or control.
- In this case I'm not considering whether a specific third-party was to blame for the delays, just that other parties were involved, and the business can't be held responsible for their actions.
- This doesn't of course mean that AJB (like HL) doesn't then have to take reasonable steps to continue to try and complete the transfer within a reasonable amount of time, and/or overcome any errors if it can. But the business can't be blamed for the actions of third parties.
- Like Mr F, it seems AJB (as the transferee) is also at the mercy of several parties including, the custodian, fund manager and transferor, which means through no fault of its own, it can't always achieve what it hopes to. Whether it's an issue with one unit trust or several this is likely to impact the business's ability to move things along. However, in line with what I've mentioned above, I think AJB could've done a better job detecting any errors (albeit by other parties) which I don't believe was fairly

*reflected in the redress payment initially by the business.*

- Many of the issues faced during the process probably couldn't have been identified and dealt with at the outset – such as some investments not settling or issues with classification, including to some extent (notwithstanding the information on its website), which class of investment could be accepted, which are supported by the new platform and so on, because Mr F clearly wanted to transfer his entire portfolio as per his instructions. These things are more often than not dealt with as and when they arise and aren't always the fault of the parties.*
- I'm mindful that this case involved investments that had to be converted, and reclassified, because they weren't supported and therefore couldn't just be transferred without some change. On balance, AJB probably could've been more efficient, and this isn't reflected in the redress offered.*
- Despite what Mr F says, my role isn't to make any legal determinations. Specific legal questions are to be determined by the courts. In this instance I'm only considering whether or not the redress paid is fair and reasonable and on balance, for the reasons mentioned above and expanded upon below, I don't believe it is.*
- I don't think there's any dispute that AJB took roughly 30 days – between 26 April and 26 May 2021 – to respond to the transferor's list of assets. This undoubtedly would've added to the delays experienced, because these things tend to have a knock-on effect. It's also arguable that perhaps the business, in light of this error and delays, could've been more proactive in chasing the business, including responding to the transfer's revised list, and noticing that one of his holdings – L&Gs' European index Trust hadn't been transferred.*
- Although AJB wasn't to blame for the lack of transfer, I agree it ought reasonably to have noticed sooner and so by failing to do so it in this instance it had probably contributed towards the overall delays. That's partly why I've awarded higher amount of redress.*
- I also note that AJB took several days to rectify an error – it had provided its incorrect re-registration details in its transfer request – which it had to query further to ensure that the funds could be transferred. Even if this hadn't been an issue, I'd still award higher compensation.*
- I note that the above issues, individually as well as collectively, would've compounded the distress and inconvenience experienced by Mr F. I'm also aware of the time and effort put in by Mr F chasing AJB to not only move things along but also when things went wrong. So, it's a combination of all of those factors why I've decided to increase the compensation payment by another £100.*

*Whether or not Mr F wished to remain with the business is a matter for him – it might be useful to obtain financial advice if he hadn't moved his entire portfolio already. In the circumstances I can't order the business to dismiss any exit fees if Mr F decides to transfer his holdings to another provider. I don't think it would be proportionate, unless the business decides to do so of its own volition.*

*I'm mindful that Mr F is unhappy about the way his complaint was handled by the business. But complaint handling isn't a regulated activity and therefore isn't something that I can consider.*

*I'm mindful of Mr F's comments about other ombudsman decisions. Whilst consistency is important, I'm not bound by the decision of other ombudsman – it's my role to decide a case based on its individual merits of each case, and even the smallest change can mean a difference in the outcome of a case.*

*I appreciate Mr F will be thoroughly unhappy that I've reached a different conclusion to the investigator, but I still haven't given him what he wants. I realise my decision probably isn't*

*what he wants to hear.*

*Whilst I appreciate his frustration, I'm not persuaded to require the business to do anything other than pay Mr F a total of £250 - less the £50 already paid.*

*The above notwithstanding, I'm unable to give him what he wants."*

I gave the parties an opportunity to respond to my provisional decision and provide any further submissions they wished me to consider before I considered my final decision.

AJB responded and accepted my provisional decision. It had no further points to make.

Mr F also responded and said that he was pleased that I'd upheld the complaint and awarded compensation. But, in summary he said that the compensation should be similar to the amount awarded to the transferor, as the parties were equally to blame for the delay.

Mr F went on to explain why this was the case and why he thought I had got it wrong in respect of AJB. He doesn't think that his points have been properly taken into consideration, he also doesn't think AJB chased the transfer process as it should've done, and I've been unduly persuaded by AJB's actions.

The above notwithstanding, if I wasn't persuaded by his latest submissions in response to my provisional decision, he was content to accept my award of additional compensation on a "*faute de mieux basis*".

### **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, notwithstanding the latest submissions from Mr F, I'm not persuaded to change my mind. My decision to uphold this complaint remains the same, principally for the same reasons as set out in my provisional decision. In the circumstances I don't think it's necessary to repeat Mr F's latest submissions.

In other words, on balance I'm still satisfied that the key points remain the same, and have been considered by me, in my provisional decision. On the face of the evidence, and on balance, I still think that AJB should pay Mr F £250 compensation for the distress and inconvenience caused, less the £50 already paid. I've seen nothing that persuades me to change my mind.

On the face of the evidence, I also still don't think the additional £100 compensation offered by AJB (making a total of £150) is fair or reasonable in the circumstances.

Whilst I appreciate Mr F would like greater compensation, I don't think £250, taken in the round, is unreasonable in the circumstances. I'm aware that all of his issues one way or another are related to investments that are the subject of this complaint, therefore I don't think it's necessary for me to breakdown the amount.

As I mentioned in my provisional decision above, I dealt with Mr F's linked complaint against the transferor, which I didn't uphold, on the basis that the £350 compensation paid for the distress and inconvenience caused by delays and poor service (including some accounting irregularities) was broadly fair and reasonable in the circumstances. So, in the circumstances I'm mindful that Mr F will receive a combined total of £600 compensation for

distress and inconvenience caused by the delays and poor service experienced during the transfer process.

The above notwithstanding, I appreciate Mr F will be thoroughly disappointed that despite his latest submissions I've still not been persuaded to change my mind. In other words, I've upheld the complaint but still haven't given him what he wants, and that my decision isn't what he wants to hear. Whilst I appreciate his frustration, I'm not going to ask the business to do anything other than pay him £250 compensation, less £50 already paid.

The above notwithstanding, on the face of the available evidence, and on balance, I'm still unable to give Mr F what he wants.

### **Putting things right**

AJ Bell Securities Limited should pay Mr F £250 compensation, less the £50 already paid.

### **My final decision**

For the reasons set out above, and in my provisional decision, I uphold this complaint.

AJ Bell Securities Limited should pay Mr F compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 24 August 2023.

Dara Islam  
**Ombudsman**