

The complaint

Mr K complains about the way Nutmeg Saving and Investment Limited handled his application to open a general investment account (GIA). He says it incorrectly set up an ISA account, which is not what he required.

What happened

In February 2022, Mr K completed an online application to open a GIA. Shortly afterwards he made a bank payment to Nutmeg, which he intended to deposit in the new account. When he attempted use the new account, he noticed it referred to it being an ISA and gave details of his remaining allowance. As he already subscribed to an ISA with another provider, he raised a complaint as he was unhappy Nutmeg had set up an ISA. The funds were subsequently transferred to the GIA as required. The ISA was closed in March 2023.

Nutmeg responded and didn't uphold the complaint. In summary it said:

- During the application process Mr K selected the option to open a Stocks and Shares ISA pot instead of the General Investment pot. He made a manual bank transfer to Nutmeg and opened a second pot which he named 'GIA'. When the transfer completed Nutmeg's systems did not know which pot to allocate this payment to, so the unallocated cash was automatically placed into the ISA.
- It shared Mr K's feedback about the process being misleading with its engineering and product design teams.
- HMRC allows ISAs a 30-day 'cooling off period' to prevent situations such as this. As Mr K notified it of the issues within this window, it was able to manually close the ISA wrapper and move the deposit into his GIA.

Mr K didn't accept the response and referred his complaint to this service for an independent review. One of our investigators looked into the complaint but he didn't uphold it. In summary he said:

- He didn't find Nutmeg had done anything wrong to cause Mr K to open and subscribe to the ISA.
- Even if Nutmeg did do something wrong to cause Mr K to open and subscribe to the ISA – he hasn't been disadvantaged. This is because Nutmeg confirmed HMRC allows a 30-day 'cooling off period' to prevent adverse consequences from situations like this – and it was able to manually remove the funds, so they don't associate with an ISA allowance.
- An apology was given by Nutmeg for the lack of clarity.

Mr K didn't agree with the outcome reached by the investigator. He didn't feel his concerns had been adequately considered and requested a review. As no agreement could be reached the complaint has been passed to me to reach a 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.

The crux of this complaint relates to whether errors by Nutmeg in the application process for an investment account caused Mr K a detriment. I've considered everything afresh to reach a decision.

It is accepted that Mr K made an online application to open a new account with Nutmeg, but there is a dispute about the clarity of the process and whether this led to him opening an ISA rather than the GIA he required.

I note Mr K disputes the position set out by Nutmeg. He says the process was misleading. He has provided screen shots from Nutmeg's app to show what he saw. One of the screen shots, he says shows it wasn't clear how to ensure he opened the intended GIA product he wanted. The screenshot shows "ISA/General Investment" in the same option.

But Nutmeg has provided evidence from its systems records to show that Mr K applied for an ISA in the initial application. These records suggest an ISA application was made on 20 February 2023. It has also provided screen shots of the online application process to show what options were given to Mr K. These indicate that during the initial application process there was a clear option between selecting an ISA and a GIA. It has shown once an ISA is open the screen shot for opening another account changes – and this is when a client will see ISA and GIA as a mixed option.

So, there is a difference in each side of the disputes version of events. On balance it does seem more likely that Mr K did open an ISA (even if that was unintentional), so it isn't clear to me Nutmeg has made an error in opening the account. But I accept that Mr K found the application difficult to follow the online process and complete the account opening he intended to.

I've also considered the actions taken by Nutmeg when it became aware of the concerns Mr K was raising. When it became aware Mr K had an ISA product he didn't require, it took steps to quickly resolve the issues. By making a manual adjustment to the account within the ISA cooling off period, this rectifies the issue. It means Mr K hasn't suffered a financial loss or any detriment due to an incorrect use of his ISA allowance in the relevant tax year. I acknowledge it also provided an apology too, which I find reasonable in the circumstances.

This all leads me to the conclusion, even if I accept the process wasn't clear, Mr K hasn't suffered a detriment as a result. Mr K was concerned about that he would be liable for a fine from HMRC. But I haven't seen anything to suggest this is the case, or any subsequent evidence of a fine being issued.

I appreciate this wasn't the outcome Mr K was looking for but I'm not persuaded that there is anything Nutmeg needs to do further.

My final decision

I do not uphold this complaint

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr K to accept or reject my decision before 16 February 2024.

Daniel Little
Ombudsman