DRN-4376498

Financial Ombudsman Service

The complaint

Mr W complains that Nationwide Building Society caused a long delay in the transfer of his ISA account to a new provider and that, when he complained, it provided poor service.

He wants Nationwide to transfer his money as instructed and to compensate him for the investment opportunities he's missed and for his time and the stress he's been caused.

What happened

Both parties are familiar with the background to this complaint and our investigator has already set out what happened. Rather than repeating that detail, I will summarise things very briefly and focus instead on the reasons for my decision.

In or around October 2022, Mr W decided to transfer his cash ISA account to a third-party provider, who I'll refer to as "B". Mr W already had a stocks and shares ISA account with B, and he wanted to add the cash held in his Nationwide ISA account so that he could invest it in the stock market.

B sent the transfer request to Nationwide on 19 October 2022. Nationwide needed confirmation of Mr W's full name and, once that was received on 24 October, it sent a cheque for the balance in Mr W's cash ISA.

The cheque was cashed, but it wasn't deposited into any of B's bank accounts and the money wasn't credited to Mr W's stocks and shares ISA.

When he complained, Nationwide said it had sent cheques to B before and that this was its standard procedure. It apologised that on one occasion when Mr W phoned Nationwide, the call ended abruptly, which it said was probably due to a technical issue, but that its member of staff should have called Mr W back. It said it would arrange for the money to be sent to B electronically. But it then realised the cheque had been cashed. It said it was B's responsibility to credit the money to Mr W's account.

Our investigator recommended that the complaint should be upheld. She didn't think Nationwide had followed B's instructions and that it shouldn't have sent a cheque. She initially recommended that, as well as ensuring the money was re-sent electronically, Nationwide should pay interest at 8% simple per annum from 27 October 2022, when the money should have credited Mr W's ISA account with B, to compensate him for the time he'd been without the money. And she thought it should pay Mr W £350 for the distress and inconvenience he'd been caused.

Nationwide didn't agree. It said it was B's responsibility to state that it couldn't accept cheques and that it followed its payment instructions.

Mr W said that £350 only compensated him for his time, and not for the stress he'd been caused. And that he missed out on specific trading opportunities, which he detailed, and for which he said he would accept £6,878.

Having reconsidered this, the investigator still recommended that the complaint be upheld. She couldn't say with certainty that Mr W would have invested in the way he said if he'd received the money when he should have. But she thought it would be fair for Nationwide to pay him in line with the percentage increase in his existing account over the period.

Mr W agreed.

Nationwide said, in summary, that:

- It had followed its correct process in sending a cheque in response to a paper transfer request.
- The cheque was sent to the address B provided.

On 8 August 2023, after our investigator had sent her final view of the complaint, the transfer was completed, and the money was credited to Mr W's account.

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.

Nationwide's terms and conditions say that the transfer of money from a cash ISA to a stocks and shares ISA with a third party will be completed within 30 days of receiving the transfer instruction. This timescale reflects the timescale in HMRC's ISA Manager guidance. The transfer in Mr W's case took around 10 months.

Nationwide says there was an initial delay of a few days because it needed confirmation of Mr W's full name. But that it completed its responsibilities by 24 October 2022 when it sent a cheque to B. It says it followed its usual process in sending a cheque and that the onus was on B to be prescriptive on how ISA monies should be sent when completing a transfer. I find B *was* prescriptive on how it wanted the money sent and that Nationwide failed to follow its instructions. I say this because:

- B asked for the money to be "wired" to its bank account and it provided full details including the bank address, SWIFT code, sort code and account number.
- Its accompanying email dated 18 October 2022 referred Nationwide to its payment instructions and said, "*It's important to send us a payment advice by replying to this email, as otherwise it will lead to major delays in crediting the funds to our mutual customer.*" I've not seen evidence that Nationwide replied to that email as B instructed.
- Nationwide said it followed its usual process in sending a cheque in response to a "paper" request. I find its "usual process" wasn't correct in the specific circumstances here. That's because B was clear that it required the money to be electronically transferred to its account. Nationwide says B didn't tell it that it couldn't accept cheques. But that doesn't make a difference – B had requested an electronic transfer.
- Nationwide says it sent the cheque to the address provided by B. But the address provided by B was clearly the address of its bank, which was provided for the purposes of the electronic transfer. I find it was unreasonable for Nationwide to think a cheque sent to a bank, rather than B, with B's name and reference to Mr W would be credited to the correct account.
- Nationwide told us it had sent cheques to B for other customers without any problems.

But it's not provided evidence of this, and B told us it doesn't accept cheques and it hasn't received them before. I find that, even if B had accepted cheques in the past and if it might have been able to accept a cheque on this occasion, sending the cheque to B's bank, rather than B, and without the account details required to apply the payment, was always going to cause difficulties. And that Nationwide should reasonably have been aware of that.

If Nationwide had sent the money electronically as instructed, it's most likely that the money would have been credited to Mr W's account on 27 October 2022. I agree with our investigator's conclusions about how Mr W should be compensated. I can't say with any certainty exactly how Mr W would have invested the money if it had been applied to his account on 27 October 2022. But I'm persuaded that he had an investment strategy for his ISA which, in all likelihood, he would have followed for the cash transferred in from his cash ISA. I think the fairest way of putting things right is for Nationwide to find out how Mr W's stocks and shares ISA held with B performed as a percentage during the period 27 October 2022, when his account should have been credited, to 8 August 2023 when the money was received in his account. It should then credit Mr W's stocks and shares ISA with that percentage of the sum it transferred, £29,172.87.

Nationwide did offer to send the money electronically when Mr W complained that the cheque hadn't been credited to his account. But the cheque had been cashed so Nationwide withdrew that offer. Once the cheque had been cashed, Nationwide didn't really provide any assistance to Mr W as it wrongly felt it had fulfilled its responsibilities. It did respond to B's requests for information, but it kept repeating that it had followed its process and that the cheque had been cashed. I think Nationwide should have realised that it was responsible for the money not being credited to Mr W's account because it had sent a cheque, when it should have electronically transferred the money, and that it had sent that cheque to a bank rather than B, with no account number to show where the cheque should be credited.

Nationwide hasn't provided call records or recordings of the phone calls with Mr W. But, from the evidence I have seen, its clear Nationwide should have done more to resolve this when Mr W complained.

This has caused Mr W a large degree of stress and inconvenience over a lengthy period. I think £350 compensation is fair and reasonable in the circumstances. This should be paid directly to Mr W, rather than to his stocks and shares ISA.

HMRC's guidance for ISA managers says:

"ISA managers must transfer investments and/or cash direct to new ISA managers. If the investments and/or cash are transferred to the investor, this will be treated as a withdrawal"

The cheque was sent to B's bank who wasn't the ISA manager. The cheque was cashed, and B told us that the account it was credited to wasn't in its name. So there is a danger that HMRC will wrongly treat the closure of Mr W's cash ISA as a withdrawal rather than a transfer. Nationwide should write to HMRC to explain its mistake to ensure that the transfer is treated as such, and that Mr W is not disadvantaged. It will also need to ensure that the compensation for the Mr W not being able to invest the money in October 2022 is treated as part of the transfer. It should provide a copy of that letter to Mr W and to B.

My final decision

My final decision is that I uphold this complaint. Nationwide Building Society should:

1. Calculate the growth of Mr W's stocks and shares ISA held with B as a percentage from

27 October 2022 to 8 August 2023. It will obviously need to request information from B to complete the calculation. It should apply that percentage to £29,172.87 and pay that amount into Mr W's stocks and shares ISA held with B.

2. Pay Mr W £350 for the distress and inconvenience caused.

3. Write to HMRC to explain what has happened to ensure Mr W's ISA subscription allowance isn't impacted, and that the compensation detailed in 1 above is treated as part of the transfer. It should provide a copy of its letter to Mr W and to B.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W to accept or reject my decision before 15 November 2023.

Elizabeth Dawes
Ombudsman