

## **The complaint**

Mr S complains that Financial Administration Services Limited ('FASL') delayed the transfer of his stocks and shares Individual Savings Account ('ISA') to another provider, which caused a £15,000 financial loss. Mr S says to resolve the complaint he wants £35,000.

## **What happened**

The following is a summary of the background and circumstances leading up to this complaint.

On 25 May 2023, Mr S' new ISA provider emailed FASL a transfer request instruction to sell the assets within his stocks and shares ISA and transfer the proceeds to it in cash.

On 5 June 2023, Mr S' new ISA provider sent a chaser email to FASL enquiring about the status of the transfer. On 11 June 2023, FASL replied saying that it hadn't received the original transfer request. And because the chaser email didn't contain the attachments, it asked the new provider to send the transfer application again.

On 12 June 2023, the new provider emailed FASL the transfer application, which it logged on 15 June 2023. Because of a discrepancy in the paperwork, FASL required Mr S to clarify some information. On 21 June 2023, the new provider confirmed that the matter was resolved and the transfer should proceed.

On 24 June 2023, Mr S complained to FASL about the length of time it was taking for his ISA to be transferred. He said FASL had now broken the law as transfers were required to complete in 30 days. He said since sending the transfer request on 25 May 2023, the stock markets had increased meaning he'd lost out upwards of £15,000. Mr S said he wanted compensation of £15,000, £20,000 in damages and for his ISA to be transferred immediately.

On 28 June 2023, FASL completed the transfer and it sent the ISA proceeds to Mr S' new ISA provider.

On 4 August 2023, FASL issued its final response to Mr S' complaint. It said the first it was aware Mr S had made a transfer request was on 5 June 2023 when the new provider sent it an email referring to an original email of 25 May 2023. It said it never received this email. It said it wasn't until 21 June 2023 that it had a correct transfer instruction after the administrative discrepancy was resolved. It said it processed the transfer and sent the proceeds on 28 June 2023, so it didn't agree it had caused any delay to the transfer.

It said it couldn't be held responsible for non-receipt of the original email, and once it had a correct instruction things were completed in the allowed timescale. It also responded to a complaint Mr S had made about not being kept up to date with the progress of his complaint by saying that it wasn't required to provide weekly updates – the regulator allows it up to eight weeks to issue its final response.

Dissatisfied with its response, Mr S referred his complaint to us. He said he can prove that

the email of 25 May 2023 was sent to FASL despite it claiming it didn't receive it. He said the transfer took longer than the legally mandated time from the initial valid transfer request, and because the stock market had increased substantially, he's lost out as a result.

One of our Investigators considered what both parties had said and they concluded that FASL hadn't done anything wrong, so they didn't uphold the complaint. They said, they appreciated what Mr S had said about the fact that because FASL confirmed receipt of the email of 5 June 2023 from the new ISA provider which contained the original email of 25 May 2023, this shows it did receive it. But they said, FASL had searched its mailbox and this hadn't uncovered anything, so it seems it didn't receive it. They said they were satisfied there were no delays processing the transfer request from when it had a valid application to transfer.

The Investigator went on to explain that the guidelines state FASL had 30 calendar days to complete the transfer. They said this is because although Mr S cashed-in his holdings, it was nevertheless still a stocks and shares ISA transfer. So they said, in the hypothetical scenario where they accepted FASL did receive the original transfer request on 25 May 2023, because there would still have been a few days' delay in sorting out the administrative discrepancy, the transfer in any event completed in the timescales allowed and within the eight weeks FASL pointed to in its ISA transfer terms and conditions. The Investigator clarified that FASL could facilitate 'in-specie' transfers – this option was available to Mr S – FASL couldn't be held responsible for any decision Mr S made to sell his ISA holdings to facilitate a cash transfer.

Mr S disagreed. In summary he said the Investigator had just accepted FASL's version of events. He said it was technologically impossible for FASL to have received the later email and not received the earlier one when both were sent to the same email address. He said regardless of what the Investigator had said about his complaint, FASL caused a delay of at least 11 days, which pushed the timeline back. He said he maintained FASL is in the wrong and liable for the losses he incurred.

The Investigator wasn't persuaded to change their opinion. They thought there were a number of reasons why an email might not be received, including security features designed to block attachments or spam filters for example. And they broadly repeated the point about the hypothetical scenario and that, even if they accepted FASL received the transfer instruction on 25 May 2023, they didn't think there were any delays in the transfer.

Mr S remained dissatisfied and he asked for an Ombudsman to review his complaint. He broadly repeated the points he'd made and said the delay between the initial email and FASL responding is the entire reason the transfer took so long. And he questioned the Investigator's interpretation of the 30 calendar day timescale for transfers – the legislation considers the date the application was submitted as the relevant date.

The complaint was therefore referred for 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.

I've taken into account relevant law and regulations, regulator's rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time. And where the evidence is incomplete, inconclusive or contradictory, I reach my

conclusions on the balance of probabilities – that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances.

Having done so, while I know this will be disappointing for Mr S, I've decided to not uphold this complaint for broadly the same reasons as the Investigator. My reasons are set out below.

It seems to me that the crux of this complaint, and what I need to decide, is whether FASL did, more likely than not, receive Mr S' initial ISA transfer request of 25 May 2023. FASL says it did not receive it. Mr S says it is technologically impossible for FASL to have received the later email of 5 June 2023 and not received the earlier one when both were sent to the same email address.

I've seen a copy of the email transfer request of 25 May 2023 Mr S' new ISA provider sent FASL. The email address appears to be correctly addressed and I can see it says: 'Sent: 25 May 2023 11:40'. And while this is evidence that an email instruction was likely sent, despite what Mr S says, it does not, in my view mean that it was delivered or successfully received by FASL. In my view, just because an email shows as being sent does not guarantee its delivery to its intended recipient. It is not an infallible system. As the Investigator said, there are a number of reasons why delivery might be unsuccessful – for example overzealous security software quarantining an email or email server problems preventing its delivery altogether.

I can see Mr S says that he's provided proof the initial email didn't contain any attachments, so any suggestion that FASL's email security software prevented the email from being delivered due to an attachment, doesn't make sense. But I don't think it is implausible. I think the initial email of 25 May 2023 did contain an attachment – the body of the email refers to a scanned copy of Mr S' ISA request form because the original couldn't be sent. And FASL would require a request form to before it could action things.

Mr S also says he believes the fact the later email of 5 June 2023 was received by FASL means it must have received the earlier one from 25 May 2023. But I'm not persuaded this automatically follows. While the later email contained the earlier one of 25 May 2023 – i.e. it formed part of the email chain – and it was sent to the same email address, the 5 June 2023 email was nevertheless a new or distinct email. So, I think it is entirely plausible for one to have been received and not the other.

I've also considered what FASL has said and the evidence it has provided. I can see FASL responded to Mr S' new ISA provider's email chaser of 5 June 2023 by saying that it hadn't received the transfer request instruction. It seems unlikely to me that it wouldn't have checked first whether it had received it before communicating that it hadn't. And during the course of its investigation into Mr S' complaint, it's provided evidence that it checked its mailbox again for the email but without success. Again, I find it unlikely that it didn't do as it said or that it denying receipt of the email when in fact it was received.

So, having carefully weighed things up, I'm not persuaded there is enough evidence here for me to fairly say that FASL did, more likely than not, receive the ISA transfer instruction email of 25 May 2023.

It therefore follows that I don't think there were delays in transferring Mr S' ISA. I think it was carried out within the agreed acceptable timescale. I say this because FASL received Mr S' ISA transfer request in an email of 12 June 2023, which it says it logged on its system on 15 June 2023. Under the ISA transfer rules, a stocks and shares ISA transfer to another

stocks and share ISA with a different provider should not take more than 30 calendar days. FASL completed Mr S' transfer and remitted the proceeds to the new provider on 28 June 2023. So, I'm satisfied the transfer took no more than 30 days from receipt of his transfer application.

Mr S has said that he feels FASL delayed things between the initial email and its response. I assume Mr S is referring to the period of time between his new ISA provider's chaser email of 5 June 2023 and FASL's reply of 11 June 2023 when it asked for the transfer request to be re-sent. FASL says that its service level agreement for this mailbox is a 10 working day response time. In this case it responded within this timeframe and I don't think its response time was otherwise unreasonable. So, I don't think there was an unacceptable delay here. In any event, even if it had responded sooner, as I said above, the rules allow FASL 30 calendar days to complete an ISA transfer of the type Mr S held.

So, for the reasons above, I don't think FASL has done anything wrong here. I don't think it caused any unreasonable delays in transferring Mr S' ISA or otherwise acted unfairly or unreasonably towards him. So, I don't uphold this complaint.

In closing, I can see the Investigator hypothesised that, even if FASL had received Mr S' transfer request on 25 May 2023, because there would've been a few days' delay to sort out the administrative discrepancy before it had a valid transfer request, the transfer would've still taken place within the 30 days allowed. But given my finding above, I don't need to make a finding on what is a hypothetical scenario. And as Mr S has said, in any event, the 30 calendar day timescale begins from receipt of a transfer application.

### **My final decision**

For the reasons above, I've decided to not uphold this complaint – so I make no award in Mr S' favour

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 26 March 2024.

Paul Featherstone

**Ombudsman**