

The complaint

Mr H complains that A J Bell Share Dealing Limited ('A J Bell') delayed the transfer of his stocks and shares ISA. He wants A J Bell to compensate him for financial loss and distress and inconvenience.

What happened

Mr H had a stocks and shares ISA.

On 21 March 2023 he applied to transfer the ISA, *in specie*, to A J Bell from his previous provider. After transferring he wanted to switch his investment from an accumulation fund to an income fund.

On 23 March 2023 A J Bell initiated the transfer by sending a form to the previous provider. A J Bell also followed up with the previous provider a couple of times.

On 17 April 2023 the previous provider transferred Mr H's investment to A J Bell's custodian.

There followed numerous contacts between Mr H and A J Bell. Mr H was unhappy with how long the transfer was taking. A J Bell said the delay was caused by a corporate action affecting his investment. It was working with its custodian to resolve the situation. A J Bell has said in correspondence that it offered Mr H £100 compensation during a phone call on 1 May 2023, but he wanted to wait until the transfer was complete before accepting that his concerns had been addressed.

On 23 May 2023 A J Bell said its custodian had now accepted the transferred investment and A J Bell would soon send Mr H an email confirming the transfer was fully completed. A J Bell said the following in an email to Mr H on 23 May 2023:

'... I have spoken with my manager regarding your concerns and would like to offer you a £150 ex gratia payment for the delay in the transfer.'

... please can you confirm via return email if the offer of the £150 ex gratia payment will resolve your concerns in this matter.'

Mr H said he appreciated the offer, which he noted was £150. But he said his concerns weren't resolved because he still didn't have access to his investment and he'd also suffered a financial loss by being unable to switch his investment when he wanted to.

Because Mr H still couldn't access his investment, further contact between him and A J Bell occurred. A J Bell said it was trying to resolve issues with its custodian and would continue to keep him updated.

In June 2023 Mr H also asked the previous provider what the corporate action was that was delaying his transfer. The previous provider said the transfer hadn't been affected by a corporate action and it thought A J Bell was confused about which share class Mr H was invested in.

On 11 July 2023 A J Bell emailed Mr H saying it said it had resolved the issues with his transfer and he should now have access to the transferred investment. It said that due to its custodian's misinterpretation of the corporate action, it had wrongly put a trading block on Mr H's investment after the transfer, but the block was now lifted.

On 13 July 2023 Mr H sold the investment in the accumulation fund and on 18 July 2023 he purchased units in the income fund.

He asked A J Bell to consider his complaint about the delay. He said the transfer had taken 17 weeks, he'd suffered a loss due to not be able to switch his investment earlier, and he'd had to spend a lot of time resolving the problem with the transfer, and the problem wouldn't have been resolved without his intervention.

In its final response to Mr H's complaint A J Bell gave a detailed account of what had occurred and what the cause of the delay had been. In summary A J Bell concluded the transfer had been delayed because A J Bell's custodian had misinterpreted a notice of a corporate action from the previous ISA provider who was also the provider of the investment that was being transferred. The notice related to the mandatory conversion of investments in a certain share class. A J Bell's custodian wrongly thought Mr H's shares needed to be converted under the notice when in fact his particular holding didn't meet the eligibility criteria for conversion. This misinterpretation had caused the following problems:

- An initial delay because the custodian initially refused to accept the transfer because it thought the investment should've been converted to a different share class before being transferred.
- '*Further issues*' after the custodian had accepted the transfer because the custodian mistakenly thought the investment still needed to be converted to a different share class which meant A J Bell wrongly placed a trading block on the investment to allow the conversion to take place.

A J Bell accepted full responsibility for the unreasonable delay caused by its custodian's misunderstandings. It accepted Mr H would've switched his investment sooner if not for the unreasonable delay, and it accepted that the delay in being able to switch investments had caused Mr H a financial loss because of price movements and missed dividend income.

A J Bell also acknowledged Mr H had spent significant time contacting it about the issue and had suffered distress and inconvenience.

A J Bell said it would do the following to put things right for Mr H:

- Pay Mr H £570.07 which was the difference between what he had when he switched investments and what he would've had if he'd been able to switch investments immediately after the previous provider completed its part of the transfer.
- Pay Mr H £150 as a goodwill gesture in consideration of the distress and inconvenience it had caused him.

Mr H referred his complaint to this service. In summary, he said he agreed with A J Bell's offer to put right his financial loss. But he said £150 wasn't enough to compensate for the other impacts on him.

In summary Mr H said he spent a lot of time resolving the problem, and it was only resolved thanks to his intervention. He said A J Bell misled him by saying the problem related to a corporate action by the previous provider and this caused embarrassment when Mr H

complained to the previous provider and found out A J Bell had been wrong about that. He said he had no access to his funds for 17 weeks – this caused him stress and a financial loss because he was unable to switch his investment when he wanted to, and it could've caused him serious problems if he'd needed to use the money. He noted that A J Bell had originally offered the £150 *ex gratia* in May 2023 but the delay had continued after that.

One of our Investigators looked into Mr H's complaint. In summary she said A J Bell's offer to resolve his complaint was fair and she wouldn't ask A J Bell to do any more than it had offered to do.

She said payments for '*trouble and upset*' are not punitive; they're merely an acknowledgement on the part of the firm that things could've been handled better. In terms of the amounts awarded by this service we follow the example of the courts which dictates that such awards be modest. She said she didn't underestimate the frustration and anxiety Mr H had experienced. But she thought A J Bell's offer was adequate and in line with the approach of this service to compensation payments for this period of delay. She said we wouldn't make awards for specific units of time. Nor do we award set amounts for individual failings by a business where cumulative errors have occurred.

Mr H didn't agree with the Investigator's view. In summary he said £150 was insufficient because:

- He spent significant time resolving the problem and A J Bell wouldn't have resolved it if he hadn't intervened.
- A J Bell should be able to make a straightforward transfer. It hadn't explained how it could make the mistake it made. And the corporate action was fictitious.
- Mr H would've accepted £150 for delay if A J Bell had completed the transfer within its target of 6-8 weeks. But it took more than twice that time to complete the transfer. And if £150 was appropriate for the first 8 weeks then a further £150 should be paid for the subsequent period of delay.
- It was unclear whether A J Bell's offer of £150 was for goodwill or distress. They seem to have become one but should be addressed as separate issues. A J Bell should also make a payment for the '*trouble and upset*' that the Investigator had mentioned, and for stress and anxiety because Mr H was denied access to nearly £15,000 of his money for an unprecedented length of time.

Because no agreement could be reached, the complaint was passed to me to review afresh and make a decision.

My provisional decision

I issued a provisional decision in which I said I was minded to uphold Mr H's complaint. I said the offer A J Bell had already made to Mr H had put right his financial loss and some of the distress and inconvenienced he'd experienced. But I thought A J Bell should pay Mr H an additional £150 compensation for the distress and inconvenience caused by further delay that occurred after A J Bell's offer of £150 in May 2023. I said I'd consider any further submissions from Mr H and A J Bell before making a final decision. Mr H accepted my provisional conclusions.

A J Bell said that in May 2023 it had offered only £100 for distress and inconvenience, and it had then offered a further £50 on 20 July 2023 when the further delay had been resolved. So it said the £150 offered had taken into account the full delay Mr H had experienced. A J Bell

added that it had put right Mr H's financial loss and that '*although it is clear that this transfer has not gone smoothly, it is part and parcel of any transfer that the client will be involved in the co-ordination of the transfer*' and that was covered in the terms and conditions Mr H had agreed to. And it thought £150 was appropriate for the distress and inconvenience caused overall.

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, I'm upholding the complaint. I'll explain why.

The purpose of this decision is to set out my findings on what's fair and reasonable, and explain my reasons for reaching those findings, not to offer a point-by-point response to every submission made by the parties to the complaint. And so, while I've considered all the submissions by both parties, I've focussed here on the points I believe to be key to my decision on what's fair and reasonable in the circumstances.

A J Bell has accepted it was responsible for the delay transferring Mr H's ISA. And Mr H has agreed with A J Bell's offer to put right the financial loss he suffered as a result of the delay. So I've focused on whether the offer of £150 is fair and reasonable to compensate for the other impacts on Mr H.

I first want to address Mr H's comments about the various terms that have been used to describe the non-financial impact the delay had on him. The terms '*trouble and upset*' and '*distress and inconvenience*' are often used interchangeably to refer to the practical and emotional impact that a business's failings can have on a consumer. Stress and anxiety would generally fall into this category as well.

As our Investigator said, the approach of this service is not to award separate amounts for individual elements of the distress and inconvenience suffered by a consumer. We consider each element of the impact and take them into account when deciding what level of award is appropriate in the round.

A J Bell has also used the terms '*ex gratia*' and '*goodwill*'. I think A J Bell is likely to have meant these terms to refer to a payment in recognition of distress and inconvenience. But irrespective of what A J Bell meant, my role is to decide whether the amount offered is fair and reasonable in all the circumstances. In line with the approach I've described above, if I make an award for distress and inconvenience, I wouldn't look to award a separate payment as an *ex gratia* award or for goodwill. Again, I am looking to see whether the payment offered to Mr H for the impact on him is fair and reasonable in the round, taking into account all the elements of that impact.

Turning to the impact Mr H has suffered, I can see he was clearly inconvenienced by the delay in the transfer of his ISA. He made a number of contacts to A J Bell and I think it was reasonable for him to have contacted A J Bell multiple times, in the circumstances. I don't dispute what A J Bell says about the requirement for a consumer to take an active role in a transfer such as this one. But in this case the problems in A J Bell's process meant Mr H had to do more than would usually be required. The errors by A J Bell caused him greater inconvenience than he should ordinarily expect.

He also suffered distress, including because he was given wrong information by A J Bell (which was given to A J Bell by its custodian and which was also the cause of the delay). And on the basis of the wrong information Mr H approached the previous provider about the

delay when the previous provider was not at fault. I haven't seen that the corporate action was fictitious. Rather, I think A J Bell's custodian misunderstood the impact of the corporate action on the particular shareholding Mr H was transferring. And so Mr H was frustrated and continued to spend time trying to resolve the delay.

In considering the duration of the delay, I note government guidelines for *in-specie* ISA transfers recommend completion within 30 calendar days. The guideline is not a rule, and in some circumstances it will be reasonable for the transfer to be completed in fewer than or more than 30 calendar days.

In Mr H's case the transfer was requested on 21 March 2023. A J Bell took appropriate action to get the transfer underway. And the previous provider completed its part of the transfer on 17 April 2023. So I think if A J Bell hadn't made any errors then Mr H's transfer could potentially have been done within the recommended 30 calendar days but certainly not much sooner than that. As it was, it was 11 July 2023 when A J Bell said it had lifted the block on his investment which finally resolved the problem and gave Mr H access to his transferred investment. So, broadly speaking, A J Bell's error caused unreasonable delay between about 21 April and 11 July 2023. So I think the total of the unreasonable delay caused by A J Bell was in the region of nearly 12 weeks.

I understand Mr H's point about A J Bell having offered a payment of £150 in May 2023 when the problem was not yet resolved. He suggests that to be fair A J Bell should make an additional or increased payment for the delay that happened after that date. Having carefully thought about this, I agree that the offer of £150 for distress and inconvenience should be increased.

Following A J Bell's response to my provisional decision I checked the evidence again to see what offer it made in May 2023. Although A J Bell said it offered Mr H £100 during a phone call on 1 May 2023, I'm satisfied that the email A J Bell sent Mr H on 23 May 2023 then offered him £150 for the issues to that date. The amount £150 was mentioned twice in that email. And I haven't seen any message to Mr H to say that offer was made in error. Mr H then referred to the offer of £150 in a subsequent email to A J Bell.

At the time of the 23 May 2023 offer A J Bell said the problem with the transfer had been resolved because the custodian had accepted the transfer and A J Bell would shortly email Mr H to say the transfer was fully complete. But, as A J Bell said in its response to Mr H's complaint, there occurred '*further issues*' after that.

Although A J Bell believes that in July 2023 it increased its offer to Mr H in recognition of the further issues, I don't think that's what happened – or, at least, that's not what it said in the offer it communicated to Mr H by email – as I've explained above. So I've considered what's appropriate based on the fact that A J Bell did offer Mr H £150 in May 2023.

I've said this service doesn't generally make separate awards for individual elements of a business's error or individual elements of the impact of the errors on a consumer. And, as our Investigator said, we don't generally calculate awards according to the precise duration of the events involved. We take all elements into account to consider what's fair and reasonable in the round.

However, on this occasion I think the further issues that occurred after A J Bell initially thought it had resolved the problem made the overall impact on Mr H greater than it would've been if everything had been fixed by 23 May 2023. And I think the difference is great enough to have caused Mr H significant additional distress and inconvenience. The further issues added nearly two months to the initial delay of about one month.

Also, as our Investigator said, a payment for distress and inconvenience serves as an acknowledgement that things could've been handled better. In this case I think it's appropriate for the payment to Mr H acknowledge the further issues as well as the initial problem that caused the delay.

I've taken into account that A J Bell did keep Mr H updated as best it could, albeit that A J Bell had incorrect information from its custodian. Even though A J Bell didn't know what was causing the delay, the correspondence Mr H has submitted indicate to me that A J Bell tried in good faith to resolve it. And A J Bell didn't at any point appear to evade responsibility for resolving things. Despite Mr H feeling the problem wouldn't have been resolved without his involvement, I do think A J Bell accepted throughout the process that it needed to get to the bottom of the problem. And it continued taking steps to do that until the problem was finally resolved. I think this could've given Mr H some amount of comfort amidst the understandable distress and inconvenience he endured.

I don't agree A J Bell hasn't explained how it could've made the mistake it made. It's given Mr H a reasonably detailed account of what happened on more than one occasion. I think the level of detail in A J Bell's explanations show it took the matter seriously and that it was sorry for giving Mr H a poor service. It's not the role of this service to punish a business for its errors. My role here is to ensure Mr H is compensated for any impact on him. Any lessons to be learnt and changes to be made to A J Bell's processes are a matter for A J Bell.

Mr H said A J Bell wouldn't have resolved the delay at all if he hadn't intervened. Irrespective of whether that is the case, I can only award compensation for the actual impact on Mr H of the actual delay that occurred. I don't think he was impacted by a potential further delay that might have happened if the problem hadn't been resolved when it was. I do understand, however, that he worried about this and felt it necessary to intervene, and I'm taking into account the distress and inconvenience he suffered in doing so.

Similarly I can't say Mr H was impacted by financial problems that could've ensued if he'd needed to use the money that he lost access to during the delay. Mr H has consistently said his plan for the money following the transfer was to disinvest it and reinvest it in an income fund, which is what he did at the earliest opportunity. The fact he couldn't do that as soon as he should've been able to has been addressed by A J Bell in its offer to put right his financial loss. And Mr H has agreed with that element of A J Bell's offer.

Taking everything into consideration I think a fair and reasonable outcome is for A J Bell to pay Mr H a total of £300 for distress and inconvenience. That's an additional £150 on top of the £150 it's already offered him. This recognises that the total delay was a significant amount of time and further issues occurred after A J Bell thought it had resolved the problem. I'm satisfied £300 is in line with awards this service makes for problems similar in nature to this one – including because of the duration of the total delay and the amount of money concerned.

I also think it's fair and reasonable for A J Bell to pay Mr H the amount he and A J Bell have already agreed will put right his financial loss. To my knowledge that payment hasn't yet been made, so I'm including in my decision a requirement for A J Bell to do that.

Putting things right

To put things right for Mr H I require A J Bell Share Dealing Limited to do the following, if it hasn't already done so:

- Pay Mr H the £570.07 it has already offered, which is the difference between what he had when he switched investments and what he would've had if he'd been able to

switch investments immediately after the previous provider completed its part of the transfer.

- Pay Mr H £300 in compensation for the distress and inconvenience caused to him.

My final decision

For the reasons I've set out above, my final decision is that I'm upholding this complaint. I require A J Bell Share Dealing Limited to pay the amounts set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr H to accept or reject my decision before 19 April 2024.

Lucinda Puls
Ombudsman