

The complaint

Mr M complains about Paragon Bank Plc's delays when rejecting his ISA and returning his funds.

What happened

I issued my provisional decision on 13 December 2023, and this is what I said:

I've considered the relevant information about this complaint.

Based on what I've seen so far, there will be a different outcome to what our investigator proposed.

Before I issue my final decision, I wanted to give everyone a chance to reply.

I'll look at any more comments and evidence that I get by 10 January 2024. But unless the information changes my mind, my final decision is likely to be along the following lines.

The complaint

Mr M complains about Paragon Bank Plc's delays when rejecting his ISA and returning his funds.

What happened

In November 2022, Mr M decided to open a 5-Year Fixed Rate Cash ISA with Paragon. Mr M was required to set up a nominated bank account to fund this ISA. So, he gave Paragon the details of a non-UK current account he held with Bank A and transferred £20,000.

Paragon received the £20,000 and held it in their suspense account as it arrived via an overseas bank account, and they couldn't confirm it had come from Mr M's nominated account. Paragon later confirmed that Mr M's account was ineligible and returned the £20,000 on 23 January 2023, sending a BACS payment to Bank A.

Mr M was dissatisfied with Paragon's service and that his ineligibility had taken so long to identify and had occurred after their authentication process. Paragon accepted they should've provided a quicker service and better clarification. They paid Mr M £85 redress.

However, despite Paragon returning Mr M funds, he didn't receive them back, and still hasn't, as they are stuck in the banking system. Paragon said they sent his funds back and Bank A are responsible for returning them.

Mr M complained to our service as he believes Paragon are responsible for two delays: a delay in explaining and rejecting his funds and a further delay in returning his funds.

Although our investigator recognised Mr M hadn't followed Paragon's terms and conditions by giving a UK bank account, she didn't think they'd treated Mr M fairly and said they should pay him £300 compensation for distress and inconvenience.

Mr M feels they should be obliged to help locate his funds and pay lost interest.

Paragon considers £300 compensation to be too high and feel that they kept in regular contact with Mr M and have been cooperating with Bank A to help recover his funds.

As both parties are dissatisfied this case has been referred to me to look at.

What I've provisionally 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 have a different view to the investigator. I'm still upholding this complaint, but I'm increasing the award and I'll explain why.

I first considered whether Paragon should've explained to Mr M that he was ineligible for an ISA, and rejected his application, at a much earlier stage.

I'm satisfied that Paragon's authentication procedure verifies an individual rather than the nominated account and relies on customers adhering to their terms and conditions, so I wouldn't have expected them to have known Mr M was ineligible when they set up his account.

When Mr M deposited his funds on 22 November 2022, Paragon attempted to return them because his funds were coming from Bank A's overseas account which didn't link with his nominated account. On 29 November 2022, Mr M indicated his account was probably not classified as a UK account, so I think Paragon representatives should've joined the dots, checked and confirmed his eligibility at this point and returned his funds soon after. Instead, they waited until 23 January 2023.

I recognise contributory reasons for Paragon's delay were confusion over the Bank A account number, Mr M pressing for Paragon to hold on to his funds (because he clearly didn't realise he was ineligible) and communications challenges due to Mr M being overseas. Also, that Mr M should've made enquiries about his eligibility after reading Paragon's terms and conditions and before making his deposit.

However, if Paragon had realised Mr M was ineligible on 29 November or shortly after, they could've returned his funds approximately 6 weeks earlier. Also, Mr M wouldn't have experienced the inconvenience and frustration responding to email questions about the Bank A account number.

So, I'm satisfied Paragon did delay both the explanation and rejection of Mr M's funds and provide poor customer service, which I appreciate they don't dispute.

Assessing compensation isn't an exact science and our approach when making awards for non-financial loss is detailed on our website and tends to be modest. I looked at the amount of money involved, the timeframe, the inconvenience and frustration Mr M experienced responding to emails whilst navigating different time zones. Also, the frustration and disappointment of having his account closed before he could consider an alternative arrangement. And I consider the following to be fair and reasonable redress:

- £300 compensation
- 8% simple interest for 55 days on £20000 for the period 29 November 2022 (the earliest point Paragon should've told Mr M he wasn't eligible) to 23 January 2023 (the date Paragon returned Mr M's funds)

I then considered whether Paragon contributed to Mr M not receiving his funds back. The file shows that Paragon knowingly returned Mr M's funds in a different format to that requested by Bank A and Mr M.

I recognise that Paragon followed their procedure here. But, as they acknowledge they had an instruction which they couldn't follow, and had already held onto Mr M's funds, I think they should've reverted to Mr M and given him time to liaise with Bank A to discuss implications and preventative measures, including reference numbers, with Paragon.

Also, this was clearly an unusual situation for Paragon, they were aware the funds had come from a non-UK account and the funds had arrived in a confusing and complex way. In addition, Paragon made a point of saying to Mr M they wanted to “safely return the funds”. Furthermore, Mr M was a Paragon customer who had given a clear instruction and when executing his instruction Paragon had a duty to exercise both reasonable skill and care. Our service can’t interrogate business systems and I’m satisfied Paragon sent Mr M’s funds back to Bank A. However, had they exercised greater skill and care when returning Mr M’s funds, I think it more likely than not that the transfer would have gone through quickly and smoothly.

Bank A have had a long time to find Mr M’s funds, and I don’t think it would be fair to say Paragon is responsible for all that time. And it is Mr M’s prerogative to submit a complaint to Bank A. However, I’m persuaded by file submissions that there has been insufficient support and engagement from Paragon to help resolve an issue they contributed to, such as providing Bank A with a BCNR tracer number which despite Mr M chasing still appears to be outstanding.

In summary, I can’t say Paragon are responsible for the full delay here, but I think a lack of skill and care followed by a lack of support and engagement with Bank A has contributed to the significant delay here.

So, I consider a fair and reasonable resolution to be for Paragon to contribute to Mr M’s lost interest by paying 8% simple interest on £20,000 for a third of the time Mr M has been without his funds. I appreciate Mr M’s funds have not yet been returned, so Paragon will need to provide the BCNR tracer number to speed up the return. And Mr M will need to show Paragon proof of the date his funds are credited to enable them to calculate and pay the amount of interest.

Regarding the interest payments in this provisional decision, I appreciate Paragon’s argument that interest shouldn’t apply because Mr M breached the terms and conditions. However, regardless of the breach, for the reasons explained above, I’m satisfied some interest should be paid here.

So, considering all the above, I’m upholding this complaint and I require Paragon Bank Plc to pay Mr M:

- *£300 compensation*
- *8% simple interest for 55 days on £20,000 for the period 29 November 2022 (the earliest point Paragon should’ve told Mr M he wasn’t eligible) to 23 January 2023 (the date Paragon returned Mr M’s funds)*
- *8% simple interest on £20,000 for 33% of the time Mr M’s funds have been missing, between 23 January 2023 and the date Bank A credit Mr M’s Bank A account (to be confirmed by Mr M and paid by Paragon Bank Plc upon confirmation)*

My provisional decision

For the reasons I’ve given above, it’s my provisional decision to uphold this complaint. I require Paragon Bank Plc to pay Mr M:

- *£300 compensation*
- *8% simple interest for 55 days on £20,000 for the period 29 November 2022 (the earliest point Paragon should’ve told Mr M he wasn’t eligible) to 23 January 2023 (the date Paragon returned Mr M’s funds)*
- *8% simple interest on £20,000 for 33% of the time Mr M’s funds have been missing, between 23 January 2023 and the date Bank A credit Mr M’s Bank A account (to be confirmed by Mr M and paid by Paragon Bank Plc upon confirmation)*

I'll look at anything else anyone wants to give me – so long as I get it before 10 January 2024.

Unless that information changes my mind, my final decision is likely to be as I've set out above.

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 would like to thank both parties for their responses.

Paragon disagreed with my provisional decision. Paragon highlighted how they:

- Attempted to return Mr M's funds on 25 November 2022 but placed them on their suspense account as they bounced back.
- Followed their return procedures which required proof of ownership.
- Correctly advised Mr M of their requirements and followed their procedures so shouldn't *'be liable to pay compensation at an 8% rate during this time period, nor a substantial compensation amount'*.

Although Mr M is satisfied that his points were considered, and the initial award has been increased, he questions the logic and fairness of the provisional decision and his points included:

- He would like to see a requirement that obligates rather than incentivises Paragon to provide the tracer reference and help recover his funds.
- He feels that Paragon are fully responsible for the delay in returning the funds and questions the logic and fairness of Paragon paying 8% simple interest on £20,000 for a third of the time he has been without his funds adding the following:

'Myself and Bank A have not shown non-compliance and therefore should not be held responsible for the delay, in my view. I would understand this provisional decision, which appears to mitigate Paragon's liability for the continued delay somewhat, were the errors and non-compliance evident to some degree on all sides. In this case however, I believe it is a stretch to prioritise parity for parity's sake'.

I looked at all the above points and reviewed the file again.

Regardless of Mr M's error in sending funds from his expat account, for the reasons mentioned in my provisional decision, I still think Paragon should've joined the dots, checked and confirmed their customer's eligibility on 29 November 2022 and returned the funds soon after.

Paragon tried to return the funds prior to any discussion with Mr M and the reason they didn't appears to be the method they used, so I don't think they wanted to hold them in their suspense account. And, when they spoke to Mr M on 29 November 2022, they appear to have partially matched the funds to his account.

On this call Mr M told the representative that the funds were from an expat account and questioned if this meant he was ineligible to hold the account. Also, as Mr M's concern was setting up a Paragon account in the timeframe allowed, he didn't mind if they returned the

funds, and he could make alternative arrangements. In addition, at one point the representative said they should discuss returning the funds.

But instead, a proof of ownership process was triggered. File notes show that Paragon accept this was poorly handled and on 17 January 2023 Paragon said:

'the nominated bank account does not meet our criteria of being a UK current account and your payment must be returned to the source account it came from'

So, I still think Paragon delayed both the explanation and rejection of Mr M's funds and provided poor customer service. And for the reasons mentioned in my provisional decision, I consider an interest payment and £300 to be a fair and reasonable amount of compensation.

I recognise Paragon wouldn't have needed to return Mr M's funds if he hadn't sent them from a non-UK bank account. However, Mr M thought his bank account was eligible and that he wouldn't have otherwise passed Paragon's verification process. Nonetheless when Paragon tried to return his funds a second time, they had an instruction from Mr M and as Paragon couldn't follow this, I think at this point they should've exercised greater care by referring back to Mr M. I say this because they had a duty to exercise both reasonable skill and care, Mr M asked them if they could exclude their reference and provide him with the payment confirmation. Also, this appeared to be an unusual transaction for Paragon, and they'd experienced a difficulty when they originally tried to return it.

So, I think it more likely than not that the transfer would have gone through quickly and smoothly had they referred back to Mr M. Also, although I appreciate Paragon had no control once they returned Mr M's funds, from the information available, I still think they should've assisted Mr M with his request for a tracer number.

So, for these reasons I still think Paragon have contributed to the delay in Mr M getting his funds back and should therefore provide some compensation.

Regarding the difficult position Mr M still finds himself in, whilst I'm sympathetic to his situation, there are limitations in how our service can help when funds are missing in another bank's system.

Although I think it more likely than not that Paragon created an issue and should've quickly provided the information Mr M requested to help resolve it, I don't have any information on what Bank A have been doing to trace the funds with the information they have or how long they will take to resolve it. And it's Mr M's prerogative to complain to Bank A about this and lost interest.

So, I don't think it's fair or reasonable to hold Paragon totally responsible for such a long delay. I say this as I would've expected Bank A, even with the partial information available, to have found and credited his funds within a reasonable amount of time.

So, I think Paragon should, if they haven't already done so, provide Mr M with the required tracer information. And, instead of paying Mr M an open ended proportion of interest, I require them to pay Mr M four months simple interest at 8%.

So, in summary, having considered everything again, my final decision is that I'm still upholding this complaint and I require Paragon Bank Plc to:

- Provide Mr M and / or Bank A with the required tracer information they hold within 28 days of this final decision

- Pay Mr M £300 compensation
- Pay Mr M 8% simple interest for 55 days on £20,000 for the period 29 November 2022 (the earliest point Paragon should've told Mr M he wasn't eligible) to 23 January 2023 (the date Paragon returned Mr M's funds)
- Pay Mr M a further 8% simple interest on £20,000 for four months

My final decision

My final decision is that I'm upholding this complaint and I require Paragon Bank Plc to:

- Provide Mr M and / or Bank A with the required tracer information they hold within 28 days of this final decision
- Pay Mr M £300 compensation
- Pay Mr M 8% simple interest for 55 days on £20,000 for the period 29 November 2022 (the earliest point Paragon should've told Mr M he wasn't eligible) to 23 January 2023 (the date Paragon returned Mr M's funds)
- Pay Mr M a further 8% simple interest on £20,000 for four months

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 11 March 2024.

Paul Douglas
Ombudsman