

## The complaint

Mr D complains that Nationwide Building Society provided him with misleading information about the value he would receive on encashing the investments in his stocks and shares ISA.

## What happened

Mr D had a stocks and shares ISA with Nationwide and intended to put funds into a cash ISA pending the purchase of a property so the funds would be available when the purchase went through. His financial planning manager (“FPM”) emailed him on 16 October 2023 explaining that he would instruct Aegon to move the funds into cash to protect from market volatility before the transfer to the cash ISA.

Mr D met with the FPM on 18 October 2023 to further discuss what was going to happen and complete necessary paperwork. There was discussion about what his investments were worth, Mr D having checked the value that morning which showed a figure of £210,433 asked if he would get that amount and being told no but that it would be ‘very very similar’.

The encashment of Mr D’s investments took place on 19 October 2023 and he emailed the FPM the following day expressing his dissatisfaction with the amount he had received. He said he was shocked to see the statement showing he would only get £207,834 when in the email of 16 October 2023 and the meeting of 18 October 2023 it had been implied he would get around £210,433 back ‘give or take a few pence’.

Nationwide didn’t uphold the complaint. In summary it made the following key points:

- The FPM answered no when Mr D asked if he would get back the online value he had seen that morning of £210,433.
- The FPM explained Aegon would be instructed to sell the investments to put these into cash which is when the value would no longer suffer from volatility.
- The FPM said what he would get back would be very similar to the online value showing.
- The FPM couldn’t possibly say how much it would be as the market moved daily as Mr D would have been aware of from his recent monitoring.
- The value Mr D had seen on the day of the meeting on 18 October 2023 was the value at close of business the previous day.
- The value that Mr D received of £207,838.84 was the value at close of business the following day, 19 October 2023 and was 98.77% of the value at close of business on 17 October 2023.
- Mr D’s sale instructions were carried out as quickly as they could have been

Mr D didn't agree with Nationwide and referred his complaint to our service. One of our investigators considered it and made the following key findings:

- The email of 16 October 2023 didn't imply Mr D would get £210,433.
- The transfer value shown on the transfer form is £210,430 based on the value on the day and this didn't guarantee what the transfer value would be.
- In the meeting of 18 October 2023 the FPM didn't do enough to emphasise the downside and although he said it wouldn't be 'today's value' he then said it would be 'very very similar' which is quite a subjective statement.
- Mr D wasn't given any guarantee as to the transfer value and he was disinvested into cash efficiently within two days.
- The explanation and language used by the FPM didn't fully emphasise that the funds were still subject to volatility and could increase or decrease significantly and gave Mr D an unclear expectation of what he would receive.
- Nationwide should pay £100 for the distress and inconvenience caused by this.

Nationwide didn't agree with the investigator. It said that the FPM couldn't state with any accuracy what figure Mr D would receive and that if his estimated guess or passing comment about what would be received was wide of the mark then an apology would be sufficient as there is no suggestion Mr D would have delayed the withdrawal further.

Nationwide also argued that Mr D was also an experienced investor who had conducted transactions previously and should reasonably have known of the risk involved until the monies were placed into cash. It maintained that what the investigator was saying that the FPM didn't sufficiently or accurately state something that he couldn't predict with any certainty.

Mr D also didn't agree with the investigator. He said that the investigator had ignored the three forms of proof that he was grossly misled and that it is clear that the case should have been resolved with him being awarded at least the full amount of £2,599.

As neither party agreed with the investigator the matter has been referred to me for review and 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.

In doing so, I've taken into account relevant law and regulations; relevant regulators' rules guidance and standards; codes of practice; and, where appropriate, what I consider was good industry practice at the relevant time. But I think it's important to note that while I take all those factors into account, in line with our rules, I'm primarily deciding what I consider to be fair and reasonable in all the circumstances of the case.

It is for me to decide what weight to give evidence a party relies on and where there is a dispute about the facts my findings are made on a balance of probabilities – what I think is more likely than not.

The purpose of my decision isn't to address every point raised and if I don't refer to

something it isn't because I've ignored it but because I'm satisfied I don't need to do so to reach what I think is the right outcome. Our rules allow me to do this, and it simply reflects the informal nature of this service as a free alternative to the courts.

Mr D has referred to being grossly misled by Nationwide based on the three pieces of evidence he relies on. That evidence consists of; the email from the FPM of 16 October 2023; the record of the meeting with the FPM on 18 October 2023; the transfer in request showing a figure of £210,430.

However, that evidence and his own argument in this complaint doesn't support his contention that Nationwide should pay him £2,596 – being the difference between the figure of £210,430 and the £207,834 received when his investments were actually encashed by Aegon on 19 October 2023. I explain why below.

Mr D refers to the FPM stating in the email of 16 October 2023:

*“once we have an appointment to complete the transfer paperwork, I instruct Aegon to move out of funds into cash at their end. This protects you from further market volatility before Nationwide transfer the funds back into a cash ISA.”*

Mr D can have had no expectation of receiving any particular amount as a result of this email, given no figure was referred to. The only ambiguity that I think arises as a result of the wording of the email is that it could be misconstrued as meaning that the protection from further market volatility arises at the point the instruction is made to Aegon to move into cash, rather than at the point it actions that instruction. However, if Mr D did understand the email to mean that, I am satisfied this was cleared up in the meeting with the FPM, which I discuss further below.

The meeting also cleared up any misunderstanding resulting from transfer in request completed to transfer the Stocks and Shares ISA funds specifying a transfer value of £210,430 – that being the value of the ISA on the morning of 18 October 2023. I acknowledge that by itself this could have led Mr D into thinking that this is what he would get but again what the FPM said in the meeting made clear this isn't what Mr D would receive.

I have listened to the full audio record of the meeting that took place on 18 October 2023. Mr D refers to checking the value that morning and that it was at £210,433. The FPM stated in response that he had £210,430 but clarified that this was because a small amount of £2.88 stood in the General Investment Account. Mr D then asks if that (£210,430) is what he gets back and the adviser states:

*“No, what happens is, part of our advice is that we instruct Aegon to sell down and put that money back to cash because for members who have made that decision to take that money out we don't want you to suffer any more from volatility in the markets.”*

Mr D then asks the FPM *“So what am I likely to get back?”* and the FPM answers *“Well, it will be done in the next day or two so it will be literally be very very similar to what you've got now but it won't be today's value.”*

I am satisfied that this discussion cleared up any misunderstanding Mr D may have had from the email of 16 October 2023 and made clear that the figure in the transfer form wasn't the figure he would receive. I am satisfied that what the FPM said made it clear that Mr D would get the value on the day Aegon actually sold his investments, which the FPM indicated would be in a day or two – it was actually done the next day – not the amount showing in the account on 18 October 2023.

Mr D was only ever entitled to the value of his investments at the date they were encashed and I am satisfied the FPM made this clear enough. Mr D has not suffered a loss of £2,596 or any loss and there is no basis for making an award in that sum or any award for financial loss given this.

However, although I am satisfied that it was made clear to Mr D that he wasn't entitled to £210,430 (or any other specific amount) I do think the FPM gave him the impression that what he would get would be very close to that figure. The FPM didn't say that the difference would be pennies as Mr D stated in his email of 20 October 2023 but it is more likely than not that is the impression Mr D formed as a result of what the FPM said. I am not persuaded that it was unreasonable for him to have formed that impression based on what the FPM said.

I note that Nationwide argues that if FPM's estimated guess or passing comment was wide of the mark then an apology would be sufficient. However, it was quite obvious that Mr D wanted to know what he would receive and the response from the FPM in my view was in answer to the question Mr D put as to what he would get. In the circumstances I am not satisfied that his comment can be seen as a passing comment nor do I think he should have sought to provide an estimated guess.

Nationwide has argued that the FPM couldn't state with any accuracy what Mr D would receive but that is the point. He wasn't in a position to say what Mr D might get on encashment and therefore shouldn't have said anything. I appreciate he was trying to be helpful but in saying that what Mr D would get would be *'literally very very similar'* to the figure of £210,430 the FPM gave him the impression that it would, in Mr D's words, be a matter of pennies difference. The FPM raised Mr D's expectations by what he said and an award of £100 for distress and inconvenience resulting from Mr D's loss of expectation I think is fair and reasonable.

Mr D may well be disappointed that I have agreed with the award made by the investigator and haven't awarded anything else but he was never entitled to anything but the value of his investments on the day they were encashed and I cannot make an award for financial loss simply because he was led to believe he would get more than he did.

### **Putting things right**

The FPM raised Mr D's expectations by what he said and an award of £100 for distress and inconvenience resulting from Mr D's loss of expectation I think is fair and reasonable.

### **My final decision**

I uphold this complaint for the reasons I have set out above. Nationwide Building Society must pay Mr D £100 for the distress and inconvenience caused.

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

Philip Gibbons  
**Ombudsman**