

The complaint

Ms H complains about her ISA transfer from a third-party business (referred to as “*the transferor*”) to Brooks Macdonald Asset Management Limited (referred to as “*Brooks Macdonald*” or “*the Transferee*”).

To put things right, she’d like compensation for any losses made.

What happened

Based on the investigator’s summary chronology, I understand the following events occurred:

- 13 December 2022 - Ms H submitted instructions to transfer her stocks and shares ISA with the transferor.
- 14 December 2022 – the transferor passed on her instructions to Brook Macdonald. The transferor followed this up with instructions asking if this could be processed quickly.
- 19 December 2022 – the transferor provided the ISA transfer values via Altus.
- 3 January 2023 – Brooks Macdonald notified the transferor that Ms H had requested a cash transfer.
- 4 January 2023 – The transferor accepted Brooks MacDonald’s ‘manual transfer instructions’ and proceeded with the cash transfer.
- 11 January 2023 – the transferor had processed 50% of all holdings to be sold, and the cash to be transferred – with the retention of Netflix shares and the £4,000 advisory charge to be made. A total of £256,595.57 in cash was transferred.
- 18 January 2023 – the transferred funds fully settled with Brooks Macdonald.
- 2 February 2023 – Brooks Macdonald contacted the transferor about the second tranche of the transfer (namely £171,000) which was available to transfer as cash.
- 7 February 2023 – the transferor transferred the £171,000 in cash to Brooks Macdonald.
- 1 March 2023 – The transferor sent over the remaining £705.97 and apologised to Brooks Macdonald.

In a response dated 6 September 2023, Brooks Macdonald said it “upheld” the complaint on the basis that it did nothing wrong as such but a miscommunication between it and the transferor – for which Altus might be responsible – caused Ms H some distress and inconvenience.

It said it was unable to find any evidence that the transferor responded to its cash acceptance request via Altus on 19 December 2022. So, whilst it maintains that it processed the transfer request correctly – in accordance with its internal procedures and timeframes – there appeared to be a communication breakdown that occurred on or around 19 December 2022 which caused delays. In order to help resolve matters it offered £150 compensation as a gesture of goodwill.

Ms H accepted the money but in due course on 28 December 2023 referred her complaint to our service. She wanted to know whether Brooks Macdonald was responsible for any delays as the account from the transferor was different to what she was told.

One of our investigators considered the complaint but didn't think it should be upheld. In a view dated April 2023, in summary, he said:

- He's unable to say that Brooks Macdonald caused a delay in the transfer process.
- According to the government website, ISA transfers shouldn't take longer than:
 - 15 working days for transfers between cash ISAs.
 - 30 calendar days for other types of transfers – which applied in this case.
- Brooks Macdonald accepts that there was a delay between 19 December 2022 and 3 January 2023 – owing to a miscommunication between it and the transferor.
- The above notwithstanding, the transfer took place between 13 December 2022 and 11 January 2023 (29/30 calendar days), which period included several bank holidays.
- Although it took Brooks Macdonald 15 days for its side of the transfer, including bank holidays, it was up to the transferor to conduct a timely transfer once it had received all the information.
- Having considered a complaint against the transferor, this wasn't upheld either, on the basis that it didn't cause a financial loss, as the transfer was completed within 30 days.
- He won't consider any investment loss on the uninvested cash element of the portfolio on the basis that Brooks Macdonald completed the whole transfer within the timescales – and no guarantees were given that the transfer would happen earlier than this.
- Although Brooks Macdonald paid Ms H £150 compensation for the distress and inconvenience caused for its part in the delay/miscommunication – which is fair – the transfer completed within the timescale with no investment loss, therefore he's not going to uphold this complaint.

Ms H disagreed with the investigator's view and asked for an ombudsman's decision. No further points were made.

As no agreement has been reached, the matter has been passed to me for review.

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 agree with the investigator's conclusion for much the same reasons. I'm not going to uphold this complaint.

On the face of the evidence, and on balance, I'm unable to safely say that Brooks Macdonald behaved in such a way that this complaint should be upheld.

But before I explain why this is the case, I'd like to thank the parties for their considerable patience whilst this matter has awaited review by an ombudsman, due to the current demand for our service.

I also think it's important for me to note I very much recognise Ms H's strength of feeling about this matter. She has provided submissions to support the complaint, which I've read and considered carefully. However, I hope she won't take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy.

The purpose of my decision isn't to address every single point raised. My role is to consider the evidence presented by her and Brooks Macdonald, and reach what I think is an independent, fair, and reasonable decision based on the facts of the case.

I make clear that I've only considered the actions of Brooks Macdonald against whom this complaint is made. I've not specifically considered whether or not a third-party business is responsible for any delays.

I don't uphold this complaint, in summary, for the following reasons:

- I understand that Ms H's instructions to transfer were initially received by the transferor on 13 December 2022. The instructions were then passed on to Brooks Macdonald as the transferee the next day. I note it acknowledged receipt of the transfer application form and provided a welcome letter. So, it's arguable that (technically) Brooks Macdonald became a part of this process from 15 December 2022.
- I note that around four days later, on 19 December 2022, the transferor provided Brooks Macdonald with the values and it's likely this would've been in response to a request to do so by the transferee (via 'Altus' – the electronic system that facilitates transfers between providers).
- Based on what Brooks Macdonald says, I understand that this is also when its transfer team confirmed acceptance of the transfer. The next day, on 20 December 2022, Brooks Macdonald confirmed that an account had been opened and that it had sent a request to its transfer team who would raise this electronically. If this had been an issue for the transferor – i.e., it couldn't specifically receive this information electronically – it ought reasonably to have raised an issue.
- I understand that because Brooks Macdonald didn't receive a response from the transferor – to its cash acceptance request (sent via Altus) – within its timeframes, this request was cancelled. I appreciate that this had a knock-on effect on the timing of events, but I don't think Brooks Macdonald was unreasonable in cancelling the request in the face of not receiving a response.
- It's unclear when exactly this was, but I'm assuming Brooks Macdonald would've waited at least a few days for a response from the transferor before it took any action, so it's possible this was done at some point between Christmas and New Year – in between the two bank holidays. I'm mindful the transferor maintains that a response was sent on 19 December 2022, but for whatever reason Brooks Macdonald didn't receive a response – I note it simply can't evidence any response received. Whilst there was evidently an issue with communication, with the transferor and Brooks Macdonald saying two different things, I think it's unlikely that Brooks Macdonald would've received a response and not actioned it. So, I'm unable to safely say that it deliberately delayed matters or that it's responsible for the delays.
- Whilst Brooks Macdonald says its "upheld" the complaint, it also doesn't accept any wrongdoing as such on the basis that it "*correctly processed the transfer in accordance with our internal procedures and timeframes*". Nevertheless, it offered and paid £150 compensation (as a goodwill gesture) in respect of any distress and inconvenience caused by: "*a communication breakdown that occurred on or around 19 December 2022, which caused delays relating to the cash acceptance instructions between us and (the transferor).*" I note this was done prior to the complaint being referred to our service. In the circumstances I don't think I need to uphold this complaint or comment further on this compensation paid.
- In light of the above, I note on 3 January 2023 Brooks Macdonald notified the transferor again – this time manually. I'm satisfied that it did so within a reasonable amount of time all things considered.

- I note on 4 January 2023, the transferor accepted the manual instructions and started processing the transfer on 10 January 2023, with the first tranche of the holdings being sold around 11 January 2023. I understand they were transferred around this time.
- I note Brooks Macdonald sent a chaser to the transferor on 17 January 2023 following which on 18 January 2023 a total of £256,595.57 cash was settled with it. I don't think Brooks Macdonald is responsible for how long it took to sell and transfer the holdings and eventually settle the cash – in this case around 14 days – because these aren't matters within its direct control.
- Thereafter I note, on 2 February 2023, Brooks Macdonald contacted the transferor about the second tranche of the transfer (namely £171,000) which was available to transfer as cash. I note this approach was agreed with Ms H to avoid spending too much time out of the markets. I'm mindful that Ms H probably could've transferred in specie and then sold to cash to invest elsewhere but it doesn't appear she wanted to do this.
- 7 February 2023 the transferor transferred £171,000 in cash to Brooks Macdonald. Subsequently, on 1 March 2023 the transferor sent over the remaining £705.97 and apologised to Brooks Macdonald.
- Given the above, I'm unable to say that Brooks Macdonald behaved unreasonably or in such a way that this complaint should be upheld. On the face of the evidence, and on balance, I'm satisfied that it behaved in line with the timeframes and can't be held responsible for the matters outside of its control or matters for which a third-party business might be responsible.
- Despite what Ms H says, I can't say that Brooks Macdonald is responsible for any financial losses, including her not being able to invest the cash element of her investment sooner.

I appreciate Ms H will be unhappy I've reached the same conclusion as the investigator. Furthermore, I realise my decision isn't what she wants to hear. But on the face of the available evidence, and on balance, I'm unable to uphold this complaint and give her what she wants.

My final decision

For the reasons set out above, I don't uphold this complaint and I make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms H to accept or reject my decision before 9 January 2025.

Dara Islam
Ombudsman