DRN-5070504

The complaint

Mr Z complained about AJ Bell Management Limited (AJ Bell). He said he noticed a transaction had been applied to his account, in relation to one of his funds, that he thought was incorrect. He said AJ Bell needs to put things right, as the mistake it made has incurred him losses. He said it has also caused him distress and inconvenience and it should pay compensation for this too.

What happened

Mr Z held a stocks and shares ISA account with AJ Bell. Within his ISA, he invested in an offshore investment fund called ‘Nedgroup investment balanced multifund’.

Mr Z said he noticed AJ Bell had added a transaction against this fund on his account for £518.11. He said AJ Bell had added this amount to the cost of his fund, so the overall cost of his funds went from £39,607.89 to £40,126.00.

Mr Z said he neither received the cash nor did the costs of his funds go down. So, he said he didn’t benefit from this transaction. He asked AJ Bell to review the transaction and then revert it.

In its initial response to Mr Z sent on 17 November 2023, AJ Bell explained the transaction was an accumulation payment, as in the fund Mr Z invested in, accumulated dividends rather than distribute them. So, it explained, Mr Z had gained through the overall value of the fund and the cost that was added, was in relation to this. It said, as the fund was offshore, that it needed to show this in the cost, under excess reportable income (ERI) rules.

It then responded to another email from Mr Z, on 8 February 2024, and explained further that it was not a cash transaction, but a book cost adjustment to reflect the eligible income from the fund in question.

AJ Bell said it needed to do this to comply with ERI rules and it was to do with the income earned by Mr Z in the financial year, which was not distributed to him, and was kept invested in the fund. It said for UK income tax purposes the amount is deemed to have been distributed to him, even though it was retained in the fund.

Mr Z responded on 9 February 2024 that in his opinion, the transaction was a contingent item and to add it to the actual cost was not correct. He said the additional cost was not a real cost to him. He said if this had been correctly reported, his fund would have been shown to have been making a loss of 3.01% and not 4.27%. He said if this had been correctly displayed, he would have sold the fund sooner and invested instead in a cash ISA. He said he was looking at incorrect figures when he was looking to decide about his investment. He said he didn’t want to book such a big loss. He said AJ Bell’s incorrect recording of the transaction had incurred him a loss along with cause him stress, as he has had to try and make sense of it.

AJ Bell reiterated that HMRC had stated that it must report any ERI distributions made by the fund. It did this by way of a book cost adjustment. It said it was satisfied that it had reported the correct information in accordance with HMRC rules.

AJ Bell said that it didn't respond to his initial query and could have been quicker in other responses to him too. It said in light of this it would offer him £100 compensation for the inconvenience it said it caused him.

Mr Z did not accept AJ Bell's offer and was not happy with its response. He referred his complaint to our service. He then informed us that in March 2024, he sold the fund to cash. He then reiterated his arguments, that when he sold his holding in the fund, it was for more than the loss that AJ Bell had reported. He said, it proved that it was incorrect. He reiterated that if he had known the true picture earlier, he would've sold his holding earlier and put his money into a cash ISA instead.

An investigator looked into Mr Z's complaint. He said he had reviewed the HMRC rules regarding ERI. He quoted the relevant rules that said HMRC treated any accumulated or retained profit for certain funds as distribution for UK tax purposes. It said this adjustment should be reported directly to fund holders so the amounts can be included in self-assessment tax returns if necessary.

The investigator said he was satisfied the fund fell under ERI and that the distribution should have been applied by way of a book cost adjustment. He said he had not seen any evidence AJ Bell made any errors and that it had reported the ERI in line with the rules and guidelines.

The Investigator said he was satisfied £100 compensation for AJ Bell's delayed response to Mr Z's complaint, was fair and reasonable and in line with our service guidelines.

Mr Z was not in agreement with the investigator's view. He said he was really disappointed and did not think the full facts had been considered.

He made the following points:

- He said he bought an ISA, and the Government rules clearly tell him that all his income and gains are tax free. He said he does not have to report these in his tax return.
- To report undistributed income as a real cost did not make any sense, it distorts the information and gives the fund holder the impression the real price of the fund is different from what is reported in the market. He reiterated, the adjustment had no bearing on the price of the fund and the holder of the units didn't get any benefit from physical payment.
- ISA's never talk about undistributed income in tax returns.
- AJ Bell's offer of £100 is totally unacceptable and not reasonable for the months it took AJ Bell to answer him. He reiterated that he suffered losses because he was looking at distorted figures.

Because the parties are not in agreement, Mr Z's complaint has been passed to me, an ombudsman, to look into.

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 have independently reviewed Mr Z's complaint and have arrived at the same outcome as the investigator, for broadly the same reasons. I will explain why.

First of all, I would like to clear up the issue that Mr Z has mentioned in his most recent submissions about ERIs and ISAs. I think there has simply been a misunderstanding here about this. To be clear, the book cost adjustment that was added by AJ Bell in 2022 to the cost of Mr Z's Nedgroup fund, didn't need to be declared in a self-assessment, for the reason stated by Mr Z, as any income or gains derived in an ISA is tax free.

So, Mr Z is right here, Government rules clearly do say this and there isn't any rules or guidance anywhere that I am aware of that mentioned undistributed income being reported in self-assessment forms. That said, I have gone back and read what the investigator said in his view, and he didn't say this was the case, and AJ Bell didn't either. So, I will leave it there, stating again that income and capital gains made by investments within an ISA are tax free, and don't need to be declared in a self-assessment.

Moving on, I don't think AJ Bell did anything wrong when it added a book cost adjustment to Mr Z's investment for £518.11. It said it was doing so, as the fund Mr Z was invested in, was under HMRC rules, a reporting fund. The fund in question is classified as offshore, as it is based in Ireland and also by HMRC as a reporting fund. This means the investment fund reports its income and gains to investors and HMRC for its financial year. So, although the amount wasn't distributed to Mr Z, it was deemed to be distributed to him for UK income tax purposes, even if, actually Mr Z held his investment in an ISA, and didn't need to report it.

I have seen the rules as provided by HMRC about ERI and after doing so, I don't think AJ Bell was doing anything other than following these rules and reporting the income that the fund had retained, as if it had been distributed to him. It added the book cost adjustment to demonstrate that, nothing more. There wasn't any misreporting as I see it, and I don't think AJ Bell recorded anything incorrectly here either. It did what it was supposed to do.

I don't agree with Mr Z that he has incurred losses as he has described, as I don't think AJ Bell has made any mistakes in the way it has applied his book cost adjustment on the fund he held. It was following HMRC's rules and applying its own guidance that it produced about ERIs called 'excess reportable income FAQ' that I can see clearly explains what it was doing and why it applied the adjustment to Mr Z's account. So, as I don't think it did anything wrong, it stands that I also don't think it caused Mr Z any detriment either.

AJ Bell did admit it could have done better in how it dealt with Mr Z's complaint. It offered £100 compensation, that Mr Z turned down. I have looked at how it responded to Mr Z's complaint and can see that it didn't respond to his initial enquiry. It also, by its own admissions, ought to have responded quicker on a number of occasions. I think broadly £100 is fair and reasonable for the distress and inconvenience AJ Bell has caused here.

So, my decision is that AJ Bell Management Limited should pay Mr Z £100.

My final decision

My final decision is that AJ Bell Management Limited should pay Mr Z £100 for the distress and inconvenience it has caused, minus any payment it has already paid him for this if it has done so already.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr Z to accept or reject my decision before 14 February 2025.

Mark Richardson
Ombudsman