

## The complaint

Mr and Mrs W complain that abrdn Fund Managers Limited ('abrdn') wrongly told them that historic information about their investments wasn't available.

This complaint was made jointly by Mr and Mrs W. While some of the actions taken were done by one or other of Mr and Mrs W, for simplicity I've referred throughout to Mr and Mrs W together.

## What happened

Mr and Mrs W had an investment account with abrdn. They spent some time living abroad and returned to the UK in mid-2021. At some point after that they disposed of their investments and closed the account.

An excerpt of a letter from Mr and Mrs W's accountant said, amongst other things:

*'Hopefully, abrdn will be able to provide accurate details of disposals from June 2021 onwards. If not, we will need details of the base cost of the funds. It will be a very difficult task to go back to the date of the original investments. However, it should be possible to obtain from Abrdn their calculation of the base cost of each fund as at either 15 June 2021... We can then work forwards from those dates using accumulations and gains on any disposals so that the gains realised when you bought your house can be accurately calculated.*

...

*CGT rates in the UK are currently 20%. Since penalties for errors relating to overseas gains can be draconian, it is very important to get this information in order to be as accurate as possible. However, if we can file reasonably accurate figures for 2021-22 by the end of January, HMRC should limit penalties to about 10% plus some interest.'*

On 31 October 2023 Mr and Mrs W called abrdn to request information their accountant had asked for in order to calculate their liability for capital gains tax (CGT). During the call Mr and Mrs W said the following, amongst other things:

- They'd been living abroad since June 2006 and had returned to the UK in June 2021.
- They'd closed their abrdn account.
- Their accountant was now looking at what CGT they had to pay, and their return to the UK was a significant date for their CGT liability.
- In relation to the investments they'd held in their abrdn account, they wanted to know the base cost of the investments when they were purchased, and the value of the investments as of 15 June 2021 which was when Mr and Mrs W became UK tax residents.

During the call abrdn gave Mr and Mrs W the value of their investments as of 15 June 2021.

For the original acquisition costs abrdn said it had to refer to another system so it would need to raise a request and send a response later in writing. It said, to manage Mr and Mrs W's expectations, that it was possible it wouldn't have the information available if it was from too long ago. Mr and Mrs W said they'd suspected that might be the case.

On 3 and 7 November 2023 abrdn sent Mr and Mrs W letters telling them the type and number of investments they'd owned on 7 April 1997 according to abrdn's earliest complete records. It said it didn't have any other historic information and it apologised for that.

Mr and Mrs W's accountant said their accountant told them it was '*virtually impossible*' to work out their CGT liability without the information he'd requested.

On 16 or 17 January 2024 Mr and Mrs W called abrdn again to ask for the information. During the call abrdn couldn't at first locate the information and the call was accidentally disconnected. Mr and Mrs W called again and abrdn now said it did have the information and would provide it. During the call abrdn gave Mr and Mrs W the amounts they'd initially held when they opened their account on 7 April 1997 and the amounts they'd invested and withdrawn since then. It said it would send the information by post as well.

On 29 January 2024 abrdn sent Mr and Mrs W a transaction history for the lifetime of their account, from April 1997. Mr and Mrs W said they received the information from abrdn on 2 February 2024.

In March 2024 Mr and Mrs W's accountant produced an invoice for work on their tax affairs. The description of work done included reviewing their tax affairs from their return to the UK To 5 April 2023. It included calculating capital gains made on Mr and Mrs W's abrdn investments as well capital gains and income on some overseas investments they held. And it included reviewing tax returns from the 2021-22 year which the accountant said needed to be amended. The accountant also spoke to HMRC. The accountant's invoice totalled £7,800 including VAT. It wasn't itemised.

Mr and Mrs W complained to abrdn. In reply abrdn acknowledged it could've provided better service. In summary it said the following:

- Mr and Mrs W were dissatisfied with the length of time abrdn had taken to give them historic information about their investment because they were concerned about being fined by HMRC for a delay in providing information.
- Abrdn apologized for not checking historical records during the call on 31 October 2023 to see what information could be provided verbally.
- It apologized for not including base cost information in the letters it sent in November 2023.
- The information abrdn sent on 29 January 2023 was sent within abrdn's 10 working day timescale for gathering historic information. Abrdn deals with enquiries in the order it receives them.
- Abrdn would pay Mr and Mrs W £100 as a gesture of goodwill because of poor service in the October 2023 call and the November 2023 letters.
- Abrdn understood Mr and Mrs W were still waiting for their accountant's bill and a potential fine from HMRC. If Mr and Mrs W had any documentary evidence that any

such charges were the direct result of information not provided by abrdn in October or November 2023, it should send the information to abrdn and abrdn might be able to consider reimbursement.

It sent Mr and Mrs W a cheque for £100 in recognition of the inconvenience it had caused them.

Mr and Mrs W weren't satisfied with abrdn's response. So they referred their complaint to this service. They said the complaint wasn't about delay; it was that abrdn had twice said incorrectly that the information they asked for wasn't available. They said they'd lost out because they'd have to pay their account for extra time spent working out their CGT liability while he didn't have the information from abrdn, and they thought they might receive a fine from HMRC for submitting information late.

Mr and Mrs W told this service they didn't cash abrdn's cheque for £100 and it had since expired. They also provided an email from their account in relation to the cost of calculating their CGT liability for their abrdn investments. It said the following:

*'I think it is fair to say that I probably took the best part of a day to compile a reasonable estimate of the capital gains on the Abrdn portfolio. This was entirely due to Abrdn failing to retain any records (which seems quite incredible to me) and forcing us to put together estimates, which we tried to ensure were as reasonable as possible. Since my advisory charge out rate is £420 per hour, it would not be unreasonable to request reimbursement of £2,000 plus VAT of £400 - ie, £2,400.*

*This obviously only relates to my time and does not cover the hassle and distress on your part.'*

One of our Investigators looked into Mr and Mrs W's complaint. She thought abrdn should pay Mr and Mrs W a further £100 in addition to the £100 it had already offered them. In summary she said the following:

- abrdn had given Mr and Mrs W wrong information more than once and that caused distress and inconvenience.
- There should be some onus on Mr and Mrs W to chase information themselves after not receiving it the first time.
- abrdn should pay Mr and Mrs W an additional £100 as well as the £100 it originally offered.
- The investigator hadn't seen evidence of itemised accountancy costs caused by abrdn's error or any fine from HMRC. These should be considered by abrdn if and when they were provided by Mr and Mrs W.

Mr and Mrs W didn't agree with the investigator's view. They said they were hoping for more compensation due to the number of mistakes abrdn made and the impact the mistakes had on them.

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

Before making a final decision on the complaint I issued a provisional decision in which I said my reasoning was different to that of the investigator on this case, but I intended to uphold the complaint and I intended to require abrdn to pay Mr and Mrs W £100.

Mr and Mrs W made the following comments in response to my provisional decision:

- The reason Mr and Mrs W couldn't access their own records of their investments was that they travelled internationally during the covid pandemic and they became unable to return home where their records were located. They said this wasn't abrdn's fault but they wanted to explain the reason they didn't have access to their records.
- Mr and Mrs W persisted in seeking the information they needed from abrdn despite being told abrdn didn't have it.
- Due to the nature of the information and its purpose Mr and Mrs W couldn't be expected to use the information they were given over the phone without receiving it in writing. And HMRC required information in writing.
- Mr and Mrs W's previous accountant had made lots of errors on their 2022-23 tax return so they changed accountants. Their new accountant told them HMRC allowed corrections to be submitted the following year without penalty. Mr and Mrs W's deadline to submit the previous year's changes was 31 January 2024.
- Mr and Mrs W's accountant had to do extra work which took the best part of a day because abrdn didn't give them the information they needed. The accountant charged £450 plus VAT for one hour.

### **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, and I agree with our investigator that abrdn should pay Mr and Mrs W an additional £100. But I've reached my conclusion through different reasoning. 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.

It's clear Mr and Mrs W needed information about gains and losses on their investments to enable their accountant to prepare their tax returns, particularly in relation to their capital gains tax (CGT) liability. This is understandable. But before considering the errors by abrdn that Mr and Mrs W have complained about, it's important to note that Mr and Mrs W would've been given much of the information they needed in the past. In my provisional decision I said that Mr and Mrs W held their investment account for many years before closing it. And as part of meeting regulatory requirements I expected abrdn (and its predecessor) would've sent them records of their transactions providing the acquisition costs and sale proceeds and dates needed as raw data for CGT calculations in order to report to HMRC. In response Mr and Mrs W acknowledged they did have records of their investment activity and they explained why they didn't have access to the records.

In the particular circumstances of this case Mr and Mrs W also needed valuations as of the date they returned to the UK in June 2021. That was because their liability for CGT changed when their residency changed.

I've listened to the calls between Mr and Mrs W and abrdn and I've looked at the correspondence that passed between them. Having done so, I've seen that in October 2023 abrdn gave Mr and Mrs W the valuations they asked for by phone and said it would send a letter confirming the valuations and also providing base costs. The November 2023 letter failed to do both of those things. And abrdn said it also should've been able to provide more information by phone in the October 2023 call.

During the January 2024 phone call abrdn gave Mr and Mrs W the base costs they asked for by phone and said it would provide that information in writing. It subsequently sent a letter showing their holdings and the cost of the holdings since the account had been opened in 1997.

In summary abrdn failed to give Mr and Mrs W some but not all of the information they asked for. I find that the failures by abrdn caused Mr and Mrs W distress and inconvenience. They were clearly and understandably worried about their tax situation and they were put to the trouble of trying again to get the information they'd asked for.

I can't however conclude that the failures by abrdn were the cause of any late submissions by Mr and Mrs W to HMRC. By phone in October 2023 abrdn did give Mr and Mrs W the 2021 valuations they asked for. It failed to give the valuations in writing in its follow-up letter. I understand Mr and Mrs W felt they couldn't proceed on the basis of figures given over the phone. I understand they wanted the figures in writing. The point here is Mr and Mrs W were aware that some of the figures they needed existed because they'd been given them by phone. So I think they ought reasonably to have followed that up sooner than they did if they still needed the information in writing – especially if not having the information was going to cost them time, money and worry.

Although Mr and Mrs W also asked abrdn in October 2023 for their base costs and abrdn failed to provide them, Mr and Mrs W would've received that information in the past. So while abrdn ought to have given them what they asked for – and not doing so caused distress and inconvenience – I don't accept abrdn was the cause of Mr and Mrs W being unable to calculate their capital gains and losses. Mr and Mrs W have explained why they couldn't access their records when they were unable to travel home in 2021. I sympathise with the situation in which they found themselves in 2021. I expect they would've had the opportunity to retrieve their records after covid-related travel restrictions were lifted. But in any case, having given them the information in the past abrdn was at fault for not providing the information again when asked, but I'm not persuaded abrdn was the cause of Mr and Mrs W's tax returns being late.

On the subject of Mr and Mrs W's accountancy costs I've carefully considered their accountant's invoice and other information Mr and Mrs W have provided from their accountant. And I'm also not persuaded I can fairly order abrdn to pay a portion of the accountant's costs. As I've said I think abrdn did give Mr and Mrs W the 2021 valuations by phone. When the follow-up letters in early November failed to include the valuations Mr and Mrs W didn't contact abrdn again until mid-January. And what they asked for in January was the base costs, not the 2021 valuations. As I've also said, I think Mr and Mrs W would've been given information about their acquisition costs in the past. While it's reasonable for them to request a further copy of the information, I don't hold abrdn responsible for the impact that was brought about by the fact they didn't already have it.

In addition I'm not persuaded I can fairly say that £2,400 of the accountant's invoice for £7,800 can fairly be attributed to calculating the capital gain or loss on Mr and Mrs W's abrdn investments. abrdn wasn't responsible for the fact Mr and Mrs W didn't already have information about the base costs of their investments. But even if it were, the description of work done by the accountant doesn't appear to justify apportioning such a large percentage

of the fee to the abrdn investment. I say that taking into account the range of other work that the accountant charged for under that invoice. It's also unclear why it was necessary to estimate the figures sought from abrdn but also then to wait for the figures from abrdn before submitting Mr and Mrs W's tax returns. I appreciate Mr and Mrs W's comments about their account's expertise and character. And I make no criticism of the accountant. But overall I remain unpersuaded that abrdn was responsible for the proposed proportion of the accountant's fee.

Having said all of that, abrdn has acknowledged it failed to provide information it could and should have provided during the October and November 2023 phone call and letters. I agree it should've given Mr and Mrs W the information they requested when they asked for it. After all, the information was available amongst abrdn's records. And abrdn was wrong to tell Mr and Mrs W it didn't have any information to help them establish base costs. These failures would've been frustrating and worrying for Mr and Mrs W, particularly given how concerned they must've been about their tax situation.

For the inconvenience and distress caused to them, I'm satisfied the additional £100 recommended by the investigator is appropriate, in addition to the original £100 offered by abrdn. Because neither amount has yet been paid I'm making an award requiring payment of the full £200.

### **Putting things right**

I require abrdn Fund Managers Limited to pay Mr and Mrs W a total of £200 for the distress and inconvenience caused by not giving them information they asked for in a timely manner and telling them the information wasn't available.

### **My final decision**

For the reasons I've set out above, my final decision is that I uphold this complaint. abrdn Fund Managers Limited must pay the amount set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr W and Mrs W to accept or reject my decision before 15 July 2025.

Lucinda Puls  
**Ombudsman**