

The complaint

Miss M complains of unauthorised access to her Waystone Financial Investments Limited ("Waystone") ISA. She says fraudsters accessed the ISA using details obtained from a security breach at her financial adviser, changed the bank details linked to the ISA and withdrew ISA money to that bank account.

Miss M says neither her adviser nor Waystone will take responsibility for causing the breach. She seeks compensation for the distress she suffered and for harm that might arise in future from the breach and loss of security to her personal data.

Miss M is represented by a relative but for simplicity I've referred throughout to Miss M when referring to things said or done by Miss M or by her representative on her behalf.

Background and circumstances

Miss M's online ISA account was accessed by fraudsters who linked new bank details to the ISA. The bank account linked to Miss M's ISA in this way was an account in Miss M's name set up by the fraudsters. Withdrawals were made to the new bank account from the ISA on 14 September 2023, 27 September and 4 October 2023 of £5,000 and £6,500 and £6,000.

Waystone has provided records showing all this was done using the access details Miss M's financial adviser would use to access the account. It says these details couldn't have been obtained from Waystone's platform by the fraudsters or any third party – due to the format in which they were kept. It believes the fraudsters most likely obtained those details from the financial adviser instead – so it thinks it was a breach of the financial adviser's security that led to the fraudulent access.

As a result of the fraudulent access to Miss M's account, or the breach of Miss M's financial adviser's security which in turn allowed this access, the parties agree the fraudsters obtained access to sensitive personal data of Miss M and financial records relating to her.

Waystone's platform sends emails to the customer when certain account transactions take place. Miss M was accordingly sent notifications relating to the account actions above. But she did not pick up on these – in part because of the volume of 'spam' emails she is used to receiving. However the fraud was picked up when Miss M's financial adviser was alerted by another client. Her financial adviser contacted Waystone at that time – around a week after the last payment from the account above.

As a gesture of goodwill, Waystone reimbursed Miss M's account on 16 October 2023 in full for the withdrawals above, while it looked into what had happened.

Waystone says it added 'security flags' on Miss M's account as a precaution so changes would trigger a verification request to her or her financial adviser. It says it also continued to contact Miss M's representative weekly with any updates on the incident.

Waystone asserts it did not cause the loss of data because it wasn't responsible for the security breach that led to Miss M's account being accessed. Also it reimbursed the money

that was taken. It also says it notified all relevant authorities and engaged with the other parties to assist as far as was appropriate. It also points out that email alerts were sent to Miss M for each withdrawal instruction and sell alerts were sent for each sell instruction keyed on the online portal.

Miss M emphasises that neither Waystone nor her financial adviser has agreed responsibility for any breach that caused her account to suffer the fraud – so she has had no answer as to who was hacked or how, and no reparation or apology. She also emphasises that the theft of her identity details is something she isn't sure can ever be put right and has caused awful stress with a cost on her health, mental health and her finances as she will need to pay for years of fraud and data protection services. She told us she is seeking substantial redress for distress, the impact on her health and potential future financial costs arising from all this.

Our investigator thought Waystone hadn't used multi-factor authentication for adviser access on its site and ought to have done so. She thought Waystone ought to have done more than it had done to protect Miss M's account.

Our investigator concluded Waystone's contribution to Miss M's distress was limited to distress arising when she was alerted to the fraudulent withdrawals from her account and to the worry initially caused by the loss of those funds from her ISA. But Waystone refunded that loss quickly, so this distress was short-lived. Our investigator suggested Waystone pay Miss M £400 for distress given all this.

But our investigator didn't think it was Waystone that had allowed the fraudsters to obtain the details that had been used to access Miss M's ISA account in the first place. So she didn't think Waystone was responsible for distress Miss M had suffered due to the ongoing security issues the loss of her data could cause or was causing her – or for inconvenience she would likely suffer in future as a result. Our investigator therefore didn't ask Waystone to contribute to the cost of services Miss M might use to mitigate that ongoing risk.

Waystone told us it was content to pay the £400 as its aim was to support Miss M and help her achieve closure. But it did provide further points and comments on the investigator's findings. These further points included the following, in brief summary:

- Fraud attempts were made on accounts held for clients of Miss M's financial adviser but also on a client of another firm associated with the adviser. A breach of Miss M's financial adviser's email security during email communications with that other firm was likely how the fraudsters got the security details Miss M's financial adviser held.
- The investigator referred to "*shortcomings*" on Waystone's part and inadequate controls but this criticism was too strong without further context. Processes are enhanced from time to time and this incident had a bearing on that, but the incident and its cause were both exceptional. The Financial Conduct Authority and Information Commissioner's Office hadn't found Waystone's systems or controls inadequate or at fault. Since 2014 and with a client base of over 140,000 there had been, aside from the linked incidents here which arose from an exceptional situation outside Waystone's control, only one other successful fraud, which involved a far smaller sum than these later incidents.

Miss M did want the matter to be referred for a formal decision. She has said the significant emotional, financial, and professional impact means she requests £8000 from Waystone for its part. She is also seeking a refund of 2023 management fees and the cost of a seven year subscription to a monitoring service for victims of fraud and identity theft.

Miss M asks also for a regulatory notice to be issued for Waystone by the FCA. I mention this for completeness, but our service of course cannot issue regulatory notices for the FCA.

Miss M says her requests are proportionate and necessary to acknowledge the harm she has suffered, but also to set a standard of accountability for regulated firms. She says the initial offer was inadequate, unjust, insulting and failed to recognise the damage *“negligence and silence can inflict on innocent individuals”*.

Waystone said it had been content not to contest the £400 award not because it accepted any liability but because it didn't benefit anyone to prolong the issue. But as Miss M was now seeking significant compensation, it had to defend its position. It said it didn't cause the distress or inconvenience so any award would be inappropriate. It said, in brief summary:

- Its investigation had concluded its control environment hadn't been compromised. The FCA and ICO closed their enquiries without suggesting deficiencies by Waystone. It would be perverse for the ombudsman service to take a different view.
- The unauthorised access used access details held by Miss M's financial adviser. These details were likely shared (Waystone believes) with the associate financial firm that also had client accounts accessed in this incident. This sort of sharing can undermine even the most robust controls and Waystone believes is by far the most likely cause of the security breach. Waystone hadn't communicated this to Miss M as it hadn't wished to cause or prolong her distress. But it did flag this to both the FCA and the ICO. Other clients of Miss M's financial adviser had accounts accessed as well as a client of the other financial firm – although none of those had any funds taken.
- Changes made since the fraud attempts do not indicate deficiencies. They are simply the actions of a prudent firm keeping pace with changes. One-time passcodes have become more common, but its service didn't start as a digital one and a balance was needed between extra digital security and keeping its platform useable for its cohort of clients.
- It was wrong to say it hadn't used two factor authentication - a memorable name was needed as well as an email and password. This was still a widely used security measure and not inadequate. Only one attempted fraud succeeded in taking funds and it was the first since the product was launched. This demonstrates robustness of controls given more than 150,000 clients. It isn't realistic to say a system must have zero failures.
- Miss M has pursued her case vigorously, as was her right, but her volume of activity shouldn't determine how much to award or whether to make an award. Since the issue arose Waystone has entered into extensive correspondence with Miss M (via her representative), over and above anything required by regulations, in an attempt to help her. This should be taken into account when considering the justification for any award.

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.

It is no doubt disconcerting and distressing to know personal details have been obtained by criminal third parties. Here this included important personal identifiers, which as a result no longer enjoy the same privacy as they had before. This understandably causes concern about future security, which is a risk that can be mitigated but can't be removed entirely.

Our investigator didn't consider Waystone to be the cause of the loss of this privacy. I agree. The loss of privacy and the access to Miss M's ISA on Waystone's platform appears to have been achieved using the access details belonging to Miss M's financial adviser. I've seen nothing to suggest that the fraudsters obtained those details from Waystone – indeed it's not alleged that they were. There is also the matter of the false bank account that was set up – which was set up using stolen and false documents which did not come from Waystone.

It is the role of the FCA to monitor and supervise a firm's general conduct and processes. My role is to consider particular disputes. Waystone says it has improved its processes since the incident in question here, but this doesn't mean its controls at the time were inadequate. I'm sympathetic to that view, but I don't need to make a finding on the adequacy of Waystone's processes in general to reach a fair and reasonable view on Miss M's complaint.

I say this bearing in mind that weaknesses in Waystone's processes were not what caused the loss of Miss M's data. So whether weaknesses – or areas in which Waystone has since made improvements or plans to do so - amounted to shortcomings is not material to the data loss at the root of the future security problems she faces.

I'm satisfied Waystone reported the incident to the FCA and the ICO and responded to the FCA's enquiries. I mention this as it tends to add weight to Waystone's assertion that the fraudsters did not gain access to Miss M's account by hacking into its platform but rather by somehow obtaining and then misusing access details belonging to Miss M's financial adviser.

As for the money taken from Miss M's ISA, Waystone refunded that money to Miss M's ISA so there isn't a loss for me to consider here in that regard. Waystone says it did not cause this loss and at root it was the fault of another financial firm. But my role here is to decide Miss M's complaint about Waystone, not to adjudicate between Waystone and this other firm. I have no power to order the other firm to repay funds to Waystone. So if Waystone thinks it is entitled to recover from that firm the sum, or any part of it, that it repaid to Miss M, that is something Waystone would need to take up on its own account with that firm.

I note that Waystone decided not to share full details of its belief concerning how the breach had arisen, due to respect for Miss M's relationship with her financial adviser. It seems to me Waystone might have provided more detail to her sooner, but I understand its motives in not doing so. I acknowledge that Waystone provided significant support to Miss M in responses it gave her via her representative after it had issued its final response letter to her complaint.

I accept what Waystone says about how a loss of funds resulting from unauthorised access to a Waystone ISA is very unusual and not something to which Waystone's platform was prone. But even if I accept that the account security was adequate in general and that later changes were improvements to an adequate system rather than remedies for inadequacies, it is apparent the measures in place didn't succeed in stopping this particular incident – the discovery of which caused Miss M considerable distress. Also even if I were to agree that it is unrealistic to expect such incidents to never occur, I don't think this means that I shouldn't consider awarding redress for distress arising in the very infrequent case or cases where they do occur. The incident and withdrawal of funds did cause considerable distress here.

With all I've said above in mind, I'm satisfied that it is fair and reasonable for me to award Miss M the £400 proposed by our investigator - to which Waystone had been willing to agree – to recognise the part Waystone played in contributing to Miss M's distress. But in my view this is sufficient. I say this bearing in mind Waystone refunded the lost sums to Miss M despite not being responsible for the data loss that allowed access to her account in the first place (and that data loss is the cause of Miss M's ongoing, more significant distress).

So I uphold Miss M's complaint in part.

I should mention that I have considered all that both parties have said and sent to us but in my decision here I have referred only to the points I judge most relevant to a fair outcome.

Putting things right

To compensate Miss M for distress she suffered arising from the matters I've discussed above, Waystone Financial Investments Limited should pay Miss M £400.

My final decision

I uphold Miss M's complaint in part. Waystone Financial Investments Limited should put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 22 August 2025.

Richard Sheridan
Ombudsman