

complaint

Mr D says that Alliance Trust Savings Limited (ATS) incorrectly applied paper statement charges to his ISA and pension accounts even though he had registered with ATS for free online statements.

Mr D wants ATS to refund the statement charges, apologise to him and pay him compensation.

background

ATS wrote to Mr D in 2013 explaining that they intended to implement a charging structure for customers wishing to be provided with paper statements. ATS said customers could avoid the charges by registering for its online services - which included free access to online statements.

On 18 August 2013 Mr D completed ATS's online platform registration.

On 28 August 2013 ATS emailed Mr D and confirmed receipt of his registration. It also offered Mr D the opportunity to merge his existing two accounts under one client reference in order to ease administration of his accounts.

On 6 September 2013 ATS emailed Mr D again. It said that, further to its emails, it still hadn't received a response from him. And it stressed that if it didn't receive a response and was unable to proceed with the request for online access Mr D would be charged for statements and valuations for all accounts held with ATS. So it asked Mr D to let it know by 9 September 2013 if he would like to merge these accounts under one reference.

Mr D says he replied to this email on the same day requesting that his existing accounts be merged under one reference. He says he also emailed ATS on 9 October 2013 for a progress update about his online access registration. And he chased again on a number of further occasions.

In November 2015 Mr D complained to ATS.

ATS didn't uphold Mr D's complaint. It said:

- Although it appreciated Mr D would have liked to receive his statements online, in order to avoid the document processing administration charge, it didn't have any record of him requesting online statements;
- The document processing charges were clearly detailed within Mr D's statements and valuations so ATS had brought it to Mr D's attention that this charge had been applied to his accounts;
- It was unable to facilitate online statements for those clients who did not hold a valid email address on file. It had not been able to update Mr D's email address at the time. However, it had now done so;
- It had also now updated Mr D's document settings so that future statements and valuations would be generated online.

As Mr D remained dissatisfied with ATS' response, he referred his complaint to our service.

The complaint was considered by one of our adjudicators, who felt ATS had not acted fairly. He said, in summary:

- Although ATS says it wasn't able to process Mr D's request for online platform access without confirmation of whether or not he wanted his existing accounts merging under one reference, he felt it was clear from Mr D's email of 6 September 2013 that he did request that his existing accounts be merged;
- In his emails to ATS between October 2013 and May 2014 Mr D continuously complained that he hadn't received log-in details for online access and this resulted in him being charged for paper statements;
- He agreed with Mr D's argument that online access wasn't dependent on his response to ATS's request for instructions about merging his accounts, as evidenced by ATS's willingness to give him access in 2015 without clarifying that issue;
- In the absence of receiving Mr D's emails, ATS could have reasonably acted on Mr D's instructions of 18 August 2013 and provided him with online access details.

The adjudicator asked ATS to refund the statement charges it had applied to Mr D's accounts from August 2013 and make a £200 payment for trouble and upset. But ATS didn't agree. It said:

- Mr D was fully aware of the charges levied against paper documents and didn't query why he continued to receive these in the post for a number of years;
- The processing charged is detailed within the statements and also in the published charges guide. Mr D is bound by these contractual terms;
- Although Mr D says he emailed ATS after 6 September 2015 to confirm his instructions ATS did not receive those emails. ATS is unable to act upon emails that were not received. Mr D made no attempt to contact ATS by letter or telephone upon receiving no response to the emails he sent, or when he continued to receive paper statements and valuations.
- ATS is an execution-only platform provider offering self managed accounts and is unable to make assumptions as to what a client might want to do.

In order to bring the matter to a close, ATS said it would be willing to refund Mr D's statement charges of £60. But Mr D does not accept ATS's offer and has asked for his complaint to be considered by an ombudsman. And he has asked for increased compensation of £250.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Where the evidence is incomplete, inconclusive, or contradictory (as some of it is here), I reach my decision on the balance of probabilities – in other words, what I consider is most likely to have happened in light of the available evidence and the wider circumstances.

ATS says it wasn't able to process Mr D's request for online platform access without confirmation of whether or not he wanted to merge his existing accounts. But I agree with the adjudicator that Mr D did request this, in his email of 6 September 2013.

ATS says that it didn't receive Mr D's response of 6 September 2013, or his subsequent emails chasing this issue. But, on balance, I am persuaded that Mr D did send the emails.

ATS says that Mr D should have attempted to contact it by other means when it didn't respond to his emails. But Mr D has explained that he'd considered that he'd protected his position sufficiently to wait and raise the issue at a conference he attended held by ATS towards the end of 2015. And, as Mr D was responding to an email ATS had sent to him, I'm persuaded that it wasn't unreasonable of Mr D in the circumstances to assume that his emails had been received.

In any event, it appears that ATS didn't need confirmation about merging the accounts to process Mr D's request for online access, as it was able to give him access in 2015 without him confirming his wishes on this issue. So I'm persuaded that it would have been reasonable for ATS to do this in 2013.

Our adjudicator recommended that ATS should refund the statement charges to Mr D and pay him £200 for his trouble and upset. Mr D initially accepted this, but later suggested that the compensation for trouble and upset should be increased to £250. I've considered what Mr D has to say. But, in the circumstances, I'm satisfied that a payment of £200 is fair and reasonable to compensate Mr D for the trouble and inconvenience he has suffered, and also any investment loss resulting from the statement charges being deducted from his account.

my final decision

My decision is that I uphold this complaint. I order Alliance Trust Savings Limited to:

- refund all statement charges applied to Mr D's accounts from August 2013 onwards.
- pay Mr D £200 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 7 April 2018.

Alison Cribbs
ombudsman