DRN-3552515

The complaint

Ms N complains that Halifax Share Dealing Limited (Halifax) failed to allocate the full £20,000 she deposited to her Individual Savings Account (ISA) allowance for 2019/2020. She's also unhappy she was unable to use all of her ISA allowance for the financial year 2020/2021.

What happened

In April 2020, I understand Ms N made deposits (£5,000, £15,000 and £5,000) to subscribe to a stocks and shares ISA with Halifax. She wanted to deposit £20,000 prior to the deadline on 5 April 2020. However, she says she wanted to utilise the full allowance for 2020/2021 and was blocked from doing so.

Ms N and her representative visited branch and called Halifax to complain the deposits hadn't been processed correctly. Halifax processed the first deposit of £5,000 correctly but the rest had been put in a cash management account. On 15 April 2020, Halifax transferred funds from the cash management account to the ISA but it was put towards her allowance for 2020/2021.

Ms N complained because she says she deposited £15,000 prior to the deadline and it should fall under the previous year's allowance. Halifax responded to the complaint on 2 July 2020. They accepted there was an error with processing the deposits on 3 April caused by a computer glitch. They offered £100 in full and final settlement of the complaint. Also, they said they were in the process of restoring the position of the account had the error not occurred.

Ms N remained unhappy and asked us to investigate. The Investigator agreed Halifax had made an error caused by the computer glitch. He said they had already put the account back to how it would have been had the error not occurred and offered £100 to resolve the complaint. He also thought they should pay Ms N any financial loss arising from when she deposited £5,000 on 15 April 2020 and when the account was rectified in July 2020.

On 13 May 2022, I issued a provisional decision. I said:

> *Halifax have already accepted that a computer glitch meant Ms N's deposits weren't processed correctly. From what I've seen, I agree that something went wrong here and Ms N was frustrated. The representative said none of the branch knew there had been a computer glitch and they should make sure they've notified the Financial Conduct Authority (FCA) and the Financial Services Compensation Scheme (FSCS).*
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> *I can understand it would have been helpful to let the branch know, but this isn't sufficient for me to doubt Halifax's explanation that there was a glitch. I can also see Halifax moved the funds into Ms N's cash management account the next working day. This meant the funds were safe and available. Halifax also corrected the position of the account because £15,000 was allocated to Ms N's ISA allowance for the year 2019/2020. Therefore, Ms N was able to use her full ISA allowance of*

£20,000. This was made up of the £15,000 and also £5,000 from the initial deposits which had been unaffected by the glitch and correctly subscribed on 3 April 2020.

However, it doesn't seem they corrected the position until 1 July 2020. This is based on the account activity, the telephone notes I've seen from April 2020 and the complaint response dated 2 July 2020. This meant the allowance for the year 2020/2021 was incorrectly showing as fully subscribed up until 1 July 2020.

Prior to this, the representative called to correct the position in April 2020. Ms N made a separate deposit to the ISA on 15 April 2020 and had a further £5,000 available in the cash management account. I'm content its likely she would have invested this within the ISA wrapper on 15 April 2020 if it hadn't been showing as fully subscribed. She may have suffered a financial loss as a result of not being able to invest the funds sooner.

Halifax have said Ms N hasn't suffered a financial loss because she could have invested outside of the ISA pending a resolution to the complaint. However, I don't agree because Ms N should have had the correct allowance available in order to make investment decisions within the ISA wrapper and I'm satisfied from the evidence that this was her intention. I'll come back to how things should be put right below.

<u>ISA allowance for 2020/2021</u>

I appreciate Ms N's representative feels very strongly that Ms N only subscribed £15,000 in total for the financial year 2020/2021 and she was prevented from investing a further £5,000 within the ISA wrapper. He has provided me with bank statements from Ms N's savings account which show the payments made to Halifax across the financial year. He also says Halifax refunded £5,000 which isn't something which had previously been commented on.

Halifax have provided me with screenshots containing transaction information for Ms N's cash management account and ISA.

The ISA account shows a subscription of £5,000 on 3 April 2020. This was correctly allocated to Ms N's 2019/2020 ISA allowance. However, this sum was withdrawn on 9 April 2020. Ms N's representative says this was a refund as they had tried to put in too much on 3 April 2020. I have thought about what's been said and it's not clear why Halifax would have refunded the only money which had actually been correctly subscribed to the ISA at this time rather than the amount held in the cash management account. There's no reference to a refund in the final response letter or information provided by Halifax. Halifax have said it was withdrawn by Ms N and this seems to be reflected in the screenshots provided.

After the cash withdrawal, there was a subscription of £5,000 on 15 April 2020 and 1 July 2020. The subscription in July 2020 was taken from money in the cash management account. Additionally, there was a subscription of £2,000 in December 2020 and £8,000 in March 2021. This is a total of £20,000 paid into Ms N's ISA. Therefore, the full amount was subscribed and available to invest for the year 2020/2021.

In respect of putting things right, I said:

There was a computer glitch which meant the funds deposited on 5 April 2020 weren't allocated correctly to ISA allowance for 2019/2020. This meant Ms N's ISA *allowance for 2020/2021 was showing as fully subscribed until it was corrected on 1 July 2020. In assessing what would be fair compensation, I consider that my aim should be to put Ms N as close to the position she would probably now be in if she had been able to invest the £5,000 inside her ISA wrapper on 15 April 2020.*

It is not possible to say precisely what she would have invested in. I'd need to be reasonably clear about the investment decisions Ms N planned to make at the time she was prevented from investing inside her ISA wrapper. The representative has told us Ms N was prevented from carrying out a planned investment strategy and has outlined the gains he believes she's missed out on. However, a planned investment strategy wasn't discussed when the complaint was first referred to us and there isn't evidence to demonstrate the plans at the time Ms N was experiencing the problem…

I then went on to set out exactly what I thought would be fair and reasonable in respect of putting things right. I gave both parties the opportunity to comment and provide further evidence.

<u>Ms N's response</u>

Ms N's representative didn't accept my provisional decision. In summary, he said:

- Halifax kept insisting (up until 1 July 2020) that the ISA allowance was correct. It was only when Ms N produced bank statements that they accepted it and until then the information had been used to cover up the problem.

- Ms N had a planned investment strategy for retirement, and it was mentioned to the Investigator on a number of occasions. He asked me to listen to the phone calls he had with our service and he sent through a copy of the actual assets that were invested in. Moreover, information was provided about the income he said had been lost.

- The investment strategy for growth was classed as active rebalancing which meant higher growth could be achieved by selling high and buying low. The overall aim for long term wealth creation was time, rebalancing, and regular savings.

- He said the funds bought were all Exchange Traded Funds (safe and trusted) not Enterprise Trade Funds.

- He said that Ms N invested £22,000 into premium bonds at the same time. This showed she had a balanced portfolio for risk and return. He said the portfolio was made up entirely in all world markets and had limited UK exposure. The Modern Portfolio Theory was used to maximize returns. Its currently giving a healthy 17% tax free return.

- Ms N, at age 42 and based on a retirement age of 66, wanted to take a higher risk to obtain a maximum return. The investment strategy was to capitalize on a broad range of indices available on the world markets. The representative set out his experience in financial planning.

- Halifax used every possible means to discredit this complaint and their response to this complaint was made by a group of people who knowingly supplied misleading information. They should be made accountable for their actions.

<u>Halifax's response</u>

Halifax also didn't agree with my provisional decision. In summary, they said:

- There is no evidence to support that there was an investment strategy whereby Ms N had intended to invest a further £5,000 on 15 April 2020.

- Ms N instructed a cash withdrawal of £5,000 from her ISA in the days prior to 15 April 2020 and this would not demonstrate that it was her intention to imminently invest that sum within the ISA.

- Ms N did contact Halifax on 15 April 2020 to reinstate those funds to the ISA which would indicate there was perhaps some error on the customer's part in withdrawing that sum initially.

- Ms N went ahead and credited her ISA with £5,000 on 15 April 2020 and invested those funds immediately. There is nothing to suggest a further investment of another £5,000 had been planned and indeed when the £15,000 was transferred to Ms N's ISA from her cash management account the following day, Ms N invested less than half this amount. Again, none of which supports the apparent strategy that is now being claimed was prevented.

- They positioned the redress fairly with the original offer for the confusion their technical team had caused.

As both parties have had the opportunity to respond and provide further evidence, I've proceeded with my final decision.

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 see no reason to depart from the conclusion I reached in my provisional decision.

I've fully considered what Halifax have said. I understand funds were withdrawn and Ms N didn't actually invest all of the funds available in her ISA on 15 July 2020. She only invested around approximately half of the amount available. However, she didn't have the full amount she planned to invest available and this means we don't know exactly what she would have done had no error occurred. I'm also mindful that at this time Ms N was still trying to resolve her complaint about her ISA allowance.

It's not possible to say with absolute certainty what would have happened, but I do need to determine what she was more likely to do. Therefore, I've considered what Ms N has told us about her plans to invest. Although I can't be certain of the investment strategy planned out, she could have invested the full amount as she says was intended had the error not occurred. And I'm content – more likely than not – it's what she would have done.

I do understand what Ms N's representative has said about her attitude to risk and the evidence he has presented to our service. I've reviewed all the evidence provided and I've listened to the calls. However, it has been submitted with the benefit of hindsight. Therefore, my conclusion hasn't changed – it's too speculative to determine exactly what Ms N would have invested in. I've also noted the representatives comment about the type of fund.

Bearing everything in mind, I'm content the conclusion reached in my provisional decision is a fair and reasonable one.

Putting things right

As a result of the above, I'm also content how I said Halifax should put things right remains fair and reasonable. Therefore, to compensate Ms N fairly, Halifax must:

- Compare the performance of the £5,000 held within Ms N's cash management account with that of the benchmark shown below and pay the difference between the *fair value* and the *actual value* of the investment. If the *actual value* is greater than the *fair value*, no compensation is payable.

- Halifax should also pay interest as set out below. The applicable payment should be put into Ms N's ISA by way of restitution as it represents growth inside the ISA wrapper.

- Pay Ms N £100 for distress and inconvenience caused by the incorrect ISA allowance showing.

Income tax may be payable on any interest awarded.

Investment Name	Status	Benchmark	From ("start date")	To ("end date")	Additional interest
£5,000 of Ms N's ISA	Still exists and liquid	For half the investment: FTSE UK Private Investors Income Total Return Index; for the other half: average rate from fixed rate bonds	15 April 2020 (when Ms N should have been able to invest)	1 July 2020 (when the correction was made, and Ms N was able to invest)	8% simple per year from final decision to settlement (if not settled within 28 days of the business receiving the complainant's acceptance)

Actual value

The performance of the £5,000 in Ms N's cash management account at the end date.

Fair value

This is what the £5,000 would have been worth at the end date had it produced a return using the benchmark.

Why is this remedy suitable?

I have chosen this method of compensation because:

- Ms N wanted capital growth with a small risk to her capital. I understand this because her representative has told us the investments she did make were in passive Exchange Traded Funds (ETFs). These represented a lower risk to Ms N's capital. Also, the stocks and shares ISA by its nature was intended for capital growth.

- The average rate for the fixed rate bonds would be a fair measure for someone who wanted to achieve a reasonable return without risk to her capital.

- The FTSE UK Private Investors Income total return index (prior to 1 March 2017, the FTSE WMA Stock Market Income total return index) is a mix of diversified indices representing different asset classes, mainly UK equities and government bonds. It would be a fair measure for someone who was prepared to take some risk to get a higher return.

- I consider that Ms N's risk profile was in between, in the sense that she was prepared to take a small level of risk to attain her investment objectives. So, the 50/50 combination would reasonably put Ms N into that position. It does not mean that Ms N would have invested 50% of her money in a fixed rate bond and 50% in some kind of index tracker fund. Rather, I consider this a reasonable compromise that broadly reflects the sort of return Ms N could have obtained from investments suited to her objective and risk attitude.

To arrive at the *fair value* when using the fixed rate bonds as the benchmark, Halifax should use the monthly average rate for one-year fixed-rate bonds as published by the Bank of England. The rate for each month is that shown as at the end of the previous month. Those rates should be applied to the investment on an annually compounded basis.

My final decision

I'm upholding this complaint, and Halifax Share Dealing Limited should pay the amount calculated as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms N to accept or reject my decision before 18 July 2022.

Laura Dean
Ombudsman