

The complaint

Mr B complained about the service provided by Interactive Investor Services Limited ('IISL') in December 2021, when he was unable to complete a share purchase as a result of IISL not having a record of his National Insurance number ('NINO').

What happened

Mr B held an execution-only trading account on IISL's online investment platform which offered the option to buy and sell shares.

When he complained to IISL about not being able to trade on 20 December 2021, IISL upheld Mr B's complaint in part. It said, in summary, that it had provided incorrect information when one of IISL's call handlers had told Mr B on 30 December 2021 that it had received his form with the NINO that Mr B had posted to IISL on 23 December 2021. IISL hadn't received that form and they confirmed this to Mr B in writing on 18 January 2022.

By way of an apology for this error, IISL credited Mr B's trading account with £30.

IISL didn't however uphold any of Mr B's other complaints and, in particular, said:

- his NINO was required by law before he could use his account to buy or sell investments on IISL's platform
- IISL couldn't complete full security checks for Mr B over the phone - this wasn't possible as Mr B hadn't registered a mobile phone with IISL so they couldn't send him a four digit security code to verify identity.

Mr B wasn't happy with this response and he complained to us about five main issues which he put as follows:

- On 20 December 2021, when Mr B had phoned IISL to instruct a trade, IISL '*halted*' a share purchase when the transaction was almost complete because they didn't have a record of his NINO and wouldn't accept this over the phone
- IISL hadn't told Mr B in advance that they needed his NINO in order to be able to place a trade
- his previous platform provider hadn't required this and he didn't accept the reason IISL said it was required
- IISL was unfairly restricting Mr B's ability to trade as it didn't have a mobile phone number for him
- IISL had failed to address his complaint satisfactorily.

When our investigator looked into what happened, he initially thought that IISL had provided a reasonable level of service overall and didn't need to do anything further. Following consideration of Mr B's further representations however, he was persuaded that IISL should've done more to give Mr B advance warning that it would require his NINO in order to be able to trade on his account. He recommended that IISL should pay Mr B an amount of £50 for the inconvenience this caused Mr B when he discovered he was unable to trade on 20 December 2021. The investigator didn't feel however that any further redress was owed.

IISL agreed to pay Mr B in line with the investigator's recommendation.

Mr B didn't agree with the investigator. His main concerns were that:

- the increased share price since 20 December 2021 means the investment he had planned that day would now cost significantly more
- had the share purchase gone ahead on 20 December 2021 he would've subsequently had an opportunity to sell at profit
- at the time, he was still waiting for IISL to send him another form and pre-paid envelope for him to provide his NINO information.

There was further correspondence between Mr B and IISL – he asked IISL directly to provide further redress. IISL declined to compensate for '*hypothetical loss*'. Mr B also raised a further complaint about IISL's response to his enquiry about what happened to the cash that remained in his account when the planned trade didn't go ahead on 20 December 2021.

The complaint came to me to decide. I issued a provisional decision.

What I said in my provisional decision

Here are some of the main things I said.

'I've carried out an independent review and having done so, I've reached the same overall conclusion as our investigator. I'll explain my approach and how I've reached my decision.

I appreciate how strongly Mr B feels about this complaint. Whilst I've summarised in my own words the way he's set out his concerns and some of what's been said over the course of correspondence, I want to assure Mr B that I've considered everything that impacts on my decision. We provide an informal complaints handling service and this is reflected in the way I've approached the complaint. I am aware that Mr B hasn't always agreed with the way the investigator reflected some of the complaint issues but it's part of my role to identify and concentrate on the core issues I need to address in order to reach a fair outcome. This means I won't necessarily mention everything Mr B has brought to my attention as the purpose of my decision isn't to address everything mentioned on a point by point basis. And I am not proposing to respond directly to questions Mr B has posed – I am not required to do this as part of my remit and this isn't the purpose of an ombudsman decision. My role is to consider the evidence presented by both parties and reach a fair and reasonable decision based on the facts of the case. I will however set out and address everything that affects the outcome of Mr B's complaint.

I appreciate that Mr B was concerned about why IISL told him it required his NINO but I can't fairly say it made any error or that it acted unfairly or unreasonably when it told him on 20 December 2021 that it required his NINO before it could execute his planned trade. I say this because:

- a person's NINO is used not just for national insurance purposes – it is used for tax purposes (as part of IISL's HM Revenue and Customs reporting regulations) and investment platforms ask for a NINO as they are required by law to do this before someone can trade on their platform - there's more information about this in the Markets in Financial Instruments Directive II.
- Each person's NINO is a unique identifier and so can help combat fraud.
- Mr B conducted his dealings with IISL by phone using a landline. IISL explained that without a mobile phone contact number which would've enabled IISL to verify that information was coming directly from Mr B, he needed to complete its form and provide supporting evidence of his NINO - such as a payslip or P60, or letter from the tax or pension authorities. This seems reasonable to me as it should be relatively straightforward for someone to provide this evidence of their own NINO (and correspondingly more difficult for a fraudster to provide this information). So IISL's requirements helped to protect Mr B's money – which was clearly in his best interests.
- It makes no difference to the outcome of this complaint that Mr B has said a previous platform provider allowed him to trade without having his NINO on record – I'm just looking at whether IISL acted fairly and reasonably.
- It's unfortunate that IISL didn't ever receive the completed form with his NINO details that Mr B sent on 23 December 2021, but I think it's likely that the combination of extra Christmas post and public holidays around that time might've led to this being lost in transit. I can't fairly say that not receiving the form was IISL's fault. And IISL has confirmed it sent at least one further form to Mr B for him to complete and return around the time it responded to his complaint in January 2022. I think it's fair to say it was open to Mr B to chase this up with IISL if he was still waiting for a form to arrive as I'd expect him to have done if he was anxious to place a trade. As he hasn't mentioned this further in more recent correspondence, I'm assuming this issue has since been resolved and Mr B wouldn't still find he was prevented from placing a trade he wanted to execute.
- IISL has already agreed that it could have done more to make Mr B aware that just having the account open wasn't enough and he'd need to have his NINO on record with IISL in order to be able to trade on his account. So I don't think I need to say more about this.

I've concentrated on what redress is fair in this situation.

I can completely understand that it was an unwelcome surprise to Mr B to find out, just as he was ready to trade on 20 December 2021, that IISL couldn't accept his instructions to buy the shares he hoped to invest in.

It was entirely up to Mr B to choose whether to register a mobile phone number on his IISL account. But I'm mindful that IISL could've registered his NINO straightaway if Mr B had provided a mobile phone number as part of his contact details. And IISL provided a reasonable alternative for those customers, like Mr B, who hadn't set up their account to take advantage of the additional features enabled by operating their account via a mobile phone. So I find the £50 payment it has agreed for this is fair compensation. This amount is in line with the level of award I consider fair in these particular circumstances to reflect the extent and impact on Mr B of IISL having failed to tell Mr B sooner that he'd need to provide his NINO.

I've thought carefully about the points Mr B makes about having lost out financially as a result of not being able to invest as he'd hoped to do on 20 December 2021.

The information I've seen suggests the cash remained in his account for many months after his planned trade was frustrated on 20 December 2021, and long after the issue with his NINO could've been sorted out. And Mr B has said that he could've bought and sold at profit before the shares he wanted to buy subsequently became much more expensive. He's also said that even if he'd bought the shares on 20 December 2021:

- he didn't have a target price for selling,
- he's not a frequent trader and didn't need the proceeds for reinvestment,
- he didn't need to sell shares to pay bills and
- he doesn't transact online and the problems he's had arranging trades over the phone have put him off phoning to sell shares.

Mr B asks me to consider that this all suggests he wouldn't have sold any shares he'd been able to buy on 20 December 2021. But, in those circumstances, the value of his holding wouldn't have crystallised – the value could still go up or down – so this still wouldn't be enough for me to say he'd lost out in money terms.

On balance, I don't feel I've seen enough to find that Mr B has made an investment loss as a direct result of IISL not having told him that it needed his NINO before he could trade or that IISL is responsible for loss of investment opportunity. So I don't consider it would be fair to tell IISL to make any additional payment here or take any further steps to put things right, beyond paying the £50 compensation mentioned above.

For the avoidance of doubt, in my decision I've dealt only with those issues that were part of the original complaint Mr B referred to us. If Mr B is unable to reach an agreed resolution in respect of any further complaint issues, he can bring those to this service after IISL has first had an opportunity to respond, if he remains dissatisfied.

I hope that setting things out as I've done explains how I've reached my conclusions and even though this isn't the outcome Mr B hoped for, he will at least feel that his complaint has been fully considered by the Financial Ombudsman Service.'

What the parties said in response to my provisional decision

Mr B has sent me extensive and detailed representations in response to my provisional decision. Amongst other things, and just in very brief summary here:

- he particularly wants to make clear that he had the NINO information IISL required on 20 December 2021 and it was IISL that wasn't able to accept it
- he's outlined a number of different ways he says IISL could have verified his identity on 20 December 2021, even though he didn't have a mobile phone
- he doesn't feel I have properly understood or reflected in my award the full impact on him of what he describes as the '*hassle*' of his dealings with IISL concerning his complaint
- he sold the shares on 26 January 2023 and '*...crystallised the profit*'
- he's raised a query about whether IISL was in breach of contract when it failed to carry through the share purchase on 20 December 2021
- he's mentioned that he's put IISL on notice of his intention to commence court proceedings.

IISL hasn't sent me any further comments and the deadline for responses has now passed so I think it's reasonable for me to proceed with my review of this complaint.

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.

We've set out our approach to dealing with complaints on our website and I've kept this in mind while deciding this complaint.

I'd like to thank both parties for all the information that has been provided about this matter and Mr B for responding to my provisional decision. As he says, his four letters have given me '*...plenty to think about*'.

Although I've only very briefly summarised some of the main points mentioned, I'd like to assure Mr B that I've carefully read and considered everything he's sent me before coming to my final decision.

In answer to Mr B's query about whether IISL broke its contract, just to be clear, it's not for me to legally determine whether or not there's been a 'breach of contract' in law, in the same way that a court or tribunal would do. It's outside the purview of our service as an alternative dispute resolution service and beyond my role as an ombudsman.

So far as Mr B's other comments are concerned, Mr B hasn't provided me with any new information that changes what I think about this case. I'd already considered all the main points he's mentioned when thinking about my provisional decision. I have addressed in my provisional decision all the points which have a bearing on the outcome. I appreciate that Mr B takes a different view to me. But I have concluded overall that:

- I haven't seen enough to persuade me that I can fairly or reasonably hold IISL responsible for any financial loss as I don't find that Mr B was unable to complete his planned trade on 20 December 2021 because IISL made any error or acted unfairly or unreasonably when it required him to have his NINO registered on his account.
- I still think it's fair to award the amount of compensation I proposed in my provisional decision, for the reasons I set out and explained more fully in my provisional decision.

Putting things right

IISL should pay Mr B the amount of £50 as it agreed to do following the investigator's recommendation. To be clear, in awarding this payment, I've taken into account the £30 credit IISL previously made to Mr B's trading account and the £50 payment I have directed is in addition to the £30 credit previously made to his account.

My final decision

I uphold this complaint in part and direct Interactive Investor Services Limited to take the steps set out above to put things right for Mr B.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 3 August 2023.

Susan Webb
Ombudsman