

The complaint

Ms R complains that Vanguard Asset Management, Ltd ('Vanguard') wrongly sold around £200 worth of her investments without her knowledge or consent to cover a payment it incorrectly described as 'fees' after it failed to collect a direct debit payment it should and could have taken from her bank account. She is unhappy that Vanguard gave her various explanations for its actions and that the reason it gave for not taking the direct debit is contradicted by different information from her bank.

To put things right, Ms R wants:

- a full investigation to find out exactly what happened, and
- Vanguard to pay her more redress than it has so far paid to provide financial recompense for the investments sold without her consent, and
- to reflect the distress she's been caused as a result of her missing funds and being charged a fee that was never owed.

What happened

Ms R held ISA investments with Vanguard and she had a regular £200 monthly direct debit arrangement set up that enabled her to fund her Vanguard account from her bank account around the end of each month.

On 21 March 2022, Vanguard said it had initiated collection of her regular £200 direct debit payment with the intention of collecting this amount on the 31 March 2022.

On 25 March 2022, Ms R cancelled her regular direct debit payment directly with Vanguard. Ms R understood from Vanguard that any payments scheduled within the next 8 business days would still be collected so that the direct debit payment due on 31 March 2022 would still leave her bank account and fund her ISA account.

On 31 March 2022, Vanguard followed its usual process and pre-credited Ms R's account with £200 and invested the money on 1 April 2022. It did not however receive a direct debit payment.

On 4 April 2022, Vanguard reversed the pre-credited £200 'Regular Deposit' it had put on Ms R's account as this hadn't been made. This meant there was a negative cash balance on the account which needed to be replaced. Vanguard generally allows 8 days to cover any shortfall by means of a debit card payment before a deduction is made.

On 19 April 2022, Vanguard sold funds to bring the account back into credit. On Ms R's statement, Vanguard described this transaction as: *'Selling of account investments for payment of Fees'*.

When Ms R complained to Vanguard, it said it had automatically credited Ms R's account and invested in the funds she had requested but when it was unable to collect the direct debit, it reversed the payment back. Vanguard said it had acted in line with its terms and conditions when taking action to cover the shortfall on her account. It apologised for the error

made regarding the terminology used on her cash statement but said it wasn't upholding her complaint.

Ms R was told by her bank that there was nothing to show Vanguard had made any attempt to take the debit payment and so she didn't accept Vanguard's explanation when it told her that: *'The collection was rejected by your bank'*.

Vanguard maintained that it had instigated the collection process before Ms R cancelled the debit but hadn't been able to collect the direct debit on the due date. It said it had then followed its standard process of removing the pre-credit on her account when the cash failed to reach her ISA and taken steps required to cover the pre-funded deal as per its process. Vanguard accepted however that the cash statement had been misleading and that when it incorrectly described the shortfall resulting from reversing the £200 pre-credit as 'fees' this had caused additional and unnecessary confusion. For this trouble and upset, Vanguard credited Ms R's bank account with £25.

Ms R didn't accept that Vanguard had attempted to take the March direct debit as her bank continued to assure her that its records would show a declined direct debit and it had no such record.

Ms R didn't feel this was enough to resolve her complaint so she came to us and one of our investigators looked into what happened. At the instigation of the investigator, Vanguard reviewed Ms R's complaint. It said (in brief summary) that:

- Vanguard attempted to collect the direct debit but couldn't as this had been blocked by Ms R's bank
- it confirmed that the reason the direct debit did not go through was due to the payment rejection by Ms R's bank
- Vanguard accepted when that happened, it should have sent Ms R a message explaining that her direct debit had not been collected and the steps needed to rectify the situation. As Vanguard didn't do this, Ms R couldn't amend her account in time
- it added the payment to her account and when she didn't pay the money into her account, the holdings it had purchased for her were sold without her knowledge in line with Vanguard's process but causing Ms R to complain.

Vanguard said that when Ms R took corrective action and re-purchased the funds herself on 27 April 2022, in the event she hadn't been financially disadvantaged on the transactions as it had checked prices and these were lower than the price on 1 April 2022. Vanguard made a further payment of £75 to Ms R's bank account in recognition of Ms R's frustration at the issues she faced with the direct debit and the fact that it didn't update her about the situation in the first instance and conclude things for her in a timely manner.

Our investigator felt that Vanguard had dealt reasonably with Ms R overall having acknowledged the shortcomings in the service it had provided and paid her £100 for the trouble and upset its actions had caused. So our investigator said she wouldn't be asking Vanguard to do anything further.

Ms R disagreed with our investigator and sent detailed observations, which I've briefly summarised as follows:

- Ms R feels the investigator's opinion lacks explanation and mentions things she did not say, putting the whole investigation in question
- she wants to know why we haven't further investigated the possibility that Vanguard cancelled the direct debit prematurely and that this is the reason the direct debit

couldn't be executed

- Ms R says we need to see both sides (*of the direct debit transaction*) and more information to confirm what Vanguard has said
- she says Vanguard's notes do not have a greater weight than her conversations with her bank and whilst her bank had no reason to falsify information, Vanguard had reason to withhold information.

The complaint comes to me for a 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.

Vanguard has acknowledged there were service failings on its part so I can completely understand why Ms R feels upset and frustrated by what happened. But after carrying out an independent review, I've reached the same conclusion as our investigator. I'll explain my approach and how I've reached my decision.

We provide an informal complaints handling service and this is reflected in our approach. My focus is on what I think are the key issues here. Our rules allow me to do this and it simply reflects the informal nature of our service as a free alternative to the courts. This means I won't necessarily mention everything that Ms R has brought to my attention or pursue unanswered questions where I don't consider this necessary to reach a fair outcome. And, like the investigator, I've expressed in my own words what I understand are Ms R's main complaint issues.

I've kept in mind that Ms R told us: *'I just want a proper investigation so that consumers like myself can be confident terms will not be breached, undue fees will not be incurred and stock sold without our knowledge or consent and that consequences will act as a deterrent to any potentially unlawful actions.'* And I appreciate that Ms R would like us to carry out a full investigation as there's some contradictory information about, amongst other things, why the direct debit wasn't taken. But I'd like to explain at the outset that my role is to consider the evidence presented by Ms R and Vanguard and reach what I think is an independent, fair, and reasonable decision based on the facts of the case. This service is not here to deal with misconduct or wrongdoing. I do not have the power to make rules for financial businesses or tell a business it must change the way it operates. That's the role of the regulator, the Financial Conduct Authority (FCA). And it's not for me to legally determine whether or not there's been unlawful action in the same way that a court or tribunal would.

I can tell Vanguard to pay compensation or take other steps to put things right if I am satisfied that it did something wrong or it acted unfairly or unreasonably – and this led to Ms R suffering some detriment and/or financial loss which hasn't yet been addressed.

The crux of Ms R's complaint seems to me to be whether Vanguard acted fairly and reasonably in connection with what happened after she cancelled her direct debit, resulting in Vanguard selling the £200 worth of investments it had purchased on the strength of the pre-credit, so putting her Vanguard account into deficit.

I've no good reason to doubt what Vanguard has said about why the direct debit payment failed. As I would expect, Vanguard had already set things in motion to take the debit on 31 March 2022 prior to Ms R cancelling it on 25 March 2022. And it has provided evidence from its system records that I am satisfied shows it attempted unsuccessfully to take the £200 direct debit on 30 March 2022. I appreciate that Ms R disputes this happened and she

is relying on information her bank has provided to her. But what Ms R (and her bank) says isn't enough to persuade me that she's correct in thinking that Vanguard mistakenly made no attempt to take the direct debit. I must make my decision based on what I think is most likely to have happened taking into account all the information that's available. And I must be impartial and give due weight to information from both parties when making my decision.

I find, on balance, that Vanguard tried and failed to collect Ms R's regular £200 direct debit at the end of March 2022. This means I don't find that Vanguard made any error or that it acted unfairly or unreasonably towards Ms R in the run up to calling for the debit or that it has misinformed her about this.

But it is not in dispute that Vanguard failed to tell Ms R, straightaway when her direct debit transfer failed, that she needed to take steps to correct the position. Vanguard accepts this was an error on its part so I don't need to say more about this and I've concentrated on the question of fair redress.

Ms R had ample funds in her bank account available to cover the direct debit transaction and, had she been alerted to what happened by Vanguard, it's likely she would have taken immediate steps to rectify the position. So it's fair and reasonable to expect Vanguard to cover any shortfall if its error left Ms R out of pocket financially.

Vanguard has said it cost Ms R less to buy her investments back than the same transactions cost on 1 April 2022 – which it reversed at no loss to Ms R. I haven't been provided with any information to show that Vanguard's pricing information isn't correct. This leads me to conclude that Ms R isn't worse off in money terms as a result of Vanguard's failure to alert her to the need to correct the position on her account sooner.

I appreciate that Ms R feels she is owed compensation for the time she was disinvested. But had the purchase she made on 1 April 2022 not been reversed by Vanguard, then she would have been holding investments that were worth less on the date she actually bought them back again later that month. All this leads me to conclude that there's no identifiable cash loss that Vanguard needs to redress.

But fair compensation isn't just about not being worse off in money terms – it needs to properly reflect the full impact on Ms R of Vanguard's service failings on this occasion.

When thinking about redress, I must keep in mind that we expect consumers to take reasonable steps to mitigate loss when things go wrong. There's more information on our website about our approach to redress. Thinking about what happened on 31 March 2022 when Vanguard failed to alert Ms R to the failed direct debit, I think it's fair to say that Ms R could have discovered this information herself if she had checked her bank account to ensure that the final direct debit payment had been made successfully. I don't think it's unreasonable to expect she might have done that in this situation. And had she discovered the debit hadn't left her bank account, I think she would've likely taken action to pay the failed £200 direct debit payment, within the 8 day window Vanguard allowed for this purpose, and so avoided much of the stress and anxiety she has been caused.

I can see how Vanguard's handling of matters undoubtedly caused Ms R some distress and inconvenience but I think the payments it has made are fair compensation for this.

All in all, I consider that the £75 payment Vanguard paid to reflect the trouble and upset it caused Ms R's when it didn't update her about the failed direct debit more promptly is broadly fair and reasonable in these particular circumstances.

In coming to my decision, I've also taken into account that Vanguard admitted it misdescribed 'fees' on Ms R's ISA statement. Ms R told us that on 5 April 2022 she also received a secure message telling her that fees were due. As her fees were set up through Vanguard to be automatically paid from her bank account she left this to happen automatically. It was only later she found out these 'fees' were in fact the £200 pre-credit repayment.

I agree that the wording used when describing 'fees' was unhelpful and inaccurate, but this didn't have any adverse financial impact on Ms R – she wasn't any worse off in money terms as a result of the wording Vanguard used. And the statement and secure messages where this appeared were private and intended only for Ms R's eyes, so Vanguard's error had limited reach. Having thought about this, I consider that Vanguard's £25 payment is adequate to reflect the distress and inconvenience this caused her.

Ms R said she'd been extremely worried and she'd had to spend a lot of time dealing with this matter, not least because she was told different things by different people at Vanguard. I've looked carefully through all the information provided, including the exchange of secure messages. The root of the problem seems to me to be that it simply wasn't possible for Ms R to reconcile what Vanguard was saying about the direct debit payment with information Ms R had been told by her bank. With the benefit of hindsight, I can see that things might not always have been explained as well as they could have been, but I haven't seen anything to show that Vanguard told Ms R anything that was materially misleading or that suggests there was ever an intention to be other than informative and helpful.

Looked at overall, Vanguard has paid a total amount of redress (£100) that is in line with the level of award I consider fair to reflect the extent and impact on Ms R of service failings on Vanguard's part. I don't find it would be fair to ask Vanguard to make any additional payment here.

I'm sorry to disappoint Ms R. But as I'm satisfied Vanguard has dealt with her complaint fairly I'm not telling it to take any further action. I hope that setting things out as I've done is helpful and even though this isn't the outcome Ms R hoped for, she will feel that her complaint has been fully considered by the Financial Ombudsman Service.

My final decision

I don't uphold Ms R's complaint and I do not require Vanguard Asset Management, Ltd to take any further action in relation to the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms R to accept or reject my decision before 29 September 2023.

Susan Webb
Ombudsman