

The complaint

Mr A complains about the redress offered by Link Market Services Trustees Limited, trading as Link Asset Services referred to as “the business”, for failing to pay the proceeds, from the sale of his shares, in a timely manner.

Mr A says that he had planned to use the money towards a business venture abroad, but as a result of the delays he was unable to do so. Mr A also says that he had to take several trips abroad, lost out on a land purchase (valued at \$12,000) and incurred an additional cost of £300.

To resolve this complaint, Mr A would like a refund of his airfare plus £300 totalling £2,173.08, along with compensation for the distress and inconvenience caused.

What happened

Mr A worked for the company for 15 years that sold him company shares after his employment ended.

On 14 May 2019, Mr A sold 2,256 Stagecoach Group Plc shares, via the business’ online share dealing service. According to the business, this was at a share price of £1.3572 per share.

The settlement didn’t complete until 7 February 2020, and Mr A received £3,010, paid directly into his bank account the next day.

Mr A says that since his instructions, in total he made three business trips abroad on the following dates:

- 21 May 2019 to 23 July 2019.
- 18 September 2019 to 17 December 2019.
- 26 February 2020 to 26 October 2020.

He says he did so because the business venture for which he needed the money, couldn’t go ahead without the funds, therefore the trips were necessary.

The business says that following the sale of Mr A’s shares, it emailed him on three occasions – on 21 May 2019, 29 May 2019 and 5 June 2019 – asking for the CREST transfer form and share certificates, so that it could proceed. In other words, it couldn’t proceed without the relevant documents.

On 9 June 2019, Mr A replied to say that he was out of the UK but would return on 24 July 2019. He also confirmed that the documents had been sent via signed for delivery service. I note the business in response asked for the tracking reference number.

On 30 July 2019, Mr A called the business helpline and provided the tracking reference number that had been previously requested. It seems this information was referred to the business’ settlements team to investigate and get back to Mr A, but this never happened.

Mr A called the business again on 10 September 2019 and arranged for someone to call him back. The business says that someone called back, but Mr A wasn't available. Subsequently, various emails were sent by Mr A chasing his money, until February 2020 when he eventually complained to the business, and the money was then paid into his account on 8 February 2020.

Mr A says that he received a letter from the business dated 3 March 2020 in which it said that it received his instructions on 14 May 2019, and the trade was due to settle 16 May 2019. The business also said that having investigated the matter, it found that it had the required documentation to settle the trade on 17 May 2019. He said he can't understand why then it took the business until February 2020 to do so.

I understand the business upheld the complaint. In summary, it said that an item with Mr A's tracking reference number had been received but in error hadn't been passed on to the settlements team, so it couldn't proceed with paying him the money.

Although it has no record of what was contained within the delivered item, it's willing to assume that it was the documents requested, namely the CREST transfer form and the share certificates. On that basis, it actioned his request for the money on 7 February 2020 and paid the money into his account the next day.

The business also initially offered Mr A a total of £250 compensation – including £175.56 for the 266-day lost interest – in light of the time taken to settle the trade. It doesn't accept that it's responsible for Mr A's decision to travel abroad or any costs he may have incurred.

Unhappy with the outcome Mr A referred the complaint to our service. The business in the meantime offered an additional £100 compensation bringing the total to £350.

One of our investigators considered the complaint but didn't think it should be upheld. In summary, he said:

- The business hasn't provided the best service it could during the sale of the shares, but he can't reasonably say that the delay in settling the trade was the only reason Mr A incurred business costs. In other words, he can't say that the business caused the loss that Mr A is claiming for.
- He's not seen any evidence that the foreign trips were due to the business' inaction. He can't say the trips weren't already planned, therefore the costs were something that Mr A was always going to incur.
- The first trip was undertaken before the trade was settled. The second and third trip was undertaken whilst Mr A was aware that the instructions hadn't been completed. So, he can't say that the £300 and airfare Mr A says he incurred was due to the trade not settling sooner.
- Nevertheless, the delay has caused Mr A some distress and inconvenience. So, in the circumstances, £350 compensation – including £175.56 interest payment – is broadly fair and reasonable.

Mr A disagreed with the investigator's view and asked for an ombudsman's decision. In summary, he made the following key points:

- The shares he sold in May 2019, had been held by him for over a decade, which would reasonably demonstrate that they weren't meant for 'luxurious use'.
- He shouldn't have to announce/disclose to the business, his reasons for selling his shares, as he had no contractual obligation to do so.

- He shouldn't have to wait over seven months for the sale of his shares. The business ignored his numerous calls and emails to try and resolve the matter sooner.
- He was told, by the company with whom he held the shares, how he could liquidate his shares and how long the process would generally take. He called the business to confirm the position.
- He had no doubt in his mind that he'd receive his money on time and that he'd be able to do whatever he wanted to do.
- In an email received on 22 May 2019, the business confirmed that the cheque for the proceeds had already been issued, and that if he was happy for it to be cancelled and replaced with a bank transfer, he could do so, at a cost of £25 which he declined.

The investigator having considered the additional points wasn't persuaded to change his mind. In summary, he said:

- The email dated 22 May 2019, made clear that a cheque could be cancelled, and a bank transfer arranged.
- In the email dated 25 May 2019, Mr A informed the business that he didn't wish to pay the fee and that the business should send him the cheque. Whilst this would suggest that the business had received the information it needed to settle the trade, he still can't say that the cost of the trips abroad was incurred as a result of the late settlement.
- The dates would suggest that Mr A had already departed – on 21 May 2019 – before he'd received the settlement. And as the cheque was to be sent to his UK address, where he was unlikely to have received it until his return.
- If Mr A wanted to receive the funds whilst abroad, he could've asked for the money to be sent direct to his account.

Mr A disagreed with the investigator's view. He said that he was married and had adult children who could've received and deposited the cheque on his behalf. He maintains the business acted negligently. He said the business asked him for the documents that he sent but then tried to dupe him by claiming that the documents hadn't been received. He still can't understand why it took seven months to pay the settlement.

As no agreement had been reached the matter was passed to me for review.

In January 2020, I issued my provisional decision, a copy of which is stated below and forms part of my final decision. I said:

"...provisionally I'm minded to uphold this complaint. For the record, I don't think the business behaved reasonably in dealing with Mr A's request to sell his shares. However, on balance I don't think the business is responsible for paying Mr A his airfare and costs.

Because the business has already upheld the complaint and offered redress, and subsequently increased the compensation, the key issue for me to consider is redress, and whether (or not) its offer is fair and reasonable. But having done so, in the circumstances, and on balance, I'm not persuaded that it is.

On the face of the evidence, and on balance, despite what the business says, I think it should pay Mr A £175.56 for the 266-day lost interest, plus £350 compensation for the overall distress and inconvenience caused.

Before I explain why this is the case, I think it's important for me to note I very much recognise Mr A's strength of feeling about this matter.

Mr A's provided detailed submissions to support the complaint, which I've read and considered carefully. However, I hope he won't take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy.

The purpose of my decision isn't to address every single point raised. My role is to consider the evidence presented by Mr A, and the business, and reach what I think is an independent, fair and reasonable decision based on the facts of the case. In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice. But it's for me to decide, based on the available information I've been given, what's more likely than not to have happened.

I note on 14 May 2019 the business couldn't initially proceed with paying Mr A the sale proceeds, because it didn't have his CREST transfer form and share certificates, or it wasn't aware that it did.

I note the business says that it emailed Mr A on several occasions – on 21 May 2019, 29 May 2019 and 5 June 2019 – asking for the relevant documents, coinciding with his first trip abroad. On balance, I agree with the investigator, that Mr A embarked on this trip, of his own volition, without any encouragement or advice from the business.

I'm mindful of the email Mr A says he received from the business dated 22 May 2019, asking whether he wanted his payment via cheque or bank transfer – giving him the impression that his money was available and ready to be transferred. Nevertheless, I'm mindful that he' already left for his trip not knowing whether (or not) his funds were available.

I note on 9 June 2019, Mr A responded to the emails to say that he was abroad and that the documents had been sent via signed for delivery service. In my opinion, Mr A, certainly by this stage, knew that his request hadn't settled. I think it's also safe to say that the business didn't know that Mr A had gone abroad or why.

I note from the final response letter dated 3 March 2020, the business said that having investigated the matter, it found that it had the documentation to settle the trade on 17 May 2019. So, it's likely that Mr A had already provided the necessary documentation needed to proceed by this point.

Instead, the business – in response to Mr A's email dated 9 June 2019, and unaware of the whereabouts of the documents – messaged him back asking for the 'tracking reference number' – which Mr A duly provided on 30 July 2019.

By this stage I'm satisfied that Mr A had already done everything he reasonably could do to ensure that the sale proceeds were paid to him. On balance, I don't think Mr A could've reasonably done anymore, having already sent original CREST transfer form and share certificates.

I note the business says that it forwarded the information to its settlements team with a view to it getting back to Mr A, but it didn't. In my opinion, not only does this demonstrate further poor service but another reason why the issue wasn't detected and rectified sooner. In other words, the business still didn't know where Mr A's documents were, or indeed what it had done to them.

Had the business done what it had undertaken to do – and examined its post and got back to Mr A – it had another opportunity to make right the situation by the end of July 2019/August 2019 but failed to do so.

I note on 10 September 2019, Mr A arranged for someone to call him back. The business

says that someone called back but Mr A wasn't available – whether (or not) this was correct the damage had been done. I note that subsequently, various emails were sent by Mr A chasing his money, but to no avail. It wasn't until he raised a complaint in February 2020, that matters were investigated by the business, and Mr A's money was paid to his account on 8 February 2020.

I note the business says that in the end it just assumed that Mr A had provided the necessary documents, even though it didn't have sight of them. In the circumstances, and on balance, I think the business could've made this concession a lot sooner. I don't think it was necessary for Mr A to make an official complaint before things were reasonably looked into and dealt with.

It's for the reasons set out above, I think the business should pay Mr A £350 compensation for the distress and inconvenience caused, in addition to the £175.56 interest payment for the 266-day lost interest, which I assume is for the period between 17 May 2019 and 7 February 2020.

In terms of the cost of the other flights, I'm mindful that Mr A embarked on the second trip on 18 September 2019 – for a period of three months roughly – knowing that his instructions hadn't been actioned, despite him sending the documents via signed for deliver. I note there was no guarantee from the business – which I think was still unaware of his reasons for going abroad again – that matters would be resolved before or during his second trip and his funds would be available.

I note the third trip abroad, in February 2020 – for a period of eight months – coincides with Mr A making a complaint to the business, after which he was paid the money on 8 February 2020, so by then Mr A was free to do what he wished with his money.

Whilst I appreciate Mr A's point about his lack of obligations to tell the business anything about his plans, there was nothing to suggest that the business was aware that he was going abroad or why, or indeed why he might need the money sooner rather than later. I appreciate it's not an excuse for the business for not actioning Mr A's instructions in a timely manner.

Had the business been aware, and had it advised/encouraged Mr A to go abroad, on the premise that his money would be available imminently, the circumstances would be different. But in this instance, Mr A chose to go abroad, of his own volition without any consultation or acquiescence from the business.

Despite what Mr A says, on the face of the evidence and on balance, I'm unable to safely say that the business is responsible for paying Mr A the £300 and the airfare for the three trips he made abroad, over the two calendar years, between two and eight months each time.

So, whilst I appreciate Mr A is free to do what he wants with his money, I can't safely say that the business is responsible for him not being able to proceed with his business interests. I appreciate Mr A will be thoroughly unhappy I've reached a different conclusion to the investigator, but I still haven't given him what he wants. Whilst I appreciate his frustration, I'm only going to ask the business to award redress as set out below.

On the face of the available evidence, and on balance, I'm unable to uphold this complaint and give Mr A what he wants.

I gave the parties an opportunity to respond to my provisional decision and provide any further submissions they wished me to consider. Neither party responded to my provisional 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, in light of no new submissions, my decision to uphold this complaint remains the same, for the same reasons as set out in my provisional decision.

In other words, no new points have been made that persuade me to change my decision. In this instance I'm still satisfied that the key points remain the same, and have been considered by me, in my provisional decision.

I still don't think the business behaved reasonably in dealing with Mr A's request to sell his shares. However, on balance I don't think the business is responsible for paying Mr A his airfare and costs.

On the face of the evidence, and on balance, despite what the business says, I think it should pay Mr A £175.56 for the 266-day lost interest, plus £350 compensation for the overall distress and inconvenience caused.

Putting things right

Link Market Services Trustees Limited should pay Mr A £525.56, comprised of £175.56 for the lost interest, plus £350 compensation for the distress and inconvenience caused by the delay, less any payment already made.

My final decision

For the reasons set out above, and in my provisional decision, my final decision is that I uphold this complaint.

Link Market Services Trustees Limited should pay Mr A redress as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr A to accept or reject my decision before 22 March 2022.

Dara Islam
Ombudsman