DRN-3467718

Financial Ombudsman Service

The complaint

Mr P complains about how ITI Capital Limited ("ITI Capital") administered his investment account.

In particular, Mr P has complained about how long it took to get a shareholding he held set up on his account properly, how long it took to transfer that shareholding elsewhere and how he lost money as a result of not being able to sell that shareholding when he wanted.

What happened

ITI Capital took on Mr P's account in June 2020. Mr P's account had been frozen for a time before that. During that time the shares in a shareholding he held were replaced by new shares due to a corporate action. Mr P's shares needed to be exchanged for new ones.

Mr P got in touch with ITI Capital about his account on 4 August 2020 and on 11 August he specifically raised the issue of his shareholding needing to be updated. On 4 September he chased ITI Capital and said his account wasn't showing a value for the shareholding and he asked ITI Capital to rectify this. He chased again on 13, 16 and 21 September 2020.

At that point ITI Capital acknowledged the shares needed to be exchanged and told Mr P it couldn't give a timescale for this as it was up to the company registrar and out of its hands.

Mr P asked ITI Capital for an update on 16 October 2020. He approached a third party for help to chase ITI Capital on 12 November 2020. The third party reassured Mr P that he'd be getting new shares for old and wouldn't lose financially as a result. Mr P continued to chase ITI Capital for progress during November, with the third party helping him. He later made a contribution to fund that third party's services.

ITI Capital told Mr P the issue with the shareholding had been resolved on 7 April 2021.

ITI Capital has told us that once it took over Mr P's account, it needed to be recognised by the registrar as the new nominee before the share exchange could take place. Also it has told us that while Mr P's account had been frozen, and as a result, his shares had been switched to certificated form and needed to be switched back to electronic form first. It has said arranging all this wasn't straightforward and involved the circulation of paper documents between various parties, which was more difficult during the pandemic period. It has told us it worked tirelessly to complete the process. Also it has told us the problems arose before it took on the account and it wasn't aware of the situation when it first took on the account.

Mr P has told us he phoned ITI Capital to try to sell the shares on 15 July 2021 and also on 20 July 2021. In response he received an email from ITI Capital to the effect that it wasn't taking new orders, so he couldn't sell his shares. ITI Capital has told us restrictions on accounts had been put in place in December 2020. From what it has said, this meant that at the times in July 2021 when Mr P has said he wanted to sell his shares he couldn't.

Mr P contacted ITI Capital again on 27 July 2021 asking to either sell the shares or transfer them out. ITI Capital told him it could carry out transfers for assets held on a different system but not for the system that held Mr P's shares. So Mr P understood he was waiting for his shares to be moved to the right system. He approached the third party again for more help to chase this during August 2021 and into early September 2021.

ITI Capital has told us the suspension affecting Mr P's shares ended on 24 September 2021. The closing price at that time was lower than it had been when Mr P phoned about selling his shares in July 2021. Mr P didn't sell his shares at that point. ITI Capital has told us it told Mr P on 6 October 2021 that the suspension had been lifted and that he could transfer if he wanted but he would need to submit a transfer request from his new provider to do so. It has told us that on 8 October 2021 it received Mr P's transfer request and the transfer to his new provider concluded on 4 November 2021. Mr P did not sell his shares after the transfer. He says significant life events, including moving to and renovating a new home, meant he had to turn his attention to other matters. The shares subsequently fell in value significantly.

ITI Capital says it communicated the trading suspension to all customers. Also it says it told Mr P in July, August and September 2021 that it needed a transfer request from his new provider, but only received this in October 2021. Mr P has said his new provider did ask for a transfer earlier, but the request was rejected.

ITI Capital says resolving the issues with the new shares took longer than normal but that many of the delays were outside its control. But it says it recognises the impact the situation had on Mr P and it has accepted it played its part in causing Mr P's distress and frustration. It says it failed to manage Mr P's expectations at times during what was a long process and was unable to answer all his emails and phone calls – although it says the phone difficulties were in part due to pandemic-related out of office working. While recognising Mr P had other difficult issues to handle during the period, it says it can't fairly be held responsible for the impact of those on Mr P.

Overall, ITI Capital it has said it didn't give Mr P the level of service it would've wanted. It offered £300 to compensate him for the distress and inconvenience its failings caused him. Our investigator thought ITI Capital should pay Mr P £600. ITI Capital didn't agree. Mr P has said he considers a much higher amount would be appropriate.

As this matter couldn't be resolved informally, it was passed to me for a decision. I wrote to Mr P and ITI Capital with thoughts on the merits of our investigator's redress suggestion. ITI Capital didn't reply. Mr P's reply emphasised the financial importance to him of the sums that are the subject of this complaint and the fact he was unable to access those funds. He said he has since borrowed money from relatives.

Mr P has explained previously how the period in which the events he has complained about took place was a very difficult period for him both personally and financially.

I've not set out here all Mr P has said previously about his personal and financial situation during the period. But in reaching my decision I have considered all Mr P has said as well as all ITI Capital has said.

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've decided to uphold Mr P's complaint. I'll explain my reasons.

I agree with ITI Capital that it should've given Mr P a better service and that it failed to keep him sufficiently informed about the process of getting the new shares onto his account.

Also, I think the process took too long. I don't overlook what ITI Capital has said about the work involved and the difficulty of dealing with a paper-based process. But it was seven months from Mr P's first enquiry and longer from when ITI Capital first took on the account. I'm not persuaded this couldn't and shouldn't have been completed sooner.

Also I'm not persuaded that ITI Capital doesn't bear some responsibility for that. In reaching this view, I note ITI Capital took weeks to offer Mr P an explanation of what was happening. Also Mr P had to raise his issue with ITI Capital rather than being told of a problem first by ITI Capital. Both points in my view suggest ITI Capital wasn't as on top of this issue as it ought to have been.

That said, I think ITI Capital's redress offer largely acknowledged these shortcomings and the distress and inconvenience they caused Mr P – although I note his frustration and anxiety with this was such that he sought out third party help and reassurance.

But I don't think ITI Capital's offer gave sufficient weight to the inconvenience and distress caused to Mr P by his not being able to sell his shares when he wanted. I think witnessing the reduction in value from when he first called about selling them to the point when they became tradable, caused Mr P not only inconvenience and frustration but considerable distress. At the time he was first able to trade them with ITI Capital the shares were worth around £200 less than when he first called about selling them. In my view he wouldn't have suffered this distress if it hadn't been for ITI Capital's failings. My award gives this emphasis.

Turning to the time taken to transfer out the shares, ITI Capital says it needed a transfer request from the new provider and didn't get one until October 2021. Mr P disputes this. But even if ITI Capital is right, I think it very likely the process would've been completed more quickly than it was if ITI Capital had been able to process transfers and able to help Mr P through the process at it should have. ITI Capital got the request it needed within days of telling Mr P that things could proceed, for example. That said, it is apparent Mr P's transfer request was made only after he found he was unable to sell the shares. So it is a secondary issue in that sense and also in the sense that in my view the root of his distress in that period was that he had been powerless to dispose of the shares as he had wanted.

Dealing with ITI Capital's failings was no doubt more difficult for Mr P given the personal backdrop he has described. But I'd emphasise my award is only for the distress and inconvenience caused to him by ITI Capital's failings, and not for the distress caused by his personal situation. I note, though, that the potential value of his shares was a significant value to him and his inability to access it did have an impact on his financial wellbeing.

With this and all I've said above in mind, I think it is fair and reasonable for ITI Capital to pay Mr P £600 for the distress and inconvenience its failings caused Mr P. Mr P believes a much higher amount would be fair. I've carefully considered all he has said – including about his financial situation now – but, on balance, while I accept what he has said about his situation, I'm not persuaded that this means the award I make here is not fair and reasonable.

I've thought carefully about the fall in value of Mr P's shares that took place after they had become tradeable in September 2021 and after they had been transferred to Mr P's new provider. Given that the shares were already tradable at that point, in my view it would not be fair and reasonable for ITI Capital to compensate Mr P for that fall. I note also that Mr P did not sell the shares. Also, as I've explained above, my award for distress takes into account the distress Mr P suffered due to falls or fluctuations in the value of his shares that took place during the period after he called about selling them and before he was able to. I think this best takes proper account of the impact on Mr P of those events.

Putting things right

ITI Capital Limited should compensate Mr P by paying him £600 for the distress and inconvenience its failings caused him.

If ITI Capital Limited doesn't pay this sum to Mr P within one month of ITI Capital Limited being notified of Mr P's acceptance of this decision, then ITI Capital Limited should pay Mr P simple interest on the outstanding sum at the rate of 8% per year from the date of my decision until the date ITI Capital Limited pays Mr P the outstanding sum.

My final decision

For the reasons I have given above, I uphold Mr P's complaint and order ITI Capital Limited to put things right by doing what I've said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr P to accept or reject my decision before 20 October 2022.

Richard Sheridan
Ombudsman