

The complaint

Mr B complains about how ITI Capital Limited (“ITI Capital”) administered the transfer of his investment account.

He says ITI Capital failed to do this in a competent and timely manner. He says he suffered stress as a result. He says the delay caused him financial loss as it resulted in him not making profitable trades and pension contributions he would otherwise have made.

What happened

Mr B asked to transfer out his ITI Capital investment account. ITI Capital had just processed his request to withdraw cash from his account. Mr B thanked ITI Capital for handling that so quickly. He wanted to transfer out the investments too and close the account.

The process started near the start of August 2020 and Mr B complained about progress near the end of August. Mr B says it was September before ITI Capital sent a valuation to his new account provider. He says ITI Capital then indicated it would act promptly to complete the process. He says his new provider in fact sent ITI Capital requests every week without reply.

On 20 October, ITI Capital replied to Mr B’s complaint. It offered him £150 for inconvenience or distress suffered. ITI Capital said its delay of the transfer, and failure to give Mr B clear information about timescales, was wholly unacceptable. Mr B told ITI Capital he was rejecting its offer on the basis that ITI Capital still hadn’t told him how much longer it would take to complete the transfer. He complained to us a few days later about the matters I’ve outlined above, as well as what he considered poor security controls on his account.

Despite ITI Capital’s October response and apology, the transfer continued to be delayed. Mr B chased and enquired about progress weekly or slightly more often. He has told us his calls were often not answered and that promised calls didn’t materialise. He had anecdotal information suggesting he was one of a large number waiting to transfer from ITI Capital to his new provider. He asked ITI Capital to respond to this and to his estimates of how much longer his transfer might take. When ITI Capital did respond, its response, broadly, was to refuse to give a timescale in case it failed to meet it. But it did tell Mr B it was overloaded with transfer requests and unable to carry them out in a reasonable time as a result. Mr B became concerned from time to time that he was not keeping his place in the ‘queue’.

In early November 2020, ITI Capital told Mr B the continued delay was wholly unacceptable and that this had been escalated internally. But Mr B still did not receive any update on how long things would take.

Mr B has referred to security, and concerns about his assets being stolen, as being a reason he did not place phone trades during the transfer delay. He has also said that during that time he had to consider that he might not see his assets again.

At the start of December, Mr B noticed the transfer of some of his holdings had taken place. Cash sums were still being transferred and ITI Capital says these also transferred in December 2020. The transfer was mostly complete at that point. But it was not yet complete.

One stock was left. It was worth, in very broad terms, around £500 - so it was a small part of Mr B's overall account value. ITI Capital told Mr B he needed to sell the stock because his new account provider wouldn't accept it. The stock was a commonplace holding and Mr B's provider would - and in fact did - accept it. The stock had been subject to a recent corporate action and Mr B suggested to ITI Capital that this, and the resulting impact on stock codes, was why ITI Capital was having trouble with the new provider accepting the stock. Despite the assistance given by Mr B, it wasn't until towards the end of March 2021 – around eight months after the transfer process began - that ITI Capital managed to transfer this stock and complete the transfer.

As a result, it wasn't until this point that ITI Capital gave Mr B the statement of account he'd been asking for since December 2020, to show the transactions and cash balances on his account during its time with ITI Capital. Mr B has said system errors and inaccuracies meant he hadn't been able to monitor his account properly while on ITI Capital's system. I've had nothing from ITI Capital to suggest his comments about that aren't right. The statement of account allowed Mr B to check and reconcile the transferred sums and cash. From what he has told us, it allowed him to satisfy himself at that point that the transfer had been correctly completed and his funds and stocks correctly accounted for.

Mr B summarised things at this point as follows:

"In summary it has taken 9 months to transfer my account with almost weekly progress chasing on my part. There have been many let downs, circular and repeat communications along the way with ITI, and numerous commitments broken by the ITI team during this unreasonably extended process. The customer service experience overall has been terrible. Had I not been so persistent I can only believe this would still be an ongoing and an outstanding matter for ITI to resolve."

Mr B told us his time and effort was worth £1000s and a figure between £1000 and £2500 was more appropriate than the £150 or so offered by ITI Capital. He said his own figures took account of stress, work caused, loss of investment opportunity and loss of pension tax relief – from trades and pensions contributions he maintained he was unable to make - and that true compensation would amount to something like £5000. He pointed out the transfer took eight months in total and he'd chased it weekly with calls and emails. He said account security was questionably lax on more than one occasion and ITI Capital hardly ever made any commitments - to respond or to act within certain timescales or to update him - but often failed to keep commitments it did make. He has pointed out significant sums were tied up in the transfer and he has said the stress of pursuing it was not helpful at a time when he'd also lost his job. He has said he'd spent time and effort checking the transfer was right afterwards and ITI Capital hadn't replied to his later request for higher redress.

During our investigation we passed to Mr B information about an offer made by ITI Capital. It was for an amount similar to what Mr B was seeking and he told us he was willing to accept it. But the offer hadn't been intended for Mr B. ITI Capital hadn't intended to offer or pay him that sort of sum. ITI Capital instead reviewed things again and increased its earlier offer from £150 to £300. It told us this was suitable redress on the basis that the transfer completed in December 2020 and took 11 weeks longer than the eight it said ought to have been taken. ITI Capital didn't refer to the further period from December 2020 to March 2021 during which the transfer was still not complete or to the problems with the last stock that had caused this.

Mr B rejected this offer as inadequate. So our investigator considered matters.

Our investigator's findings, in summary, were that ITI Capital wasn't responsible for Mr B not making trading profits or pension contributions in the way he had claimed; that ITI Capital had a responsibility to provide Mr B with a service that was fit for purpose and instead had

delayed the transfer; that ITI Capital should compensate Mr B for the inconvenience caused by this and by the limitations of the service and information it offered him before the transfer; that the transfer completed or mostly completed in December 2020 and that £300 was a fair and reasonable reflection of the distress and inconvenience ITI Capital's errors caused Mr B.

ITI Capital accepted our investigator's conclusions. Mr B disagreed. In particular the amount of redress suggested was, he said, "paltry". He said he was disgusted with how he and others had been treated by ITI Capital and he expressed concern for others who might have needed earlier access to their funds or weren't as fit, healthy and able as him to deal with things. He provided a timeline, noting the transfer completed in March 2021.

As the matter couldn't be resolved informally, it was been passed to me for a final decision. I've since contacted the parties for any further comments concerning in particular the period after December 2020.

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 arrived at broadly similar conclusions to those our investigator reached and for broadly similar reasons.

It isn't disputed that ITI Capital unreasonably delayed Mr B's transfer. For context, guidance from the government anticipates transfers of this kind taking no longer than 30 days. At the time of its initial response and £150 offer, ITI Capital had taken more than twice as long. It then took more than another month before reaching a stage when the transfer was mostly - but still not entirely - complete. More months passed before it was completed.

I've considered the consequences of the delay.

I understand Mr B's concerns about missed pension contributions mostly focus on the period before ITI Capital took on his account, according to clarification he has given us. ITI Capital wasn't responsible for Mr B being unable to make pension contributions during that period. When ITI Capital did take on his account, most of Mr B's holdings were transferred to the new provider before the end of that tax year and in time for him to fund his pension using those assets if he wished. So I don't think ITI Capital was responsible for Mr B losing tax relief on pension contributions he might have wanted to make.

As for profits Mr B may have missed due to trades he didn't do and might have done if it had not been for ITI Capital's errors and delay – the evidence I have doesn't make me think I should make an award for that. I say this first because there's no clear evidence of Mr B wanting to make particular trades of particular amounts at particular times during the transfer delay – so I have nothing to show that Mr B missed out on particular profits.

Secondly, I don't think it would be fair to award Mr B profits on missed trades without him having taken some steps to try to place those trades during the transfer delay. For one thing, if he had tried to do so he might have found it possible or ITI Capital might have found a way to mitigate his potential loss in another way. ITI Capital says Mr B could have placed trades. Mr B has said he wouldn't have trusted ITI Capital to conduct trades correctly – so the lack of evidence of him attempting to make trades should be seen in that context. But on balance I don't think that is sufficient to make it fair and reasonable for me to award Mr B profits on trades he may in different circumstances have made but did not in fact make or try to make.

I do not overlook what Mr B has said about security concerns and also about the likelihood

that trading would delay the transfer. I'm not persuaded security concerns were at the root of Mr B's reluctance to place trades - or that this consequently gives me reason to award him profits on missed trades. I note that he had successfully received funds back from ITI Capital at the start of the whole process. I accept trading may well have delayed the transfer more but, again, I don't think this is sufficient reason to award profits for trades not placed. I've assumed profitable trades here, but trades when actually placed of course also pose a risk of loss along with the possibility of profit.

The points above apply also to Mr B's claim that he could've made pension contributions earlier had the transfer taken place earlier. In other words, there's no suggestion Mr B tried to sell holdings and realise cash to fund his pension during the delay. Had he attempted this and been unable to carry it out due to a failing by ITI Capital, then there would potentially be a financial loss to consider, depending on investment movements. But I don't find that to be the case here.

Mr B ignored ITI Capital when it suggested he sell his last outstanding stock. It appears he was absolutely right to do so. ITI Capital told him the new provider wouldn't accept the stock. Mr B's view that the stock could be accepted proved to be right when it was accepted. But ITI Capital's suggestion didn't cause Mr B any loss of profits or other losses, because he didn't follow the suggestion.

I conclude that ITI Capital's delays and other failings were not responsible for Mr B suffering financial loss, either in lost tax relief or lost investment profits.

I've considered the distress and inconvenience caused to Mr B by ITI Capital's failings and delay. I note the sums Mr B has claimed for this. I've considered what is fair and reasonable in all the circumstances of this particular case. Examples of our approach are published on our website and provide context for what I say here. I'd mention that those examples don't in my view help support an award on the scale Mr B has suggested.

Mr B's figures allowed for financial losses such as lost profits. For the reasons I've already given, there's no such allowance in my award. Also, my award is for inconvenience suffered by Mr B but it isn't an award for the value of his time in the way he assessed it – which was based on his commercial rate. ITI Capital's delay didn't cause Mr B lost earnings or business expenses. My award is for inconvenience Mr B was put to by spending time on this matter when he understandably would've preferred not to. Personal financial affairs are normally conducted in personal time – and some inconvenience inevitably and normally arises as a result. My award is for the extra inconvenience Mr B suffered as a result of extra and excessive time he had to spend due to ITI Capital's failings.

I'm also not making an award for Mr B checking the transfer was correct after it was done. In my view that is part of the normal administrative inconvenience of making a transfer. I accept Mr B's experience of ITI Capital's failings – particularly the inconsistent system information shown before the transfer, but also its handling of the last stock – no doubt made a check even more essential from his point of view. But I still think it is normal and sensible to check.

So this isn't something I'm compensating Mr B for having done. ITI Capital did, in the end, give him a statement to help with the check. In my view ITI Capital was right to do so in the circumstances.

Mr B has emphasised that he was in a position to chase and pursue ITI Capital to ensure his transaction did eventually go ahead – and he is concerned that others unable to do that would be treated to an even worse service. My award here, though, is concerned only with the impact on Mr B himself and not on the service or experience anyone else may have had.

The above points - and in particular what I've said about redress being for inconvenience rather than for time at commercial rates - largely explain why my award is not of the order Mr B is seeking and is instead similar to that suggested by our investigator.

Mr B has said the information ITI Capital collected was excessive. This issue was not at the forefront of his complaint to us and was raised later. I won't discuss it in further detail here because what I have doesn't persuade me that this was a source of pronounced anxiety for Mr B during the transfer delay. So even if ITI Capital's approach wasn't justified, in my view it wouldn't change the scale of the award due here for the inconvenience and distress caused to Mr B overall by ITI Capital's failings – and in particular the delay. The same applies to what Mr B has said about security concerns. There's little emphasis on those concerns in the correspondence I've seen.

In saying this, I appreciate Mr B as a matter of courtesy may not have raised every concern he had at every stage. Even if Mr B did not articulate it expressly, it doesn't mean he wasn't frustrated and dissatisfied by frustrating and unsatisfactory failings. So I note that Mr B was able to withdraw cash early on – and was complimentary and generally positive about how ITI Capital had handled that - but I don't overlook that he was looking to leave ITI Capital at that point and that problems had already begun at that stage (which he has alluded to when explaining how he was unable to properly monitor his account during the transfer process).

Regardless of ITI Capital's failings, Mr B's redundancy and other worries from the Covid situation will naturally have caused him anxiety. My award, though, is for distress caused by ITI Capital's failings rather than by other distressing matters. In assessing the impact of ITI Capital's failings on Mr B, I of course take account of his circumstances – in which I think the delay is likely to have understandably caused some stress, like he has said.

That said, the main impact on Mr B was inconvenience due to delay and inaction causing him to have to regularly chase progress – and annoyance and exasperation that his chasing, although from time to time resulting in suggestions things might be speeded up, in fact produced no noticeable effect in terms of speeding things up. Mr B had significant holdings with ITI Capital and so in my view it was reasonable that he chased things up like he did and entirely understandable that he wanted reassurance about timescales. If it had not been for ITI Capital's delays, Mr B would not have been put to that trouble or suffered that frustration.

I don't overlook that Mr B has said a worst-case scenario was he would not get his holdings back. He didn't highlight this concern in what he sent at the time. Nor was it emphasised in his complaint, to my mind. He referred to it in connection with how he decided on his pension funding. Taking everything into account, I've not placed emphasis on this point in arriving at my award. Rather it is the inconvenience and frustration caused by the delay, and the stress Mr B suffered by having to deal with that, to which I've given more weight.

ITI Capital did tell Mr B it was struggling to process transfers in a timely way. So Mr B was given to expect delay. He was aware there were many other transfers waiting – and aware some were getting completed from time to time. But this doesn't alter that ITI Capital failed to do what it ought to have done – and so caused continued frustrating inconvenience for Mr B.

So in my view ITI Capital was right to apologise and offer compensation for inconvenience in its final response letter. The inconvenience continued, so ITI Capital was in my view right to increase its offer later.

In increasing its offer, ITI Capital in my view didn't acknowledge or take account of the months after December 2020 when Mr B continued to suffer delays. By then most of the transfer had been done and the amount outstanding was much smaller. But Mr B couldn't draw a line under the transfer process or check it until it was complete, and more delay at

that stage must have been even more frustrating. Also it's hard to disagree with Mr B's view at the time that the stock ITI Capital was having difficulty transferring was a common one and so very unlikely to not be acceptable to the new provider in the way ITI Capital seemed to believe. It's understandable that this added to Mr B's frustration during that later period.

In summary, I conclude that ITI Capital's delays and failings did not cause Mr B financial loss for which it would be fair to ask ITI Capital to compensate him. But I conclude that ITI Capital was at fault for delaying the transfer and ought to compensate Mr B for the inconvenience and distress this caused him. I think £400 is fair and reasonable compensation for this in all the circumstances here.

So I uphold Mr B's complaint for the reasons and on the basis I've given above.

Putting things right

To put things right, ITI Capital Limited should pay Mr B £400 for the inconvenience and distress ITI Capital's failings caused him.

My final decision

For the reasons I've given, and in light of all I've said above, I uphold Mr B'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 B to accept or reject my decision before 23 September 2022.

Richard Sheridan
Ombudsman