The complaint

Mr C – as trustee of the BDC trust – complains about a delay withdrawing trust money from an investment account held with Invesco Fund Managers Limited.

What happened

The trust here was established in 2004. Mr C was one of three trustees at that point – I'll refer to the other two as RC and PC to keep things both anonymous and clear.

Mr C asked Invesco for the trust's money in March 2020. But he didn't receive it until mid-September. One reason for the delay was that the investment account had been set up as a joint account, rather than a trust account. Another is that once the account was changed, Invesco wanted details about the trust before they'd release its money to Mr C.

I made a provisional decision for this case in September 2022. I wrote about some key documents we'd been shown during our investigation. Specifically:

- A cover letter RC wrote to Invesco in 2005 with his application to open a joint account. The letter explained the investment was to be held by the trust. And it referred to a phone call where the non-UK residence of one of the trustees had been discussed.

- A letter Mr C wrote to Invesco in 2019, which again explained the investment was held by the trust.

- Invesco's response to the complaint from August 2020, which confirmed the following timeline of events:

    - Invesco had requested and received anti-money laundering ("*AML*") information from Mr C in April 2019.

    - Mr C acknowledged in March 2020 that Invesco needed AML details for PC.

    - Invesco received these on 3 July 2020.

    - Invesco had already asked for these in October 2019, after they'd got Mr C's AML information. PC had not provided the information at that point.

    - From 23 March, Invesco sent some letters to Mr C asking for details about the trust. But Invesco acknowledged that calls in April hadn't been clear about what was needed. They said they hadn't reminded Mr C the details were needed. Mr C says he was told the request letters were automated and could be ignored.

    - Invesco received details about the trust's UK tax status on 25 July.

    - They received a copy of the trust deed on 15 August.

- With this information, Invesco allowed the money to be released to the trustees.

- Although Mr C had provided the trust's building society account details in March 2020, this wasn't used when paying the investment's proceeds. Instead, the money was issued by cheque on 29 August. The trustees received this in mid-September.

In his complaint, Mr C said Invesco should have set the account up as a trust account from the beginning. In response, Invesco said the 2005 application to open a joint account made no mention of a trust, so it had been reasonable to set up a joint account.

Mr C also felt Invesco gave unclear explanations about what they needed from the trustees. He felt the delays that resulted had led to the trust missing an opportunity to reinvest the its money. Adding a further element to his complaint, he felt Invesco's complaint handling had been poor.

In my provisional decision I said why I found Invesco's service hadn't been reasonable. I explained how this added a delay to the withdrawal, which would need compensation to put right. I asked Mr C and Invesco to respond by 3 October to my decision.

Mr C said he didn't fully agree with my decision, but he'd accept it if Invesco did too. He also explained what he'd done with the trust's money after he received it in mid-September 2020. I'll show later on how I've factored that in to my decision.

Invesco wrote to us on 5 October, and asked for two more weeks to respond. They wrote to us again on 24 October apologising for the delay, and said they'd let us have their response by Wednesday (26 October). As I write, it's Friday 28 October and we haven't heard anything further.

DISP 3.5.14 allows me to continue with my consideration of the complaint where a respondent hasn't complied with a time limit I've set. I've decided to do that here, as I feel Invesco have had enough time to respond. This final decision is based on what we've received to date.

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.

I've not received anything that's changed my view about this case. So my decision remains as it was – Invesco haven't treated Mr C reasonably. I'll repeat my reasoning, and explain what needs to happen now to put things right.

As I've noted above, since this account was first opened Invesco had received information that showed this investment was owned by a trust.

RC's cover letter – addressed to Invesco – made that clear enough. That letter also referred to a telephone conversation about one of the trustees being a non-UK resident. That's consistent with the sort of questions I'd have expected Invesco to have asked when told about the trust. So it tells me there was a discussion between RC and Invesco that mentioned the trust.

I'd have expected that discussion to result in RC being told what form he should fill out to set up the account needed for the trust's investment. The fact RC then went on to fill out an application for a joint account suggests he wasn't given the correct information.

In any case, it should have been clear to Invesco that a joint account didn't quite match with what RC had said in the cover letter. That should have prompted them to go back to him and suggest he use a trust account instead. Had that been done, I'm satisfied RC would have completed an application to set up the trust account back in 2005.

That would have meant Invesco wouldn't have needed the trust deed or confirmation of the trust's UK tax status later on, as they'd likely have already had it.

There was also a second opportunity for Invesco to see – before 2020 – that a joint account wasn't quite right here. Mr C's letter in 2019 was clear enough about this being a trust owned investment. I'd have expected Invesco to have realised at that point that they needed more details about the trust.

If they'd got those details in either 2005 or 2019, some of the delay in 2020 need not have happened. So I find some of the delay here does follow from Invesco's failings.

With that said, the time taken to get AML information from PC doesn't seem to be due to a failing by Invesco. I haven't seen the request Invesco referred to from October 2019 – I understand they no longer have a copy. But taking it as they've said – which is after all consistent with having asked Mr C for AML details in April 2019 – Invesco aren't responsible for PC not then providing the details.

That meant a further request was needed in 2020. The time taken to get that information – up to 3 July 2020 – wasn't therefore a delay that follows from a failing by Invesco.

After that point though, it appears the delays were down to needing information about the trust. As I've found Invesco should have seen the trust's involvement much earlier, I find it was unreasonable they didn't already have that information. So the delay from 3 July onwards is for Invesco to put right.

I asked last time for an explanation for why the trust's money couldn't be paid directly to its building society account. I've not had anything further on this point. But I can't see a mistake by Invesco created the need to use a cheque instead. So although it probably took longer to send the cheque, Invesco don't need to do anything to remedy that delay.

That pushes the 3 July date on by a couple of weeks, to reflect the time a cheque would have taken to issue and send. I'm currently of the view mid-July – 15 July, rather than mid-September – should have been when the trustees received the money. That means there was a two-month period where the trust was unreasonably without its money.

Putting things right

When he brought the complaint to us, Mr C felt the delays withdrawing the money had kept the trust from making gains in the rising market of mid-to-late 2020. I agree the remedy to this case should acknowledge that the trustees could have reinvested the trust's money sooner, if Invesco had given it to them sooner.

It's difficult to say exactly what the trustees would have chosen to invest in if they'd had the money two months earlier. But I feel it's fair to say the trust was aiming for capital growth, and the trustees were willing to accept some risk to achieve that.

The FTSE UK Private Investors Income total return index is a mix of diversified indices representing different asset classes, mainly UK equities and government bonds. It would be a fair measure for someone who was prepared to take some risk to get a higher return.

Although it's called an income index, the mix and diversification provided within the index is close enough to allow me to use it as a reasonable measure of comparison given the trust's circumstances and risk attitude.

So I've decided Invesco should work out what the money would have achieved if invested in this index from mid-July to mid-September 2020. If the trust would have lost money, then Invesco won't need to pay any compensation. But if the trust would have increased in value during this period, Invesco should compensate the trust for that lost gain.

Any gain would then have been available to the trustees to invest – in line with the rest of the trust funds – from mid-September.

Mr C has explained that once the money was received in mid-September 2020, the trustees chose to keep it in the building society account they had in the trust's name. So compensation of the lost gain should factor that in. Once Mr C has shown Invesco what the building society account returned from mid-September – presumably some rate of interest – Invesco should apply that to any compensation being paid for the lost investment gain.

I've thought as well about non-financial impacts. I can see Mr C spent time and effort on the phone and in writing trying to sort out the problems with the investment account. Mr C's also mentioned how the trustees felt insulted by Invesco's suggestion that RC hadn't set up the investment properly.

I'm currently of the view this effort – and certainly the upset caused – would have been less if Invesco's service had been reasonable. So to acknowledge that, I've decided compensation should be paid directly to Mr C.

Picking an amount is a matter of opinion. But here I've found the issues added about two months to something that would still have taken four months if Invesco had acted more reasonably. And some time and effort would have been usual for the trustees to discharge their duties properly. But I agree with Mr C that some of what Invesco were telling him wasn't clear. That would have added to the frustration he had in this matter.

With that said – as much as I'm able to comment on it as a complaint in its own right – I actually find Invesco's complaint handling was alright. Their letter in August 2020 was particularly useful for understanding what the problems were here. And it made Invesco's position clear – even though I disagree with some of that position.

That all leads me towards a modest figure for the compensation here – £100. I intend this to acknowledge that extra time and effort was needed, rather than compensating for the effort involved more generally in being a trustee.

My final decision

I've decided to uphold Mr C's complaint about Invesco Fund Managers Limited. If Mr C accepts this decision, Invesco must do the following to put things right:

- Work out what the trust's money would have achieved if invested in the FTSE UK Private Investors Income total return index from 15 July to 14 September 2020.

- Pay any gain in value to the trust, along with what Mr C can show that gain would have achieved if held in the trust's building society account from 15 September to the date it's paid.

- Pay Mr C personally £100 to acknowledge the added upset and inconvenience he's been caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr C and Mr C of the C Trust to accept or reject my decision before 25 November 2022.

Paul Mellor
Ombudsman