

The complaint

Mr and Mrs H have complained about the time it has taken, and the treatment they have received from ITI Capital Limited ('ITI') when their accounts were migrated over from a previous firm. ITI didn't respond to their request to transfer their accounts after they had problems accessing them.

What happened

Mr and Mrs H held three accounts – a joint general trading account and a stocks and shares ISA each. The accounts were held with a previous firm that had gone into administration and were transferred over to ITI in July 2020. Mr and Mrs H struggled to access their accounts which they understood they should have been able to 23 July and as a consequence requested the accounts be transferred to another platform on 28 July 2020.

On 25 July 2020 Mr and Mrs H had already raised a complaint with ITI and which they brought to this service.

To resolve their complaint Mr and Mrs H wanted their holdings and cash transferred to the recipient platform, £500 for the poor service as well as being made good on lost opportunities due to the lack of access to their accounts and the delays in the transfers to the new platform.

In the meantime, ITI issued its final response to Mr and Mrs H's complaint. It said;

- It accepted the timeframes within which it communicated with Mr and Mrs H were unreasonably delayed.
- The delays in processing the transfer request was unacceptable and the service offered fell short of the standards ITI sought to deliver.
- It said it had experienced a high volume of transfer requests and since the initial delay with Mr and Mrs H's transfer request, it was to be finalised shortly.
- It offered £75 for inconvenience and/or distress that had been caused to Mr and Mrs H.

Our investigator who considered the complaint said the following;

- ITI had provided a poor service to Mr and Mrs H after they first made their transfer request as well as a failure to respond to a number attempts at contact until the transfer of all shares and funds to the recipient provider was completed in July 2021.
- While Mr and Mrs H had sold one of their holdings without suffering a loss, their intention had been to transfer the remaining holdings and Mr and Mrs H would have been caused inconvenience and worry by the delays in the transfer and ITI should pay £250 in recognition of this.

- Mr and Mrs H had been denied access to their cash of around £930 and they had wanted to invest those funds with the new provider but had missed out on the opportunity to do so. However, the investigator didn't have any evidence of the timing of the course of action Mr and Mrs H intended but thought they should be paid a further £100 to reflect their inability access to their cash.
- The investigator thought it was clear Mr and Mrs H requested their cash on the first date they should have been able to access their account on 24 July 2020, so around five days later, 31 July 2020, but the cash was actually received between 7 January 2021 and 13 July 2021. So ITI should pay interest at a rate of 8% from the 31 July 2020 to the dates the cash was received.
- Mr and Mrs H did sell their shareholdings at no charge as soon as they were received by the recipient platform but Mr and Mrs H wanted to avoid paying trading fees with ITI so the investigator didn't think there was a specific moment for the investigator to consider a loss.
- In total ITI should pay £350 – £275 on top of the original offer made plus the interest detailed above.

In response Mr and Mrs H accepted the settlement the investigator was proposing wasn't what they had wanted but understood it was within the Financial Ombudsman's guidelines. They did say ITI had advised them that doing any trades would delay the transfer process and that point didn't appear to have been covered off in the settlement recommended.

The investigator clarified the Financial Ombudsman's approach and she appreciated that Mr and Mrs H had a conversation with ITI about trading, but ITI offered an execution only service and it would have been their decision to trade.

As the complaint couldn't be resolved, it was passed to me for a decision. I issued my provisional decision explaining that I intended upholding the complaint, albeit with some alterations to the redress, but I asked both parties to give me anything that they wanted me to consider before I issued my final decision. Here's what I said;

"I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

After doing so, I provisionally broadly agree with the conclusion reached by the investigator and I'm going to uphold the complaint. I don't think ITI has behaved reasonably and I think the £350 compensation awarded by the investigator is fair and reasonable but I'm proposing an amendment to the dates of the application of interest to cash transfers.

I very much recognise Mr and Mrs H's strength of feeling about their complaint. It's very clear they have been extremely frustrated and stressed by the process. I've considered the submissions they have made very carefully.

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.

Delays in the transfer of accounts

It's clear that Mr and Mrs H wanted to transfer their accounts as soon as they were trying to access them in July 2020 – without success. I'm satisfied that their email of

28 July 2020 to '*transfer our accounts...*' was evidence of that. And in response ITI gave Mr and Mrs H the email address for the transfer team where I see they also sent a further request.

In a belated response from ITI to the investigator's assessment, ITI said that Mr and Mrs H had never submitted a cash withdrawal request. But I am satisfied that the request to '*transfer our accounts...*' would reasonably mean the inclusion of any cash on account. And if additional cash withdrawal requests were needed, I would have expected ITI to have brought this to the attention of Mr and Mrs H at the time they requested their accounts be transferred.

For the three accounts the position is;

- For the joint account there were three shareholdings. One of which was sold, and another was to be donated to charity. I understand those shares are still held by ITI. The third holding was eventually transferred to the new provider on 16 December 2020, nearly five months after it was requested.
- For Mr H's ISA account, he held two shareholdings. One of which was sold, and the other holding was transferred to the new provider on 23 March 2021, nearly eight months later.
- For Mrs H's ISA account, she only had one shareholding which was sold and the cash for which was received by the new provider on 13 April 2021, over eight months later.

For all of the accounts, the transfers of the shareholdings took a lot longer than I would expect and particularly for the stocks and share ISA accounts where HMRC guidelines are that transfers should take no longer than 30 days. I think it's clear that Mr and Mrs H were inconvenienced and frustrated by these delays. They couldn't access their accounts to carry out the trades they eventually did with the new provider once shareholdings and cash was received.

I don't know the size of the client base that ITI took over from the previous provider that went into administration. But I think it's likely that the new additional accounts and investments will have had an impact on ITI's capacity and ability to deal with new customers and increased requests. And it seems evident there were some IT issues. These points have been acknowledged by ITI in its final response to Mr and Mrs H.

That being said, it's clear Mr and Mrs H have had a very difficult time during process and I'm sure were frustrated by the whole affair. The investigator acknowledged this, by increasing the award offered by ITI from £75 to £250.

Mr and Mrs H had wanted more but in response to the investigator's opinion, they acknowledged this was within the guidelines of awards made by the Financial Ombudsman. And I agree with the investigator that an increase to £250 is a fairer reflection of the upset and inconvenience caused to Mr and Mrs H in the delays they experienced in transferring their accounts.

Lost investment opportunity

Mr H told us of the investments the shareholdings and funds received were subsequently invested into and their plans for the remaining cash due to be received.

I understand Mr and Mrs H should have been able to access their accounts on 23 July 2020. As a result of their frustrations in obtaining access to their accounts they requested they be transferred to another platform that they already held accounts with. Trades were free with their other platform provider and they thought that as the transfer would be quick, they would wait until they were with the other provider before they sold and reinvested into unit trusts.

They said they were also told by ITI that if they were to sell and reinvest any shares on ITI's platform this would delay the transfer and I think that as they did make those sales upon transfer, is likely evidence of their intentions. They requested that any lost opportunity should be made good.

Mr and Mrs H have sent us details of the trades with their new provider. And I can see for each of their accounts when either a shareholding was received it was sold shortly afterwards and reinvested into collective investments. And cash was also invested shortly after receipt.

I appreciate Mr and Mrs H's comments that they were told by ITI that selling and reinvesting would delay any transfers and their subsequent actions would suggest this is what they wanted to do. But for me to make an award of an investment loss, I would have to be given evidence of a firm request to trade and that that request wasn't carried out and as a result Mr and Mrs H suffered a financial loss. And I don't have that evidence in this case so make no award.

Cash balances to be transferred from ITI to the new platform

Mr and Mrs H told us that they originally tried to transfer all three of their accounts away from the previous firm that had gone into administration in July 2019 which resulted in them not being able to make the transfer. Hence Mr and Mrs H had to wait until July 2020 when their accounts were transferred to ITI before they could take any further action.

Mr and Mrs H told us that when they originally requested the transfers of their accounts in July 2019 with the previous failed provider, the cash held on those accounts was £20 for the joint account, £106.54 for Mr H's ISA and £545.85 for Mrs H's ISA.

Mr and Mrs H have questioned the difference in those amounts and the amount of cash their new provider did actually receive from ITI. From what I have seen the cash transferred from ITI was £169.91 for the joint account, £165.10 and £42.08 for Mr H's ISA and £552.60 for Mrs H's ISA.

We asked ITI for statements for all three accounts since the transfer in from the failed firm and have forwarded these onto Mr and Mrs H for their reconciliation.

Clearly I can't know what happened to the accounts – and the cash held – when they were with the previous failed provider (and we did ask ITI if they could provide any details but understandably it couldn't) but from the statements we've been given by ITI, I'm satisfied all of the cash accounts have been correctly reconciled.

Putting things right

In the investigator's opinion letter, she referred to Mr and Mrs H as being denied access to funds of around £930 and that they should be awarded £100. In a belated

response to the investigator ITI said Mr and Mrs H never had a cash value of approximately £930.

I've reviewed the statements provided by ITI and can see the cash balances transferred over from the previous broker on 22 June 2020 – these were Mr H's ISA (account number ending 7076) £91.26, Mrs H's ISA (account number ending 7078) £545.85 and the joint account (account number ending 6767) £93.75 – so a total of £730.86 rather than £930 as thought by the investigator. But I don't see any reason to think the total award of £350 shouldn't still stand for the overall frustration and inconvenience Mr and Mrs H experienced.

And Mr and Mrs H weren't able to use cash as they wished to during this time so the investigator thought interest should be paid from 31 July 2020 to the date of transfer. However, ITI's own guidelines for a transfer request are two business days after the request was made. And in this case I'm satisfied it was Mr and Mrs H's intention and instruction to transfer their shares and cash on 28 July 2020. So, the cash should have been transferred on 30 July to the new platform provider which didn't happen.

So, for the cash already held on account at the point of the transfer request interest should be applied at a rate of 8% simple from two days after the request – so 30 July 2020 until the date of transfer to the new provider.

And for any cash received on Mr and Mrs H's ITI subsequent to that – dividend payments as examples – then 8% simple interest should be applied to those respective amounts from two days after receipt to the dates of transfer to the new provider.

As mentioned above, ITI still holds one shareholding on the joint account which I understand Mr and Mrs H wanted to transfer to charity. ITI should engage with Mr and Mrs H arrange for that transfer or an alternative if that is not possible."

In response to my provisional decision Mr and Mrs H said while I did not propose the full amount of compensation they would have anticipated, they understood what I had proposed was within the Financial Ombudsman's guidelines.

However, they did comment that ITI had caused delay during the complaint process and questioned whether there should be additional compensation for this and on any delay in ITI paying the compensation itself.

ITI didn't reply.

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.

Mr and Mrs H accepted the compensation that I had proposed with the exception of querying whether they were due more because of delays caused by ITI during the complaint process.

However, complaint handling is not something I can consider because of the rules this service operates within. These rules, known as DISP rules are laid down by the Financial Conduct Authority ('FCA'). They aren't optional – we must abide by them.

The relevant rule here is DISP 2.3.1. which states that we can only look at 'regulated activities'. DISP 2.3.1. lists examples of regulated activities but complaint handling isn't listed

as a regulated activity. So, Mr and Mrs H's comment about the handling of their complaint isn't something I can address as complaint handling is not something that I can consider.

Mr and Mrs H were also concerned about any delay in ITI paying them the compensation, and I have addressed to this below.

Other than what I have addressed above, neither ITI or Mr and Mrs H have given me anything further consider, so I see no reason the depart from my provisional decision. I confirm those findings and reiterate how ITI should put things right.

Putting things right

To put things right ITI should;

- Pay Mr and Mrs H £350 for the overall frustration and inconvenience they experienced.
- Interest at a rate of 8% simple per year should be applied to the cash payment that should have been made on 30 July 2020 to the date of transfer to the new provider and also on any cash subsequently received by ITI from two days after receipt to the date of the transfer to the new provider.
- ITI should engage with Mr and Mrs H about the shareholding to be transferred to charity.

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

My final decision

For the reasons given above, I uphold Mr and Mrs H's complaint and ITI Capital Limited should put things right by doing what I have said above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H and Mr H to accept or reject my decision before 1 December 2022.

Catherine Langley
Ombudsman