

The complaint

Mr D has complained about the delays he has experienced in trying to arrange for his account to be transferred away from ITI Capital Limited ('ITI') after his account was migrated over from a previous firm. There was no audit trail to verify his cash balance and his shareholdings and cash balance were often shown on his account as doubled up. Mr D says he lost the opportunity to take part in a rights issue for one of his shareholdings.

What happened

In June 2020 Mr D's share account, which he held with a previous firm that had gone into administration, was transferred over to ITI. Mr D didn't want to hold his account with ITI. He wanted to transfer his shareholdings and cash to another platform.

The transfer was delayed, and Mr D complained to ITI on 9 October 2020. Mr D didn't receive a reply from ITI so brought his complaint to the Financial Ombudsman. He asked whose responsibility it was to deliver a fine to ITI. He wanted this service to conduct an internal review of ITI. He said on the balance of probabilities he had suffered a financial loss and sought compensation. Mr D hadn't been able to access his account or trade, there was no audit trail, and ITI still retained two of his shareholdings.

In the meantime, ITI responded to Mr D's complaint. Briefly, it said;

- The delay in fully completing Mr D's transfer request was unacceptable and the timeframes within which communications were responded to were subject to unreasonable delays.
- After delays caused by ITI, and the new platform provider, all but two of Mr D's shareholdings were transferred on 12 February 2021.
- At that time the two shareholdings that remained with ITI were in certificated form and as ITI staff were working remotely because of the pandemic they couldn't be transferred.
- Mr D's cash transfer withdrawal of £261.71 had been processed and it provided a statement of account.
- The delays were caused by a high number of transfer requests, but it recognised Mr D was subject to unnecessary delays.
- It offered £225 for the inconvenience and/or distress caused.

Mr D wasn't satisfied with the response.

ITI didn't provide the Financial Ombudsman with its complaint file. Our investigator considered the complaint in the absence of any information from ITI. She thought the complaint should be upheld and said;

- Mr D told us he complied with all the transfer requirements but not all his shareholdings were transferred, he hadn't had access to his account and there was no audit trail for the UK cash balance.

- The investigator proposed that ITI provide a breakdown of the cash held on the account, provide instruction to Mr D detailing how he can access his account online and make arrangements to transfer the residual holdings and explain why not if it wasn't possible.
- Mr D had been inconvenienced and at that time the investigator didn't know if Mr D had received a response to his complaint he made to ITI on 9 October 2020. In recognition of all the above Mr D should be awarded £300.

Mr D wasn't happy with the proposed outcome. He wanted the Financial Ombudsman to fine ITI and he wanted more compensation.

As the complaint couldn't be resolved, it was passed to me for a decision. I issued my provisional decision explaining that I intended on upholding the complaint but with potentially 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 agree with the conclusion reached by the investigator and I'm going to uphold the complaint. I don't think ITI has behaved reasonably however I think the £300 compensation recommended is broadly fair and reasonable. And ITI has agreed to this. But provisionally, I also think ITI should pay some additional interest to Mr D.

I very much recognise Mr D's strength of feeling about his complaint. It's very clear he is, and has been, extremely frustrated by the process. I've considered the submissions he has made very carefully. And I hope he won't think I am being discourteous by not addressing all of the points he has made in any great detail. I've kept my focus in this decision on the core matters to the complaint.

In provisionally 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.

Since the case has been passed to me, we asked ITI for information about the complaint. It provided an account statement (albeit not showing the two certificated holdings referred to below) that I forward onto Mr D along with this decision which I hope he will find useful and helps him reconcile his account. ITI also agreed to pay the requested redress of £300 as recommended by the investigator.

Mr D told us he had been attempting to transfer his account to another broker from August 2020. I can see that ITI responded to Mr D's transfer request on 14 September 2020. It said that his account status had been changed to 'Closure' and that he would need to login to his account and complete closure/withdrawal forms and provide his bank details.

The statement of Mr D's account shows that the majority of his shareholdings weren't transferred to his new broker until 18 January 2021. Five more shareholdings were later transferred with the last one being 12 February 2021. So around four and a half months since ITI confirmed Mr D's transfer instruction to him which was too long. ITI acknowledged this in its response to Mr D's complaint.

ITI confirmed to us that Mr D's trading account was closed but it still held two shareholdings in Mr D's account – 35 M&G shares and five NedBank Group shares.

In its response to Mr D's complaint it said the transfer for these was delayed during the pandemic as they were in certificated form and needed to be manually transferred. At the time ITI staff were working remotely and didn't have physical access to the holdings.

We referred back to ITI about this and were told it would be checking with its back office but assumed that the holdings were not accepted by Mr D's new platform provider. It said it would get back to us, but we didn't hear anything further. ITI should now either arrange for the transfer to the new provider of these two holdings, or if they are not accepted by the new provider, it should revert back to Mr D about what options are available to him and what action he would like taken with them.

ITI also told us that it had residual dividends on his account (not showing on the statement it provided) which it said should be transferred to Mr D's new broker as 'residuals'. We asked it to confirm whether this sum of £41.54 had been transferred but we didn't hear back prior to this final decision. If it hasn't done so already, ITI should make the payment to Mr D's new platform provider and send Mr D a statement showing how the sum is made up.

Mr D has referred to his Whitbread PLC shareholding which had a rights issue he says he wasn't able to take part in because of ITI. Mr D wants financial compensation for his loss of rights. The last rights issue for Whitbread PLC I can see took place in 2020. For every two existing Ordinary Shares qualifying shareholders who held shares at close of business on 19 May 2020 could subscribe for an extra one New Ordinary share at a price of 1,500 pence per share. However, ITI didn't become the custodian of the shareholding until 22 June 2020 so I can't conclude that it was responsible if Mr D wasn't able to take part in the rights issue.

Mr D has told us that on the balance of probabilities he has suffered a financial loss. But for me to make such an award I would need to see that Mr D had tried to place a trade but was prevented from doing so by ITI and which caused him to suffer a loss. I know Mr D has told us he couldn't access his account, but I haven't seen anything to make me conclude that he attempted to place an actual trade with ITI and ITI failed to carry out that trade or was told he couldn't trade. And as I've said, in the absence of such evidence I can't make an award for an actual financial loss.

I don't know the size of the client base that ITI took over from the previous provider that went into administration. But and as already acknowledged by ITI, I think it's likely that the new additional accounts and investments will inevitably 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.

That being said, I think Mr D should receive a payment for the considerable frustration he has been caused during the transfer process. I've carefully considered Mr D's points and I am aware he feels strongly about his complaint. But I have also borne in mind our long-standing approach awards for distress caused. ITI initially offered £225 but taking all of the above into account, I think the £300 as recommended by the investigator is a fairer reflection of the distress and inconvenience caused to Mr D. And ITI has agreed to this.

Mr D was unable to use the money on his account as he wished during this time from the date he made the transfer instruction to ITI to the date(s) of transfer of the cash held on account. I think it's fair that ITI pays simple interest at the rate of 8% per year on cash from the date Mr D should have been able to transfer the funds to the date

they were received by the new platform provider. I think it reasonable that it should be recognised that Mr D was out of pocket during that time.

ITI's own guidelines are that cash transfer requests should proceed in two working days after that request has been made. I'm not aware of the actual date of the instruction Mr D gave to ITI but ITI should pay interest on the cash that should have been transferred two days after Mr D gave that instruction to the date it was received by the new platform provider. The interest rate that should apply is 8% simple.

And Mr D has also been out of pocket for dividends and any other cash received by ITI after his initial transfer request. So again, 8% simple interest should be added to those sums from two days after they were received by ITI until the dates they were paid to the new platform provider.

Overall, ITI should pay to Mr D;

- £300 for all the delays as well as the frustration and inconvenience Mr D was caused.
- 8% simple interest per year, on the amounts in cash transferred from ITI to the new platform provider from two days after Mr D's instruction.
- 8% simple interest per year, on any subsequent cash received, from two days after that was received by ITI and until it was transferred to the new platform provider.

I am aware that Mr D would like for the Financial Ombudsman to fine ITI. But that is the role of the regulator, the Financial Conduct Authority. We don't fine or punish businesses. We resolve complaints on an individual basis in the particular circumstances of a complaint brought by a consumer against a financial business.

I should like to apologise to Mr D for the time it has taken for a decision to be issued on his case. Understandably he has been anxious to reach a resolution and I appreciate the time this has taken.

No doubt Mr D won't be happy that I haven't increased the award for the distress and inconvenience he has been caused, but I hope I have been able to explain to him how and why I have reached the provisional decision that I have done."

I made further contact with Mr D as I wanted to reconsider how I could more accurately put things right with regard to the 8% interest I provisionally thought he should be paid on any delayed cash transfer. So, I asked if he had taken any action with that money or had intended to.

Mr D didn't provide any details of what he had done with the funds but did say that the shareholdings were still missing.

ITI didn't respond to the 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.

ITI hasn't given me anything further to consider.

Mr D hasn't given me any reason to think he was looking to do something with the funds. If he had been waiting for those funds for a specific purpose such as reinvesting it or needing it for another purpose as examples, and he had lost out because of the delays, then paying interest might be more appropriate in those circumstances.

But in this case, upon reconsideration, I haven't been given anything to suggest that Mr D was out of pocket because of the delays in the cash transfers. He hasn't told me of any action he wanted to take with the funds or that he missed out on taking any action because of the delays. So, and in the individual circumstances of this complaint, I am not awarding 8% simple interest per year on the cash sums transferred.

Other than this alteration to the redress, I reiterate the findings I reached in my provisional decision.

Putting things right

Overall, ITI should pay Mr D £300 for all the delays as well as the frustration and inconvenience Mr D was caused.

If it hasn't already done so ITI should now either arrange for the transfer to the new provider of the two missing shareholdings referred to above, or if those shareholdings are not accepted by the new provider, it should revert back to Mr D about what options are available to him and what action he would like taken with them.

And again, if it hasn't already done so, ITI should make payment to Mr D's new platform provider of any residual cash on account and send Mr D a statement showing how the sum is made up.

If ITI Capital Limited doesn't pay the above sums to Mr D within one month of ITI Capital Limited being notified of Mr D's acceptance of this decision, then ITI Capital Limited should pay Mr D 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 D the outstanding sums.

My final decision

For the reasons I have given, I uphold Mr D's complaint about the service he has received from ITI Capital Limited.

If it hasn't already done so, ITI Capital Limited should make arrangements for the transfer of the two shareholdings and payment of any residual cash as outlined above. And ITI Capital Limited should pay £300 to Mr D for the trouble and upset he has been caused.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr D to accept or reject my decision before 29 December 2022.

Catherine Langley
Ombudsman