

The complaint

Mrs P has complained about the problems she experienced when trying to access her ISA account which had been transferred to ITI Capital Limited ('ITI') from a previous business. Mrs P experienced delays and frustration in trying to transfer her ISA account away from ITI to another platform provider. Mrs P has also complained about ITI's failure to address her complaint.

What happened

Mrs P had an ISA account which was held with a previous firm that had gone into administration and was transferred over to ITI in July 2020.

ITI emailed Mrs P on 13 July 2020 and explained that she should be able to access her ITI account using temporary login details which would be issued to her. Mrs P experienced problems accessing her account/changing her password and in August 2020 decided to transfer it to another platform provider which I shall refer to as 'Company B' in my decision.

Company B informed ITI of the transfer request on 5 August 2020 and ITI confirmed to Mrs P receipt of the transfer request from Company B on 8 September 2020. It explained what would happen – Company B would agree to the transfer and confirm this with ITI, ITI and Company B would agree transfer dates and ITI would deliver the holdings to Company B. It said it would respond to all requests or agreements with Company B within 24 hours.

Mrs P experienced delays during the transfer of her account and it wasn't until 23 November 2020 that the last of her shareholdings was transferred and 27 January 2021 that Company B confirmed receipt of the final cash transfer from ITI.

Mrs P complained to ITI on 5 September 2020 and at the time of bringing her complaint to the Financial Ombudsman in May 2022, hadn't received any response. It did however email her as it had not responded within eight weeks to her complaint as it should have done. In August/September 2021 it said would be paying Mrs P £50 for this delay over and above any compensation that may be paid.

To put the matter right Mrs P would like for ITI to pay her the £50 it promised in its emails of 12 August and 20 September 2021, pay compensation for the upset and inconvenience she has been caused and provide her with a proper closing statement of her ISA account.

Our investigator who considered Mrs P's complaint thought that it should be upheld. He said;

- He couldn't consider anything prior to Mrs P's account being transferred to ITI. ITI wasn't responsible for anything before then.
- Mrs P had been sent her account login details by email and she wasn't satisfied this was secure. But he couldn't see that Mrs P had been adversely affected by this or that it had formed part of a data breach.
- He acknowledged that Mrs P did experience problems accessing her account and when she asked for support from ITI wasn't responded to quickly. Overall Mrs P

didn't receive good customer service while she was with ITI – from July 2020 to when she raised her complaint in September. This caused her an unacceptable level of distress and inconvenience.

- Mrs P's account was being transferred in specie but there shouldn't have been any reason it couldn't be completed within the 30-day HMRC guidelines.
- ITI was trying to transfer accounts in bulk, no doubt in an effort to be more efficient but took longer. Company B tried to chase for the transfer, but it took nearly 14 weeks for the shares to be transferred and the final cash payment – which was a Euro transfer to Sterling – took five months which was a long time.
- Mrs P's concerns weren't responded to and the level of involvement from Company B and Mrs P in chasing ITI was significant and would have been an inconvenience to her.
- He recommended that Mrs P be paid £250 for the distress and inconvenience she had been caused as well as 8% interest on the cash that was transferred on 27 January 2021. And if ITI hadn't already done so, it should send Mrs P a statement of account.

In response to the investigator Mrs P was pleased that it was upheld but said;

- She was disappointed with the level of compensation for distress and inconvenience especially if the £250 included the £50 already promised by ITI.
- She referred to other decisions on our website and the awards we give.
- She explained that she continued to have problems changing her password on the account once she had logged into it.
- She asked for her complaint to be considered by an ombudsman.

Our investigator summarised for Mrs P why he had reached the distress and inconvenience figure that he did;

- Mrs P's account remained in specie – she was never out of the market and could have traded if she had wanted to.
- The in-bulk transfer meant that an overall agreed timetable was worked to rather than on an individual basis.
- ITI couldn't be held responsible for the impact of the previous business going into administration.
- Each case brought to the Financial Ombudsman was considered on its own merits. And this service couldn't look into complaints about complaint handling.

Mrs P still remained unhappy;

- She detailed the timeline of the ISA transfer plus her own and Company B's involvement in that.
- She didn't think the investigator had taken into account the wasted time and frustration she had experienced in ITI failing to respond to her complaint before June 2021.
- She wanted clarification of whether the £250 recommended by the investigator included the £50 promised by ITI which was for ITI's failure in responding to her complaint.

The investigator responded to the points raised by Mrs P and confirmed that the £250 included the £50 already offered by ITI. Mrs P's comments didn't cause the investigator to change his mind.

ITI agreed with the investigator and calculated the interest payment of £7.27, so a total of £257.27.

Mrs P provided a final submission for my consideration and that she would accept an offer by ITI of £500. She reiterated her complaint points and said;

- During an in specie transfer she said she was 'out of the market during the transfer period, being unable to trade and without access to their cash funds'. Shareholdings are in limbo between the two platforms.
- ITI ignored standard timeframes relating to transfers.
- She was told by ITI the award of £50 was for a breach of its regulatory obligation and separate from any other awards.
- Mrs P referred to other distress and inconvenience awards given in similar circumstances, information about assessing complaints on our website regarding the time and effort it had taken her to try and resolve her complaint and a forum she had been using.

The investigator put the Mrs P's suggested offer of settlement to ITI but didn't receive a response.

As the complaint remained unresolved, it was passed to me for a decision. I issued my provisional decision explaining that I intended on upholding the complaint but with potentially a different conclusion as to how the matter should be put right. 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 broadly agree with the conclusion reached by the investigator and provisionally I'm going to uphold the complaint. I don't think ITI has behaved reasonably however I think the £250 compensation recommended is broadly fair and reasonable, but I comment on this further in my decision.

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

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.

I should also clarify that in this decision I cannot comment on Mrs P's account prior to its transfer to ITI by the joint administrator after the previous business went into administration. I will only be considering ITI's actions.

The ISA transfer

As outlined above, Mrs P instructed Company B to transfer her ISA away from ITI on 5 August 2020 and Company B instructed ITI on the same day. However, the transfer of the last of the shareholdings wasn't completed until 23 November 2020 and the final cash transfer wasn't completed until 27 January 2021.

HMRC guidelines are that a stocks and shares ISA transfer should complete within 30 days and clearly that didn't happen here.

Mrs P has said she wasn't able to trade or access her cash during the in-specie transfer. But I haven't seen any evidence of specific trades Mrs P wished to make or any other actions she wanted to carry out but was stopped from doing so by actions or omissions of ITI.

I don't think it would be fair and reasonable for me to make an award for Mrs P's assertion that she couldn't trade when I haven't seen any evidence that this was something she tried to do but was prevented from doing so. But I do appreciate though the delays she experienced must have been very frustrating for her and no doubt she was caused worry while her shareholdings were 'in limbo'.

The cash transfers

However, I do think Mrs P should be awarded interest for the time she was out of pocket for the cash on account. ITI's own guidelines are that cash payments should be made within two days of request. Mrs P requested the transfer on 5 August 2020, but I see that the first transfer of cash wasn't made until 15 October 2020 and the second and final transfer on 26 January 2021.

Mrs P should receive interest at a rate of 8% simple from two days after her initial request – so 7 August 2020 – to the date the cash sums were transferred to Company B – 15 October 2020 and 26 January 2021.

For the sums that were credited to Mrs P's ITI account after the main cash transfer date of 15 October 2020 – the dividends – and later paid to Company B, interest at the same rate should be applied to those amounts from two days after receipt by ITI to the date of transfer to Company B.

The award for distress and inconvenience

The investigator recommended that ITI pay Mrs P £250 for the distress and inconvenience she had suffered. And he said to Mrs P that it would include the £50 that had previously been offered by ITI in respect of it not responding to her complaint within the regulatory eight-week time limit.

My understanding is that offer, made prior to Mrs P bringing her complaint to the Financial Ombudsman hasn't been paid to her. But that offer of £50 was for the handling of Mrs P's complaint and as explained by the investigator is not something this service can consider. So, it's not right for this service to comment one way or another about that offer as it was awarded by ITI for something I can't consider.

Any award I make is for the complaint as it is put to me, taking into account what I can and can't consider. And as I cannot consider any complaint about complaint handling, I cannot comment on the offer for that aspect of Mrs P's complaint. The award I am provisionally recommending is for the aspects of the complaint that I can consider – the delays and inconvenience etc that Mrs P experienced in her dealings with ITI about her ISA account and its transfer to Company B.

Mrs P referred to other decisions that had been issued by the Financial Ombudsman and the compensation that had been awarded to other complainants in which she thinks are similar circumstances to her. However, I know that Mrs P appreciates that every case is different. And as mentioned above, each case is considered on its own particular merits and in the individual circumstances of that complaint.

I do think Mrs P should receive a payment for the considerable frustration she has been caused during the transfer process. I've carefully considered Mrs P's points and I am aware she feels strongly about her complaint. But I have also borne in mind our long-standing approach awards for distress caused. Taking all of the above into account, I think the £250 as recommended by the investigator is a fair reflection of the distress and inconvenience caused to Mrs P. And ITI has agreed to this.

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.

Company B was also nominee custodians for another financial business which was also receiving transfer out requests from ITI customers. And I note ITI was trying to complete a bulk net transfer for multiple clients, but Company B wasn't able to accept a net valuation from ITI for all of the clients on Company B's list. I do accept that ITI's actions were no doubt an attempt to be more efficient in the transfer process of a large number of requests but this meant that Mrs P didn't receive the individual responses and attention that she should have reasonably expected to receive.

In any relationship between a consumer and a business there are always opportunities for errors or misunderstandings. And it is how a business responds to that that is important and despite Mrs P's evident frustration, I don't think ITI intended to cause this. ITI told us that the reason for the transfer delay was due to the backlog of transfers it had at the time. I think it was working under stretched circumstances which resulted in Mrs P not receiving the timely and efficient service that she should have done.'

In conclusion I said that ITI should pay Mrs P £250 for the delays, frustration and inconvenience she was caused. I also said that Mrs P should receive 8% simple interest per year on the cash transfers that were delayed. And if ITI hadn't already done so, it should provide Mrs P with a statement of her ISA account over the period it was with ITI.

Mrs P responded to my provisional decision by saying she thought the £250 award was too low. She made further points;

- The selection of ITI to manage these accounts – after the previous business went into administration – was questionable. ITI was ill-prepared to administer the number of customers involved.
- Prior to the transfer to ITI customers of the previous failed business hadn't been able to access their account for over ten months. ITI was given some additional time to make arrangement as to its capacity and abilities to deal with the workload. ITI's actions or inactions should be considered in the light of this.
- Mrs P agreed that she had not provided any evidence that she wished to trade during the period her shareholdings were in limbo. Mrs P didn't know how long she would remain in limbo and had no way of knowing when ITI would deal with the transfer of her shareholdings.

- As I couldn't consider the element about the complaint handling, she asked how she could obtain the £50 promised by ITI.
- Mrs P was disgruntled as she couldn't reconcile the award of £250 with other decisions issued against ITI by the Financial Ombudsman. She referred to other examples and that ITI hadn't even responded to her 29 messages and emails.
- Any interest payable on the delayed cash transfers should only run from 3 September 2020.
- She wanted clarification as to whether interest would also be payable on the delay in the dividends being credited to her.
- She wanted to ensure that the direction I gave in my final decision allowed for full details of ITI's calculations of interest to be determined. And, that any compensation should be paid within 28 days of acceptance of the decision.
- ITI should provide a tax deduction certificate if it were to deduct any tax on any interest if paid. She also wanted a specific confirmation that ITI had closed her account and a proper final closing statement.

In the meantime, I made further contact with Mrs P as I wanted to reconsider how I could more accurately put things right with regard to the 8% simple interest I provisionally thought she should be paid on any delayed cash transfer. So, I asked if she had taken any action with that money or had intended to. In her response Mrs P said;

- She hadn't taken any action with her shareholdings or cash during the transfer of her ISA as she didn't want to jeopardise the tax benefits. She hadn't taken any action during the transfer process with previous ISA transfers she had carried out but this one had taken significantly longer. Once the funds were received by Company B most of the funds were invested within a month and she hadn't held a cash balance of anywhere near £4,000 since.
- Mrs P again highlighted the awards this service had made for distress and inconvenience and that if ITI hadn't intending on causing such 'evident frustration' why did it not respond to any of the correspondence she had sent or addressed her complaint. She would have been better off bringing her complaint direct to the Financial Ombudsman rather than her trying to resolve matters with ITI in the first instance.

ITI didn't respond to my 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 for me to consider.

While I appreciate the frustration Mrs P must have experienced during the ten months she couldn't access her account after the previous business had gone into administration but that is not something I can consider in this decision. That was prior to ITI being responsible for Mrs P's account. And also, I can't comment on the decision that was made to select ITI to manage those accounts.

With regard to the £50 already offered by ITI but not yet paid to Mrs P for the lack of response to her complaint, that is something she will have bring up with ITI. It was an award offered by ITI for its lack of dealing with her complaint as it should have done. As it relates to complaint handling it is not something I can comment on.

What I can consider though is how Mrs P was treated after her account was transferred to ITI and if appropriate, how I can put that right.

Mrs P had confirmed that she can't evidence that she tried to take any action with her ISA account during the transfer process but was prevented from doing so by ITI. Mrs P said she hadn't tried to take any action during previous ISA transfers she had carried out, but I fully appreciate the comment Mrs P has made that this transfer took a lot longer than expected.

As mentioned above, I did refer back to Mrs P reconsider how I could more accurately put things right. I wanted to know if she was waiting on the transfer to her new provider to invest the cash and whether the delay had affected her financially.

The main cash transfer was just over £4,500 on 15 October 2020 – some two months after Mrs P's original request. – on 5 August. And the final cash transfer of £230.34 was received on 27 January 2021. Mrs P told us she invested the funds within one month of that final receipt.

While I accept that Mrs P told us she did reinvest the funds received within a month of the receipt of the final cash balance of £234.34 in January 2021, but Mrs P had already been in receipt of the significant majority of her cash - £4,597.40 – from 15 October. So, she held those funds for three months or so prior to investing them in around February 2021 when she could have invested them earlier if she had wanted to.

So, from what I've seen, I don't think there is any evidence that Mrs P formed a firm intention to carry out any particular transactions on her account during the period of ITI's delay. So, I do not think it would be fair or reasonable to make an award for her not having been able to carry out particular trades. Mrs P could have invested the majority of her funds sooner than February 2021 if she had wanted to. So, I haven't seen enough to conclude that it's more likely than not the result would have been trades or changes to her portfolio of a kind from which she would most likely have profited. So, I make no award for interest.

The investigator who considered the complaint recommended that ITI pay Mrs P 8% on the cash transfer of £230.34 – the dividends/Euro conversion to Sterling – from 30 days after the transfer request to the date of receipt. ITI has already agreed to do this so I make no further comment other than as outlined in my provisional decision that the interest ITI has agreed to pay should be calculated from two days after receipt of the transfer request (or two days after receipt of the dividend by ITI, if later) to the date it was received by Company B on 27 January 2021 (not 26 January 2021 as referred to in my provisional decision).

With reference to the award for distress and inconvenience of £250 Mrs P has said that if ITI hadn't intending on causing such 'evident frustration' why did it not address her complaint. However, ITI has already acknowledged that it had not respond within eight weeks to her complaint as it should have done, hence the offer it has already made of £50. But I do appreciate that Mrs P has consistently said that I should make a higher award than £250 and has referred to other final decisions made by the Financial Ombudsman.

I recognise – and don't underestimate – Mrs P's strength of feeling about her complaint. It's very evident how frustrated she was in not being able to log on and how long Mrs P waited to get an answer to be able to access the portal and then not being able to change her password. Plus, the lack of responses from ITI and the delays in getting the shares and cash transferred to her.

Mrs P made her transfer request on 5 August 2020. The majority of her shares (13 out of 16) were transferred on 8 October. This was as a result of a bulk net transfer of around 200

clients which as I've mentioned above was in an attempt by ITI to be more efficient. Two more shares were transferred on 13 October and the final share transfer was on 23 November. ITI has said the delay caused to Mrs P was because of a backlog in transfer requests so I'm satisfied its attempt at the bulk transfer was to improve that backlog albeit not resulting in the more speedy and personalised service Mrs P was due.

The majority of Mrs P's cash was also received around two months after Mrs P's transfer request. So, while the transfer as a whole wasn't completed until early 2021 Mrs P did have control of the majority of her assets with her new provider around two months after her transfer request. But I do recognise that chasing for the remaining cash and shares must have been worrying and frustrating.

And I do accept that Mrs P was also considerably frustrated by other aspects during the transfer and in particular, ITI not responding to her questions and not addressing her complaint as it should have done. However, Mrs P is aware that each complaint is considered on its own merits and taking all of the above into account I remain of the opinion that £250 for the distress and inconvenience caused to Mrs P is the right amount in the particular circumstances of this complaint.

Putting things right

So, to put the matter right, ITI Capital Limited should pay Mrs P £250 for the distress and inconvenience she has been caused. And as already agreed by ITI, it should also pay interest on the final cash payment made to Mrs P – £230.34 – but to be calculated from two days after receipt of the transfer request (or two days after receipt of the dividends by ITI, if later) to the date it was received by Company B on 27 January 2021. ITI should provide details of its calculations as requested by Mrs P.

If ITI Capital Limited doesn't pay Mrs P the sum above within one month of receiving from us notification of Mrs P's acceptance of my decision, ITI Capital Limited should also pay Mrs P simple interest on the sum at the rate of 8% per year from the date of my decision until the date ITI Capital Limited pays my award.

If ITI considers it's required by HM Revenue & Customs to deduct income tax from that interest, it should tell Mrs P. It should also give her a tax deduction certificate if she asks for one, so she can reclaim the tax from HM Revenue & Customs if appropriate.

If it hasn't already done so, ITI should provide Mrs P with a statement of her ISA account covering the period it was with ITI from which she can ascertain the account is closed.

My final decision

For the reasons given above, I uphold the complaint and ITI Capital Limited should put matter right as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P to accept or reject my decision before 13 January 2023.

Catherine Langley
Ombudsman