

The complaint

Mr B through a representative (for ease of reference I'll just refer to Mr B) complains that Embark Services Limited (Embark) has made numerous errors when administering his policy.

What happened

This complaint is related to a previous complaint considered by this service. As part of that complaint Embark made an offer to waive fees of approximately £1,400 and to pay £1,000 for the distress and inconvenience caused. Part of Mr B's ongoing issues with Embark was its failure to pay this £1,000 which it has now apologised for and paid. I cannot consider the late payment of the above as this relates to complaint handling and is not something this service can consider.

Mr B's complaint now is that he wasn't informed that a fund had been suspended when he tried to sell down his assets to transfer away from Embark. The funds were transferred on 27 January 2020, and Embark collected a transfer out fee of £125 before the money was sent to the receiving scheme. Mr B then made enquiries and it became clear one fund had not been sold as the fund had been suspended at the time.

Embark agreed it should've communicated better about this with Mr B but it said it factored this into the compensation previously paid. And it said it had already told Mr B via his financial adviser that the fund had been suspended in December 2019.

However, the ombudsman who made the award on the previous complaint had stated he hadn't considered this as part of his award made in his decision.

So Embark looked into matters again, and it realised it hadn't sent the information to Mr B's financial adviser as it had thought – so it offered £100 for the distress and inconvenience caused. It also offered to refund the transfer out fee of £125. It said in the meantime it would hold the fund without charge and send over the proceeds to the new provider at the earliest opportunity.

Whilst Embark conceded it could have been confirmed to Mr B that the fund couldn't be sold, it still believes Mr B would've gone ahead with the transfer – so it didn't think this had changed his position.

Mr B continued to add complaint points and issues whilst the complaint was with this service as he felt Embark had made further mistakes that either hadn't been previously considered or were new.

Mr B then made further contact with Embark after the fund was unsuspended in May 2021. Embark was unaware of this and believes it hadn't been informed of this fact – but in any event it said it wasn't its role to monitor investments. It said it could only act on Mr B's instruction to sell the fund. However, it had previously led Mr B to believe once the fund was unsuspended it would be sold automatically – when this was in-fact incorrect. It apologised for this and offered an additional £100 for this error. It asked Mr B to complete a further

investment sale instruction. Which he did and the value of which has now been sent to Mr B's provider.

Our investigator looked into matters and felt that Embark's offer had been fair. He agreed that Embark hadn't sufficiently set Mr B's expectations and communicated clearly but he felt the offers made, adequately compensated Mr B for this.

Mr B was unhappy with Embark's answers to his complaint points (plus the time taken) and didn't agree with the investigator that the offers made were fair. I've summarised Mr B's key points relevant to the complaint issues I can consider:

- Embark has underplayed the mistake it made in sending a communication to the wrong business.
- Embark should've been aware of the suspension of the fund as it had been told by another business but it hadn't passed this information onto Mr B as it should've done.
- Mr B wondered what would've happened had he not discovered the fund hadn't been sold.
- Mr B agreed he would've continued with the transfer regardless as he was keen to no longer be a customer of Embark.
- Embark had been told of the unsuspension of the fund but again didn't act or pass this information onto Mr B.

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 need to make it clear at this point I cannot consider anything that was already considered as part of the other complaint referred to in the above section. I can see that Mr B is in part requesting payment for losses/fees referring back to the original complaint but I cannot look into that.

Mr B has raised a number of issues whilst this complaint has been with our service and we've received responses from Embark about this through the journey of the complaint. But for clarity what I've considered in this decision is the issue with the communication around the fund suspension and the issues around the communication of the lifting of that suspension.

Mr B has provided us with some detailed submissions, but I've only summarised the points that I think are key to the relevant complaint issues. I don't mean this as a disservice – I have taken into account everything he has told us. The level of detail I've included in my decision is merely a reflection of the informal nature of this service.

With regards to the transfer of funds and the issues with the communication around the suspension of the fund, it's clear Embark didn't provide a good service. It sent the information to an incorrect party – therefore Mr B didn't receive this information. And when handling his complaint it made further mistakes. It should be noted I cannot consider complaint handling when making an award as it is not a regulated activity.

I've thought about what difference Embark's error made to Mr B and I don't think it changed his position. He has agreed that he would've transferred out in any event. But I appreciate it must have been frustrating for Mr B to have been given wrong information.

Embark also led Mr B to believe that when the fund was unsuspended the transfer of funds

would take place essentially automatically but in fact this was incorrect. The evidence provided by Mr B suggests the fund provider had notified Embark of the unsuspension, but it had previously said it had no record of this. I appreciate it must have been frustrating for Mr B to have again been given wrong information, but I can see the funds have now been sold – so again I don't think this changed his position.

Embark's offer of compensation for its initial error of not communicating the suspension of the fund to Mr B was £100 plus a return of the £125 fee on wind-up of the policy. I think this is fair and reasonable in the circumstances. I appreciate the continuation of service errors was frustrating for Mr B but these were administrative errors that don't appear to have a material impact.

Embark also apologised and offered another £100 for its error regarding the unsuspension of the fund. Again I think this is fair and reasonable – whilst recognising the continued frustration felt by Mr B.

Ultimately, it's clear Embark hasn't always provided a good service to Mr B and he has become increasingly upset with its errors. But I think it's also fair to recognise that Embark over the course of these two complaints have offered to pay out quite a substantial amount of compensation for its service errors. Whilst I appreciate that the continued errors will have caused Mr B a lot of annoyance and frustration, I don't think the material impact of these errors has been significant. Mr B was still able to transfer his funds (bar the suspended fund) which regardless of Embark's communication would've been untransferable at the time in any event. And whilst it didn't communicate well with Mr B around its unsuspension, Mr B was able to transfer the fund despite this.

I appreciate there are other errors that would've added to Mr B's upset that I haven't commented on, such as the late payment of the offer, but as I've explained I cannot consider this as it's not a regulated activity and also relates to the previous decision.

Putting things right

Embark should pay £100 for the distress and inconvenience it caused around the notification of the suspension of the fund. It should also refund the transfer out fee as it offered to do so of £125.

It should also pay £100 for its incorrect communication regarding the unsuspension of the fund.

This brings the total distress and inconvenience here to £200 plus the refund of the transfer fee. For the reasons explained, I think this is fair and reasonable in the circumstances of this complaint.

My final decision

Upon Mr B's acceptance of this decision Embark Services Limited should make payment as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 18 January 2023.

Simon Hollingshead
Ombudsman