

The complaint

Ms K has complained about the lack of action ITI Capital Limited ('ITI') has taken with her holding of Policy Selection Limited Assured Fund GBP 'C' class despite her instruction to redeem her holding.

What happened

In May 2007 Ms K invested £20,000 into the Assured Fund GBP 'C' class which after purchase was initially held in the nominee of a predecessor of ITI. Ms K asked for the investment to be sold in March 2008, but she says her requests were ignored.

Ms K was written to in January 2021 by the fund administrators advising her of the redemption deadline of 31 March 2021. She tried to contact ITI about this but didn't receive any response. She is of the opinion that ITI is fraudulent.

Ms K was told by the fund administrators that it couldn't release any redemption proceeds to ITI because of anti-money laundering regulations. And it said that it was only able to accept redemption instructions from authorised signatories that reflected the investor's name – ITI – as it was held in ITI's nominee.

Ms K complained to ITI but didn't receive any reply so brought her complaint to the Financial Ombudsman Service. Our investigator who considered the complaint thought it should be upheld. He said;

- There was evidence that Ms K had made redemption and transfer requests from 2019.
- ITI hadn't communicated with Ms K as it should have done.
- The process had been distressing for Ms K as she saw the value of her holding decrease and couldn't do anything about it.
- In July 2021 ITI sent notification to Ms K that it would be closing its retail business and that she should close her position or transfer to another broker.
- Ms K was advised by the fund administrator that the holding could be transferred to her name if ITI completed some documentation that it was sent in July 2021. The investigator couldn't see that ITI had contacted the administrator or had any success regarding the re-registration.
- The investigator recommended that ITI pay Ms K £500 for the distress she had been caused by the poor customer service and lack of response over many years. And it should arrange for the re-registration of the holding into Ms K's name.
- If ITI evidenced that re-registration wasn't possible then it should contact the fund manager and obtain a fair value of the holding and which should be paid to Ms K to enable her to close her account and for it to take ownership of the holding.

ITI didn't respond to the investigator. As the complaint remains unresolved, it has been passed to me for a 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.

The investigator explained to Ms K that as she had complained to the Financial Ombudsman in 2017 about redemptions of the fund not being actioned, he could only consider any failure to action her requests after that date. He also couldn't consider any aspects of her complaint prior to six years from when she raised the complaint in April 2021 because of the time limits that apply.

As a background to the investment, my understanding of the Assured Fund is that it invests in life assurance policies. The fund administrator first placed restrictions on redemptions in 2008 after experiencing cash flow problems. Any redemptions would first be made at a discounted net realisable value ('NRV') rather than the usual net asset value ('NAV'). Subsequent to that the life expectancies of those insured by the policies held in this type of fund were assessed to be longer than expected. And in 2011 the UK regulator described traded life policy investments – such as this fund – as 'toxic' and moved to ban their marketing to retail clients. So clearly the fund was problematic from not long after Ms K made her investment.

I can see from the file that Ms K communicated with ITI and the fund managers over several years about redemption of the investment. In 2019 ITI explained that the administrator hadn't made any redemptions since 2009 (the investment manager later confirmed that the fund had moved to redemptions on an NRV basis from 2009 and it had paid redemptions until 2013 but nothing since then) and wasn't able to accept any redemption requests at that time.

I am aware there had been notification that the redemption process of the fund would be completed by the end of August 2019, but I can't see that this happened at that time or subsequently.

In January 2021 the fund manager wrote to all shareholders and advised again that the fund was ready for redemption in March 2021 and that if the investor wished to redeem their position, they should complete the redemption forms. Ms K returned the forms but was told that the investor name – I assume she used her own name – couldn't be identified on its systems. It was in the nominee of ITI and would have been registered as such. Ms K contacted ITI and was told her request was being reviewed by its corporate actions team, but nothing further happened, and the redemption date passed.

Ms K continued to be in contact with ITI about either the redemption or transfer of the holding into her own name. In June 2022 shareholders were advised that distributions couldn't be made pending the Assured Fund receiving a payment that was due but was being held up because of taxation issues.

This suggests to me that the fund is ongoing but illiquid. And the fund manager has confirmed there haven't been any redemptions of the fund since 2013 – and which Ms K is now aware of. So, I'm satisfied ITI can't be held responsible for Ms K not being able to redeem her holding.

But it's also clear there was a lot of correspondence between Ms K and all the parties which no doubt must have been extremely frustrating for her, compounded by the poor communication she received from ITI who should have been her point of contact throughout. The investigator made this clear in his opinion letter and also looked to see if the holding could be transferred into Ms K's name or what other alternatives were available to her.

ITI confirmed with our investigator that because of its status the holding wasn't available for certification or transfer to another broker. But it has now said there's the possibility it could be transferred via a special migration account using a service called 'Fundsettle' and then re-registered into Ms K's name, which I understand is her preference.

We have asked ITI for further clarification about this, but it hasn't responded. However, as ITI is closing its retail business this seems to be the most appropriate resolution. Either that or if it can't be transferred, it can be retained by ITI for it to redeem when possible in exchange for a fair value payment to Ms K.

Overall, I appreciate that it hasn't been possible for Ms K to have redeemed her holding as there hasn't been the opportunity to do so. But like the investigator I do recognise that Ms K has been trying to redeem her holding over several years and has received very little support or explanation from ITI as to why this wasn't successful. To try to resolve her concerns, Ms K was in touch with the fund manager and the fund administrator which she shouldn't have had to have done. Her holding was held within ITI's nominee and it was ITI's responsibility to contact the parties with the redemption requests etc and raise any questions that needed answering on Ms K's behalf.

So, despite the fact I'm satisfied that Ms K couldn't have redeemed her holding in the fund, I agree that ITI hasn't done enough to help Ms K or sufficiently address her queries about the possibility of redemption or re-registration to her name and which now looks like it may be possible. As such, in the individual circumstances of this case I uphold Ms K's complaint and ITI needs to put the matter right.

Putting things right

To put the matter right ITI should;

- Pay Ms K £500 for the distress and inconvenience she has suffered because of the lack of contact by ITI over several years.
- ITI should arrange for the holdings to be re-registered into Ms K's name using Fundsettle as advised by ITI if that is possible.
- If for any reason re-registration isn't possible, ITI should provide evidence that is the case. It should contact the fund manager to establish a fair value which should be agreed with Ms K's and paid to her. Ms K can close her account with ITI. It would be for ITI to redeem the holding when it was possible to do so.

If ITI Capital Limited doesn't pay Ms K the sum above within one month of receiving from us notification of Ms K's acceptance of my decision, ITI Capital Limited should also pay Ms K 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.

My final decision

My final decision is that I uphold Ms K's complaint and ITI Capital Limited should put the matter right as outlined above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms K to accept or reject my decision before 10 March 2023.

Catherine Langley

Ombudsman