

The complaint

Mr S complained about Cater Allen Limited's handling of his application for a bank account for his Small Self-Administered Scheme ("SSAS").

What happened

Mr S is the trustee and administrator of a SSAS. On 20 January 2023 he applied for a SSAS bank account. The application form said Cater Allen will only accept applications from pension schemes with a mandatory professional co-signer. In the section for the professional co-signer, the form said that all applications need to include a professional co-signatory who must act as either sole signatory or joint signatory alongside the trustee. Ticks were made alongside boxes to confirm that the co-signer was a firm authorised and regulated by the Financial Conduct Authority; and a firm of accountants or solicitors within the Institute of Chartered Accountants in England and Wales or Law Society register.

In a later section titled 'Introducer details' the application form asked if the application was being submitted by an Introducer. Mr S answered 'No'.

On 8 February 2023 Cater Allen rejected the application. It said *"we are unable to accept your application as you have applied directly to us. If you were to use an Introducer, we would be able to process your request"*.

Mr S then had a number of telephone conversations with Cater Allen. According to Cater Allen's file notes, on 10 February Mr S queried why an introducer was necessary as he was an existing customer. He also felt the information given was misleading as some of Cater Allen's staff said an introducer wasn't necessary and it wasn't clearly outlined in the application form.

Two calls took place on 13 February 2023 – which I've listened to. In the first call:

- Mr S said nothing in the application form said an introducer was compulsory
- Cater Allen said it had called Mr S the previous week and left a message saying an introducer was required for the account being opened.

In the second call:

- Cater Allen said Mr S needed a pension trustee or administrator
- it then said the information for the account on its website says an introducer is compulsory
- after a bit of discussion Cater Allen then said it thought there was some confusion between an introducer and what it wanted for the account
- it then said it couldn't accept the application without the information it needed as per the website
- Mr S then asked Cater Allen to confirm what it needed for the application and it said it needed a professional trustee or co-signer who holds an existing relationship with Cater Allen.

According to Cater Allen's file notes, it called Mr S on 16 February 2023 and left a message saying that all applications for a SSAS account require a professional co-signatory who must act as either sole signatory or joint signatory alongside the Trustees.

A further call took place on 17 February 2023 – which I've also listened to. During this call Cater Allen confirmed it needed a professional co-signatory.

According to Cater Allen's file notes, during a telephone conversation on 21 February 2023 it told Mr S it required an introducer for pension accounts.

Mr S then submitted a new application. According to Cater Allen's file notes, it received the application on 14 March 2023 and it received further information it needed on 12 April 2023. An email Mr S sent to Cater Allen on 19 April 2023 suggests the main difference between the two applications was that the second one detailed an introducer to prevent delays.

Mr S's complaint is essentially that the information Cater Allen gave him didn't align with what it needed. He felt it unreasonably rejected the first application – which forced him to use an introducer that he didn't need to use. Cater Allen didn't uphold the complaint because the account eligibility criteria – ie the account was available where there is a professional trustee or co-signer who holds an existing relationship with Cater Allen – was outlined on its website. It nevertheless offered Mr S £50 compensation because of the inaccurate information he'd received.

To resolve the matter our investigator felt Cater Allen should increase its compensation to £150. Mr S felt more compensation was justified as Cater Allen had given him incorrect information about needing an introducer.

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.

Information given to Mr S

In my view, Cater Allen's handling of Mr S's first application was chaotic and confused. I'm not persuaded its staff really knew what Mr S needed in order for his application to be accepted. And that led to conflicting and confusing information being given to Mr S (at one time in the same call):

- the application was initially rejected because Mr S hadn't used an introducer
- that was echoed in the message left for Mr S confirming an introducer was required
- Cater Allen then "flip-flopped" its position back and forth:
 - in the second call on 13 February it initially said a pension trustee or administrator was needed; it then said an introducer was needed (as per the information for the account on its website); it then implied that an introducer wasn't needed ie the confusion between an introducer and what it wanted for the account; it then went back to say an introducer was needed (as it couldn't accept the application without the information it needed as per its website); before finally changing position completely by saying it needed a professional trustee or co-signer who had an existing relationship with it
 - the message left on 16 February confirmed a professional co-signatory was needed
 - this was again confirmed in the call on 17 February
 - then on 21 February Cater Allen reverted back to its original position that an introducer was needed.

Given this 'mixed messaging', I conclude that Cater Allen gave Mr S conflicting and confusing information about what was needed.

Cater Allen's requirements and the rejection of the first application

Cater Allen isn't required to accept every application it receives. It's entitled, for example, to set eligibility criteria (eg age, UK residence) for its products. I don't have the power to dictate to Cater Allen what its eligibility criteria should be – that's its own commercial decision. So if, for example, it requires applications to be accompanied by an introducer or a professional trustee or co-signer that's a legitimate commercial decision for it to make and it's not something I will interfere with. But I can look how Cater Allen applied the eligibility criteria and, ultimately, whether it treated Mr S fairly.

Cater Allen told Mr S on different occasions that *an introducer* was needed, *a trustee or administrator* was needed, *a professional trustee/co-signer with an existing relationship with Cater Allen* was needed. I'm not persuaded Cater Allen has sufficiently shown that an introducer was needed. I say this firstly because:

- Cater Allen's final response to the complaint only referred to a professional trustee or co-signer with an existing relationship with Cater Allen being needed – there wasn't any mention at all of an introducer being needed
- in an email to us dated 15 August 2023 (responding to our investigator's question asking why the original application was rejected) Cater Allen said it was a requirement that the professional co-signatory have an existing relationship with it – again, there wasn't any mention at all of an introducer being needed.

In my view, if an introducer truly was needed then I think the perfect opportunity for Cater Allen to explain that was its formal response to Mr S's complaint and its response to our clear question. The fact it wasn't gives me serious doubts that one was needed. These doubts are exacerbated by Cater Allen's response to a provisional decision I issued:

- it firstly confirmed that the application could only have been made by an introducer; and it said the primary reason it rejected the original application was because it was made directly by Mr S without an introducer
- I asked it for documentary evidence to support what it said and it provided me with the *Key Facts Document* from January 2023 and pointed me to where it said the account was only available via a pension provider who had an existing relationship with Cater Allen and that all applications for SSASs needed to include a professional co-signatory; it also said the primary reason for the original application being rejected was because it didn't come via a pension provider.

So Cater Allen first said the application could only have been made by an introducer; then a few days later it provided me with supporting evidence that made no reference whatsoever to an introducer but instead to a pension provider and a professional co-signatory. Which is it? An introducer, a pension provider and a professional co-signatory are different things.

Similarly, it first said the primary reason it rejected the original application was because it was made without an introducer; then a few days later it said the primary reason it rejected the original application was because it didn't come via a pension provider. Again, which is it – by definition there can't be two *primary* reasons?

It's clear in my view from Cater Allen's original rejection of Mr S's application that it was rejected because there wasn't an introducer. Nothing Cater Allen has told, or provided, Mr S

or us shows or persuades me that an introducer was required. Accordingly, I conclude based on the evidence I've seen that an introducer wasn't needed.

I now move on to the need for a co-signer. A professional co-signer's details were given in the relevant section of the first application form. In response to my provisional decision and request for further information Cater Allen confirmed that the named co-signer didn't have an existing relationship with it. It also provided me with:

- the abovementioned *Key Facts Document* which said all applications for SSASs needed to include a professional co-signatory
- the wording from its website in February 2023 (which it confirmed hadn't been changed during 2022 or January 2023) which said there must be a professional trustee or co-signer who has an existing relationship with Cater Allen

It also said that even if Mr S's application had passed the 'introducer' requirement it would have failed on the 'co-signatory' requirement.

I'm satisfied the documentary evidence shows that the co-signatory needed to have an existing relationship with Cater Allen. However, given the previous and continued 'mixed messaging' in respect of the need for an introducer, I don't think it's appropriate or fair for me to simply accept Cater Allen's word that the named co-signer didn't have an existing relationship with it. Nothing Cater Allen has told, or provided, Mr S or us shows or persuades me that the named co-signatory didn't have an existing relationship with Cater Allen. Accordingly, I conclude that this would be an unfair reason for Cater Allen to reject Mr S's first application.

I can't see that Cater Allen mentioned the requirement for the application be applied for via a pension provider as a reason for rejecting the original application until its response to my recent request for further evidence. Even ignoring that this contradicts everything that Cater Allen has previously said about what was required and why the application was rejected, the argument being made so late makes it, in my opinion, very weak. If the original application truly was primarily rejected on this basis then Cater Allen has had more than enough opportunity to say that prior to it bringing it up at the last minute.

Nevertheless, the *Keys Facts Document* does say the account was only available via a pension provider; and the wording from the website also said to apply through the pension provider. It's not at all clear to me though that the second application was made via a pension provider or that this was the reason Cater Allen accepted it.

The email Mr S sent to Cater Allen on 19 April 2023 suggests the main difference between the first and second application was that the second one detailed what Mr S referred to as an introducer (who I'll refer to as "D") – presumably using 'introducer' as this was the terminology Cater Allen had used. I haven't seen anywhere that Cater Allen challenged the use of that terminology.

An introducer is fundamentally an unregulated marketing firm who is paid to cold call consumers (usually) and provide them with a free pension review with the intention of 'introducing' them to a new pension provider or set of investments. Having looked at their website, D doesn't strike me as an introducer in that sense – rather, it's a regulated financial business who, amongst other things, administers and provides SSASs.

I don't dispute that the requirements of the account were for the application to go through a pension provider. But I'm not persuaded that D acted in that capacity. Mr S has told me that his SSAS was registered in January 2023, that D didn't become involved in this matter until late-February 2023 (after the telephone calls I've referred to above and after the SSAS was

set up) and that D was simply used to open the bank account. It therefore seems D was acting in more of an administrative capacity. This is supported by an invoice D sent to Mr S in November 2023 for “Administration” for the nine month period up to 30 November 2023 ie the period from just after Mr S’s first contact.

What this means is that there was no difference in the two applications in respect of it being made via a pension provider. So if the original one was rejected the second one should have been rejected on the same basis. And vice versa, if the second one was accepted the original one should have been accepted too. And as the second one was accepted, my natural conclusion is that the original one was unfairly rejected (if indeed the primary reason for it being rejected was the lack of a pension provider).

So, to summarise this section, for the reasons outlined above I conclude that Cater Allen unfairly rejected Mr S’s first application:

- on the basis of an introducer being required – because Cater Allen hasn’t adequately shown that an introducer was required
- on the basis that the co-signatory didn’t have an existing relationship with it – because Cater Allen hasn’t sufficiently shown that this was the case
- on the basis of a pension provider being required – because Cater Allen accepted the second application when the only difference between it and the first one was that D was acting in an administrative capacity for the SSAS ie not as an introducer or pension provider.

How did the rejection of the application and the information given by Cater Allen affect Mr S?

If Cater Allen hadn’t rejected the first application I think it’s likely that the bank account would have been set up following that application. I think 14 days from receipt of the application (so on/around 3 February 2023) is a reasonable period of time for Cater Allen to have gathered any information it needed from Mr S and to set the account up. That would have meant:

- the SSAS funds were deposited into the account earlier than they eventually were
- Mr S wouldn’t have received all the confusing and conflicting information, and
- Mr S wouldn’t have needed to appoint D to speed up the second application process.

Summary

For the reasons outlined above, I conclude that Cater Allen unfairly rejected Mr S’s first application, gave Mr S conflicting, confusing and incorrect information about what was needed and caused Mr S to suffer unnecessary financial loss and distress and inconvenience. Accordingly, I think Cater Allen now need to compensate Mr S for this.

Putting things right

My aim is to put Mr S, as far as possible, back into the position he would have been in had the original application not been rejected.

Financial loss

There are two main losses Cater Allen needs to compensate Mr S for – lost interest while the funds held in the SSAS weren’t deposited in the bank account; and the cost of the introducer Mr S appointed.

I think the fairest way of calculating whether Mr S suffered loss of interest is to compare the current value of the SSAS with the notional value it would have been had the funds in the SSAS been deposited into the account on 3 February 2023. Cater Allen should therefore:

1. determine the current amount held in the SSAS bank account
2. determine the amount that would have been deposited into the SSAS bank account on 3 February 2023 and calculate the notional value of those funds now – assuming the same transactions on the account (eg deposits or withdrawals, interest rate) as what actually happened
3. provide Mr S with a clear explanation of the above calculations.

If the figure at (1) is less than the figure at (2) there will have been a loss and compensation is payable.

If the figure at (1) is more than the figure at (2) there won't have been a loss and no compensation is payable.

In response to my provisional decision Cater Allen said Mr S would always have needed an introducer as the application couldn't have proceeded without one. So it didn't feel it was reasonable to reimburse Mr S for any costs he incurred in this respect. I've concluded that an introducer wasn't required, so Cater Allen's argument falls away.

Accordingly, Cater Allen should reimburse Mr S for any fees he's incurred (for the initial transaction and since) by appointing D for the purposes of applying for the account. To avoid any doubt, Cater Allen is not required to reimburse Mr S for any fees he's incurred for any other advice, transaction etc he may have received from D.

Payment of any compensation for financial loss

If there is a loss of interest Cater Allen should pay the compensation into Mr S's SSAS bank account, to increase its value by the amount of the compensation. The payment should allow for the effect of charges and any available tax relief. Cater Allen shouldn't pay the compensation into the account if it would conflict with any existing protection or allowance.

If Cater Allen is unable to pay the compensation into Mr S's pension plan it should pay the amount directly to him. But had it been possible to pay into the plan it would have provided a taxable income. Therefore, the compensation should be reduced to notionally allow for any income tax that would otherwise have been paid. This is an adjustment to ensure the compensation is a fair amount – it isn't a payment of tax to HMRC so Mr S won't be able to reclaim any of the deduction after compensation is paid.

The notional allowance should be calculated using Mr S's actual or expected marginal rate of tax at his selected retirement age. In response to my provisional decision Mr S confirmed he will be a basic rate taxpayer in retirement and that he will have the ability to take a 25% tax-free lump sum payment from his pension. So the marginal rate of tax would be 20%. However, as Mr S will be able to take a tax-free lump sum the reduction should be applied to 75% of the compensation, resulting in an overall reduction of 15%.

In response to my provisional decision Mr S has said that to simplify matters he would prefer to receive the compensation directly into his personal account. If the above calculations show that there has been a loss of interest that loss would have been suffered by the SSAS, not by Mr S personally. It is for this reason that my direction is for the compensation to be paid into the SSAS bank account. However, should they wish, Mr S and Cater Allen are

entitled to reach an agreement outside of the terms of this decision whereby payment can be made to another account.

Mr S has told me the introducer's fees were paid from a separate account. Compensation for the cost of the introducer should therefore be paid directly to Mr S, plus interest at a rate of 8% simple calculated from the date Mr S paid the fees.

Distress and inconvenience

In my view the rejection of the original application and the conflicting information caused Mr S unnecessary distress and inconvenience. For example, he had to submit a second application and he had numerous telephone conversations with Cater Allen trying to sort things out.

Cater Allen initially offered £50 compensation and our investigator thought it should be increased to £150. In my view, this doesn't accurately reflect the distress and inconvenience suffered. I conclude that £250 (in total) is more appropriate and that Cater Allen should pay this to Mr S.

Cater Allen feels the extra £150 compensation suggested by our investigator is appropriate as it didn't cause all the delays in the application. I've noted Cater Allen's comments but as I've concluded that it unreasonably rejected the first application it follows that I think it caused all (or most) of the delays. It also remains my view that the rejection of the original application and the conflicting information given to Mr S in themselves caused Mr S unnecessary distress and inconvenience.

My final decision

I uphold this complaint. I require Cater Allen Limited to settle the matter as outlined under the 'Putting things right' heading above.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr S to accept or reject my decision before 26 August 2024.

Paul Daniel

Ombudsman