

complaint

Mr F complains about Cofunds Limited's inability to carry out his instructions to transfer assets to his and his sister's account, which has resulted in loss.

background

Mr F was the executor, and beneficiary together with his sister, Mrs S, of his late mother's investment.

His half of the investment was to be transferred to a new provider and his independent financial advisers (IFA) issued instructions to do so in December 2017. The new provider made a request in January 2018. By late February 2018, and in light of little progress, Mr F requested an encashment of his share of the investment.

Cofunds partially upheld the complaint. In a Final Response Letter (FRL) dated March 2018, it offered Mr F £300 by way of an apology, but he refused and sent the cheque back. He said this didn't take account of delays experienced by Mrs S and the value of his share of the investment had gone down.

Cofunds subsequently sent separate letters to Mr F and Mrs S. In the letter to Mr F it said its offer of compensation was without prejudice and he was free to refer his complaint to our service. Because it erroneously set up an additional complaint it offered Mr F another £100 compensation after he'd referred his complaint to us. In the letter to Mrs S it offered £100 for the delay in completing the in specie transfer to her account.

One of our adjudicators considered the complaint but thought we wouldn't be justified in asking for more than what had been offered to Mr F, and certainly not the difference between the value of the investments between December 2017 and February 2018.

In summary he said:

- There's no dispute that there were delays in carrying out Mr F's instructions to transfer his share of the assets to his designated account. But he's unable to say that Mr F is entitled to the value of – his share – of the portfolio in December 2017 when Mr F suggests the transfer instructions were sent.
- Although Cofunds gave the value of the portfolio as of the date of his mother's death at £486,195.54, it also said *"please be aware that due to price fluctuations the final redemption amount may differ from the valuation above."*
- Mr F's letter of December 2017 was an instruction for the investment funds to be divided between him and Mrs S, and his share to be transferred to his new providers – in respect of which Cofunds would receive instructions. So, the transfer couldn't have started in December 2017.
- Instructions from the new provider dated 8 January 2018 were only received on 19 January 2018, which also asked for details of cash and assets held. The new provider said once it had verified that it can accept the transfer on those holdings, it would provide Cofunds with the appropriate registration details.
- Cofunds accepted that the transfer should have been processed within two to three weeks but it had made an oversight which had led to the delay. But at the same time it was also dependant on fund managers to get back to it to confirm change of nominee, so it would've been wrong for Cofunds to agree an exact date.

- In late-February Mr F sent Cofunds a revised instruction letter, asking it to disregard his previous request. Mr F changed tack – it's not a question of blame – he's entitled to do what's in his best interest.
- The £400 compensation for distress and inconvenience caused by the delay and mistakenly setting up another complaint is fair and reasonable in the circumstances.
- The compensation paid to Mrs S is also fair and reasonable in the circumstances.

Mr F disagreed with the adjudicator's views. In short, he maintains that he's lost out significantly due to the delays by Cofunds.

As no agreement has been reached the matter has been passed to me for review.

my findings

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

Having done so, I agree with the adjudicator's conclusions for much the same reasons. I'm going to partially uphold this complaint.

But before I explain further why this is the case, I think it's important for me to note I very much recognise Mr F's strength of feeling about this matter. I'm sorry for the loss of his mother.

Mr F has provided detailed submissions to support the complaint, which I've read and considered carefully. However, I hope he won't take the fact my findings focus on what I consider to be the central issues, and not in as much detail, as a discourtesy.

The purpose of my decision isn't to address every single point raised. My role is to consider the evidence presented by him and the Cofunds, and reach what I think is an independent, fair and reasonable decision based on the facts of the case.

In deciding what's fair and reasonable, I can take into account the relevant law, regulation and best industry practice but I'm not bound by it. It's for me to decide, based on the information I've been given, what's more likely than not to have happened.

I appreciate the transfer was delayed, due to an oversight by the business. But I don't think the delays were to the extent suggested by Mr F.

Mr F, on his own volition, within a few weeks of having instructed Cofunds to transfer his share of the holdings to his new provider, took the decision to encash his investment. He wasn't forced to and certainly wasn't advised to take this measure. I note the literature provided made clear that the business couldn't guarantee the value of the investment on encashment.

I think Mr F's intervening actions – namely his change of instructions – broke the potential chain of causation, between the business and any loss that he might have suffered as a direct result of the delays.

I don't blame Mr F for this, I agree with our adjudicator that he is entitled to do what he feels is in his best interest, especially when he may have pressing needs. But I can't blame Cofunds for his change of instructions and any potential loss either.

Mr F's instructions to encash were carried out within a reasonable amount of time. Neither he nor the business could have predicted the value of the investment at the point of encashment. I'm reasonably satisfied Cofunds made this point reasonably clear in the correspondence with Mr F and his IFA.

Overall I think £300 compensation for the delays, plus the £100 compensation for mistakenly setting up a second complaint is fair and reasonable in the circumstances. I also think the compensation offered to Mrs S is fair and reasonable.

I appreciate Mr F will be disappointed I've reached the same conclusion as the investigator. Furthermore, I realise my decision isn't what he wants to hear. Whilst I appreciate his frustration, I'm not persuaded to require the Cofunds to do anything more.

my final decision

For the reasons set out above, I partially uphold this complaint.

I instruct Cofunds to pay Mr F an additional £100.

I think the overall £400 compensation offered by Cofunds Limited (including the above) is fair and reasonable. It should pay this amount less any compensation already paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr F to accept or reject my decision before 27 April 2019.

Dara Islam
ombudsman