

The complaint

Mr B has complained about delays in accessing his share dealing account with ITI Capital Limited, and the customer service he experienced when attempting to resolve the issue.

What happened

In 2020 Mr B's share account, which he held with another firm that had gone into administration, was transferred over to ITI. At the end of July, shortly after receiving confirmation that his account had been migrated over, Mr B was unable to log in to the account as he hadn't received the log in details. Once he was able to log in, the balance showing on his account was wrong. Following contact with ITI, on 15 August Mr B emailed ITI asking them to close his account and transfer the balance to his bank account, once the value of the account was correct.

Mr B had to contact ITI several times by phone and email and eventually the withdrawal was processed on 24 September, when Mr B received around £600 following the sale of his shares. Mr B complained about the delay, requesting compensation for the time he'd had to spend resolving the issue. ITI didn't respond and so Mr B asked our service for help. We got in touch with ITI, following which ITI sent Mr B an email with instructions on how to withdraw his money – which he was confused by given he already had his money. Over the months that followed ITI continued to send Mr B generic emails about his account and each time Mr B replied asking them to stop.

As ITI didn't reply to his complaint, Mr B asked us to look into it. An investigator at our service found that because of the delays, ITI caused Mr B both financial loss and distress and inconvenience. After some discussion with the parties, she said that she felt Mr B's shares ought to have been sold by 20 August 2020, and so ITI should calculate how much more Mr B would have received if they had been sold then. She said they should pay him that amount, plus 8% interest from 20 August to the date of settlement. She felt £250 was a fair amount of compensation for ITI to pay to make up for the trouble Mr B went to.

Mr B said he would also like compensation for the loss he experienced in being unable to reinvest the £600 earlier. He also felt further compensation was warranted due to the delays ITI have caused throughout the complaint. The investigator didn't think she had enough evidence to show his intent to invest in August 2020, without the benefit of hindsight. She felt the £250 she had previously set out was fair so didn't award any further compensation.

ITI didn't agree they had caused the financial loss, and said they felt £125 would be a fair offer of compensation. They then failed to respond any further to the investigator's contact, so the case 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.

Having done so, I've reached the same conclusions as the investigator, for largely the same reasons.

Delay in selling his shares

The initial issue that Mr B experienced was the inability to log on to his account online, and then he was unable to follow the online process for selling his investments and withdrawing his money. It's not disputed that those problems were caused by ITI. Had everything gone as it should have in July and August 2020, I think Mr B ought to have been able to use the online process to sell his shares, withdraw his money and close his account. The first time Mr B requested withdrawal by email was on 15 August, and I understand he says he tried to complete the process online earlier that day, though ITI have no record of this.

I don't doubt Mr B's recollections of completing this process online on 15 August. However, I'm mindful of the fact technology can't always be guaranteed to work. The terms of the account state that there may be times when parts or all of the website doesn't work, and that they can't guarantee its availability at all times. Similar clauses are found across the industry. I think the term is a reasonable one and in general I don't think it's fair to expect a service to be available, uninterrupted, at all times. So, I've considered whether ITI ought to have done more, after Mr B let them know what he wanted to do by email.

The terms don't allow for instructions for the sale of shares to be given by email. So, when Mr B emailed on 15 August asking to close his account, I'd have expected ITI to have replied to let him know what his options were. Had they done so, I think it's fair to say he'd have taken any necessary steps very quickly, based on the speed of his actions over the course of his dealings with ITI. In particular, I'm persuaded that his actions at that time were consistent with someone that wanted to sell their shares and move their money somewhere else as quickly as they could.

Even allowing ITI a few working days to reply to him, I think the latest Mr B would have given instructions to sell his shares would have been 20 August 2020. I'm satisfied that it was ITI's errors that prevented him from doing that, therefore it would be fair and reasonable for them to compensate him for any losses resulting from being unable to give instructions on that date.

So, I agree with the investigator that ITI ought to calculate how much Mr B would have received for his shares, had they been sold on 20 August 2020. If the share price was higher at that time than it was when his shares were sold in September 2020, then ITI should pay him the difference. ITI should also pay simple interest at the rate of 8% per year on the difference, from 20 August 2020 to the date of settlement.

Mr B has explained that if he'd have had the money sooner, he would have invested in a particular cryptocurrency, which had done very well over the intervening period. Though I appreciate his frustration at not being able to do what he wanted with his money in August and September, I don't think he's provided any contemporaneous evidence of where he was intending to invest. Without this, I can't be sure that hindsight hasn't had an impact on what he's saying he'd have done. As such, I don't think I could fairly say on balance, that he would have invested in a specific asset. I think the interest I've awarded fairly compensates for the fact that Mr B was not able to do what he wished with his money.

Compensation for the inconvenience caused

Mr B's problems with ITI began in July 2020 and I can see that he was having to contact ITI every month or two between then and April 2021. I can see that ITI continued to contact him as late as December 2021, despite numerous requests for them to stop contact. That is on

top of the many times he had to call and email them in August and September in order for his withdrawal request to be processed.

I can appreciate Mr B's frustration at the continued contact from ITI after September 2020 despite requesting his account be shut. Mr B has said he feels extra compensation for ITI's delay in progressing his complaint with or service is warranted, and I've considered this. If Mr B's shares had still not been sold, and his problems with ITI were continuing despite our involvement, then I think I'd agree that further compensation were warranted. However, that is not the case and Mr B had his money by the end of September. Although the continued contact was undoubtedly annoying, the main issue of withdrawing his money was mostly resolved after two months.

ITI has argued that given the value of Mr B's account, and because they processed his withdrawal within two weeks of receiving instructions by phone, they think £125 is a fair amount of compensation. However, I don't agree that's fair – they ought to have done more earlier to help Mr B and not waited until he phoned them to resolve it. ITI shouldn't have sent Mr B any further emails after the account was closed, except in relation to the complaint. Instead he received several suggesting his account was still open. So, having considered everything, I think £250 is fair and reasonable here.

My final decision

I uphold the complaint. My decision is that ITI Capital Limited should pay:

- The difference in the amount Mr B would have received had his shares been sold on 20 August 2020, compared to the amount he did receive on the sale of his shares.
- Simple interest of 8% per year on that difference, from 20 August 2020 to the date of settlement.
- £250 for the distress and inconvenience caused.

ITI Capital Limited should provide details of its calculation to Mr B in a clear, simple format.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr B to accept or reject my decision before 1 September 2022.

Katie Haywood
Ombudsman