

The complaint

Mrs H complains that Link Market Services Trustees Limited ('LMSTL') provided incorrect information, which delayed her request to transfer a share holding to her daughter. She says the shares were going to be sold and because of a fall in the share price during the delay, this has caused a financial loss. Mrs H also complains that she couldn't take up a rights issue because LMSTL didn't send her the documentation in time for her to act.

What happened

In November 2022, Mrs H instructed LMSTL to transfer a shareholding to her daughter. LMSTL couldn't carry out the transfer because the instruction form Mrs H had used was for a certificated shareholding – not a nominee account holding, and the number of shares she quoted was wrong. This was because a scheme of arrangement reduced her holding.

LMSTL wrote to Mrs H to explain this and its letter said it had enclosed the correct transfer form. Mrs H then submitted her completed form in December 2022, but LMSTL didn't action her request. When she sent it a copy in February 2023, LMSTL wrote back on 17 February 2023. It said the form Mrs H had completed was once again the wrong type and it said it enclosed a new stock transfer form for completion. It said its records showed a zero shareholding, so it asked her to send in a valid share certificate.

In early March 2023, Mrs H says she tried to sort things out by phone with LMSTL. But because she didn't have her investor account number to hand, it couldn't help. She says it told her it would send her details by post. But when this hadn't arrived by the end of March 2023, she complained to LMSTL. Mrs H set out the timeline of events and said that she believed something had gone in LMSTL's system whilst attempting to make the transfer. She asked why her statement from January 2023 showed she held shares in her name, but LMSTL's letter of 17 February 2023 said she had no shares. She also said that she'd just received a letter about a rights issue dated 24 March 2023, which had arrived too late (31 March 2023) for her to do anything about.

LMSTL issued its response to the complaint on 26 April 2023. It apologised that it had sent Mrs H the wrong transfer form and given her wrong information in its letter of 17 February 2023 – it said the information was of no benefit or relevance to her because her shares were held electronically through its nominee service. It confirmed the number of shares Mrs H held, it provided the correct transfer form, and it offered £50 in compensation (later increased to £75.)

Dissatisfied with its response, Mrs H referred her complaint to us.

Mrs H said she felt the compensation offered was too low. She said she wasn't given a reason for the transfer not being carried out – the information she was given was confusing and incorrect. She said, had the transfer been done in December 2022 when requested, her daughter would've sold the shares at a value of around £400 more than they are worth now. She said she was seeking a higher amount of compensation.

One of our Investigators looked at all of this and they upheld the complaint. They said it was

clear and not disputed by LMSTL that it gave her the wrong information when she asked to transfer her shares to her daughter. They said this happened on more than one occasion, Mrs H had to chase LMSTL to find out what was happening and it wasn't until it responded to Mrs H's complaint that it sent her the right form. They agreed that £75 LMSTL had offered didn't go far enough and recommended an increase to £200 to resolve the matter. They said, while Mrs H said she wanted to sell the shares and the delay meant she'd lost out because the price was now lower, they hadn't seen any evidence that it was her intention to sell earlier. They also explained that in relation to the rights issue documentation, because LMSTL didn't have a registered email address for Mrs H, it sent her the information by post. They said LMSTL couldn't be held responsible for any postal delays, so they didn't think it had done anything wrong.

LMSTL accepted the Investigator's findings.

Mrs H disagreed. In addition to repeating what had happened and that she still wanted to transfer the shares to her daughter, she said she'd included an email address in previous correspondence with LMSTL which it could've used to communicate the right issue and anything else. She said she never intended to sell the shares – the plan was that her daughter would've been able to when they were in her name. She said because LMSTL prevented her from acting to either sell or transfer, she's suffered a loss. Mrs H later added that she felt badly treated by LMSTL and that a fair award would be in the region of £1,200 to £1,500.

Because the Investigator wasn't persuaded to change their opinion, and LMSTL declined to increase its award following Mrs H's later request for £750 to settle the matter, the complaint was referred for a final 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.

I've taken into account relevant law and regulations, regulator's rules, guidance and standards and codes of practice, and what I consider to have been good industry practice at the time. And where the evidence is incomplete, inconclusive or contradictory, I reach my conclusions on the balance of probabilities – that is, what I think is more likely than not to have happened based on the available evidence and the wider surrounding circumstances.

Having done so, I've decided to uphold the complaint for largely the same reasons given by the Investigator. My reasons are set out below.

- It is clear from what's happened here that, not only did LMSTL fail on numerous occasions to provide Mrs H with the correct documentation to enable her to transfer her shareholding to her daughter, but it also provided her with incorrect information about the number of shares she held, and information which was irrelevant to someone who held shares using a nominee service. LMSTL's actions prevented Mrs H from transferring her shares in a timely manner. And LMSTL has accepted this.
- So, the outstanding matter and what I need to decide here, is the extent to which Mrs H has lost out financially and/or suffered distress and inconvenience as a result of LMSTL's wrongdoing.
- As I referred to above, LMSTL's communication with Mrs H was below the level she should've reasonably expected. LMSTL repeatedly sent her incorrect documentation,

which was the route cause of the failure to carry out what, in my view, ought to have been a simple transaction to transfer her shareholding to her daughter. I think it's clear that this repeated failure inconvenienced Mrs H and caused her some distress. I also think Mrs H's distress was compounded when LMSTL incorrectly told her that her shareholding was zero. I can see Mrs H attempted to resolve matters by phone, but this appears to have failed too. So, taking this all into account, along with the period of time LMSTL took to provide Mrs H with the correct documentation and information about her holding, I think she has suffered a degree of distress and inconvenience here. And in my view, she has been put to a greater level of inconvenience than she ought to have been for the transaction she was seeking to carry out. The Investigator recommended an award of £200. And overall, I think an award of £200 for the distress and inconvenience caused, is fair in all the circumstances.

- I can see Mrs H has asked for more – most recently £750. But this is far in excess of what I think is fair in the circumstances. In reaching my decision, I'm mindful that LMSTL has recognised its errors and it has apologised for them. It also offered Mrs H compensation. An award of this nature is not intended to fine or punish LMSTL, so for these reasons and those above, I think an award of £200 is fair in all the circumstances.
- Mrs H says she's lost out because if LMSTL had transferred her shareholding when they should have in December 2022, her daughter could have sold them when they were worth considerably more. I've thought carefully about this. And while I accept it is possible Mrs H's daughter wanted to sell the shares immediately following the transfer, I've not seen enough to suggest it is more likely than not the case. I say this because, if Mrs H understood it was her daughter's intention to sell the shares immediately once they were transferred – i.e. she wanted the value of them in cash – I think it's likely Mrs H would've given instructions to sell them and given her daughter the money instead. I'm not persuaded Mrs H would've gone through the administrative burden of transferring the shares if she knew her daughter wanted to sell them anyway. So, I don't think Mrs H has lost out financially in the way she describes as a result of LMSTL's delay in transferring her shareholding.
- Mrs H has also complained that LMSTL didn't tell her about the share issuer's capital reduction exercise of February 2023, which resulted in her shareholding reducing. And its communication of the subscription offer in March 2023 arrived too late for her to act. I'm mindful that, if things had happened as they should have and Mrs H's shareholding was transferred to her daughter in December 2022, neither of these events would've been relevant to her. Nevertheless, I have considered Mrs H's complaint about this.
- As a custodian, I'd expect LMSTL to pass on all corporate actions it receives to the investor as they are essentially looking after the holding on behalf of the investor. I'm mindful too of the general regulatory principle of acting in the customer's best interests. I've also considered LMSTL's terms in relation to Mrs H's shareholding and what it says here about corporate actions.

The relevant section of the terms says: "...we will endeavour to notify you promptly and implement any instructions you give us provided that the Company gives us adequate notice of the proposals and also that we receive your instructions in good time...(however we will not be liable if, for any reason, any notification by us does not reach you in time.)"

- LMSTL's usual method of communication to its investors is by email. But in Mrs H's case, LMSTL says it did not have a registered email address for her, so it communicated via post. And in the circumstances I think this is reasonable. I can see Mrs H says she included an email address clearly at the end of a letter she sent LMSTL in September 2022 with the implication it could be used in future. But without Mrs H's explicit instruction and consent here for future communication to be sent by email, I don't think it is reasonable for LMSTL to have assumed it could use it going forward – particularly as Mrs H said the email was a family member's and not her own.
- In relation to the share issuer's capital reduction exercise, as this was a corporate action I think LMSTL should've notified Mrs H about it. Mrs H says she didn't receive anything. But I'm mindful this was a mandatory action – it was simply telling Mrs H about something she had no choice about. So, even if I found LMSTL didn't notify Mrs H about this (I've seen nothing to indicate it didn't) I don't consider there is any financial loss here.
- Turning to the subscription offer – LMSTL says it only had knowledge of it on the official release date. I can see the prospectus is dated 24 March 2023 and the letter LMSTL sent Mrs H with the information was also dated 24 March 2023. I think this reasonably satisfies notifying Mrs H 'promptly' as its terms said it would do. And while Mrs H might not have received it until 31 March 2023, I've not seen anything to indicate the delay in her receiving it was a result of anything LMSTL did wrong – it appears to have been delayed in the post. So, Mrs H's inability to act on the subscription offer is not something I consider LMSTL is fairly and reasonably responsible for.

So, for the reasons above, I uphold this complaint and award compensation.

Putting things right

LMSTL should pay Mrs H £200 for the distress and inconvenience this matter has caused.

My final decision

For the reasons above, I've decided to uphold this complaint. To put things right, Link Market Services Trustees Limited should pay Mrs H fair compensation as set out in the section above. I make no other award.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs H to accept or reject my decision before 11 March 2024.

Paul Featherstone

Ombudsman