

The complaint

The estate of Mr P complains Clydesdale Bank Plc trading as Virgin Money (“Virgin Money”) have made mistakes in opening an executors account and this has caused the estate financial loss. This complaint is brought by the three executors who I’ll refer to as ED, EF and EP in this decision.

What happened

Mr P died on 4 December 2021. On 9 May 2022 a Grant of Probate was extracted by his three executors. As part of the estate administration, they had to sell an equity ISA containing 34,738.558 units. The daily price of the units was subject to fluctuation depending on the market. The company with which the ISA was held required a voided cheque as proof they held an executors account to pay the funds to. Problems - principally the use of an incorrect mandate leading to a delay - arose when they tried to open this account. The executors say they first ordered the chequebook on 21 May 2022 and were led to believe it would be with them in a matter of days, no later than 6 June 2022. But the cheque book arrived on 22 June 2022 by which time the value of ISA had dropped from the value on 6 June 2022. They’ve asked to be compensated for this loss which they calculate at £1108.16

Virgin Money sent a final response (“FRL”) on 7 July 2022 in which it partially upheld this complaint. It said ED attended on 21 May 2022 to open the account but all three executors were required to open the account. It said the three named executors came into branch on different days, with the last named party signing on 7 June 2022. And it couldn’t open the account until the last party had signed the mandate on that date.

But Virgin Money did accept and apologise for the inconvenience caused by the incorrect mandate being completed initially in branch. This error was identified on 14 June 2021 and - after all three executors returned to branch to sign the correct mandate - the account was opened on 16 June 2022. And the cheque book arrived on 22 June 2022.

In respect of the changed price for The Estate’s shareholding Virgin Money said it was unable to refund loss of earnings. But it did accept the service The Estate of Mr P received was unsatisfactory and to apologise it paid £150 for the distress and inconvenience caused into the executor’s account.

Our investigator thought that as the original, albeit incorrect mandate, wasn’t signed by all three executors until 7 June 2022 the valuation the executors obtained on 6 June 2022 would no longer have been valid. He thought, to put The Estate back in the position it would have been in had the mistake not been made, it was reasonable to assume the shares could have been sold on 15 June 2022. That was some eight days after the first mandate was signed by the last executor. And he thought the difference between the unit price in the shareholding of 34,738.558 units on 15 June 2022, to when it was actually sold on 24 June 2022, was £118.11. So, this is what the thought Virgin Money should pay to The Estate of Mr P, as compensation.

Virgin Money accepted the outcome. The executors didn’t. They said ED signed the mandate on 21 May 2022, EF on 25 May 2022 and the last executor, EP, signed on 27 May 2022. And they sent us screenshots of SMS and calls from EP on 27 May 2022 which they said supported this. So, The Estate of Mr P remained of the view that the ISA should have been sold around 6 June 2022. They said they’d calculated this using the same reasonable

assumption as the investigator, thinking it would take around eight days after the mandate was signed to encash. And they thought the loss to the estate was significantly higher at £1108.16. And asked for this amount as compensation.

The investigator, after considering this and further information from Virgin Money, didn't change his mind. He said, in support of Virgin Money's view that the final executor attended branch on 7 June 2022, it had provided a copy of the identification document brought into the branch by EF. That showed a date stamp of 6 July 2022. But Virgin Money said the month and date had been transposed so the correct date was 7 June 2022. The investigator appreciated The Estate of Mr P recalled the last signature was on 27 May 2022 but, he thought, the available documentation didn't support their recollection. So, he remained of the view that compensation of £118.11 was fair and reasonable here. The Estate of Mr P have asked for an ombudsman to make a final decision.

I asked The Estate of Mr P to confirm when the original Grant of Probate was produced to Virgin Money and who did that and when the ID documents of ED and EF were produced and copies taken. They responded. I asked Virgin Money for system notes and entries held for the opening of this account including those for the initial meeting with ED and that with EF. It didn't respond.

I issued a provisional decision in this case on 6 April 2023. I thought this complaint should be upheld. That was as I had a number of concerns which led me to question the reliability and accuracy of the date stamping of identification documents by Virgin Money. Those documents had been relied on by the bank as evidence of the last party signing the mandate on 7 June 2023. I didn't think it was right to rely on those documents. On balance, I thought, the final executor had attended on 27 May 2022 to sign and that was the date on which the account should have been opened if the correct mandate had been used. So, I thought the executors should have been able to close the ISA on 6 June 2022. And the difference between the value on this date and when they did close it - the loss to the estate - was £1108.16. So, I thought, Virgin Money should now pay the estate this, along with simple interest at 8% a year on that amount from 7 June 2022 until payment.

Both parties responded early to my decision and confirmed it was agreed. Although The Estate of Mr P had minimal out of pocket travel expenses, they confirmed they would not pursue these.

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.

Both parties have confirmed they accept my provisional decision and its findings. As such there's nothing before me which changes my substantive findings in this complaint. So, I don't see any reason to alter my provisional decision.

Putting things right

Clydesdale Bank Plc trading as Virgin Money should pay The Estate of Mr P £1108.16 within 28 days of this decision and pay simple interest at 8% a year on this sum from 7 June 2022 until the date this compensation is paid.

My final decision

My final decision is that I uphold this complaint. Clydesdale Bank Plc trading as Virgin Money should pay The Estate of Mr P £1108.16 within 28 days of this decision and pay simple interest at 8% a year on this sum from 7 June 2022 until the date this compensation is paid.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr P to accept or reject my decision before 25 May 2023.

Annabel O'Sullivan
Ombudsman