

The complaint

The estate of Mrs L complains Clydesdale Bank Plc trading as Virgin Money ("Virgin Money") are unable to show where a cash ISA Mrs L held some years ago was paid. They are assisted in bringing this complaint by their representative Mrs R.

What happened

Mrs L passed away on 21 January 2023. Whilst alive she made a Lasting Power of Attorney naming two joint attorneys. This is recorded as being registered on her account with Virgin Money in 2012. After Mrs L's passing, Mrs R, on behalf of The Estate of Mrs L, contacted Virgin Money to query an ISA document the executors found dating back to 2006 whilst administering the estate. The bank was unable to provide proof of where the ISA had been paid to. The Estate of Mrs L complained.

Virgin sent a final response to the complaint ("FRL") on 10 July 2023. It said whilst it had some documentation relating to the sale of the product it didn't have any details relating to the closure of it. It told The Estate of Mrs L the investment wasn't their product and gave details of the provider. Although Virgin Money weren't the seller it was of the view this ISA hadn't been mis sold. And, in respect of the problems the estate encountered when getting information, lodging the complaint and unanswered calls or lengthy hold times it offered Mrs R £125 compensation for the distress and inconvenience incurred.

Our investigator didn't uphold the complaint. He didn't think Virgin Money had done anything wrong in their attempts to locate the account. He said Virgin Money had shown it had undertaken reasonable searches. He didn't think it was possible to ask Virgin Money to do anything more as he thought it most likely the information didn't exist anymore. In respect of the service shortfall, he agreed this had been poor and acknowledged the offer of compensation Virgin Money had made. But as he was unable to award compensation to the beneficiaries for the estate, he could take this any further.

Mrs R didn't agree and asked for an ombudsman's decision. She thought Virgin Money staff had made false statements over several months until they decided this ISA was paid back without showing any evidence. She reiterated the contradictory information she'd been given when calling the branch and the bereavement department. She asked for definitive proof this had been paid back or alternatively the money should now be paid into The Estate of Mrs L.

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.

Firstly, I'd like to offer my condolences to the executors and Mrs R on their bereavement. I can appreciate this has been a difficult time for them all. As much as I understand their frustrations, I've got to look at whether Virgin Money did anything wrong. And, having reviewed all the evidence here I don't think they did. I'll explain my reasons. Where facts are unclear or in dispute I've looked at the available evidence and come to a decision on what's most likely to have happened, based on a balance of probabilities.

Although I accept it's uncomfortable not knowing where the closing balance of this account was paid to in 2012, in short, I don't think Virgin Money have done anything wrong here.

On the records provided from Virgin Money I'm satisfied the last activity recorded for this ISA is on 19 January 2012 when the account is recorded as closing and ending of the customer relationship. This is around the same time the LPA is registered on the account.

The papers Mrs R found for the investment dating back to 2006/7 bear out that this product wasn't one of Virgin Money's but from a third party, advised to be suitable for Mrs L's needs. Virgin Money's search of its records also shows it had some documentation relating to the sale of the product but - other than the date - no details for the closure of the product and - most importantly for The Estate of Mrs L, details of the destination of the funds on the account closure.

In cases like this where there's a discovery of historical statements or passbooks we'd expect a bank to demonstrate that it's carried out all the necessary searches including those where there's been any name and/or address changes after the last recorded entry on the account. In this case that was in 2012. By that time the attorneys were acting on behalf of the late Mrs L and their details would've been on record. Whilst that's not giving a definitive answer here on where the closing balance was paid to, by searching and providing this information, I think, Virgin Money have done what we'd expect it to so I can't uphold this complaint in respect of tracing the ISA.

I appreciate that's unsatisfactory for The Estate of Mrs L. But it's some 11 years since the account is recorded as closed ago, so I can't say the bank are wrong to not have retained records going back to this time. And, because it's many years ago, it's not easy for any of the parties to have an exact recollection of what may have happened back at that time around 2012. If there's no evidence that the account is still in existence - such as an entry in the bank's current or dormant account records - I think, it's most likely the account was closed and the balance withdrawn in line with the records. I also think, the lack of *any* annual statements or periodic information in relation to the investment from 2012 onwards - which a provider would be obliged to send if still open and might have brought this to the attention of the joint attorneys much sooner - also suggests the account was closed at that point.

In respect of the unclear and misleading information Mrs R's been given up to the point of the FRL Virgin Money accept failings here. And in the way they handled the logging and investigation of the complaint. As the complainant entity here is an Estate, we can't award compensation for distress and inconvenience in the same way we would to an individual complainant. So, although Virgin Money have accepted some shortcomings, I'm not able to award compensation here. If the offer remains open, I'll leave it to Mrs R to decide whether she accepts this from Virgin Money.

Virgin Money have provided Mrs R with details of the original product provider and the successors and their current contact details for the executors to trace further. I would repeat the suggestion of both our investigator and Virgin to contact the original ISA provider to originator to query the matter further if they remain unhappy. I anticipate The Estate of Mrs L will disagree with my findings but, on the information before me, I haven't been persuaded Virgin Money have done anything wrong here so I can't uphold this complaint.

My final decision

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs L to accept or reject my decision before 25 April 2024.

Annabel O'Sullivan
Ombudsman