

## **The complaint**

Mr H as the executor of the estate of Mrs S complains on behalf of the estate about Investment Funds Direct Limited trading as M&G Wealth Platform, referred to as “M&G”.

In summary, he says that there was a delay in actioning the estate’s instructions – involving an Individual Savings Account (ISA) and General Investment Account (GIA) – resulting in financial loss for which M&G is responsible.

## **What happened**

I’m aware that since the death of Mrs S in March 2022, Mr H has been dealing with her estate, including dealings with M&G who held the majority of her estate in two accounts – namely the ISA and GIA – both of which hold funds that can go up and down on a daily basis.

Having received the grant of probate, Mr H contacted M&G on 12 January 2023 regarding the documentation needed to sell the various funds and how long it was likely to take. He says he was told by M&G that it would take two days.

The same day, Mr H sent all the relevant documentation by next day special delivery. On 23 January 2023, he followed up the request and was told that everything had been dealt with on 18 January 2023, purportedly within two days of receipt of all the paperwork.

On 26 January 2023, Mr H says he was made aware that the contract notes relating to the sale of the units were dated 20 January 2023 (later 19 January 2023) and not 18 January 2023, so he asked for a unit price comparison to be carried out in order to decipher if there had been any loss to the estate. On 27 January 2023, the proceeds were paid into his bank account, without an answer to his question.

On 1 February 2023, Mr H spoke to M&G and was notified that although they completed the administrative side of the sale by 18 January 2023 (two days) it was too late for the instructions to go through to the dealers for sale the same day.

It appeared that when the transaction had completed the unit price had gone down compared to the previous day. So, Mr H again requested a unit price comparison. It wasn’t until March 2023, that he discovered that the estate had suffered a loss of just over £3,000 which he would like returned to the estate.

One of our investigators considered the complaint but didn’t think it should be upheld. In summary, he said:

- On the face of the evidence, and on balance, despite what Mr H says, he can’t safely say that M&G behaved unreasonably.
- He’s not persuaded that there’s a direct delay in M&G actioning the estate’s instructions. Therefore, he can’t say that the estate has suffered a financial loss for which M&G is responsible.
- On 12 January 2023, Mr H sent all the relevant documentation (via next day delivery)

to M&G. However, it wasn't until midday on 16 January 2023 that M&G received the documentation.

- The M&G post room processed the documentation the same day.
- It's important to remember that there was a weekend between when the documents were sent, and the instructions processed.
- At or around 4pm on 18 January 2023, M&G processed the sell instructions.
- The above notwithstanding, there simply wasn't enough time in the day for the price point on 18 January 2023 to be achieved, so the sale went to market on 19 January 2023.
- M&G processed the sell instructions within its Service Level Agreement (SLA) of two working days, so acted within its own requirements.

Mr H disagreed with the investigator's view and asked for an ombudsman's decision. In short, he said:

- He thought it was odd that M&G could set the terms of its SLA.
- He wanted to know whether or not it had to be approved by an official body (such as Parliament), and who was responsible for deciding what was fair and reasonable.
- He didn't agree that M&G had acted reasonably with regards to his instructions.

The investigator having considered the additional points wasn't persuaded to change his mind. In summary, he made the following key points:

- An SLA is an internal agreement that the business has with itself to do something.
- Despite what Mr H says, it's not uncommon for a business to decide how it would operate. M&G's entitled to have an SLA, as long as it's terms are not unreasonable.
- Parliament doesn't regulate financial businesses, the industry regulator the Financial Conduct Authority (the FCA) does. Any issues with regarding to how a business is or should be regulated can be taken up directly with the FCA who will decide whether or not the business is in compliance.

Mr H maintains that the funds received by the beneficiaries of the estate would've been greater had M&G acted within the initial timescales he was given. Despite what the investigator says, he's been unable to find any reference to an SLA.

Mr H maintains that when he spoke to an adviser at M&G on 12 January 2023, he was led to believe that it had 48 hours – from receiving the instructions – within which to process the sale, and not just the administration aspects of it. He wanted to know if the transcript of the conversation had been found.

He would've thought that M&G had a duty of care in respect of how to handle Mrs S's money. It was an act of parliament which set up the FCA and our service under the Financial Services and Markets Act 2000, as amended by the Financial Services Act 2012 so there ought to be some accountability.

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

### **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 agree with the investigator's conclusion for much the same reasons, I'm not going to uphold this complaint.

On the face of the evidence, and on balance, despite what Mr H says, I can't safely say that M&G behaved unreasonably such that this complaint should be upheld.

In other words, in the circumstances, and on balance, I'm satisfied that M&G behaved reasonably with regards to carrying out the estate's instructions. In the circumstances I'm not persuaded that it's responsible for any losses that the estate may have suffered.

Before I explain why this is the case, I think it's important for me to note I very much recognise Mr H's strength of feeling about this matter. He 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 under a separate subject heading, it's not what I'm required to do in order to reach a decision in this case. In other words, I don't have to comment upon every single point made. My role is to consider the evidence presented by Mr H and M&G, and reach what I think is an independent, fair and reasonable decision based on the facts of the case. In the circumstances, I don't need any further evidence to make my decision.

I don't uphold this complaint, in summary, for the following reasons:

- In the circumstances, and on balance, I can't safely say that M&G is responsible for any delays in actioning the estate's instructions. Therefore, I can't safely say that it's responsible for any financial loss suffered by the estate.
- I understand that the relevant documentation was sent by Mr H on Thursday 12 January 2023 via next day delivery. It's not clear why the documents weren't received by M&G the next day, namely 13 January 2023. It's possible that there was an issue with the post, although I've not seen any evidence that there was. But if there was, it's not something that I can blame M&G for – I can't say that M&G is responsible for the shortcomings of a third-party postal service.
- I note the documents were only received around midday on 16 January 2023 – some four days later – and processed by M&G's postal team the same day which I don't think is unreasonable. In the circumstances, I'm aware that there was only so much progress that M&G could realistically have made from when it received the documentation.
- Despite what Mr H says, I understand that the "sell" instructions were processed at 16:13 on 18 January 2023 which I think is reasonable given that the instructions were received on 16 January 2023, and there was a weekend before when the documentation was received and processed. In the circumstances I don't think M&G behaved in such a way that this complaint should be upheld.
- Based on what M&G says I understand that there simply wasn't enough time in the day on 18 January 2023 to reach the price point that same day, so as a consequence the sale went to market on 19 January 2023. Given the chronology of events, I don't think this is something that I can blame M&G for given the reasonable steps taken to process the request.
- I should make clear that I don't doubt Mr H's recollection about what he says he was told about how long M&G would take to process the request. In the circumstances I don't need any further evidence to make my decision.
- I note that in subsequent correspondence M&G made clear that 'death claims' have a slightly different procedure due to checks required on paperwork – which I don't think is unreasonable – and that it doesn't have to hit the price point on the second day. I think it would've been useful to communicate this better with Mr H, but in the

circumstances its failure to do so doesn't mean this complaint should be upheld or compensation paid. I don't think this oversight of itself has resulted in any financial loss to the estate.

- Despite what Mr H says, I'm satisfied that M&G processed the estate's sell instructions broadly within its SLA which I think is reasonable. Although I'm conscious that it wasn't entirely in line with Mr H's expectations, I don't think this is a reason to uphold this complaint.
- I note M&G maintains that its best execution policy is that it'll place trades via its platform – with fund managers – within two valuation points, which I'm persuaded is what it did on this occasion.
- I'm persuaded that M&G was reasonable in selling down on 18 January 2023 – within two days – in line with the instructions but failed to make clear to Mr H that the price point going to market could be 19 January 2023.
- Even if I was to find that M&G's actions didn't overall comply with its SLA (and/or what Mr H was led to believe would be the timeframe for processing the request) given the efficiency with which it progressed matters (as referred to above) I can't safely say that it behaved unreasonably.
- In other words, in this instance and on balance, its failure of comply with its own internal agreement and/or not being able to exactly match Mr H's expectations – arguably owing to circumstances outside of its control – isn't a basis upon which to uphold this complaint.
- I understand that the SLA is an additional internal measure by which it holds its service to account and isn't of itself a reason to reject the complaint. I can still consider what is fair and reasonable – having done so, in this instance, I can't say that M&G behaved unreasonably.
- I'm aware Mr H says that there's been financial loss for which M&G is responsible, but I don't agree because I don't think it has behaved unreasonably. The investments were subject to the financial markets which isn't something that M&G could predict or control, therefore it's not something that it's responsible for.

I appreciate that Mr H will be thoroughly unhappy on behalf of the estate of Mrs S that 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 can't safely say that M&G behaved unreasonably such that this complaint should be upheld.

In other words, on the face of the available evidence, and on balance, I can't uphold this complaint and give the estate of Mrs S what it wants.

### **My final decision**

For the reasons set out above, I don't uphold this complaint and I make no award.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs S to accept or reject my decision before 16 February 2024.

Dara Islam  
**Ombudsman**