

The complaint

The executors of the estate of Mr R have complained that because of the delays caused by Equiniti Financial Services Limited ('EFSL') the estate has suffered a loss of around £160,000. They would like to be compensated for the loss.

The executors – Mrs D and Mr R – are the sole beneficiaries of their late father's estate.

What happened

Mr R died in February 2024. As part of his estate, the late Mr R had a large, certificated shareholding valued at over £1m. I shall refer to the shareholding as 'Company S' in my decision. He had been a director of one of Company S' subsidiaries.

As well as EFSL, Equiniti Limited ('EL') has also been referred to by the executors in bringing their complaint. I comment on their respective roles further on in my decision.

The executors wanted to sell the holding as soon as possible and instructed the share sale on 6 March 2024 but the sale couldn't proceed with the sale until probate was granted. Their solicitor then wrote to EL and repeated their concerns that such a large shareholding was risky. They wanted to keep the funds in an escrow account – and not distribute the funds – over and above paying the large inheritance tax bill and which would enable them to apply for probate. They asked EL to treat their situation as a special case bearing in mind the value of the holding. Mrs D has told us she was aware EL had done this for other shareholders in a similar position and their case wasn't unique.

EL then agreed the executors could sell the shares provided they signed an indemnity protecting EL if anyone made a claim on their late father's estate. The shares were sold by ESFL on 9 May 2024, and the process was all completed in ten days, but 33 days had been lost – which the executors say was caused by Equiniti's incompetence and lack of awareness of its own processes – during which time the share price had dropped.

On 11 April 2024 the executors complained to EL about its unwillingness to engage with them and blocking their numerous attempts to find a resolution. EL didn't uphold the complaint. It said;

- English law required a grant of probate to be obtained before any distribution of an estate.
- It wasn't obliged to transfer or sell any share to another party which included a sale without sight of a grant of probate.

It later added;

- It was unusual for an executor to be able to sell shares before probate is granted as they could not pass good title, hence the blocks with EL.
- It didn't act as gatekeeper or owe the shareholder or executor duty of care.
- It didn't agree that granting of probate was contingent on assets being sold.
- It had taken the decision to facilitate the sale provided an indemnity was given by the executors. This wasn't standard and involved manual intervention. It had assumed a high value risk in assisting the executors.

- It didn't offer referral rights to this service – as it was acting as share registrar.

Unhappy with the outcome, the executors brought their complaint to the Financial Ombudsman Service. Our investigator who considered the complaint didn't think ESFL needed to do anything more. He said;

- EL had contacted Company S to see what could be done to help the estate. Following its discussions, it made a business decision to sell the shares provided an indemnity was given.
- Selling an estate's shares without a grant of probate wasn't generally permissible and was against EL's standard operational processes.
- By agreeing to the sale EL assumed a large risk in assisting the executors. It had no way of knowing whether there was a competing claim against the estate nor that all inheritance tax requirements would be met.
- EL acted as the share registrar and isn't regulated by the Financial Conduct Authority ('FCA'). It was EFSL who carried out the regulated activity of carrying out the sale on the instructions of EL and the investigator was satisfied that the sale wasn't delayed once instruction was received.
- He didn't think EFSL had acted unfairly in arranging the sale of the shares, so it didn't need to take any action.

The executors didn't agree with the investigator. They said;

- EL and EFSL didn't communicate effectively about how to sell the shares. There was a simple process and that was for them to indemnify against any counter claim on their late father's estate. There was no guidance on either business' websites about how they could go about selling the shares and when they sought guidance, they were incorrectly told nothing could be done.
- The two businesses were inextricably linked – they were the same organisation from the executor's perspective – and they were reliant on EL for EFSL to sell the shares.
- The investigator hadn't made any reference to the call recording of a conversation had with the head of complaints at EL. It demonstrated EL's lack of understanding about selling shares before probate is granted.
- Their case wasn't unique and EL and EFSL staff should have been aware of how to deal with it correctly or escalate their enquiry.
- They found it hard to believe the process was complex. They were told by EL's Associate General Counsel it was a simple process.
- EL wasn't exposed to a large risk as it was mitigated by their completion of the indemnity.
- Their late father's role as a director of one of Company S' subsidiaries had no bearing on the share price of Company S nor the selling of the shares.
- Reference to inheritance tax requirements was irrelevant. That was their legal responsibility as beneficiaries.
- It was admitted there wasn't satisfactory internal process between EL and EFSL. EL staff were unaware that ESFL could sell the shares before probate was granted.
- As executors they had a legal responsibility to the estate and were failed by both organisations.
- Their complaint was against EL *and* EFSL.

The executors requested the complaint be decided by an ombudsman, so it has been passed to me.

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.

After doing so, I've reached the same conclusion as the investigator and broadly for the same reasons. I'll explain why but first outline this service's inability to look at the complaint about EL.

Why I can't look into a complaint against EL

In their response to the investigator the executors said from their view EL and EFSL are inextricably linked and their gateway to EFSL to sell the shares was through EL. They say there was a lack of internal communication between the two with regards to how the shares could be sold before probate was granted.

DISP 2.3.1 R requires that for our service to consider a complaint, it must relate to the actions of a *firm*. To meet the definition of a *firm*, the respondent must be authorised and regulated by the FCA. EL is unregulated, so it's not answerable to our service.

So the business complained about needs to be covered by either our compulsory jurisdiction or our voluntary jurisdiction. To be considered under our compulsory jurisdiction, EL would need (for the purposes of this complaint at least) to be a financial business authorised by the FCA to carry on one or more specific activities. To be considered under our voluntary jurisdiction, EL would have needed to agree to be a voluntary jurisdiction participant.

EL isn't covered by either of these – they're not FCA regulated, and they haven't agreed to be considered under our voluntary jurisdiction. It was EL who was acting in its capacity as registrar for the certificated holding and in that capacity was not a *firm* so any complaint about it isn't one I can consider.

I appreciate EL is part of the wider Equiniti Group – which is made up of some regulated and some unregulated companies – of which EFSL is a regulated firm. The executors only dealt with EFSL when it came to the actual sale of the shares in Company S.

While the companies are part of a group, they are each individually limited companies, so we wouldn't be able to hold one company responsible for the actions of another in the group. Each company within Equiniti Group must be regulated separately – so EFSL's status as a regulated firm has no bearing on EL's regulatory status.

I can see the executors feel strongly about this situation and I empathise with the position they've found themselves in, given the financial loss they say they have suffered, but our powers in relation to which complaints we can consider are restricted, and here we are not able to look at the complaint about EL. I'm required to apply the rules and can't disregard them. To do so would mean I am acting outside of the powers and any decision I made on the merits of the complaint would be unenforceable.

The complaint about EFSL

With regards to EFSL, this means I am limited to looking at how EFSL carried out the deal for the executors. For instance, whether they acted in line with the principles of best execution and whether they achieved a fair price based on those available in the market when they received his sale instructions.

And EFSL could only act in carrying out the sale instruction when EL was satisfied that the executors were effectively acting as the holders of them in managing the estate. Upon death of the shareholder this would usually be evidenced by probate being granted, but in this case the executors signed an indemnity against a counter claim on the estate to EL.

It was EL that made the business decision and came to agreement with the executors that it would need an indemnity from the executors to ensure its requirements had been met. It was

only the actual sale of the shares that was carried out by EFSL, the regulated entity of Equiniti. And I haven't been given anything to suggest that the trade wasn't handled as it should have been. So, I don't think EFSL has done anything wrong.

It follows that I don't uphold the executors' complaint about EFSL.

No doubt the executors will be disappointed with the outcome – it's clear they feel strongly about the complaint, and I appreciate the position they have found themselves in. But our powers in relation to complaints are restricted as set out above, and here I have only been able to consider those complaint points in relation to the share deal itself, against EFSL.

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

My final decision

For the reasons given, I can't consider a complaint about Equiniti Limited. And I don't uphold the estate's complaint about Equiniti Financial Services Limited.

Under the rules of the Financial Ombudsman Service, I'm required to ask the representatives of the estate of the late Mr R to accept or reject my decision before 18 September 2025.

Catherine Langley
Ombudsman