

The complaint

The estate of Mrs W complains that BNY Mellon Fund Managers Limited delayed the sale and payment of the estate's investments.

The complaint is brought on the estate's behalf by the sole executrix, who I'll refer to as Mrs E. She said BNY Mellon made mistakes and then attempted to cover them up. She wants compensation for the losses incurred because of the delay in selling the investments, interest on the late distribution payments, and compensation for the extra work and stress she's been caused.

What happened

The late Mrs W had two investment accounts with BNY Mellon. Mrs E completed forms of renunciation for each account on 8 November 2023, requesting the proceeds were sent to her by cheque, and she posted the forms and supporting papers separately for each account.

She says she phoned BNY Mellon on 20 November as she hadn't heard anything. She says she was told both forms had been received and processed and that the cheques were being sent to her. She received a cheque for account ending 353, dated 27 November with sale dates of 22 November. She received a cheque for account ending 379 dated 29 November with sale dates of 24 November.

She received a further letter from BNY Mellon dated 27 November asking for her bank details so that income distributions accrued since Mrs W's date of death could be paid to her. She wrote to BNY Mellon on 4 December with her bank details, but her account wasn't credited until 24 January 2024 (for account ending 353) and 7 May 2024 (for account ending 379).

BNY Mellon sent Mrs E two final response letters. It said, in summary, that:

- The investments were sold on the same day the renunciation forms were received and the cheques were sent to her on settlement day. It confirmed these dates to her and apologised if she was told on 20 November that the forms had been received, as they clearly hadn't.
- Mrs E's letter providing her bank details wasn't scanned to account ending 379 and this caused the delay in the distribution payment for that account. It apologised and paid her £50 to compensate for the delay and as a gesture of goodwill.
- It explained why it couldn't pay the distribution payments to her by cheque – because they were held by its trustees who can only credit a nominated bank account.
- It confirmed it didn't receive Mrs E's 4 December letter until 21 December 2023 and that it wasn't responsible for postal delays.

Mrs E referred her complaint to us and said BNY Mellon had tried to cover up its mistakes by

blaming its call centre staff and postal delays, when it must have falsified the date the renunciation forms were received.

Our investigator said that the call Mrs E says she had on 20 November actually took place on 27 November. He didn't think BNY Mellon had falsified the timeline of when the renunciation forms were received, and he thought it had acted within a reasonable timescale in selling the investments and sending the cheques to Mrs E. He thought BNY Mellon had caused a delay in crediting Mrs E's account with the income distribution payment for account ending 379 and that it should pay interest at 8% simple from 7 February 2024 to 7 May 2024. The investigator explained that this service couldn't award compensation for distress and inconvenience as it is the late Mrs W who is the eligible complainant, rather than Mrs E.

BNY Mellon agreed and sent Mrs E a cheque for £14.85 for the interest.

Mrs E didn't agree. She said, in summary, that:

- She is 100% certain the phone call took place on 20 November and provided detailed reasons why she thought this was the case. BNY Mellon has adjusted the timeline to make it appear that all the delays were due to the post and that she is lying.
- She provided her timeline of events which she said shows the call couldn't have taken place on 27 November.
- She didn't experience any other postal delays around this time. The delays were more likely caused by BNY Mellon – it made an error with her 4 December letter, so it's not unreasonable to suggest it made a similar error with the renunciation forms.
- The distribution payment for account ending 353 was received in her account on 24 January 2024, not 7 February. This appears to be another date that BNY Mellon has altered.
- She has suffered distress and inconvenience because of BNY Mellon's lies. It's not fair that she doesn't have any rights.

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'm aware that I've summarised this complaint in far less detail than the parties and in my own words. There is a considerable amount of information here but I'm not going to respond to every single point made. No discourtesy is intended by this. Instead, I've focussed on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts. If there's something I've not mentioned, it isn't because I've ignored it. I haven't. I'm satisfied I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

Mrs E completed the two renunciation forms and sent them by post to BNY Mellon on 8 November 2023. I'm satisfied that BNY Mellon received the form for account ending 353 on 22 November and the form for account ending 379 on 24 November. I say that because:

- These are the dates BNY Mellon timestamped the forms as being received in its offices. There's nothing to suggest these dates were changed for any reason.

- I appreciate Mrs E feels sure that her phone call with BNY Mellon took place on 20 November. And this is one of the key reasons for her complaint – because she was told during the call that her forms had been received and the cheques had been posted to her. She says this can't be right because the cheques were dated 27 and 29 November. BNY Mellon said it had no record of a call on 20 November. It sent us a recording of a call which took place on 27 November. This is the phone call that Mrs E refers to – because she phones to ask if the renunciation forms have been received and the member of staff confirms they've received two forms dated 8 November. When discussing the form for account ending 353, the member of staff says, "*We got that on the 22nd*". So I find the call must have taken place after 22nd for him to have known this. And he says the cheque is "*due to be posted out today*". The cheque for that account was dated 27 November, the day BNY Mellon says the call took place. For these reasons I'm satisfied that the phone call took place on 27 November 2023.

I find BNY Mellon acted on the renunciation instructions in a reasonable timescale. It sold the investments on the same day it received the instructions. And it sent cheques on the same day as the sales were settled.

There was some delay in BNY Mellon receiving the renunciation instructions, and in receiving Mrs E's letter dated 4 December 2023. But I can't hold BNY Mellon responsible for these delays. I note that during Mrs E's phone call she mentions that she lives in a remote spot and that she's experienced postal delays before and that she's had things lost in the post. Unfortunately, I think it's most likely that this was what happened here.

BNY Mellon has accepted responsibility for the delay in crediting Mrs E's bank account with the distribution payment for account ending 379 and it paid her £50. Our investigator concluded that, if BNY Mellon hadn't made a mistake, the payment for account ending 379 would most likely have been received in Mrs E's account on the same day as she received the payment for account ending 353. He incorrectly said this was 7 February. I can see from Mrs E's bank account that the correct date was 24 January. I find it's fair that BNY Mellon should pay interest from this earlier date. I understand BNY Mellon has already sent a cheque to Mrs E for the amount due from 7 February. If Mrs E has already cashed this cheque, it will only need to pay her the amount due from 24 January 2024 to 7 February 2024.

Mrs E says she's been put to a great deal of inconvenience and stress. I'm sorry to disappoint Mrs E, but our investigator was correct to conclude that we can't award her compensation for any distress and inconvenience she suffered in her capacity as an executor. I'll explain why.

This service operates under a set of rules laid down by Parliament under the Financial Services and Markets Act 2000, published by the Financial Conduct Authority ("FCA") and known as the DISP rules. I am entirely bound by these rules, and I can't disregard them. If I did, any decision I reached wouldn't be enforceable in court. One of the things these rules cover is that a complaint must be brought by an eligible complainant. Or, of relevance here, on behalf of an eligible complainant. Specifically, by someone authorised by law to bring a complaint on someone's behalf – like the executor of an estate. DISP 2.7 gives details of what is required for someone to be an eligible complainant. I find the eligible complainant here is the late Mrs W, as the accounts with BNY Mellon were in her name. As she's passed away, it is her estate who has brought the complaint. But I can only award compensation for distress and inconvenience to the eligible complainant – who is the late Mrs W, rather than Mrs E. I find that any distress and inconvenience Mrs E suffered was in relation to her interactions with BNY Mellon in her capacity as executor of the estate. And not in relation to

any eligible complainant relationship Mrs E herself had with the firm. I do understand Mrs E's frustration with the position but, as I've explained, I cannot disregard the rules.

My final decision

My final decision is that BNY Mellon Fund Managers Limited should pay the estate of Mrs W interest at 8% simple per year on the income distribution payment for account ending 379 from 24 January 2024 to 7 May 2024. If Mrs E has already received the interest for the period from 7 February 2024, BNY Mellon Fund Managers Limited will only need to pay interest for the period from 24 January 2024 to 7 February 2024. *

* HM Revenue & Customs requires BNY Mellon Fund Managers Limited to take off tax from this interest. BNY Mellon Fund Managers Limited must give the estate of Mrs W a certificate showing how much tax it's taken off if it asks for one.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs W to accept or reject my decision before 2 April 2025.

Elizabeth Dawes
Ombudsman