

The complaint

The estate of R complains that Equiniti Financial Services Limited ('EFSL') failed to enact an instruction to transfer shares.

What happened

Mr R, representing the late Mrs R's estate in the course of being the estate's appointed administrator, says Mrs R transferred several shareholdings to him as beneficiary on 15 July 2024.

He says a number of similar transfers took place with other firms and those were completed in good time. However, those transfers involving firms within the Equiniti group didn't. Sadly, Mrs R passed away soon after instruction the transfers complained of on 26 July 2024 – my sincere condolences to Mr R and his family.

In August 2024 Mr R chased EFSL for progress and was asked to provide further information, with several discussions taking place by phone regarding the transfer of these shares.

During and around November 2024, some of the shares transferred to Mr R but were later reversed. Deeply concerned these shares had been stolen, he queried the reversal of the share transfer.

Unhappy with the time it took to complete the transfer and the reversal of it, a complaint was made to EFSL saying it:

- Delayed the transfer of the affected shares.
- Had no right to reverse the share transfer.
- Asked for information it didn't need to where Mr R was already a customer of EFSL.
- Communications with EFSL, in particular to its Directors, weren't responded to.

In responding to Mr R's concerns, EFSL didn't uphold the complaint. In summary it said:

- The shareholding didn't legally transfer on 15 July 2024 as it is only effective when the share register for those companies are updated – in relation to the physical shares.
- It didn't receive the transfer forms until on or after 22 August 2024, after Mrs R had passed.
- It was obligated to perform the identify checks it requested from Mr R.
- It couldn't transfer the shares until Mrs R's passing was registered and the relevant documentation received.
- The transfers were reversed following concerns about the security of ownership of the shares.

Dissatisfied with EFSL's response to the complaint, Mr R referred these concerns to our service to consider. One of our Investigators considered the complaint but didn't agree it should be upheld. She said EFSL hadn't acted unreasonably because:

- The date the transfer form was completed isn't the date the shares transferred.
- As that meant the shares remained in Mrs R's name when she passed, the shares didn't transfer.
- No transfer was able to take place as EFSL wasn't made aware of Mrs R's passing until 22 November 2024.
- EFSL wasn't acting incorrectly by reversing the transfer once it was aware of her passing.
- Once EFSL was aware of Mrs R's passing it took the steps it would've had it been notified sooner.

Mr R disagreed with the outcome our Investigator reached, he said this was because:

- Our Investigator said the matter incorrectly related to an estate when it in fact relates to him personally.
- Much of what our Investigator said was factually incorrect, materially inaccurate and errant in her reasoning.
- Using an example of online share dealing, he said the argument that the date of the transfer form didn't follow as those transfers are instant.
- The date on the form represents the date ownership passed.

As an agreement couldn't be reached this complaint was passed to me to decide.

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, the different types of shares need to be distinguished here. Prior to her passing, Mrs R held the six shares complained of in different formats. Three were held as paper share certificates with the other three held electronically in EFSL's 'Corporate Nominee Service' ('CNS'). For the paper certificates, these would be in Mrs R's name as the legal owner given that is what these certificates record and reflect in the share register of the respective companies. The electronically held shares however were held in a nominee service which means that a company within EFSL's wider group was the legal owner of those shares, with Mrs R retaining the beneficial ownership which EFSL keeps its own record of and reflects that in its customers' accounts.

This difference is important as this complaint relates to the regulated activity of safeguarding and administering investments. EFSL's role in this complaint relates only to that regulated activity, which would mean I can only consider the parts of the complaint against it where it has a responsibility to safeguard and administer the shares it holds for Mrs R. The transfer of the physical certificates is different as EFSL doesn't hold those shares, Mrs R did in her own name. Equiniti were involved in the transfer of those share certificates only through another entity within its group acting as the share registrar for the respective companies those physical shares relate to. As that doesn't involve EFSL, I can't consider the points relating to the transfer of the physical shares given those acts weren't carried out by EFSL.

The crux of this complaint in my view is whether or not EFSL correctly reflected any change in ownership of Mrs R's shares which were held within its CNS service. Specifically, whether the completed transfer documentation for those shares passed legal or beneficial ownership

from Mrs R to Mr R at that time. And whether EFSL caused any unreasonable delays or inconvenience when handling that request.

The completed transfer forms Mr R has provided, which he says evidence the share transfers to him, for the CNS held shares, are undated. They differ to the dated transfer forms for the certificated shares also provided in that there is no section to date them. I can't say then when those forms were completed as there is no other accompanying evidence to persuasively demonstrate when the completion of those forms took place. But even if I were to accept they were completed prior to Mrs R's passing, I'm not persuaded the completion of these forms would enact the transfer of either the legal or beneficial ownership of those shares from Mrs R to Mr R.

I understand Mr R considers the form Mrs R completed to be a 'deed' passing him legal ownership at the time, but I don't agree it did. The form used itself to enact the transfer is drafted as a transfer request and importantly includes the following declaration:

"I/We hereby request transfer within the Nominee Service... of the shares detailed in this form out of my/our name(s) to the person(s) named in this form. I/We request Equiniti Financial Services Limited to make such entries in the Nominee Service register as are necessary to give effect to this transfer of beneficial ownership."

It's clear in my view then that this form wasn't the type of deed Mrs R and Mr R perhaps thought it to be. I say this because nothing within them confers such a transfer, instead it is a request to EFSL to amend its register as to who the beneficial ownership should be recorded against. I'm also satisfied this form doesn't say such a transfer is immediate, instead gives the implication that change in ownership only takes place once its register is updated.

As Mrs R's instruction was to transfer the shares to Mr R's own EFSL account, that wouldn't require a change in the legal ownership – as Equiniti's nominee would remain the legal owner. What would change is who the beneficial owner of the shares was recorded as being in EFSL's own records. I can't fairly say the ownership of these shares passed from Mrs R to Mr R when she completed that form.

For that transfer of beneficial ownership to take place, the fully completed form needs to be received by EFSL who would then update its own internal registers. If completed and received prior to Mrs R's passing, that would have the effect of reallocating the beneficial interest of the shares where they were held in a nominee account. And so, while I appreciate Mrs R may have completed and sent that form, or authorised its sending, I've not seen any evidence it was received by EFSL to give effect to the transfer prior to her passing on 26 July 2024.

EFSL says in several calls and in its submissions to our service that those forms weren't received by it until around 22 August 2024. I also understand from the call recordings the forms weren't sent by a method of recorded delivery which could show when they were delivered to EFSL. It's unclear why it took so long for the forms to be received by EFSL where Mr R is adamant the forms were sent at the time they were completed and EFSL say they weren't received until 22 August 2024. As I've not seen evidence of a specific cause of this delay, I think it's most likely then this delay was caused by postal delays rather than anything EFSL did or didn't do. And as the postal service is outside of its control, I can't fairly say EFSL unfairly delayed or prevented the share transfer because of the forms not being received in time.

It follows then as the completed transfer request wasn't received by EFSL prior to Mrs R's passing, it couldn't transfer the beneficial ownership to Mr R as she requested. For the

reasons given above I'm not persuaded Mrs R transferred her ownership on completion of the form or that EFSL unfairly failed to enact the instruction or delayed it.

Subsequently, it appears the forms were resubmitted along with the requested identity documents leading to two of the three affected shares being temporarily allocated to Mr R's beneficial ownership. He says he was briefly able to view them on his account before EFSL reversed the transfer against Mrs R's instructions, and his legal rights as beneficiary. He also says these identity requirements weren't required where, as the beneficiary, he was a customer of EFSL already.

I've carefully considered the reversal point and in my view I'm satisfied EFSL initiated the share transfer to Mr R because it, in good faith, thought it was enacting Mrs R instructions. I say this because the evidence shows EFSL first found out Mrs R had passed away several months prior, when it carried out checks on her on 22 November 2024 during the share transfer. When EFSL initiated the transfer then, it at that point reasonably considered it was able to do so as it had no reason to consider she had passed away. I say this because I've not seen evidence EFSL had been notified of her passing and had also received several phone calls about this transfer from someone identifying themselves as her since then. On learning of her passing, it took steps to revert the beneficial ownership of those shares back to Mrs R.

When thinking about whether EFSL fairly reversed her in life instruction I've considered that the terms between Mrs R and EFSL state at clause 14, "The rights to your shares pass to your legal representatives on your death". At the point she passed away then, her in life instructions were no longer valid as the rights to make that transfer pass to the representative/s of her estate. While I understand Mr R is that representative, there is a notification procedure to follow first to allow the shares to transfer to the end beneficiary. And while I understand Mr R considers he is the beneficiary of those shares, EFSL needs to follow the procedures in place to protect its customer until the relevant procedures have been followed. I'm satisfied it acted reasonably in doing that in ensuring it was processing valid instructions for her estate.

As the original transfer instruction could no longer be enacted when Mrs R passed away, EFSL had in effect allowed an unauthorised transfer to take place, in my view that means the transfer ought not to have taken place. Given that it isn't unreasonable in taking reasonable steps to protect Mrs R's assets, it decided to reverse the transfer. In doing so EFSL wouldn't be amending the legal owner as the shares would remain with its nominee, only its register of beneficial interests would be amended. It follows I'm satisfied in these circumstances it would be acting at the very least within its general obligations to conduct its business with skill, care and diligence as required by the general principles in PRIN 2.1 to restore Mrs R as the beneficial owner in these circumstances.

I can't fairly say then that EFSL needed to follow the instruction Mrs R made prior to her passing. Once EFSL became aware of Mrs R's passing it asked Mr R as the representative of her estate to follow its standard process when a shareholder passes. I understand Mr R has interpreted that as EFSL asking him to complete the form as if he was her, but that isn't the case and I'm satisfied it has asked him to do so as the legal representative of her estate. I've also not seen evidence EFSL unfairly delayed proceedings from that point onwards.

On Mr R's point around EFSL verifying his identity, I don't think it was unreasonable it did. Firms are required to carry out these checks and request the information to do so in order to comply with their 'know your customer' and crime prevention obligations. It also mentions in the terms it may request this information prior to such a transfer taking place and I'm not persuaded being an existing customer removes that requirement.

Mr R has in this complaint referenced various negative interactions with EFSL in both his roles as representative of the estate and his capacity as a potential beneficiary of the shares. I'm satisfied much of the issues he complains of derive from EFSL not being notified of Mrs R's passing. And while at times EFSL could've better communicated with him I can't fairly require it to compensate him for that where he has contributed to the overall issues affecting the transfer and subsequent communications by not following the death notification process sooner.

My final decision

For the reasons given above, I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of R to accept or reject my decision before 4 June 2025.

Ken Roberts
Ombudsman