

## The complaint

Mrs P and the late Mr P complain that when they tried to withdraw funds invested in the Legal and General Assurance Society Limited Investment Portfolio Service ('IPS'), the investments and trust document could not be located.

## What happened

Mrs P and the late Mr P, met with L&G in late 2011. In early 2012 L&G recommended they invest £10,000 into a trust for their grandchild. They explained the investment would come from a third-party bank account that Mrs P and the late Mr P set up for their grandchild. The account, which was a child savings account, included the provision of an absolute or bare trust for the benefit of their grandchild when they reached age 18. The letter from L&G refers to Mrs P and the late Mr P as the trustees and donors of the investment.

In 2021, Mrs P and the late Mr P asked L&G to encash the investment, but L&G said they were unable to locate the investment funds, or details of the trust. In 2023, Mrs P and the late Mr P asked a firm of solicitors to contact L&G to assist them in tracing the investments. Later the same year L&G explained to the solicitors that they had transferred their IPS accounts to a third-party. In early 2024, Mrs P and the late Mr P, brought the complaint the Financial Ombudsman Service and one of our Investigators looked into things. Mr P passed shortly after the service received the complaint.

Our Investigator thought that there was no compelling evidence that L&G had set up a trust. Without any contract notes or statements confirming the investment went ahead, our Investigator did not think L&G needed to do anything else. Mrs R, who now represents Mrs P and the late Mr P, asked that an Ombudsman decides the complaint.

Whilst I've reached a similar outcome to that of our Investigator my reasoning is different. I have also seen an email from Legal and General Assurance Society Limited indicating that they do not give consent for the Financial Ombudsman Service to consider the complaint. I asked them to clarify their position in this regard, but unfortunately, they did not provide a response. So, I issued a provisional decision to explain why I think this is a complaint I can consider and explain my reasoning for not upholding the complaint.

In my provisional decision I said:

*"I can confirm I reviewed all of the emails and additional supporting documents Mrs R has sent to me. I thank her for providing her recollection of the events, and for clarifying that she and her late husband also held investments with L&G.*

*Before I deal with the complaint, I need to address L&G's opinion that it is a complaint we can't consider. L&G say they would have expected Mrs P and the late Mr P to have contacted them by 15 February 2019 if they had reason to believe the investment hadn't completed. L&G believe the Financial Ombudsman Service cannot consider the complaint as the event happened more than six years ago, and that Mrs P and the late Mr P ought reasonably to have known they had cause to complain more than three years ago. As L&G hasn't provided explicit consent for our service to consider the complaint, I asked them to*

*provide an explanation why they thought the 19 February 2019 was a key date in their reasoning for not providing consent. L&G has not provided a response. So, I will explain what I intend saying in this regard.*

*The Financial Conduct Authority DISP rules that apply in these circumstances say that unless a business consents or there are exceptional circumstances, we're unable to consider a complaint brought more than six years after the event complained of. Or, if later, more than three years from when the consumer became aware, or ought reasonably to have become aware, they had cause for complaint.*

*In this case, Mrs P and the late Mr P made a decision in 2021 to withdraw the investment. By October 2021 L&G had explained to them that they had transferred the administration of investments in IPS accounts to another provider. Mrs P and the late Mr P made a number of attempts to track the investment with L&G and also contacted several other businesses as suggested by them. It wasn't until mid-2023, after Mrs P and the late Mr P had exhausted their search that they contacted a firm of solicitors for help. After the firm of solicitors wrote to L&G, they were told that they had now found a record of the account numbers of the IPS accounts. Their representative Mrs R made further enquiries of the new investment provider but says the account could still not be traced. They'd been proactive in trying to find the investment – and any trust documents – since 2021. The first inkling they had that the investments were no longer with L&G would have been October 2021. So, in this case, this is the event date and it's less than six-years ago. Regardless of this, I've seen that L&G provided an explanation of what may have happened, but it wasn't until 2023 that they provided specific information about the investment account numbers to Mrs P and the late Mr P's solicitors. As Mrs P and the late Mr P brought their complaint to our service in March 2024, I intend saying (sic) it was brought to us within three-years of when they ought reasonably to have been aware they had cause for complaint.*

*I will consider any further submissions L&G wish to make before I make a final decision, but if L&G are happy to provide consent my decision will only address the complaint.*

*There are two key aspects to this complaint. What happened to the trust documents, and where is the investment. I will address these issues separately.*

#### *The trust*

*It is the responsibility of the trustees to ensure any trust is set up correctly. They should also keep details of the investments and transactions the trust may make and a copy of any trust document. In this case I've not seen anything to suggest L&G set up a specific trust. Nor has either party been able to provide any evidence that a trust exists. However, I've seen documents confirming the child savings account from where the investment was funded required trustees to be appointed. This persuades me that the funds in the child savings account were more likely than not held in an absolute or bare trust. Even if the investment Mrs P and the late Mr P made with L&G were written under a trust or separate trusts with their grandchild being the nominated beneficiary, it's likely they would be absolute or bare trusts without any formal trust documents. Although L&G has no records to confirm this, I will explain below why I think L&G has done enough to support Mrs P and Mrs R in their efforts to understand what happened to any trust that may have been incorporated into the investments they made for their grandchild.*

#### *The investment*

*L&G issued a recommendation letter to Mrs P and the late Mr P in early 2012. The letter, addressed to Mrs P and the late Mr P as individuals and not as trustees, confirmed the L&G adviser had received a cheque in the amount of £10,000. This had been sent for*

*processing along with the completed application form. There is no mention of a separate trust form being sent to L&G and nothing to suggest a new trust had been set up by them. Mrs R, representing Mrs P and the late Mr P, says they first deposited £10,000 cash into the third- party account – a child's savings account in the name of their grandchild. She explained the cheque sent to L&G was issued by the provider of the child savings account. The recommendation letter and Mrs R's recollection persuade me it is more likely than not that L&G received a completed application form and a cheque for £10,000 from Mrs P and the late Mr P. This is supported by L&G later confirming they have since transferred investments in the name of Mrs P and the late Mr P to a new provider. I will call this provider company A.*

*Mrs R has been unable to provide any contract notes or regular statements relating to the investment. Nor has she been able to provide a copy statement for the child savings account Mrs P and the late Mr P held before the L&G investment was made. L&G carried out a number of searches for accounts held in the name of the late Mr P and Mrs P, or in the name of their grandchild. They identified that the late Mr P held investments with them around the time of the £10,000 investment, but there is no evidence these were written under trust or were intended to be for the sole benefit of his grandchild.*

*In this situation, I would expect L&G to complete a thorough search of their records to identify what happened to the investments. L&G says they transferred investments held in their IPS to company A in November 2016. When asked by the solicitors acting for the late Mr P and Mrs P for any information about the transfers, L&G provided account numbers and the date when they transferred their IPS Service accounts to the third party. L&G accepts that both Mrs P and the late Mr P had customer identification numbers with them, but say their searches show they no longer have any investments. There is no regulatory obligation for L&G to keep detailed records of the investments transferred after 6 years. However, there is evidence they supported Mrs P and the late Mr P by providing the name, address and telephone number of the business that now administer the accounts (company A), along with the account numbers. So, although Mrs P and her representative will be disappointed, I intend saying L&G took reasonable steps to help them find out what happened to any investment they may have had.*

*I would suggest that Mrs R may want to contact company A and provide them with the account numbers L&G provided to their solicitor. If Mrs R wants the contact details and the account numbers, our Investigator can provide these. Although this may help in finding out what happened to the investments Mrs P and the late Mr P made, it may not help in establishing where the trust document is, or if there is one. It may help in identifying whether the account is, or was, held in an absolute or bare trust for the benefit of their grandchild. But for the reasons I've provided earlier I intend saying I'm satisfied L&G took reasonable steps to locate the investments held by Mrs P and the late Mr P and that it's more likely than not that they no longer hold these investments.*

*For the reasons outlined above, I intend saying this is a complaint the Financial Ombudsman Service can consider.*

*I also intend saying that Legal and General Assurance Society Limited took reasonable steps to establish they didn't hold any investments under trust for Mrs P and the late Mr P and their grandchild. And they provided details to Mrs P and the late Mr P, via their solicitors, of the accounts held in their individual names that had been transferred to company A."*

Both parties have now provided comments and additional information for me to consider, but I've not been persuaded to change my decision. I will address the relevant comments and evidence in my final decision.

## 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.

L&G confirm they issued a final response letter by email in October 2021. There's no dispute that this was the case, nor that this response had no Financial Ombudsman Service referral rights. In the final response L&G say, *"However, as we've explained we don't hold the Trust you're referring to. We've been able to see that you held an investment with our Investor Portfolio Service and the administration of these went to {company A} in 2016, but I understand you've contacted them and they've confirmed they also hold nothing for you."*

Regardless of L&G's comments, as Mrs P and the late Mr P brought their complaint to our service in March 2024, I've decided it was brought to us within three-years of when they ought reasonably to have been aware they had cause for complaint – that is when L&G told them in October 2021 they did have investments that had been transferred.

### *The Trust*

Although L&G's letter from 2012 refers to Mrs P and the late Mr P the investments being held under trust, I've not been provided with a copy of the trust document. L&G says they do not have a copy and Mrs R has not been able to provide a copy. In respect of the trust, L&G's letter from 2012 says, *"The trust has been set up for the benefit of your {grandchild}...The original investment was an instant access {...} account with {a bank} which is set up within the provisions of an absolute trust of which you are joint trustee's and donors."*

It's the responsibility of the trustees to ensure any trust is set up correctly. They should also keep details of the investments and transactions the trust may make and a copy of any trust document. In this case I've not seen anything to suggest L&G set up a specific trust, so it's not reasonable for me to decide they did anything wrong here.

### *The Investment*

Mrs R has provided a copy of an L&G statement from 2018. This statement refers to a fixed rate ISA, so I'm satisfied this is nothing to do with the investments held for Mrs P and the late Mr P's grandchild. She's also provided a copy of a building society passbook that shows an account written under trust for the grandchild of Mrs P and the late Mr P. Unfortunately, this passbook does not record Mrs P and Mr P as the trustees. The same passbook covers the period when Mrs P and the late Mr P made their investment with L&G, but it doesn't show any withdrawals from the account at this time.

The recommendation letter and Mrs R's recollection persuade me it is more likely than not that L&G received a completed application form and a cheque for £10,000 from Mrs P and the late Mr P. L&G later confirmed they have since transferred investments in the name of Mrs P and the late Mr P to a new provider – company A. I have not seen any evidence that persuades me L&G wrote these investments under trust. Regardless of this, I'm persuaded that L&G have conducted a thorough search of their records and in 2023 provided Mrs P and the late Mr P's solicitors with details of the accounts – in their name – that they'd transferred to company A. I'm satisfied that it's more likely than not L&G no longer have accounts in the name of Mrs P and the late Mr P.

Mrs R says her late father preserved bills and financial documentation dating back over 30 years, and that she continues to uphold that standard. She says such records are vital not only for financial clarity but also as proof of the legitimate origin of funds in any future

financial or legal proceedings. However, Mrs R hasn't been able to supply other documents that persuade me L&G still hold the investments or that the investments were held under a trust with L&G. Mrs R says she cannot find any information or documents from company A. I want to be clear that I can't consider what company A did with the investments. I can only consider what L&G did. Mrs R can raise this again with company A using the account numbers and dates provided by L&G. At no time have I suggested company A may have paid out – or closed - these investments. It may be that company A allocated new account numbers when they received the investments in 2016. But I would suggest Mrs R contact company A again and ask them to search using the account numbers L&G have provided.

### **My final decision**

For the reasons outlined above, I have decided Legal and General Assurance Society Limited took reasonable steps to establish they no longer hold any investments under trust for Mrs P and the late Mr P for their grandchild. And they provided details to Mrs P and the late Mr P of the accounts held in their individual names they had transferred to company A. I will not be asking Legal and General Assurance Society Limited to do anything else.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs P and Mr P to accept or reject my decision before 6 August 2025.

Paul Lawton  
**Ombudsman**