DRN-5821472

The complaint

The estate of Mr D has complained that Funding Circle Ltd ('Funding Circle') allowed an unauthorised third party to open two accounts in Mr D's name. The executor wants the estate's money to be refunded in full with reasonable interest.

The estate is represented by the sole remaining executor, Mrs B.

What happened

Mr D was diagnosed with dementia in 2011 and a Power of Attorney ('POA') was registered with his wife, Mrs D, in 2015. Mrs B says two accounts with Funding Circle were fraudulently opened in Mr D's name in 2017. A Classic account in February 2017 and an ISA account in May 2018. £3,000 was deposited into the Classic account on 17 February 2017 and £15,000 was added to the ISA on 20 May 2018.

The executor contacted Funding Circle in May 2019 to inform of Mr D's death. This couldn't be done any earlier as there wasn't any paperwork and Mrs D wasn't aware the accounts had been opened.

Mrs B says Mr D didn't have the capacity to open the accounts and became concerned they were set up without proper due diligence. She thought all funds invested should be returned. She said that when Funding Circle was told of the death of Mr D all activity on the account should have stopped and funds repaid to the estate. But loans were arranged after Mr D's death and were extended without permission.

Mrs B raised a complaint with Funding Circle about several points, the main one being that Funding Circle allowed the accounts to be opened fraudulently. Funding Circle responded to the complaint on 12 November 2024. It said;

- It didn't know there was a POA in place.
- It was an online business and wasn't aware of any vulnerability on Mr D's behalf.
- All the required checks were completed upon account opening.
- It offered £250 to the estate for when its service had fallen short of good customer service.

Mrs B wasn't happy with the outcome and brought the complaint to the Financial Ombudsman Service. Our investigator considered the complaint and said;

- Funding Circle had offered to pay to the estate £0.08 being the balance on the account and £96.69 which was outstanding bad debt still lent out. She thought this was fair. Repayment of the bad debt and account balance would allow the estate to be finalised.
- Funding Circle followed industry standard processes when the accounts were opened.
- As the personal information given during account opening was verified there was no

need for Funding Circle to have checked for vulnerability or whether there was a Lasting POA in place.

- As Mr D had dementia at the time the accounts were opened it was more likely done without his or his POA's consent.
- The accounts had made a profit so there had been a benefit.
- The estate should contact Funding Circle if it was willing to accept the distress and inconvenience payment already offered as this service wouldn't make such an award to an executor.

Mrs B didn't agree with the investigator but the points she made didn't change the investigator's opinion. As the complaint remains unresolved, it has been passed to me for a decision in my role as ombudsman.

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.

As background, Funding Circle is a peer to peer investment platform that allows investors to lend directly to small and medium sized businesses. When an investor wants to withdraw, the loan has to be sold to other investors using its platform which is what happened for the loans held in Mr D's estate. But sums have been repaid to the estate over time since the death of Mr D and Mrs B's intervention.

Funding Circle has an obligation to treat its customers fairly and consider their bests interests. And I would expect Funding Circle to consider this during the account opening process.

When the first account was opened in 2017 an online account opening form was completed and Funding Circle told us it also carried out a credit check. Nothing else was needed. In the account opening form the applicant needed to provide Funding Circle with a unique email address and password and then information about themselves including date of birth, full address, length of residence and full name etc. Security questions were also set up. Funding Circle said that if the information provided was validated – which it was in the case of Mr D's account – no further information or evidence of identity, such as a copy of a passport, was required by Funding Circle.

And the details input about Mr D's bank account passed Funding Circle's automated – and risk based – validation process for when funds were initially transferred into the account. As Mr D's account passed Funding Circle's normal checks no further checks were needed about the source of wealth. Funding Circle told us verification of bank details was only needed when funds were paid out of the account.

Mrs B has told us that the email account used to open the account was fake and the telephone number wasn't Mr D's. Mrs B said that Funding Circle should have checked to see whether any other accounts it held used the same telephone number. But I wouldn't expect Funding Circle to have carried out such a check as standard when receiving an online application. There wouldn't have been any reasonable need for it to have done so bearing in mind the validation of the information it had been provided.

When the account was opened Funding Circle wasn't advised Mr D didn't have access to a computer, nor did it receive any indication Mr D would have had issues with its standard communication of terms and conditions. Mrs B has said that Funding Circle should have carried out identity checks with due skill, care and diligence and this didn't happen. She questioned what the industry standard was for opening such an account.

From my experience of similar online financial services, Funding Circle didn't act differently or ask for less information than I would expect. The account opening information provided was sufficient for it to have been validated and it verified Mr D's credit worthiness with a credit reference agency. No 'red flags' were raised with the information sought or provided that would have caused it to take further action in establishing the authenticity of the account holder.

And once opened, any instructions on the account were handled directly by investors via their online account either by manually selecting the investment or through Funding Circle's auto-lending tool. Statements could be downloaded by the investor. Funding Circle didn't have any record of Mr D providing instruction via letter, telephone or email. It didn't ever speak with Mr D, but it was an online business, so I don't find this unusual. So, there was no face to face or verbal contact with Mr D which potentially could have sign posted to Funding Circle that the account had been fraudulently opened or that Mr D was vulnerable.

Taking all the above into account, I think Funding Circle carried out sufficient and proportionate checks for it to fairly and reasonably establish the authenticity at the account opening stage. I wouldn't have expected it to proactively seek information about a POA being in place or carry out any additional checks to assess potential vulnerabilities. I don't think it was wrong in accepting at face value what it was told during the account opening process and which it is allowed to do under the regulations. So I don't think Funding Circle was unreasonable in the validation of the information it was given.

In response to the investigator Mrs B said she hadn't asked for compensation. She wanted this service to hold Funding Circle to account for failing to carry out sufficient due diligence to protect vulnerable people from fraud and to put the estate's affairs back in the position it would be in if the account hadn't been allowed to be fraudulently opened.

I appreciate Mrs B's view that Funding Circle should have done more to validate Mr D's account when it was opened by a third party. And bearing in mind what Mrs B has told us – Mr D's incapacity and lack of computer access – it does seem most likely the accounts were fraudulently set up. But I'm satisfied that Funding Circle acted reasonably in the account opening process and carried out sufficient and proportionate due diligence. I don't find it was unfair or unreasonable in accepting the account openings in Mr D's name.

When this service looks at a complaint we do so on the individual merits and circumstances of that particular complaint. It would be the role of the regulator – the Financial Conduct Authority – to require Funding Circle to change its processes if they didn't meet the regulatory requirements needed when opening an account. And with regard to putting the estate back in the position if the account hadn't been opened, the estate is financially better off than if the funds had remained in cash and has benefitted from a reasonable return.

I say this because of the £18,000 invested a total of £20,214.83 has been repaid to the estate – £433.77 from the Classic account and £1,781.06 from the ISA – a profit of £2,214.83. I haven't been given evidence to suggest that any funds were paid to an unauthorised third party.

And Funding Circle continues to manage a total of £96.69 of bad debt. Of that defaulted bad debt Funding Circle can't confirm whether it would be able to recover further funds from the

defaulted loans. But as a gesture of goodwill Funding Circle has offered to pay the estate a total of £96.77 being the bad debt amount of £96.69 and £0.08 being the balance on the account. In the particular circumstances of the complaint, I think that offer is fair and reasonable and it will allow the estate of Mr D to be finalised.

So, in response to this decision it is for the estate to decide whether it wishes to accept that offer. And it would need to contact Funding Circle if it is willing to accept the offer of £250.00 previously made by Funding Circle for the poor service received.

My final decision

For the reasons given, I don't uphold the estate of Mr D's complaint about Funding Circle Ltd.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr D to accept or reject my decision before 12 December 2025.

Catherine Langley
Ombudsman