

## **The complaint**

The executors of the late Ms M's estate complain that Clydesdale Bank Plc trading as Virgin Money ("VM") withdraw from the role of executor resulting in delays to the administration of her estate. In particular, the executors say it delayed the return of the original Will resulting in extra costs to the estate and are unhappy with the overall service received.

## **What happened**

Ms M appointed VM to act as her executor under her last Will. VM took the decision to stop acting as executor on estates in 2017 and wrote to Ms M about this at the time explaining that it would no longer provide this service after 31 August 2017. Unfortunately, Ms M's Will was not updated prior to her death and the executor appointment of VM remained.

On being notified of Ms M's death in late 2022 VM sent a letter of declinature to Ms M's executors but after six months were unable to locate and to return the original Will so at its own cost, VM appointed solicitors to establish the validity of a photocopy of the Will.

Following the executors chasing VM for the original Will – including contacting its CEO - the original Will was located and sent to the executors in October 2023 nearly a year later. The executors say this delayed the process of obtaining Confirmation resulting in delays in the administration of the estate and increased costs.

The executors complained to VM about the service received from it and sent a claim for costs to VM by email dated 17 April 2025. The executors say as a result of the delays they lost the opportunity to earn interest on the proceeds of the house sale and use the estate funds in a more tax efficient way by mitigating the Capital Gains Tax (CGT) liability and calculate the total losses to be over £6,000 not including their time.

VM accepted it had made some errors during the process and agreed to meet the direct costs without requesting evidence amounting to £2,832.48 (representing electricity, property management fees and HMRC interest for the late payment of IHT) but declined to meet the 'opportunity costs' listed as they couldn't determine what the sale price of Ms M's house would've been had it taken place earlier and what the Capital Gain might or might not have been. VM apologised for the distress and inconvenience caused and compensated the executors £500 in total for this.

One of our investigator's looked into the concerns raised by the executors. They explained that as a service we aren't able to make an award or consider compensation for the impact or any distress caused to the executors personally as they are not the eligible complainant – Ms M's estate is - and so we would only be considering whether there has been a financial impact to Ms M's estate as a result of any errors made by VM.

And having done so they agreed VM had made errors but believed that VM had already compensated the estate and the executors for the direct costs incurred as a result of this (£2,832.48) as well as paying fair compensation to them for any administrative inconvenience suffered (£500) and so didn't agree VM needed to do anything more.

The executors remain dissatisfied as they believe Ms M's estate suffered increased administrative costs in safeguarding the estate assets due to the delays and had to pay an extra £1,827 due to lost opportunities in mitigating Capital Gain Tax (CGT) and have asked for an ombudsman's decision on the matter.

### **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.

I hope that executors won't take it as a discourtesy that I've condensed this complaint in the way that I have, I've no doubt about the amount of distress and inconvenience the executors have suffered due to this matter in their role as both executor and as bereaved siblings of Ms M.

This complaint is regarding the service received from VM following the death of Ms M. In particular, the executors are unhappy at the time it took for VM to locate Ms M's original Will resulting in delays to the administration of the estate. They believe this added extra costs and meant there were lost opportunities to earn interest on the sale proceeds of Ms M's property and mitigate CGT. The executors want to be compensated fully for this and for the distress and inconvenience they've suffered personally.

And after considering everything carefully – and I know this will come as a disappointment – I'm in agreement with our investigator and I don't think there is anything much more of use I can add.

Although I sympathise with the executors, I cannot look at compensating them for any distress and inconvenience they suffered personally as they aren't the customer in this event – Ms M's estate is.

There is no dispute that the service provided by VM has been poor and it took way too long to locate Ms M's Will or keep the executors updated in what was happening and this has caused delays in the administration and extra costs for the estate.

It might help if I explain that where a business accepts (or we decide) it did something wrong, we'd expect the business to put the consumer – Ms M's estate - in the position it would be in if that wrong hadn't taken place and we may award compensation that we think is fair and reasonable.

In this case I'm satisfied the main error VM made was not being able to locate and send Ms M's Will to the executors in a timely manner. And I agree that as a result the estate likely suffered extra costs (mainly in relation to ongoing maintenance of the property and late payment of inheritance tax) and so VM should reimburse the estate for this as these costs can be directly attributed to the delay.

But I don't agree that VM should be responsible for what the executors deemed 'lost opportunities'. I accept if the property sold sooner than it did then the proceeds could've been earning Ms M's estate interest. But there is no way of determining when the sale could've realistically taken place and at what price or what interest would've been earned on the proceeds. There are many factors which could delay the sale of a property outside of finding a lost Will.

The executors believe that as a result of the delays that the estate has been subject to a CGT bill which could've been avoided. But my understanding is that there was no movement in the value of the property and so I'm unsure what this CGT liability is attributed to –

possibly the disposal of the late Ms M's shareholdings.

But in any case, I don't think this matters as our investigator has already pointed out estate assets value can go up or down, and in this case as the value went up there has been no capital loss but rather a gain which is taxable. I appreciate there are ways to mitigate this liability but it's not possible to say with certainty what could've been done or that the delays meant that this wasn't possible. And so I don't think it would be fair to hold VM responsible for this.

And so as VM have already reimbursed the executors for the costs I think were likely incurred as a direct result of the delay in locating Ms M's Will and obtaining Confirmation, I consider the estate to be in the position it should be in and don't think VM need to do anything else in this regard.

I accept that this whole process has been very distressing and undoubtably caused significant distress and inconvenience to the executors. But as I've already explained above this complaint has been brought on behalf of Ms M's estate - who is the eligible complainant here – and so I can't consider compensation for any personal distress suffered by the executors.

I do agree that the executor's and the estate have suffered some administrative inconvenience, but as VM have already compensated £500 for this - which I think this is fair – I'm not going to ask VM do anymore.

### **My final decision**

For the reasons I've explained I do not think there is anything more for Clydesdale Bank Plc to do to settle the executor's complaint brought on behalf of the estate of Ms M.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Ms M to accept or reject my decision before 30 January 2026.

Caroline Davies  
**Ombudsman**