

## **The complaint**

Ms D complains that Vanguard Asset Management Limited won't accept the trustees of her will trust as the nominated beneficiary on her pension.

Ms D would now like Vanguard to either change their policy or pay her compensation for the trouble that they've caused her, along with the time and future costs she says that she'll now incur in putting this right because of them.

## **What happened**

Ms D has held a self-invested personal pension (SIPP) with Vanguard for a number of years. As part of the financial planning that she's put in place, Ms D arranged for a will trust to be set up so that her monies would fall outside of her estate for inheritance tax (IHT) purposes. Whilst her pension monies were already outside of her estate for IHT, she was keen to ensure that there was no risk that those funds would find their way back into her partner's estate on her death and create an IHT problem for him.

She therefore completed Vanguard's nomination of benefits form, stating that she wished the trustees of her will trust to benefit from her SIPP funds on her death, so that they could then allocate the monies in accordance with her wishes.

After speaking to a Vanguard representative in February 2023, Ms D discovered that they would be unable to accommodate her death nomination wishes, as only named individuals could be elected.

Shortly afterwards, Ms D decided to formally complain to Vanguard. In summary, she said that she was unhappy that she'd only recently found out, by accident, of Vanguard's restrictions on who they would be prepared to pay her SIPP death benefits to. In addition, she also explained that she'd already submitted a nomination form that named her will trustees as potential beneficiaries to her pension fund and Vanguard hadn't flagged this to her as being problematic before.

After reviewing Ms D's complaint, Vanguard concluded that they were satisfied that they'd done nothing wrong. They also said, in summary, they felt that their death benefit nomination form was clear as it only allowed named beneficiaries. They went on to explain that the problem wasn't spotted sooner because they don't verify the beneficiary names on a nomination form until an event arose that meant that they needed to get in touch with them.

Ms D was unhappy with Vanguard's response, so she referred her complaint to this service. In summary, she said that Vanguard had never made it clear that they would only accept named individuals as opposed to trustees as potential beneficiaries. She asked this service to make Vanguard change their rules.

The complaint was then considered by one of our Investigators. He concluded that Vanguard had treated Ms D fairly, as who they accept as a potential class of beneficiary is a business decision for them.

Ms D, however, disagreed with our Investigator's findings. In summary, she said that Vanguard's website and documentation was unclear about the restrictions they place on monies being left to trusts. She went on to say that given she had filled the nomination form in, and Vanguard never challenged it, she felt that she was being treated unfairly, particularly given as she'd recently read that under English law, it was permissible to leave pension monies to charities and trusts. In addition, she felt that, had Vanguard asked her who she wished to leave her pension monies to, the issue would've surfaced earlier.

Our Investigator was not persuaded to change his view as he didn't believe that Ms D had presented any new arguments that he'd not already considered or responded to. Unhappy with that outcome, Ms D then asked the Investigator to pass the case to an Ombudsman to review that outcome.

### **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.

The purpose of my decision isn't to address every single point raised. My role is to consider the evidence presented by Ms D and Vanguard to reach what I think is an independent, fair and reasonable decision based on the facts of the case. In deciding what's fair and reasonable, I must consider the relevant law, regulation and best industry practice, but it is for me to decide, based on the available information that I've been given, what's more likely than not to have happened. And, having done so, I'm not upholding Ms D's complaint and it's largely for the same reasons as our Investigator. Whilst I appreciate that Ms D will likely be disappointed by my decision, I'll explain why below.

It's clear, from Ms D's communications to this service, that she has taken great care and diligence in trying to plan her financial affairs in the event of her death in order to mitigate the impact of inheritance tax. So, I can well imagine how disappointed she must have been to find out that Vanguard weren't able to facilitate her wishes in the manner that she'd originally hoped.

I've looked closely at Vanguard's literature, which Ms D says isn't clear. Vanguard have already conceded that neither their SIPP's key features document, nor their client terms specifically cover the fact that trustees can't be nominated as a potential beneficiary following the death of the plan holder. However, I do think that Vanguard's Trust Deed and Rules from 5 May 2018 set out who they can pay the pension's death benefits to. In section '10. Lump Sum Death Benefits', it states that the Administrator, in its absolute discretion, may determine one or more of the following:

10.1.1 the individual's relatives;

10.1.2 any person for whom drawdown may be provided on that (whether actually provided or not);

10.1.3 (on the death of a Member) and person nominated for this purpose by the Member;

10.1.4 (on death of a Dependant, Nominee or Successor) any person nominated for the purpose by the relevant Member (or, if the Member made no nomination, by the Dependant, Nominee or Successor, as the case may be);

10.1.5 a Successor; or

10.1.6 the individual's personal representative (but not if the payment would then pass as bona vacantia).

So, it seems to me that, given all of the references within Vanguard's Trust Deed point to the Administrator being restricted to paying death benefits to individuals only, rather than a Trust, Vanguard are acting within the confines of the SIPP's rules.

I've also looked at the nomination of beneficiaries form that Ms D completed. I think that the format of Vanguard's form should have given Ms D cause to question with them, whether they were able to accept the trustees of a will trust as an acceptable class of potential beneficiary. I say that, because the death benefit nomination form asked the following three main questions:

- 'Legal first name' – which Ms D inserted '*The Trustees of*'
- 'Last name' – which Ms D then inserted '*my Will Trust*'
- 'What is their date of birth?' – which Ms D answered '*1 January 2001*'

I think that, given the form didn't lend itself to include options other than naming specific people and particularly given that there was a need to include a date of birth, ought to have put Ms D on a path of discovery that she needed to check directly with Vanguard that the SIPP could meet her needs.

Ms D has highlighted a letter that she received from Vanguard, confirming that she'd completed an expression of wish form, leaving her SIPP monies to the trustees of her will trust. Whilst I can appreciate that letter may have led Ms D to believe that there wasn't a problem with that instruction, I understand that letter is automatically generated once consumers have inserted the name of whom they wish to leave their pension funds to. In addition, Vanguard have also stated that the nomination form isn't generally referred to by their colleagues unless there's a requirement to pay death benefits from the plan, so I can see why it wasn't picked up when Ms D initially sent her form in.

When Ms D arranged the SIPP, she did so without any advice from Vanguard. So, it was up to her to ensure that the pension arrangement that she was entering into was suitable for her needs both at inception and on an ongoing basis. Vanguard's responsibility is to administer and manage her monies in accordance with Ms D's instructions. If Ms D was under any doubt about the suitability of the SIPP or its ability to accept trustees as potential beneficiaries, then she should have checked directly with Vanguard to satisfy herself that the plan would do as she wished.

Ms D told our Investigator that she probably checked with Vanguard that she could nominate a trust as a beneficiary, but she thinks that she's likely thrown the evidence away. So, as I've seen no evidence to suggest that she actually did ask Vanguard whether that particular need could be met by the plan, I've not been persuaded that they've done anything wrong.

It's not within the remit of this service to instruct a business to alter their procedures – that's the role of the regulators, the Financial Conduct Authority and the Pensions Regulator.

We're here to ensure that consumers have been treated fairly. As I can't say that Vanguard have issued unclear or misleading information to Ms D, I won't be upholding her complaint.

### **My final decision**

I'm not upholding Ms D's complaint and as such, I do not require Vanguard Asset Management Limited to take any further action.

Under the rules of the Financial Ombudsman Service, I'm required to ask Ms D to accept or reject my decision before 4 December 2023.

Simon Fox  
**Ombudsman**