

## **The complaint**

The estate of Mrs B complains that Tavistock Partners Limited ignored its instructions to liquidate Mrs B's portfolio held with a third party. When the portfolio was encashed, the estate received less than expected.

The complaint is brought by the executor of Mrs B's estate, who I'll refer to as Miss M.

## **What happened**

Tavistock provided independent financial advice to Mrs B. In 2019, following Tavistock's advice, Mrs B invested in a general investment account ("GIA") with a third party who I'll refer to as "A".

Mrs B passed away in October 2021. The probate value of the GIA was around £102,000.

Miss M provided Tavistock with Mrs B's death certificate and told it that she wanted to "surrender" the investment. She says her instructions were ignored and the portfolio wasn't liquidated until March 2022 by which time the investment had fallen in value and the estate only received around £93,000.

Tavistock said it passed Miss M's instructions onto A and that it was her responsibility to provide the necessary documentation to A before it could encash the portfolio. It said it didn't cause any delays in actioning the surrender of Mrs B's investments and that Miss M was made aware, by A, that the investments remained exposed to market fluctuations until the surrender was completed.

Our investigator recommended that the complaint should be upheld. He thought Miss M had given instructions to encash the portfolio, but that Tavistock didn't pass these instructions to A. He said A had confirmed it would have acted on those instructions if it had received them. He thought that if Tavistock had passed on the encashment instructions, the estate of Mrs B would have received the value of the investment as at 8 November 2021 and that Tavistock should pay the estate the difference of £10,862 plus interest.

Tavistock didn't agree. It said, in summary, that:

- It could have asked whether Miss M wanted to encash the investments, but it doesn't have a bereavement service and it shouldn't be liable for performing administration duties which it carried out free of charge.
- No on-going service was in place, so the complaint isn't within this service's jurisdiction.

The investigator explained why he thought the complaint was within our jurisdiction – because the service Tavistock provided to Miss M was ancillary to that provided to the late Mrs B. And he said he thought Tavistock should have reasonably either passed Miss M's instructions onto A or contacted her to clarify the instructions she'd given.

Tavistock said it should only be held accountable for things it was liable to complete, rather

than extra activities which this service thinks it would be reasonable for it to complete.

### **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've firstly considered the jurisdiction of this complaint. In other words, whether it is one that we can consider.

The Financial Ombudsman Service isn't free to consider every complaint referred to it. We operate under a set of rules laid down by Parliament under the Financial Services and Markets Act 2000, published by the Financial Conduct Authority (FCA) and known as the DISP rules. They set out the complaints that we can, and can't, investigate. This is what is meant by our jurisdiction. If a complaint falls outside of our jurisdiction, we don't have the legal power to consider it.

One of the things these rules cover is the type of activity complained about. DISP 2.3.1 gives details of the activities which we are able to consider. This includes "*regulated activities*" and "*any ancillary activities, including advice, carried on by the firm.*"

Tavistock said no on-going service was in place as the fee had been cancelled and that Miss M wanted an advisor appointed to help her, but at no charge. And it said the service complained about can't be an ancillary activity because it's not a service offered by Tavistock.

Tavistock provided investment advice to Mrs B, which is a regulated activity. As set out by our investigator, Miss M was acting on behalf of Mrs B's estate and was therefore Tavistock's customer. Whilst Miss M didn't want to deal with Mrs B's former advisor, there's nothing to suggest Miss M wasn't willing to continue to pay a fee for Tavistock's services. Tavistock offered to assist Miss M – and whilst that assistance may have been limited to passing information between Miss M and A, I find it was providing an ancillary service as defined by the FCA rules.

As such, this is a complaint that this service can consider.

I've gone onto consider the merits of the complaint. Having done so, I find I have come to the same conclusion as the investigator for the following reasons:

Miss M wrote to tell Tavistock that Mrs B had passed away and she said that the investment with A "*will need cashing in and distributing to the beneficiaries.*" And in her letter a few days later enclosing the death certificate she said "*I would like to surrender this investment so that as executor ..... I can proceed to execute the wishes of my late mother and distribute funds to the beneficiaries.*"

In its response to Miss M's complaint, Tavistock said, "*You are correct in saying that in your letter of 29<sup>th</sup> October 2021 you stated that you wanted to surrender the [A] investment, and this instruction was given to [A].*" But, during our investigation, it became clear that Tavistock didn't pass on Miss M's letter or instructions to A. Instead, it simply told A that Mrs B had died and forwarded on the death certificate.

In its response to Miss M's complaint, Tavistock also told Miss M that her surrender request couldn't be actioned until she provided the documents requested by A, including the grant of probate. But A has told us that it would have accepted Miss M's instructions to liquidate, or surrender, the portfolio once it was in receipt of the death certificate. And that it could do this

before it received the grant of probate and the other documentation it needed to pay the money to the estate.

Miss M's instruction wasn't as clear as it could have been. But I think there was enough information for Tavistock to reasonably realise that Miss M could be giving instructions for Mrs B's investments to be sold. Bearing in mind Miss M was recently bereaved, was unlikely to be familiar with the procedures for estate administration, and that Tavistock was the expert in the relationship here, I think it was reasonable that Tavistock should have contacted Miss M to clarify its understanding of what she was instructing. Or it should have passed on her instructions to A, for it to decide what to do.

If Tavistock had treated Miss M fairly, and acted in her best interests, by clarifying her instructions, or passing them to A, I think it's more likely than not that she wouldn't have wanted the investments exposed to market fluctuations. It was relatively clear from her second letter that she wanted the investment "surrendered" as soon as possible, and A has confirmed it would have been able to do this if it had received the instructions.

### **Putting things right**

A should have received Miss M's instructions on 5 November 2021. Had it done so, it would have placed the sales on the next working day, 8 November. The estate of Mrs B should have therefore received the value of the investments as at 8 November 2021 which A has confirmed to us was £104,475.

Tavistock Partners Limited should therefore pay the estate of Mrs B the difference between what it should have received and what it did receive - £10,862.

The estate has been deprived of that money and Tavistock Partners Limited should therefore also add interest at 8% simple per annum from 8 November 2021 to the date of settlement. \*

\* HM Revenue & Customs requires Tavistock Partners Limited to take off tax from this interest. Tavistock Partners Limited must give the estate of Mrs B a certificate showing how much tax it's taken off if it asks for one.

### **My final decision**

My final decision is that I uphold this complaint. Tavistock Partners Limited should pay compensation as set out above.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs B to accept or reject my decision before 25 January 2024.

Elizabeth Dawes  
**Ombudsman**