

The complaint

Miss C complains that Forester Life Limited (“FL”) acted unfairly and without her authority when it re-invested her money into a product that carried investment risk and this led to her incurring a financial loss.

What happened

Miss C is unhappy that money, which came from an investment she held with FL that had matured, was reinvested into a stocks and shares Individual Savings Account (‘ISA’). She said she never signed anything or provided any digital signature to say she agreed to this.

Miss C complained to FL, but it said its records showed that the funds were re-invested into FL’s stocks and shares ISA when there was a log-in to Miss C’s online account from the location of her registered address and two transactions were requested as follows:

- a partial encashment of £2,238.41, which was completed and the funds were sent to Miss C’s bank account
- re-investment of £4,000 into a stocks and shares ISA. FL said that due to the fund value decreasing, in the event £3,946.50 was reinvested and that it issued a letter on 23 February 2022 confirming this, along with plan documents and a cancellation notice.

FL said that Miss C had completed online instructions to set up the ISA and its records showed there’d been no technical issues affecting customers generally when Miss C said she been unable to open documents using her mobile phone.

Miss C referred her complaint to this service and our investigator reached broadly the same conclusion as FL. She said, in brief:

- she could see from the information provided that there was a log in to Miss C’s account on 21 February 2022 at 14.21 and the reinvestment and encashment were completed at 14.28.
- This log in was from the same IP address as all other log ins on Miss C’s account using an email address which matched Miss C’s email and home address.
- In order for the encashment and reinvestment to be completed, Miss C would’ve had to tick a confirmation box before continuing.
- The screens she would’ve seen explained how final value would be calculated and that this amount could change as per FL’s terms and conditions.
- FL’s letter to Miss C dated 23 February 2022 detailed the plan closure and reinvestment and it was reasonable to assume that if Miss C didn’t request this reinvestment, she would’ve queried the letter.
- The letter also included a cancellation notice, informing Miss C of her right to change her mind about the ISA investment, but there was no indication that she had made use of this option.

Miss C didn't accept the investigator's view. She mainly said that:

- there was no box to tick regarding the reinvestment – and even a tick box does not represent consent as anyone could do that
- the encashment was totally separate to the reinvestment
- just uploading a letter online wasn't sufficient
- as no paper letter was sent to her home address, she couldn't have known the monies had been reinvested unless she looked at the account again – and she hadn't done that as she'd never agreed to the reinvestment.

The investigator wasn't persuaded to change her opinion, so the matter was referred to me to review.

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 carried out an independent review and having done so, I've reached the same conclusion as our investigator. I'll explain my approach and how I've reached my decision.

I do appreciate how strongly Miss C feels about this complaint. We provide an informal complaints handling service and this is reflected in the way I've approached the complaint. It's part of my role to identify and concentrate on the core issues I need to address in order to reach a fair outcome. This means I won't necessarily mention everything that Miss C has brought to my attention and I've expressed some of her concerns in my own words. But I will comment on everything that makes a difference to the outcome of the complaint.

I must look at all the available information and decide what I think is most likely on a balance of probabilities. This means making some reasonable assumptions where there's only limited or contradictory information. And I must be impartial. There's more information on our website which explains the Financial Ombudsman Service approach.

It's my understanding that the core of Miss C's complaint is that she was never asked to authorise the stocks and shares ISA investment and that FL's online processes are unclear, unfit for purpose and they don't work properly on her phone, which she uses to access her account.

Miss C put things this way: *'It should not be an industry "norm" for a tick box which could have been done by anyone to class as an instruction to invest in a risk product. That is not treating customers fairly.'*

The role of the Financial Ombudsman Service is to resolve individual complaints and to award redress where appropriate. I do not have the power to make rules for financial businesses. That's the role of the regulator, the Financial Conduct Authority (FCA). For these reasons I won't be responding to Miss C's concerns about the way FL operates and its procedures.

In order to uphold Miss C's complaint I have to be able to fairly say that FL has done something wrong or acted in a way that wasn't fair and reasonable, so that's the approach I've taken. But I haven't seen enough here to do so. I'll explain my reasons.

- The information I've seen about FL's online process for re-investment shows that Miss C would've had to carry out the necessary steps online before this could happen.
- This was Miss C's account so I don't agree that 'anyone' could have done this – only someone with the knowledge needed to access her account, such as the password for instance, could have logged in and it was up to Miss C not to share that information with anyone else. On balance, the information I've seen doesn't support a finding that an unauthorised person made this re-investment.
- The steps Miss C had to complete included selecting a series of options and providing information to confirm eligibility. The screens she would've seen and had to fill in to proceed with her application included access to information about the product. For example, one of the screens she would've seen at the start of the process included a link to: *'What is a stocks and shares ISA?'* So Miss C was able to find out information about this before she completed the application.
- A later screen included the following information: *'As with all stock market investment the value of your Plan can fall as well as rise.'* Next to this, Miss C had to tick a box to confirm she was happy to proceed. The application could have not proceeded if Miss C had not ticked this box.
- On this page there was also a link to the ISA terms and conditions which explained: *'Contributions will be invested in the Fund(s) selected for your plan. The investment objectives of the Fund(s) are set out in the key information Document of the Forester Life ISA'.*
- So I find that Miss C was able to access enough information to be able to decide whether this fund was right for her and by completing the online application, she indicated that she wanted to apply for this investment product.
- There was no requirement for FL to obtain any other sort of 'authorisation' from Miss C (such as a signed paper authority or a digital signature).
- I've been provided with screenshots showing the online screen journey she needed to complete. Miss C would've seen and agreed to FL's terms of business when she signed up to be able to use FL's 'My Plans' online service.
- I've taken into account that Miss C said she had no reason to log in to her account because she hadn't requested the stocks and shares ISA investment, but that's not a good enough reason for me to uphold her complaint.
- There was no requirement for FL to send Miss C letters in the post to her home address. The online service she used provided for important notifications to be posted in the secure messages part of her 'My Plans' account and she had the option to sign up to be kept informed about products and services via email and/or sms messaging. In line with the account terms and conditions, FL sent an email to alert Miss C and prompt her to login to read the secure message it sent her on 23 February 2022 and the onus was on Miss C to check her account. Had she done so, she could've seen the information showing that she'd reinvested in the stocks and shares ISA and queried this and/or cancelled within the 'cooling off' period if it wasn't what she wanted.

- FL checked to find out if it was aware of any technical issues that had prevented its customers looking at documents on their accounts at this time – if it had known there was a problem, then I would have expected it to notify its 'My Plans' account holders and make alternative arrangements for them to receive important notifications they couldn't access online. But FL has confirmed it was aware of no such issues and it had no record of other customers complaining about this. In these circumstances, I think it's fair to say that if Miss C knew she had a problem opening documents on FL's 'My Plans' account, it was up to her to contact FL about this. Had she done so, FL might have been able to help her resolve the issue or other options might have included sending her the information by email or through the post. So I don't find that FL did anything wrong when it didn't send Miss C a hard copy of the 23 February 2022 letter and enclosures through the post.

As I'm not upholding this complaint, for the reasons I have explained above, it follows that I can't award the compensation Miss C would like me to.

I recognise that Miss C will be disappointed that I've reached the same conclusion as the investigator. But I hope that setting things out as I've done explains how I've reached my conclusions and even though this isn't the outcome she hoped for, Miss C will at least feel that her complaint has been fully considered by the Financial Ombudsman Service.

My final decision

For the reasons given, my final decision is that I don't uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss C to accept or reject my decision before 19 September 2023.

Susan Webb
Ombudsman