

The complaint

The estate of the late Mr T complains that Scottish Widows Schroder Personal Wealth (ACD) Limited, trading as Schrodgers Personal Wealth (ACD), wouldn't act on its instruction to make a payment direct to HM Revenue and Customs ("HMRC") to pay the estate's inheritance tax ("IHT") liability before probate was granted.

The complaint is brought on the estate's behalf by the executor, who is also the late Mr T's son. To differentiate him, I'll refer to him as "Mr C". Mr C also complains about the poor service he received which caused him many hours of extra work. He wants Schrodgers Personal Wealth (ACD) ("SPW ACD") to improve its processes, to pay him £4,500 for his time, and compensation for the distress he's been caused.

What happened

The investigator has already set out in some detail what happened here. In brief, the late Mr T held assets with SPW ACD and with one of its sister companies, both of which acted under the umbrella of "Schrodgers Personal Wealth", but which had different processes. And, because of the similar names and letterheads, it wasn't always clear to Mr C which entity was communicating with him.

He wanted to instruct SPW ACD to make a payment to HMRC for the estate's IHT liability, which needed to be paid before the grant of probate could be issued. He says he received poor service from SPW ACD. For example, staff didn't know the correct process and weren't clear about what needed to be done, and it addressed one letter to the late Mr T, instead of to Mr C.

SPW ACD said it wasn't part of its procedures to make payments to HMRC in these circumstances. But, in response to the complaint, it obtained information from its sister company about the process and offered to arrange the requested payment on this occasion. It apologised that its staff hadn't made things clear and offered to pay Mr C £100.

Our investigator said Mr C wasn't eligible to complain about issues that affected him personally as the account holder here is the late Mr T. The investigator thought SPW ACD's offer to put things right – by offering to make a payment to HMRC – was fair and reasonable.

Mr C didn't agree. He said, in summary, that:

- The investigator has misinterpreted this service's guidance. Where someone has died, the representative(s) of the estate should be seen as the complainant(s).
- The investigator has oversimplified what happened and underestimated the confusion and distress he was caused.
- It is unlawful and unfair that SPW ACD doesn't have a process to pay HMRC directly. If all of his late father's money had been held with it, the estate wouldn't have been able to pay the IHT and wouldn't have been able to obtain the grant of probate.

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 understand Mr C's strength of feeling on this matter and I'm aware that I've summarised this complaint in far less detail than him and in my own words. I have fully considered everything he has told us, but I am not going to respond to every point one of the parties has made or to answer every question raised. That isn't because I haven't taken into account what Mr C has said, but because my role is to focus on what I think are the key issues here. Our rules allow me to do this. This simply reflects the informal nature of our service as a free alternative to the courts.

SPW ACD has apologised for the poor service Mr C received. I haven't listed everything that happened, but several mistakes were made, and staff did not seem to understand procedures or be able to give Mr C the help and guidance he should have received. I don't underestimate the impact this had on him at an already stressful and upsetting time. And an initial response to his complaint being wrongly addressed to his late father would have been particularly upsetting for him.

I am sorry to disappoint Mr C, but our investigator was correct to conclude that we can't award him compensation for any distress and inconvenience he suffered in his capacity as an executor. I'll explain why.

This service operates 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. I am entirely bound by these rules, and I can't disregard them. If I did, any decision I reached wouldn't be enforceable in court.

One of the things these rules cover is that a complaint must be brought by an eligible complainant. Or, of relevance here, on behalf of an eligible complainant. Specifically, by someone authorised by law to bring a complaint on someone's behalf – like the executor of an estate. DISP 2.7 gives details of what is required for someone to be an eligible complainant. I find the eligible complainant here is the late Mr T as the account with SPW ACD was in his name. As he's passed away, it is his estate who has brought the complaint. But I can only award compensation for distress and inconvenience to the eligible complainant – who is the late Mr T, rather than Mr C. I find that any distress and inconvenience Mr C suffered was in relation to his interactions with SPW ACD in his capacity as executor to his later father's estate. And not in relation to any eligible complainant relationship Mr C himself had with the firm.

SPW ACD offered Mr C £100 for the poor service he received. I appreciate this is much less than the amount Mr C thinks SPW ACD should pay him. But, if on reflection he wants to accept it, he should contact SPW ACD direct to arrange payment.

I do understand Mr C's frustration with the position but, as I've explained, I cannot disregard the rules.

I could make an award to the estate, if I thought SPW ACD did something wrong which caused a financial loss for the estate. The late Mr T had assets with other businesses which were able to make a payment direct to HMRC before the six-month period when interest would start to become payable on the tax liability. So, whilst SPW ACD's poor service caused a delay in getting the tax paid, which also delayed issue of the grant of probate, I don't find this resulted in a financial loss.

Whilst businesses can release money directly to HMRC to pay IHT, this isn't something they have to do. This wasn't part of SPW ACD's usual procedures and I don't find there was any obligation on it to make an exception here. Mr C expresses concern that this could place some estates in a situation where they can't pay the IHT and therefore can't obtain the grant of probate. But HMRC does have an application process to postpone payment of IHT and this would cover circumstances where the deceased's money can't be released until probate is received.

SPW ACD acts under the umbrella of "Schroders Personal Wealth" and the late Mr T also held assets with another business entity under that umbrella. I understand it was frustrating and confusing for Mr C that this sister company *did* have a procedure to make a direct payment to HMRC but SPW ACD didn't. But, whilst they act under the same umbrella, they are separate business entities each of which has its own procedures and processes.

In its final response to the complaint, SPW ACD explained that direct payment to HMRC wasn't part of its procedures but, in the individual circumstances here, it offered to make an exception for the late Mr T's estate. I think this was a fair and reasonable resolution, but the estate had already managed to meet the liability through other means.

Mr C is keen to ensure his experience isn't repeated for others, and I can see that he has already communicated his concerns to Schroders Personal Wealth's executive, albeit without the response he'd hoped for. My role is to resolve individual disputes between businesses and consumers. I don't have the power to tell a business how it should treat all customers or how it develops its internal policies. That's a matter for the regulator, the FCA. So I can't comment further on SPW ACD's procedures or the way Schroders Personal Wealth operates.

My final decision

For the reasons I've explained, my final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr T to accept or reject my decision before 19 December 2024.

Elizabeth Dawes
Ombudsman