

19th November 2015

Dear Complainant

**Complaint against the Financial Conduct Authority
Reference Number: FCA00113**

You contacted us on 5th November and asked us to review the Financial Conduct Authority (FCA)'s investigation. I have now completed my review of the FCA's investigation.

How the complaints scheme works

Under the complaints scheme, I can review the decisions of the FCA's Complaints Team. If I disagree with their decisions, I can recommend that the FCA should apologise to you, take other action to put things right, or make a payment.

You can find full details of how I deal with complaints at www.fsc.gov.uk. If you need further information, or information in a special format, please contact my office at complaintscommissioner@fsc.gov.uk, or telephone 020 7562 5530, and we will do our best to help.

What we have done since receiving your complaint

We have now reviewed all the papers you and the regulator have sent us. My decision on your complaint is explained below.

I intend to publish my final decision on my website (but with all of your personal details removed so that you cannot be identified). If you have any concerns about this please let me know in your response.

Your complaint

I was very sorry to learn of the death of your wife.

You are unhappy about being charged over £1,000 by Firm P to access funds in your deceased wife's ISA. You say you have been advised by Firm P that, in the absence of a will, before it can release or transfer the funds it requires proof of Confirmation (Probate) which you must obtain (at your own expense).

You added that Firm P have told you that it needs proof of Confirmation to ensure that no-one can claim the money in the future and, whilst you feel that this is not an unreasonable argument, this should be at the firm's cost and not at the cost of the consumer. You believe that the FCA is allowing firms and lawyers to act as a syndicate and the FCA is therefore failing in its consumer protection objective.

My position

Having reviewed the papers the FCA has provided, I agree with the FCA's view that the complaint was not something that it could consider under the Complaints Scheme. The FCA relied upon paragraph 3.4 of the Complaints Scheme to support its view, as the need for proof of Confirmation is related to the FCA's rules – and the Scheme does not deal with complaints about the rules.

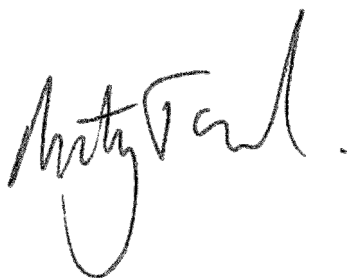
Whilst the FCA does not have a specific rule which stipulates the need to obtain proof of probate, the FCA has explained that rule SYSC 3.2.6R requires firms to have policies and procedures that are sufficient to counter the risk that a firm might be used to further financial crime. In your case, the firm must therefore ensure that your late wife's assets are being distributed appropriately. As your late wife did not have a will, Firm P took steps to ensure that you were entitled to her assets before transferring them to you.

I appreciate that it may seem unfair for the firm to ask you to provide Confirmation yourself, but in the absence of a will, Confirmation is the only legal method by which proof of entitlement can be shown. Passing the costs of obtaining Confirmation on to regulated firms would inevitably lead to those costs being passed on to all consumers.

Whilst I appreciate that the costs involved may seem disproportionate, that is not something which the FCA can control or influence. When someone dies, their estate can only be accessed by beneficiaries when all the legal matters (including proof of entitlement) have been completed. Confirmation is a legal process and questions over the cost of obtaining Confirmation are something which can only be answered by Parliament and/or the Scottish Parliament. This is something which you might wish to consider raising with your MP or MSP.

I am sorry, but I can find nothing to suggest that the FCA has acted inappropriately or that it has failed in its customer protection objective.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Antony Townsend', with a large, stylized flourish at the end.

Antony Townsend
Complaints Commissioner