

The complaint

This complaint is brought by Mrs O (helped by her son, Mr O) on behalf of the estate of her late mother, Mrs R.

Mrs R was a customer of The Royal Bank of Scotland Plc until her death in March 2019. Mrs O has complained to RBS because she believes a relative of Mrs O made a number of unauthorised payments from her RBS account during her lifetime.

What happened

Mr O has explained that, after Mrs R's death, he and his mother identified a number of payments from her account that they didn't believe she had made or authorised. There were a number of indications that this wasn't the case. They included:

- payments made to DVLA and for car insurance, even though Mrs R didn't drive;
- payments made online, even though Mrs R was unable to use a computer;
- payments made for gambling transactions;
- short term loans paid from Mrs R's account; and
- the lapse of an insurance policy when there were insufficient funds left in the account.

Mr O explained too that Mrs R's nephew didn't have an account of his own, and so paid his wages into her account; Mrs R's own money was also paid into the account, and this had included a substantial pension payment for her late husband.

The bank looked into the complaint, but said it couldn't be sure whether or not Mrs R had authorised the payments from her account. Due to the passage of time, it had limited records of individual transactions, so couldn't carry out a full investigation.

Mr O referred the matter to this service and one of our investigators considered it. He too thought however that it wasn't really possible to know which payments had or had not been authorised by Mrs R. It was possible that Mrs R had given her nephew authority to operate her account; and handing over, for example, her card and PIN would be treated as an extension of that authority. In the circumstances, he didn't believe that RBS should have done more to prevent the disputed transactions or that it should refund them to Mrs R's estate.

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 will first of all comment briefly on the authority that I have to consider this complaint. It's brought on behalf of Mrs R's estate, so I must be satisfied that those bringing it represent the estate. Mrs O has said that her mother didn't leave a will and that she is Mrs R's only daughter. Because there was no will and because the estate is small, there's been no formal

appointment of a representative. I'm satisfied though that I should treat Mrs O as the estate's representative.

I have however reached broadly the same conclusions here as the investigator did, and for similar reasons.

Mr O has explained that Mrs R appears to have allowed her nephew access to her account - both to pay money into it and to make withdrawals and payments. He wasn't a joint account holder. I accept that Mrs R probably didn't set up or use online banking herself and most likely didn't make or benefit from many of the payments made on the account. It may well be that Mrs R wasn't fully aware of and didn't expressly authorise all the disputed transactions.

However, it does appear to me - largely from what Mr O has said - that Mrs R effectively treated her nephew as a joint account holder and gave him similar access to her account. And the picture is further complicated by the fact that he paid money into the account, so it's less clear to what extent he was spending money that he had contributed.

As I've indicated, I think it likely that Mrs R didn't specifically authorise some of the payments. But I can't fairly conclude that she didn't allow her nephew general access to her account; indeed, I think it's likely that she did. In the circumstances, I believe I must treat the disputed transactions as authorised.

I've considered too whether RBS ought to have done more to prevent the spending on the account. In the circumstances, however, I don't believe I can properly say it should have done.

My final decision

My final decision is that I don't require The Royal Bank of Scotland to take any further steps to resolve the estate's complaint. Under the rules of the Financial Ombudsman Service, I'm required to ask the estate (through Mrs) to accept or reject my decision before 7 July 2020.

Mike Ingram
Ombudsman