

The complaint

Mrs S complains on behalf of her mother's estate that HSBC UK Bank Plc shouldn't have registered a power of attorney as it allowed her mother to be taken advantage of.

What happened

Mrs S's mother sadly passed away in September 2018. At the time, Mrs S's brother was listed as Mrs S's mother's attorney under a Power of Attorney dated 2005 and submitted to HSBC for registration in 2012.

Mrs S obtained bank statements for her mother's account in February 2019 and having obtained these and a copy of the Power of Attorney complained to HSBC that it shouldn't have allowed the document to be registered. Mrs S complained that her brother had taken advantage of her mother too.

HSBC investigated Mrs S's complaint but didn't uphold it. HSBC said that it had followed its normal processes when registering the power of attorney. Mrs S disagreed and complained to us.

Two investigators looked into Mrs S's complaint – the second investigator explained in considerable detail why they didn't think HSBC had done anything wrong when it registered the power of attorney and why they didn't think HSBC should have picked up any transactions on the grounds that they were unusual. Mrs S asked for a decision from an ombudsman.

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 seen a copy of the power of attorney that HSBC was asked to register in 2012. The document is dated 2005, names Mrs S's brother as the attorney and was witnessed by it seems his wife. I've also seen a copy of a checklist HSBC completed at the time the power of attorney was registered. I'm satisfied, based on the checklist, that HSBC asked the questions it was meant to at the time the power of attorney was presented for registration. I'm also satisfied that HSBC had no reason to be concerned about the registration given that the checklist showed no causes for concern. So, I don't agree that HSBC shouldn't have accepted the power of attorney.

Mrs S has sent us correspondence from 2004 and 2005 to help shed light on her mother's health – including her mental health – at the time. I'm grateful for that, as it's not always easy finding documents from over 15 years ago. The documents do indeed shed light on her mother's health. They show she had a progressive condition and that she was beginning to find it difficult to live independently. But that's not all the documents show.

The correspondence Mrs S has sent us show that she was close to her brother in 2004 and 2005, and that they spoke regularly about their mother's welfare. They show that they made

decisions about their mother together, and that Mrs S agreed with her brother that it would make sense for him to be made her attorney as their mother was likely to be moving into a nursing home in the near future. It wasn't until much later – by the looks of it mid 2018 – that Mrs S started to become concerned about her brother taking advantage of their mother. That's despite learning he'd changed his name in 2015 – in order to have a “fresh start” in his own words – something that Mrs S has told us she encouraged at the time. In other words, there's nothing in the documents that suggests that Mrs S was unhappy with her brother being her mother's attorney in 2005 or had any concerns in 2012 about him either.

I can understand why Mrs S is upset with HSBC and feels it should have asked more questions when the power of attorney was registered in 2012. But it's hard to see what could possibly have given HSBC cause for concern in 2012 when Mrs S had no concerns of her own at the time – and that's the way it stayed until mid-2018. I don't agree that HSBC should have asked more questions than it did at the time. But even if it had done so, I don't think HSBC would have had found anything that would have given it cause for concern. Otherwise I'd be expecting HSBC to be concerned when Mrs S wasn't concerned at all. In short, I agree with our investigator that HSBC did nothing wrong registering the power of attorney.

I can understand why Mrs S was concerned about some of the transactions she saw on her mother's statements when she obtained copies of them in February 2019. I agree with her and with our investigator that some of the transactions appear to be ones that wouldn't have benefited Mrs S's mother and would appear to benefit her brother instead. But given the size of the transactions and the nature of them, I also agree with our investigator that it wouldn't be reasonable to expect HSBC's systems to have picked them up. It follows that I also agree with our investigator that HSBC did nothing wrong here either.

I appreciate that Mrs S will be extremely disappointed with this decision. It's clear from the historic correspondence that I've seen that she cared a lot for her mother's welfare. It's clear too that her relationship with her brother has become very difficult, and it is possible he took advantage of their mother. I do, however, have to look at what HSBC has done and, having done so, I can't say HSBC acted unfairly or unreasonably.

My final decision

My final decision is that I can't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs S on behalf of her mother's estate to accept or reject my decision before 18 October 2021.

Nicolas Atkinson
Ombudsman