

The complaint

Mr M complains that Bank of Scotland plc allowed a number of withdrawals from his account which should not have been authorised. He is represented by his Financial Guardian Mrs H.

What happened

Mrs H says Mr M is a vulnerable adult and limitations had been placed on his Bank of Scotland (BoS) account. She says despite those limitations Mr M was able to withdraw over £700 from his account. Mrs H says Mr M could have potentially lost that money and says he has incurred legal fees at the time the complaint was brought to us of over £130 which he is responsible for

BoS accepts it made a mistake and has apologised. It agrees that Mr M shouldn't have been allowed to withdraw the money and has given feedback to its staff. BoS says it has paid £50 compensation.

Mrs H brought the complaint to us and our investigator upheld the complaint in part. The investigator accepted BoS had made a mistake and recommended that it pay a further £75 compensation. The investigator didn't think it fair to order the legal fees be paid by BoS and thought Mr M had benefited from the money.

Mrs H agrees that Mr M had the benefit of the money but says the legal fees which are now over £300 ought to be paid and that the compensation isn't enough.

The complaint was referred to me and I asked Mrs H to explain the impact the mistake had on Mr M and asked for evidence that he had been billed for the legal work.

Mrs H says the legal costs are outside the fees for normal legal work for acting as Financial Guardian and has provided us with an invoice to BoS for £360 dated 15 July 2022.

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.

Having done so I have come to the overall view that BoS should pay a total of £125 compensation and I don't require it to pay the legal fees for the reasons I will explain.

There is no question that BoS made a mistake by allowing Mr M to withdraw money from his account in circumstances where it had clearly been told that he shouldn't be allowed to do so. It is difficult to assess the impact that mistake had upon Mr M in the circumstances as Mrs H has made clear, that he must not be spoken to by this service. So, I think on balance that BoS has fairly agreed to pay a total of £125 compensation which in the absence of any evidence of impact on Mr M, I have concluded is fair and reasonable. I can't fairly conclude Mr M suffered a financial loss and think he would have had the benefit of the withdrawn money.

The key part of this complaint is about the legal fees incurred by Mrs H in bringing the

complaint on Mr M's behalf. We can consider consequential losses incurred by a complainant and I appreciate Mrs H says these costs are outside of the normal costs of being a Financial Guardian. I asked for evidence that Mr M was responsible for the costs, for example in the form of an invoice, but Mrs H has provided an invoice to BoS dated 15 July 2022. I have to be sure on balance that Mr M has lost out or suffered a loss and I'm afraid I can't be sure in these circumstances that he has. I would have expected Mr M to have been invoiced for the extra legal work in 2021 but can't see that he was. Without that evidence I find that it would be unfair to order BoS to pay the legal fees.

Putting things right

BoS should pay a further £75 compensation.

My final decision

My final decision is that I uphold this complaint in part and order Bank of Scotland plc to pay Mr M £75 compensation.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mr M to accept or reject my decision before 16 August 2022.

David Singh
Ombudsman