

The complaint

The estate of Mrs H complains about National Westminster Bank Plc (“NatWest”) for declining to register a power of attorney on a joint account, and for restricting access to the account for a personal representative.

What happened

R brings this complaint as an executor of Mrs H’s estate. At the time of the relevant events, and prior to Mrs H’s passing, R was a personal representative of Mrs H, and later held power of attorney.

Mrs H suffered from physical disabilities, and intermittent mental difficulties. She held a joint account with her partner, and her income was received into that account.

Around 2015, Mrs H authorised R as a representative to act on R’s behalf in regard to her account. The account allowed either of the holders (or their representatives) to act independently and they each had full control over the account.

Around 2021, Mrs H’s conditions began to deteriorate, and R took steps to put in place an enduring power of attorney to cover instances when Mrs H lacked capacity.

In February 2022, R transferred around £10,000 out of the account, to another account which was held solely in Mrs H’s name. R also sought to register the power of attorney with the bank.

The other account holder did not agree to registering the power of attorney and NatWest then blocked R’s access to the account.

R complained to NatWest. They felt that this action discriminated against Mrs H and frustrated Mrs H’s wishes to give R control of Mrs H’s affairs.

Sadly, Mrs H passed away in April 2022, at which point R became an executor to Mrs H’s estate. Ownership of the jointly held account passed to the surviving account holder.

NatWest responded to R but did not consider that R had appropriate authority to discuss the account.

R complained to us.

Our investigator looked into the complaint and did not consider that NatWest had done anything wrong. They considered that NatWest had properly applied its processes and that it was not unreasonable to require consent from all account holders before registering an attorney.

R did not accept that view and asked for an ombudsman decision.

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.

Firstly, may I offer my sympathies to R. I appreciate that they have suffered great inconvenience and distress both prior to and since the loss of Mrs H. I can understand how upsetting it would have felt to think that Mrs H's wishes were not being honoured during her final months, and how worrying it would have been for Mrs H to not be able to access shared funds for bills and other expenditure.

I do, however, agree with my colleague's view and I do not uphold the complaint.

This situation involves a family dispute and is very contentious. It is somewhat inevitable that not all wishes and expectations can be met in those circumstances so we have to look at whether the bank has acted reasonably and with proper regard to its processes.

R was authorised as a signatory in 2015 and appears to have acted as an authorised signatory for some years without issue. In that role they transferred a substantial sum out of the jointly held account of Mrs H. I understand that this was to a solely held account to facilitate an investment.

Following that transaction, R wished to register the power of attorney and NatWest consulted the other account holder who did not give their consent. As NatWest's processes required that all holders must agree to any such registration NatWest was entitled to decline to register the power of attorney.

R feels that this decision went against Mrs H's wishes, as Mrs H had wanted R as power of attorney and for R to act. I understand this view, but joint accounts give equal rights and liabilities to the holders. If NatWest had authorised the registration against the wishes of the other account, then it would have elevated the rights of one holder above the other.

I appreciate that it may feel to R that the decision not to register the attorney put the other account holder's wishes above Mrs H's, but the rules of the account as agreed to by the holders when they opened the account were that either party could have full use of the account, but both holders needed to agree to any new holder. NatWest's actions were in line with that approach.

I do not think that NatWest's decision was an unreasonable one in the circumstances. It remained open to R to move Mrs H's income sources to the other account which was held solely in her name and R was clearly aware that they could use an alternative account. I therefore do not think that NatWest prevented Mrs H from receiving her income going forward.

I have considered the additional comments R has made regarding whether NatWest discriminated against Mrs H, but I have not seen evidence of this. There was, throughout this, another account holder who also required consideration and I have not seen evidence that NatWest acted inappropriately in the way it sought to balance the interests of both account holders, along with the terms and practices of joint accounts.

Consequently, whilst I understand that this will be upsetting to R, I do not uphold this complaint and do not ask National Westminster Bank Plc to do anything further.

My final decision

For the reasons given above, I do not uphold the estate of Mrs H's complaint and I do not ask National Westminster bank Plc to do anything further.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mrs H to accept or reject my decision before 26 July 2023.

Laura Garvin-Smith
Ombudsman