

The complaint

Miss M complains that Bank of Scotland plc (trading as “Halifax”) won’t refund payments for over £34,000 made from a joint account she held with her late mother.

What happened

Miss M held a joint Halifax account with her late mother, of which she is now the sole account holder. She said that before her mother passed away, money had been paid from the joint account without Miss M’s knowledge. She said it couldn’t have been her mother who made the payments, as she could not read, write or use online tools to make the payment.

Halifax declined to refund the payments made from the account. It said that the transactions had been authorised by Miss M’s mother, and that either party was able to make payments from the joint account, which did not need the consent of the other account holder. Unhappy with this, Miss M referred the matter to our service, as she said that her mother may have been coerced into making the payments.

Our investigator didn’t uphold the complaint. He was satisfied the payments made from the joint account had been authorised by Miss M’s mother, and that Halifax was under no obligation to inform Miss M at the time the payments were being made. He also didn’t think we could look into Miss M’s concerns about her mother lacking capacity or being coerced into the payment, without the consent of the executors of her estate. Miss M disagreed, so the matter has been escalated to me to determine.

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 agree with the conclusions reached by the investigator and have decided not to uphold it.

I appreciate Miss M doesn’t think that her mother would have authorised the payments. But Halifax has provided evidence of phone calls where it appears that Miss M did consent to somebody speaking to the bank on her behalf in order to make the payments, which were made into an account in her mother’s sole name. So, I can’t say Halifax has done anything wrong here by executing the payment instructions, as a payment is still considered authorised where the account holder has given a third-party authority for the payment to be made on their behalf.

Miss M said she wasn’t informed about the payments. But Halifax wasn’t under any obligation to inform her or to obtain her consent when the payment was being made by a joint account holder. Halifax has provided a copy of its terms and conditions which set out that either account holder can operate the account separately from the other, so Halifax wouldn’t have been required to inform Miss M about the payments.

Miss M has raised concerns that her mother may have lacked capacity to authorise the payments or could've been coerced. But given we do not have the executors of her mother's estate joined to the complaint, this isn't something I can consider as part of this complaint. Even if I could consider it, given Miss M's mother has now sadly passed away, it seems unlikely we'd be able to reasonably determine the circumstances or context in which she made the payments in any event. And given they were not disputed by her prior to her death, I don't think Halifax has acted unreasonably by failing to reimburse the money.

If Miss M doesn't consider the recipient of the funds is entitled to the money, then she would need to pursue this through the appropriate legal channels, which I understand she is also in the process of doing. However, this isn't something Halifax would be expected to become involved in.

I appreciate this will likely come as a disappointment to Miss M, and I'm very sorry to hear about her bereavement. However, in the circumstances, I'm not persuaded Halifax has done anything wrong or needs to take any further action.

My final decision

For the reasons given above, I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask Miss M to accept or reject my decision before 1 April 2024.

Jack Ferris
Ombudsman