

The complaint

Mr G, as executor of the estate of Ms D, complains that Lloyds Bank PLC delayed the grant of probate and the winding up of the estate causing inconvenience and aggravation. Mr G says that the delay lost interest on the account until probate was granted.

What happened

Ms D, who died on 1 November 2022, held a current account with Lloyds. As executor, Mr G notified Lloyds on 4 November via its bereavement form. He said this generated a note that Lloyds would be in touch shortly to confirm receipt and advise of the next steps. However, when Lloyds didn't get in touch Mr G called on 22 November 2022 and was told no action is taken for 28 days, although Lloyds had frozen the account and cancelled direct debits. In response to Lloyds' request, Mr G uploaded documentation such as the death certificate.

Lloyds reviewed Mr G's information and wrote to him on 26 November 2022 confirming the balance on the account and requested a grant of probate in order to finalise the process.

Mr G complained to Lloyds, and it responded on 17 December 2022 that the delay was due to Mr G completing a bereavement notification rather than a bereavement registration, and it would have contacted him after 28 days. Lloyds said it started the registration process when he called. Mr G said Lloyds hadn't requested the registration form. He asked Lloyds to put Ms D's funds into an interest-bearing account pending grant of probate, but Lloyds said whilst the account was restricted it was unable to do so. Mr G said there's no reason for Lloyds to refuse this request from an executor, except that it would save Lloyds interest.

Our investigator said we couldn't consider the complaint as Mr G wasn't an eligible complainant without a grant of probate. Mr G disagreed, but subsequently provided a grant of probate. Our investigator didn't recommend the complaint be upheld. She said Lloyds' website and the form Mr G completed stated that a deceased's account would be secured, and transfers suspended. She said the form was clearly for those without a death certificate and stated he would need to speak with Lloyds to go through the next steps. She said it was common for accounts to be frozen between notification of death and evidence of the legal representative for the deceased, other than for funeral costs and inheritance tax.

The investigator thought Lloyds' 28-day period was reasonable as many people prefer to go through the process later and when they have the relevant documents. She said the grant of probate identifies the person entitled to manage funds of an estate and is required by banks, and our service. She said Lloyds closed Ms D's account the day after receiving the grant of probate in June 2023 and hadn't caused a delay. She thought Lloyds had acted in line with its internal processes based on the form Mr G submitted and the documents it received. Mr G was dissatisfied with this response and requested an ombudsman review the complaint. He said the investigator hadn't mentioned that the form he completed stated *'We'll be in touch shortly to confirm receipt of the notification and to advise you of the next steps.'* But Lloyds weren't in touch 'shortly' and had to be chased and should have said it intended to wait for 28 days. He said the delay caused inconvenience and distress to the beneficiaries, and slowed down the administration of the estate.

Mr G said in law the authority of the executor is derived from the deceased's will and not from the grant of probate and so isn't a matter of discretion for a bank, or our service. Lloyds' response was also unreasonable as there were no risks from the request to transfer funds to an interest-bearing account, and its failure to do so caused actual loss to the estate.

The investigator noted government advice: *'probate is the legal right to deal with someone's property, money and possessions (their 'estate') when they die. You need to apply to get probate...contact the financial organisations the person who died used (for example, their bank and mortgage company) to find out if you'll need probate to get access to their assets. Every organisation has its own rules.'* The investigator said this shows that the purpose of the will is to confirm who can apply for probate and as this hadn't been provided when Mr G made his request, she didn't feel there had been any error.

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.

Mr G complains that Lloyds failed to act on the online notification of bereavement before being prompted; wouldn't act until 28 days from the date of notification; misrepresented that it would be in touch 'shortly'; and declined to transfer funds to an interest-bearing account.

Our investigator said that our service needs the grant of probate as that is the legal authority to represent/administer an estate. This is the position we take to ensure that we are dealing with an eligible complainant. An eligible complainant is defined within the Financial Conduct Authority's (FCA) rules as someone who is entitled to bring a complaint to be considered by our service.

To be eligible according to the FCA's rules, Mr G must be authorised by law. Ourselves and the banks consider the legal power to deal with many aspects of a deceased person's estate to be demonstrated by a grant of probate for named executors, and so this is what we require to consider a complaint. This means we may open a complaint file, but not pursue it to conclusion until we have received a copy of the grant of probate. And so, although Mr G is correct to say that the executors named in a valid will are authorised by law to deal with the deceased person's estate, this is confirmed by obtaining a grant of probate, which provides evidence that they are authorised by law to bring the complaint on behalf of the deceased.

Mr G requested changes to the account before he had provided legal evidence of authority to represent the estate. I will explain why I think it was fair and reasonable for Lloyds not to have acted on Mr G's request.

Lloyds said it required the grant of probate due to the size of Ms D's estate, and once frozen it can't change the account type or move money to a different account so it can start to earn interest, as per Mr G's request. We find it good practice for banks to freeze accounts on notification of a deceased consumer, and this may last until evidence of the legal representative for the deceased is provided. This ensures the security of a deceased's account, which could be vulnerable to fraud, and may prevent disputes between executors or legatees. Mr G said that this isn't a matter of discretion for a bank to refuse an executor's request for amendments to an account before receiving a grant of probate. But it is clear from the government advice on the subject that *'every organisation has its own rules'*, and this isn't something with which our service would interfere.

Mr G said the government advice is irrelevant to the complaint as it relates to 'access' to assets and he wasn't seeking this, rather he was trying to place funds. I don't wish to enter

into semantics, but the text above states '*to deal with*' which is drafted widely and would certainly appear to include the placing of funds, as desired by Mr G.

I can see from Lloyds' records that when it received Mr G's online bereavement notification it restricted Ms D's account. The online bereavement page provides two options as to possession or otherwise of a death certificate. Mr G selected that he didn't have a death certificate which took him to the 'Bereavement notification form'. The form explains that Lloyds will freeze the account. Lloyds said if Mr G had indicated possession of a death certificate he would have been taken to the 'Registering a bereavement' page. This much longer process requests documents that Mr G provided later when Lloyds went through this with him. Whichever route the deceased's representative follows, the account is frozen.

Mr G said Lloyds certainly wasn't '*in touch shortly*' as it had stated, and the delay put back the date on which the application for probate could be made. He said the time for the grant to be made could only run from the date on which it was applied for. From what I've seen the grant of probate took around six months to obtain and Lloyds acted immediately following its receipt. This would indicate difficulties outside of the three weeks between Ms D's death and the registration of the bereavement.

Having said this, I think it would have been preferable if Lloyds had provided more clarity to Mr G about the next steps and the time this would take. I can see that Lloyds procedure is to make contact within five working days of receiving the death certificate and obviously any delay would have been minimised if this had been provided to Lloyds from the start. However, the 28-day waiting period, without a death certificate, is quite long and would benefit from clearer explanation.

Overall, and from the records I have seen it would appear that Lloyds has acted fairly and reasonably in its handling of Ms D's account and towards Mr G. I have seen that Lloyds acted in accordance with the form Mr G completed and its automated internal security and bereavement procedures to safeguard Ms D's account.

My final decision

For the reasons I have given it is my final decision that the complaint is not upheld.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Ms D to accept or reject my decision before 11 October 2023.

Andrew Fraser
Ombudsman