

## **The complaint**

The estate of Ms S (“the estate”) complains that Bank of Scotland, trading as Halifax, shared the personal information of its executor with an unauthorised third-party.

## **What happened**

The executor of the estate of Ms S is one of Ms S’s daughters, who held a joint Halifax bank account with the late Ms S. Following the death of Ms S, another daughter of Ms S, who wasn’t a named executor of the estate, approached Halifax and obtained historical bank statements from them for the joint account held by the late Ms S and the executor, which they weren’t entitled to receive. The estate wasn’t happy about this, so it raised a complaint.

Halifax considered what had happened and agreed it had breached the data of the executor in her personal capacity. And Halifax paid compensation for this to the executor in her personal capacity. But Halifax didn’t feel any compensation to the estate itself was warranted. The executor wasn’t satisfied with Halifax’s response and felt the estate should be compensated for what happened. So, she referred the estate’s complaint to this service.

One of our investigators looked at this complaint. But they didn’t feel that the estate had directly incurred any inconvenience for which compensation was fairly merited. The executor remained dissatisfied, so the matter was escalated to an ombudsman for a final 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.

The executor has raised two complaints about what happened here. The first of these complaints was raised in her personal capacity, and as explained, Halifax agreed to pay compensation to the executor in her personal capacity because of what happened.

The second complaint was raised in the name of the estate, and this is the complaint under consideration here.

It must be acknowledged that the estate is a legal entity and that the executor, in her role as executor, is a representative of that legal entity. One consequence of this is that I can’t consider awarding any compensation for upset or worry here. And this is because an estate – a legal entity – can’t feel upset or worry. Only a person can feel such emotion. And it’s for this reason that Halifax compensated the executor for the worry and upset she experienced in her personal capacity in the other complaint – the complaint that was raised by the executor in her personal capacity and not as the executor of the estate.

Additionally, while it’s easy to understand how the provision of the statements to the unauthorised third-party would have had an impact on the executor in her personal capacity – because it was a breach of her personal data – it’s difficult to ascribe any tangible adverse impact to the estate because of what happened.

For instance, while I can see how the executor would have been inconvenienced in her personal capacity because of what happened, given that a personal dispute between the executor and the unauthorised third-party appears to have understandably arisen because of the release of the statements to the unauthorised third-party, I find it difficult to see how the estate – the legal entity – has itself been inconvenienced. And this is because I don't feel that the provision of the historical bank statements to the unauthorised third-party would reasonably have prevented the estate from operating as it was supposed to operate.

There also doesn't appear to have been any unavoidable additional costs incurred by the estate directly because of what happened here. And while the executor has said that the estate has incurred solicitor costs because of the statements being released, my understanding – from the information available to me – is that these costs were incurred primarily in regard to the personal dispute that arose between the executor in her personal capacity and the unauthorised third-party.

As such, I'm not convinced there were any costs incurred by the estate itself, and if such costs were incurred, I'm not convinced that the appointment of a solicitor at the expense of the estate was reasonably unavoidable. It also must be noted that an invoice for professional legal services made out as payable by the estate hasn't been provided to this service.

I realise this might not be the outcome the executor was hoping for here, but it follows from all of the above that I won't be upholding this complaint or instructing Halifax to take any further action. In short, this is because I feel that the impact of what happened here was felt by the executor in her personal capacity, and I don't feel that there has been any tangible inconvenience or consequential cost incurred by the estate itself. I hope that the executor will understand, given what I've explained, why I've made the final decision that I have.

### **My final decision**

My final decision is that I do not uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Ms S to accept or reject my decision before 23 April 2024.

Paul Cooper  
**Ombudsman**