

The complaint

Mrs G, represented by her son Mr G, brings a complaint on behalf of the estate of her late husband, Mr G1. She complains that TSB Bank plc allowed money to be misappropriated from Mr G1's account with it following his passing.

What happened

The background to this complaint is well known to both parties and has been set out by the investigator previously. So, I'll only provide an overview.

Mr G1 held accounts with TSB. In 2021, following a Guardianship Order, Ms V was appointed as his guardian. Mr G1 sadly died intestate on 22 August 2022. The following day, Ms V transferred approximately £4,000 out of Mr G1's account. A further payment for just over £1,100 was made at the start of September.

Mr G contacted TSB on 7 September and notified the bank that Mr G1 had passed away. He explained that as the next of kin, Mrs G was the sole beneficiary of Mr G1's estate. He requested bank statements for the accounts and discovered transactions had been made on the current account by Ms V following Mr G1's passing, when powers granted under the Guardianship Order came to an end. Transactions continued to be made from Mr G1's current account until November, when the account was closed, and proceeds were transferred to Mrs G.

Mr G accepted that most of the transactions made from Mr G1's account after his passing were associated with funeral expenses and other legitimate payments (such as return of overpayments) which the bank allowed during that time. But he disputed the initial transaction Ms V made and asked the bank to investigate and reimburse the money. After a complaint was made, TSB said it had discussed the matter with its legal team and decided it wouldn't investigate the transaction. The bank said it was a civil dispute between the concerned parties. It paid £250 compensation for customer service failures and delays in closing Mr G1's account.

Unhappy with the bank's refusal to investigate the transaction, the complaint was referred to our service. Mr G said the transfer was made illegally as Ms V had no authority to move money from the account when she did. Our investigator concluded that TSB wasn't notified of Mr G1's passing until after the transaction in dispute had been made. As far as it was concerned, it had received instructions from someone who had authority to operate the account. Mr G didn't agree with the investigator's finding, so the complaint was passed to me to decide.

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.

I'm sorry to hear of the circumstances that have led to this complaint. I also understand the strength of feeling in this case. What I need to consider is whether TSB has acted

reasonably in processing the disputed transaction from Mr G1's account.

The Payment Services Regulations 2017 ("the PSRs") are relevant here. Generally, unless the consumer or someone acting on their behalf has authorised a transaction, a bank has no authority to debit the account.

In this case, it's not being disputed that Ms V authorised the transaction in question. The allegation here is that she didn't have the authority to do so when she did, given the powers granted to her by the courts under the Guardianship Order ceased on Mr G1's passing.

I understand the point Mr G is trying to make about the legality of Ms V's instruction to authorise a transaction. But the complaint I'm deciding here is about TSB's acts and omissions. I've no power to make a finding on the intent or legality of the actions of a third party.

Like the investigator, I've not seen evidence that TSB was aware of Mr G1's demise when it received Ms V's instruction to execute the disputed transaction. The starting position is that banks ought to follow instructions given by their customers (or someone else with authority to act on their behalf) and execute payments without undue delay.

As TSB wasn't notified of Mr G1's passing, it couldn't reasonably have known that Ms V's authority over his affairs had been revoked. In the circumstances, I don't think the bank acted unfairly in executing the transaction in question.

Mr G is also unhappy TSB didn't investigate the transaction when the bank became aware that Ms V's instructions came after Mr G1's passing. He submits that the bank hasn't told him what the transaction was for.

Unlike subsequent transactions, which were released either on the provision of funeral-related expenses or to return overpayments, for the reasons already given TSB wouldn't have needed to require Ms V to provide evidence of payment purpose. And once the funds left Mr G1's account, they were out of TSB's control. The bank couldn't reasonably have known how they had been utilised once they reached the beneficiary account. Also, from what I've seen, it seems that the recipient account was in Ms V's control. Given the circumstances, it's unlikely recovery attempts would have been successful.

I acknowledge that Mr G feels very strongly about what happened here. But as I've found that TSB's decision to execute the transaction wasn't unreasonable in the individual circumstances of this case, it wouldn't be fair to tell it to reimburse Mrs G.

Overall, while I'm sorry to hear of the circumstances of this complaint, I consider that TSB has acted reasonably.

My final decision

For the reasons given, my final decision is that I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the representative of the estate of Mr G1 to accept or reject my decision before 1 July 2024.

Gagandeep Singh
Ombudsman