

The complaint

Mrs C, as the executor of the estate of Mrs H, complains that Lloyds Bank PLC should pay additional compensation for her time as well as distress and inconvenience caused by its admitted poor service.

What happened

Mrs H died in 2020 and Mrs C is one of her appointed executors, and the person with authority to bring a complaint on behalf of the estate.

Lloyds acknowledged it made an error when it failed to search thoroughly and didn't locate title deeds belonging to the estate for some two years. Lloyds apologised to Mrs C and said it was sorry it didn't give her better service. In recognition of the distress and inconvenience caused, Lloyds paid Mrs C £50.

Mrs C wasn't happy with this response so one of our investigators looked into her complaint. He thought that Lloyds needed to do more to put things right. He said that as it had looked unlikely that the deeds would be found, the costs of reconstructing title had been reasonably incurred. And as this wouldn't have been necessary if Lloyds had found the deeds sooner, Lloyds should reimburse all reasonable costs incurred relating to reconstructing the deeds. But he explained that the Financial Ombudsman Service doesn't have power to award any payment to an executor of an estate for distress and inconvenience.

Lloyds agreed to cover reasonable costs incurred in having the deeds reconstructed, and invited the estate to provide details. Lloyds also said that whilst it wouldn't cover speculative losses, it would take into consideration other costs '...relating to delays and insurance...etc.' if the representatives provided details.

Mrs C however didn't agree with the investigator's proposed settlement. She mainly said:

- the brevity of the investigator's view meant she didn't have any proper explanation of his findings
- the delay aspect of her complaint was not adequately addressed – bearing in mind Lloyds' error resulted in nearly three years delay in settling the estate
- failure of Lloyds' internal procedures wasn't reasonable justification for failing to provide the deeds at the appropriate time
- Lloyds had a duty of care to both the estate and to Mrs C and it had failed in that duty of care
- Mrs C referred to other cases in support of her view that, in addition to paying the costs of reconstructing the deeds, Lloyds should compensate the estate for the inconvenience caused and pay interest for the period of delay in settling the estate
- Mrs C also said that she was personally entitled to costs and a payment to reflect the significant stress she had been caused by Lloyds.

Mrs C has asked for an ombudsman to review the complaint, so it has come 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've carried out an independent review and having done so, I've reached the same conclusion as our investigator.

I'm sorry that Mrs C feels the investigator has not properly addressed the complaint. We provide an informal service as a free alternative to the courts and this is reflected in the way we approach complaints. Our role is to decide what's fair and reasonable in all the circumstances of a complaint.

The background facts are not in dispute. Very briefly, Lloyds said that as Mrs C had only been able to provide details of bank accounts, this hadn't initially flagged up information about a safe deposit box (where the deeds were stored), in a central storage facility. Lloyds however said that a more thorough search later identified the existence of the box and the deeds were located and collected from the branch in June 2023. Lloyds accepted that it had provided a poor service when it previously told Mrs C that the deeds could not be found.

So as Lloyds has upheld the complaint, I will concentrate on the question of fair redress, which is the main reason Mrs C has requested an ombudsman referral.

I can see that Mrs C has been caused upset and suffered significant inconvenience during the course of her dealings as an executor with Lloyds. She feels strongly that she should have been informed in July 2020 when she closed the late Mrs H's bank account that Lloyds held the deeds. So I sympathise and I can understand why she feels Lloyds should be held to account for its admitted poor handling of matters.

But this complaint relates to the way Lloyds has handled matters concerning Mrs H's estate. Mrs C can bring this complaint only as representative of the estate and not in her personal capacity. This is an important distinction which goes to the heart of what the Financial Ombudsman Service can do in this situation.

Under the rules governing our service, Mrs C (and any other person appointed as executor of Mrs H's estate) isn't entitled to any compensation for the upset and inconvenience experienced in the course of carrying out their executor duties.

I appreciate that Lloyds sent Mrs C a cheque when it apologised to her for what happened. But that's a matter for the business.

We can only tell a business to pay compensation for upset and inconvenience experienced by its customer, not by a third party. Here, the 'customer' is the late Mrs H. Following her death, the deeds remained within her estate and the capacity in which Mrs C had dealings with Lloyds was as representative of the estate.

Whilst it's clear there were shortcomings in the service Lloyds provided, Mrs C was throughout acting as the appointed representative of Mrs H's estate when dealing with Lloyds. So I can't award her any compensation or other redress in her capacity as one of the executors.

The fact that work carried out by Mrs C would have been charged by a solicitor at professional rates doesn't mean that I have power to pay her an equivalent amount to reflect those notional costs. I can only refund costs that are billed to the estate.

I can award redress if the impact of Lloyds' admitted errors results in financial loss to the estate. Lloyds has agreed to do this.

Lloyds also recognises that potentially the estate has incurred additional expenses as a result of its delay locating and supplying the deeds.

It's reasonable to expect Mrs C to provide receipted invoices or other evidence of actual costs incurred by the estate so Lloyds can arrange reimbursement.

I have set out below the steps Lloyds is required to take.

Putting things right

Lloyds should pay Mrs C, acting as the executor of the estate of Mrs H, redress as follows:

- on receipt of an itemised invoice/invoices, the reasonable professional costs and expenses incurred by the estate in connection with reconstituting the deeds, and/or
- arising as a direct result of the delay locating the deeds,

an amount sufficient to reimburse the estate for any resulting financial loss.

My final decision

I uphold this complaint brought on behalf of the estate of Mrs H and Lloyds Bank PLC should take the steps set out above to put things right.

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 25 June 2024.

Susan Webb
Ombudsman