

The complaint

The estate of Mr S complains Bank of Scotland plc delayed its settling. The estate of Mr S is represented by an executor, Mrs L.

What happened

Mr S' partner passed away, and he was one of the executors of their estate. Mr S used one of his Bank of Scotland accounts, in his name only, to receive payments due to his late partner's estate.

The accounts received several credits, and held a significant amount of money. Mr S then sadly passed away, before his late partner's estate was settled and the money distributed to the beneficiaries.

Mrs L, as executor of Mr S' estate, explained to Bank of Scotland some of the money held in one of the late Mr S' accounts wasn't part of his estate. Solicitors were involved, to try and help settle the two estates, but it took some time.

Mrs L was in regular contact with Bank of Scotland and it offered her £300 to compensate for the ongoing delay in settling the estates. Bank of Scotland released the money due to the other estate and the two estates could then settle.

Mrs L complained to Bank of Scotland it took too long to resolve things, and this caused a lot of distress at an already distressing time. Bank of Scotland replied to say it was sorry it had taken so long to unwind the two estates.

Bank of Scotland said it had a duty of care to the estates and had to ensure they were both settled correctly. Bank of Scotland said it needed legal advice and proof of entitlement to make sure the right money went to the right place.

Bank of Scotland said its previous offer of £300 had been declined by Mrs L and it wasn't willing to continue to offer this. Bank of Scotland said it didn't feel it had made an error in unwinding the estates, so it wasn't fair to now make any offer.

Unhappy with this response, Mrs L brought the complaint to this service and an investigator looked into things. The investigator didn't think the complaint should be upheld, as this was clearly a very complex situation but there weren't any unnecessary delays.

The investigator explained this service wouldn't look to compensate the executor of an estate, so the withdrawal of the offer wasn't something the investigator could change.

Mrs L disagreed with the outcome, and the investigator explained they could only look at the effect the delays had on the estate of Mr S. Mrs L accepted this, and the complexity of the situation.

But Mrs L felt Bank of Scotland hadn't considered the distress it had caused to the relatives of the late Mr S and his late partner. Mrs L said Bank of Scotland knew about the problems

in May but didn't resolve things until September.

Mrs L, as executor, had explained the problem, and felt Bank of Scotland could have released the money to the other estate's beneficiaries much sooner. And Mrs L and the solicitors had to call to chase Bank of Scotland regularly.

Mrs L asked for an ombudsman to decide things.

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.

This complaint is brought by the estate of Mr S. I can only consider any effect on this estate, not the other estate. And because the estate of Mr S is the eligible complainant, with Mrs L representing it, I can't consider compensation for Mrs L.

It's clear untangling the two estates took some time, and the biggest delay was around settling the other estate. But I can't consider any delays to the other estate as part of the estate of Mr S' complaint.

The executors of the other estate, as legal representatives, might be able to complain to Bank of Scotland about the delays. It seems Mrs L was told she was the only person who could complain, and this might be related to the two estates sitting within the estate of Mr S.

Since only Mrs L could represent this estate, it's likely she had to bring the complaint at the time the estates were being unwound. Now it's clear the other estate was in one of the late Mr S' accounts, the other executors may now be free to bring a complaint if they wish.

Looking at the time it took to separate Mr S' estate from the other estate, I don't think there were unnecessarily delays. Bank of Scotland had to take some legal advice about how to unwind things and this was a rare and complex set of events.

I don't think taking legal advice was an unreasonable step to take, I agree with Bank of Scotland when it says its duty is to the estate, not the executors or the beneficiaries.

Bank of Scotland says it needed proof of entitlement for the payments into the late Mr S' sole account, to ensure they were due to his late partner's estate. Although this added to the delays, I think it's a reasonable request.

It seems Bank of Scotland was contacted by solicitors on 4 June 2023, to tell it about the issues with the two estates. Bank of Scotland closed the accounts, and distributed the money, on 26 September 2023.

I don't think Bank of Scotland taking a little over three and a half months to unwind the two estates, and ensure they were settled correctly, is an unreasonable amount of time to take.

I accept what Mrs L says about having to call Bank of Scotland often during the process, and the solicitors having to do the same. But I can only consider a financial loss to the estate, and I don't think the numerous calls necessarily led to a financial loss.

Whilst frustrating for Mrs L, I don't feel this is something I can tell Bank of Scotland to compensate for. And this is because, as explained before, the estate of Mr S is the eligible

complainant, not Mrs L.

And this means Bank of Scotland's offer of £300, then withdrawal of the offer, also isn't something I can consider. I wouldn't be able to award Mrs L compensation as part of this complaint, so I can't tell Bank of Scotland to make its original offer again.

Mrs L's said the solicitor costs were increased because of the time taken to settle things. But I don't think the estate of Mr S could have avoided the need for legal advice, because the circumstances were so complex.

Mrs L's said Bank of Scotland should be considering the effect the delays had on the relatives of both the late Mr S and his late partner. And this included delays to paying out to the beneficiaries.

But, again, I don't think this is something I can consider. The beneficiaries of the estates aren't eligible complainants, so delays to them, or the obvious distress they were caused, isn't something I can tell Bank of Scotland to compensate for.

This was a very upsetting time for the family of the late Mr S and his late partner, and I accept the time taken added to this upset. But in the very specific circumstances of this complaint, I don't think Bank of Scotland took too long to resolve this complex issue.

So it follows I don't think Bank of Scotland took too long to settle the late Mr S' estate, so I don't think Bank of Scotland needs to do more to resolve this complaint.

My final decision

My final decision is I don't uphold this complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr S to accept or reject my decision before 28 November 2024.

Chris Russ
Ombudsman