

## **The complaint**

The estate of Mrs H disputes a transaction made from one of its accounts. It says TSB Bank PLC ("TSB") should not have allowed the transaction to be made.

This complaint has been brought by the executor of the late Mrs H's will and for ease, I will refer to them as "R" throughout my decision. To keep things simple, I will also refer to the late Mrs H simply as "Mrs H".

## **What happened**

The facts of this case are well known to both parties, so I won't repeat them in detail here.

In summary, R says a transaction on Mrs H's account on 10 July 2017 for £13,000 was not authorised and TSB should not have let the transaction go through. R says TSB was aware Mrs H was suffering from dementia and it had already been instructed not to allow any large payments on her account.

TSB says the transaction in dispute was correctly authorised in branch by Mrs H herself. It also says, while it has recorded notes about Mrs H's condition at the time it was not provided any evidence or any instructions from Mrs H, or any other party with the authority to discuss the account. So, it doesn't think it has done anything wrong.

Our investigator considered this complaint and decided not to uphold it. R wasn't happy with this outcome, so the complaint has been passed to me 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.

TSB is required to refund any unauthorised transactions from Mrs H's account. Those are the rules set out in the Payment Services Regulation (PSR) 2017, and as outlined by the investigator in her view. R says they don't think the transaction in dispute was correctly authenticated, but TSB says it was. So, I must make a finding on whether I think the transaction was authorised or not.

TSB has provided evidence of a withdrawal slip for the transaction in question. This shows the transaction was made in branch and TSB was given the instruction to transfer £13,000 from Mrs H's account into the account of a family member. Based on the terms and conditions of the account, and TSB's documented procedure for making large transfers, I think Mrs H would've been sufficiently verified by the bank before it was processed. I've also considered that Mrs H signed this slip to give her consent for the transaction to be made. And giving consent, according to the PSRs, doesn't consider the consumer's awareness or mental state at the time. So, the information about Mrs H's mental capacity is not relevant to my findings on whether the transaction was authorised or not. Based on what I have seen, I am persuaded this transaction was authorised by Mrs H.

R says TSB should not have allowed this transfer to take place as it had been on notice that Mrs H was suffering from dementia and didn't have the mental capacity to manage her finances. R thinks Mrs H was taken advantage of by a family member who was also the recipient of the money.

R has provided evidence of Mrs H's mental condition at the time. To be clear, I am not disputing what R has said about Mrs H's mental state. And this is not an issue that's in dispute. But it would only be reasonable to have expected TSB to handle Mrs H's account differently had it been given authorised instructions and consent to do so.

I've seen from TSB's notes and R's testimony that some of Mrs H's relatives attended the branch to discuss Mrs H's condition. R's testimony is that TSB was informed Mrs H was suffering from dementia and it was agreed that she would not be allowed to make large transfers from her account. However, TSB's notes record that the relatives who visited the branch "*don't hold any representative access at the present time*". TSB says these relatives didn't have any authority or consent to discuss Mrs H's account or place any instruction on her behalf. And we wouldn't expect TSB to allow anyone else to make changes or place restrictions on someone's account without the correct authority – like the account holder's consent or a power of authority. So, TSB says that although it recorded notes on the account in relation to this meeting, no restrictions or changes were made on Mrs H's account at this time.

Following this meeting, on 10 July 2017 Mrs H attended the branch herself with a relative to make the transaction now in dispute. TSB has provided evidence of its usual procedure for large in branch withdrawals and payments. And the evidence provided suggests Mrs H made the withdrawal in private with the bank manager – without the family member present.

As part of their usual process TSB has provided evidence of a checklist that it says would've been completed when this transaction was made. It no longer has the actual checklist from the transfer, but without any evidence to the contrary, I think it's likely this would've been completed. And the checklist includes questions to determine whether the consumer is under duress or threat. TSB also says it wouldn't have allowed Mrs H to make the transfer if it had suspected she lacked the capacity to do so. So, I haven't seen any evidence that TSB had the proper instruction or consent, or had any of its own cause for concern, regarding Mrs H's mental state.

I know this outcome will come as a disappointment to Mrs H, but overall, I think the transaction in dispute was authorised. I also don't think TSB did anything wrong in allowing the transaction to be completed.

### **My final decision**

I am not upholding this complaint.

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 7 February 2025.

Sienna Mahboobani  
**Ombudsman**