

The complaint

The estate of Mr H has complained The Co-operative Bank plc allowed a third party to be authorised to use their father's account despite the signature being fraudulent. They also believe gambling transactions on the account went unnoticed by the bank and that these weren't authorised by Mr H.

What happened

Mr H died on 15 October 2020. One of his daughters, Miss SH, holds letters of administration for her father's estate as he died without completing a will. The letters of administration were obtained in September 2024 to assist with the representation of the estate in this complaint. Miss SH and her sister, Miss RH, represent the estate. For ease I shall refer to Miss SH throughout meaning both representatives. Mr H had another daughter, Mrs T, and a son.

In 2021 Miss SH became concerned about what had happened to money in her father's account before he died. A considerable amount had been spent on gambling transactions and she didn't believe these had been conducted by her father. She also noted her sister, Mrs T, had got a third-party authority to use her father's account and she believed this had been done fraudulently. Relations between the siblings had worsened after Mr H died as his pension was not distributed, as some felt, in accordance with his wishes.

Miss SH complained to the Co-op. They believed there had been a valid third-party agreement in place which allowed Mrs T to make transactions on her father's behalf. They also believed Mr H must have given Mrs T his debit card to use for the account.

Miss SH brought a complaint to the ombudsman service on the estate's behalf complaining that the Co-op should have intervened when considering the transactions that had taken place on the account. She was also concerned they'd done nothing when Mrs T used the account.

Our investigator reviewed the evidence provided by Miss SH and the Co-op. This showed there had been gambling transactions made historically so she didn't believe there was any basis for expecting the Co-op to have done more. She could also see the third-party mandate had been properly set up and therefore transactions by Mrs T were authorised.

Miss SH wouldn't accept this outcome and has asked an ombudsman consider the estate's complaint.

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.

Having done so, I've reached the same outcome as our investigator. I'll explain why.

Where there is a dispute about what happened, I have based my decision on the balance of

probabilities. In other words, on what I consider is most likely to have happened in the light of the evidence.

When considering what is fair and reasonable, I'm required to take into account: relevant law and regulations; regulators' rules, guidance and standards; codes of practice; and, where appropriate, what I consider to have been good industry practice at the relevant time.

The regulations which are relevant to the estate's complaint are the Payment Services Regulations 2017 (PSRs). These primarily require banks and financial institutions to refund customers if they didn't make or authorise payments themselves.

To help me come to a decision, I've reviewed the evidence the Co-op provided as well as what Miss SH has submitted on behalf of the estate. I won't be going into all the detail as this was mostly covered by our investigator in her view of 24 October 2024. I can reassure all parties that I have considered all the evidence afresh, including the WhatsApp messages between the siblings which mark the deterioration of their relationship.

Firstly, I have reviewed the third-party mandate. This was put in place on 11 May 2017. A further third-party mandate was provided six months later on 20 November 2017 despite as I can see from the Co-op's policy, there being no need as these mandates are not time specific and last as long as they are not revoked by the account holder. Miss SH has suggested this should have acted as a red flag but I don't agree.

I have looked at both mandates. I believe, as far as I can tell, that these were signed by Mr H, as well as Mrs T. Mr H's later signature doesn't look as robust as the earlier but taking into account how his health deteriorated, I don't find that surprising. From what I've seen of Mr H's signature I'm satisfied this wasn't fraudulently completed.

The existence of this mandate means that all transactions after this date, that the estate believes were unauthorised as they were carried out by Mrs T, were in fact authorised under the PSRs.

I can see from Mr H's records that the Co-op was unaware of Mr H's deteriorating health and the physical impact this was having on him. It would have been up to a family member to have made the Co-op aware if they had concerns. It's clear that no-one did. I can't really hold Mr H's bank liable for this aspect.

I've also looked at the historical and later gambling transactions. These were detailed in our investigator's view. Miss SH has said transactions prior to 2019 were both conducted by their mother, Mrs H, before she died and their brother when he was living with their father. However, from what I've seen, and despite the estate saying otherwise, there's no indication these couldn't have been carried out by Mr H himself. I've noted what Miss SH has said about her father's disapproval of gambling.

The key thing is that these transactions create an historical pattern of behaviour. I can't see why I'd have expected the Co-op to intervene and flag any transactions as they'd seen this type of transactions previously. In any case, even if they had, it's most likely they'd have spoken to Mrs T who was an authorised party to the account. If these were made by her, as her siblings believe, then I think it's more than likely she'd have been able to concoct an acceptable story to tell the Co-op.

I'm very aware of the strength of feeling engendered by this complaint and the impact this has had on family relationships. However, based on what I've seen, I won't be asking the Co-op to do anything further.

My final decision

For the reasons given, my final decision is not to uphold the estate of Mr H's complaint against The Co-operative Bank plc.

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr H to accept or reject my decision before 10 February 2025.

Sandra Quinn
Ombudsman