

The complaint

X complains that the Bank of Scotland plc trading as Halifax (BOS) disclosed information about a mortgage account she had previously had with her deceased brother without her consent.

What happened

X had obtained from BOS a mortgage (the mortgage) with her brother which was redeemed in 2005. Following her brother's death in 2021, X obtained a Grant of Probate (the Grant) to his Estate in May 2024. She was named as an Executor with power reserved to another Executor.

In the summer of 2023 X learned that BOS had disclosed information about the mortgage to (U) a solicitor, who had made contact explaining that X's brother had passed away and that she was 'dealing with his Estate'. X had not given her consent to any such disclosure and wished to know what information had been shared. X complained to BOS pointing out she was the only named Executor.

In their final response letter to X, BOS declined her complaint and said it had acted correctly in responding to what it saw as a legitimate enquiry from a solicitor, whom they had checked with the Law Society. BOS also said it would not become involved with any dispute between interested parties to the Estate. In a revised final response letter BOS added that it did not consider there had been any conflict of interest with its complaints manager investigating the complaint, and nor had any information about other jointly held accounts been disclosed.

X was unhappy with BOS' final response and so approached this service to see if we could assist in resolving the dispute. Our investigator thought that BOS hadn't done anything wrong and had dealt with the complaint fairly. X didn't agree and asked for the complaint to be passed to an Ombudsman 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.

I know the parties provided more detail than that set out in the above summary, but I have focussed on what I see as the key issues, because it reflects the nature of our service, that being an informal dispute resolution service and an alternative to taking Court action.

My approach is to look at what happened and determine whether I think a business has been unfair or unreasonable. We are an impartial service and so we don't take sides – I'll only ask a business to take further action if there is enough evidence to justify doing so.

If I've not mentioned something in my summary then this isn't because I've ignored it, it's simply because I don't need to comment on every individual argument to be able to reach what I think is the right outcome.

Naturally, I have considered the views of both X and BOS together with the available evidence.

The accepted facts are that X jointly had at one time held a mortgage with her brother who passed away towards the end of 2021; the mortgage had been redeemed in 2005; BOS disclosed information about the mortgage to U before X obtained a Grant; X obtained a Grant with power reserved to another Executor in May 2024; U did not represent X; X did not consent to the disclosure of information to U.

When BOS received the request for information from U, it clearly stated that she was dealing with the Estate. BOS checked with U's governing body to see whether she was in fact a registered solicitor and being satisfied that she was, disclosed the information sought. As a fact U is a registered solicitor and I have seen a screen shot evidencing that. At that point in time, BOS had no knowledge of any dispute relating to the estate, and nor did it know that X had obtained a Grant because U's request predates this by more than a year. Thus, at the time of the disclosure the Court had not granted probate to anyone.

It is clear from the Grant of Probate document that X's brother appointed more than one Executor since power was reserved to another Executor. Whilst I do not know it is more than likely that U had received instructions from this other person, since what is certain is that U did not represent X.

The question which arises is whether BOS should have asked to see a Grant of Probate showing that U was representing the other Executor. At that time the Court had not made a Grant, and so even if BOS had asked to see it none would have been forthcoming.

The question then becomes as to whether it was reasonable, upon receipt of U's request, for BOS to respond and disclose the information it did. In my view it was. BOS were satisfied that it was dealing with a solicitor who by definition is an officer of the Court. It was reasonable for BOS to accept that U held instructions from a person entitled to deal with X's brother's estate. As such BOS was entitled to accept U's statements as being truthful.

In their final response, BOS indicated that X may wish to approach the solicitor's governing body or the Legal Ombudsman if she has concerns about the conduct of U. In my view, issues of misconduct ought to be raised with the Solicitors Regulation Authority. That said, I am not saying I believe U to have acted improperly. That is not a matter for me, and I remain neutral on the point. The investigation of any such alleged misconduct would be a matter for U's governing body.

So, I do not consider BOS have improperly disclosed information to U, but if X continues to feel that there has been a data breach, then that is a matter she should take to the Information Commissioner's Office.

X also complains that the complaints manager who released the information to U should not have dealt with X's complaint because there was a conflict of interest. I don't agree – the complaints manager was simply providing to X her reasoning for why she had disclosed information to U at a time when no complaint had been made of the complaints manager. The complaints manager also sought advice from BOS legal department and data privacy team who confirmed the correct process had been followed. So, I do not consider that an impartial observer would regard the manager responding to X as a conflict of interest.

Finally, X would like to have a copy of the communications between BOS and U which BOS have refused to disclose. I think that is the right approach given that BOS now clearly know there is a form of underlying dispute. X is of course entitled as a former joint holder of the

mortgage to have information pertaining to that account during its life, but communications between the individual parties concerning the dispute would require that both parties consent to disclosure.

So, in summary, I've not seen anything showing that BOS acted unfairly towards X and I won't be asking them to do anything further about this complaint.

My final decision

For the reasons set out above I do not uphold the complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask X to accept or reject my decision before 8 February 2025.

Jonathan Willis
Ombudsman