

The complaint

The estate of Mr P is unhappy with several aspects of the service the late Mr P received from The Royal Bank of Scotland Plc ("RBS").

What happened

Sadly, in March 2023, Mr P passed away following a terminal illness. In the weeks before his death, Mr P tried to arrange his financial affairs to make his passing as easy as possible for his wife, Mrs P, who became the executor of Mr P's estate upon his death.

Mr P's efforts in this regard included visiting an RBS branch to add Mrs P to all his accounts before he died. But while Mrs P was added to several of Mr P's accounts, she wasn't added to his ISA accounts, because it isn't possible for an ISA account to be held in joint names. However, neither Mr P nor Mrs P were told this was the case until several weeks later, by which time Mr P's condition had unfortunately deteriorated to the point that he wasn't able to address the matter again.

This meant that when Mr P died, Mrs P as the executor of the estate had to apply for probate, at cost to the estate, solely to gain access to the late Mr P's ISA accounts. Mrs P wasn't happy about this, or with other aspects of the service that Mr P had received from RBS, and so she raised a complaint.

RBS responded to Mrs P's complaint and identified three points of complaint raised by Mrs P as follows:

1. That Mrs P wasn't told that she couldn't be added to Mr P's ISA accounts.
2. That after Mr P died, the joint account turned into a sole account, but the wrong initial was removed (in effect removing her from the account and not her late husband).
3. That RBS didn't inform Mrs P that she would need to obtain grant of probate to release Mr P's ISA funds to the estate after he died.

RBS upheld all the above complaint points in Mrs P's favour and apologised to Mrs P for what had happened. RBS also made a payment of £150 to Mrs P as compensation for any inconvenience she'd incurred and referenced earlier compensation payments of £200 and £50 that had been paid to Mrs P the previous month.

However, RBS said that they weren't willing to pay for the cost of obtaining probate as Mrs P wanted them to, because it would always have been the case that the estate of Mr P would have had to have obtained probate. Mrs P wasn't happy with RBS's response and felt that the estate wouldn't have had to obtain probate if it hadn't been for RBS's mistakes. So, she referred the complaint to this service.

One of our investigators looked at this complaint. But they felt that RBS's response to the complaint already represented a fair resolution to it. Mrs P disagreed, so the matter was escalated 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 issued a provisional decision on this complaint on 26 February 2025 as follows:

I'd like to begin here by offering my sincere condolences to Mrs P regarding the loss of her husband. Because of the nature of this complaint and the nature of this service, much of the discussion that takes place here will be of a technical nature which means that it may come across as being somewhat dispassionate.

This is unfortunately unavoidable, but I want to assure Mrs P that, on a personal level, I haven't lost sight of the fact that the events under consideration here took place at a time when Mrs P had just lost a loved one. Although, as I will later explain, I won't be able to take Mrs P's personal distress into account when considering this complaint in my professional capacity.

I've mentioned the nature of this service because there are some important points about our remit and authority that need to be addressed here, and which have significant consequences regarding what I can and can't consider.

The remit and authority of this service are defined within the Dispute Resolution ("DISP") section of the Financial Conduct Authority ("FCA") Handbook, which contains the rules by which this service must abide. These rules include that this service can only consider complaints brought by eligible complainants, and in this instance that eligible complainant for the purposes of this service is defined as being the estate of Mr P.

That is to say that this service can only consider this complaint from the perspective of Mrs P in her capacity as the executor of the estate of her late husband, and we can't consider any complaint that Mrs P might have in her personal capacity.

This has important consequences when we look at the three complaint points addressed by RBS when they considered Mrs P's complaint. Specifically, while complaint points 1 and 3 can be seen to relate to the estate of Mr P, complaint point 2 does not. Instead, this point of complaint relates to Mrs P in her personal capacity and so falls outside of the scope of what I am permitted to consider here.

I also note that Mrs P has referred an additional point of complaint to this service, relating to dissatisfaction with service she received when trying to provide documents to RBS in December 2023. However, the rules by which this service must abide also include that this service can only consider points of complaint that have previously been referred by the complainant to the bank directly, so that the bank had had a formal opportunity to consider and respond to that point of complaint.

This hasn't happened regarding the further point of complaint the Mrs P wants to raise. Because of this, and because this further point of complaint relates to events that took place several months after the events which I can consider here, I can only refer Mrs P to RBS to raise this new point of complaint with them in the first instance, so that RBS have a formal opportunity to consider and respond to it. And I confirm that after RBS have had such an opportunity, Mrs P may have the right to refer that point of complaint to this service, should she still wish to do so.

All of which means that the points of complaint that I can consider here are as follows:

1. That Mrs P wasn't told that she couldn't be added to Mr P's ISA accounts.
2. That RBS didn't inform Mrs P that she would need to obtain grant of probate to release Mr P's ISA funds to the estate after he died.

Mrs P feels that if Mr P and herself had been told that she couldn't be added as a joint party to the ISA accounts, that they could have made alternative arrangements at that time regarding those accounts. And Mrs P also states that following the death of Mr P, the estate was forced to obtain grant of probate, at cost to itself, for no other reason than to obtain access to for the estate to those ISA accounts.

However, I'm not convinced that the estate of Mr P could have avoided having to apply for grant of probate as Mrs P feels could have been the case here. This is because I note that the official value of the estate is listed as being approximately £193,000, and because grant of probate must be obtained when the value of an estate is over £50,000.

Mrs P notes that the value of the estate includes half the value of the house, which she says passed from her husband's ownership to hers automatically when her husband died.

But there are two ways in which a jointly owned property can be owned; as joint-tenants or as tenants-in-common. If Mr and Mrs P had owned the property as joint tenants, then the ownership of the property would have transferred automatically to Mrs P as she suggests.

But in this scenario the value of the property wouldn't be reflected in the value of the estate. Because some value relating to the property is reflected in the value of the estate, this leads me to believe that likely that Mr and Mrs P may have owned the property as tenants-in-common. In this scenario, when Mr P died, his ownership of half of the property wouldn't automatically transfer to Mrs P but would instead form part of his estate. This would then be reflected in the value of the estate, which is what we see in this instance in the estate documents.

Because in this instance the value of the estate is approximately £193,000, I feel it would always have been the case that the estate would have needed to obtain grant of probate, at cost to itself, and so consequently isn't the case that grant of probate had to be obtained by the estate solely because of the ISA accounts, as Mrs P believes was the case. However, if Mrs P can clearly evidence that she owned the property with Mr P on a joint-tenant basis, and not as tenants-in-common, then I would be happy to reconsider my position here. Although further examination of the estate's finances would almost certainly be required.

Furthermore, while RBS have accepted that Mr P and Mrs P weren't told that Mrs P couldn't be added to the ISA accounts in the first instance, they did send a letter to Mr P about three weeks later which explained this fact. And while I appreciate that Mr P's condition had deteriorated in those three weeks, I feel that given that the ISA accounts were instant access accounts, there may have been an opportunity for Mr P to have instructed their encashment, so that the balance of the ISAs moved to accounts that Mrs P had been added as a joint party to, at that time.

RBS have apologised to Mrs P for not providing better service to the late Mr P and herself regarding these matters, and they've paid compensation to Mrs P because of this. However, because RBS have considered complaint points relating to Mrs P as the executor of the estate and Mrs P in her personal capacity together (which RBS are entitled to do) it's difficult for me to say how much of this compensation relates to which specific points of complaint.

Ultimately though, I don't feel there has been the significant impact on the estate as Mrs P feels was the case here. This is because as explained, I feel it's most likely that the estate was always going to have to obtain grant of probate because of the value of the estate.

Because of this, I feel that the acknowledgement of poor service, the apology, and the compensation payments that RBS have already provided to Mrs P do represent a fair resolution to this complaint – brought as it is by Mrs P as the executor of the estate of Mr P. And it follows from this that my provisional decision is that I won't be upholding this complaint against RBS or instructing them to take any further or alternative action.

Finally, while I appreciate that what's happened here may have been distressing for Mrs P on a personal level, because of the loss of her husband, I'm unable to consider instructing RBS to pay her any compensation for that distress. Again, this is because this complaint is brought in the name of the estate (which is considered to be a legal entity and as such isn't something that can experience distress) and not by Mrs P in her personal capacity.

Mrs P responded to my provisional decision and confirmed her disagreement with it and asked me to elaborate on why I felt that grant of probate was always likely to be required in this instance.

As I had attempted to explain in my provisional decision, this is because the value of the late Mr P's estate was listed as being approximately £193,000 – which I suggested might be because of the basis on which Mr and Mrs P owned their residence together. The fact that the value of the estate was listed as being £193,000 is the important point here, because RBS require that a grant of probate be obtained for any estate where the value of the estate exceeds £50,000.

Mrs P has also explained that had her husband and herself been told by RBS when they initially went into branch that she couldn't be added as a joint party to the ISA accounts, that her husband could have at that time done as I suggested in my provisional decision and encashed the ISAs so that their value was transferred to an account that Mrs P was added as a joint party to – so that when Mr P died there were no accounts outstanding in his sole name for which grant of probate would have been required.

I can appreciate Mrs P's position here. But there are several aspects of this scenario with which I'm uncomfortable. For instance, I wasn't present when Mr and Mrs P initially went into branch. And while Mrs P has explained that she was assisted and advised by a member of RBS's staff, RBS have explained that their staff have no recollection of Mr and Mrs P's visit, but that all branch staff are aware that ISAs can't be held in joint names.

I have no reason to discount either testimony here. But because of this, I feel that there is a degree of doubt as to whether it was the case that a member of RBS's staff was made aware that Mrs P wanted to be added as a joint party to Mr P's ISAs specifically, or whether they confirmed that this could be done. And this is because I feel it's likely that if the RBS staff member was made aware that Mrs P wanted to be added as a joint party to her husband's ISAs, the staff member would most likely have explained to Mr and Mrs P that such an action wasn't possible on ISA accounts.

Additionally, the fact that an ISA can't be held in joint names is a key feature of an ISA account and one which I feel that all ISA account holders should reasonably be aware of.

For me to uphold this complaint in the estate's favour, I'd need to be persuaded that RBS were solely responsible and accountable for the fact that Mr and Mrs P weren't of the understanding that Mrs P couldn't be added as a joint account holder on Mr P's ISAs, such that Mr P might want to consider encashment of the ISAs. However, for the reasons explained above, I don't feel that it can fairly or reasonably be said that that was the case.

I realise this won't be the outcome that Mrs P was wanting, but it follows that my final decision is that I won't be upholding this complaint. I appreciate that the time in question was one of great emotional strain for Mrs P. But I hope that she will understand why, from my impartial perspective as an ombudsman, I've arrived at the final decision that I have.

My final decision

My final decision is that I do not uphold this complaint.

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

Paul Cooper
Ombudsman