

The complaint

Mrs B has complained Cumberland Building Society provided her with false information when she opened a new account in July 2023. They also didn't carry out their due diligence which has meant her son was able to access her other accounts using online banking.

What happened

In July 2023 Mrs B went to her local Cumberland branch. She wanted to open an additional account. The forms she completed confirm this was for everyday spending which would be funded by her pension payments.

Mrs B has told our service she was opening an account on her son's recommendation which they could use to sell items from their home online. Mrs B believes she was clear that her son would be using the account, although the account would be in her name. She specifically asked whether online banking access would enable sight of all her account holdings. She believes she was told this wouldn't be the case.

In July 2024 Mrs B discovered £38,985 from her and her husband's joint account (which isn't the subject of this complaint) had been transferred into her own account. Then four payments had been made to her son's own account. Mrs B complained this wasn't authorised and asked Cumberland to refund her losses.

Cumberland wouldn't do so as they believed Mrs B had provided her son with her online banking access which meant the payments had been made with her authority.

Mrs B brought her complaint to the ombudsman service.

Our investigator originally considered whether a refund may have been the right answer. However after reviewing the evidence from Cumberland which did not confirm Mrs B had informed them her son would be able to use her account, she believed it wouldn't be fair to ask Cumberland to refund Mrs B.

Unhappy with this outcome and feeling she'd been treated unfairly, Mrs B has asked an ombudsman to consider her 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 Mrs B'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. There are exceptions to this and that would include if the customer had acted with gross negligence or intent to allow any security details – including the card and PIN or online banking details – to be used by someone else.

I note Cumberland has provided no evidence to suggest Mrs B acted in a grossly negligent manner, but they have stated that Mrs B gave control of her online banking for her Cumberland account to her son and by doing so gave him apparent authority to make transactions on the account. There are provisions within the PSRs which suggest that by giving another person their payment instrument they're providing authority for that person making those transactions. Our investigator explained this in her view.

The way I've looked at this is slightly different, but the outcome remains the same.

I'm sorry to say that I believe Mrs B has acted with intent by providing her son with online banking access, and therefore control of her account, which means he was able to make transfers from her account to his on 15 and 16 May 2024.

Despite her strong testimony that she was upfront with Cumberland that her son would be operating her account, when she visited her local branch in July 2023 to open the account, I don't believe this can be the case. I know Mrs B believes Cumberland misled her to believe any online banking access would mean her son would only be able to see this account, I also don't believe this is true. I say this because:

- Banks and financial institutions are stringent about security. This is partly because if they weren't, they'd open themselves to liability. If Mrs B had actually said she was going to allow her son to use her online banking access, she'd have been advised at the least that opening a joint account would be advisable. I appreciate Cumberland has no additional notes apart from the account opening forms (which confirm Mrs B stated this would be an everyday spending account financed by her pension). But the advisor who spoke to Mrs B was experienced and would be trained sufficiently to know that any online banking access for this account would enable the person with access to see, and access, Mrs B's other Cumberland accounts.
- Mrs B has provided us with contrary evidence of why this account was being opened. If she was opening an account which could be used for selling house items, I don't understand why that wouldn't have been noted on the account opening forms. Looking at Mrs B's first complaint letter to our service, it's clear that opening this account was her son's recommendation and he also advised her that having online banking would be useful. She doesn't say in the letter that this is exactly what she said to Cumberland when she opened the account. I'm not convinced she did.
- It's clear that Mrs B provided the details to her son to enable him to set up online banking for this account. This was linked to his mobile phone. I believe this matches what I state above that Mrs B acted with intent to share her security details.

I know how upsetting this must be for Mrs B. She's ended up reporting her son's theft to the police, and a case against him is proceeding at the moment. This must be traumatic, particularly as she admits her relationship with her son has often been difficult and she's found him controlling and manipulative.

However, based on what I believe is most likely to have happened, I don't agree that she was misled by Cumberland. Instead as she allowed her son to have online banking access, I am unable to ask Cumberland to refund her losses.

My final decision

For the reasons given, my final decision is not to uphold Mrs B's complaint against Cumberland Building Society.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs B to accept or reject my decision before 25 September 2025.

Sandra Quinn
Ombudsman