

The complaint

X is represented by R (holder of a Lasting Power of Attorney/'LPA' for X). R is also, separately, the executor of an estate from which a Stocks & Shares Individual Savings Account – the 'estate ISA' – was bequeathed to X. The estate ISA was/is held with Bank of Scotland plc trading as Halifax. Probate for the estate was granted around June 2023, after which (also in 2023) R sought to open a Halifax Stocks & Shares ISA for X, in order to transfer the estate ISA into it using the Additional Permitted Subscription ('APS') process, and to register the LPA on the new ISA – collectively referred to as 'the pursuit'.

The complaint is about X, R's role in relation to X, and the pursuit.

R mainly says Halifax has – frustrated and hindered the pursuit; misinformed her throughout the process; committed errors and provided an inadequate service; breached her personal information held in Lloyds Bank; and, overall, been intentionally obstructive despite its awareness of X's vulnerability in the matter.

What happened

Halifax has offered R £100 compensation for incorrect information she was given during a telephone enquiry, and for the poor service she received when she contacted its branch. However, with regards to the other or main issues, it disputes the complaint.

In relation to the LPA, it says R's suggestion of registering it over the phone could not happen because X did/does not have any accounts with Halifax, the LPA must be registered in a branch, the facility to register an LPA over the phone applies only to existing customers.

In its November 2023 complaint response, it explained that it was not possible for the required staff (qualified to register LPAs) to travel to a branch closer to R to deal with this matter (with her), despite specific circumstances which compromised her availability to travel far.

Halifax also highlighted an issue associated with the estate ISA (concerning its underlying fund) that first had to be resolved before it could be determined that the estate ISA is transferrable, under the APS process, into a Stocks & Shares ISA in X's name.

R says the branch visit requirement was conveyed to her as what was needed in order to open an ISA for X and then register the LPA on it – because the estate ISA could not simply be transferred into X's name – and, due to the LPA registration objective, it had to be a branch with staff qualified to conduct that registration.

R has stressed that a key motive behind the complaint is to highlight, for awareness, accountability and change, practices within Halifax – in the context of the pursuit – which mistreat people with vulnerabilities akin to X's, and those who care for, assist and/or represent them. She has provided a chronology of events, and in her communications with us she has elaborated on the main events.

No appointment was available in the branch closest to R. Part of the main events she has

referred to relates to her many calls to Halifax seeking to confirm whether (or not) the branch closest to her had the required staff and, if not, which branches around her did. She has summarised to us how, over a number of weeks, she was given a variety of telephone numbers to call, which she called, and how she spoke to a number of different people, yet she remained without any of the information she needed and no progress in the matter. She complained to Halifax in September 2023.

R says there was confirmation from Halifax, in November 2023, that the nearest branch to her with the required staff was around a two hours round-trip away, which she could not afford to undertake given the specific circumstances she faced, circumstances that she made Halifax fully aware of. In the same month she says she spoke to a complaints manager from Halifax who offered her £100 compensation for her troubles – which she considered derisory – who could not deal with Stocks & Shares ISAs (because she only dealt with Cash ISAs) and who told her to resolve the issue concerning the estate ISA's underlying fund directly with the fund provider. She considers the call to have been wholly unhelpful.

The breach of personal information alleged by R is about a letter sent to her in April 2023 at a secondary address that she says Halifax had not been given and could not have obtained other than through unauthorised access to the records for her Lloyds Bank account. She says as both firms share the same parent company – Lloyds Banking Group – Halifax must have accessed her records through that path.

R believes Halifax must address the lack of staff in branches qualified to register LPAs; ensure its call centre staff are properly informed (and share, with callers, meaningful and accurate information) about the branches that have such staff; ensure they are also properly informed about its ISA products; and subscribe to the Office of the Public Guardian Access Code system which enables verification of LPAs electronically.

The complaint was referred to us in May 2024, thereafter we received Halifax's submissions, to us, on it.

Halifax says – there are limits to the availability and remit of its staff and the locality of its branches; it is sorry it did not handle R's enquiries well at first, but that was not typical of its service and its subsequent offers of support and £100 compensation offer have stood to redress that; the compensation offer remains but it will not be increased; given the passage of time R could have made alternative arrangements elsewhere, but if she retains the same plan in relation to Halifax, it is prepared to assist her.

One of our investigators looked into the complaint and concluded that it should not be upheld.

He clarified that the complaint features only X and R in her role as holder of the LPA for X, so the estate (including the estate ISA) and R's role as executor for the estate are outside the scope of the complaint. He noted that the compensation sought by R are for her experiences in the process and are about how she has been personally affected by them. However, he said, the rules that govern our compensation awards limit our consideration, in terms of trouble and upset, only to X, X is the complainant, R is the representative, and we do not usually award compensation for trouble and upset to representatives.

The investigator found Halifax's position on the pursuit to be broadly fair and reasonable, so he did not consider that it had committed any wrongdoing in this respect. He also did not consider that R had established grounds to determine any quantifiable financial loss resulting from the estate ISA being yet to be transferred to X. With regards to the alleged breach of R's personal information, the investigator observed that the letter at the centre of

the allegation was not sent by Halifax, it was sent by another firm in the Lloyds Banking Group, so Halifax is the wrong respondent to any complaint about the alleged breach.

R disagreed with this outcome. Cross correspondence between her and the investigator resulted from this, in which he addressed points she had raised and in which she made further submissions to support those points – which the investigator also addressed.

In R's view, the investigator completely misguided himself on the complaint and failed to address its key issues. With regards to the latter, she said the investigator had not given a view on the fairness (or otherwise) of Halifax frustrating her 2023 efforts (with regards to the pursuit, and also in relation to the issue with the estate ISA and its underlying fund) despite its awareness of X's vulnerability and of the circumstances she faced in relation to that, and had not dealt with the breach of her personal information she alleged.

On the matters initially dealt with by the investigator, R mainly argued that – irrespective of our approach to compensation for trouble and inconvenience, it ought to be within our remit to express a view on whether (or not) Halifax's £100 offer is adequate; the stated approach is also flawed, because the LPA she holds has the effect of putting her in X's position as though she is X, so her claim for the trouble and inconvenience she faced from Halifax should be catered for under our rules; furthermore the approach potentially commits an act of discrimination under the Equality Act [on grounds R summarised]; financial loss to X is somewhat obvious, he has been deprived access to and use of the estate ISA's value since the pursuit began in 2023, so there has been a loss of investment opportunity (and associated potential growth) and, at the least or in the alternative, a loss of interest on that value.

The complaint was eventually referred to an Ombudsman. Before that, and in addition to what I summarised above, the investigator –

- Shared information with R (a link to our website page on how we deal with complaints from representatives/attorneys, some previous decisions from our Ombudsmen on such complaints, and a link to the regulator's rules on the eligibility of a complainant) to support his explanation that our rules, and those that govern us, mean we cannot make, or comment on, a trouble and inconvenience award for her.
- Explained that our remit differs from and is narrower than that of the regulator's, so we cannot meet her request to appraise Halifax's general practices or determine what those practices should be (including in relation to its branch services and its LPA registration service), and that these would be areas in the regulator's remit.
- Considered R's argument about financial loss. He noted that despite her submissions, no basis on which to determine a reasonable loss to X has been presented; that, in addition, there would be an expectation upon her to mitigate X's position in the matter; that her decision not to look into an alternative pursuit with a different ISA provider since 2023, because she says she was concerned about jeopardising the case against Halifax if she did, conflicts with that expectation; and that there was no such jeopardy, if unsure she could have queried this with us.
- Returned to Halifax to convey and explore R's request for a viable way to resolve the pursuit. In doing so, he obtained Halifax's agreement to arrange a meeting with R at a branch closer to her, this (including Halifax's offer to contact her to arrange the meeting) was shared with R, as was news of the possibility that an appointment might be available as soon as the following week. In response, R questioned why an offer like this had not been made back in 2023 and she objected to what she considered to be time wasted in between, to X's detriment and hers. She remained unhappy that the investigator had not answered questions she put to him, but she confirmed willingness to settle the matter if Halifax increased its offer to her to £500.

- Returned to Halifax with R's request for a £500 award for trouble and inconvenience, which Halifax rejected, as it considered the amount unfair.

R sought to negotiate the award further, but Halifax did not wish to. It confirmed that its offers in the case remain as they were previously made. R was informed that the complaint had been referred to an Ombudsman, as requested, and she gave notice that she would be making final submissions for this purpose. However, to date and despite the passing of around seven weeks, no submissions have been made.

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 too find no grounds to uphold X's complaint.

I consider that we have allowed more than enough time for R to return to us, if she still wanted to make additional submissions, and I find it fair to both parties not to delay an outcome to the complaint.

The scope of the complaint does not appear to be dispute.

It seems to me R understands and accepts that whilst the pursuit straddles her roles as executor for the estate and LPA holder for X, the issues differ depending on which side they are viewed from. Any matter concerning the estate's arrangement to initiate, instruct and progress the transfer is distinct and separate from any matter concerning X's receipt of the transfer. The pursuit was R's effort to prepare for receipt of the transfer by X, so the pursuit defines the scope of the complaint, and of my decision. Anything to do with the estate and the estate ISA (and/or its underlying fund) is outside the scope of my decision, because the complainant in the present case is X, not the estate.

The alleged breach of R's personal information is also outside the remit of this decision. As the investigator explained, the letter at the centre of this allegation was not from Halifax, it was from another firm within the Lloyds Banking Group. That firm is a separate entity, so Halifax does not answer for it. Therefore, and in the absence of evidence that Halifax played any role associated with the letter or with the firm that sent it, I consider that it is not the correct respondent to the allegation. It is also perhaps noteworthy that the letter appears to have been sent to R in her capacity as executor of the estate, not in her capacity as LPA holder for X.

I now turn to the complaint issues.

The pursuit had/has two main elements – the setting up of a Halifax Stocks & Shares ISA for X and the registration of the LPA on the newly set up ISA – and, for reasons that are obvious from the background above, R was responsible for arranging these things on X's behalf.

X was no more than a potential customer of Halifax. X did not, and still does not, have an ISA with Halifax. I mention this because, before dealing with the other aspects of the complaint, I wish to address the claim for financial loss first.

I consider the facts that no ISA existed between the parties, and that the estate ISA has yet to pass to X to be relevant to the claim. It limits, at least initially, the reach of the claim to a hypothetical loss of opportunity, in the absence of an actual loss, unless R can establish grounds to extend the claim to one where there is also an actual loss or one in which the value of the lost opportunity can fairly be quantified.

There appears to be no circumstances in which a claim for actual loss could be made in the complaint. The only existing ISA in the case is the estate ISA, so its performance is a matter for the estate, not X (and not X's case) because it has yet to transfer to X.

Therefore, X's claim would appear to be about a lost opportunity – loss of the opportunity to access and use the bequeathed ISA had it been transferred to a Halifax Stocks & Shares ISA in 2023.

In other words, the claim would be about considering what, if anything, would have been achieved in that ISA between a start date set in 2023 and now, but for the pursuit's incompleteness to date – and it would be about showing that Halifax is responsible for obstructing the achievement.

As the investigator explained to R, we would need information and evidence to essentially form a persuasive picture of growth that would probably have been achieved in the above scenario, thereby establishing that the claim is more than hypothetical and that a quantifiable value can be placed on the alleged lost opportunity. Without reaching this point, even if a claim for lost opportunity is upheld – for the avoidance of any misunderstanding, I do not say or suggest such a claim is upheld – there would be no way of determining what redress should be, because there would be no way of knowing what the value of the lost opportunity was/is.

I have considered R's submissions on the matter. I understand them, but they fall short of establishing evidence of investment growth that would probably have happened, to date, had the pursuit been successfully completed in 2023, or evidence of a quantifiable value that can be placed on the alleged loss of opportunity for such investment growth.

Indeed, there seems to be enough from the facts of the case to cast doubt over the claim at its foundation. There is evidence that the estate and Halifax had/have an unaddressed and/or unresolved issue with the estate ISA (and its underlying fund) and that the issue needs to be dealt with before it could be known whether (or not) the estate ISA can pass to X under the APS process. There is no evidence of the matter being dealt with, so there is no way of knowing how a transfer could or would have happened – that is, with the APS process or without. As such, it appears that the terms for considering any claim for lost investment opportunity (or its value) are inherently uncertain because the type of transfer that would have happened looks to have been uncertain.

I understand R's argument about interest, as a minimum and potentially identifiable measure of lost value, but the uncertainty noted above applies to interest too.

With no intention to drift into matters concerning the estate, the observation to draw from the above is that, for R's claim of financial loss, it must be shown that the transfer would have happened in 2023 but for the pursuit not being completed at the time. However, the pursuit did not determine the transfer. Initiation and processing of the transfer still had to be dealt with separately by the estate, and the uncertainty noted above means the transfer possibly could have still been outstanding even if, and after, the pursuit had been completed.

In all the above circumstances, there is arguably no scope to determine a quantifiable financial loss. In addition to the lack of evidence I mentioned above, there are also unknown variables associated with the transfer that create obstacles to the claim.

In addition, I echo and endorse the investigator's findings on mitigation. It is somewhat unclear why R did not simply consider an alternative ISA provider for X and for the pursuit in 2023. I am also not quite persuaded by the explanation about seeking to avoid jeopardy to

the case against Halifax, given that it was not referred to us until around May 2024, six months after Halifax's complaint response (in which it made its final position clear). That complaint response would have been enough to prompt mitigation. If, as it appears, X and R could not work with what was presented in the response the obvious consideration would have been to look into an alternative.

As both sides are aware, our service is not the industry regulator. If, based on some of the submissions that have been made, R's request for our appraisal of, or views on, Halifax's branch services, LPA registration services and call centre services is in a general context, that stands outside of our remit. It is not our role to regulate Halifax or declare a public general view on its services, or to review the general effects of its services. Indeed, R has referred us to information from April this year showing that the regulator is already looking into issues in the sector concerning banks and LPA registration, so the subject is already being considered by the regulator.

If R's request relates directly to a complaint issue(s) within our remit and if there is a need to draw conclusions on specific and case relevant aspects of Halifax's branch services, LPA registration services and call centre services in order to determine that issue(s), it could be dealt with in that context. However, there is no such correlation because what she has presented is about her personal experiences of dealing with Halifax and her claim for compensation for those experiences – which is not in our remit.

The pursuit was in X's interest, that is clear, but it was conducted by R. Had it been conducted by X, then X's experiences within it would be the experiences of the eligible complainant in the complaint, and we could deal those experiences as such – including, depending on the facts and if fair and reasonable, compensation for trouble and inconvenience caused to X in those experiences. I do not say this insensitively. I am fully aware that X could not have conducted the pursuit, and I do not suggest that he should have. The point I am making is that it is R's role that means we cannot deal with the experiences and/or a claim for compensation for them, because she is the representative of the eligible complainant, not the eligible complainant. The investigator already explained this to, and shared information from our website and from the relevant rules with, R. I repeat some of the latter by referring to the following link for the rules on eligibility to complain – <https://handbook.fca.org.uk/handbook/disp2/disp2s7?timeline=true>.

It is not within my gift to make an award to R with regards to her claim about the trouble Halifax caused her, because she is not the complainant, X is. I understand her point about the effect of the LPA she holds, that effect is not disputed and it is because of that effect that Halifax and our service have found it possible to engage directly with her on X's behalf. However, in terms of our trouble and inconvenience awards for complainants, they are mainly designed *for complainants*, not for their representatives.

For the above reasons, I make no finding on R's personal claim, and I will not be drawn into the compensation offer increase that she sought to negotiate with Halifax, because I do not need to be drawn into it.

With regards to the pursuit, in as far as it relates to X's interest, I do not have enough evidence to conclude that it was unreasonable for Halifax not to make concessionary arrangements to meet R to open the ISA for X and register the LPA in 2023. It essentially says it did not have the resources and/or capacity at the time to make the requested concessions, the consequence being that it could still have delivered the services R sought for X but that would have meant notable difficulty for her (and, directly or indirectly, difficulty for X).

I sincerely empathise with X's and R's positions in the matter, but I just do not have enough

evidence to disagree with Halifax's. It is plausible that operational limitations meant it could not make the concessions they needed. For example, the round-trip distance (and travel time) that was a problem for R might have been matched by a similar problem between the relevant branches, in terms of the opportunity cost to their operations of the qualified staff travelling between the branches to meet her.

I understand R's point about the Equality Act. She has discretion to consider taking advice on whether (or not) there is a claim under that Act to make against Halifax in the courts, but our service is not a court, so such a claim is beyond what I can consider.

I also understand why R questions Halifax's recent offer to, it appears, make the concessionary arrangements it said it could not make in 2023. I do not have enough information to explain its change of stance and I can see why R considers it should have happened earlier, but I do not have evidence to say that it should. In any case, I retain the view that R should have mitigated the pursuit much earlier – whereby a Halifax ISA for X would not still be needed or sought after – and, if a Halifax ISA for X is still needed or sought after there now appears to be a pragmatic way forward.

My final decision

For all the above reasons, I do not uphold X's complaint.

Under the rules of the Financial Ombudsman Service, I'm required to ask X to accept or reject my decision before 27 October 2025.

Roy Kuku
Ombudsman